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EPURATION FILE (1944-45)
(CIVIL AFFAIRS)
JULY 1944 - NOV. 1945

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ALTO COMMISSARIATO PER LE SANZIONI CONTRO IL FASCISMO

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LEGISLAZIONE SULLE SANZIONI CONTRO IL FASCISMO

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DECRETO LEGISLATIVO LUOGOTENENZIALE 27 luglio 1944, n. 159.

Sanzioni contro il fascismo.

Pubblicato nella Gazzetta Ufficiale del 29 luglio 1944, n. 41

UMBERTO DI SAVOIA

PRINCIPE DI PIEMONTE

LUOGOTENENTE GENERALE DEL REGNO

In virtù dell'autorità a Noi delegata;

Visto il R. decreto-legge 2 agosto 1943, n. 704, che sopprime il partito nazionale fascista;

Visto il R. decreto-legge 9 agosto 1943, n. 720, riguardante la devoluzione allo Stato dei patrimoni di non giustificata provenienza;

Visto il R. decreto-legge 28 dicembre 1943, n. 29/B, per la defascistizzazione delle Amministrazioni dello Stato, degli Enti locali e parastatali, degli Enti comunque sottoposti a vigilanza e tutela dello Stato e delle Aziende private esercenti servizi pubblici o di interesse nazionale;

Visto il R. decreto-legge 26 maggio 1944, n. 134, per la punizione dei delitti e degli illeciti del fascismo;

Visto il R. decreto-legge 12 aprile 1944, n. 101, recante norme integrative dei Regi decreti-legge 28 dicembre 1943, n. 29/B, e 6 gennaio 1944, n. 9;

Visto il decreto-legge Luogotenenziale 25 giugno 1944, n. 151, concernente l'Assemblea per la nuova costituzione dello Stato, il giuramento dei Membri del Governo e la facoltà del Governo di emanare norme giuridiche;

Visto il R. decreto-legge 30 ottobre 1943, n. 2/B, riguardante la sospensione delle norme relative all'emanazione, promulgazione, registrazione e pubblicazione dei Regi decreti e di altri provvedimenti;

Visto il R. decreto-legge 29 maggio 1944, n. 141, che istituisce presso la sede del Governo una Sezione speciale di controllo della Corte dei conti;

Vista la deliberazione del Consiglio dei Ministri;

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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:

Titolo I.

Punizione di delitti.

Art. 1.

Sono abrogate tutte le disposizioni penali emanate a tutela delle istituzioni e degli organi politici creati dal fascismo.

Le sentenze già pronunciate in base a tali disposizioni sono annullate.

Art. 2.

I membri del governo fascista e i gerarchi del fascismo, colpevoli di aver annullate le garanzie costituzionali, distrutte le libertà popolari, creato il regime fascista, compromesse e tradite le sorti del Paese condotto alla attuale catastrofe, sono puniti con l'ergastolo e, nei casi di più grave responsabilità, con la morte.

Essi saranno giudicati da un'Alta Corte di giustizia composta di un presidente e di otto membri, nominati dal Consiglio dei Ministri fra alti magistrati in servizio o a riposo, e fra altre personalità di rettitudine intemerata.

Art. 3.

Coloro che hanno organizzato squadre fasciste, le quali hanno compiuto atti di violenza o di devastazione, e coloro che hanno promosso o diretto l'insurrezione del 28 ottobre 1922 sono puniti secondo l'art. 120 del Codice penale del 1889.

Coloro che hanno promosso o diretto il colpo di Stato del 3 gennaio 1925 e coloro che hanno in seguito contribuito con atti rilevanti a mantenere in vigore il regime fascista sono puniti secondo l'art. 118 del Codice stesso.

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Chiunque ha commesso altri delitti per motivi fascisti o valendosi della situazione politica creata dal fascismo è punito secondo le leggi del tempo.

Art. 4.

I delitti previsti dall'articolo precedente sono giudicati, a seconda della rispettiva competenza, dalle Corti d'assise, dai Tribunali e dai Pretori.

Le Corti d'assise sono costituite dai due magistrati, previsti dal Testo unico delle disposizioni legislative sull'ordinamento delle Corti di assise, e da cinque giudici popolari estratti a sorte da appositi elenchi di cittadini di condotta morale e politica illibata.

Art. 5.

Chiunque, posteriormente all'8 settembre 1943, abbia commesso o commetta delitti contro la fedeltà e la difesa militare dello Stato, con qualunque forma di intelligenza o corrispondenza o collaborazione col tedesco invasore, di aiuto o di assistenza ad esso prestata, è punito a norma delle disposizioni del Codice penale militare di guerra.

Le pene stabilite per i militari sono applicate anche ai non militari.

I militari saranno giudicati dai Tribunali militari, i non militari dai giudici ordinari.

Art. 6.

Non può essere invocata la prescrizione del reato e della pena a favore di coloro che, pur essendo responsabili dei delitti di cui al presente decreto, sono rimasti finora impuniti per l'esistenza stessa del regime fascista.

Per lo stesso motivo le amnistie e gli indulti concessi dopo il 28 ottobre 1922 sono inapplicabili ai delitti di cui al presente decreto e, se sono già stati applicati, le relative declaratorie sono revocate.

L'Alto Commissario potrà proporre la revoca di grazie sovrane già concesse.

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La sentenza pronunciata per gli stessi delitti possono essere dichiarate giuridicamente inesistenti quando sotto la direzione aiuta intinto lo stato di morale coercizione determinato dal fascismo. La pronuncia al riguardo è affidata ad una Sezione della Suprema Corte di Cassazione, designata dal Ministro Guardasigilli.

Le disposizioni del presente articolo non si applicano ai delitti punibili con pena detentiva non superiore nel massimo ai tre anni.

Art. 7.

Per i reati previsti nel presente titolo, la pena può essere ridotta fino ad un quarto, e alla pena di morte o dell'ergastolo può essere sostituita la reclusione non inferiore a cinque anni:

a) se il colpevole, prima dell'inizio della presente guerra, ha preso posizione ostile al fascismo;

b) se ha partecipato attivamente alla lotta contro i tedeschi.

Se ricorrono le circostanze attenuanti generiche, previste dal Codice penale del 1889, alla pena di morte o all'ergastolo è sostituita la reclusione per trent'anni e le altre pene sono diminuite di un sesto.

Il colpevole potrà essere dichiarato non punibile, se nella lotta contro i tedeschi si sia particolarmente distinto con atti di valore.

Art. 8.

Chi, per motivi fascisti o avvalendosi della situazione politica creata dal fascismo, abbia compiuto fatti di particolare gravità che, pur non integrando gli estremi di reato, siano contrari a norme di rettitudine o di probità politica, è soggetto alla interdizione temporanea dai pubblici uffici ovvero alla privazione dei diritti politici per una durata non superiore a dieci anni.

Qualora l'agente risulti socialmente pericolosa può essere disposta l'assegnazione ad una colonia agricola o ad una casa di lavoro per un tempo non inferiore ad un anno nè superiore a dieci.

I provvedimenti previsti dal presente articolo sono applicati da Commissioni provinciali presiedute da un

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magistrato e composte di due altri membri estratti a sorte, fra i giudici popolari di cui all'art. 4.

Quanto ai membri di Assemblee legislative o di enti ed istituti che con i loro voti o atti contribuirono al mantenimento del regime fascista ed a rendere possibile la guerra, la decadenza dalla loro carica sarà decisa dall'Alta Corte di cui all'art. 2, ciò senza pregiudizio delle sanzioni di cui al presente decreto in quanto siano applicabili.

Art. 9.

Senza pregiudizio dell'azione penale, i beni dei cittadini i quali hanno tradito la patria ponendosi spontaneamente ed efficacemente al servizio degli invasori tedeschi sono confiscati a vantaggio dello Stato.

Nel caso di reato penale la confisca è pronunciata dall'autorità giudiziaria che pronuncia la condanna. In caso diverso dal Tribunale competente per territorio, su richiesta dell'Alto Commissario.

Art. 10.

Per ciò che non è previsto nel presente titolo valgono, in quanto applicabili, le disposizioni del Codice di procedura penale.

Titolo II

Epurazione dell'Amministrazione.

Art. 11.

Sono sottoposti a giudizio di epurazione gli appartenenti:

1) alle Amministrazioni civili e militari dello Stato, anche se con ordinamento autonomo;

2) agli Enti locali ed agli altri Enti ed Istituti pubblici;

3) alle Aziende speciali dipendenti da Amministrazioni ed Enti pubblici, alle Aziende private concessionarie di servizi pubblici ed a quelle riconosciute di interesse nazionale.

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Art. 12.

Sono dispensati dal servizio:

1) coloro che, specialmente in alti gradi, col partecipare attivamente alla vita politica del fascismo o con manifestazioni ripetute di apologia fascista, si sono mostrati indegni di servire lo Stato;

2) coloro che, anche nei gradi minori, hanno conseguito nomine od avanzamenti per il favore del partito o dei gerarchi fascisti.

Art. 13.

Sono altresì dispensati dal servizio i dipendenti dalle Amministrazioni di cui all'art. 11, i quali abbiano dato prova di faziosità fascista o della incapacità o del malcostume introdotti dal fascismo nelle pubbliche Amministrazioni.

Qualora dal giudizio di epurazione risultino elementi di reato, dovrà esserne fatta denuncia all'autorità competente.

Art. 14.

Coloro che hanno rivestito la qualifica di squadrista, o sansepolcrista, o antemarcia, o marcia su Roma, o sciarpa littorio, o che sono stati ufficiali della M.V.S.N. sono dispensati dal servizio. Qualora però non abbiano dato prova di settarietà e di intemperanza fascista sono soggetti a misure disciplinari di minore gravità.

Art. 15.

Nel caso di indebiti avanzamenti o di preferenze nei concorsi per titoli fascisti può essere, in luogo della dispensa, disposta la retrocessione o la restituzione ai ruoli di provenienza.

Art. 16.

Chi, dopo l'8 settembre 1943, si è distinto nella lotta contro i tedeschi, può essere esente dalla dispensa e da ogni misura disciplinare.

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Art. 17.

Gli impiegati che, dopo l'8 settembre 1943, hanno seguito il governo fascista o gli hanno prestato aiuto comunque o hanno collaborato con esso, sono dispensati dal servizio.

Può essere loro inflitta una pena disciplinare minore, qualora dimostrino di essere stati esposti a gravi minacce e pericoli per la persona propria o dei propri congiunti.

Possono andare esenti da ogni sanzione coloro che hanno in modo efficace, con l'opera propria, aiutato i patrioti e danneggiata l'azione dei tedeschi e del governo che apparentemente servivano.

In ogni caso si farà luogo al conguaglio degli assegni che sarebbero spettati e di quelli effettivamente percepiti; nè sono dovute le indennità e le somme riscosse a causa del trasloco.

Art. 18.

Il giudizio di epurazione è affidato in primo grado a Commissioni costituite presso ogni Ministero o Amministrazione o Ente autonomo. Quando si tratta di personale di diverse carriere possono essere costituite più Commissioni presso lo stesso Ministero.

Le Commissioni sono nominate dal Ministro competente e composte di un magistrato dell'ordine giudiziario o amministrativo, in servizio o a riposo, che le presiede, del Capo del personale o di un funzionario dell'Amministrazione e di un terzo membro designato dall'Alto Commissario per le sanzioni contro il fascismo.

Per i Comuni, le Provincie, le Istituzioni pubbliche di beneficenza e gli Enti sottoposti a controllo dell'Amministrazione locale è istituita una Commissione nominata dal Prefetto e composta di un magistrato, in servizio o a riposo, di un funzionario di Prefettura e di un membro designato dall'Alto Commissario.

Nelle forme prescritte dai commi precedenti possono essere nominati membri supplenti e la Commissione può dividersi in sotto-commissioni.

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Art. 19.

All'impiegato proposto per la dispensa è fissato un termine non minore di giorni 10 per presentare le sue deduzioni.

Le Commissioni, direttamente o attraverso un membro da esse delegato, hanno facoltà di esperire testi, di chiedere atti e documenti all'autorità giudiziaria e alla pubblica Amministrazione e possono sentire personalmente l'interessato, anche se questi non ne faccia richiesta.

Art. 20.

Le conclusioni della Commissione di primo grado sono comunicate all'Alto Commissario ed all'interessato. E' ammesso ricorso, nel termine di tre giorni per l'interessato, di venti per l'Alto Commissario, ad una Commissione centrale nominata dal Presidente del Consiglio dei Ministri e composta di un presidente, di due magistrati dell'ordine giudiziario o amministrativo in servizio o a riposo, di due funzionari delle Amministrazioni centrali e di due membri, designati dall'Alto Commissario per le sanzioni contro il fascismo.

Nelle stesse forme possono essere nominati membri supplenti e la Commissione può dividersi in sotto-commissioni.

Art. 21.

La dispensa è, conformemente alle conclusioni delle Commissioni, pronunciata dall'Autorità cui spetta, secondo le norme comuni, tale forma di provvedimento.

La stessa Autorità emana i provvedimenti disciplinari previsti dal presente titolo, sempre conformemente alle conclusioni delle Commissioni.

Art. 22.

L'impiegato dispensato dal servizio è ammesso a liquidare il trattamento di quiescenza che possa spettargli a norma delle disposizioni vigenti.

Nei casi più gravi può essere disposta la perdita del diritto a pensione.

L'impiegato sottoposto a procedimento per l'epurazione può essere sospeso dall'ufficio. In tal caso gli è

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corrisposto a titolo alimentare lo stipendio escluso ogni altra indennità. Il provvedimento di sospensione è adottato dal Ministro competente o, nei casi di cui al terzo comma dell'art. 18, dal Prefetto.

Art. 23.

Presso gli ordini professionali e gli organi incaricati della tenuta di albi per l'esercizio di professioni, arti o mestieri, sono istituite Commissioni incaricate di rivedere le iscrizioni agli albi, applicando i criteri di cui agli articoli precedenti.

Le Commissioni sono nominate dal Ministro competente o dall'autorità da lui delegata, e composte di un presidente, di un membro designato dagli organi incaricati della tenuta dell'albo e di un membro designato dall'Alto Commissario per le sanzioni contro il fascismo.

Contro le conclusioni delle Commissioni è ammesso ricorso, nei termini previsti dall'art. 20, a Commissioni centrali costituite, per ogni ordine o professione, dal Ministro competente e composte di un presidente, di due magistrati dell'ordine giudiziario o amministrativo, in servizio o a riposo, di quattro membri designati dagli organi professionali e di due altri membri designati dall'Alto Commissario per le sanzioni contro il fascismo.

Nei casi meno gravi, in luogo della cancellazione, può essere inflitta la sospensione temporanea dall'esercizio della professione, arte o mestiere.

Art. 24.

Contro i provvedimenti previsti dal presente titolo è dato il ricorso al Consiglio di Stato, limitatamente al motivo di incompetenza.

Art. 25.

Il termine per l'inizio delle procedure previste nel presente titolo è di sei mesi dall'entrata in vigore di questo decreto.

Il procedimento davanti alla Commissione di primo grado deve essere ultimato entro tre mesi dall'inizio.

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Per i territori non liberati e per quelli liberati ma non ancora affidati all'Amministrazione del Governo italiano, la scadenza del termine indicato nel primo comma è prorogata fino a sei mesi dopo il passaggio all'Amministrazione italiana dei territori stessi.

TITOLO III.

Avocazione dei profitti di regime.

Art. 26.

I profitti derivati dalla partecipazione o adesione al regime fascista sono avocati allo Stato, indipendentemente dall'esercizio dell'azione penale per i fatti costituenti reato.

Gli incrementi patrimoniali conseguiti dopo il 28 ottobre 1922, da chi ha rivestito cariche pubbliche o comunque svolta attività politica, come fascista, si presumono profitti di regime, a meno che gli interessati dimostrino che gli arricchimenti hanno avuto lecita provenienza. Ciò vale anche se i beni abbiano cessato di appartenere alla stessa persona.

Si presumono altresì profitti di regime gli incrementi patrimoniali degli ascendenti, dei discendenti e del coniuge e di chi, anche non iscritto al partito fascista, aveva relazioni di associazione o cointeressenza con le persone indicate nel secondo comma.

Nella determinazione degli incrementi patrimoniali si ha riguardo anche ai beni in qualunque modo acquistati o posseduti per interposte persone.

Art. 27.

Beni determinati esistenti nel patrimonio del debitore, l'acquisto dei quali sia particolarmente dovuto a profitti di regime, possono essere avocati allo Stato.

Art. 28.

Delle somme liquidate a titolo di avocazione di profitti di regime risponde tutto il patrimonio del debitore.

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Nel caso previsto dal terzo comma dell'art. 28, le persone di cui al secondo comma dell'articolo stesso sono solidalmente responsabili con i loro congiunti, associati e clienti.

Art. 29.

Se il patrimonio del debitore risulta insufficiente a pagare le somme dovute allo Stato, sono privi di effetto rispetto a questo:

1) gli atti a titolo gratuito posti in essere dal debitore nel quinquennio anteriore al 25 luglio 1943;

2) qualsiasi atto di disposizione effettuato dopo tale data.

Di fronte allo Stato e ai fini del realizzo del suo credito per profitti di regime, i beni acquistati entro il quinquennio anteriore al 25 luglio 1943 dal coniuge del debitore, si considerano appartenenti a questo.

Art. 30.

L'accertamento e la liquidazione dei profitti di regime sono di competenza di una Sezione speciale della Commissione provinciale delle imposte, formata dal presidente del Tribunale o dal giudice da lui delegato e da quattro commissari nominati dal Ministro per le finanze su designazione del Prefetto fra cittadini di provata probità e competenza.

La Sezione speciale procede all'accertamento in base ad indicazioni dell'Alto Commissario, ad informazioni degli organi finanziari e a segnalazioni firmate di privati.

La Sezione medesima giudica i reclami del debitore e della finanza avverso la propria proposta di accertamento e liquidazione dei profitti di regime.

Nell'udienza, che è pubblica, è ammesso il contraddittorio dell'Amministrazione finanziaria che può farsi rappresentare dall'Avvocatura dello Stato e della persona sottoposta all'accertamento che può farsi rappresentare da un procuratore legale od avvocato.

Le decisioni sono notificate al debitore, all'Amministrazione finanziaria ed all'Alto Commissario.

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Art. 31.

La Sezione speciale della Commissione provinciale ha tutti i poteri di indagine, accesso, ispezione, controllo e richiesta di dati, conferiti agli agenti delle imposte dirette e alle Commissioni amministrative per l'accertamento dell'imposta straordinaria sui maggiori utili relativi allo stato di guerra.

Non è ammesso il diritto di astenersi dal testimoniare nei casi dell'art. 352 del Codice di procedura penale.

Chi, chiamato come testimonio o perito, non ottempera agli obblighi o commette falsità è punito a termine degli articoli 366, 372, 373 del Codice penale.

Chi non adempie alle altre richieste della Sezione è punito con la reclusione fino a sei mesi o con la multa da 300 a 5000 lire.

Le Amministrazioni e gli Enti pubblici, ove abbiano conoscenza che sono stati realizzati profitti di regime, debbono immediatamente comunicarlo all'Alto Commissario. Chi è tenuto a fare tali comunicazioni e non vi adempie è punito come al comma precedente.

Per l'assolvimento dei compiti della Sezione speciale, può essere comandato presso di essa personale della polizia giudiziaria o di altri ruoli amministrativi e tecnici dello Stato.

Art. 32.

Contro le decisioni della Sezione speciale della Commissione provinciale il debitore e l'Amministrazione finanziaria possono presentare ricorso entro 30 giorni. Può ricorrere anche l'Alto Commissario entro sessanta giorni.

La deliberazione in grado di appello è rimessa ad una Sezione speciale della Commissione centrale delle imposte costituita da un presidente, appartenente all'ordine giudiziario, di grado non inferiore a quello di primo presidente di Corte di appello, e da quattro commissari da nominarsi, l'uno e gli altri, dal Consiglio dei Ministri.

Al procedimento avanti la Sezione speciale della Commissione centrale si applicano le disposizioni dell'articolo 30, penultimo ed ultimo comma, e dell'art. 31.

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Art. 33.

Le decisioni della Sezione speciale della Commissione centrale possono essere impugnate soltanto per assoluto difetto di giurisdizione davanti alle Sezioni unite della Corte di cassazione. Il ricorso deve essere presentato dal debitore o dall'Amministrazione finanziaria entro quarantacinque giorni, salvo all'Alto Commissario la facoltà di ricorrere entro tre mesi.

Art. 34.

L'Alto Commissario può, anche fuori del termine suddetto, ma non oltre un biennio, promuovere la rettifica dell'accertamento, sebbene divenuto definitivo, in base a fatti di importanza notevole che non risultino dalla motivazione delle decisioni essere stati considerati nei procedimenti anteriori.

Tale rettifica è in ogni caso di competenza della Sezione speciale della Commissione centrale.

Art. 35.

Prima ancora che siano costituite le Sezioni speciali delle Commissioni provinciali, il presidente del Tribunale può, su richiesta dell'Alto Commissario o dell'Amministrazione finanziaria, disporre, con proprio decreto, il sequestro conservativo, anche presso terzi, dei beni mobili o immobili di pertinenza delle persone indicate all'art. 26.

La stessa facoltà spetta, anche di ufficio, ai presidenti delle Commissioni.

Si applicano le disposizioni del settimo e ottavo comma dell'art. 19 del Testo unico delle leggi in materia di imposta straordinaria sui maggiori utili relativi allo stato di guerra, approvato col R. decreto 3 giugno 1943, n. 598.

Art. 36.

In seguito a decreto dell'Alto Commissario da pubblicarsi nella *Gazzetta Ufficiale* del Regno, coloro che detengono beni di pertinenza delle persone indicate nel decreto stesso, quali ritenuti profittatori del regime, o

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che sono verso di esse debitori a qualsiasi titolo, debbono dichiararlo nei modi e termini che saranno stabiliti nel decreto, astenendosi dal consegnare i beni o dall'adempiere le obbligazioni verso il proprio creditore. Il fermo rimane senza effetto qualora non venga eseguito sequestro entro sessanta giorni dalla scadenza del termine per la dichiarazione e questa sia stata fatta.

Chi non adempie agli obblighi previsti nel presente articolo è punito come all'art. 31, quarto comma; salva la responsabilità civile per il pregiudizio alla finanza.

Chiunque, al fine di sottrarre all'azione dello Stato beni appartenenti alle persone ritenute profittatori del regime, aliena o comunque trasferisce presso terzi od occulta tali beni e chiunque li acquista, li riceve od occulta, ovvero si intromette nel farli acquistare, ricevere od occultare, è punito con la reclusione fino a dieci anni e con la multa fino a lire centomila.

Art. 37.

La proposta di liquidazione della Commissione provinciale, quando non è stato avanzato reclamo dal debitore, ed in ogni caso la decisione della stessa, anche pendente l'appello alla Commissione centrale, e la decisione di quest'ultima sono titoli esecutivi, anche agli effetti delle trascrizioni nei registri immobiliari.

La riscossione delle somme attribuite allo Stato a titolo di profitto di regime può farsi con la procedura e i privilegi stabiliti per la riscossione dell'imposta straordinaria sui maggiori utili relativi allo stato di guerra. L'intero debito può essere iscritto in ruolo straordinario, riscuotibile in unica soluzione.

TITOLO IV.

Liquidazione dei beni fascisti.

Art. 38.

I beni del cessato partito nazionale fascista e delle organizzazioni soppresse dal R. decreto-legge 2 agosto 1943, n. 704, sono devoluti allo Stato.

Su proposta dell'Alto Commissario, i beni stessi saranno destinati, con decreto del Presidente del Consi

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gito, di concerto con i Ministri competenti, a servizi pubblici o a scopi di interesse generale, anche mediante cessione ad altri Enti pubblici o ad Associazioni assistenziali, sportive e simili.

Art. 39.

Al realizzo delle attività del partito nazionale fascista e degli enti soppressi provvede l'Amministrazione finanziaria dello Stato.

TITOLO V.

L'Alto Commissario.

Art. 40.

Ad assicurare l'applicazione del presente decreto è istituito un Alto Commissario per le sanzioni contro il fascismo.

L'Alto Commissario è nominato su deliberazione del Consiglio dei Ministri, ed è per la durata della carica equiparato ai magistrati dell'ordine giudiziario di primo grado.

Egli è assistito da alti commissari aggiunti per ciascuno dei rami di sua competenza.

In caso di suo impedimento essi possono sostituirlo ognuno per il proprio ramo.

Essi sono nominati dal Presidente del Consiglio dei Ministri su proposta dell'Alto Commissario, e sono equiparati ai magistrati di terzo grado.

All'Alto Commissariato possono essere assegnati commissari in numero non maggiore di due per ogni ramo, nominati nella forma prevista dal comma precedente.

All'ufficio dell'Alto Commissario vengono assegnati, su richiesta nominativa, magistrati e funzionari in numero adeguato, ed è posto alla sua dipendenza un nucleo di polizia giudiziaria composto di personale dei carabinieri, della pubblica sicurezza e della guardia di finanza. Degli uffici di segreteria possono essere chiamati a far parte anche estranei all'Amministrazione.

L'Alto Commissario e gli uffici dipendenti possono richiedere l'opera della polizia giudiziaria, che è tenuta ad eseguirne gli ordini.

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Art. 41.

L'Alto Commissario dirige ed invigila l'opera di tutti gli organi a mezzo dei quali si adempiono le sanzioni contro il fascismo.

Spetta all'Alto Commissario di promuovere, di sua iniziativa o su segnalazione delle pubbliche amministrazioni o su denunzia sottoscritta da privati, l'azione per i delitti di cui all'art. 2, procedendo alla relativa istruttoria e deferendo l'imputato all'Alta Corte indicata nello stesso articolo, presso la quale egli esercita personalmente o per delega le funzioni di pubblico ministero.

L'Alto Commissario può, in casi di eccezionale gravità, derogare alle norme sulla competenza, deferendo all'Alta Corte di giustizia persone diverse da quelle indicate nell'art. 2 anche per reati non contemplati nell'articolo stesso.

Fermi restando gli obblighi e le attribuzioni del pubblico ministero, delle pubbliche Amministrazioni e di altri organi o enti, l'Alto Commissario può altresì, di sua iniziativa o su denuncia dei privati, promuovere:

1) l'azione per gli altri delitti previsti dal Titolo I;

2) l'azione per l'applicazione delle sanzioni stabilite dall'art. 8;

3) l'azione per la confisca dei beni di coloro che hanno collaborato coi tedeschi, ai sensi dell'art. 9;

4) il giudizio per l'epurazione delle Amministrazioni e la dispensa dal servizio, davanti alle apposite Commissioni di primo grado, ed in sede di ricorso a quella centrale;

5) l'accertamento e l'avocazione dei profitti di regime fascista, a cura delle Commissioni locali e della Commissione centrale delle Imposte, con facoltà di promuovere in casi eccezionali la rettifica delle decisioni della stessa Commissione centrale;

6) le proposte per l'assegnazione regolare e più opportuna dei beni già di proprietà dei fasci e di enti fascisti;

7) ogni altra attribuzione prevista dal presente decreto e da altri provvedimenti.

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TITOLO VI.

Disposizioni finali e transitorie.

Art. 42.

Per l'applicazione del presente decreto sono abolite tutte le prerogative, compresa quelle previste dagli articoli 36, 37 e 47 dello Statuto.

Art. 43.

I pubblici ufficiali e gli incaricati di pubblici servizi, investiti a norma del presente decreto di funzioni relative alla repressione dei delitti dei fascisti, all'epurazione delle Amministrazioni, all'avocazione dei profitti di regime e alla liquidazione dei beni fascisti, i quali si rendano responsabili di alcuno dei reati previsti e puniti dagli articoli 314, 316, 317, 318, 319, 320, 323, 324, 326 e 328 del Codice penale, sono puniti con le pene previste da detti articoli, aumentati da un terzo alla metà.

Art. 44.

I procedimenti già iniziati per la punizione dei delitti fascisti, per la epurazione e per l'avocazione dei profitti di regime, sono proseguiti con le norme del presente decreto, restando fermi gli atti compiuti che non siano incompatibili con le norme stesse.

I provvedimenti già emanati saranno riveduti se in contrasto con le disposizioni del presente decreto.

Art. 45.

Sarà, con successivi decreti legislativi, provveduto, in quanto occorra, all'esecuzione delle norme contenute nel presente decreto legislativo.

Il Ministro pel tesoro è autorizzato ad apportare, con propri decreti, le variazioni al bilancio dello Stato, occorrenti per il funzionamento dell'Alto Commissariato e degli organi istituiti dal presente decreto.

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Art. 46.

Sono abrogati i Regi decreti-legge 9 agosto 1943, n. 720, 28 dicembre 1943, n. 29/B, 26 maggio 1944, n. 134.

Sono altresì abrogate le disposizioni contenute nel R. decreto-legge 12 aprile 1944, n. 101, nella parte riflettente la materia regolata dal presente decreto.

Art. 47.

Il presente decreto entra in vigore il giorno della sua pubblicazione nella *Gazzetta Ufficiale* del Regno - serie speciale.

Ordiniamo, a chiunque spetti, di osservare il presente decreto e di farlo osservare come legge dello Stato.

Dato a Roma, addì 27 luglio 1944

UMBERTO DI SAVOIA

BONOMI — CIANCA — DE GASPERI — RUINI — SARAGAT — SFORZA — TOGLIATTI — CARANDINI — TUPINI — SIGLIENTI — SOLERI — CASATI — DE COURTEN — PIACENTINI — DE RUGGIERO — MANCINI — GULLO — CERABONA — GRONCHI

Visto, *il Guardasigilli*: TUPINI

Registrato alla Corte dei conti, addì 27 *luglio* 1944
Registro n. 1, *Presidenza, foglio* 54. — MAST

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DECRETO LEGISLATIVO LUOGOTENENZIALE 14 settembre 1944, n. 198.

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

Pubblicato nella Gazzetta Ufficiale del 14 settembre 1944, n. 35.

UMBERTO DI SAVOIA

PRINCIPE DI PIEMONTE

LUOGOTENENTE GENERALE DEL REGNO

In virtù dell'autorità a Noi delegata;

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

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

Vista la deliberazione del Consiglio dei Ministri;

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

Abbiamo sanzionato e promulghiamo quanto segue:

Art. 1.

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

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

Art. 2.

Possono essere nominati membri supplenti dell'Alta Corte di Giustizia, istituita con l'art. 2 del decreto legislativo 27 luglio 1944, n. 159, nel numero che sarà richiesto dalle necessità del regolare funzionamento dell'Alta Corte, ma in ogni caso non superiore a nove.

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I membri supplenti sono chiamati dal presidente a far parte del collegio nel caso di mancanza o di impedimento di membri effettivi. Nel caso di mancanza o di impedimento del presidente, ne assume temporaneamente le funzioni il membro che sia magistrato di grado più elevato e, a parità di grado, il più anziano.

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

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

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

Art. 3.

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

Il termine a comparire davanti all'Alta Corte di Giustizia non può essere inferiore a giorni otto, salvo quanto è disposto nell'art. 182 del Codice di procedura penale.

Art. 4.

L'Alto Commissario, se ritiene che non si debba procedere per la manifesta infondatezza del rapporto o della denuncia relativi a delitti di competenza del

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l'Alta Corte di Giustizia, ordina la trasmissione degli atti all'archivio.

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

Art. 5.

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

Art. 6.

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

Art. 7.

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

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

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Art. 8.

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

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

L'Alta Corte, prima di provvedere, può procedere a tutte le indagini occorrenti e sentire l'interessato, anche se questi non ne abbia fatto richiesta.

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

Art. 9.

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

Art. 10.

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

Art. 11.

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

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

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Art. 12.

I magistrati presidenti delle Commissioni provinciali, istituite con l'art. 8 del decreto legislativo 27 luglio 1944, n. 159, sono nominati dal Ministro per la grazia e giustizia.

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

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

Art. 13.

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

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

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

L'interessato può farsi assistere da un difensore.

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

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

Art. 14.

Quando non vi è esercizio dell'azione penale, la competenza a disporre la confisca prevista dall'art. 9 del decreto legislativo 27 luglio 1944, n. 159, spetta al Tribunale penale del luogo nel quale è situato il bene o è situata la maggior parte dei beni da confiscare.

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

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

Art. 15.

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

Art. 16.

Il presente decreto entra in vigore il giorno della sua pubblicazione nella *Gazzetta Ufficiale* del Regno.

Ordiniamo, a chiunque spetti, di osservare il presente decreto e di farlo osservare come legge dello Stato.

Dato a Roma, addì 13 settembre 1944

UMBERTO DI SAVOIA

BONOMI — SFORZA — CHIAUDA — DE GASPERI — RUINI — SARAGAT — TOGLIATTI — CARANDINI — TUPINI — SIGLIENTI — SOLERI — CASATI — DE COURTEN — PIACENTINI — DE RUGGIERO — MANCINI — OTTOLIA — CREMASCHI — GRONCHI

Visto, il Guardasigilli: TUPINI
Registrato alla Corte dei conti, addì 14 settembre 1944
Registro Presidenza n. 1 foglio n. 27 — ERCADELI

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

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

Art. 15.

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

Art. 16.

Il presente decreto entra in vigore il giorno della sua pubblicazione nella *Gazzetta Ufficiale* del Regno.

Ordiniamo a chiunque spetti di osservare il presente decreto e di farlo osservare come legge dello Stato.

Dato a Roma, addì 13 settembre 1944

UMBERTO DI SAVOIA

BONOMI — SFORZA — CASCA — DE GASPERI — RUINI — SARAGAT — TOGLIATTI — CARANDINI — TUPINI — SIGILMENTI — SOLERI — CASATI — DE COURTEN — PICCHIOTTI — DE RUGGIERO — MANCINI — GIUSTO — CERABONA — GROSSARI

Visto, *Il Guardasigilli*: TUPINI
Registrato alla Corte dei conti, addì 14 *settembre* 1944
Registro Presidenza n. 1, *foglio n.* 97. — ESPOSITO.

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DECRETO LEGISLATIVO LUOGOTENENZIALE 3 ottobre 1944, n. 238.

Ordinamento dell'Alto Commissariato per le sanzioni contro il fascismo.

Pubblicato nella Gazzetta Ufficiale del 12 ottobre 1944, n. 87.

UMBERTO DI SAVOIA
PRINCIPE DI PIEMONTE
LUOGOTENENTE GENERALE DEL REGNO

In virtù dell'autorità a Noi delegata;

Visto il decreto-legge Luogotenenziale 25 giugno 1944, n. 151, concernente l'assemblea per la nuova costituzione dello Stato, il giuramento dei Membri del Governo e la facoltà del Governo di emanare norme giuridiche;

Visto il R. decreto-legge 30 ottobre 1943, n. 2 B, riguardante la sospensione delle norme relative alla emanazione, promulgazione, registrazione e pubblicazione dei Regi decreti e di altri provvedimenti;

Visto il R. decreto-legge 29 maggio 1944, n. 141, che istituisce presso la sede del Governo una Sezione speciale di controllo della Corte dei conti;

Visto il decreto legislativo Luogotenenziale 27 luglio 1944, n. 159, concernente le sanzioni contro il fascismo;

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 promulgato quanto segue:

Art. 1

L'Alto Commissario per le sanzioni contro il fascismo è assistito da quattro alti commissari aggiunti, rispettivamente per la punizione dei delitti, l'epurazione dell'Amministrazione, l'avocazione dei profitti di regime, la liquidazione dei beni fascisti.

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Art. 2.

I commissari in numero non maggiore di otto, nominati ai sensi dell'art. 10, comma sesto, del decreto legislativo Luogotenenziale 27 luglio 1944, n. 159, possono essere destinati a collaborare in forma continuativa con gli alti commissari aggiunti nelle materie di rispettiva competenza, con decreto dell'Alto Commissario, ovvero dallo stesso incaricati di esercitare funzioni temporanee speciali.

I commissari destinati a collaborare in forma continuativa con gli alti commissari aggiunti percepiscono lo stipendio e gli altri emolumenti stabiliti dalle norme in vigore per gli impiegati dello Stato di grado quarto.

Agli altri invece è corrisposta soltanto l'intera indennità di missione del grado medesimo, limitatamente al periodo di esercizio delle funzioni e per tutta la durata di esso.

Art. 3.

L'Alto Commissario dispone con suo decreto l'assegnazione al proprio ufficio dei magistrati e funzionari di cui all'art. 10, comma settimo, del decreto legislativo predetto, nella posizione di comando.

Nella stessa forma provvede all'assegnazione del personale dei carabinieri, della pubblica sicurezza e della guardia di finanza presso il nucleo di polizia giudiziaria posto alla sua dipendenza.

Art. 4.

Al personale indicato nell'art. 3 proveniente da sede che non sia quella di Roma spetta, per tutta la durata del comando presso l'Alto Commissariato, l'intera indennità di missione prevista per i rispettivi gradi gerarchici dalle norme vigenti.

Art. 5.

Gli estranei all'Amministrazione chiamati a far parte degli uffici di segreteria ai sensi dell'art. 10, comma settimo, del decreto legislativo Luogotenenziale 27 luglio 1944, n. 159, non debbono superare il numero di quaranta.

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Essi sono equiparati, ai soli effetti economici, agli impiegati compresi tra il grado decimo e il grado quinto della classificazione statale.

Il grado di equiparazione è determinato insindacabilmente, per ciascuno dei chiamati, dall'Alto Commissario col decreto di assunzione in servizio.

Al personale predetto spetta una retribuzione pari al trattamento economico iniziale del grado di equiparazione, e, in caso di missione, una indennità commisurata a quella del grado stesso.

L'incarico può essere revocato in qualsiasi momento, a giudizio dell'Alto Commissario, e la revoca non dà diritto ad alcuna indennità.

Art. 6.

Per le esigenze dei dipendenti affini l'Alto Commissario ha facoltà di assumere avventizi, ai sensi del R. decreto-legge 4 febbraio 1937, n. 109, in numero non maggiore di centocinque.

Art. 7.

Il Ministro pel tesoro è autorizzato ad apportare, con propri decreti, le variazioni al bilancio dello Stato, occorrenti per il funzionamento dell'Alto Commissariato.

I fondi relativi sono stanziati nello stato di previsione della spesa del Ministero del tesoro, rubrica Presidenza del Consiglio.

Art. 8.

I fondi di cui all'articolo precedente sono amministrati, con l'osservanza delle norme vigenti sulla contabilità generale dello Stato, dall'Alto Commissario, il quale, a tali effetti, esercita tutti i poteri spettanti ai Ministri.

Art. 9.

Il presente decreto entra in vigore il giorno della sua pubblicazione nella *Gazzetta Ufficiale* del Regno - serie speciale - ed ha effetto a decorrere dal 1° agosto 1944.

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Ordiniamo a chiunque spetti di osservare il presente decreto e di farlo osservare come legge dello Stato.

Dato a Roma, addì 3 ottobre 1914

UMBERTO DI SAVOIA

BONOMI — SFORZA — GIANOLA — DE GASPERI — RUINI — SARAGAT — TOGLIATTI — CARANDINI — TUPINI — SCELBA — SOLERI — CASATI — DE COURTEN — PIACENTINI — DE RUGGIERO — MANCINI — GUELLA — CERABONA — GIOSCHI

Visto, *il Guardasigilli:* TUPINI

Registrato alla Corte dei conti, addì 11 *ottobre* 1944
Registro Presidenza n. 5, *foglio n.* 167. — PARISIO

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

DECRETO LEGISLATIVO LUOGOTENENZIALE 11 ottobre 1944, n. 257.

Norme per l'acceleramento del giudizio di epurazione e per il collocamento a riposo dei dipendenti civili e militari dello Stato appartenenti ai primi quattro gradi della classificazione del personale statale.

Pubblicato nella Gazzetta Ufficiale del 24 ottobre 1944, n. 72

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;
Visto il decreto-legge Luogotenenziale 25 giugno 1944, n. 151;
Vista la deliberazione del Consiglio dei Ministri;
Sulla proposta del Presidente del Consiglio dei Ministri, Primo Ministro Segretario di Stato, di concerto con tutti i Ministri;
Abbiamo sanzionato e promulghiamo quanto segue:

ART. 1.

Nei confronti dei dipendenti civili e militari dello Stato, appartenenti ai primi quattro gradi della classificazione del personale statale ed ai gradi corrispondenti dell'Amministrazione delle ferrovie dello Stato, il termine stabilito dal primo comma dell'art. 25 del decreto legislativo Luogotenenziale 27 luglio 1944, numero 159, è di trenta giorni, decorrenti dall'entrata in vigore del presente decreto.

Nei casi previsti dal comma precedente, le Commissioni devono comunicare all'Alto Commissario per le sanzioni contro il fascismo ed all'interessato le loro conclusioni, entro trenta giorni dall'avvenuto deferimento; il termine per i ricorsi alla Commissione centrale di cui all'art. 30 del decreto legislativo Luogotenenziale 27 luglio 1944, n. 159, è di dieci giorni per

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l'Alto Commissario o di tre per l'interessato, detti ricorsi debbono essere trattati dalla Commissione centrale con precedenza.

Il termine di trenta giorni, stabilito nel comma precedente, può essere eccezionalmente prorogato fino al doppio dal Presidente del Consiglio dei Ministri, su richiesta motivata del presidente della Commissione di epurazione, quando un'eccezionale complessità degli accertamenti lo esiga.

Art. 2.

E' data facoltà al Presidente del Consiglio dei Ministri, sentito il Ministro competente, di collocare a riposo, anche su domanda dell'interessato, i dipendenti civili e militari dello Stato, anche se inamovibili, appartenenti ai primi quattro gradi della classificazione del personale statale, ed ai gradi corrispondenti dell'Amministrazione delle ferrovie dello Stato.

La facoltà può essere esercitata entro sessanta giorni dall'entrata in vigore del presente decreto, e anche in pendenza del giudizio di epurazione.

Il personale militare, al quale è applicata la disposizione del presente articolo, è collocato nella posizione di stato che spetta a norma delle disposizioni in vigore.

Art. 3.

Nei casi previsti dall'articolo precedente, verrà computato, ai fini della liquidazione della pensione, in aggiunta al servizio effettivo prestato, un periodo di dieci anni per il personale inamovibile e di cinque anni per gli altri casi.

Tuttavia la liquidazione della pensione non potrà essere commisurata ad un periodo di servizio inferiore a venti anni, né superiore complessivamente ai quarant'anni.

Agli effetti del primo comma del presente articolo sono considerati inamovibili il personale della Magistratura ordinaria, delle magistrature del Consiglio di Stato e della Corte dei conti ed i professori universitari a cattedra. Quando non è applicabile il primo comma del presente articolo, è estesa il disposto della legge 21 maggio 1940, n. 587.

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Art. 4.

I provvedimenti di collocamento a riposo, adottati ai sensi dell'art. 2, sono comunicati all'Alto Commissario per le sanzioni contro il fascismo, il quale, quando ritenga che ricorra l'applicabilità del secondo comma dell'art. 22 del decreto legislativo Luogotenenziale 27 luglio 1944, n. 159, può, entro trenta giorni, deferire il dipendente collocato a riposo alle Commissioni di epurazione, perchè giudichino se debba essere disposta o meno la perdita del diritto a pensione. Le Commissioni possono anche deliberare la perdita delle sole maggiorazioni concesse ai sensi dell'articolo precedente.

La perdita del diritto a pensione o delle maggiorazioni predette ha effetto dal primo del mese successivo alla data delle conclusioni della Commissione centrale ovvero alla data in cui le conclusioni della Commissione di primo grado sono divenute definitive.

Il procedimento si svolge con l'osservanza del decreto legislativo Luogotenenziale 27 luglio 1944, n. 159, e dell'art. 4 del presente decreto.

Art. 5.

Per i dipendenti dello Stato che si trovano nei territori che, alla data di entrata in vigore del presente decreto, non siano stati ancora restituiti all'Amministrazione italiana, i termini di cui al primo comma dell'art. 1 e all'art. 2 decorrono dalla data in cui il decreto legislativo Luogotenenziale 27 luglio 1944, n. 159, ed il presente decreto entreranno in vigore nei territori stessi.

Quando, in conseguenza della liberazione di un territorio non ancora liberato risultino a carico di dipendenti dello Stato gravi elementi concernenti addebiti dei quali non si ebbe prima notizia, il Presidente del Consiglio dei Ministri, con suo decreto, può disporre l'applicazione dell'art. 1 del presente decreto anche dopo la scadenza del termine ivi stabilito, ma non oltre quelli indicati nel comma precedente.

Nella ipotesi prevista dal comma precedente l'Alto Commissario può promuovere il deferimento ai sensi dell'art. 4, nei termini stabiliti dal primo comma.

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Per i dipendenti che si trovano fuori del territorio nazionale, i termini di cui al primo comma sono prorogati fino alla data della cessazione delle ostilità.

Tuttavia, nei casi previsti dal primo e dal quarto comma del presente articolo, quando si tratti di dipendenti i quali attivamente collaborino o abbiano collaborato con il soltanto governo fascista repubblicano, il procedimento per l'epurazione o per la perdita del diritto a pensione ai sensi del primo comma dell'art. 4, può svolgersi anche prima dei termini stabiliti dal presente articolo, prescindendo dalla contestazione prescritta nel primo comma dell'art. 19 del decreto legislativo Luogotenenziale 27 luglio 1944, n. 159, sempre che sussista la prova manifesta di detta loro attiva collaborazione.

Art. 6.

Contro i provvedimenti di cui all'art. 2 e contro i provvedimenti che pronunciano la perdita del diritto a pensione ai sensi dell'art. 4 non è ammesso ricorso ne in via amministrativa, ne in via giurisdizionale, salvo che per il motivo di incompetenza.

Art. 7.

Fino a quando non sia esaurita l'epurazione delle pubbliche amministrazioni, le promozioni e le nomine ai primi quattro gradi della classificazione del personale statale ed ai corrispondenti gradi dell'Amministrazione delle ferrovie dello Stato debbono essere preventivamente comunicate all'Alto Commissario per le sanzioni contro il fascismo.

L'Alto Commissario, entro dieci giorni dal ricevimento della comunicazione, può fare opposizione motivata alle anzidette nomine o promozioni. Qualora il Ministro non intenda aderire alla opposizione dell'Alto Commissario, la decisione al riguardo è deferita al Consiglio dei Ministri.

Il personale nominato a norma del presente articolo non è soggetto a giudizio di epurazione, salva l'applicazione del secondo comma dell'art. 5.

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Art. 8.

Il presente decreto entra in vigore il 1° novembre 1944.

Ordiniamo, a chiunque spetti, di osservare il presente decreto e di farlo osservare come legge dello Stato.

Dato a Roma, addì 11 ottobre 1944

UMBERTO DI SAVOIA

BONOMI — SFORZA — CHIESA — DE GASPERI — RUINI — SARAGAT — TOGLIATTI — CARANDINI — TUPINI — STELLINGTI — SOLERI — CASATI — DE COURTEN — PIACENTINI — DE RUGGIERO — MANCINI — GUELFO — CERABONA — GROSSO.

Visto, il Guardasigilli: TUPINI

Registrato alla Corte dei conti, addì 21 ottobre 1944
Registro Presidenza n. 3, foglio n. 312. — EMANUELE

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DECRETO LEGISLATIVO LUOGOTENENZIALE 23 ottobre 1944, n. 285.

Norme integrative e di attuazione del decreto legislativo 27 luglio 1944, n. 159, per la parte riguardante l'epurazione dell'Amministrazione.

Pubblicato nella Gazzetta Ufficiale del 2 novembre 1944, n. 70

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;

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

Vista la deliberazione del Consiglio dei Ministri;

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

Abbiamo sanzionato e promulghiamo quanto segue:

Art. 1.

Il procedimento per l'epurazione prevista dal titolo II del decreto legislativo 27 luglio 1944, n. 159, è promosso dall'Alto Commissario per le sanzioni contro il fascismo, salvo quanto è disposto nell'articolo seguente.

Art. 2.

Le Amministrazioni indicate nell'art. 11 del decreto legislativo 27 luglio 1944, n. 159, denunziano all'Alto Commissario gli impiegati dipendenti che si trovino nelle condizioni previste dagli articoli 14 e 17 del decreto legislativo suddetto. Esse trasmettono all'Alto Commissario le notizie e gli elementi in loro possesso, riguardanti quei dipendenti per i quali possono rendersi applicabili le disposizioni degli articoli 12 e 13 del decreto legislativo suddetto.

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Qualora però le Amministrazioni medesime ritengano di avere elementi sufficienti per il giudizio di epurazione a carico dei loro dipendenti, procedono direttamente alla denunzia alle Commissioni giudicatrici, che, in tal caso, ne daranno comunicazione all'Alto Commissario, trasmettendo il nominativo dell'incolpato prima di procedere al giudizio.

L'Alto Commissario può, ove lo ritenga, avocare a sè l'iniziativa del procedimento.

L'Alto Commissario, in base agli elementi pervenutigli dalle Amministrazioni o dalle Commissioni o da lui raccolti con istruttorie compiute direttamente dal proprio ufficio, promuove il procedimento di epurazione davanti alle Commissioni di primo grado nei riguardi di coloro per i quali egli ritiene applicabili la dispensa o le sanzioni disciplinari stabilite dal titolo II del decreto legislativo suddetto.

Art. 2.

L'Alto Commissario può chiedere alle Amministrazioni informazioni e documenti, che non possono essere rifiutati.

Se essi involgono segreti politici o militari, occorre l'autorizzazione del Presidente del Consiglio dei Ministri, il quale può stabilire le modalità da seguire per la visione o la consegna dei documenti.

Art. 4.

La Commissione di primo grado, ricevuta la richiesta di procedimento con gli atti relativi, provvede a contestare all'interessato gli addebiti con invito a presentare le deduzioni entro un termine prefisso, che in ogni caso non può essere inferiore a giorni dieci.

Entro questo termine l'interessato ha facoltà di consultare gli atti nella segreteria della Commissione.

Art. 5.

Le deduzioni difensive sono presentate alla segreteria della Commissione.

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L'impiegato che risiede in Comune diverso da quello in cui ha sede la Commissione può presentare le sue deduzioni al capo dell'ufficio al quale è addetto.

Il capo dell'ufficio trasmette senza indugio le deduzioni alla segreteria della Commissione.

Art. 6.

La Commissione di primo grado, sulla base degli elementi raccolti e delle deduzioni dell'interessato, compie le indagini che ritiene necessarie ai sensi dell'articolo 19 del decreto legislativo 27 luglio 1944, n. 159, e quindi adotta le sue deliberazioni sneintamente motivate.

Art. 7.

Nei casi indicati dall'art. 14 del decreto legislativo 27 luglio 1944, n. 159, la Commissione per l'epurazione, in luogo della dispensa dal servizio, delibera l'applicazione di sanzioni disciplinari di minore gravità ai sensi dell'articolo medesimo, quando ritenga di poter escludere la settarietà o la intemperanza fascista.

Art. 8.

Non si fa luogo all'applicazione di alcuna sanzione quando le qualifiche indicate nell'art. 14 del decreto legislativo 27 luglio 1944, n. 159, sono state attribuite senza corrispondenza all'effettivo stato di fatto.

Parimenti non si fa luogo all'applicazione di alcuna sanzione nei riguardi di coloro che siano stati ufficiali della m.v.s.n. per effetto di incorporazioni collettive nella milizia di reparti provenienti da altri corpi dello Stato senza una specifica richiesta degli interessati.

Tuttavia si fa luogo all'applicazione della dispensa dal servizio e delle altre sanzioni previste dall'art. 14 del decreto suddetto nei riguardi di coloro che abbiano sfruttato l'attribuzione delle qualifiche e l'incorporazione nella milizia per conseguire vantaggi particolari diversi da quelli prevelnti in via generale per tutti coloro che si trovano nelle medesime condizioni.

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Art. 9.

I ricorsi dell'interessato e dell'Alto Commissario avverso la deliberazione della Commissione di primo grado sono presentati nella segreteria della detta Commissione e sono da questa trasmessi, unitamente agli atti, alla Commissione centrale.

L'impiegato che risiede in un Comune diverso da quello in cui ha sede la Commissione di primo grado può presentare il ricorso al capo dell'ufficio al quale è addetto.

Il capo dell'ufficio trasmette senza indugio il ricorso alla segreteria della Commissione di primo grado per il corso ulteriore.

Art. 10.

Le conclusioni delle Commissioni di epurazione sono dalle rispettive segreterie comunicate all'Amministrazione dalla quale l'impiegato dipende per gli eventuali provvedimenti di competenza.

Art. 11.

L'Alto Commissario, qualora ravvisi sussistere contro un impiegato sottoposto a procedimento per l'epurazione elementi tali da rendere necessaria la sospensione dall'ufficio, ne fa proposta motivata al Ministro o al Prefetto competente per l'adozione del relativo provvedimento ai sensi dell'art. 22 del decreto legislativo 27 luglio 1944, n. 159.

Il Ministro o il Prefetto, qualora non ritenga di accogliere la richiesta dell'Alto Commissario, gliene dà subito avviso e ne riferisce al Presidente del Consiglio dei Ministri, al quale spetta la decisione definitiva.

Il provvedimento di sospensione può essere sempre revocato, anche in pendenza del procedimento di epurazione, dalla stessa autorità che lo ha emesso, previo parere favorevole dell'Alto Commissario, quando vengono meno gli elementi che lo abbiano reso necessario. Nel caso di parere negativo la detta autorità può provocare la decisione definitiva del Presidente del Consiglio dei Ministri.

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Art. 12.

La Commissione centrale per l'epurazione ha i medesimi poteri attribuiti alle Commissioni di primo grado dall'art. 19 del decreto legislativo 27 luglio 1944, n. 159.

Davanti alla Commissione centrale possono essere prodotti nuovi elementi sia da parte dell'interessato sia da parte dell'Alto Commissario.

La Commissione centrale può concludere per una sanzione più grave di quella ritenuta applicabile dalla Commissione di primo grado, anche quando l'Alto Commissario non abbia proposto ricorso.

Art. 13.

L'epurazione per le aziende private concessionarie di pubblici servizi, le quali hanno la sede e svolgono le loro attività in una sola provincia, è fatta dalla Commissione prevista dal terzo comma dell'art. 18 del decreto legislativo 27 luglio 1944, n. 159.

I provvedimenti concernenti il personale delle aziende predette sono adottati dal Prefetto.

Art. 14.

Per le aziende speciali dipendenti da Amministrazioni o da Enti pubblici, quale secondo membro della Commissione di epurazione può essere nominato sia un funzionario dell'azienda interessata sia un funzionario dell'Amministrazione o dell'Ente pubblico da cui essa dipende.

Nel caso di commissione unica per più aziende, ferma restando la norma del comma precedente, l'autorità competente può designare il secondo membro tra il personale di una qualunque delle aziende stesse.

La disposizione del primo comma si applica anche alle aziende riconosciute di interesse generale nei confronti delle Amministrazioni che su di esse esercitano il controllo.

Art. 15.

In deroga al disposto del terzo comma dell'art. 18 del decreto legislativo 27 luglio 1944, n. 159, le Commissioni di epurazione per gli enti previsti nel comma

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stesso e nell'art. 13 del presente decreto sono nominate dal Presidente del Consiglio dei Ministri sentito l'Alto Commissario, ferma restando, per la loro composizione, la disposizione dell'articolo precedente per le aziende ivi previste. Presidente della Commissione sarà, in ogni caso, un magistrato dell'ordine giudiziario o amministrativo, in servizio o a riposo.

Può essere nominata una Commissione avente competenza per più di una provincia.

Per il comune di Roma e le aziende dipendenti la Commissione è nominata dal Ministro per l'interno; il secondo membro può essere scelto sia fra il personale del Comune sia fra quello del detto Ministero.

Le Commissioni di epurazione per le aziende private concessionarie di pubblici servizi e per quelle riconosciute di interesse nazionale possono essere nominate, oltre che dall'autorità competente, ai sensi del decreto legislativo Luogotenenziale 27 luglio 1944, n. 159, anche dal Presidente del Consiglio dei Ministri.

Art. 16.

Per le Amministrazioni statali, le quali hanno personale numeroso in sedi periferiche, possono essere nominate, nei modi previsti dal secondo comma dell'articolo 18 del decreto legislativo 27 luglio 1944, n. 159, Sottocommissioni aventi competenza per il personale in servizio in una o più provincie.

Le Commissioni possono aver sede in provincia.

Art. 17.

In ogni provincia il Prefetto, insieme col delegato dell'Alto Commissario, prepara il materiale istruttorio relativo agli impiegati da sottoporre al giudizio della Commissione di epurazione.

Art. 18.

Le Commissioni centrali, previste dall'art. 23, terzo comma, del decreto legislativo 27 luglio 1944, n. 159, sono composte di un presidente, di due magistrati del

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l'ordine giudiziario o amministrativo, in servizio o a riposo, di quattro membri scelti dal Ministro competente, previo parere, ove esistano, degli organi incaricati della tenuta dell'albo in Roma, fra gli esercenti della professione, arte o mestiere, e di due altri membri designati dall'Alto Commissario.

Nella nomina delle Commissioni previste dal primo comma dell'articolo predetto, il Ministro competente o l'autorità da lui delegata può prescindere dalla designazione degli organi incaricati della tenuta dell'albo, ove essi non esistano.

Art. 19.

Le Commissioni incaricate di rivedere le iscrizioni agli albi, a termine dell'art. 23 del decreto legislativo 27 luglio 1944, n. 159, applicano i criteri di cui agli articoli 12, n. 1, 13 e 14 dello stesso decreto. Esse deliberano la cancellazione quando il comportamento dell'iscritto sia stato tale da compromettere il decoro e la dignità professionale o comunque da farlo ritenere indegno di continuare nell'esercizio professionale, arte o mestiere.

Negli altri casi, in luogo della cancellazione, viene disposta la sospensione temporanea dall'esercizio della professione, arte o mestiere.

Si applica anche agli iscritti negli albi la disposizione dell'art. 16 del decreto suddetto.

Nei casi in cui l'esercizio della attività professionale è subordinato ad autorizzazione o concessione dell'autorità governativa, la cancellazione dall'albo comporta la perdita dell'autorizzazione o concessione.

Art. 20.

Le Commissioni incaricate della revisione degli albi hanno i medesimi poteri attribuiti alle Commissioni per l'epurazione dall'art. 10 del decreto legislativo 27 luglio 1944, n. 159.

Le dette Commissioni procedono su richiesta dell'Alto Commissario, al quale gli organi incaricati della tenuta degli albi rimettono gli elementi in loro possesso e le denunzie ad essi pervenute.

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Nei casi di particolare gravità le Commissioni possono, in pendenza del procedimento per la revisione, sospendere dall'esercizio della professione, arte o mestiere, fino alla definizione del procedimento, le persone contro le quali si procede.

Art. 21.

I ricorsi avverso le deliberazioni della Commissione per la revisione delle iscrizioni negli albi sono presentati nella segreteria della stessa Commissione e sono da questa trasmessi, unitamente agli atti, alla Commissione centrale competente.

Art. 22.

Le deliberazioni delle Commissioni incaricate della revisione degli albi, trascorsi i termini per ricorrere senza che sia stato prodotto ricorso, e le deliberazioni delle Commissioni centrali sono dalla segreteria comunicate agli organi incaricati della tenuta degli albi per i provvedimenti di esecuzione delle deliberazioni medesime.

Art. 23.

Alle Commissioni incaricate della revisione degli albi si applica l'ultimo comma dell'art. 18 del decreto legislativo 23 luglio 1944, n. 159.

Qualora un unico organo sia incaricato della tenuta di più albi professionali, se il rilevante numero degli iscritti lo renda necessario, il Ministro competente può disporre che siano costituite Commissioni diverse per la revisione delle iscrizioni nei singoli albi.

Art. 24.

Il Ministro competente può disporre che la revisione degli albi prevista dall'art. 23 del decreto legislativo 23 luglio 1944, n. 159, sia fatta in primo grado da una Commissione per due o più albi tenuti presso sedi vicine, quando ciò si ravvisi opportuno per il numero esiguo degli iscritti nei singoli albi.

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Art. 25.

Agli effetti dei termini stabiliti dall'art. 25 del decreto legislativo 27 luglio 1944, n. 159, il procedimento per l'epurazione si considera iniziato dalla data della comunicazione degli addebiti all'interessato.

Per l'impiegato che sia stato sospeso dall'ufficio prima di tale comunicazione il procedimento si considera iniziato dalla data del provvedimento di sospensione. Se tuttavia questa data sia anteriore all'entrata in vigore del presente decreto, il procedimento si considera iniziato il 16° giorno da quello in cui il decreto entrerà in vigore, quando la comunicazione degli addebiti non sia stata fatta.

Art. 26.

Quando, in conseguenza della liberazione dei territori attualmente non liberati, risultino a carico di persone soggette a giudizio di epurazione gravi elementi concernenti addebiti che non poterono prima essere conosciuti, il Presidente del Consiglio dei Ministri può, con suo decreto, disporre che il termine previsto dal 1° comma dell'art. 25 del decreto legislativo 27 luglio 1944, n. 159, decorra, nei confronti delle dette persone, dalla data prevista dal terzo comma dell'articolo stesso.

Art. 27.

Quando ricorra la gravità prevedura dal secondo comma dell'art. 22 del decreto legislativo luogotenenziale 27 luglio 1944, n. 159, possono essere sottoposti a giudizio di epurazione, da svolgersi nei modi e nei termini previsti, anche coloro che sono stati collocati a riposo dopo il 25 luglio 1943, agli effetti dell'eventuale perdita del diritto a pensione.

Art. 28.

La revisione dei provvedimenti ai sensi del secondo comma dell'art. 44 del decreto legislativo 27 luglio 1944, n. 159, ha luogo su richiesta degli interessati, da presentarsi entro novanta giorni dall'entrata in vigore

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del presente decreto, alla segreteria della competente Commissione di epurazione, ovvero all'Amministrazione dalla quale l'impiegato dipendeva.

Il giudizio di revisione si svolge con le norme prescritte dal decreto legislativo 27 luglio 1944, n. 159.

Art. 29.

L'impiegato, per il quale la Commissione di epurazione di primo grado si è pronunciata per la dispensa dal servizio, deve essere immediatamente sospeso ai sensi dell'art. 22, ultimo comma, del decreto legislativo 27 luglio 1944, n. 159.

Art. 30.

Il presente decreto entra in vigore il giorno successivo a quello della sua pubblicazione nella *Gazzetta Ufficiale* del Regno.

Ordiniamo, a chiunque spetti, di osservare il presente decreto e di farlo osservare come legge dello Stato.

Dato a Roma, addì 23 ottobre 1944.

UMBERTO DI SAVOIA

BONOMI — SFORZA — CIANCA — DE GASPERI — RUINI — SARAGAT — TOGLIATTI — CAIANIELLO — TUPINI — SIGLIENTI — SOLERI — CEVATI — DE COURTEN — PIACENTINI — DE RUGGIERO — MANCINI — GUELLO — CREMASCHI — GRONCHI.

Visto, il *Guardasigilli*: TUPINI

Registrato alla Corte dei conti, addì 7 novembre 1944
Atti del Governo, registro n. 1, foglio n. 1 — PETTI

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DECRETO LEGISLATIVO LUOGOTENENZIALE 4 gennaio 1945, n. 2.

Norme integrative dei decreti legislativi Luogotenenziali 27 luglio 1944, n. 159; 11 ottobre 1944, n. 257 e 28 ottobre 1944, n. 285, sulle sanzioni contro il fascismo e sul collocamento a riposo dei dipendenti dello Stato appartenenti ai primi quattro gradi della classificazione del personale statale.

Pubblicato nella Gazzetta Ufficiale del 9 gennaio 1945, n. 4

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;

Visto il decreto legislativo Luogotenenziale 11 ottobre 1944, n. 257;

Visto il decreto legislativo Luogotenenziale 28 ottobre 1944, n. 285;

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

Vista la deliberazione del Consiglio dei Ministri;

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

Abbiamo sanzionato e promulghiamo quanto segue:

Art. 1.

L'art. 19 del decreto legislativo Luogotenenziale 27 luglio 1944, n. 159, è sostituito dal seguente:

« Ad assicurare l'applicazione del presente decreto è istituito un Alto Commissario per le sanzioni contro il fascismo.

L'Alto Commissario è nominato su deliberazione del Consiglio dei Ministri ed è, per la durata della carica, equiparato ai magistrati dell'ordine giudiziario di primo grado.

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Egli è assistito da un Alto Commissario aggiunto e da un vice Alto Commissario aggiunto per ciascuno dei quattro rami di sua competenza.

Qualora sia vacante la carica di Alto Commissario o questi sia assente od impedito, le funzioni relative sono esercitate collegialmente dai quattro Alti Commissari aggiunti, sotto la presidenza del Presidente del Consiglio dei Ministri.

Gli Alti Commissari aggiunti ed i vice Alti Commissari aggiunti sono nominati dal Presidente del Consiglio dei Ministri e sono equiparati rispettivamente, per la durata della carica, ai magistrati di grado terzo e quarto.

All'ufficio dell'Alto Commissario vengono assegnati, a richiesta nominativa, magistrati e funzionari in numero adeguato, ed è posto alla sua dipendenza un nucleo di polizia giudiziaria composto di personale dei carabinieri, della pubblica sicurezza e della guardia di finanza. L'ufficio di segreteria è retto da un segretario generale, e vi possono essere chiamati anche estranei all'Amministrazione dello Stato.

L'Alto Commissario e gli uffici dipendenti possono richiedere l'opera della polizia giudiziaria, che è tenuta ad eseguirne gli ordini ».

Art. 2.

Il primo comma dell'art. 8 del decreto legislativo Luogotenenziale 27 luglio 1944, n. 159, è sostituito dal seguente:

« Chi, per motivi fascisti o avvalendosi della situazione politica creata dal fascismo, abbia compiuto fatti di particolare gravità che, pur non integrando gli estremi di reato, siano contrari a norme di rettitudine o di probità politica, è soggetto alla sospensione dai diritti elettorali, attivi e passivi, per una durata non superiore a dieci anni, o alla interdizione temporanea dai pubblici uffici, ovvero alla privazione dei diritti politici per una durata non superiore a dieci anni.

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In ogni caso incorrono nella sospensione del diritto elettorale coloro che hanno ricoperto cariche direttive nel partito fascista. Tali cariche saranno indicate con decreto del Presidente del Consiglio dei Ministri s.

Art. 3.

Il magistrato chiamato a presiedere le Commissioni provinciali ai sensi dell'art. 8 del decreto legislativo luogotenenziale 27 luglio 1944, n. 159, è nominato dal Presidente del Consiglio dei Ministri, sentiti il Ministro per la grazia e giustizia e l'Alto Commissario per le sanzioni contro il fascismo.

Art. 4.

All'art. 14 del decreto legislativo luogotenenziale 27 luglio 1944, n. 159, è aggiunto il comma seguente:

« Alle minori pene disciplinari si può addivenire anche nel caso dell'apologia fascista contemplata nell'art. 12, n. 1, quando l'apologia non abbia avuto tale gravità da rendere il colpevole indegno di servire lo Stato ».

Art. 5.

La Commissione centrale prevista dall'art. 20 del decreto legislativo luogotenenziale 27 luglio 1944, numero 159, è costituita da quattro sezioni, ciascuna delle quali composta di un presidente di sezione, di due magistrati dell'ordine giudiziario o amministrativo, in servizio o a riposo, di due funzionari delle Amministrazioni centrali e di due membri, designati dall'Alto Commissario per le sanzioni contro il fascismo.

Il presidente della Commissione centrale stabilisce le norme per la ripartizione del lavoro fra le varie sezioni e può presiedere le adunanze di ciascuna di esse.

Art. 6.

Fermo quanto disposto nel primo comma dell'art. 1 del decreto legislativo luogotenenziale 11 ottobre 1944, n. 257, il termine stabilito nel primo comma dell'art.

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In ogni caso incorrono nella sospensione del diritto elettorale coloro che hanno ricoperto cariche direttive nel partito fascista. Tali cariche saranno indicate con decreto del Presidente del Consiglio dei Ministri ».

Art. 3.

Il magistrato, chiamato a presiedere le Commissioni provinciali ai sensi dell'art. 8 del decreto legislativo luogotenenziale 27 luglio 1944, n. 159, è nominato dal Presidente del Consiglio dei Ministri, sentiti il Ministro per la grazia e giustizia e l'Alto Commissario per le sanzioni contro il fascismo.

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Art. 5.

La Commissione centrale prevista dall'art. 20 del decreto legislativo luogotenenziale 27 luglio 1944, numero 159, è costituita da quattro sezioni, ciascuna delle quali composta di un presidente di sezione, di due magistrati dell'ordine giudiziario o amministrativo, in servizio o a riposo, di due funzionari delle Amministrazioni centrali e di due membri, designati dall'Alto Commissario per le sanzioni contro il fascismo.

Il presidente della Commissione centrale stabilisce le norme per la ripartizione del lavoro fra le varie sezioni e può presiedere le adunanze di ciascuna di esse.

Art. 6.

Fermo quanto disposto nel primo comma dell'art. 1 del decreto legislativo luogotenenziale 11 ottobre 1944, n. 287, il termine stabilito nel primo comma dell'art.

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rato 25 del decreto legislativo Luogotenenziale 27 luglio 1944, n. 159, è prorogato di tre mesi per i territori restituiti all'Amministrazione italiana anteriormente alla data del presente decreto. La proroga è limitata ad un mese per le procedure relative ai funzionari delle Amministrazioni centrali dello Stato.

Art. 7.

Nei casi previsti dall'ultimo comma dell'art. 1 del decreto legislativo Luogotenenziale 11 ottobre 1944, n. 257, la proroga del termine per la comunicazione delle conclusioni delle Commissioni di epurazione può essere consentita fino a sessanta giorni.

Art. 8.

Il termine previsto dal secondo comma dell'art. 2 del decreto legislativo Luogotenenziale 11 ottobre 1944, n. 257, è portato a novanta giorni.

Art. 9.

Il personale contemplato nell'ultimo comma dell'articolo 3 del decreto legislativo Luogotenenziale 11 ottobre 1944, n. 257, è ammesso a chiedere, in luogo della maggiorazione del servizio utile per la pensione ai sensi del primo comma del detto art. 3, l'applicazione della legge 23 maggio 1940, n. 587, a norma dell'ultima parte dell'articolo stesso.

La richiesta deve essere presentata entro quindici giorni dalla data di comunicazione del decreto di collocamento a riposo.

Art. 10.

I (scelti) esonerati previsti per il personale inamovibile dall'art. 3 del decreto legislativo Luogotenenziale 11 ottobre 1944, n. 257, e dall'art. 9 del presente decreto si applicano anche nei confronti degli avvocati dello Stato collocati a riposo in base al citato decreto n. 257.

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Art. 11.

Il termine per la comunicazione delle conclusioni delle Commissioni di epurazione, prevedute dal secondo comma dell'art. 1 del decreto legislativo Luogotenenziale 11 ottobre 1944, n. 257, decorre dalla data di entrata in vigore del decreto stesso, per i deferimenti avvenuti anteriormente a detta data.

Art. 12.

L'art. 17 del decreto legislativo Luogotenenziale 27 ottobre 1944, n. 285, è modificato come appresso:

« In ogni provincia il prefetto, insieme con tre delegati dell'Alto Commissario per le sanzioni contro il fascismo, prepara il materiale istruttorio relativo agli impiegati da sottoporre al giudizio della Commissione di epurazione ».

Art. 13.

Dopo il secondo comma dell'art. 20 del decreto legislativo Luogotenenziale 25 ottobre 1944, n. 285, è aggiunto il comma seguente:

« Gli organi incaricati della tenuta degli atti, qualora ritengano di avere elementi sufficienti per il giudizio di epurazione a carico degli iscritti, procedono direttamente alla denuncia alle Commissioni, che, in tal caso, ne devono comunicazione all'Alto Commissario, prima di procedere al giudizio. L'Alto Commissario può, ove lo ritenga, avocare a sè l'iniziativa del procedimento ».

Art. 14.

La trasmissione da parte delle Commissioni di epurazione di primo grado delle loro conclusioni all'Alto Commissario per le sanzioni contro il fascismo, ai sensi dell'art. 20 del decreto legislativo Luogotenenziale 27 luglio 1944, n. 159, deve essere accompagnata dal fascicolo degli atti e documenti del procedimento a cui le conclusioni si riferiscono.

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Art. 15.

Il presente decreto entra in vigore il giorno dalla sua pubblicazione nella *Gazzetta Ufficiale* del Regno.

La disposizione dell'art. 7 ha effetto dal 30 dicembre 1944.

Ordiniamo a chiunque spetti di osservare il presente decreto e di farlo osservare come legge dello Stato.

Dato a Roma, addì 4 gennaio 1945

UMBERTO DI SAVOIA

BONOMI — BOMBIERI — TOGLIATTI — BRONZI — DE GASPERI — TUPINI — PERTINI — SOLERI — CASATI — DE COURTEN — SCIALOJA — ARANGIO RUIZ — RUINI — GUIDI — CERABONA — CEVOLOTTO — GRONCHI — SCOCCIMARRO

Visto, il Guardasigilli: TUPINI

Registrato alla Corte dei conti, addì 8 gennaio 1945
Atti del Governo, registro n. 2, foglio n. 10. — PETTI

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DECRETO DEL PRESIDENTE DEL CONSIGLIO DEI MINISTRI 2 febbraio 1945.

Indicazione delle cariche fasciste aventi per effetto la sospensione del diritto elettorale prevista dall'art. 8 del decreto legislativo Luogotenenziale 27 luglio 1944, n. 159, modificato dall'art. 2 del decreto legislativo Luogotenenziale 4 gennaio 1945, n. 2.

(Pubblicato nella Gazzetta Ufficiale del 15 febbraio 1945, n. 39)

IL PRESIDENTE DEL CONSIGLIO DEI MINISTRI
PRIMO MINISTRO SEGRETARIO DI STATO

Visto l'art. 8 del decreto legislativo Luogotenenziale 27 luglio 1944, n. 159;

Visto l'art. 2 del decreto legislativo Luogotenenziale 4 gennaio 1945, n. 2;

Decreta:

Articolo unico

Le cariche direttive che hanno per effetto la sospensione del diritto elettorale prevista dall'art. 8 del decreto legislativo Luogotenenziale 27 luglio 1944, n. 159, modificato dall'art. 2 del decreto legislativo Luogotenenziale 4 gennaio 1945, n. 2, sono le seguenti:

1) segretario e vice segretario del partito fascista;
2) membro del gran consiglio del fascismo;
3) componente del direttorio nazionale del partito fascista;
4) componente del consiglio nazionale del partito fascista;
5) ispettore del partito fascista;
6) segretario e vice segretario federale;
7) ispettore federale;
8) segretario politico di comune con popolazione non inferiore ai 20.000 abitanti;
9) ufficiale della milizia volontaria per la sicurezza nazionale in servizio permanente effettivo, con grado superiore a quello di centurione.

Roma, addì 2 febbraio 1945

BONOMI

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ALLIED COMMISSION - ITALY

2488

SOSPENSIONE

DEI FUNZIONARI E DEGLI IMPIEGATI

FASCISTI

FEBBRAIO 1945

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La presente Ordinanza Generale è intesa alla immediata attuazione delle misure preliminari nell'opera di epurazione della vita nazionale dal fascismo intrapresa dal Governo Italiano.

L'Ordinanza, pur avendo propria autonomia, siccome provvedimento del Governo Militare Alleato, si inquadra nell'insieme delle disposizioni emanate in materia dal Governo Italiano, e cioè:

1) Decreto-Legge Luogotenenziale 27 luglio 1944, n. 159.
2) Decreto-Legge Luogotenenziale 3 ottobre 1944, n. 258.
3) Decreto-Legge Luogotenenziale 11 ottobre 1944, n. 257.
4) Decreto-Legge Luogotenenziale 23 ottobre 1944, n. 285.
5) Circolare n. 1, in data 31 agosto 1944.
6) Circolare n. 2, in data 8 settembre 1944.
7) Circolare n. 3, in data 20 ottobre 1944.

Le predette Circolari sono state tutte emanate dall'Alto Commissario Aggiunto per l'Epurazione; estratti delle medesime sono raccolte in Appendice.

Nell'applicazione delle norme contenute nella presente Ordinanza si dovrà essenzialmente aver presenti la lettera e lo spirito delle norme stesse; ma pei casi da questa non previsti si dovrà far riferimento ai precetti e ai principi informatori dei sunnominati provvedimenti del Governo Italiano.

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GOVERNO MILITARE ALLEATO
DEL TERRITORIO OCCUPATO

ORDINANZA GENERALE N. 35

SOSPENSIONE DEI FUNZIONARI E DEGLI IMPIEGATI FASCISTI

POICHE è nelle direttive del Governo Militare Alleato che coloro che furono fascisti e ricoprirono posti importanti o rappresentativi durante il regime fascista o che dopo l'8 settembre 1943 hanno collaborato con il Governo Repubblicano Fascista siano allontanati dal servizio, e

POICHE il Governo Italiano si è assunto tale compito ed ha emanato a questo scopo il Decreto Legislativo Luogotenenziale 29 luglio 1944, n. 159 ed ulteriori decreti integrativi, e

POICHE il Governo Militare Alleato desidera che, senza pregiudizio all'applicazione dei suddetti decreti, abbia immediatamente luogo la sospensione dal servizio di tutti coloro che ne sono colpiti,

IO, ELLERY W. STONE, Commodoro, USNR, in nome e per conto del Comandante Supremo Alleato e Governatore Militare, con la presente ordino quanto segue:

ARTICOLO I.

Soggetti ai quali si applica la presente ordinanza.

Sono sottoposti ai procedimenti contemplati dalla presente Ordinanza i funzionari e gli impiegati appartenenti ai seguenti Enti:

(a) Amministrazioni dello Stato, anche se con ordinamento autonomo.

(b) Enti locali ed altri Enti ed Istituti Pubblici.

(c) Aziende Speciali dipendenti da Amministrazioni ed Enti Pubblici, Aziende private concessionarie di servizi pubblici e quelle riconosciute di interesse nazionale.

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ARTICOLO II.

Categorie dei soggetti.

Sono sospesi dal servizio

a) Coloro che, specialmente in alti gradi, col partecipare attivamente alla politica del Fascismo o con manifestazioni ripetute di apologia fascista, si sono mostrati indegni di servire lo Stato.

b) Coloro che hanno conseguito nomine ed avanzamenti per il favore del partito o dei gerarchi fascisti.

c) Coloro che si sono resi colpevoli di faziosità fascista o di malversazione.

d) Coloro che hanno rivestito la qualifica di squadrista o sansepolcrista o antemarcia o marcia su Roma o Sciarpa Littorea o che sono stati ufficiali nella Milizia fascista.

e) Coloro che dopo l'8 settembre 1943 hanno seguito al Nord dell'Italia il Governo Fascista Repubblicano o gli hanno prestato giuramento o hanno comunque collaborato con esso.

ARTICOLO III.

Nomina delle Commissioni.

a) Il Commissario Provinciale, entro 3 giorni dalla entrata in vigore in ciascuna località della presente Ordinanza, nomina una Commissione composta da cittadini italiani di precedenti integri e non compromessi col fascismo, per l'attuazione nella località stessa delle disposizioni di cui alla presente Ordinanza e dà pubblico avviso della nomina e dell'indirizzo dell'ufficio della Commissione.

b) Ogni Commissione sarà composta di un Presidente, nominato dal Commissario Provinciale, e di tanti altri membri quanti ne nominerà il Commissario Provinciale. Essa può scindersi in Sezioni distinte.

c) Il Presidente di una Commissione o i membri di essa possono essere in qualunque tempo rimossi dal Commissario Provinciale.

ARTICOLO IV.

Notifica dell'Ordinanza.

a) Entro 7 giorni dall'entrata in vigore della presente Ordinanza, il Capo di ogni Amministrazione o Azienda compresa nell'art. 1 della presente Ordinanza e che svolge la sua attività in una

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località dove l'Ordinanza stessa si applica, affiggerà nelle sedi o nelle sedi rispettive una o più copie della presente Ordinanza ed informerà tutti i funzionari e gli impiegati dell'Amministrazione o dell'Azienda che lavorano nella località di cui trattasi che:

(i) la presente Ordinanza è entrata in vigore in quella località e che

(ii) quella particolare Amministrazione od Azienda è compresa tra quelle di cui all'Art. I della presente Ordinanza.

Resta fermo che l'omissione da parte del Capo di una Amministrazione od Azienda di fornire la suddetta informazione non costituisce giustificazione per colui che fosse imputato di inosservanza delle disposizioni dell'articolo V della presente Ordinanza.

b) Allorchè la presente Ordinanza entra in vigore in una località, il Prefetto farà affiggere una copia di essa in ogni comune compreso in tale località.

ARTICOLO V

Presentazione della Scheda Personale.

(*a*) Tutti coloro ai quali si applica la presente Ordinanza sono divisi nelle seguenti tre categorie:

(1) *Categoria urgente*, nella quale sono compresi:

gli appartenenti ai primi sei gradi dell'Amministrazione dello Stato; gli appartenenti agli Uffici Centrali di una Amministrazione od Azienda che ricoprono posti di Consigliere d'Amministrazione, Direttore, Direttore di Stabilimento, Capo Tecnico o Tecnico Specializzato; i funzionari e gli impiegati di una Filiale di una Amministrazione od Azienda che ricoprono posti di Direttore o di Tecnico Specializzato.

(2) *Categoria normale*, nella quale sono compresi:

gli appartenenti ai gradi VII, VIII e IX dell'Amministrazione dello Stato; i funzionari e gli impiegati degli Uffici Centrali di una Amministrazione od Azienda che ricoprono posti di Condirettore o Vice Direttore, ovvero di Condirettore o Vice Direttore di Stabilimento, di Capo Servizio o Capo Reparto; i funzionari e gli impiegati di una Filiale di una Amministrazione od Azienda che ricoprono posti di Condirettore o Vice Direttore, ovvero di Condirettore o Vice Direttore di Stabilimento, o di Capo Servizio o Capo Reparto; quei funzionari o impiegati di grado X, XI e XII, alle dipendenze del Ministero dell'Educazione e sottoposti ai Provveditori agli Studi, ai quali fosse ordinato da o per conto del Commissario Regionale

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del Governo Militare Alleato di compilare, firmare e consegnare le le schede personali.

3) *Categoria ritardata*, nella quale sono compresi tutti gli altri funzionari ed impiegati.

b) Entro 14 giorni dalla data di entrata in vigore della presente Ordinanza tutti coloro cui l'Ordinanza stessa si applica e che sono compresi nella categoria urgente o nella categoria normale sopra specificate devono riempire, firmare e consegnare al Capo della rispettiva Amministrazione od Azienda una Scheda Personale del tipo prescritto. Il Capo dell'Amministrazione o dell'Azienda dividerà nelle suddette due categorie le schede personali così ricevute e, entro 16 giorni dalla data di entrata in vigore della presente Ordinanza, le depositerà così divise presso l'Ufficio della Commissione insieme ad una Scheda Personale debitamente riempita e firmata da lui stesso.

c) Entro 18 giorni dalla data di entrata in vigore della presente Ordinanza il Capo di ogni Amministrazione od Azienda compilerà, firmerà e depositerà presso la Commissione un elenco di tutti i funzionari ed impiegati della rispettiva Amministrazione od Azienda compresi nelle predette due categorie con certificazione che una Scheda Personale è stata compilata e depositata nei confronti di ciascuno di tali funzionari ed impiegati o con una dichiarazione che ne giustifichi la mancanza.

d) Coloro ai quali la presente Ordinanza si applica e che sono compresi nella categoria ritardata, non sono tenuti a riempire, firmare o consegnare una Scheda Personale ne sono altrimenti soggetti ai termini della presente Ordinanza senza che sia emanata dal Governo Militare Alleato una ulteriore Ordinanza.

Articolo VI.

Esame delle Schede Personali.

La Commissione esamina quindi tali Schede Personali unitamente a quelle altre prove che fossero state presentate, decide chi in conformità alle disposizioni della presente Ordinanza è considerato passibile di sospensione e

a) notifica ad ognuno di essi un avviso di progettata sospensione;

b) notifica al datore di lavoro di ciascuno di essi, una copia di tale avviso.

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ARTICOLO VII.

Opposizione agli avvisi di progettata sospensione.

Chiunque ha ricevuto un avviso di progettata sospensione, può, entro 10 giorni, depositare presso l'Ufficio della Commissione una opposizione contro tale avviso. L'opposizione deve essere redatta per iscritto e può essere accompagnata da quelle dichiarazioni o documenti che si desidera sottoporre alla Commissione.

ARTICOLO VIII.

Procedimenti di opposizione.

(a) La Commissione esamina l'opposizione e, a meno che non la ritenga priva di fondamento, procede all'istruttoria ed al dibattimento in conformità delle norme stabilite al riguardo. A tale dibattimento colui che ha presentato l'opposizione ha diritto di comparire personalmente o per mezzo di un avvocato e di dimostrare le ragioni per le quali non dovrebbe essere sospeso.

(b) In tali procedimenti la Commissione deve tenere in considerazione, fra gli altri elementi, che

(i) chiunque dopo l'8 settembre 1943 si è distinto nella lotta contro i tedeschi, può essere esentato dalla sospensione; o

(ii) che chiunque ricada sotto la lettera (*d*) dell'Art. II di cui sopra, può essere esentato dalla sospensione se in effetti non è stato colpevole di partigianeria fascista o di malcostume.

ARTICOLO IX

Decisione della Commissione.

(a) Trascorsi 10 giorni dalla data della notifica dell'avviso di progettata sospensione senza che sia stata presentata opposizione alcuna, la Commissione emette un ordine di sospensione nei confronti di colui cui l'avviso è stato indirizzato.

(b) Allorquando è stata presentata opposizione, la Commissione, dopo averla esaminata e, quando del caso, dopo l'udienza relativa,

(i) accoglie l'opposizione ed ordina che l'avviso di progettata sospensione sia annullato; o

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(c) rigetta l'opposizione ed emetta un ordine di sospensione nei confronti di colui che ha presentato l'opposizione.

Copie dell'ordine saranno nell'un caso e nell'altro notificate sia a colui cui l'ordine si riferisce, che al suo datore di lavoro.

ARTICOLO X.

Effetto di un ordine di sospensione.

(a) Un ordine di sospensione emesso nei confronti di chiunque, sospende tale persona, a partire dalla data dell'ordine, da qualsiasi servizio od impiego presso una qualunque delle Amministrazioni od Aziende di cui all'Art. I della presente Ordinanza.

(b) Chiunque sia stato sospeso per effetto di un ordine di sospensione, non può, salvo quanto disposto dall'Art. XII della presente Ordinanza, essere successivamente assunto o riassunto, senza un ulteriore ordine della Commissione, dalla stessa Amministrazione od Azienda o da qualsiasi altra compresa nell'Art. I della presente Ordinanza.

ARTICOLO XI.

Retribuzione di coloro che sono stati sospesi.

A tutti coloro, nei confronti dei quali sia stato emesso un ordine di sospensione, sarà corrisposto durante il periodo di sospensione, a titolo alimentare, lo stipendio base senza nessun ulteriore accessorio.

ARTICOLO XII.

Inappellabilità delle decisioni della Commissione.

(a) Nessun atto, avviso od ordine compiuto, emesso od impartito da una Commissione in attuazione o in conseguenza della presente Ordinanza è soggetto ad appello e tutti tali atti, avvisi ed ordini sono definitivi e vincolativi a meno che e fino a quando una Commissione nominata in base al Decreto-Legge Luogotenenziale n. 159 per l'epurazione delle Amministrazioni, non ordini diversamente.

(b) Quanto contenuto nella presente Ordinanza, nonchè qualsiasi atto, decisione, avviso od ordine, compiuto, preso, emesso od

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impartito in attuazione o in conseguenza dell'Ordinanza stessa, non può essere usato per influenzare, pregiudicare, limitare o comunque interferire con l'azione di una Commissione istituita in base al Decreto-Legge Luogotenenziale n. 159 nell'esame dei casi trattati da tale Commissione.

ARTICOLO XIII

Disposizioni varie.

(a) Nel giudizio di opposizione la Commissione

(i) ha il potere di richiedere giuramento;

(ii) esercita, nei limiti richiesti dalle finalità della presente Ordinanza, le prerogative conferite all'Autorità giudiziaria dagli Articoli 238, 342 e 343 del Codice di Procedura Penale Italiano;

(iii) ha il potere di emanare quelle norme e quegli ordini, nonchè compiere tutti quegli atti che siano necessari ai fini della presente Ordinanza.

(b) Le Schede Personali, le opposizioni, gli avvisi, gli ordini e gli altri documenti usati e richiesti ai fini della presente Ordinanza sono esenti da diritti di bollo di qualsiasi specie.

ARTICOLO XIV.

Reati.

Chiunque:

(a) tenuto in base alle disposizioni della presente Ordinanza a compilare, firmare e consegnare una Scheda Personale, omette o di compilarla o di firmarla o di consegnarla;

(b) in una Scheda Personale, opposizione od altro documento, attesta scientemente il falso;

(c) testimonia il falso davanti ad una Commissione;

(d) offre, chiede, dà o riceve un illecito compenso in relazione a tutto ciò che ricade sotto la presente Ordinanza;

si rende colpevole di un reato e, allorchè riconosciuto colpevole da un Tribunale Militare Alleato, è passibile di detenzione o di pena pecuniaria o di entrambe, a giudizio del Tribunale.

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ARTICOLO XV.

Salvaguardia dei poteri del Governo Militare Alleato.

Tutto quanto contenuto nella presente Ordinanza lascia integri e non infirma i poteri del Governo Militare Alleato.

Tali poteri possono in ogni momento essere esercitati come se la presente Ordinanza non fosse stata emanata.

ARTICOLO XVI.

Limiti di applicazione e data di entrata in vigore dell'Ordinanza.

La presente Ordinanza entra in vigore in ogni Provincia o parte di essa compresa nel territorio amministrato dal Governo Militare Alleato alla data stabilita per essa in apposito ordine del Commissario Provinciale di tale Provincia.

Per il Comandante Supremo Alleato
e Governatore Militare

ELLERY W. STONE
Contrammiraglio, USNR.
Ufficiale Capo degli Affari Civili

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ISTRUZIONI AMMINISTRATIVE PER L'APPLICAZIONE DELL'ORDINANZA GENERALE N. 35

1. — Mentre molti fascisti che occupavano posti eminenti durante il regime fascista sono stati rimossi, è possibile che molti altri permangano ancora in posti fra quelli indicati nell'Ordinanza Generale N. 35 questa Ordinanza stabilisce le norme per la sospensione di coloro che rientrano in questa categoria generale e che non sono stati ancora rimossi. Essa, tuttavia, non impedisce che un membro del Governo Militare Alleato possa, come finora praticato, sospendere o rimuovere direttamente.

2. — L'Ordinanza Generale deve essere applicata da varie Commissioni composte da Italiani, i quali saranno nominati dai Commissari Provinciali. Essi saranno scelti tenendo innanzi tutto conto della loro avversione da ogni precedente fascista, ma curando altresì che siano persone dabbene, probe e capaci. Non è necessario che siano domiciliati nella località per la quale è stata nominata la Commissione di cui devono far parte.

3. — Ogni Commissione disporrà di adeguato personale e sarà cura del Commissario Provinciale controllare che tale personale sia appunto adeguato ma non eccessivo. Lo stesso personale deve essere immune da precedenti fascisti.

4. — Le retribuzioni dei membri della Commissione e del personale, a meno che non sia diversamente disposto dal Governo Militare Alleato, saranno a carico di ciascuna Prefettura e restano stabilite nella seguente misura:

Il Presidente di ogni Commissione riceverà lo stipendio con gli accessori spettanti ad un magistrato italiano di grado IV.

Gli altri membri di ogni Commissione riceveranno lo stipendio con gli accessori spettanti ad un magistrato italiano di grado V.

I componenti del personale riceveranno uno stipendio, con gli accessori, che non deve superare quello di impiegati governativi italiani che disimpegnano lavoro analogo.

5. — Ove se ne ravvisi l'opportunità, una Commissione può scindersi in più sezioni e ciascuna di tali sezioni ha tutti i poteri della stessa Commissione. Il Presidente di una Commissione, se

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richiesta dal Commissario Regionale, assegnerà una o più di tali Sezioni all'inchiesta concernente i funzionari o gli impiegati dipendenti da un determinato Ministero, Amministrazione od Azienda, e specialmente i funzionari o gli impiegati del Ministero della Educazione.

Il Presidente di ogni Commissione nominerà, fra i membri di essa, un Presidente aggiunto, ed uno o più Vice Presidenti. Il Presidente aggiunto presiede la Commissione in assenza del Presidente; lo stesso Presidente aggiunto od uno dei Vice Presidenti presiede una Sezione distaccata. La nomina del Presidente aggiunto e dei Vice Presidenti è subordinata all'approvazione del Commissario Provinciale. Ogni vacanza sarà colmata, se necessario, adottando gli stessi criteri seguiti per le nomine iniziali.

6. — Normalmente alle sedute della Commissione o di una sezione di essa dovrebbero partecipare non più di 5 e non meno di 3 membri.

7. — L'assenza di un membro della Commissione da una qualsiasi seduta non infirma gli atti della Commissione, purchè il numero dei presenti non risulti inferiore a 3.

8. — La procedura stabilita nell'Art. 6 dell'Ordinanza Generale deve svolgersi senza la presenza di estranei. La Commissione prenderà per ogni singolo caso le sue decisioni in base ad un coscienzioso esame dei fatti che risultano dalla Scheda Personale e dagli altri elementi di giudizio in possesso della Commissione.

9. — Allorchè la Commissione decide che si debba notificare un avviso di progettata sospensione, essa deve stabilire e far risultare sull'avviso i motivi di tale progettata sospensione.

Tali motivi devono essere esposti in maniera così dettagliata da mettere in grado la persona colpita di redigere la sua opposizione.

10. — L'udienza di ogni opposizione da parte di una Commissione deve essere aperta al pubblico, a meno che non sia diversamente disposto dal Commissario Provinciale o da un altro ufficiale da lui designato.

11. — All'udienza di una opposizione sono ammesse prove sia orali che documentarie. La Commissione, tuttavia, in nessun tempo nè in nessuno stadio del procedimento iniziato in dipendenza dall'Ordinanza Generale, accetterà mai come prove, nè prenderà mai cognizione di comunicazioni anonime.

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Allorchè l'opponente lo desidera gli deve essere consentito di deporre oralmente, e sta egli che la Commissione possono produrre quelle ulteriori prove di rilievo che ritengono del caso.

Tutte le domande all'opponente e agli altri testimoni, che deporgono davanti alla Commissione, saranno indirizzate unicamente per il tramite del Presidente della Commissione o della Sezione.

12. — La Commissione non nominera nessuno ad adempiere funzioni analoghe a quelle di « Pubblico Ministero ».

13. — Chiunque può denunziare chi ricade sotto le disposizioni dell'Ordinanza Generale. La Commissione non può accogliere una denunzia se non sia redatta per iscritto e giurata. L'udienza relativa ad una denunzia deve essere condotta in maniera analoga nelli altri casi.

14. — Chiunque sia stato precedentemente rimosso o sospeso dal Governo Militare Alleato da un impiego presso una Amministrazione od Azienda per il solo fatto di aver avuto legami col fascismo, può presentare all'Ufficio della Commissione nominata per quella località una Scheda Personale debitamente compilata e firmata. La Commissione, con l'approvazione del Commissario Provinciale, può trattare il caso aprendo una udienza basata sui documenti presentati dall'interessato come se si trattasse di una opposizione. Nel caso che la Commissione accerti che in effetti alla persona in causa non vi siano addebiti da muovere come fascista e che egli non sarebbe stato sospeso unicamente perchè tale se alla data di entrata in vigore dell'Ordinanza Generale fosse stato tuttora in servizio, la Commissione, col consenso del Commissario Provinciale, può ordinare che sia reintegrato nel posto precedentemente occupato o in altro posto che egli avesse eventualmente richiesto o successivamente richiedesse, e, col consenso del Commissario Provinciale, può ordinare che gli sia pagato tutto o parte dello stipendio cui avrebbe avuto diritto se fosse rimasto in servizio.

15. — Se colui che deposita una Scheda Personale in base a quanto prescritto dall'Ordinanza Generale è stato assegnato ad un determinato posto dal Governo Militare Alleato, la Commissione competente non procede nei suoi confronti, nè emana un ordine di sospensione a suo carico senza il consenso del Commissario Provinciale competente.

16. — L'Ordinanza Generale si applica nei confronti di coloro comprese nelle categorie « Urgente » e « Normale » senza distinzione

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di grado, categoria o stipendio. Tuttavia la Commissione si occuperà innanzi tutto dei funzionari e degli impiegati che occupano i posti più importanti.

Nell'esame delle Schede Personali, notifica degli avvisi di proposta sospensione, udienza delle opposizioni ed emissione degli ordini relativi, le Commissioni, salvo casi eccezionali, completeranno tutti i procedimenti riguardanti coloro compresi nella categoria « Urgente » prima di iniziare i procedimenti riguardanti coloro compresi nella categoria « Normale ».

17. — Allorquando è stato emesso un ordine di sospensione a carico di un elemento che il Commissario Provinciale ritiene sia adibito ad un lavoro d'importanza essenziale e sia insostituibile, lo stesso Commissario Provinciale può richiedere alla Commissione di ordinarne la riammissione in servizio fino a quando non si sia potuto provvedere ad una conveniente sostituzione.

18. — La Commissione ha il potere, di volta in volta ed in ogni tempo:

(*a*) di emanare norme, purchè non incompatibili con l'Ordinanza Generale o con le presenti istruzioni, per regolare i procedimenti;

(*b*) modificare, abrogare tali norme e sostituirle;

(*c*) pubblicare quelle norme che sono in vigore in quel momento ed il cui contenuto deve essere a disposizione del pubblico per consultazioni.

Tutte queste norme e relative modifiche sono subordinate alla approvazione del Commissario Provinciale.

19. — Sebbene l'Ordinanza Generale prescriva alcuni specifici termini procedurali, una Commissione ha la facoltà di estendere un termine allorquando lo ritenga necessario. Tali estensioni di termini, tuttavia, non devono diventare abituali, in quanto è della massima importanza che il lavoro proceda quanto più rapidamente possibile.

20. — Ogni Commissione dovrà avere un archivio completo ed accurato, conservando tutte le Schede Personali, le opposizioni, le deliberazioni, gli avvisi, le dichiarazioni ed i documenti depositati nei suoi uffici, nonchè le copie di tutti gli avvisi e gli ordini notificati ed emanati, in maniera tale da poterli facilmente rintracciare e disporre del contenuto dell'archivio stesso secondo quanto verrà ordinato dal Commissario Provinciale.

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Tutti tali incarti devono essere sempre disponibili per ispezioni da parte del Commissario Provinciale.

21. — Si allegano copie dei moduli necessari a tutti gli effetti dell'Ordinanza Generale che saranno usati da tutte le Commissioni senza apportarvi sostanziali modifiche:

(*a*) Scheda Personale.
(*b*) Avviso di progettata sospensione.
(*c*) Avviso di fissazione di udienza.
(*d*) Ordine di sospensione.
(*e*) Ordine di accoglimento dell'opposizione.
(*f*) Certificato di notifica.

Per il Comandante Supremo Alleato
e Governatore Militare

ELLERY W. STONE
Contrammiraglio, USNR.
Ufficiale Capo degli Affari Civili

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Modello N. 35 (a)

GOVERNO MILITARE ALLEATO

N. B. — *Penalità severissime, di prigione e di ammenda, sono previste per chiunque facesse delle dichiarazioni false nella presente scheda.*

Amministrazione o Ente .....

SCHEDA PERSONALE

1. *Cognome e Nome* ..... *Paternità* .....
Luogo e data di nascita .....
Attuale domicilio .....
Titolo di studio .....
Natura dell'impiego .....
Se celibe o coniugato ..... *Se ha figli* .....
2. *È stato iscritto al P.N.F.?* ..... *Data d'iscrizione ed eventuale retrodatazione* .....
Aveva una delle seguenti qualifiche
Sansepolcrista? ..... *Antemarcia?* ..... *Squadrista?* .....
Marcia su Roma? ..... *Sciarpa Littorio?* .....
3. *Ha ricoperto una delle seguenti cariche nel P.N.F.*
Segretario del P.N.F.? ..... *In quale periodo?* .....
Vice Segretario del P.N.F.? .....
Membro del Direttorio Nazionale? .....
Componente della Corte di disciplina? .....
Ispettore del P.N.F.? .....
Segretario Federale? .....
Vice Segretario Federale? .....
Membro del Direttorio Federale? .....
Componente di Commissione federale di disciplina? .....

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Ispettore Federale? ..... *In quale periodo?* .....
Segretario Politico? ..... " " .....
Membro del Direttorio del Fascio? ..... " " .....
Fiduciario di Gruppo rionale? ..... " " .....
Consultore? ..... " " .....
Componente di Commissione di disciplina di fascio o di gruppo rionale? ..... " " .....
Capo Settore? ..... " " .....
Capo Nucleo? ..... " " .....

5. *Ha ricoperto altre cariche o avuto incarichi presso il P.N.F. e quali?* .....
In quali periodi e dove? .....
6. *Ha ricoperto cariche o avuto incarichi nella G.I.L. compresi O.N.B. e fasci giovanili e quali?* .....
In quali periodi e dove? .....
7. *Ha ricoperto cariche o avuto incarichi nel G.U.F. e quali?* .....
In quali periodi e dove? .....
8. *Ha ricoperto o avuto incarichi nell'O.N.D. e quali?* .....
In quali periodi e dove? .....
9. *Ha ricoperto cariche o avuto incarichi nei fasci femminili e quali?* .....
In quali periodi e dove? .....
10. *È stato impiegato o comunque destinato ad uffici del P.N.F.?* .....
In quali periodi e dove? .....
11. *Ha appartenuto alla M.V.S.N.?* .....
In quali periodi? .....
In servizio effettivo, nei quadri o fuori quadro? .....
Che grado, anche onoraria, ha conseguito? .....
Quali incarichi vi ha espletato? .....
È stato moschettiere del duce o ha appartenuto al Battaglione «M»? .....
In quali periodi? .....

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14. *Ha appartenuto a milizie speciali? ..... Quali? .....*
Che grado, anche onorario, ha conseguito? .....
In quali periodi? .....

12. *Ha appartenuto al Tribunale speciale per la difesa dello Stato? .....*
In quali periodi? .....
In che qualità? .....

13. *Ha fatto parte della O.V.R.A.? ..... In quali periodi? .....*
In che qualità? .....

14. *Ha fatto parte dell'Ufficio politico della P. S.? .....*
In quali periodi e dove? .....
In che qualità? .....

15. *Ha fatto parte delle Commissioni per il confino? .....*
In quali periodi e dove? .....
In che qualità? .....

16. *Ha fatto parte di uffici o commissioni razziali? .....*
In quali periodi e dove? .....
In che qualità? .....
Ha fatto pubblicazioni o conferenze di carattere razziale? .....
Quali e quando? .....

17. *E stato senatore? ..... Data della nomina .....*
Cariche avute nel Senato .....

18. *E stato deputato dopo il 28 ottobre 1922? .....*
In quali legislature? .....
Cariche avute nella Camera dei deputati .....

19. *E stato consigliere nazionale? ..... In quali periodi? .....*
Cariche avute nella Camera dei fasci e delle corporazioni .....

20. *Quali sono stati lo svolgimento della carriera, le promozioni e le destinazioni avute dal 28 ottobre 1922 all'8 settembre 1943? .....*

21. *Ha conseguito avanzamenti o preferenze nei concorsi o in carriera per titoli fascisti e quali? .....*
Ha avuto compensi per benemerenze fasciste di qualunque natura? .....
Quali e in quali epoche? .....

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22. *È stato preposto o addetto al gabinetto o alla segreteria di Ministri o di Sottosegretari* (precisare nome del Ministro o Sottosegretario e il periodo) .....

23. *Ha ricoperto cariche corporative o sindacali e quali?* .....

È stato impiegato o comunque ha appartenuto ad uffici od organi corporativi o sindacali? .....
In quali periodi e dove? .....

24. *Ha ricoperto cariche o avuto incarichi presso lo Stato, le province o i comuni?* ..... *e quali?* .....

In quali periodi? .....
Come retribuito? .....

25. *Ha ricoperto cariche o avuto incarichi presso enti pubblici di qualsiasi genere o presso enti, aziende o società anche private?* .....

In quali periodi e dove? .....
Come retribuito? .....

26. *Onorificenze e decorazioni italiane conseguite, e data del conseguimento* .....

27. *Onorificenze e decorazioni straniere e date del conseguimento* .....

28. *Ha svolto attività pubblicistica, in quale periodo e in quale quotidiano o periodico?* .....

29. *È stato autore di libri, opuscoli o pubblicazioni in genere, aventi anche indirettamente carattere politico?* (indicare quali) .....

30. *Ha tenuto discorsi o conferenze di carattere politico, sia in pubblico, sia alla Radio?* .....

In quali periodi? .....

31. *Posizione e grado militare* .....
È stato volontario nelle campagne d'Africa? .....
È stato volontario nella guerra di Spagna? .....
È stato volontario nella guerra attuale? .....
Ha avuto esoneri dal servizio militare? ..... *Data e motivo* .....

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32. *Ha aderito al Partito Fascista Repubblicano?* .....
Vi ha ricoperto cariche e quali? .....
.....

33. *A quale ufficio era destinato alla data dell'8 settembre 1943?*
.....
Ha continuato a prestare servizio? (indicare tutti gli uffici ricoperti durante il periodo dell'occupazione nazi-fascista e le eventuali nomine, promozioni o trasferimenti) .....
.....
In caso contrario, quale attività ha svolta? .....
.....

35. *Si è trasferito al Nord?* (precisare se volontariamente o meno)
.....
Ha avuto missioni per il Nord? .....

36. *Ha prestato giuramento al Governo fascista repubblicano?* ....
In quali circostanze? .....
.....

37. *Se alla data dell'8 settembre si trovava sotto le armi, come si è comportato?* .....
.....

38. *Avendo obblighi militari ha risposto alle varie chiamate dei tedeschi o del governo fascista repubblicano?* .....

39. *Ha svolto attività politica, militare o di polizia dopo l'8 settembre 1943 e quale?* .....
.....
In particolare, ha appartenuto alla guardia nazionale repubblicana? .....
Con quale grado? .....

40. *Se ha avuto chiamate per il servizio del lavoro, come si è comportato?* .....
.....

41. *È stato mai arrestato?* .....
Quando? ..... *Da chi?* .....
Per quale motivo? .....

42. *Ha mai subito condanne?* .....
Se sì, specificare .....
.....

43. *Si è mai recato all'Estero?* .....
Dove? ..... *Quando?* .....
Per quale motivo? .....

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43. *E stato in qualsiasi modo e con qualsiasi attività impegnato con qualsiasi Comando, agenzia o qualsiasi sorta di organizzazione tedesca?* (Si diano ampi particolari; in caso contrario scrivere NO) .....

Dichiaro sul mio onore e sotto la mia responsabilità che le indicazioni sopra scritte rispondono a verità.

Data .....

Firma .....

N. B. — *Rilegga prima di consegnare la scheda, e, se ha scritto il falso, corregga. Le ricordiamo che le dichiarazioni di cui sopra sono state fatte sotto giuramento, e che pene severe sono stabilite per il falso giuramento.*

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Modello N. 35 (b)

COMMISSIONE D'EPURAZIONE

AVVISO DI PROGETTATA SOSPENSIONE

Al .....

(nome)

.....

(indirizzo)

Voglia prendere nota di quanto segue.

1. La Commissione d'Epurazione sta considerando la proposta perchè ella sia sospeso dal suo attuale impiego od occupazione presso

.....

(nome dell'Amministrazione od Azienda datrice di lavoro)

2. I motivi per i quali la Commissione ha preso in considerazione tale proposta sono:

.....

3. Ella ha diritto di avanzare, entro 10 giorni dalla data di notifica del presente avviso, una opposizione scritta nella quale siano esposte le ragioni per cui ella ritiene che tale proposta non debba attuarsi.

Può allegare alla sua opposizione qualunque documento ella desideri.

4. A meno che ella non avanzi una tale opposizione nel termine predetto, depositandola presso questo Ufficio in ..... questa Commissione procederà senz'altro ad emettere nei suoi riguardi un ordine di sospensione da detto impiego od occupazione.

Data .....

Firmato .....

(Il Segretario della Commissione)

Copia al .....

(Amministrazione od Azienda datrice di lavoro)

.....

(indirizzo)

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MODULO N. 35 (c)

COMMISSIONE D'EPURAZIONE .....

AVVISO DI FISSAZIONE D'UDIENZA

A .....

(nome)

.....

(indirizzo)

1. La presente per notificarle che l'udienza nel procedimento a suo carico avrà luogo nell'Ufficio della Commissione, Via .....
..... il ..... 1945, alle ore .....

2. E in sua facoltà di comparire alla predetta udienza con o senza l'assistenza di un legale per essere sentito dalla Commissione.

Ella potrà indurre quei testi e produrre quei documenti, attinenti al procedimento, che riterrà del caso.

3. Nel caso di mancata comparizione, la Commissione procederà in sua assenza a giudicare in merito all'opposizione da lei avanzata.

Data .....

Firmato .....
(Il Segretario della Commissione)

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Modulo N. 35 (*d*)

COMMISSIONE D'EPURAZIONE .....

ORDINE DI SOSPENSIONE

A .....

(persona sospesa)

.....

(indirizzo privato)

1. Voglia prendere nota che, a partire dalla data del presente ordine, ella è sospesa dal suo impiego od occupazione quale ..... (specificare la natura dell'impiego) presso ..... (specificare il nome dell'Amministrazione od Azienda datrice di lavoro)

2. Tale ordine trae i suoi motivi dal fatto che .....

.....

.....

Data ..... 194.

.....

(Il Presidente della Commissione)

Copia a .....

(Amministrazione o Azienda datrice di lavoro)

.....

(indirizzo)

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Modello N. 30 (c)

COMMISSIONE D'EPURAZIONE .....

ORDINE DI ACCOGLIMENTO DI OPPOSIZIONE

La predetta Commissione d'Epurazione, avendo esaminato l'opposizione avanzata da .....
(opponente)

ORDINA

che l'avviso di progettata sospensione notificatogli e datato .....
sia annullato e

che nessuna azione sia intrapresa per quanto riguarda l'impiego o l'occupazione del predetto .....
(nome)

presso o alle dipendenze del .....
(specificare il nome dell'Amministrazione

o Azienda datrice di lavoro)

Data .....

Firmato .....
(Il Presidente della Commissione)

Copia a .....
(Amministrazione o Azienda datrice di lavoro)

.....
(indirizzo)

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Modello N. 38 (*)

COMMISSIONE D'EPURAZIONE .....

CERTIFICATO DI NOTIFICA

Io .....
(nome)

.....
(indirizzo)

con il presente dichiaro:

(1) che il ..... 1945 ho notificato
l'avviso di progettata sospensione
l'avviso di fissazione di udienza
l'ordine di sospensione
l'ordine di accoglimento di opposizione
} del quale si allega copia

al .....
(nome dell'interessato)

.....

consegnandolo a lui personalmente
lasciandolo .....
.

(2) che il ..... 1945 ho anche notificato una copia del predetto documento a .....
(Amministrazione od Azienda datrice di lavoro)

consegnandola a .....
lasciandola .....

Data 1945

.....
(firma del messo)

.....
(qualifica del messo: impiegato della Commissione, CC. RR., ecc.)

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APPENDICE

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

ESTRATTO DELLA CIRCOLARE N. 1
DELL'ALTO COMMISSARIATO AGGIUNTO PER L'EPURAZIONE

Roma, 26 agosto 1944

Ai Componenti le Commissioni giudicatrici
e, per conoscenza
Alle LL. EE. i Ministri di Stato

R O M A

Al fine di rendere più omogenea e nel contempo più sollecita ed efficace l'applicazione del Decreto-Legge Luogotenenziale 27 luglio 1944, n. 159, per quanto riguarda l'epurazione, e in attesa che sia emanato un organico regolamento per la sua esecuzione, è opportuno che sin precisato fin d'ora il punto di vista di questo Alto Commissariato su alcune questioni di interpretazione che, sulla base dei quesiti finora sorti e segnalati, devono ritenersi più meritevoli di urgente soluzione.

1. — L'art. 12, n. 2, del Decreto-Legge luogotenenziale va interpretato in relazione al successivo art. 15 (*raggruppati nell'art. 2 bis dell'Ord. Gen.* 35). Il rapporto fra le due norme dimostra che il legislatore ha previsto due ipotesi, quella in cui la nomina e gli avanzamenti sono stati conseguiti per l'appoggio e il favore del partito o di cerchi fascisti, diremmo cioè in via personalistica, e quella in cui gli avanzamenti e le preferenze nei concorsi sono dovuti a titoli fascisti, e sono nell'apparenza legittimati da disposizioni legislative o regolamentari emanate durante il regime fascista. Il primo caso dovrà essere riguardato in genere con maggiore severità. Quanto all'attenuazione che consente di sostituire alla dispensa dal servizio la restituzione al ruolo (o al grado) di provenienza, essa dovrà trovar luogo solo nella ipotesi in cui il favore e le preferenze non abbiano determinato addirittura l'inclusione del candidato fra i vincitori del concorso per l'assunzione nella pubblica amministrazione, poichè in tal caso solo la dispensa dal servizio può equivalere al ripristino dei turbati criteri di eguaglianza.

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2. — Nei concetti di faziosità e incapacità introdotti dal fascismo nelle pubbliche amministrazioni (art. 13 *Sez. 2ª Ord. Gen. 3*), vengono a rientrare tutti i casi di partigianeria, di intemperanza, di eccessi o di ostentazioni politiche, anche di pura forma, ovvero riguardanti il fascismo solo indirettamente, come nelle imprese e nelle azioni dallo stesso volute o sorrette, nonchè la negligenza e la trascuratezza nel servizio, tipicamente istituite o aggravate dal mal governo fascista nella compagine dell'amministrazione pubblica. Nel concetto del mal costume rientrano inoltre tutti i casi di cattivo costume e di disonestà, come le raccomandazioni, le corruzioni, il cumulo delle cariche anche compatibili, le attribuzioni di stipendi o di premi senza prestazioni corrispondenti, la negoziazione o la vendita di concessioni, di appalti, l'uso di prestanome e di intermediari per queste e per simili operazioni, i maneggi e le manovre per appoggiare preferenzialmente persone ed enti, e, in genere, tutta la vasta e non definibile opera di profittatori del fascismo, dissimulati o meno.

3. — L'art. 14 *Sez. 2ª Ord. Gen. 3*) del Decreto Legge Luogotenenziale elenca una serie di qualifiche (squadrista — sansepolcrista — antemarcia — marcia su Roma — sciarpa littorio — ecc.) che comportano la dispensa dal servizio. La norma non è però applicabile quando risulti che la qualifica non corrisponde ad una reale situazione di fatto come, ad esempio, nel caso di retrodatazione per l'anteriorità che sia lecitamente lucrata, nel caso in cui lo «squadrista» non abbia mai appartenuto a squadre di azione o simili purchè però la qualifica non sia stata sollecitata dall'interessato e lo stesso non ne sia comunque avvantaggiato.

Quanto all'attuazione della sanzione di cui all'art. 14, 2ª parte (*Sez. 2ª Ord. Gen. 3*) del Decreto-Legge Luogotenenziale 27 luglio 1944, n. 159, si farà luogo ad essa sol quando sarà possibile desumere dal complesso degli elementi raccolti, nel libero apprezzamento delle Commissioni epuratrici, che non si tratta di soggetto che abbia dato prova di settarietà o di intemperanza, in modo da eliminare così la presunzione stabilita dal legislatore in considerazione delle qualifiche di cui alla prima parte dell'articolo.

Per quanto riguarda gli ufficiali della M.V.S.N., partecipi al possesso delle dette qualifiche, si ritiene che la legge non abbia

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inteso riferirsi a quelli appartenenti a milizie speciali, che furono assunti con la collettiva incorporazione di reparti dell'esercito, ovvero di ufficiali senza una loro particolare richiesta.

4. — L'art. 16 (Sez. 2ª) *Ord. Gen.* 35) consente di emanare da ogni sanzione colui che dopo l'8 settembre 1943 si sia distinto nella lotta contro i tedeschi.

Essere «distinto» vuol dire aver compiuto qualcosa di particolarmente notevole ed utile; e la facoltà va esercitata quando tale comportamento meritorio, raffrontato ai passati demeriti, lasci supporre (trattarsi di comunità che in buona fede abbia ad ingannarsi, ma che si sia così smaccatamente e decisamente ravveduto da non essere indegno di servire lo Stato). Quanto alle prove dell'attività patriottica svolta dopo l'8 settembre, si raccomanda, in linea di massima, di non accontentarsi di generiche dichiarazioni rilasciate da persone o compilate troppo compiacenti. Si tenga presente che l'art. 16 qualora fosse applicato con eccessiva indulgenza, porterebbe all'esenzione da ogni misura disciplinare di molti elementi indegni di continuare ad appartenere all'amministrazione, sol che abbiano l'accortezza di addurre a propria discolpa un'attività patriottica spesso di modeste proporzioni, talvolta immaginaria svolta durante il periodo dell'occupazione nazifascista.

5. — La collaborazione con i tedeschi posteriore all'8 settembre 1943 non è contemplata espressamente dall'art. 17 (Sez. 2ª) *Ord. Gen.* 35), dato che essa rientra nel delitto di cui all'art. 5 del Decreto-Legge Luogotenenziale; e tuttavia anche essa può dar luogo alla dispensa dal servizio, comportando automaticamente, se pure indirettamente, collaborazione col governo fascista.

Per collaborare col governo fascista, non va per, ovviamente inteso il semplice fatto di essere rimasto in servizio dopo l'8 settembre, poichè in tal caso il legislatore non sarebbe ricorso in una battaglista casistica, ma avrebbe dispensato tutti gli impiegati ed i funzionari delle amministrazioni esistenti nel territorio soggetto al potere del cosiddetto governo fascista repubblicano.

Fra i collaboratori vanno inclusi, oltre tutti coloro che si iscrissero al partito fascista repubblicano, quelli che si prodigarono e svolsero una qualche attività sia per agevolare il trasferimento al nord di funzionari o di beni, sia per aiutare l'azione politica o bellica del fascismo, le sue spedizioni, la sua propaganda.

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Il giuramento di cui parla il Decreto-Legge Luogotenenziale è ovviamente sia quello di fedeltà che quello di lealtà. Per quanto riguarda l'attenuazione di pena di cui al primo capoverso, si ritiene che possano distinguersi tre diverse gradazioni nella minaccia subita o nel pericolo prospettato:

a) quando la minaccia o il pericolo siano consistiti solo nella possibilità di perdita dell'impiego, sia per espressa avvertenza specifica o generale, sia per un ragionevole timore inerente alla situazione nel suo complesso. In tal caso l'attenuazione sarà concessa e graduata solo su di una base di un effettivo ed assoluto stato di indigenza in cui versassero il funzionario e la sua famiglia;

b) quando la minaccia abbia fatto sorgere per diffide o per disposizioni anche solo generali, come circolari o simili, il pericolo di rappresaglie maggiori di quello del provvedimento, come l'arresto dell'impiegato e dei suoi famigliari. In tal caso potrà sempre farsi luogo all'attenuazione, graduandola secondo la peculiarità del caso;

c) quando la minaccia si sia manifestata in una concreta imposizione sul singolo interessato, accompagnata da arresti, da manifestazioni di forza e simili, così da togliere al soggetto la libertà di scegliere, sia pure con un certo sacrificio, il rifiuto della imposta formalità. In tal caso non sembra che possa applicarsi sanzione alcuna, mancando ogni elemento di volontarietà nell'azione che si dovrebbe incriminare.

Per l'applicabilità di dette circostanze attenuanti od esimenti si richiama quanto già osservato e raccomandato nel commento all'articolo 16, al fine di evitare che attraverso sotterfugi, come quello del cosiddetto « doppio gioco » e simili, sfuggano ai ricorsi della legge persone del tutto indegne di restare nell'amministrazione.

8. — Nel sistema del Decreto-Legge Luogotenenziale, come in tutti i procedimenti disciplinari, le denuncie, i rapporti, e i documenti allegati a carico degli inquirenti devono essere rimessi all'organo incaricato di iniziare l'azione disciplinare e di svolgere l'istruttoria: in genere quindi all'Alto Commissariato Aggiunto per l'Epurazione, dato che le Commissioni giudicatrici non hanno il potere di iniziare l'azione disciplinare ed hanno poteri istruttori soltanto in via integrativa e sussidiaria (art. 18 capoverso). Potrà tuttavia avvenire in pratica che denuncie, rapporti e documenti vengano inviati direttamente alle Commissioni, in tal caso queste dovranno prontamente avvertirne l'Alto Commissario, il quale darà

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il nulla osta al procedimento ovvero a seconda dei casi, avocherà a sè l'iniziativa del procedimento stesso.

Le Commissioni si avvalgano, per quanto occorre, dei comitati antifascisti sorti nel periodo clandestino e successivamente rappresentano essi, nella normalità dei casi, la genuina espressione di quelle correnti sane e vitali sulle quali si deve fare affidamento nell'opera di ricostruzione dello Stato. A questo riguardo si invitano i componenti designati dall'Alto Commissario a segnalare a quest'Ufficio l'eventuale mancanza dei Comitati di cui sopra e le deficienze che essi presentassero nella loro organizzazione e nel loro funzionamento.

Omissis.

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CIRCOLARE N. 2 DELL'ALTO COMMISSARIO AGGIUNTO PER L'EPURAZIONE

Roma, 8 settembre 1944

OGGETTO: ***Fini e limiti dell'epurazione.***

Ai Componenti le Commissioni giudicatrici
e, per conoscenza
Alle LL. EE. i Ministri di Stato
ROMA

Facendo seguito alla nota inviata ai membri delle Commissioni giudicatrici per l'epurazione dell'Alto Commissario, con la quale venne comunicato il punto di vista di questo Ufficio per la risoluzione di talune questioni dubbie, sostanziali e formali, sorte nell'applicazione della legge, si ritiene opportuno rendere noti alle Commissioni stesse anche i criteri direttivi generali cui l'Alto Commissario Aggiunto per l'Epurazione si uniformerà nell'espletamento delle sue funzioni.

E poichè la precisazione di tali criteri è diretta essenzialmente a creare un'atmosfera di stabilità e di sicurezza nella nuova compagine amministrativa dello Stato, attualmente in formazione, eliminando dubbi e timori sulla sfera di applicazione della legge ed evitando che vasti strati delle categorie impiegatizie versino troppo a lungo nella incertezza del giudizio sul loro caso personale, questo Ufficio si augura che, in un tempo assai prossimo, tale stabilità e tale sicurezza possa essere ribadita mercè la formazione di una giurisprudenza uniforme da parte della costituenda Commissione Centrale.

1. — Quest'Ufficio ritiene, innanzi tutto, che nell'applicazione del Decreto-Legge Luogotenenziale 27 luglio 1944, n. 159, lo spirito della legge debba prevalere nettamente sulla lettera della stessa, in quanto trattasi di una legge di evidente natura e portata politica, per la quale un'eccessiva rigidità sarebbe più dannosa che nella ordinaria prassi esegetica legislativa.

Tanto premesso, il fine del legislatore può chiaramente desumersi facendo riferimento al titolo stesso della legge: « Epurazione

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dell'Amministrazione » e all'espressione « indegni di servire lo Stato » contenuta nell'art. 13 della stessa. Lo scopo è quello di risanare, eliminando gli elementi inquinatori, inadatti ad apportare un onesto, sereno e diligente contributo nell'Amministrazione dello Stato; ed è unicamente questo scopo di risanamento purificatore che deve costituire il presupposto ed il limite insuperabile dell'applicazione della legge.

2. — In relazione al fine enunciato, gli elementi da allontanare sono quelli la cui permanenza è incompatibile coi principi di rettitudine e di capacità che devono presiedere alla costituzione del nuovo apparato burocratico statale. Essi possono distinguersi in due grandi categorie. La prima comprende i profittatori di ogni risma e colore, i disonesti, i corruttibili, coloro per i quali l'impiego e la carica statale sono stati e sono precipuamente un mezzo per arricchire, per farne mercato, per conseguire vantaggi illeciti. Questa specie di impiegati, tipico prodotto del fascismo e dei suoi sistemi, deve essere smascherata con tutti i mezzi ed allontanata senza esitazione alcuna, come esponente di quel « mal costume introdotto dal fascismo nella pubblica amministrazione » di cui parla l'art. 12 della legge, comprensiva di quella « incapacità » al lavoro che è un altro aspetto dello stesso triste fenomeno e che è espressamente menzionata nella medesima norma. La seconda categoria comprende i faziosi, i settari, i violenti, di carattere e di tendenza, colpevoli del fascismo inteso come sopraffazione della personalità individuale e delle libertà democratiche del popolo, sicuri depositari di uno spirito di sabotaggio nel presente, di una reazione antipopolare nell'avvenire. Per questa pericolosa categoria la legge ha preso in considerazione varie manifestazioni sintomatiche riferite al ventennio fascista: l'attiva partecipazione alla vita politica del fascismo, le professioni di apologia, la faziosità, l'intemperanza, la partecipazione alle squadre fasciste e simili. Ma si può con sicurezza stabilire che la categoria in esame che la legge ha voluto colpire, e tale categoria è, come la prima, « indegna di servire lo Stato » anche nei casi in cui l'ideologia fascista viene ad affiorare solo come aspetto secondario, o è addirittura dissimulata.

3. — All'infuori delle due categorie suddette, ogni altro caso è da ritenersi meritevole di speciale attenzione prima di decidere la dispensa dal servizio nella pubblica Amministrazione. Sono da re-

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spingere quelle tesi di estremismo antifascista che mirato a considerare « impuro » ogni iscritto al disciolto partito e di allontanare anche gli elementi di indiscutibile rettitudine che abbiano svolta attività fascista in perfetta buona fede e per inesperienza politica. Sono da condannarsi quelle tesi che giudicano imperdonabili le colpe del passato, o che si limitano ad un'indagine puramente politica, trascurando il lato morale della questione. Queste tesi non possono creare che confusioni e turbamenti, inasprendo perniciose divisioni e ritardando, contro gli intendimenti del legislatore, il risorgere di un nuovo e saldo costume di onestà e lealtà e di solidarietà alla vita della Nazione in genere, ed in quella della pubblica Amministrazione in ispecie.

Il fascista ravveduto, anche se sia stato così cieco da prolungare il suo errore fino al maturare della disastrosa crisi nazionale, il buon funzionario, non devono essere allontanati con superficiale apprezzamento dalla Amministrazione. Perchè la legge in esame tende ad allontanare sostanzialmente gli irriducibili, e non deve essere considerata quale strumento di persecuzione politica, ma solo quale mezzo di risanamento morale.

4. — Ma quali saranno i fascisti ravveduti, meritevoli di considerazione? Un primo criterio presuntivo generale è la permanenza ai bassi gradi, essendo ben difficile che lo « squadrista », « l'antemarcia » o « Marcia su Roma » abbiano conservato la mentalità fascista e la fede nel fascismo senza fare una buona carriera. Con estrema cautela vanno perciò valutati quei casi in cui l'incolpato è nulla più che un impiegato a due o tre mila lire al mese, e per i quali la dispensa dal servizio costituirebbe inoltre la rovina personale e famigliare. Chè, se come una siffatta indulgenza portasse alla permanenza di qualche elemento indesiderabile nei bassi gradi, il compimento dell'epurazione in alto apporterà evidentemente un tale impulso risanatore in tutte le compagini da rendere l'aria irrespirabile per i dipendenti disonesti e irriducibili. In conclusione, l'ex fascista non è allontanato come tale, ma solo in quanto sia partecipe della disonestà morale e della irriducibile pericolosità del fascismo per il progresso e le sorti della Nazione.

5. — Un altro sicuro criterio per stabilire il provvedimento e l'esatta della condotta posteriore all'8 settembre, considerata dalla legge stessa come sufficiente, nei casi più meritevoli, per l'esenzione

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da ogni sanzione. Così, per quanto riguarda la collaborazione col cessato governo fascista repubblicano, o il giuramento prestato ad esso, giustamente è cominciata la dispensa dal servizio di coloro che hanno compiuto spontaneamente tali atti, rivelando una perdurante mentalità settaria ostile alla patria o perseguendo loschi ed illeciti profitti. Per quelli che si sono invece solo piegati ad un atto di debolezza perchè minacciati — a parte la questione dei militari per i quali ovviamente l'atto va considerato con maggiore gravità e sotto diversa luce — già con la precedente nota sono stati precisati alcuni criteri di attenuazione ritenuti compatibili col rispetto della legge.

Quando l'incolpato è solo responsabile di non aver voluto perdere il posto e tale perdita comportava anche l'allontanamento per lui e la sua famiglia, la sanzione, se in base alla legge non si potrà evitare dovrà tuttavia essere minima, poichè non può giammai costituire un decisivo criterio negativo per un impiegato il solo fatto di essere stato incapace di un atto di eroismo, specie se le conseguenze dell'atto sarebbero ricadute in definitiva sulla sua famiglia.

6. La sospensione dal servizio adottata in pendenza di procedimento, inflitta, non deve influire in alcun modo sulla decisione della Commissione. È vero che essa viene pronunciata quando gravi indizi facciano presumere che ricorrano gli estremi per la dispensa dal servizio, e quando l'allontanamento risulti improrogabile nell'interesse della pubblica Amministrazione. Tuttavia, poichè il relativo giudizio è fondato necessariamente sui primi sommari accertamenti è evidente che esso può essere modificato dagli accertamenti ulteriori e dalle deduzioni dell'incolpato. Evidenti ragioni di giustizia esigono quindi innanzi tutto che i giudizi degli impiegati sospesi abbiano quando è possibile la precedenza, e in secondo luogo che la sospensione venga revocata quando la successiva istruttoria venga ad eliminare il fondamento giustificativo. Oltre a ciò, si ripete, il giudizio definitivo della Commissione non deve in alcun modo essere influenzato dal provvedimento ma solo fondarsi sugli elementi probatori accertati nel corso dell'istruzione.

7. Quest'Ufficio come non manca dal proporre alle Commissioni l'esenzione da ogni sanzione quando ritiene che ne ricorrano gli estremi, così non si asterrà dal proporre ricorso in favore degli

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incolpati contro le decisioni delle Commissioni, che in danno degli stessi abbiano violato la lettera e soprattutto lo spirito della legge.

Esso conta inoltre sulla collaborazione delle Commissioni per affrettare i tempi del lavoro, e nutre piena fiducia che esse, contemperando il necessario rigore con sani criteri di equanimità e di indulgenza, e dimostrando opportuno senso di comprensione giuridica e politica, sapranno condurre a termine il difficile e delicato compito della epurazione per la grande battaglia di rinascita in cui la Patria trovasi impegnata.

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26 ottobre 1944.

ESTRATTO DELLA CIRCOLARE N. 3
DELL'ALTO COMMISSARIO AGGIUNTO PER L'EPURAZIONE

OGGETTO: ***Direttive per le Commissioni di Epurazione.***

Allo scopo di attuare secondo criteri uniformi l'interpretazione del Decreto-Legge Luogotenenziale 27 luglio 1944, n. 159, rende note alcune direttive di massima in merito a quesiti sottoposti da talune Commissioni a questo Alto Commissariato.

Misure disciplinari di minore gravità.

Le sanzioni previste dal Decreto-Legge Luogotenenziale 27 luglio 1944, n. 159, oltre alla dispensa dal servizio, alla perdita del diritto a pensione, alla retrocessione del grado od alla restituzione nei ruoli di provenienza, contemplano anche il caso di applicazione di misure disciplinari di minore gravità. Queste si riferiscono alle sanzioni previste dall'art. 56 del Decreto 30 dicembre 1923, n. 2960.

Nell'applicazione di tali sanzioni devono essere evitate misure praticamente inadeguate rispetto al compito di risanamento dell'amministrazione pubblica perseguita dal legislatore. A tale fine sarà opportuno che le Commissioni si astengano, in linea di massima, da misure, come la riduzione di assegni o di stipendio, che, mentre aggravano le condizioni economiche dell'interessato, a nulla servono ai fini dell'epurazione, e così dalla sospensione dal grado o dal temporaneo allontanamento dall'ufficio, che si risolvono in definitiva in un ostacolo al un rapido ritorno delle pubbliche amministrazioni al loro normale funzionamento.

Come « misure disciplinari di minore gravità » sarà quindi sufficiente la *censura* per i civili, e una sanzione analoga per i militari.

Omissis.

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Manifestazioni di apologia fascista.

Per l'interpretazione dell'ipotesi « manifestazione di apologia fascista », prevista all'art. 12, n. 1, del Decreto-Legge Luogotenenziale 27 luglio 1944, n. 159, *non può avere rilievo* il luogo o il modo in cui l'apologia è compiuta. Il luogo può essere la Camera o il Senato, come pure qualsiasi altro luogo pubblico o privato.

Il modo può essere un libro od altra pubblicazione, uno scritto anche non destinato alla pubblicità, oppure una memoria difensiva, purchè spontaneamente redatta; ma può consistere anche in semplici manifestazioni verbali tanto se fatte innanzi ad un pubblico più o meno numeroso, quanto se fatte ad una persona singola, purchè « ripetute ».

È d'importanza sostanziale, ed è quindi sufficiente, che dalla manifestazione di apologia possa trarsi un apprezzamento morale, per cui contano esclusivamente le parole pronunciate ed i riflessi che ne sono derivati nelle altrui opinioni e convinzioni, o che avrebbero dovuto derivarne secondo le intenzioni dell'agente.

Collaborazione col governo repubblicano fascista.

La « collaborazione », ai sensi dell'art. 17, p. p., del Decreto-Legge Luogotenenziale citato, non si riscontra solo in un'opera intenzionale e continuativa a favore del governo fascista repubblicano (tale opera, particolarmente per un militare, rivelerebbe le caratteristiche del tradimento), ma anche in singoli atti da cui sia derivato o avrebbe potuto derivare utilità al governo repubblicano fascista, intendendo per utilità, non soltanto il vantaggio materialmente ed effettivamente procurato, ma anche quello risultante dalle ripercussioni dell'atteggiamento dell'agente nel comportamento degli altri.

Sotto questo aspetto acquista particolarmente valore la qualità dell'agente, la sua posizione, il suo grado e le sue funzioni, di tali elementi le Commissioni dovranno perciò tenere massimo conto.

Prova della circostanza prevista all'art. 16.

L'applicazione della discriminante prevista dall'art. 16 e della attenuante di cui all'art. 17 nei confronti di coloro che si sono distinti nella lotta contro i tedeschi o che hanno aiutato i patrioti

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e danneggiato il governo che apparentemente servivano, deve essere subordinata ad un accertamento obbiettivo e sicuro, che escluda la possibilità di decisioni fondate su documenti di incerto contenuto o di dubbia provenienza.

A questo scopo, tutte le attestazioni di privati, enti o associazioni sedicenti partigiani, devono considerarsi prive di qualsiasi valore dato l'abuso e il mercimonio che notoriamente si è compiuto di attestati del genere. Dovranno essere considerate valide ai fini predetti esclusivamente le attestazioni del Comitato Ministeriale Patrioti, unico organo legalmente riconosciuto, che ha poteri e possibilità di rilasciare attestati degni di fiducia.

Omissis.

L'Alto Commissario Aggiunto
per l'Epurazione
SCOCCIMARRO

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VP

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

Ref : CAS/P.M/2A 19 Nov 45

SUBJECT : Revision of Epuration Procedure

TO : See Distribution

Enclosed is an English version of DL 702, the new law on epuration which supplants part II of DL 153.

The grounds upon which persons may be epurated are re-defined and are materially different from the old grounds. The old grounds are therefore superseded. Officials and civilians of equivalent rank down to the formerly specified, officials and civilians of equivalent rank down to the Art 4 grade inclusive are liable to epuration if they have shown activity as Art 5 fascists. Employees of lower grades are not epurable unless they have Art 6 shown partisan fascist sins or have occupied certain named note or held Art 7 certain named offices. Persons who distinguished themselves in opposition to the Germans are still exempted.

2 The machinery is also varied. The present Commissions of First Art 4 Instance remain and continue to function under the same rules. The order Art 5 for dismissal however will be made by the Head of the Service. Dismissed Art 6 employees are normally entitled to pension though they may be deprived of Art 7 this in exceptional circumstances. Employees may be suspended pending Art 8 prosecution and officials may be transferred from one district to another.

3 Employees of ministries of national importance and of companies accord-
Art 9 ing public utility functions are epurable under similar conditions to those mentioned above.

The procedure for dealing with professions is varied and they are Art 10 obliged to form self purging. The present commissions are abolished.

The procedure with regard to appeals is completely changed. The Art 11 Central Commission is abolished and a special section of the Council of Art 12 State is substituted therefor which will hear ordinary appeals but appeals against decisions of Provincial Commissions will be to a new Section of the Appeal Court of Appeal. In either case the respective courts of appeal will operate according to the rules of procedure which previously applied for the abolished Central Commission.

6 All previous decisions as to dismissal from service, review from the
Art 13 results of a prosecution or acquittal stand but all minor punishments (with one exception mentioned below) are revoked. Provision is made for dealing with cases appeals. The minor punishment which is not revoked is a reduction in grade but this is intended only to be used to restore to his proper grade a person who has received undue promotion or special favour.

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

7 [illegible] all persons of lower than Grade 7 are revoked unless they have [illegible] are to be continued under Art 2 of Art II or under Art 5. All "de facto" suspensions, however constituted, are revoked. Each is intended to apply to those persons who have been [illegible] appointed by Zonal or persons, who are not legally empowered so to do, since they are dismissed or will not in future attend their offices. It does not apply to suspensions ordered under GO 35.

8 The time limits within which proceedings must be brought are the 31 day Art 14 40 or three months after the resuming week of the territory by Itsukon administration, whichever is the later, but this will not re-open time limits which expired before this decree came into force.

9 Now provided are contained to enable the operation of those directors and managers who by Italian law are, technically speaking, not employees. Art 11 If such persons have been guilty of misconduct or have held their offices their contracts are declared dissolved and any employer who continues to employ such persons is liable to punishment by imprisonment or fine. This Art 12 dissolution will not be applied in certain cases. Persons may apply to a special tribunal for an order that the dissolution does not apply. Pursuant Art 13 ons whose employment is dissolved may, under certain circumstances, entitled to compensation.

10 All provisions of Pt III and of the subsequent operation decree, e.g. [illegible], which are not inconsistent with any of the above provisions, continue. The principal changes are the restriction, in normal circumstances, of operation to the first 7 grades, the addition of managers and directors to those appointable and the change of procedure with regard to the proclamation and as to appeals. For all practical purposes, as far as Sub-Commissioners and Heads are concerned, the machinery under DL 159 continues to operate unchanged for as far as the restricted classes of employee are concerned. It should not be overlooked that any employee of a grade lower than [illegible] may be operated if he has shown certain fascist bias as well as for reasons contained in Art 2.

[illegible] Chief Commissioner

[illegible]
A. Hill, Lt Col,
AMG Sub Section.

DISTRIBUTION:- Local Govt S/C
Legal S/C
Pub Saf S/C
Educ S/C
Economic S/C
Judic S/C
Commerce S/C
Finance S/C
Min Works S/C
Transport S/C
Air S/C
Land Forces S/C
Naval S/C
PAB
HQ Fifteenth Corps
HQ Leghorn Base Sec
HQ Algiers Base Sec
HQ Venezia Base Sec

For Info: Economic Sec
Executive Commissioner } 2
HQ Tenth Flotilla

Number of Sheets: One (1); Two (2)

0561

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

0565

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

0566

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

0567

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

0242

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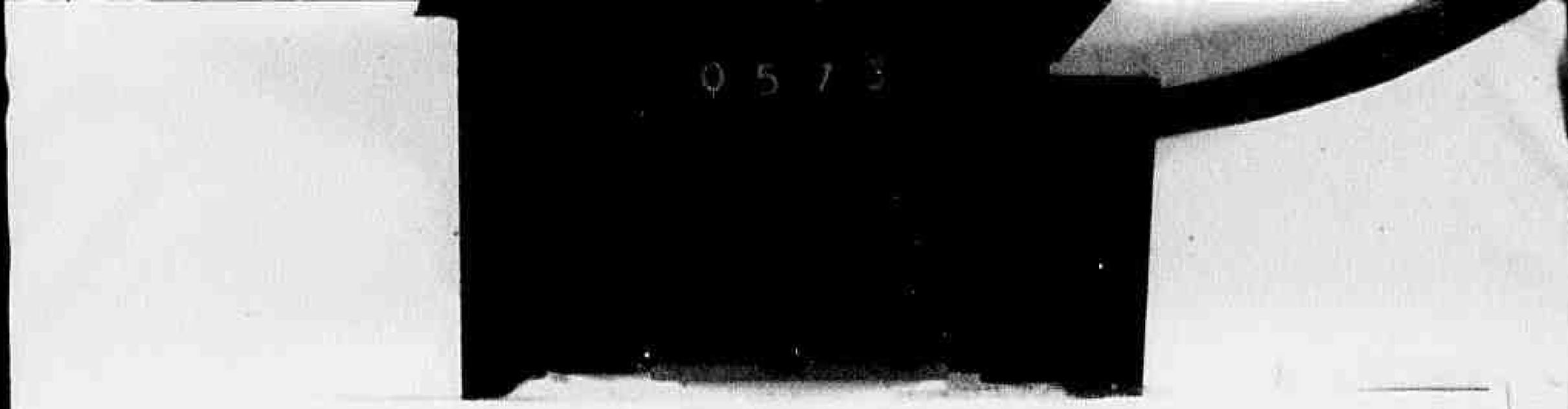
Declassified E.O. 12356 Section 3.3/NND No. 785016



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

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

DL 625 OF 5 OCT 1945

Modifying the Rules on Sanctions against Fascism

The Italian version of this decree is the only authoritative text. This version is not a literal translation; its object is to inform officers conveniently of the provisions contained in the decree.

Officers are referred to the Italian text for all points of detail or matters of procedure or dispute.

Words in brackets are explanatory and not in the original text.

Change in Constitution and Powers of Courts of Assize	Art	1-6
Prosecutors Office	"	7
Procedure	"	8-11
Appeals	"	12
Amendment of DL 196	"	13
Amendments of DL 149	"	14-16
Interim Provisions	"	17-23

PART I - GENERAL PROVISIONS

CHANGE IN CONSTITUTION AND POWERS OF COURTS OF ASSIZE

1 The agencies and the procedures for the punishment of those offences contemplated by Part I of DLL No 159 of 27 July 44 and by DLL No 142 of 22 Apr 45, and by DLL No 195 of 26 Apr 45 are hereby united throughout the State.

The Special Courts of Assize and the temporary special section of the Court of Cassation, instituted by DL 142 of 22 Apr 45 are hereby dissolved.

The High Court of Justice, instituted by DLL No 159 of 27 July 44, shall continue operating to complete proceedings for the removal of senators.

2 The Courts contemplated in Art 4 of DLL 159 of 27 July 44 shall operate as special sections of the Courts of Assize in the provincial capitals. They shall be composed of a President and four members of the jury chosen by lot from special lists of citizens of age whose moral and political conduct is good.

3 The special sections of the Courts of Assize shall have jurisdiction to judge all those offences contemplated by Art 1 of DLL 159 of 27 July 44, by Art 1 of DLL No 142 of 22 Apr 45 (modified by Art 1 of DLL No 466 of 2 Aug 45) and by DLL No 195 of 25 Apr 45, and all offences which do not come under the jurisdiction of the tribunal or of the Pretore under the present regulations.

Should there be questions influencing the decision which call for a judgment of a military nature, the proceedings shall be referred to the military courts

Procedure " 8-11
Appeals " 12
Amendment of DL 196 " 13
Amendments of DL 149 " 14-16
Interim Provisions " 17-23

PART I - GENERAL PROVISIONS

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Should there be questions influencing the decision which call for a judgment of a military nature, the proceedings shall be referred to the military courts having jurisdiction.

4 For the purpose of compiling the lists contemplated by Art 2, the Committees of National Liberation of the provincial capital shall draw up a list of the names of 100 citizens who have the qualifications prescribed by the said article and lodge it with the President of the Tribunal of the provincial capital.

The President of the Tribunal shall make a list of fifty members of the jury, choosing them from these selected by the Committees of National Liberation after ascertaining that the moral and political conduct of the persons in question is good.

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

Provinces having a population exceeding 1,000,000 inhabitants must have 100 members of the jury and the list contemplated by the first para must give the names of at least 200 persons.

5 The President of the special sections of the Courts of Assize shall be appointed by the First President of the Court of Appeal having jurisdiction, and selected from the magistrates of grade not lower than councillor of Court of Appeal or, if particular service exigencies make it necessary, from magistrates of 6th grade.

A substitute President may be appointed in the same manner.

6 More special sections of the Court of Assize may be instituted by decree of the First President of the Court of Appeal, and constituted in the manner specified in the preceding arts.

The above sections may hold office in other localities besides the provincial capital.

PROSECUTORS OFFICE

7 A "Pubblico Ministero" office shall be instituted in the special sections of the Courts of Assize by order of the General Procurator in the Court of Appeal. The order shall state the number and grade of the magistrates assigned to the said office.

Lawyers may also be called to join the Pubblico Ministero providing their conduct is stainless, their former political conduct is irreproachable and their capability has been proved. They shall be selected from the list of names given by the Committee of National Liberation.

The lawyers appointed by the Committee of National Liberation are called to hold the office of "Pubblico Ministero" for such time as is strictly necessary to fulfil the duties pertaining to such office. They shall be paid the same wage as the magistrates of grade six.

Any lawyer who refuses to accept the above mentioned office shall be punished in accordance with Art 366 of the Penal Code.

PROCEDURE

8 The time limits for proceedings before the special sections of the Court of Assize are fixed at half those contemplated by the Code of Penal procedure for the pre-trial investigations and proceedings.

9 The proceedings in connection with offences under the jurisdiction of the special section of Court of Assize shall be carried out with a summary pre-trial investigation by the "Pubblico Ministero" offices contemplated in Art 7.

The Pubblico Ministero, whenever it deems there to be sufficient proof of the guiltiness of the accused, may order the proceedings by "direttissima", [illegible] of Art 502 C.p.p. [illegible].

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

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The Pubblico Ministero, whenever it deems there to be sufficient proof of the guiltiness of the accused, may order the proceedings by "direttissima", providing that the conditions contemplated in 2nd para of Art 502 C.p.p. exist.

The Pubblico Ministero, whenever it should deem the report, the denunciation, the complaint or the appeal to be too unfounded to hold a proceeding, shall order the documents to be filed and notify the military or the administrative authorities, according to whether the case refers to a member of the armed forces or to a civilian, for such action as the said authorities may deem to take.

10 As regards offences contemplated by Art 3 of the present decree, the High Commissioner for Sanctions against Fascism may also propose penal action to be taken, with the powers contemplated by Arts 74, 77, 232, and 393 of the c.p.p.

11 The sentences of the special sections of the Courts of Assize must be lodged within 10 days from when they are passed.

Declassified E.O. 12356 Section 3.3/NND No. 780016

APPEALS

12 The reasons for appeal to Cassation against the sentences of the special sections of the Courts of Assize must be presented within 10 days from that in which the sentence is lodged, or they will otherwise be rejected.

The time limit for the Pubblico Ministero to oppose the above sentences is fixed at five days.

With regard to appeals against a death sentence, the Court of Cassation must pass its judgment within 30 days from receiving the documents. The documents must be forwarded immediately, and in no case later than the day after the application is presented.

The application for revision of a death sentence shall not suspend the execution of the sentence if it is not lodged together with the reasons for appeal to cassation.

The Court of Cassation, if it should reject the appeal to Cassation, shall reject the application of revision with the same sentence.

Supplication for pardon, in the case of death sentence, must be lodged within the limit of three days from when the sentence is passed, or otherwise it shall be rejected. Should the accused not appear in court, the time limit shall date from the notification of the sentence.

If there is an appeal to Cassation the supplication for pardon must be lodged at the same time as the reasons for the application for revision.

AMENDMENT OF DL 196

13 Art 1 of DLL No 196 of 3 May 45 is hereby substituted by the following:

The councillor shall communicate all the pre-trial sentences of acquittal and sentences of both conviction and acquittal, passed in judgment of proceedings against the offences set out in Art 3 to the High Commission for Sanctions against Fascism immediately after their deposit in the chancelry.

The High Commissioner may propose re-examination of the sentence within thirty days from the communication of the sentence as prescribed by the preceding para, whatever may have been the conclusions of the Pubblico Ministero. He may also propose re-examination notwithstanding the opposition of the Pubblico Ministero.

AMENDMENTS OF DL 149

14 Art 5 of DLL No 149 of 26 April 45 shall be substituted by the following:

The office of the Pubblico Ministero in the special sections of the Courts of Assize shall direct, coordinate and supervise the application of sanctions against politically dangerous fascists.

The provincial Commissions referred to in Art 2 and 3 shall decide automatically on the denunciations which are transmitted to them both by the office of the Pubblico Ministero of the special sections of the Courts of Assize, the

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

within the limit of three days from when the sentence is passed, or otherwise it shall be rejected. Should the accused not appear in court, the time limit shall date from the notification of the sentence.

If there is an appeal to Cassation the supplication for pardon must be lodged at the same time as the reasons for the application for revision.

AMENDMENT OF DL 196

13 Art 1 of DLL No 196 of 5 May 45 is hereby substituted by the following:

The councillor shall communicate all the pre-trial sentences of acquittal and sentences of both conviction and acquittal, passed in judgment of proceedings against the offences set out in Art 3 to the High Commission for Sanctions against Fascism immediately after their deposit in the chancelry.

The High Commissioner may propose re-examination of the sentence within thirty days from the communication of the sentence as prescribed by the preceding para, whatever may have been the conclusions of the Pubblico Ministero. He may also propose re-examination notwithstanding the opposition of the Pubblico Ministero.

AMENDMENTS OF DL 149

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The office of the Pubblico Ministero in the special sections of the Courts of Assize shall direct, coordinate and supervise the application of sanctions against politically dangerous fascists.

The provincial Commissions referred to in Art 2 and 3 shall decide automatically on the denunciations which are transmitted to them both by the office of the Pubblico Ministero of the special sections of the Courts of Assize, the Procuratore of the Kingdom, and the police Bodies.

Only the afore-said provincial Commissions, the offices of the Pubblico Ministero of the special sections of the Courts of Assize, the Procuratori of the Kingdom and the Questori may order the immediate arrest of those persons whose names have been submitted for the application of the sanctions indicated in the first para of Art 3.

The Provincial Commission having jurisdiction must be informed of the arrest within three days and must decide on the measure within the following thirty days.

15 Persons who in any way took part in the "Brigate nere" must be denounced to the Provincial Commission referred to in Art 3 of DLL No 149 of 26 April 1945, for the application of the sanctions contemplated therein providing there exist penal responsibilities for the facts constituting crimes.

16 The measures contemplated in Arts 1 and 3 of DLL 149 of 26 Apr 45 may be applied not later than one year from the effective date of the present decree.

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

PART II - TEMPORARY AND FINAL MEASURES

INTERIM PROVISIONS

17 The High Court of Justice shall complete all proceedings, the discussion of which is in progress on the effective date of the present decree.

The proceedings pending before the High Court of Justice, other than those indicated in the preceding para, shall be referred as they are, to the competent special section of the Court of Assize or in the case contemplated in the last para of Art 3, to the competent Military Courts.

The Court of Appeal of Rome shall have the jurisdiction of the executive measures regarding the decisions of the High Court of Justice.

18 The Special Courts of Assize and the offices of the Pubblico Ministero in the same Courts which have already been instituted shall be tranformed respectively into the special sections of the Court of Assize and into the offices of the Pubblico Ministero of the same sections.

The President of the Tribunal of the provincial capitals in which special Courts of Assize have been instituted shall in the case of the last para of Art 4, order the number of the members of the jury to be raised in accordance with the same article, requesting the Committees of National Liberation to provide the lists of names for the numbers required.

19 The provisional Special Section of the Court of Cassation, instituted in accordance with Art 16, second para, of DLL No 152 of 22 Apr 45, shall cease to operate on the thirtieth day after the effective date of the present decree.

The sentence pending before the afore-mentioned section shall be referred, as they are, to the ordinary sections of the Supreme Court of Cassation.

20 The proceedings which are referred on the effective date of the present decree, to the ordinary Courts of Assize or the military tribunals, shall be completed by the same in accordance with the ordinary rules of procedure.

The pre-trial investigations for offences under the jurisdiction of the special sections of the Courts of Assize, which are being carried out by the Pubblico Ministero or investigation offices on the effective date of the present decree, shall be continued by the same offices, saving the provisions of the present decree regarding the sentences.

The pre-trial investigations being made by the High Commissariat for sanctions against fascism shall be entrusted to the offices of the Pubblico Ministero referred to in Art 7.

21 The provisions of penal procedure at present in force shall control, wherever applicable, all matters not contemplated by the present decree.

22 All provisions which are incompatible with the present decree are hereby annulled.

[illegible] present decree the special

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

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The President of the Tribunal of the provincial capitals in which special Courts of Assize have been instituted shall in the case of the last para of Art 4, order the number of the members of the jury to be raised in accordance with the same article, requesting the Committees of National Liberation to provide the lists of names for the numbers required.

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The sentence pending before the afore-mentioned section shall be referred, as they are, to the ordinary sections of the Supreme Court of Cassation.

20 The proceedings which are referred on the effective date of the present decree, to the ordinary Courts of Assize or the military tribunals, shall be completed by the same in accordance with the ordinary rules of procedure.

The pre-trial investigations for offences under the jurisdiction of the special sections of the Courts of Assize, which are being carried out by the Pubblico Ministero or investigation offices on the effective date of the present decree, shall be continued by the same offices, saving the provisions of the present decree regarding the sentences.

The pre-trial investigations being made by the High Commissariat for sanctions against fascism shall be entrusted to the offices of the Pubblico Ministero referred to in Art 7.

21 The provisions of penal procedure at present in force shall control, wherever applicable, all matters not contemplated by the present decree.

22 All provisions which are incompatible with the present decree are hereby annulled.

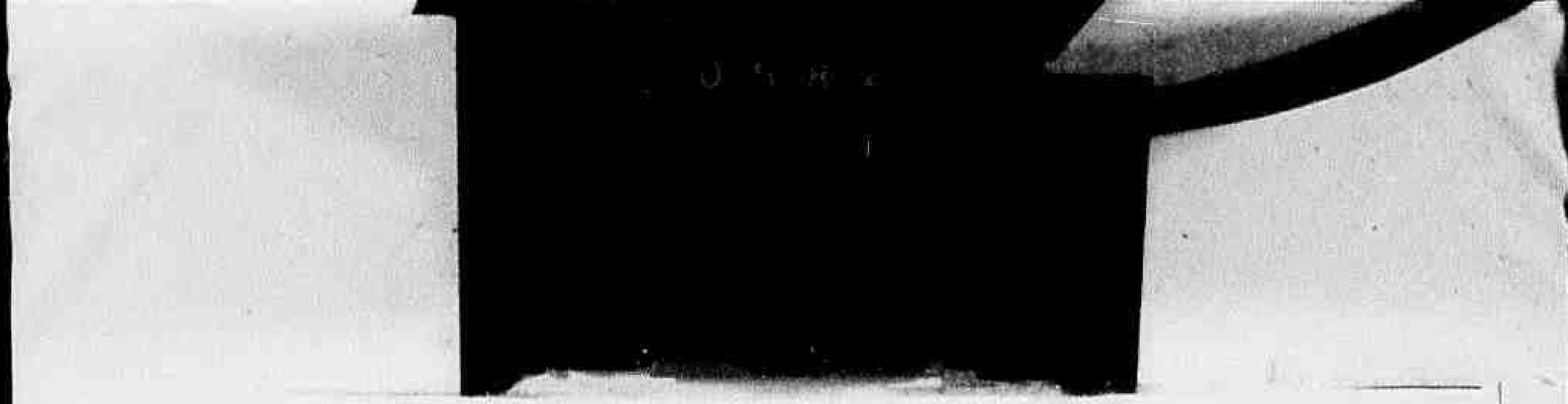
After one year from the effective date of the present decree the special sections of the Courts of Assize shall cease to operate and the offences coming under the jurisdiction of the same sections shall be judged according to the normal rules controlling the procedure.

23 The present decree shall become effective on the day following its publication in the Official Gazette of the Kingdom.

In the territories not yet restored to the Italian administration it shall become effective on such day as the AMG will order.

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, and that all persons concerned observe it and see that others observe it as law of the State.

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



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HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

DE/6.B/CA

25 Aug 45

SUBJECT : Epuration Returns

TO : See Distribution

1 Since 10 May most of Toscana and the whole of Emilia has been added to the territory under Italian Administration. This should be reflected in col b of the return. Only two sub-commissions show any appreciable increase one substantial the other moderate. All Sub-Commissions receiving returns in which col b has not appreciably increased will check with the reporting body that this is correct.

2 The rate at which proceedings are being heard is slightly improved but is still too slow. Sub-Commissions must bear in mind that all unheard cases now in col d MUST be concluded before 15 Nov. Sub-Commissions by checking the rate at which cases have been heard over the last four weeks can see that (in most cases) the cases will not be concluded in time unless the rate is improved and in some cases very considerably improved.

3 All Sub-Commissions will compare col d of the return of 15 May with col e of the return of 15 Aug.

The law allows 3 months for hearing. In all cases the number of proceedings concluded is smaller than the number of cases initiated on 15 May. ALL Sub-Commissions will ask for an explanation of the difference and forward same to this Section.

4 Appeals have at last started to move substantially. The number of appeals heard has now reached the number of appeals lodged on 15 Jun. Sub-Commissions whose appeals 'heard' are lower than the number lodged on that date hearings may be said to be in arrear. The time for a case to be reached is at present 7 months. The AMC has intimated that the number of courts is to be increased.

F.F. WHITE Lt Col,

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

...received in col b of the return. Only two sub-commissions show any appreciable increase one substantial the other moderate. All Sub-Commissions receiving returns in which col b has not appreciably increased will check with the reporting body that this is correct.

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Sgd. WHITE Lt Col,
for VF CA Section. 2418

DISTRIBUTION:- VF CA Sec
Educ S/C
Legal S/C
Loc Govt S/C
Pub Saf S/C
Comms S/C
Agric S/C
Commerce S/C
Finance S/C
Pub Works S/C
Trans S/C
RRB
Pol Adv (2)

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

MINISTERIAL DECREE OF 31 JUL 43

Published in the Official Gazette No 98 of 16 Aug 45

ART. 1

The measures passed by the so called government of the Italian Social Republic relative to the dismissal of personnel of any category or grade employed by any fascist organisation suppressed by Art 1 of DLL 704 of 2 August 1943, are hereby confirmed as from the date on which they were issued.

ART. 2

Any allowance authorised by law and due to the said personnel as from the date of their dismissal which have not yet been paid to them shall be paid.

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

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

IF/5.47/2A 11 Aug 45

SUBJECT : Defascism - Profits from the Regime.

TO : Rue Liguria, Lombardia, Piemonte, Venezia Regions.
(Reurad FBK (4) - 3580 (2))

1 Enclosed are copies of DL 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 DL 159.

2 While A.C. 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 Education 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 this reason they should be aware of the proper procedure to be followed.

BY COMMAND OF THE CHIEF COMMISSIONER :

C. E. MEJOHN Brig,
for CA Section.

Copy for 3340 Venezia Giulia (4)
Finance C/C (20)

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

Ord No. 407 of 6 August 1945

Extension of time limits for the initiation of the expropriation proceedings.

ART 1

The time limits for the initiation of the expropriation proceedings, fixed by the last para of art 45 of Ord No. 159 of 27 July 1944, and extended to the 15th August 1945 by art 10, second para of Ord No. 279 of 22 April 1945, were lately extended up to the 15th October 1945.

ART 2

The present decree becomes effective the day of its publication in the Official Gazette of the U.S.A.

So order, etc.....

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

DL 138 of 4 August 1944

Extension of time limits for presenting the declaration established by art 11 of DLL of 31 May 1945
No. 364/dealing with the forfeiture and confiscation of profits of the regime.

ART 1

The time limits within which, according to the 2nd para of art 11 of DLL No. 364 of 31 May 1945, shall be presented the declaration indicated in the same article shall be extended to the 15th September 1945.

ART 2

The present decree shall become effective the day following its publication in the Official Gazette of the Kingdom.

We order, etc.

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

DEL 472 OF 4 AUG 45

DISQUALIFICATIONS OF DIRECTORS AND SECRETARY
CONTROLLERS OF PRIVATE ENTERPRISES

The Italian version of this decree is the only authoritative text. This version is not a literal translation; its object is to inform officers conveniently of the provisions contained in the decree.

Officers are referred to the Italian texts for all points of detail or matters of procedure or dispute.

Words in brackets are explanatory and are not included in the original text.

Civil disqualification of persons	Art	1-2
Relief from disqualification	"	3
Penalties	"	4
Administration	"	5-6
Liability of Managers to Expiration	"	7-8
Appeals	"	9

CIVIL DISQUALIFICATION OF PERSONS

1. The undermentioned are hereby disqualified from holding the office of director manager or receiver of a company limited by shares or whose responsibilities are limited in any other way, which has a capital of more than 5 million lire, or of an insurance company having a nominal capital or assets exceeding 1 million lire:

a) any person who has been convicted for any of the offences referred to in first part of Del 159 of 27 July 1944 notwithstanding that the sentence (which may have been imposed upon him in respect of such offence) does not include exclusion from public office;

b) any person who has suffered confiscation under Art 9 of Del 159 aforesaid;

c) any person who has been subjected to any of the sanctions contained in the first para of Art 1, or the first or second para of Art 3 of Del 159 of 27 Jul 44 Art 45;

d) any person who

(i) has been deprived of the right to vote as having held one of the fascist offices mentioned in the decree of the President of the Council of Ministers dated the 2 Feb 45 and published in the Official Gazette No 28 of 15 Feb 45, or who

(ii) has been a member of the fascist government after 3 Jan 45, or

(iii) having been a militant member of the fascist party subsequent to that date, has held the office of deputy or national councillor, or

(iv) being a senator has been removed from office under the last para of Art 5 of Del 159 of 27 Jul 44; or

(v) has suffered forfeiture of profits derived from the regime under Del 704 of 31 May 45;

e) any person who by final judgement under Art 22 of Del 159 of 27 Jul 44 has been deprived of the right to pension;

Any person within any of the above descriptions who on the date of this decree is [illegible] as a director manager or receiver is hereby rel-

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

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4 directors, Managers or Receivers of companies to which Art 1 applies, who within any of the descriptions contained therein, and continue to control the functions of their office, shall be liable to one year's imprisonment and a fine of one hundred thousand lire. Persons within the term mentioned descriptions who (hereafter) take up a position referred to in Art 1 shall be liable to the same punishment.

The manager of any company who is aware of the fact that any person disqualified under Art 1 hereof continues to exercise in any such company the functions of his office and fails to notify the president or the tribunal which has jurisdiction over the district in question of such illegality, shall be liable to six months imprisonment and a fine of fifty thousand lire. A manager who, being aware that a person disqualified director, manager or receiver of a company after this period ceases but found to be disqualified under Art 1 hereof, fails to report such illegality to the Tribunal having jurisdiction, shall be liable to the same punishment.

Directors or owners of companies or concerns within Art 2 hereof who are within the description contained in Art 1, who nevertheless enter into contracts for public works or receive concessions of public utilities, shall be liable to the penalties laid down in the first paragraph (h reof).

[illegible]

5 Within thirty days from the coming into force of this decree every company within the provisions of Art 1 hereof shall file at the Chancelry of the Tribunal having jurisdiction a declaration containing the names of their directors, managers or receivers who have ceased to act as such under the provisions of part 2 of the present act and shall serve notice of the said declaration on the person concerned by registered letter.

On the expiration of such period the High Commissioner for sanctions against Fascism may issue a decree removing from office any director, manager or receiver whose name have not been reported under the preceding para as having vacated his office. Notice of the decree shall be served on the person concerned. For the above purpose, the High Commissioner may require any director, manager or receiver of any company within the provisions of Art 1 hereof to complete within a stated time a special questionnaire to show whether he is within any of the descriptions contained in the said article.

Any person failing to complete and return such questionnaire within the said time limit or who makes a false or incomplete declaration shall be liable to the penalties prescribed for giving false or reticent testimony.

6 If the person concerned is of opinion that his removal has been unjustly ordered, he may within 10 days of receiving such notice appeal to the Commission formed under Art 3 hereof.

Decrees against which no appeal has been lodged within the prescribed time and decrees appeals and of which have been rejected shall be transmitted to the chancellries of the Tribunals having jurisdiction.

[illegible]

7 Any person within the descriptions contained in Art 1 (hereof) who has been

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deprived of his right to the position of director, manager or receiver in accordance with the preceding article, is hereby disqualified from holding the position of technical or administrative manager, departmental or office or office head, branch manager or any office in which he exercises powers delegated to him both as to the companies in which he held any of the above mentioned positions or in any associated company which is within Art 1 hereof.

ARTICLE

Art 24 of DL 159 of 1944 shall apply to the provisions of this decree.

This decree shall come into force in the territories not restored to Italian administration on such day as may be ordered by the Allied Military Government.

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ARTICLE IV

For the purpose of Articles VI and IX of General Order No. 1, the authorities specified in Article II hereof shall be substituted for the Supreme Commander.

ARTICLE V

Effect of Suspension Order -- A Suspension Order made against any person suspends that person from the exercise of his profession as from the date of the Order.

ARTICLE VI

This Order shall come into effect in any Province or part thereof on the date of its first publication therein.

FOR THE SUPREME ALLIED COMMANDER AND MILITARY GOVERNOR :

S/

ELLERY WHEELER STONE,
Rear Admiral,
United States Naval Reserve,
Chief Civil Affairs Officer.

Dated : -9 AUG 1945

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FOR THE SUPREME ALLIED COMMANDER AND MILITARY GOVERNOR :

By/

ELBERT WHEELER STONE,
Rear Admiral,
United States Naval Reserve,
Chief Civil Affairs Officer.

Dated : -9 AUG 1945

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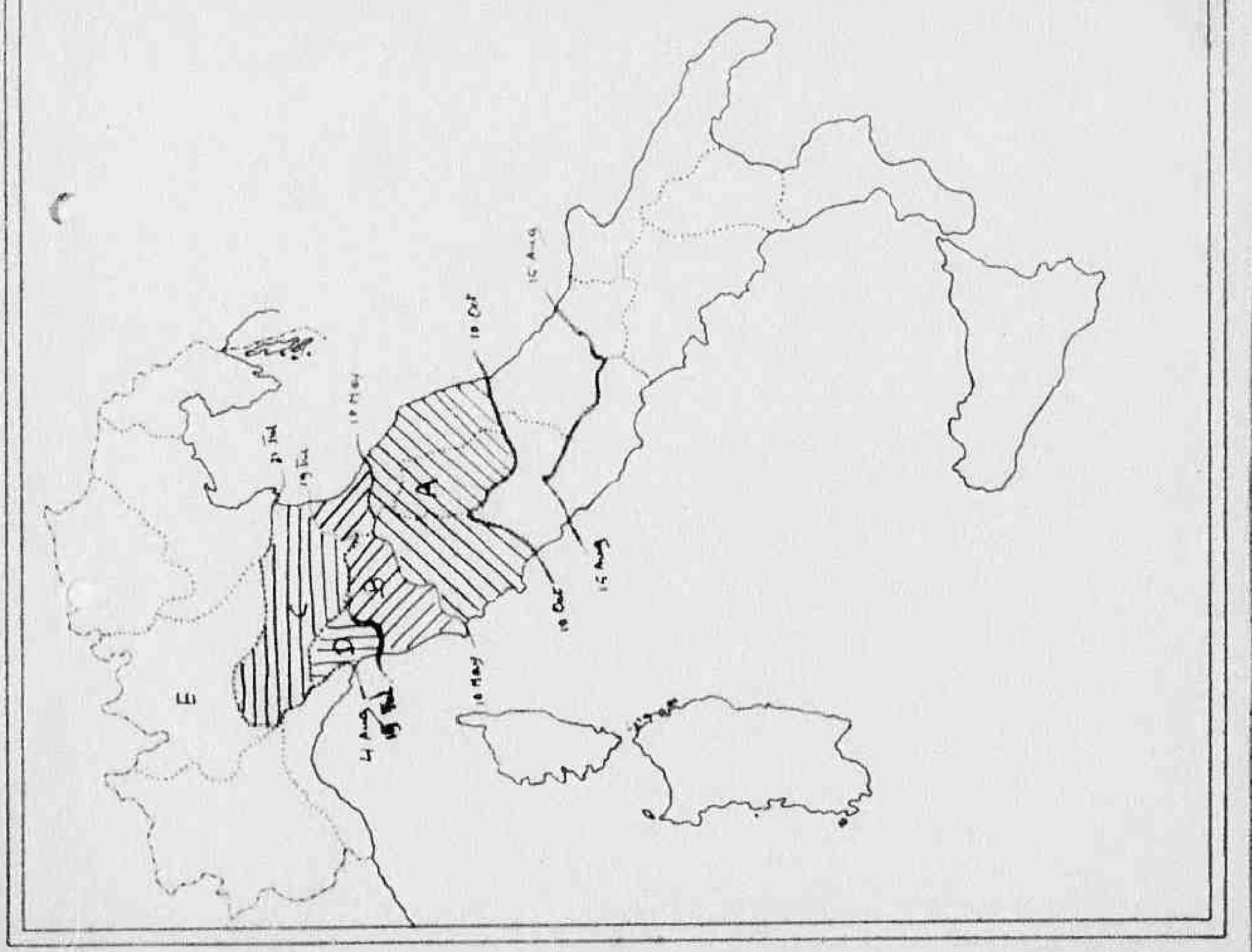

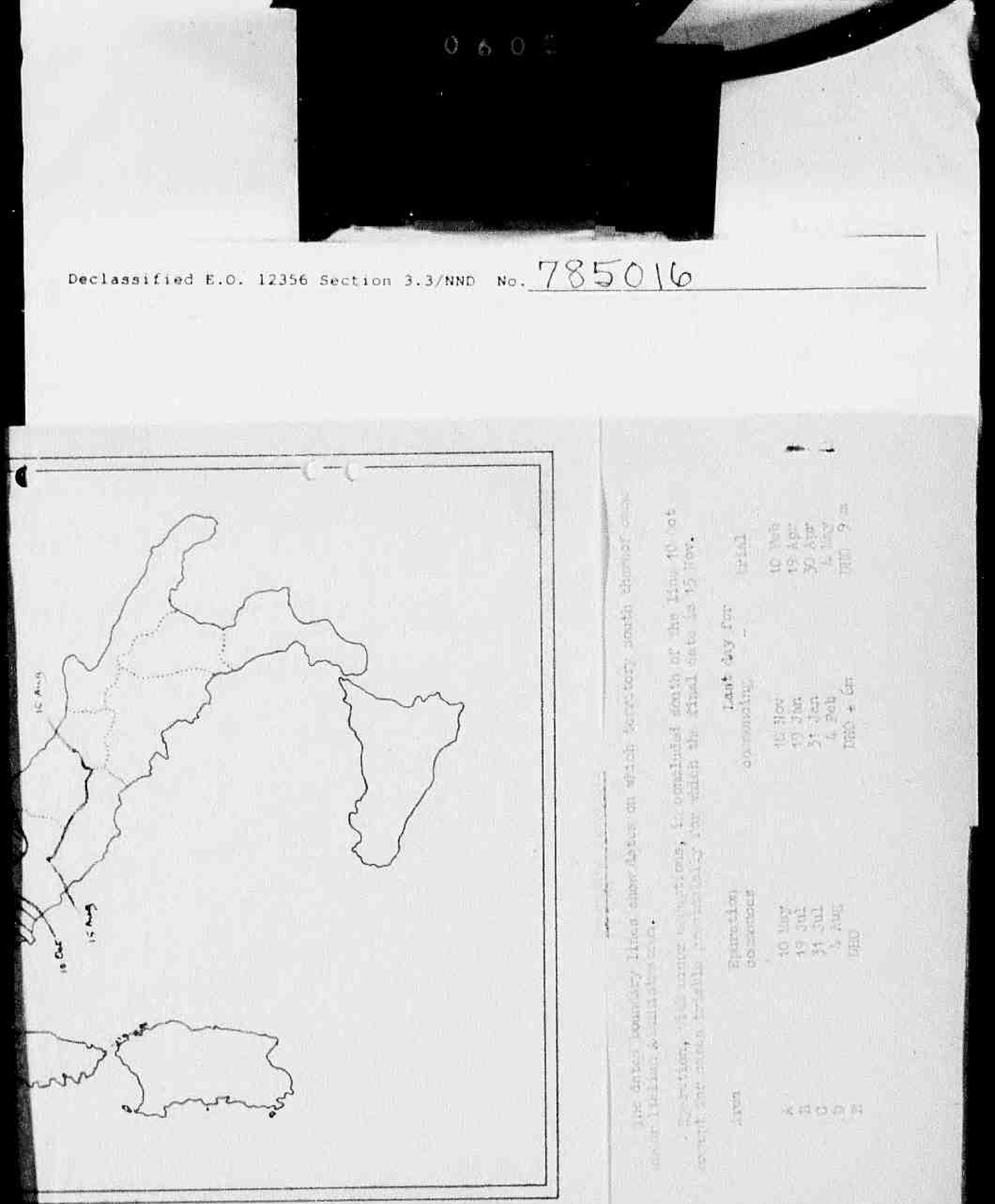

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"unworthy to remain" their office and a large number more are in the process of being set up to commence operating when Ports likely remain under Italian Administration. Each province has also a procuratory and investigation office.

The machine of tribunals is not simple. One set of tribunals deals with the Central Government, but where Government employees are administered locally (... Under it is a divisional administration of State railway employees who are administered from various railway centres) these tribunals may also sit locally. There are tribunals for the various professions which may also sit locally. Businesses may be purged centrally if they are of national importance or locally if they are only of local interest. Local Government and Public Utility undertaking hospitals and other local enterprises of a public character are also dealt with locally.

Before all these tribunals and investigatory bodies were appointed, enquiries had to be made locally to ensure that no fascists were not appointed to them.

As the armies advanced so the territory under Italian administration has grown. As it has had a simple uniform procedure been possible. The procedural time limits commence to run in one district at one time, in another. They commence to run in one part of a railway division on one date and in another part on another. In no service is there any uniformity of the two kinds, but never by which the time limits expire and not until the last time limit has expired in the last area will puration be finished.

So far as the central Government and Italy south of Rome is concerned, all proceedings except for appeals must finish by 1st Aug. But where Central Government employees are administered locally, the date for completion of proceedings is 1st Nov subject to the further proviso that the locality must have been under Italian administration on 31 Dec 1944.

For the territory that came under Italian administration after that date, the time limit is 9 months from the commencement of Italian administration - 6 months within which proceedings must be completed and a further 3 months within which they must (except for appeals) be concluded.

Opposite is a map showing diagramatically the approximate time scale in force (in certain territories there are deviations in respect of certain classes of employees, but these are of minor importance).

During the whole of this period of preparation the Government has been hampered by difficulties of transport and of communications and very often by the fact that only part of a division was under its control.

Further there have been four changes of Government; during the attendant crises (none of which were not short) matters of policy were paralysed including legislation. Not only so; but changes of Government involved, in so political a matter as purgation, a change of control with its consequences of delay, reversal or minor policy, procedure etc.

This Commission has regarded the punishment of fascist crimes in consequence of acts committed by individuals against the Italian State or against other [illegible] or less agnostic to the Italian people.

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[illegible] is there any uniformity [illegible] only when the time limits cease and not until the last time limit has expired in the last area will operation be finished.

So far as the central Government and Italy south of Rome is concerned, all proceedings except for appeals must finish by 15 Aug. But where Control Government employees are administered locally, the date for completion of proceedings is 15 Nov subject to the further proviso that the locality must have been under Italian administration on 31 Dec 1944.

For the territory that was under Italian administration after that date, the time limit is 9 months from the commencement of Italian administration - 6 months within which proceedings must be commenced and a further 3 months within which they must (except for appeals) be completed.

Appendix is a map showing diagrammatically the approximate time scale in force (in certain territories there are exceptions in respect of certain classes of employees, but these are of minor importance).

During the whole of this period of preparation the Government has been hampered by difficulties of transport [illegible] of communications and very often by the fact that only part of a division was under its control.

Further there have been four changes of Government; during the attendant crises (some of which were not short) matters of policy were paralysed including legislation. Not only so; but changes of Government involved, in so political a matter as defascism, a change of control with its consequences of delay, reversal of minor policy, procedure etc.

This Coordination has regarded the punishment of fascist crimes in consequence of acts committed by individuals against the Italian State or against other Italian nationals as a matter more or less domestic to the Italian people. It has worked over it generally but almost as if it were only corroborative evidence of the genuineness of the change of feeling against fascism. The same is true as to provisions for the recovery of wealth gained corruptly by individuals from the Italian State or Italian Corporations or nationals.

It is quite otherwise however with regard to the purging of the government services and of trade and commerce. The Allied Governments have laid it down that these will be purged of fascists and provisions to that effect are included in the armistice terms. This Coordination therefore has required constant returns from all branches of the Government and it is proper now that the time limits for Rome and South Italy are expiring (15 Aug) that a summary of the position should be included in this report.

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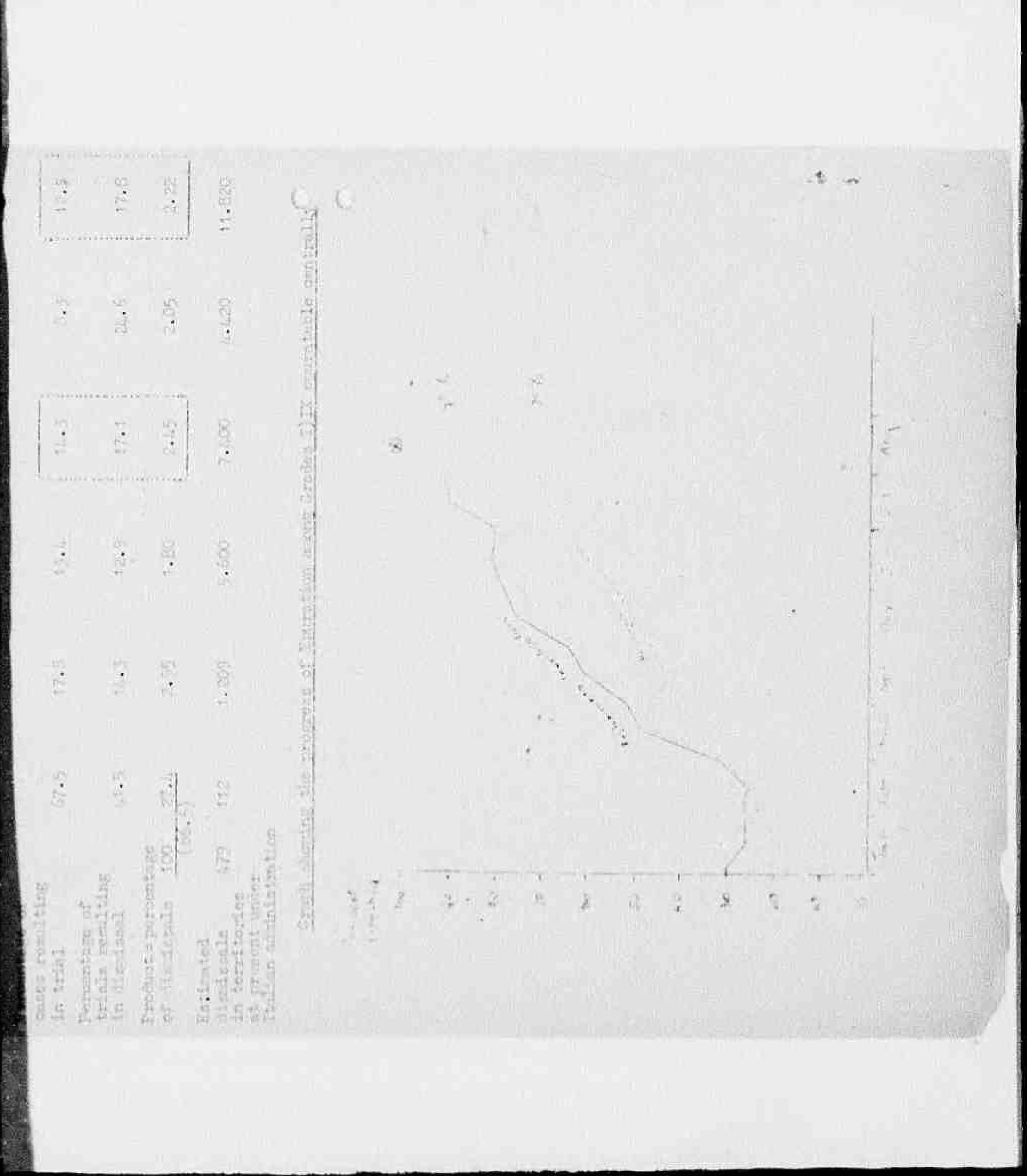

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DEPT. OF MUNICIPAL LAWS U. DEPARTURE
LAWS OF THE ITALIAN GOVERNMENT PRIOR TO 25 JUL 1943

In addition to the decrees listed below a very large number of decrees (probably five to three hundred or even more) have been passed dealing with such subjects as:

a) the appointment of functionaries to various fascist bodies, newspapers, and businesses under the control of fascists;
b) the retirement of public officials, accountants, notaries, brokers, etc., decreed for political or racial reasons;
c) the changing of names of places or localities which have been given names commemorating fascists or connected with fascist ideology;
d) measures affecting individuals and companies altered for fascist reasons.

DL signifies a Decree Law
RD signifies a Royal Decree
PD signifies a Decree of the President of the Council of Ministers.
MD signifies a Ministerial Decree
DLGS signifies a Decree of DLGS.

No.	Date	
1	661	Suppressing the Special Tribunal for the Defence of the State.
2	704	Dissolving the National Fascist Party and other Fascist organizations controlled by it.
3	705	Dissolving the "Chamber of Fasci and Corporations" and providing for the election of a new Chamber of Deputies after the war.
4	706	Suppressing the Grand Council of Fascism.
5	707	Abrogating provisions imposing limitations upon unmarried persons in civil service, armed forces, etc.
6	MD 6 Aug	Suppressing the Corporative Committee for distribution of textiles and clothing products, etc.
7	712	Changing the name of the Ministry of Corporations to Ministry of Industry, Commerce and Labour.

Declassified E.O. 12356 Section 3.3/NND 785016

[illegible] material and personal properties seized for Fascist
reasons.

DL signifies : Decree Law
RD signifies : Royal Decree
PD signifies : Decree of the President of the Council of Ministers.
MD signifies : Ministerial Decree
DDS signifies : Decree of State.

~~1945~~	DL	Nov.	
1		667	Suppressing the Special Tribunal for the Defense of the State.
2		704	Dissolving the National Fascist Party and other Fascist organizations controlled by it.
3		705	Dissolving the "Chamber of Fasci and Corporations" and providing for the election of a new Chamber of Deputies after the war.
4		706	Suppressing the Grand Council of Fascism.
5		707	Abrogating provisions imposing limitations upon admission to civil service, armed forces, etc.
6	MD	6 Aug	Suppressing the Corporative Committee for distribution of textiles and clothing products, etc.
7		728	Changing the name of the Ministry of Corporations to Ministry of Industry, Commerce and Labour.
8		736	Recovery by the State of property wrongfully acquired by persons who held public office or were engaged in political activities during the fascist regime.
9		721	Suppressing the Central Corporative organs of the Ministerial Co-ordinating Committee on Prices and on Autarchy. (Abrogating the National Corporative Council, the Corporations, etc.)
10	MD	12 Aug	Appointing a Commission to investigate cases of wrongfully acquired property, etc.
11		9/B	Abrogating dues payable to the dissolved National Fascist Party.
12		11/B	Modifying the formula to be used in promulgating laws and royal decrees and in enacting acts bearing the heading in the name of the king. (Eliminating the styles "King of Albania and Emperor of Ethiopia".

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37 170 Rules for the constitution of Courts of Assizes. (For trials of Fascist criminals)

38 177 Modifying in all concerning the composition of the Provincial Deputation.

39 183 Re-instatement into service of officials of the judiciary dismissed for political or racial motives.

40 186 Abrogating the prohibition against women to hold certain subjects or holding certain executive positions in the secondary institutes of learning.

41 190 Modifying DL 9 of 1944 and DL 101 of 1944 on reinstatement to service of personnel formerly dismissed for political reasons.

42 5 Sep Forfeiture of the profits derived from the regime.

43 195 Rectification of civil status documents relating to persons affected by racial laws.

44 198 Rules relating to composition and functioning of the High Court of Justice constituted by DL 159 of 1944 and other procedural rules.

45 206 Appointing to positions formerly made upon nomination of the suppressed Fascist party.

46 207 Appointment of Commissioners extraordinary for administration of publishing companies which supported fascism and nazism during the war and particularly after the 8 Sep 43.

47 12 Sep Modifying the RD of 3 Sep 44 relating to the forfeiture of profits derived from the fascist regime.

48 208 Provisions for readmission to the profession of notaries affected by racial provisions or dismissed from office for political reasons; modifications of the regulations governing the notarial profession.

49 221 Abolishing the death penalty on the Penal Code.

50 229 Admitting a civilly injured party to participation in penal proceedings before the High Court of Justice.

51 238 Rules for organization of the High Commissariat for sanctions against fascism.

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Allied Translation

for

ITALY

Report on Deciphering

for

the year ending 31 Jan 45

0628

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

TRANSLATION NO. 874

DLL 410 of 12 July 1945

Amendment of art 40 of DLL 159 of 27 July 1944, already amended by art 1 of DLL No. 2 of 4 Jan 1944 on sanctions against fascism.

Art 40 of DLL 159 of 27 July 1944, modified by art 1 of DLL No. 2 of 4 Jan 1945 shall be replaced by the following:

A High Commission for sanctions against fascism is hereby instituted to insure the operation of the present decree.

The High Commissioner shall be appointed by resolution of the Council of Ministers and shall be equal in rank for the duration of his office to magistrates of the judicial category of first grade.

He shall be assisted by commissioners in each branch of his jurisdiction.

The said Commissioners shall be appointed by the President of the Council of Ministers in conjunction with the Council of Ministers, upon the proposal of the High Commissioner for sanctions against fascism.

An adequate number of magistrates and officials, to be requested by name, shall be assigned to the office of the High Commissioner and a group of the judicial police composed of the personnel of the Carabinieri, of Public Safety and of the Guard of Finance shall be placed at the disposal of this office. A secretariat headed by a secretary general, who can be chosen among persons not belonging to the State Administration, shall be instituted and called to work under the direct control of the High Commissioner. Likewise, persons not belonging to the Administration may be assigned to the other offices.

[illegible] of the present decree.

The High Commissioner shall be appointed by resolution of the Council of Ministers and shall be equal in rank for the duration of his office to magistrates of the judicial category of first grade.

He shall be assisted by commissioners in each branch of his jurisdiction.

The said Commissioners shall be appointed by the President of the Council of Ministers in conjunction with the Council of Ministers, upon the proposal of the High Commissioner for sanctions against fascism.

An adequate number of magistrates and officials, to be requested by name, shall be assigned to the office of the High Commissioner and a group of the judicial police composed of the personnel of the Carabinieri, of Public Safety and of the Guard of Finance shall be placed at the disposal of this office. A secretariat headed by a secretary general, who can be chosen among persons not belonging to the State Administration, shall be instituted and called to work under the direct control of the High Commissioner. Likewise, persons not belonging to the Administration may be assigned to the other offices, in pursuance of Art 5 of DLL No 288 of 3 October 1944.

The High Commissioner and the offices under him may request the collaboration of the judicial police, who will be required to execute their orders.

ART 2

The present decree shall become effective on the day following its publication in the Official Gazette of the Kingdom.

We order etc.

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

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

AF/P/3.32/24

29 June 45

SUBJECT : Defendan - GO 35

TO : See Distribution below

It is reported from Regions that some of the Ministries are sending to the North names of employees to be suspended. Action against such persons has to be taken under GO 35. It would greatly facilitate the work of these commissions if instead of receiving piece meal Application from various Ministries as regards Ministries would submit a complete list for each Region to Hq to forward to the Regional Commissioner, who is the responsible authority under GO 35.

Will you please instruct your Ministry that any such list should reach CA Section on or before the 14 Jul. If there are any further names later, a supplementary list may be submitted on or before Jul 28.

S.H. WHITE Lt Col
for VP CA Section

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QUARTIER GENERALE
GOVERNO MILITARE ALLEATO
PER LA REGIONE DELLA LIGURIA
A.P.O. 394

26 Ottobre 1945

ORDINE REGIONALE)
:
NUMERO 8)

POICHE' in forza dell'Articolo I dell'Ordine Generale N° 35, col d'ora innanzi verrà qui fatto riferimento coi termini: "detto ordine", è disposto che le persone cui detto ordine si riferisce sono divise nelle seguenti tre categorie:

(1) Categoria Immediata

(2) Categoria Ordinaria

(3) Categoria Ritardata

E POICHE' il paragrafo (i) Articolo V di detto ordine stabilisce che quelle persone cui esso si riferisce o che sono comprese nella Categoria Ritardata non sono tenute a compilare, firmare e presentare una Scheda Personale nè rientrano nell'ambito d'applicazione di detto Ordine senza ulteriore ordine emanato da o per conto del Governo Militare Alleato.

E POICHE' si ritiene necessario nell'interesse delle persone cui detto ordine si riferisce, le quali sono incluse nella Categoria Ritardata, che le disposizioni di detto Ordine vengano rese applicabili anche nei loro confronti.

Io, Brigadiere Generale M. CARR, C.B.E., M.C., Commissario Regionale della Liguria, in virtù dei poteri conferitimi con il presente

O R D I N O

quanto segue:

Le persone cui detto ordine si riferisce o che sono comprese nella Categoria Ritardata rientreranno d'ora innanzi nell'ambito di applicazione di detto Ordine nello stesso modo in cui vi sarebbero rientrate senza le disposizioni della Sezione (i) dello Articolo V di detto Ordine, tranne che tali persone non saranno tenute a compilare, firmare e presentare una Scheda Personale fino

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(1) Categoria Immediata

(2) Categoria Ordinaria

(3) Categoria Ritardata

E POICHE' il paragrafo (2) Articolo V di detto ordine stabilisce che quelle persone cui esso si riferisce e che sono comprese nella Categoria Ritardata non sono tenute a compilare, firmare e presentare una Scheda Personale nè rientrano nell'ambito d'applicazione di detto Ordine senza ulteriore ordine emanato da o per conto del Governo Militare Alleato.

E POICHE' si ritiene necessario nell'interesse delle persone cui detto ordine si riferisce, le quali sono incluse nella Categoria Ritardata, che le disposizioni di detto Ordine vengano rese applicabili anche nei loro confronti.

Io, Brigadiere Generale M. DARR, C.B.E., M.C., Commissario Regionale della Stiria, in virtù dei poteri conferitimi con il presente

O R D I N E

quanto segue:

Le persone cui detto ordine si riferisce e che sono comprese nella Categoria Ritardata rientreranno d'ora innanzi nell'ambito di applicazione di detto Ordine nello stesso modo in cui vi sarebbero rientrate senza le disposizioni della Sezione (2) dell'Articolo V di detto Ordine, tranne che tali persone non saranno tenute a compilare, firmare e presentare una Scheda Personale fino a nuovo ordine emanato da o per conto del Governo Militare Alleato.

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M. DARR,
Brigadiere Generale,
Commissario Regionale.

SPIB

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

MEMORANDUM

Ref DPZ 3/20

20 June 45

SUBJECT : Instructions - Dismissal by CIC

TO : See distribution below

1 A question has arisen as to the right to remove or suspend an official who has been removed from office by the local CIC, if the Regional Commissioner is persuading his successor, also appointed by the CMA, to exercise the functions of the office.

The following action is appropriate. The official suspended should be served with a Schedule under GO 35 and the normal sanction procedure under that order should be carried out.

a) If he is found to be a fascist, his suspension will be normally confirmed, no difficulty about his salary will arise and in due course he will be removed under GO 35.

b) If he is found to be no fascist, he has a claim for re-instatement and payment of salary; but, if it is found for any reason inexpedient to reinstate him in that district, the appropriate procedure is to notify that he has been cleared, but that it is considered inexpedient to re-employ him locally. The Commissioner's Ministry will then be informed and he will be re-employed elsewhere. With the present shortage of officials the Government will be glad to do this.

2 Where the Regional Commissioner finally decides to permit the civil appointee to carry on in the office to which he has been appointed by them, the Regional Commissioner should confirm the appointment in writing.

3 Cases considered in this Directive to be processed by a Regional Commissioner may be dealt with by him or a Provincial Commissioner.

4 Attention is also drawn to para 14 of Admin Instructions to GO 35.

[illegible]
Brig.
VP Occupation

DISTRIBUTION :
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HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

CP/C.A/1A

18 June 45

SUBJECT : General Order No 35.

TO : RC Emilia Region
RC Liguria Region
RC Piemonte Region
RC Lombardia Region
RC Venezia Region

1 Interpretation has been requested of sub-para (a) of Art 2 of GO 35.

2 GO 35 is entirely founded on DL 159 and this particular item is derived from the first para of Art 17 of that decree.

3 The intention is that in considering disqualification from service the same criteria shall be observed by AMG Commissions as will ultimately be observed by the Commissions under DL 159, so that the position will be avoided that AMG suspends employees who are ultimately declared not to be fascists.
This is made clear by the introduction to the Handbook for Epuration Commissions.

4 It should be understood that there is more than one form of oath
a) that to the Republican Fascist Government which is only taken by certain senior officials and party members and
b) that to the "Repubblica Sociale Italiana" which is taken by hosts of other officials.
Only the first is within the wording of sub-para (a) of Art 2.

5 Attention is particularly directed to
a) para 5 of the High Commissioners circular No 1 of 20 Aug 44 and
b) para 5 of Circular No 2 of 3 Sep 44 and
c) para 4 of Circular No 3 of 26 Oct
all of which are printed in the Handbook and the attention of Commissions should be drawn to them and to the preface to the Handbook.

6 The attention of AMG Officers concerned is drawn to the summary of these paras which was issued with HP/5.32/CA of 1 Feb 45.

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7 Suspension under GO 35 is not appropriate where there is a reasonable [illegible] will ultimately be awarded,

1 Interpretation has been requested of sub-para (a) of Art 2 of CO 35.

2 CO 35 is entirely founded on EL 150 and this particular item is derived from the first para of Art 17 of that decree.

3 The intention is that in considering disqualification from service the same criteria shall be observed by AMG Commissions as will ultimately be observed by the Commissions under EL 150, so that the position will be avoided that AMG suspends employees who are ultimately declared not to be fascists.
This is made clear by the introduction to the Handbook for Epuration Commissions.

4 It should be understood that there is more than one form of oath
a) that to the Fascist Government which is only taken by certain senior officials and party members and
b) that to the "Repubblica Sociale Italiana" which is taken by most of minor officials.
Only the first is within the wording of sub-para (a) of Art 2.

5 Attention is particularly directed to
a) para 5 of the High Commissioners circular No 1 of 20 Aug 44 and
b) para 5 of Circular No 2 of 8 Sep 44 and
c) para 4 of Circular No 3 of 26 Oct
all of which are printed in the Handbook and the attention of Commissions should be drawn to them and to the preface to the Handbook.

6 The attention of AMG Officers concerned is drawn to the summary of these terms which was issued with CC/3.32/CA of 1 Feb 45.

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7 Suspension under CO 35 is not appropriate where there is a remote possibility that a lesser punishment than dismissal will ultimately be awarded, but only where ultimate dismissal appears to be probable.

BY COMMAND OF THE CHIEF COMMISSIONER :

[signature]
G.S. (EDUC) Brig,
CC CA Section.

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SCAO 8 Army
IV Corps
XIII Corps

(Scale of Distribution : FSQ (5), FMS (2))

Copy to : All Defascising Sub-Commissions

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

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

CC/2.A/CA 18 June 45

SUBJECT : General Order No 35.

TO : RC Emilia Region
RC Liguria Region
RC Piemonte Region
RC Lombardia Region
RC Veneto Region

1 Interpretation has been requested of sub-para (e) of Art 2 of GO 35.

2 GO 35 is entirely founded on DL 159 and this particular item is derived from the first para of Art 17 of that decree.

3 The intention is that in considering disqualification from service the same criteria shall be observed by AMG Commissions as will ultimately be observed by the Commissions under DL 159, so that the position will be avoided that AMG suspends employees who are ultimately declared not to be fascists.
This is made clear by the introduction to the Handbook for Epuration Commissions.

4 It should be understood that there is more than one form of oath
a) that to the Republican Fascist Government which is only taken by certain senior officials and party members and
b) that to the "Repubblica Sociale Italiana" which is taken by hosts of minor officials.
Only the first is within the wording of sub-para (e) of Art 2.

5 Attention is particularly directed to
a) para 3 of the High Commissioners Circular No 1 of 20 Aug 44, and
b) para 5 of Circular No 2 of 8 Sep 44 and
c) para 4 of Circular No 3 of 25 Oct
All of which are printed in the Handbook and the attention of Commissions should be drawn to them and to the preface to the Handbook.

6 The attention of AMG Officers concerned is drawn to the summary of these paras which was issued with CC/2.32/CA of 1 Feb 45.

7 Suspension under GO 35 is not appropriate where there is a reasonable possibility that a lesser punishment than dismissal will ultimately be awarded, but only where ultimate dismissal appears to be probable.

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explanation has been requested of sub-para (e) of Art 2 of CO 35.

2 CO 35 is entirely founded on EL 153 and this particular item is derived from the first para of Art 17 of that Decree.

3 The intention is that in considering disqualification from service the same criteria shall be observed by ACC Commissions as will ultimately be observed by the Commissions under EL 153, so that the position will be avoided that ACC suspends employees who are ultimately declared not to be fascist.
This is made clear by the introduction to the Handbook for Epuration Commissions.

4 It should be understood that there is more than one form of oath
a) that to the Republican Fascist Government which is only taken by certain senior officials and party members and
b) that to the "Repubblica Sociale Italiana" which is taken by hosts of minor officials.
Only the first is within the wording of sub-para (e) of Art 2.

5 Attention is particularly directed to
a) para 3 of the High Commissioners circular No 1 of 20 Aug 43, and
b) para 6 of Circular No 2 of 2 Sep 43, and
c) para 4 of Circular No 3 of 26 Oct
All of which are printed in the Handbook and the attention of Commissions should be drawn to them and to the preface to the Handbook.

6 The attention of ACC Officers concerned is drawn to the summary of these paras which was issued with HP/3.32/GA of 1 Feb 45.

7 Suspension under CO 35 is not appropriate where there is a reasonable possibility that a lesser punishment than dismissal will ultimately be awarded, but only where ultimate dismissal appears to be probable.

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BY COMMAND OF THE CHIEF COMMISSIONER :

[signature]
G.R. UBJOHN Brig,
VP GA Section.

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XIII Corps

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HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

CF/C.A/CA 15 June 45

SUBJECT : Epuration Returns.

TO : Zone Distribution.

1 Please compare Cols (d) and (e) of the returns for the period ending 30 May and (when received) 15 Jun and calculate therefrom how long it will take before all hearings will have been completed.

2 Use this limits for completion of hearings is for rest of the current 15 Jul and for the remainder 15 Aug.

3 If you are not satisfied that all hearings will be completed by 15 Aug, you will please arrange for a conference with those concerned and obtain their proposals for ensuring that all cases are completed in time.

4 You will bear in mind that Jul and Aug are regarded as vacation months and every effort should be made to ensure that Commissions do not take vacations until their work is completed.

5 You will bear in mind also that under the Armistice Terms the Italian Government have undertaken to remove fascists from office and that this is a matter upon which the Allies have a right to insist.

6 Where you have reason to believe that hearings will not be completed in time you will report the reasons to this Section.

[signature]
C.H. WHITE Lt Col,
for CC Section.

DISTRIBUTION:- 'C' CA Zone
B.Mil S/C
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PWB
Pol Adv (2)

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ALLIED MILITARY GOVERNMENT
PROVINCE OF .....
PROVINCIAL ORDER Nº...

Whereas, General Order Nº 35 has been published in this Province, under, which order a Commission or Commissions have been appointed for the purpose of removing from office persons who were fascist and occupied prominent or representative positions during the fascist regime, and,

Whereas, D.L.L.159 has been implemented in this Province which Decree also provides for Commissions for epuration which have not yet become operative in this Province, and,

Whereas, certain persons have been removed from office by committees or other bodies or persons not appointed under either the above mentioned General Order or D.L.L. 159, and,

Whereas, some of such persons claim that their removal from office was not justified by the facts and that they do not come within the categories of persons who should be suspended from service.

Now therefore, it is ordered that:

1. Any person who since the liberation of this Province from the Germans and before the publication of this order and who held office of Grade VI or downward or any person described in Art.I (b) of General Order Nº 35, has been dismissed or suspended from service by reason of the action of any committee or person other than those appointed under General Order 35 and who comes within " the class of persons „to whom G.O. 35 applies (Art.1) and who claims to be entitled to reinstatement for the reason that he does not come within the 'Categories of Persons„ (Art.II) who shall be suspended from service, may, within 14 days from the date of posting of this order, complete, sign and lodge a Scheda Personale as provides in Art.V (b) of said Order. The person with whom said Scheda is lodged shall within two days after receipt of same lodge same with the office of the Commission.

2. Proceeding shall thereafter be in accordance with the terms of said Order; provided, however,(a) that should the Commission make a suspension order such order shall relate back to the date of the original suspension. (b) that should the C

...by ... or other bodies or persons not appointed under either the above mentioned General Order or D.L.L. 159, and,

Whereas, some of such persons claim that their removal from office was not justified by the facts and that they do not come within the categories of persons who should be suspended from service.

Now therefore, it is ordered that:

1. Any person who since the liberation of this Province from the Germans and before the publication of this order and who held office of Grade VI or downward or any person described in Art.I (b) of General Order N° 35, has been dismissed or suspended from service by reason of the action of any committee or person other than those appointed under General Order 35 and who comes within " the class of persons,to whom G.O. 35 applies (Art.1) and who claims to be entitled to reinstatement for the reason that he does not come within the "Categories of Persons" (Art.II) who shall be suspended from service, may, within 14 days from the date of posting of this order, complete, sign and lodge a Scheda Personale as provided in Art.V (b) of said Order. The person with whom said Scheda is lodged shall within two days after receipt of same lodge same with the office of the Commission.

2. Proceeding shall thereafter be in accordance with the terms of said Order; provided, however,(a) that should the Commission make a suspension order such order shall relate back to the date of the original suspension, (b) that should the Commission finally determine that such person is not within the category of persons who should be suspended from service, it will make a record of such finding in its records. It will not order that such suspension be cancelled,but will report such finding officially to the Provincial Commissioner, who will take such action thereon as he may deem appropriate.

3. Any person who hold office of Grade V or higher grades but who is otherwise a person described in paragraph 1 above, will be heard before the appropriate commission appointed pursuant to D.L.L 159 or Decrees amendatory thereto.

4. This order shall come into operation in this Province on the date of its first posting therein.

Provincial Commissioner.

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COMANDO MILITARE ALLEATO
PROVINCIA DI .....
ORDINE PROVINCIALE N°...

Dato che l'ordine generale N° 35 é stato pubblicato in questa Provincia e che una o più commissioni sono state quindi nominate per epurare i fascisti che occupavano cariche importanti e rappresentative durante il regime fascista;

che in questa Provincia é entrato in vigore anche il D.L.L. 159, mala Commissioni d'Epurazione ivi previste non sono ancora entrate in funzione;

che taluni sono stati rimossi dal loro ufficio da commissioni od altri comitati o persone non nominati né a sensi del su nominato Ordine né a sensi del Dec.159;

che taluni sostengono la loro rimozione non essere giustificata dai fatti e non rientrare essi nelle categorie di persone che devono essere sospese dall'ufficio;

Si ordina che:

1. Gli impiegati e funzionari di grado VI e inferiore e gli impiegati di cui all'art.1 lett.c.) dell'Ordinanza Generale N°35 che, dopo la liberazione di questa Provincia dal dominio tedesco e prima della pubblicazione di questa Ordinanza siano stati licenziati o sospesi dall'ufficio per ordine di qualsiasi comitato o persona all'infuori di quelle nominate ai sensi dell'Ordinanza Generale N° 35 e che rientrino nelle classe di persone cui si applica la ripetuta ordinanza. (Art.1) e che pretendano di aver diritto ad essere reintegrati nel loro ufficio perchè non rientrano nella categoria di persone che devono venir sospese dal servizio (Art.2) possono, entro 14 giorni dal giorno di affissione di questa Ordinanza, inviare la loro scheda personale, debitamente compilata e firmata, nei modi di cui all'Art.V (b) della detta ordinanza. La persona cui tale scheda é trasmessa, deve entro due giorni, inoltrarla all'ufficio della Commissione.

2. In tali casi i procedimenti di epurazione si uniformeranno ai disposti della suddetta Ordinanza, però (a) se la Commissione emana un ordine di sospensione, esso sarà retrodatato al giorno della prima sospensione, (b) se la Commissione giudica che la persona di cui è questione non é fra quelle che devono essere sospese dal servizio, inscrirà questa sua decisione nel [illegible] che la sospensione sia revocata,

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cata dai fatti e non rientrare essi nelle categorie di persone che devono essere sospese dall'ufficio;

Si ordina che:

1. Gli impiegati o funzionari di grado VI o inferiore e gli impiegati di cui all'art.1 lett.c.) dell'Ordinanza Generale N°35 che, dopo la liberazione di questa Provincia dal dominio tedesco e prima della pubblicazione di questa Ordinanza siano stati licenziati o sospesi dall'ufficio per ordine di qualsiasi comitato o persona all'infuori di quelle nominate ai sensi dell'Ordinanza Generale N° 35 e che rientrino nella classe di persone cui si applica la ripetuta ordinanza. (Art.1) e che pretendano di aver diritto ad essere reintegrati nel loro ufficio perchè non rientrano nella categoria di persone che devono venir sospese dal servizio (Art.2) possono, entro 14 giorni dal giorno di affissione di questa Ordinanza, inviare la loro scheda personale, debitamente compilata e firmata, nei modi di cui all'Art.V (b) della detta ordinanza. La persona di tale scheda è trasmessa, deve entro due giorni, inoltrarla all'ufficio della Commissione.

2. In tali casi i procedimenti di epurazione si uniformeranno ai disposti della suddetta Ordinanza, però (a) se la Commissione emana un ordine di sospensione, esso sarà retrodatato al giorno della prima sospensione, (b) se la Commissione giudica che la persona di cui è questione non è fra quelle che devono essere sospese dal servizio, inserirà questa sua decisione nel verbale. Non potrà ordinare che la sospensione sia revocata, ma riferirà questa sua decisione al Commissario Provinciale, che prenderà il provvedimento che crederà opportuno.

3. Coloro che rientrano fra le persone di cui al N° 1, ma sono di grado V o superiore, saranno giudicati dalla Commissione competente ai sensi del P.I.D.159 e dalle successive modificazioni.

4. Quest'ordinanza entra in vigore in questa Provincia nel giorno in cui Vi è stata affissa per la prima volta.

Il Commissario Provinciale

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

ALLIED MILITARY GOVERNMENT
OF OCCUPIED TERRITORY

PROVINCE OF [illegible] No. ____

DISQUALIFICATION OF DISMISSAL AND OF ENTRY
CONTROLLERS OF PLANTS OR ADMINISTRATORS

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

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

I, [illegible] Regional Commissioner, [illegible] Region, hereby order as follows:

ARTICLE I

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

(1) Persons who have been convicted for any of the offences referred to in the first part of the Italian Government's DLL 159 of 27 July 1944 notwithstanding that the sentence which may have been imposed upon them in respect of such offences does not include the exclusion from public offices;

(2) Persons who have been subjected to confiscation in accordance with Art. 9 of DLL 159 aforesaid;

(3) Persons who have been subjected to any of the sanctions set out in Art. 8 of DLL 159 aforesaid as amended by the Italian Government's DLL No. 2 of 4 January 1945;

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(4) Persons who [illegible] set out in the Decree of the

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

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

ARTICLE I

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

(1) Persons who have been convicted for any of the offences referred to in the first part of the Italian Government's LEL 159 of 27 July 1944 notwithstanding that the sentence which may have been imposed upon them in respect of such offences does not include the exclusion from public offices;

(2) Persons who have been subjected to confiscation in accordance with Art. 9 of LEL 159 aforesaid.

(3) Persons who have been subjected to any of the sanctions set out in Art. 8 of LEL 159 aforesaid as amended by the Italian Government's LEL No. 2 of 4 January 1945.

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(4) Persons who

(a) have held any of the positions set out in the Decree of the President of the Council of Ministers dated 2 Feb 45 published in Official Gazette No. 20 of 15 Feb 45;

(b) have been members of the Fascist Government after 3 Jan 25;

(c) having been militant members of the Fascist party subsequent to 3 Jan 25 have held the position of deputy or national councillor;

(d) have been disqualified from holding the position of Senator in accordance with the last paragraph of Article 8 of LEL 159 aforesaid;

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

(5) Persons who have been deprived by final judgement of their right to a

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pension in accordance with Article 32 of EGL 159 aforesaid.

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

ARTICLE II

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

ARTICLE III

It shall be lawful for any person affected by Article I, paragraph 1 hereof, to make application on the grounds hereinafter mentioned for the purpose of avoiding or limiting the application of the penalties imposed by Article I or II hereof, to a Commission appointed in accordance with the provisions of General Order No. 39 of the Allied Military Government. The said Commission is hereinafter called the Commission.

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

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

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ARTICLE III.

It shall be lawful for any person affected by Article I, paragraph 4 hereof, to make application on the grounds hereinafter mentioned for the purpose of avoiding or limiting the application of the penalties imposed by Article I or II hereof, to a Commission appointed in accordance with the provisions of General Order No. 39 of the Allied Military Government. The said Commission is hereinafter called the Commission.

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

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

ARTICLE IV

It shall be an offence:

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

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

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

ARTICLE V

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

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

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

ARTICLE VI

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

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

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

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...the Commission to furnish information by a special questionnaire ... so as to show whether he is a person disqualified from office by Article I hereof. If from such information it appears to the Commission that he is a person so disqualified the Commission shall serve upon him and upon the company concerned and upon the chancery of the appropriate Tribunal a notice to that effect.

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

ARTICLE VI

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

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

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

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ARTICLE VII

Without reference to the foregoing provisions of this Order it is hereby enacted that all administrators, controllers and liquidators of concerns mentioned in Article 1 (a) of General Order No. 35 of the Allied Military Government shall be subject in all respects to proceedings under that Order.

ARTICLE VIII

Administrators and controllers disqualified under this Order shall be replaced in accordance with the provisions of the Italian Government's DEL 7 of 16 Jun 45 or a receiver may be appointed by the Allied Military Government.

ARTICLE II

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

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DL 704 of 31 MAY 1945

Forfeiture of Fascist Profits

The Italian version of this decree is the only authoritative text. This version is not a literal translation; its object is to inform officers conversantly of the provisions contained in the Decree.

Officers are referred to the Italian text for all points of detail or matters of procedure or dispute.

Words in brackets are explanatory and not in the original text.

Liability to Forfeiture	Art 1-9
Maintenance of Dependent	" 10
Returns	" 11-13
Interim Order	" 14
Assessment	" 15-16
Bankruptcy	" 17
Assessment Committees	" 18-20
Powers of Officers	" 21
Trial	" 22-24
Appeals	" 25-26
Protection of Property	" 27-32
Sequestration	" 33-38
Revocation	" 39
Priorities	" 40
Administration	" 41-42
Realisation of Assets	" 43-43
Effect on other proceedings	" 46-48
Time Limits	" 49-50
Miscellaneous	" 51-54

LIABILITY TO FORFEITURE

1. The provision of art 8 of DLL 159 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 extenuating circumstances referred to in the 1st and 3rd paras of Art 7 of the aforesaid Decree.

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Any such forfeiture shall be ordered by the Court which pronounced the sentence.

In the case of a sentence pronounced before this Decree came into force, the forfeiture may on the request of the High Commissioner for Sanctions against Fascism be ordered by the Court which pronounced sentence.

If [illegible] proceedings have come extinct, the forfeiture may,

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	"	17
Assessment Committees	"	18-20
Powers of Officers	"	21
Trial	"	22-24
Appeals	"	25-26
Protection of Property	"	27-32
Sequestration	"	33-38
Revocation	"	39
Priorities	"	40
Administration	"	41-42
Alienation of Assets	"	43-45
Effect on other Proceedings	"	46-48
Time Limits	"	49-50
Miscellaneous	"	51-54

Liability to Confiscation

1 The provision of art 9 of Ord 150 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 parts 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 extenuating circumstances referred to in the 1st and 3rd parts of Art 7 of the aforesaid decree.

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Any such forfeiture shall be ordered by the Court which pronounced the sentence.

In the case of a sentence pronounced before this decree came into force, the forfeiture may on the request of the High Commissioner for Sanctions against Fascism be 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 Sanctions against Fascism, 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 having cited the heirs; the latter may be assisted by an attorney. Judgment 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 the 159 of 27 July 1944.

2 Without prejudice to the provisions of art 9 of the 159 of 27 July 1944 and of para 2 of the preceding art, all profits arising since 8 September 1943 from contracts, sales or any other transactions with the Germans or their Agents 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 3 Jan 1925 by any person who has held any of the offices mentioned below are forfeited to the State;

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[illegible] functions.

Whenever any of the circumstances in favour of any of the above mentioned persons or of their heirs which are mentioned in the first and third paragraphs of art 7 of DL 159 of 27 July 1944 exist, the evidence as to the concurring circumstances referred to in art 7 of this decree may be given in respect of the said person or, within the limits of the rights respectively acquired, for his heirs.

The benefit of the provisions of art 7 hereof may, on the proposal of the special section of the provincial commission for direct taxes, be allowed by the decision of the Central Commission for direct taxes to those persons referred to in numbers (a) to (e) above if, because of the little importance of their critical activity or because they have been committed by the pressure of duress or by other motive for sanctions against fascism, they are found to be deserving. In such case the special section of the Central Commission for direct taxes shall [illegible] to the special section of the provincial commission having jurisdiction.

4 An increase of property acquired since 1 January 1925 by any person mentioned below shall, unless the concurring circumstances referred to in art 7 exist, be presumed to be profits derived from the regime:

a) Members of the Italian lineage;

b) The holder of any office mentioned in the decree of the President of the Council of Ministers dated 2 Feb 43 and published in the Gazzetta Ufficiale of 15 Feb 43, no 37 who is not included in the preceding article;

c) Any person having charge of extraordinary funds of the State with an obligation to account for the same;

d) Any person who after 3 January 1925 has directly or substantially supported, whether by funds of his own or of others, the propaganda or political activity of the fascist party;

e) Members of provincial councils and Presidi of Provinces.

5 In the absence of proof of the circumstances referred to in art 7, increases of property acquired since 1 Jan 1925 shall be presumed to be profits derived from the regime 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, or by maintaining business relations or connections with fascist figures, or by taking advantage of subventions introduced by fascism, has acquired for himself, for relatives or connexion in which he is interested contracts, supplies or concessions from the State, from provinces, communes or from State-controlled or supervised bodies or also such increases of property acquired by solicitors or agents who have acted for businessmen in any such negotiations.

6 Increases of property acquired since 1 Jan 1925 by the following persons shall, in the absence of proof of the circumstances referred to in art 7, 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 of the said persons;

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the bodies and companies controlled by the "Consorzio Mobiliare".

d) direct, supervise and control the activity of the receivers or commissioners, examine and approve the accounts and reports which they must make to it periodically;

e) pay sums due to the receivers or controllers as reimbursement or emoluments, orders as to which shall not be open to challenge through ordinary judicial or administrative channels.

29 The Committee shall be presided over by the High Commissioner or a delegate appointed by him and shall be composed of six members to be appointed by decree of the Minister of Finance; one of the members shall belong to the Treasury Department of Finance, one shall be nominated by the Minister of the Treasury and the other four shall be selected from persons who are either civil servants or who have particular knowledge of economics, agriculture, industry and commerce.

The Committee shall have a secretariat, in accordance with [illegible] technical office with not more than twenty employees altogether, [illegible] from the civil service. It shall have also a body of [illegible] chosen from engineers, industrialists, chemists, accountants, [illegible] experts employed temporarily among persons not belonging to the civil service or released by them.

The Civil Servants serving on the Committee, on the Commissioners [illegible] other officers or appointed inspectors shall be released according to the procedure of the "Consorzio" and the money expended in payment of their salaries shall be reimbursed to the Departments to which they belong. The salaries of persons who do not belong to the civil service and who are serving on the Committee or are appointed inspectors shall be fixed by decree of the High Commissioner for Finance, in agreement with the Minister of the Treasury.

For the execution of its tasks the Committee may call upon any legal, technical-accountant and police agencies of the State.

30 An authority empowered to initiate or order protective measures must, before asking for or ordering them, report its proposals to the Committee and carry out the instructions of that body as provided by art. 29.

In case of urgency such authority may order sequestration but such protective measure shall be changed for such other form of protection as the Committee may determine; or, if the Committee approves of the sequestration the trustee may be replaced by such person as may be designated for such purpose by the Committee.

As regards sequestration effected prior to the coming into force of this decree the Technical Committee, having considered the report of the Commissioner which proposed or ordered the sequestration, shall decide upon the measures referred to in sub-paras a, b and c of art 28 and instruct the said Commissioner to carry out such decision.

31 In ordering a protective measure, the authority having jurisdiction under art 27 may remove from office the Commissioners previously appointed with the administration of certain property or groups of property.

As regards sequestration already in effect the powers of the Commissioners

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shall be carried out by the above-said authority within 30 days from the notification of the decree.

32 The presiding magistrate under Art 27 may order the protective measures referred to in sub-paras a and b of Art 26 to be taken in respect of real estate and movable property and, when it appears necessary, over concerns and other property in general belonging to any person referred to in Arts 2,3,4, 5,6 and 8 or to his heirs as well as:

a) physical intervention;
b) legatees, donees and other persons in whose favour any disposition referred to in Art 29 of RL 1/9 of 27 Jul 44 has been effected if the guarantee received from the suspected partner or of his heirs is found to be insufficient.

SEQUESTRATION

33 A sequestration shall be carried out as laid down in Arts 670 and 677 c.p.c. (code of civil procedure).

Arts 674, para 3, 686 c.p.c. shall not be applied even if the sequestration is ordered "ad litem". The property specified in Art 580 c.p.c. shall be kept in such custody as the Technical Committee may decide.

Books, registers, documents, models, samples and anything else from which evidence as to the origin of the profits may be obtained, may also be sequestrated.

The sequestration of shares shall generally consist of possession of the shares and a notice thereof shall be served on the legal representative of the company issuing the shares.

It may also be executed by means of a garnishee notice to the legal representative of the company in which case the latter will call in the sequestrated shares and within 30 days from the said notice, supply the authority ordering the sequestration with particulars of the shares not returned to it.

Apart from the right to propose the penalization of such shares, the said authority shall have the power to demand from the company in the place of the shares to be delivered fresh certificates in the name of the trustee which shall entitle the latter to exercise the rights referred to in the following articles.

No transfer of any shares shall be valid after this decree comes into force if at the time it was made notice of sequestration of the shares (proposed to be) transferred had been served on the company.

The rules of the preceding paragraphs shall so far as they are appropriate apply in respect of rights in concerns not secured by shares.

34. The trustee shall be entitled to vote as to ordinary administrative acts. He shall exercise such powers in accordance with the directions he may receive from the Technical Committee.

The right to vote as to extraordinary administrative matters shall remain in the person whose property has been sequestrated; the trustee if authorized by the Technical Committee, may contest the resolution in question, if the said vote provided the prescribed majority.

[illegible] shall when and while be observed.

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[illegible] application for sequestration [illegible] may apply for its withdrawal, reduction or change to another form of guarantee. Such application shall be addressed to the authority which ordered the sequestration, which shall pronounce its decision after consulting the technical Committee.

The authority which ordered a sequestration may, on its own initiative, after consulting the Technical Committee, revoke, reduce or change the sequestration or substitute some other guarantee.

Where the Tribunal has been formed, however, only its president shall have the power to order, after hearing the technical Committee, the revocation, reduction or change of the sequestration previously ordered by the president of the Tribunal.

PRIORITIES

No [illegible] a debt to the State in respect of profits derived from the regime shall have general priority over all movable and real property of the debtor. As to movable property it shall have priority over the debts indicated in No 15 of Art 2778 C.C. and as to real property, over the debts indicated in No 3 of Art 2760 C.C.

Debts guaranteed by mortgage before 25 July 1943 and book debts resulting from documents of certain date prior to 25 Jul 1943 shall be preferred to the State credit.

[illegible] SECRETARIAT

14 In the central section of the provincial Commissions and in the special section of the Central Commission there shall 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 entries, searches and inspections and shall sign, together with those who make them, decisions, deeds and certify copies thereof as they shall for any other deed, and in general they shall discharge all the duties which are entrusted by law to the chancellors of an ordinary judge.

One or more ushers 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 and to the special section of the Central Commission.

The personnel indicated in the preceding paragraphs, if already regularly employed by the State, provincial or communal Administration, will be transferred to the Commissions, as 'attached personnel'.

The Minister of Finance, in agreement with the Minister of the Treasury, shall by decree fix the maximum number of persons belonging to the State departments and of attached personnel.

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Money expended in the payment or retention of attached personnel shall be reimbursed to the Departments to which the said personnel belongs.

The Minister for Finance shall also be authorised to employ temporary personnel up to a maximum to be fixed by decree, in conjunction with the Minister of the Treasury.

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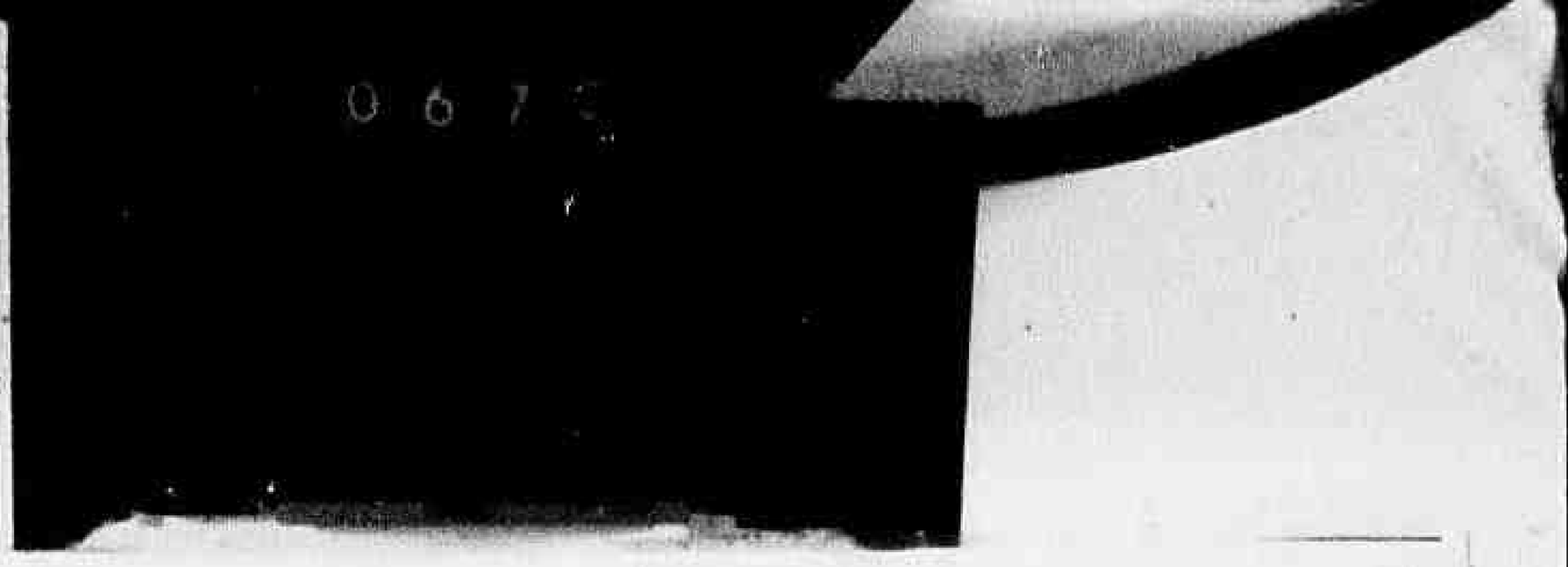
Declassified E.O. 12356 Section 3.3/NND No. 785016



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Upon the publication and entry in each list, no action to set aside a disposition under the preceding article, shall not be initiated with regard to dispositions subsequently made if the name of the transferor or his predecessor in title is not included in the said lists.

After the time limit for assessment contemplated in art 49 has expired or after the proceedings for forfeiture or after the claims of the State have been satisfied, the High Commissioner shall issue a declaration, published and filed in the manner prescribed in para 2 above, removing from the list referred to in para 1 the names of those persons in respect of whom the reason for inclusion in the said list has ceased.

The High Commissioner, after consulting the Technical Commission, shall have the power to authorize at any time persons included in the lists to alienate specific property, laying down, if necessary, special conditions for safeguarding the State claims.

47 Upon the application of the High Commissioner, of the Finance Department or of the President of the Special Section, the competent judge shall order the suspension of any execution or bankruptcy procedure pending or undertaken against any person respondent to a proceeding for assessment of profit or against whom protective measures are being taken or were taken until a decision on such proceedings has been reached.

48 On application of the trustee or of any interested person and following the authorization of the Technical Committee, the payment of debts having priority over the State debts in accordance with the first paragraph of Article 40, may be allowed together with those contemplated by the second paragraph of the same Article and of others the payment of which is considered to be obviously useful for the Administration and conservation of the sequestrated property.

TIME LIMITS

49 Action by the State for the assessment of profits derived from the regime shall be extinguished two years after the coming into force of this decree.

Any notice for a proposal for assessment suspends this period which shall not run during any proceeding before a Special Section of the Commissions of taxation.

50 A debt to the State on account of profits derived from the regime shall cease after a period of five years from the date on which the assessment became irrevocable.

This term shall be interrupted by service of a demand for payment or receipt by the Treasury of a payment order.

MISCELLANEOUS

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51 The expenses necessary for the operation of the Technical Committee referred to in Article 26, and of the Special Sections of the Commissions of taxation are to be charged to the account of the Ministry of Finance.

The Government is empowered to make the necessary appropriat-

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HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

Ref AFHQ/

30 May 45

SUBJECT : Quantico Return Forms

TO : See Distribution

1. Will you please instruct all bodies making returns to you that Note 2 at the foot of each of the two Italian Quantico Return Forms has been amended to read as follows:

> Le colonne da (6) a (8) si riferiscono ai risultati totali della compilazione di quantsiasi di prima istanza tenuto conto degli spostamenti apportati dalle decisioni in data di ricorso.

2. Copies of this letter to enable you to ensure that one can, if desired, be obtained from Civil Affairs Section on application to the Chief Clerk.

S.H. WHITE Lt-Col
For VP CA Section

DISTRIBUTION :-

VP CA Sec
Apulia S/C
Com S/C
Finance S/C
Pub Works & U S/C
Transportation S/C
Civil Relations Branch

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2378

0617

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

9.	Extends for territory not yet returned to Italian Administration the time limits within which persons may be retired.	A.2 of DL 257
10.	Extends the time limits for initiating expulsion proceedings against employees of the Ministry of Posts and Telecommunications to 15 May. The time limit except for civil employees of other Ministries and for military personnel remain unaffected but the time limit for all other persons is extended to 15 Aug.	A. 25 of DL 159 A. 1 of DL 56 A. 1 of DL 56
	The time limit for the completion of proceedings is extended by 30 days.	A. 2 of DL 44

[illegible]
for A.C. URICCHIO Brig.
VF CA Section

DISTRIBUTION :-

NC Tenenza Region	CA Section	Finance S/C
PC Emilia Region	Local Govt S/C	Pub Works S/C
NC Piemonte Region	Legal S/C	Air S/C
NC Liguria Region	Pub Safety S/C	Naval S/C
RO Lombardia Region	Education S/C	Land Forces S/C
NC Veneto Region	Econ Coalition	Transportation S/C
DCCAO, 1 Army Group	Amric S/C	Communications S/C
SCAO ANG 1 Army	Comserna S/C	FCB
SCAO ANG 5 Army		

Scale of Distribution :- HQS (A), ATO (2)

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2377

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

9.	Extends for territory not yet returned to Italian Administration the time limits within which permits may be retired.	A.2 of DL 257
10.	Extends the time limits to initiating expulsion proceedings against employees of the Ministry of Posts and Telecommunications to 15 May.	A. 25 of DL 139 A. 1 of DL 36
	The time limit except for civil employees of other Ministries and for military personnel remain unaffected but the time limit for all other permits is extended to 15 Aug.	A. 1 of DL 56
	The time limit for the completion of proceedings is extended by 30 days.	A. 2 of DL 4.

Col. Director Brig.
VP CA Section

DISTRIBUTION :-

TC Tuscan Region	CA Section	Finance S/C
NC Emilia Region	Local Govt S/C	Pub Works S/C
MC Piedmont Region	Legal S/C	Air S/C
LC Liguria Region	Pub Safety S/C	Naval S/C
LO Lombardia Region	Education S/C	Land Forces S/C
VC Venezia Region	Econ Section	Transportation S/C
FRANCO, Fr Area Comd	Civil S/C	Communications S/C
SCAO AFHQ Army	Economic S/C	IRB
SCAO AFHQ 5 Army		

Order of Distribution :- HQ (A), HQ (T)

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

[illegible]

[illegible]

[illegible]

/rlr.
5 May 1945.

SUBJECT : Security information pertaining to trials by Special Courts of Officers.

TO : See distribution.

1. Enclosed herewith for information, copy of 10th Army Order letter reference 1401/7/G31 (S) of 2 May 1945.

2. Sufficient copies are enclosed for distribution to Provincial Public Safety Officers and Provincial Legal Officers.

By command of Rear Admiral Wilkes:

R. H. WILKES,
Lt. Col. AGD,
Adjutant General.

Encls.

Distribution:
Regional Coordinators, Visayan Region - 36 copies
" " Manila " - 32 "
" " Leyte " - 16 "
" " Cebu " - 26 "
" " Panay " - 22 "
" " Negros " - 22 "
" " Palawan " - 45 "
Public Safety Sub-Commission - 2
Legal Sub-Commission - 2

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

CONFIDENTIAL

[illegible]
15th ARMY GROUP
APO 777

1601/7/Gst (b) 1 May 1945.

SUBJECT : Security Internment Procedure in relation to Italian Special Courts of Assize.

TO : See Distribution.

1. The Italian Government has passed a decree (CCI No. 269) establishing Special Courts of Assize for newly liberated territory. The decree has been approved by the Allied Commission (Ghost letter. DF/S.16/CA dated 25 April 1945 refers.

2. Such Courts, which are to be composed entirely of Italians, are to be set up in each province of N. Italy as soon as possible after its liberation. They are to have jurisdiction to try Fascist criminals and German collaborators (post Italian Armistice), and their purpose is to enable the Italian people themselves to administer quick justice in respect of such persons.

3. It is believed that these 'People's Courts' will go far towards eliminating the criticism and dissatisfaction hitherto expressed by the Italians against the Allied authorities concerning the latter's alleged weakness in dealing with Fascists and collaborators, and that they will therefore make a considerable contribution to public order and Allied security in the Zone.

4. The establishment of such Courts calls for some revision of the Allied internment procedure which has hitherto been followed, since it is important that Allied security/CI agencies should not dispatch as internees to TERNI those persons whom the Italian authorities wish to bring to early trial before a Special Court of Assize. Not only would it involve a waste of time and effort to arrange for their return from TERNI for their trial, but their removal to TERNI might be misinterpreted by the partisans as a form of protection."

5. In future, therefore, the following procedure will be adopted by CIC/FSS with regard to leading Fascists and German collaborators, etc., whom it is considered necessary to intern on security grounds.

a. Before placing such persons in the nearest PW cage for evacuation to TERNI, the CIC/FSS officer concerned will ask either the local President of the Tribunals, or the local Procuratore del Regno, or the President of the provincial CLN, or their representative, whether or not they wish to try in the near future the person concerned.

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b. If the answer is negative, the individual concerned will be interned in the normal way, i.e., dispatched to TERNI through PW channels.

c. If the answer is affirmative, he will be handed over to the Italian authorities, who will thereafter be responsible for his custody and confinement. At the same time, they will be informed that he must NOT be released without ref-

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[illegible] as soon as possible after its liberation. They are to have jurisdiction to try fascist criminals and German collaborators (post Italian Armistice), and their purpose is to enable the Italian people themselves to administer quick justice in respect of such persons.

3. It is believed that these 'People's Courts' will go far towards eliminating the criticism and dissatisfaction, hitherto expressed by the Italians against the Allied authorities concerning the latter's alleged slackness in dealing with fascists and collaborators, and that they will therefore make a considerable contribution to public order and Allied security in the North.

4. The establishment of such Courts calls for some revision of the Allied internment procedure which has hitherto been followed, since it is important that Allied security/CI agencies should not step-in on internees to TRIAL those persons whom the Italian authorities wish to bring to early trial before a Special Court of Assize. Not only would it involve a waste of time and effort to arrange for an ir return from CLOSE for the ir trial, but their removal to TRIAL might be misinterpreted by the Partigiani as a form of protection.'

5. In future, therefore, the following procedure will be adopted by CIC/FSS with regard to leading Fascists and German collaborators, etc., whom it is considered necessary to intern on security grounds.

a. Before placing such persons in the nearest PW cage for evacuation to TRIAL, the CIC/FSS officer concerned will ask either the local President of the Tribunale, or the local Procuratore del Regno, or the President of the Provincial CLNAI, or their representative, whether or not they wish to try in the near future the person concerned.

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b. If the answer is negative, the individual concerned will be interned in the normal way, i.e., dispatched to TRIAL through PW channels.

c. If the answer is affirmative, he will be handed over to the Italian authorities, who will thereafter be responsible for his custody and confinement. At the same time, they will be informed that he must NOT be released without reference to the nearest Allied Security/CI authority.

d. The consultation with the appropriate Italian authority, as described in c. above, can take place either before or after the actual arrest of the individual concerned by CIC/FSS, whichever course appears the more suitable.

e. 'Arrest Reports' will be made out in respect of these persons arrested by CIC/FSS and handed over to the Italian authorities in accordance with c. above, in the same way as such 'Arrest Reports' are made out in respect of normal internment cases, but their distribution will be the same as hitherto. They will, however, indicate whether the individual concerned has been handed over to the Italians or whether he has been evacuated to TRIAL.

f. The particulars of persons arrested and handed over to the Italians in the manner described above will be included in the fortnightly lists of interned

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( ) ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

ED/ED/AC 1 May, 1945

Education Subcommission Policy Directive No.4

SUBJECT : GIL

TO : Regional Commissioner, Marche-Umbria Region
" " , Toscana "
" " , Puglia "
" " , Liguria "
" " , Abruzzi "
" " , Lucania "
" " , Venezia "
(Attention: Education Officer
Public Health (Welfare) Officer
Property Control Officer
Finance Officer).

1. Directive No.3 of 13 Nov 44 (ED/6.15/AC) is cancelled.

2. The law governing the realisation of the assets of dissolved fascist organisations including GIL is contained in Art 38 of DL 159 of 27 Jul 44. The agent for the Govt. High Commissioner for the Realisation of Fascist Property is the Intendenza di Finanza. It is his duty to take charge of GIL property.

3. By ministerial decree of 14 Aug 44 (GU 73 of 26 Oct) Prof. [illegible] was appointed Commissioner of a body (GI) to carry on the activities formerly carried on by GIL and to draw up a plan showing how the functions and property formerly belonging to GIL was to be divided and used. Such plan would take effect when approved and issued as a decree.

4. Intendents di Finanza will therefore be instructed to take charge of ex-GIL property as soon as reasonably may be and to be responsible for the same until such time as it is formally released to GI.

5. In the meantime arrangements will be made in all Provinces for property, (other than money, credits or valuable securities) of GIL necessary or desirable for training, welfare or recreation of children and youths to be made available to the Provveditore who will instruct as quickly as possible on such conditions as the Provincial Commissioner shall direct but so that the formal title until he releases the same shall remain in the High Commission of Defascism.

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6. On taking custody of any such property the Provveditore will hand to the Intendente a receipted inventory of property released to his custody which receipt will include an acknowledgment that the property formerly belonged to the ex-GIL and that until it is released is under the charge of the High Commission for Defascism.

7. The Order of the Commissario of GI dated 1 Nov 44 which was circulated with ED/6.15/AC of 13 Nov 44 will not apply in [illegible] Territory.

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5. When the Prerequisitore is already in possession of any property there is no necessity for physical possession to be surrendered to the Intendente (except in the case of money credits or valuable securities). He will continue to enjoy the use of the property and it will be sufficient for him to take token possession by handing to the Intendente an inventory of the property endorsed with a signed acknowledgment that the property is held from him as representative of the Amst. High Commissioner di Beni Fascisti.

6. Prerequisitori requiring funds for the maintenance of ex-GIL property will apply under normal "budget" procedure.

BY COMMAND OF THE CHIEF COMMISSIONER:

R. Wyatt

G.H. WYATT, Brig.
VP, CA Section

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

Ref: AG/3.2/A

15 April 45

SUBJECT: Special Courts of Assize

TO : See Distribution

1. The Italian Government has passed a decree establishing special Courts for the trial of fascist crime. The decree is published in a special supplement to the Gazzetta Ufficiale which contains also a reprint of LLL No 159 of 5 Oct 44 which annuls legislation passed by the so-called Social Republican Govt.

2. The new decree is based on the model which has achieved success in France, and is designed to administer quick justice according to established legal principles. The purpose of the decree is to satisfy the populace that their grievances against fascist criminals and German collaborators will be speedily investigated, and in appropriate cases severe punishments awarded, so as to prevent the disorder and bloodshed which will follow if the people feel that no official action is being taken and accordingly determine to take the law into their own hands.

3. The Courts under the decree consist of a judicial president and 4 "assessors" (a jury) chosen from a panel approved by the President of the Tribunals out of a list of names selected by the CLN. The Courts will follow the normal Italian criminal procedure, but the time limits are substantially reduced to produce prompt results. An appeal lies from the decisions of the Courts to a special section of the Court of Cassation (Supreme Court). The Courts have power to impose the death sentence.

4. The decree should be put into force at the earliest possible moment after occupation, in order to show that the problem of fascist criminals is regarded seriously and in order to lose no time in the collection of evidence. A Court will normally be set up in each provincial capital. In exceptional cases it may be necessary to establish more than one Court in the capital and also to establish separate Courts in the smaller towns. Normally it should be sufficient at least in the early stages for one Court to be established in the capital to which all complaints may be referred. If this Court becomes overwhelmed with work extra courts can be added later.

5. The decree itself has been rendered operative in ANZIO Territory by "implementation" by A.C. If a prefect of a province exists, it is sufficient, from the legal point of view, to send a copy to the Prefect in order to bring the decree into operation. In order, however, to give wide publicity to the measures, it may be advisable also to post it conspicuously and to send a copy to the president of the local tribunal and to the President of the Provincial Committee of National Liberation.

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[illegible]

AG 350

Civil Affairs Section

Ref: CS/3.19/GL

6 April 44

SUBJECT: Provincial Operations

TO : Area Coordination

1 Provincial Operation Headquarters (i.e. 16 of 72 AFHQ and i.e. 4b of MB 205) have now been established in all Provinces except Leece, Florence, Pistoia, Lucca, Siena, Rieti, Orvieto and as to those, arrangements are practically complete.

2 Divisions of Administration (i.e. 15 of 16 POB) will also provisionally; the following have already been or are about to be established

Ministry	Province	Object
Agriculture	Palermo	Ente di Colonizzazione Latifondo Siciliano
Treasury	Florence	Istituto di Credito Agrario per la Toscana
Treasury	Cagliari	" " " " " Sardegna
Public Works	Palermo	Ente Acquedotti Siciliani
Public Works	Bari	Ente Autonomo Acquedotto Pugliese
Education	Every province	Elementary Schools
Education	Every province	Intermediate Schools
Communications	Palermo (3)	State Railways
Communications	Palermo	Road Transport
Communications	Reggio Calabria	State Railways
Communications	Florence (3)	State Railways
Communications	Naples	State Railways
Communications	Bari	State Railways
Communications	Cagliari	State Railways
Communications	Ancona (3)	State Railways
Communications	Ancona	Road Transport
Communications	Florence	ENIT

a) Further similar Commissions will be established both in liberated Italy and in the north in Northern Italy.

b) Arrangements for constituting similar commissions to deal with Postal Telegraph employees are under discussion.

c) Endeavour will obtain from their Ministries a full programme of the organisation and arrangements for the employees dealt with provincially by divisional commissions to be included in the returns rendered to them.

3 Provisions are also being set up provisionally for the operation of the civil services (see CS/3.39/Ca of 19 Apr 44). G/Cs should be aware of what is being done in respect of provinces with which they are concerned. So far as Rome is

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0703

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A special advice to the Court officials who do might also be a wise precaution.

It may be of interest to note that this Decree is based on the one now operating in France where it has proved to be a considerable success.

b) The Italian Government have already published a decree (No 93 of 1 Feb 45) setting up special Military Courts to deal with both military and civilian offenders expeditiously. This decree will be implemented in ANG territory in accordance with the usual procedure.

Provided that any illegal courts/from their activities on the entry of the Allies, it is NOT imperative that the persons constituting such courts should be apprehended. It is a matter for discretion in each case, e.g. on the one hand members of the AM may have constituted a Court in good faith under a mistaken view of their rights, on the other hand a regime of revenge and murder may have been set up under the guise of a Court of Justice.

5 - DISPOSAL OF PRISONERS AND DETAINEES:-

9 As formerly, this will continue to be a normal function of SCO/CIC and only under the powers conferred on them in para 10 of Executive Memorandum 67 will ANG officers arrest and intern Fascists who are not charged with a specific offence.

10 It may be anticipated that in a large number of cases there will have been wholesale arrests and imprisonments by Partisans and or AM before the arrival of the Allies. Unless prison congestion becomes intolerable it will probably be in the best interests of all concerned to leave such persons in prison until a more settled state is reached and their individual cases can be investigated by the appropriate authority. In retaining such prisoners, ANG officers must be satisfied that (a) the prison officials can provide an effective guard, and (b) the prisoners are being properly cared for and fed, and are not the subject of malpractices by prison guards, partisans or others.

BY COMMAND OF THE CHIEF COMMISSIONER :

G.R. Lyster

G.R. LYSTER Brig.
VG G. Section

DISTRIBUTION :-

HQ Umbria-Marche Reg. — G. Sec — Air S/C
HQ Tuscan Region — Econ Sec — Army S/C
— — Naval S/C

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8 - DEVOLVEMENT OF DUTIES AND CONSEQUENCES:-

9 As formerly, this will continue to be a normal function of PSS/CIC and only those powers conferred on them in para 10 of Executive Memorandum 67 will ANC officers arrest and intern fascists who are not charged with a specific offence.

10 It may be anticipated that in a large number of cases there will have been widescale arrests and imprisonments by Partisans and or ALI before the arrival of the Allies. Where prison congestion becomes intolerable it will probably be in the best interests of all concerned to leave such persons in prison until a more settled state is reached and their individual cases can be investigated by the appropriate authority. In retaining such prisoners, ANC officers must be satisfied that (a) the prison officials are Provide an effective guard, and (b) the prisoners are being properly cared for and fed, and are not the subject of malpractices by prison guards, Partisans or others.

BY COMMAND OF THE CHIEF COMMISSIONER :

G.R. UPJOHN Brig.
VF G Section

DISTRIBUTION :-

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HQ Venezia Region	Pub Works S/C	
G-5 5 Army	Finance S/C	
G-5 8 Army	Agriculture S/C	

Scale of Distribution :- N. HQs (4)
F. HQs (2)
S/Os (1)

23611

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HEADQUARTERS ALLIED COMMI
APO 3[illegible]
CIVIL AFFAIRS SECTION

Ref: G2/2/CA 5 April 45

SUBJECT : Cooperation of the Allies in Difficulties

TO : See Distribution

1 All possible assistance will be given to Repatriation Commissions consistent with care of Allied interests.

2 Documentary evidence as to the political past of individuals (including aliens) in Allied possession should normally be handed to or made available to the High Commissioner for Denazification or his Provincial Delegate unless it contains matter which would endanger the national security of an Allied nation or cause serious injury to the interests or heritage of any such nation.

3 In the case of a document originating in an Allied agency the following additional provisions apply; that
a) it does not disclose the name of any informant, investigator or writer of any security report, nor the reason for, the extent of, or the procedure employed in any enquiry
b) that the evidence contained therein is not available from other sources.

4 As the Italian people are in general far better aware of the past political history of each other than we are likely to be, the production of any document which originated in an Allied office can only very exceptionally be justifiable. In any case no such document will be produced without the consent of the office in which the document originated.

5 It will be exceptional for Allied personnel to have personal knowledge of the pre-liberation activities of an Italian national. A request for Allied personnel to give evidence can therefore seldom be justified. In any case, no Allied personnel will give evidence, whether for or against an individual, without the prior sanction of this HQ.

6 Where it is considered that an individual by virtue of good service to the Allied cause deserves that such service shall be taken into consideration in mitigation of his sentence the record of such service and the Allied view of the value thereof may be submitted to the High Commissioner or his Delegate for inclusion with the papers to be submitted to the Commission. Any such record will not include any request to the Commission to take any particular course nor will it otherwise attempt to influence the Commission from arriving at a free decision. It will be signed by the Regional Commissioner or by the Director of a Sub-Commission.

2397

7 Exemption under art 16 of DL 159 is granted only where the individual has done some act which is particularly notable or useful to the Allied War Effort

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and not merely for being competent. Competence can be taken into account in mitigation of punishment.

When a request for the suspension or removal of an individual for "fascism" is made by the appropriate Italian authority it shall be complied with, unless the Regional Commissioner or this HQ otherwise directs.

In arriving at a decision the RC shall be guided by the following direction:

a) where it is considered that the loss of the services of a man almost unique in technical or administrative ability would have a reasonably direct and seriously adverse effect on the Allied War Effort the suspension or dismissal will be deferred and the matter referred to this HQ. The use of this procedure will be quite exceptional and confined to the cases of experts holding very senior and important appointments.

b) where essential work would be interrupted by the proposed removal the suspension or dismissal may be deferred but only for such minimum time as is reasonably necessary to appoint a successor whether or not that successor is as capable as the man to be removed.

FOR THE CH OF COMMISSION

A.R. BRIGHT Brig
VP G. Section

Distribution:
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HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

DF/2A/CA 29 March 45

SUBJECT : Defascism

TO : RC Toscana Region
RC Umbria Marche Region
SCAO 5 & 8 Armies.

A Fascist Crimes

1 Prisons are greatly overcrowded. Requests by Italian Defascising Officers for the arrests of persons for alleged fascist crimes will be carefully scrutinised. Prefects, Procuratori, Provincial Delegates and CC PP will be informed that in such cases the accused will not be arrested unless there is evidence that he is likely to attempt to abscond or when a serious charge carrying possibility of a death sentence or a sentence of imprisonment for not less than 10 years is preferred and the evidence available indicates a reasonable possibility of conviction.

2 Any person hereafter arrested for a fascist crime will be released unless he is charged within 48 hours and sufficient evidence placed before the appropriate AMG Officer to enable him to satisfy himself that one of the two above mentioned conditions is fulfilled.

3 Persons already under arrest for alleged fascist crimes will be released unless the said charges and evidence are produced within such time as the Provincial Commissioners may fix as reasonable.

B Sequestrations

1 Uncontrolled applications by Italian defascising Officers for the freezing of accounts and property may hamper the rehabilitation of Italy and be obstructive to both trade and farming. The normal procedure to be followed is contained in Art 36 of DL 159, the property is thereby frozen for two months while the Special Section referred to in Art 30 assesses the amount due. Normally property should not be frozen until the special Commission is ready to act.

2 Judges of Tribunali, Intendenti di Finanza and Delegates will be informed that resort will only be had to the procedure referred to in art 35 when there is a real prospect of property disappearing. If the proceeds of conversion are not accessible the right to avoid transactions contained in Art 29 allows resort to property no longer the debtor's; in view of this, the circumstances which would justify resort to Art 35 must be quite exceptional.

2358

3 Sequestrations already ordered will be scrutinised and any which hamper the rehabilitation of the country and which are not justified by any real fear

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2356

3 Sequestrations already ordered will be scrutinised and any which hamper the rehabilitation of the country and which are not justified by any real fear of the property disappearing will be reversed without prejudice to any future action.

BY COMMAND OF THE CHIEF COMMISSIONER :

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

COPIES TO : RC Emilia Region)
RC Venezia Region)
RC Lombardia Region) for information only. Conditions in
RC Piemonte Region) N Italy may not be the same as in territory
RC Liguria Region) now under AMG.

15 Army Group - IV Corps - for information

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HEADQUARTERS ALLIED OCC[illegible]
APO 394
CIVIL AFFAIRS SECTION

AC/4183/1.

17 /pe. March 1945.

SUBJECT : Appointment of Receivers in AMG Territory.

TO : Regional Commissioners, Piemonte, Liguria, Lombardia and Venezia Regions.

1. On reaching Northern Italy situations may be found which necessitate the appointment of Receivers (Commissari) to manage and carry on the business of important industrial concerns. For example, it may be found that :

a. The managers or owners of the concern are absent so that the concern can no longer be operated with reasonable efficiency ;

b. The concern has ceased to carry on important work, which it is considered should be continued;

c. The management of the concern is untrustworthy on political grounds.

These examples are not intended to be exhaustive.
It is pointed out, however, that a Receiver should only be appointed where absolutely necessary and that no appointment should be made where sufficient reliable and efficient personnel of adequate calibre remain and are willing to carry on the operation of the concern.

2. Where it is necessary, however, to appoint a Receiver it is important to ensure uniformity in the method of appointment in order to avoid discrepancies in the tenures and authorities conferred upon different Receivers and to facilitate the subsequent transfer of control either to a Receiver appointed by the Italian Government or to the old or new owners or managers. The attached form of Regional Order appointing a Receiver and no other will therefore be used. The Order is a Regional Order but control and supervision thereunder may be delegated to Provincial Commissioners. In the case of concerns extending over more than one province, it is suggested that control and supervision be vested in the Provincial Commissioner in whose province the head office of the concern is situated.

3. The order is, and is expressed to be, a temporary appointment; the authority of the Receiver thereunder will, at latest, expire on the termination of military government and may expire earlier, either (a) because it has proved possible to restore the concern to its own control under a new or strengthened management, or (b) by the appointment of a Receiver in accordance with Italian Law, this appointment being made by the Italian Government and implemented by AMG. Such appointment may either confirm the person appointed by the original order or may nominate some other person selected by the Italian Government in agreement with this Headquarters and the Regional Commissioner concerned.

b. The concern has ceased to carry on important work, which it is considered should be continued;

c. The management of the concern is untrustworthy on political grounds.

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4. In order that this Headquarters may maintain the necessary liaison with the Italian Government in the appointment of Receivers, Regional Commissioners will submit monthly on the 1st of each month a list of all concerns to which Receivers have been appointed in their Region, together with the names of the Receivers appointed.

By command of Rear Admiral STONE :

1 G.R.I.I.F.

Scale: 4 for Regional Hq and
2 for Provinces.

G. R. UPJOHN, Brig.
VP CA Sec, HQ AG.

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REGIONAL ORDER

WHEREAS it is necessary that a Receiver should be appointed for the .... whose head office is situated at ..... in the Province of .....

NOW THEREFORE I,..... Regional Commissioner .... Region , hereby order as follows :

ARTICLE 1

..... (name of Receiver) ..... is hereby temporarily appointed Receiver of ..... (name of Company) ..... whose head office id situated at ..... in the Province of .....

ARTICLE 2

The powers of the Receiver shall be as follows :-

a. The Receiver shall have full power to act for and manage the business and shall have power to exercise all normal administrative functions :

b. The acts of the Receiver shall be subject to the supervision of the Provincial Commissioner;

c. The Receiver shall not, except with the written consent of the Provincial Commissioner on his being satisfied as to the necessity therefor, do any act outside the normal scope of management.

d. The provisions of Art. 2636 et seq. of the Italian Civil Code shall apply to the Receiver.

ARTICLE 3

The Receiver shall take possession of the assets of the business and an inventory thereof shall be made in the presence of the owner or owners of the business or his or their representatives.

If the owner or owners of the business or his or their representatives shall not attend for that purpose, the inventory shall be made by a notary in the presence of two witnesses.

ARTICLE 4

The Receiver shall comply with all written instructions issued to him by or on behalf of the Allied Military Government. His salary shall be fixed by the Allied Military Government.

ARTICLE 5

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ARTICLE 5

The Receiver shall remain in office until further AMG order or until another Receiver is lawfully appointed.

ARTICLE 6

Any person in control or possession of any property of the concern or of any information relating to the affairs thereof shall :

a. forthwith make written disclosure to the Receiver of such control or possession or of such information and

b. not part with, destroy, or otherwise deal with the said property or disclose the said information without the prior consent of the Receiver.

ARTICLE 7

Any person who violates any of the provisions of this Order shall, upon conviction by an Allied Military Court, be liable to imprisonment or fine, or both , with or without other lawful punishment, as the Court may determine.

ARTICLE 8

This Order shall be effective on, from and after .....
.....

(signed)

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DEFASCISM

1 Brig UPJOHN has told you what steps the Allies take under our ordinances and for our own purposes to remove fascists from the principal administrative positions.

2 I am going to tell you what steps the Italians take to deal with fascists and fascism and to describe their machinery and how it works. This information you require because after the preliminary action taken by the Allies, as described by Brig UPJOHN, and when the country is sufficiently settled, the Italian laws will be extended to the territory and their machinery will function and it will be your responsibility to supervise the functioning of that machinery. You will, therefore have to be acquainted with how it should function. The problem which faces Italy is very different from the problem which faces France. France was occupied for a matter of 3 or 4 years only, during which time movement was restricted and therefore persons could not move far from their home towns. The only persons to be dealt with are collaborators and local memory and local feeling suffices to produce the evidence and cases are therefore simple and can be dealt with quickly. The problem which faces Italy is quite otherwise. Fascism has existed for over 20 years, unjust and discriminatory laws 20 years old not only have to be repealed but what they effected has to be undone. Property unjustly confiscated over a period of years had to be restored or the victims compensated. Political trials of those who opposed fascism during the past 20 years have to be scrutinised and injustices corrected. Persons who have been beaten and tortured, the families of those who have been killed are deserving of compensation.

3 The fascist administrative machinery has not only to be broken but a new administrative machinery has to be constructed and that includes setting up Local Government Authorities of all levels and determining their functions and powers and how and by whom they shall be appointed. The fascist party and the fascist organisations have to be dissolved and fascist ideology has to be eliminated. That is the problem from the Italian point of view.

4 The Allies, as declared by Roosevelt and Churchill, have undertaken to destroy the fascist administrative machine and the Allies are therefore interested to ensure that the administrative machinery is in fact broken and another erected in its place, that fascists are removed from office and that education is purged of fascist doctrine. The Allies are not, however, so much concerned with seeing that the individual Italian receives compensation for past wrongs or that the Italians punish those who have wronged other Italians. While the Allies approve of such corrective actions, they consider such matters to be domestic to the Italian people.

5 Already in pursuit of their objective the Italian have published 235 laws some ten of them even before the Allies landed. That is only one indication of the size of the problem. Further laws are being published almost weekly and the present total will probably be more than doubled before the matter is finished.

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LAWS indication of the size of the problem. Further laws are being published almost weekly and the present total will probably be more than doubled before the matter is finished.

6 With most of these laws, fortunately, you need not concern yourselves,
H. 159 one law with which you will have to concern yourself however is H. 159 which was published in July 1944. It is divided into six parts : The first deals with the punishment of what are called "fascist crimes". This part declares
a) that those who overthrew the previous constitution;
b) the principal officers of state who assisted the fascist regime contrary to that previous constitution;
CRIMES c) the organisers and members of fascist squads and other who committed acts of violence for political ends and
d) those who continued the Italian war effort against the Allies after 8 Sep 43
to be criminals. All such are punishable in varying degrees from death to imprisonment.

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7 In addition, those who were guilty of discreditable conduct such as acting as informers and those who as members of parliament or of fascist organisations, by their votes or conduct assisted to maintain fascism are considered unfit to exercise their franchise in the new state and may be disenfranchised for periods up to 10 years.

COURTS

8 To deal with these cases new courts have been established. The High Court of Justice - a term previously unused in Italian law - presided over by a judge and having 6 lay members, deals with the most serious type of crimes including all those for which death may be awarded. Next, a Court of Assize, consisting of 2 judges and 5 lay members (but the constitution of these will probably be changed) and the ordinary law court known as the Tribunali deal with less serious types of crime. The cases for disenfranchisement are dealt with by a third type of court constituting of a judge and 2 lay members.

PURGE

9 Part 2 of the Decree is one with which you will be most concerned. Its object is to cleanse the civil service and principal business concerns of fascists and corrupt persons and to establish a clean, honest and reliable administration and business organisation. The object of this purge is not in any way intended as a punishment any more than the dismissal of an employee for incompetence is intended as such but it of course has a penal effect. The object of the Italian Government here is to examine the records of all principal employees, consider their cases impartially and judicially so that those dismissed shall feel that they have had a fair hearing and to conduct the whole in a spirit of moderation so that there will be no after desire for vengence nor the creation of a large mass of unemployable malcontents whose only hope is revolution. It is recognised that practically everybody had to belong to the fascist party to keep an official appointment. Those who remained in lower positions not only had little effect on the administration but frequently paid only lip service to fascism, those in senior positions however, were in a position to enforce and generally did enforce, fascism and were frequently promoted to senior positions because they were ardent fascists and as such they have to be removed. The little men can be left to carry on, supervised by persons known to be anti-fascist. This is not only equitable but essential: one cannot dismiss the whole administration and continue to administer the country successfully. Everywhere, the rank and file are necessary to carry out the administrative services, if all who have been fascists were dismissed, the railways, the post offices, the health services, the police services, all would stop. Before one could administer the country, one would have to recruit and train specialists meanwhile chaos and disorganisation would rule.

METHOD

10 The machinery devised requires firstly that every Ministry or big business shall scrutinise the records of all its employees and to see which have fascist antecedents and who received rewards or promotions because of their fascism. The responsible head is responsible for sending to the High Commission the records of all persons whose cases should be further investigated. The High [illegible] any further action is necessary;

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is not [redacted] that such powers should be [illegible] used and suspension should only be ordered when both the following conditions are fulfilled and

a) that final dismissal is believed to be certain completion with
b) the fact that the retention of the man in his present employment would be harmful to the service in which he is employed or would, because of his notoriety, be a public scandal.

12 This describes the machinery for purging the Government, Services and business of national importance, a somewhat modified provision is made for dealing with employees of concerns of only local importance and for persons who are employed provincially. In the case of provincial employees, the machinery is similar except that provincial instead of ministerial commissions are set up and the Prefect acts when the Minister would. Further, in the case of those departments or businesses such as the railways and post offices and education, there is power for the Ministerial Commission to detach divisions to sit in the provincially but these are still branches of and have the powers of the ministerial Commission.

PROVINCES

13 The High Commissioner, upon whom lies the responsibility of preparing the cases and deciding which cases should come before the Purging Commissions is assisted by 3 Liaison Officers in each Province known as Delegates. Their duties are to conduct local investigations and to keep the H C informed of conditions in their Provinces and make recommendations to him as to whom should be defrocked and to recommend who should be appointed to Provincial Commissions.

DELEGATES

14 Similar Commissions are established for scrutinising the registers of professional men such as doctors, lawyers, etc.

ROLES

15 There are time limits for the conducting of all these proceedings so that the purging of the services shall not be too long drawn out and to enable the reorganised services to settle down as little delay as possible. The principal time limits to be remembered are that the proceedings must be initiated within six months of the decree coming into effect in any particular territory and must be concluded within 3 months after its initiation.

TIME

16 A third part of the law deals with the recovery of wealth from persons who have corruptly become rich by exploiting their offices or their positions in the fascist party. Persons who received sinecure offices, those who received bribes, those who benefitted by contracts corruptly obtained, are all dealt with. The method is: that the increase in wealth of any person who held a public office or held office in a fascist organisation, over his financial position on the 28 Oct 22 is presumed to have been improperly obtained unless the person concerned can show that he earned it legitimately. All such wealth is declared forfeit to the State and the man is described, to the decree as indebted to the State to the extent of such increase and all his property is frozen until the debt is cleared. The freezing effects not only the property actually in his possession but all the property of his wife (or husband) of his ascendants and descendants, and property held in the name [illegible] transfers of property

ENRICHMENT

METHOD

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

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15 There are time limits for the conducting of all these proceedings so that the purging of the services shall not be too long drawn out and to enable the purged civil services to settle down as little delay as possible. The principal time limits to be remembered are that the proceedings must be initiated within six months of the decree coming into effect in any particular territory and must be concluded within 3 months after its institution.

ENRICHMENT

16 A third part of the law deals with the recovery of wealth from persons who have corruptly become rich by exploiting their offices or their positions in the fascist party. Persons who received minoure offices, those who received bribes, those who benefitted by contracts corruptly obtained, are all dealt with. The method is: that the increase in wealth of any person who held a public office or held office in a fascist organisation, over his financial position on the 28 Oct 22 is presumed to have been improperly obtained unless the person concerned can show that he earned it legitimately. All such wealth is declared forfeit to the state and the man is rendered, in the decree as indebted to the state to the extent of such increase and all his property is frozen until the debt is cleared. The freezing effects not only the property actually in his possession but all the property of his wife (or husband) of his descendants and descendants. The property held in the name of third parties which is really his. All voluntary transfers of property made by the debtor after July 1938 may be declared void and all transfers after July 43 even if for valuable consideration may also be declared void.

METHOD

COURT

17 To ascertain the amount of the legal profits to which the man is held to be indebted to the State a provincial commission is established, consisting of a judge and 4 lay members. Hearing is public and there is an appeal to a section of the Central Commission of one judge and 4 lay members.

CONSTRAINT-ION

18 The normal method of freezing the assets of any person is by a decree of the H C which becomes void after 60 days if a final decision for the forfeiture of the property has not been made before the expiry of that time, but if it is considered that there is any probability of the man making away with or hiding his assets, a protective freezing order may be made on application to the Tribunal under the ordinary civil law.

19 The fourth part of the decree deals with the confiscation of the property of the fascist party and of its organizations. All these are declared forfeit to the State and the law provides that they shall be used for the public services and for the public benefit. There are powers to create bodies for these purposes and endow them with the proceeds. The realisation of the assets of such bodies is the responsibility of the Ministry of Finance.

FASCIST PARTY

20 The 5th part of the law creates a body to administer the law. It is known as the High Commission. The Office of High Commissioner is at present vacant and his powers are vested in a Board of the four Asst High Commissioners presided over by the Prime Minister in his capacity of President of the Council of Ministers. The General Secretary of the High Commission is G. Battista BOSCHI.

THE HIGH COMMISSIONER

21 The H C has 4 branches each headed by an Assistant High Commissioner and each of the branches is concerned with one of the parts of the decree which I have described.

Mario BELLINGUER is the A/HC responsible for bringing to trial fascist criminals.

Ruggiero GRIECO is the A/HC responsible for cleansing the civil services and businesses of the country.

Mario GINGOLANI is responsible for the recovery of ill-gotten wealth from corrupt fascists.

F.F. GIANNINI is responsible for investigating and supervising the confiscation of fascist property.

The last part of the code is purely administrative.

22 The following figures give some idea of the scale of defascism and the progress made:-

STATISTICS

Up to the 15 Feb 45, out of some 60,000 employees considered, 22,000 were referred to commissions. Decisions have been announced on 5,400 of these cases resulting in about 1,000 dismissals, 2,400 awards of lesser punishment and 2,000 acquittals.

23 Another decree of some importance is LL 257 of 1944 which requires that officials of the first four grades shall be dealt with in priority to other officials and also imposes considerably smaller time limits for dealing with their cases.

GRADES 1-4.

24 Another decree which it may be useful to remember is LL 420 of 1[illegible] which gives powers to appoint receivers to business concerns if their management has fled or if they propose to stop work of national importance which it is desirable should be continued and thirdly if their previous management is untrustworthy as evidenced by a history fascist or political corruption. In such cases a receiver can be appointed and run the business. There is the provision that if any of the above conditions cease to apply

RECEIVERS

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22 The following figures give some idea of the scale of defascism and the progress made:-

STATISTICS Up to the 15 Feb 45, out of some 50,000 employees considered, 22,000 were referred to commissions. Decisions have been announced on 5,400 of these cases resulting in about 1,000 dismissals, 2,400 awards of lesser punishment and 2,000 acquittals.

23 Another decree of some importance is DL 257 of 1944 which requires that officials of the first four grades shall be dealt with in priority to other officials and also imposes considerably smaller time limits for dealing with their cases.

24 Another decree which it may be useful to remember is DL 428 of ... which gives powers to appoint receivers to business concerns if their management has fled or if they propose to stop work of national importance which it is desirable should be continued and thirdly if their previous management is untrustworthy as evidenced by a history fascist or political corruption. In such cases a receiver can be appointed and run the business. There is the provision that if any of the above conditions cease to apply the company can obtain the removal of the receiver. Therefore, if a company which has had receivers appointed, gets rid of its fascist management, it can recover control of its own interests. This provides a form of self epuration.

...Section

20 Mar 45

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DEFASCISM

1 Brig URQUHART has told you what steps the Allies take under our ordinances and for our own purposes to remove fascists from the principal administrative positions.

2 I am going to tell you what steps the Italians take to deal with fascists and fascism and to describe their machinery and how it works. This information you require because after the preliminary action taken by the Allies, as described by Brig URQUHART, and when the country is sufficiently settled, the Italian laws will be extended to the territory and their machinery will function and it will be your responsibility to supervise the functioning of that machinery. You will, therefore have to be acquainted with how it should function. The problem which faces Italy is very different from the problem which faces France. France was occupied for a matter of 3 or 4 years only, during which time movement was restricted and therefore persons could not move far from their home towns. The only persons to be dealt with are collaborators and local memory and local feeling suffices to produce the evidence and cases are therefore simple and can be dealt with quickly. The problem which faces Italy is quite otherwise. Fascism has existed for over 20 years, unjust and discriminatory laws 20 years old not only have to be repealed but what they effected has to be undone. Property unjustly confiscated over a period of years had to be restored or the victims compensated. Political trials of those who opposed fascism during the past 20 years have to be scrutinised and injustices corrected. Persons who have been beaten and tortured, the families of those who have been killed are deserving of compensation.

FRANCE

ITALY

3 The fascist administrative machinery has not only to be broken but a new administrative machinery has to be constructed and that includes setting up Local Government Authorities of all levels and determining their functions and powers and how and by whom they shall be appointed. The fascist party and the fascist organisations have to be dissolved and fascist ideology has to be eliminated. That is the problem from the Italian point of view.

4 The Allies, as declared by Roosevelt and Churchill, have undertaken to destroy the fascist administrative machine and the Allies are therefore interested to ensure that the administrative machinery is in fact broken and another erected in its place, that fascists are removed from office and that education is purged of fascist doctrine. The Allies are not, however, so much concerned with seeing that the individual Italian receives compensation for past wrongs or that the Italians punish those who have wronged other Italians. While the Allies approve of such corrective actions, they consider such matters to be domestic to the Italian people.

THE ALLIES

5 Already in pursuit of their objective the Italians have published over 60 laws some ten of them even before the Allies landed. That is only one indication of the size of the problem. Further laws are being published

23/...

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ITALY

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THE ALLIES

5 Already in pursuit of their objective the Italian have published over 50 laws some ten of them even before the Allies landed. That is only one indication of the size of the problem. Further laws are being published almost weekly and the present total will probably be more than doubled before the matter is finished.

LAWS

6 With most of these laws, fortunately, you need not concern yourselves, one law with which you will have to concern yourself however is DL 159 which was published in July 1944. It is divided into six parts : The first deals with the punishment of what are called "fascist crimes". This part declares

a) that those who overthrew the previous constitution;
b) the principal officers of state who maintained the fascist regime contrary to that previous constitution;
c) the organisers and members of fascist squads and other who committed acts of violence for political ends and
d) those who continued the Italian war effort against the Allies after 8 Sep 43

DL 159

CRIMES

to be criminals. All such are punishable in varying degree from death to imprisonment.

7 In addition, those who were guilty of disreputable conduct such as acting as informers and those who as members of parliament or of fascist organisations, by their votes or conduct assisted to maintain fascism are considered unfit to exercise their franchise in the new state and may be disenfranchised for periods up to 10 years.

COURTS

8 To deal with these cases new courts have been established. The High Court of Justice - a term previously unused in Italian law - presided over by a judge and having 6 lay members, deals with the most serious type of crimes including all those for which death may be awarded. Next, a Court of Assize, consisting of 2 judges and 6 lay members (but the constitution of these will probably be changed) and the ordinary law court known as the Tribunali deal with less serious types of crime. The cases for disenfranchisement are dealt with by a third type of court constituting of a judge and 2 lay members.

PLACE

9 Part 2 of the Decree is one with which you will be most concerned. Its object is to cleanse the civil service and principal business concerns of fascists and corrupt persons and to establish a clean, honest and reliable administration and business organisation. The object of this purge is not in any way intended as a punishment any more than the dismissal of an employee for incompetence is intended as such but it of course has a penal effect. The object of the Italian Government here is to examine the records of all principal employees, consider their cases impartially and judicially so that those dismissed shall feel that they have had a fair hearing and to conduct the whole in a spirit of moderation so that there will be no bitter desire for vengence nor the creation of a large mass of unemployable malcontents whose only hope is revolution. It is recognised that practically everybody had to belong to the fascist party to keep an official appointment. Those who remained in lower positions not only had little effect on the administration but frequently paid only lip service to fascism; those in senior positions however, were in a position to enforce and generally did enforce, fascism and were frequently promoted to senior positions because they were ardent fascists and as such they have to be removed. The little men can be left to carry on, supervised by persons known to be anti-fascist. This is not only equitable but essential; one cannot dismiss the whole administration and continue to administer the country successfully. Every where, the rank and file are necessary to carry out the administrative services; if all who have been fascists were dismissed, the railways, the post offices, the health services, the police services, all would stop. Before one could administer the country, one would have to recruit and train specialists meanwhile chaos and disorganisation would rule.

METHOD

10 The machinery devised requires firstly that every Ministry or big business shall "scrutinise the records of all its employees and to see which have fascist antecedents and who received records or promotions because of their fascism. The responsible head is responsible for sending to the High Commission the records of all persons whose cases should be further investigated. The High Commissioner is charged with sending [illegible] for further action in accordance

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[illegible] fascists and [illegible] business concerns of fascists and corrupt persons and to establish a clean, honest and reliable administration and business organisation. The object of this purge is not in any way intended as a punishment any more than the dismissal of an employee for incompetence is intended as such but it of course has a penal effect. The object of the Italian Government here is to examine the records of all principal employees, consider their cases impartially and judicially so that those dismissed shall feel that they have had a fair hearing and to conduct the whole in a spirit of moderation so that there will be no after desire for vengeance nor the creation of a large mass of unemployable malcontents whose only hope is revolution. It is recognised that practically everybody had to belong to the fascist party to keep an official appointment. Those who remained in lower positions not only had little effect on the administration but frequently paid only lip service to fascism, those in senior positions however, were in a position to enforce and generally did enforce, fascism and were frequently promoted to senior positions because they were arrant fascists and as such they have to be removed. The little man can be left to carry on, supervised by persons known to be anti-fascist. This is not only equitable but essential. One cannot dismiss the whole administration and continue to administer the country successfully. Every here, the rank and file are necessary to carry out the administrative services. If all who have been fascists were dismissed, the railways, the post offices, the health services, the police services, all would stop. Before one could administer the country, one would have to recruit and train specialists meanwhile chaos and disorganisation would rule.

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11 As investigations sometimes take considerable time or it may be necessary to dig back into the past, and as evidence is sometimes at the other side of the enemy lines, there are powers to suspend persons pending a decision but it

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is not intended that such powers should be lightly used and suspension should only be ordered when both the following conditions are fulfilled and

c) that final dismissal is believed to be certain completed with
b) the fact that the retention of the man in his present employment would be harmful to the service in which he is employed or would, because of his notoriety, be a public scandal.

12 This outlines the machinery for purging the Government, Services and business as of national importance, a somewhat modified provision is made for dealing with employees of concerns of only local importance and for persons who are employed provincially. In the case of provincial employees, the machinery is similar except that provincial instead of ministerial commissions are set up and the Protect note upon the Minister would. Further, in the case of some departments or businesses such as the railways and post offices and education, there is power for the Ministerial Commission to detach divisions to sit in the provincially but these are still branches of and have the powers of the Ministerial Commission.

PROVINCES

13 The High Commissioner, upon whom lies the responsibility of preparing the cases and deciding which cases should come before the Sporting Commissions is assisted by 3 Liaison Officers in each Province known as Delegates. Their duties are to conduct local investigations and to keep the H C informed of conditions in their Province and make recommendations to him as to whom should be defrocked and to recommend who should be appointed to Provincial Commissions.

DELEGATES

14 Similar Commissions are established for scrutinising the registers of professional men such as doctors, lawyers, etc.

ROLES

15 There are time limits for the conducting of all these proceedings so that the purging of the services shall not be too long drawn out and to enable the reorganised services to settle down as little delay as possible. The principal time limits to be remembered are that the proceedings must be initiated within six months of the decree coming into effect in any particular territory and must be concluded within 3 months after its initiation.

TIME

16 A third part of the law deals with the recovery of wealth from persons who have corruptly become rich by exploiting their offices or their positions in the fascist party. Persons who received eminent offices, those who received bribes, those who benefitted by contracts corruptly obtained, are all dealt with. The method is: that the increase in wealth of any person who held a public office or held office in a fascist organisation, over his financial position on the 28 Oct 22 is presumed to have been improperly obtained unless the person concerned can show that he earned it legitimately. All such wealth is declared forfeit to the State and the man is declared in the decree as indebted to the State to the extent of such increase and all his property is frozen until the debt is cleared. The freezing effects not only the property actually in his possession but all the property of his wife (or husband) of his associates and dependants, any property held in the name

ENFORCEMENT

METHOD

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DELEGATES duties are to conduct local investigations and to keep the R C informed of conditions in their Provinces and make recommendations to him as to whom should be defrocked and to recommend who should be appointed to Provincial Commissions.

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POLICE professional men such as doctors, lawyers, etc.

15 There are time limits for the conducting of all these proceedings so that the purging of the services shall not be too long drawn out and to enable the reorganised services to settle down as little delay as possible. The principal time limits to be remembered are that the proceedings must be initiated within six months of the decree coming into effect in any particular territory and must be concluded within 3 months after its initiation.

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17 To ascertain the amount of the illegal profits to which the man is held to be indebted to the State a provincial commission is established, consist-
COURT ing of a judge and 4 lay members. Hearing is public and there is an appeal to a section of the Central Commission of one judge and 4 lay members.

18 The normal method of freezing the assets of any person is by a decree of the R C which becomes void after 60 days if a final decision for the forfeiture
SEQUESTRAT- of the property has not been made before the expiry of that time, but if it is ION considered that there is any probability of the man making away with or hiding his assets, a protective freezing order may be made on application to the Tribunal under the ordinary civil law.

19 The fourth part of the decree deals with the confiscation of the property of the fascist party and of its organisations. All these are declared forfeit to the State and the law provides that they shall be used for the public services and for the public benefit. There are powers to create bodies for these purposes and endow them with the proceeds. The realisation of the assets of such bodies is the responsibility of the Ministry of Finance.

FASCIST FUNDS

20 The 5th part of the law creates a body to administer the law. It is known as the High Commission. The Office of High Commissioner is at present vacant and his powers are vested in a Board of the four Vice High Commissioners presided over by the Prime Minister in his capacity of President of the Council of Ministers. The General Secretary of the High Commission is G. Battista BOZZI.

THE HIGH COMMIS-SIONER

21 The H C has 4 branches each headed by an Assistant High Commissioner and each of the branches is concerned with one of the parts of the decree which I have described.

Mario BERLINGUER is the A/HC responsible for bringing to trial fascist criminals.

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F.F. STANZONI is responsible for investigating and supervising the confiscation of fascist property.

The last part of the code is purely administrative.

22 The following figures give some idea of the scale of defascism and the progress made:-

STATISTICS Up to the 15 Feb 45, out of some 80,000 employees considered, 22,000 were referred to commissions. Decisions have been announced on 5,400 of these cases resulting in about 1,000 dismissals, 2,400 transfers of lesser punishment and 2,000 acquittals.

23 Another decree of some importance is DL 257 of 1944 which requires that officials of the first four grades shall be dealt with in priority to other officials and also imposes considerably smaller time limits for dealing with their cases.

DECREE 1-4.

24 Another decree which it may be useful to remember is DL 420 of [illegible] which gives powers to appoint receivers to business concerns if their management has fled or if they propose to stop work of national importance which it is desirable should be continued and thirdly if their previous management is untrustworthy as evidenced by a history fascist or political corruption. In such cases a receiver can be appointed and run the business. There is the provision that if any of the above conditions cease to apply

RECEIVERS

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RESTRICTED

G. Section

20 Mar 45

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DEFASCISM

Brig UPCHEN has told you what steps the Allies take under our ordinances and for our own purposes to remove fascists from the principal administrative positions.

I am going to tell you what steps the Italians take to deal with fascists and fascism and to describe their machinery and how it works. This information you require because after the preliminary action taken by the Allies, as described by Brig UPCHEN, and when the country is sufficiently settled, the Italian laws will be extended to the territory and their machinery will function and it will be your responsibility to supervise the functioning of that machinery. You will, therefore have to be acquainted with how it should function. The problem which faces Italy is very different from the problem which faces France. France was occupied for a matter of 3 or 4 years only, during which time movement was restricted and therefore persons could not move far from their home towns. The only persons to be dealt with are collaborators and visual memory and local feeling suffices to produce the evidence and cases are therefore simple and can be dealt with quickly. The problem which faces Italy is quite otherwise. Fascism has existed for over 20 years; unjust and discriminatory laws 20 years old not only have to be repealed but what they effected has to be undone. Property unjustly confiscated over a period of years had to be restored or the victims compensated. Political trials of those who opposed fascism during the past 20 years have to be scrutinised and injustices corrected. Persons who have been beaten and tortured, the families of those who have been killed are deserving of compensation.

The fascist administrative machinery has not only to be broken but a new administrative machinery has to be constructed and that includes setting up Local Government Authorities of all levels and determining their functions and powers and how and by whom they shall be appointed. The fascist party and the fascist organisations have to be dissolved and fascist ideology has to be eliminated. That is the problem from the Italian point of view.

The Allies, as declared by Roosevelt and Churchill, have undertaken to destroy the fascist administrative machine and the Allies are therefore interested to ensure that the administrative machinery is in fact broken and another erected in its place, that fascists are removed from office and that education is purged of fascist doctrine. The Allies are not, however, so much concerned with seeing that the individual Italian receives compensation for past wrongs or that the Italians punish those who have wronged other Italians. While the Allies approve of such corrective actions, they consider such matters to be domestic to the Italian people.

Already in pursuit of their objective the Italian have published 23 or 30 laws some ten of these even before the Allies landed. That is only one indication of the size of the problem. Further laws are being published

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Italy

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Allies

5 Already in pursuit of their objective the Italian have published 234 ... laws some ten of them even before the Allies landed. That is only one indication of the size of the problem. Further laws are being published almost weekly and the present total will probably be more than doubled before the matter is finished.

Laws

6 With most of these laws, fortunately, you need not concern yourselves, one law with which you will have to concern yourself however is GL 159 which was published in July 1944. It is divided into six parts. The first deals with the punishment of what are called "fascist crimes". This part declares

GL 159

a) that those who overturned the previous constitution;
b) the principal officers of state who maintained the fascist regime contrary to that previous constitution;
c) the organisers and members of fascist squads and other who committed acts of violence for political ends and
d) those who continued the Italian war effort against the Allies after 8 Sep 43

Crimes

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Declassified E.O. 12356 Section 3.3/NND 785016

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7 In addition, those who were guilty of discreditable conduct such as acting as informers and those who were members of parliament or of fascist organisations, by their votes or conduct designed to maintain fascism are considered unfit to exercise their franchise in the new state and may be disenfranchised for periods up to 10 years.

COURTS

8 To deal with these cases new courts have been established. The High Court of Justice - a term previously unused in Italian law - presided over by a judge and having 6 lay members, deals with the most serious type of crimes including all those for which death may be awarded. Next, a Court of Assize, consisting of 2 judges and 5 lay members (but the constitution of these will probably be changed) and the ordinary law court known as the Tribunali deal with less serious types of crime. The cases for disenfranchisement are dealt with by a third type of court constituting of a judge and 2 lay members.

PURGE

9 Part 2 of the Decree is one with which you will be most concerned. Its object is to eliminate the civil service and principal business concerns of fascists and corrupt persons and to establish a clean, honest and reliable administration and business organisation. The object of this purge is not in any way intended as a punishment any more than the dismissal of an employee for incompetence is intended as such but it of course has a panel effect. The object of the Italian Government here is to examine the records of all principal employees, consider their cases impartially and judicially so that those dismissed shall feel that they have had a fair hearing and to conduct the whole in a spirit of moderation so that there will be no after desire for vengeance nor the creation of a large mass of unemployable malcontents whose only hope is revolution. It is recognised that practically everybody had to belong to the fascist party to keep an official appointment. Those who remained in lower positions not only had little effect on the administration but frequently paid only lip service to fascism; those in senior positions however, were in a position to enforce and generally did enforce, fascism and were frequently promoted to senior positions because they were ardent fascists and as such they have to be removed. The little man can be left to carry on, supervised by persons known to be anti-fascist. This is not only equitable but essential; one cannot dismiss the whole administration and continue to administer the country successfully. Everywhere, the rank and file are necessary to carry out the administrative services; if all who have been fascists were dismissed, the railways, the post offices, the health services, the police services, all would stop. Before one could administer the country, one would have to recruit and train specialists meanwhile chaos and disorganisation would rule.

METHOD

10 The machinery devised requires firstly that every Ministry or big business shall 'scrutinise' the records of all its employees and to see which have fascist antecedents and who received records or promotions because of their fascism. The responsible head is responsible for sending to the High Commission the records of all persons whose cases should be further investigated. The High Commissioner is charged with deciding whether any further action is necessary;

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POLICE

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11 As investigations sometimes take considerable time as it may be necessary to dig back into the past, and as evidence is sometimes at the other side of the enemy lines, there are powers to suspend persons pending a decision but it

is not intended that such an act should be lightly used and suspension should only be ordered when both the following conditions are fulfilled and

a) that final clearance is believed to be certain completed with
b) the fact that the retention of the man in his present employment would be harmful to the service in which he is employed or would, because of his notoriety, be a public scandal.

PROCEDURE

12 This describes the machinery for purging the Government, Services and business as of national importance; it ensures that qualified provision is made for dealing with employees of concerns of only local importance and for persons who are employed provincially. In the case of provincial employees, the machinery is similar except that provincial instead of ministerial commissions are set up and the Prefect acts when the Minister would. Further, in the case of some departments or businesses such as the railways and post offices and communications, there is power for the Ministerial Commission to detach divisions to sit in the provincially but these are still branches of and have the powers of the Ministerial Commission.

DUTIES

13 The High Commissioner, upon whom lies the responsibility of preparing the cases and deciding which cases should come before the Sifting Commissions is assisted by 3 Liaison Officers in each Province known as Delegates. Their duties are to conduct local investigations and to keep the H C informed of conditions in their Provinces and make recommendations to him as to whom should be defracised and to recommend who should be appointed to Provincial Commissions.

ROLES

14 Similar Commissions are established for scrutinising the registers of professional men such as doctors, lawyers, etc.

TIME

15 There are time limits for the conducting of all these proceedings so that the purging of the services shall not be too long drawn out and to enable the reorganised services to settle down as little delay as possible. The principal time limits to be remembered are that the proceedings must be initiated within six months of the decree coming into effect in any particular territory and must be concluded within 3 months after its initiation.

ENRICHMENT

16 A third part of the law deals with the recovery of wealth from persons who have corruptly become rich by exploiting their offices or their positions in the fascist party. Persons who received sinecure offices, those who received bribes, those who benefitted by contracts corruptly obtained, are all dealt with. The method is; that the increase in wealth of any person who held a public office or held office in a fascist organisation, over his financial position on the 28 Oct 22 is presumed to have been improperly obtained unless the person concerned can show that he earned it legitimately. All such wealth is declared forfeit to the State and the man is described in the decree as indebted to the State to the extent of such increase and all his property is frozen until the debt is cleared. The freezing affects not only the property actually in his possession but all the property of his wife (or husband) of his [illegible]

METHOD

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

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(or husband) of his ascendants and descendants. Any property held in the name
of third parties which is really his. All voluntary transfers of property
made by the debtor after July 1936 may be declared void and all transfers after
July 43 even if for valuable consideration may also be declared void.

17 To ascertain the amount of the illegal profits to which the man is held
COURT to be indebted to the State a provincial commission is established, consist-
ing of a judge and 4 lay members. Hearing is public and there is an appeal
to a section of the Central Commission of one judge and 4 lay members.

18 The normal method of freezing the assets of any person is by a decree of
the C C which becomes void after 6 days if a final decision for the forfeiture
SAFEGUARDS- of the property has not been made before the expiry of that time; but if it is
ING considered that there is any probability of the man making away with or hiding
his assets, a protective freezing order may be made on application to the
Tribunal under the ordinary civil law.

19 The fourth part of the decree deals with the confiscation of the property of the fascist party and of its organisations. All these are declared forfeit to the State and the law provides that they shall be used for the public services and for the public benefit. There are powers to create bodies for those purposes and endow them with the proceeds. The realisation of the assets of such bodies is the responsibility of the Ministry of Finance.

FASCIST LAWS

20 The 5th part of the law creates a body to administer the law. It is known as the High Commission. The Office of High Commissioner is at present vacant and his powers are vested in a Board of the four Assistant High Commissioners presided over by the Prime Minister in his capacity of President of the Council of Ministers. The General Secretary of the High Commission is G. Battista BOERI.

THE HIGH COMMISSIONER

21 The H C has 4 branches each headed by an Assistant High Commissioner and each of the branches is concerned with one of the parts of the decree which I have described.

Mario BELINGUER is the A/HC responsible for bringing to trial fascist criminals.

Ruggiero GRIECO is the A/HC responsible for cleansing the civil services and businesses of the country.

Mario ZINGOLANI is responsible for the recovery of ill-gotten wealth from corrupt fascists.

F.F. STANGONI is responsible for investigating and supervising the confiscation of fascist property.

The last part of the code is purely administrative.

22 The following figures give some idea of the scale of defascism and the progress made:-

STATISTICS

Up to the 15 Feb 45, out of some 80,000 employees considered, 22,000 were referred to commissions. Decisions have been announced on 5,400 of these cases resulting in about 1,000 dismissals, 2,400 awards of lesser punishment and 2,000 acquittals.

23 Another decree of some importance is DL 257 of 1944 which requires that officials of the first four grades shall be dealt with in priority to other officials and also imposes considerably smaller time limits for dealing with their cases.

GRADES 1-4.

24 Another decree which it may be useful to remember is DL 420 of [illegible] which gives powers to appoint receivers to business concerns if their management has fled or if they propose to stop work of national importance which it is desirable should be continued and thirdly if their previous management is untrustworthy as evidenced by a history fascist or political corruption. In such cases a receiver can be appointed and run the business. There is the provision that if any of the above conditions cease to apply

RECEIVERS

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[illegible] are covered.

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[illegible] Section

20 Mar 45

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[illegible]
AFO 394
CIVIL AFFAIRS SECTION

AG/2.11/06 10 Feb 45

SUBJECT : Provincial Evacuation.

TO : AGs Peninsula, Adriatic-Ionian, Latin-Gothic Sections.
(Relay AFO 64 or AFO 2)

1. From reports received, it is apparent that there is no clear conception of what is included in "Provincial" Evacuation for which Functional and Provincial AG Teams in AMG territory are responsible.

2. The procedure as to evacuation is laid down in AFHQ 148 as amended or added to by CAL 257, 288, AFC 111 of 1944 and CAL 2 of 1945, all of which have been extended to AMG territory. The officials and bodies appointed as laid down in these documents are responsible for carrying out evacuation in accordance with those laws and with the directives issued from time to time by the CC. But of these officials those working in AMG territory have a dual responsibility. Just as a Prefect or Questore is responsible to AMG for carrying out Italian law in his jurisdiction, so are squadrons of Guardia responsible to AMG for carrying out the law as to evacuation.

3. It must be constantly borne in mind that Italian legislation sets up two forms of Evacuation Committees (a) Central (b) Provincial. The broad distinction to be drawn between a Central and that by a Provincial Commission is not always easy but the broad distinction is, that the cases of all Government servants (whether Civil or Police and wherever employed) are handled centrally as are the cases of employees of all companies of a National, as opposed to only local, importance. The only persons whose cases are decided by a provincial commission (in the strict sense) are employees of companies of purely local interest. It should be noted that the distinction rests upon the standing of the employing body and has nothing to do with the location of the place of employment or where the employee resides. In case of doubt the view of the responsible Italian official should be accepted.

4. It is the responsibility of AMG officers to see that the provincial commissions tackle the evacuation of the purely local concerns. The first problem is, that in many cases the commissions do not yet exist. Where this is the case he will see that the investigatory steps here nevertheless goes on and that cases are prepared so that there shall be no delay on that score when the commission is established.

23?

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5 The principal cause of the delay in regulating provincial considerations is the requirement that a judge shall sit on all considerations. Nearly 150 considerations (mostly central) have already been submitted and so many magistrates have been withdrawn from normal work that the administration of justice is being interfered with, so a halt now has to be called. Nearly 100 more considerations are required to meet central and provincial requirements. It is hoped that the appointment of commissioners will soon be removed.

6 It should be noted that in addition to Provincial Considerations properly so called, Central Considerations have the power to sit in Divisions which may sit provincially, (but still as part of the central machine). They have jurisdiction over one or more provinces for the purpose of dealing more conveniently with the evacuation of government departments which have in that area a large number of employees in scattered offices. This power is intended to exercise especially for the transportation, communication and education services. Where such divisions sit in ADC territory ADC is responsible for seeing that they do their jobs.

7 The RO is represented at the Provincial level by a Delegate who in addition to other duties is a liaison officer to keep the HQ informed on local conditions. ADC officers can properly make representations to him as to the need for the appointment of commissioners, the rate at which work is being done or the fact that certain persons have not been dealt with. The Delegate is also responsible for supervising the work of the local commissions and for conducting local investigations. He stands to the work of evacuation in the same position as the Prefect does to the work of Local Government. So that his functions may be understood, a summary of the instructions under which he works is attached. Close liaison should be maintained with him.

BY COMMAND OF THE CHIEF OF STAFF :

F.H. Capp
S.R. HUDSON Brig.
VI CA Section.
HQCS AD.

DISTRIBUTION (for information) :

RO Dublin Region	RO Sicilia Region	Room Section
RO Piemonte Region	RO Lombardia Region	Agric S/C
RO Liguria Region	RO Southern Region	Commerce S/C
RO Lombardia Region	CA Section	Finance S/C
RO Veneria Region	Local Govt S/C	Public Works S/C
DCCAO 15 Army Gp	Legal S/C	Treasury S/C
DCCAO AAI 8 Army	Public Safety S/C	Air S/C
DCCAO AAI 5 Army	Educ S/C	Land Forces
		Naval S/C

such offences are in AMG territory AMG is responsible for seeing that they do their jobs.

7 The MG is represented at the Provincial level by a Delegate who in addition to other duties is a liaison officer to keep the MG informed on local conditions. AMG officers can properly make representations to him as to the need for the appointment of commissions, the rate at which work is being done or the fact that certain persons have not been dealt with. The delegate is also responsible for supervising the work of the local commissions and for conducting local investigations. He stands to the work of epuration in the same position as the Prefect does to the work of Local Government. So that his functions may be understood, a summary of the Instructions under which he works is attached. Close liaison should be maintained with him.

BY COMMAND OF THE CHIEF COMMISSIONER :

D.H. [illegible] Brig
VT CA Section
DCOS AC.

DISTRIBUTION (for information) :

MG Emilia R gion	MG Liguria Region	Room Section
MG Piemonte Region	MG Lombardia Region	Agric G/S
MG Liguria Region	MG Southern Section	Commerce G/C
MG Lombardia Region	CA Section	Finance G/C
MG Venezia Region	Local Govt G/C	Public Works G/C
DCCAO 15 Army Gp	Legal G/C	Transptn. G/C
SCAO AMG 8 Army	Public Safety G/C	Air G/C
SCAO AMG 5 Army	Educ G/C	Land Forces
PRB	Communications G/C	Naval G/C

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Feb 44

DEMOCRATISATION OR DEFASCISM

One of the first things to be done on taking over a territory is to remove fascists from positions of control; this is effected under Ex Memo 67. Experience has shewn that Table A of that Memo has not been quite widely enough drawn. Sub-Commds have been asked for particulars of any amendments they require, a few have been received and a revised list will be issued shortly.

The next step to be taken depends partly on conditions. If they are tranquil and there is every prospect of the Italian Government being able rapidly to put its Defascising machinery into operation that would be done by extending the various decrees to NW Italy. This however is not the expectation, it is expected that even if the country is relatively tranquil the process of setting up the Italian machinery would probably be too slow.

GO 35 has therefore been drawn up setting up a AMG defascising machinery complete with handbook and court forms. The requirement of posters handbooks and forms has been estimated for each region, the order for printing has been placed and Regional allotments will shortly be available for breaking down and packing into Provincial Parcels.

GO 35 can only be brought into operation on the order of HQ AC. On receiving authority through Regional HQ Provinces publish the standard order.

The scheme provides only for the suspension of persons until such time as the Italian Decrees are put into operation when the cases of all suspended persons are reviewed by the Italian machinery. It is intended that only persons in positions of authority should be suspended whose fascism is so well known or active that their ultimate dismissal is hardly open to doubt or whose retention in the service is likely to have an adverse effect on that service or on public opinion. It is important that services should not be disorganised by large scale dismissals of subordinates.

The Scheme operates by means of a Scheda which has to be completed by all senior and middle grade employees of concerns liable to Sequestration. The schede of senior grade officials receive priority of treatment, low grade officers (except teachers) do not have to complete schede at all.

The Schedu are scrutinised under Provincial arrangements, those persons whose antecedents indicate dismissal as probable are served with a notice of proposed suspension, and their case is heard before a tribunal of Italians. The papers of those suspended are forwarded to the HC for Defascism for determination in due course as to whether the suspension should

[redacted] operation that would be done [redacted] access to NW Italy. This however is not the [redacted], it is expected that even if the country is relatively tranquil the process of setting up the Italian machinery would probably be too slow.

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The appointments to the Tribunals are made by the Provincial Commissioner from persons recommended to him locally. Attention will naturally be paid to the recommendations of the local CLN and Prefect.

CA Section
6 Feb 45

S.M. WHITE Lt C-1

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Circular No [redacted] Sep. From the Legal Adviser
Re Powers of Judging Contentions

While the first circular dealt with the letter of the law, this deals more with its spirit. The general intention is to remove prominent fascists quickly (so that those left may be in fear of return to their posts and the purged offices may commence to reconstruct on a stable foundation) and at the same time to cause as little bitterness as possible.

1 In law in political cases severity will be normal, the spirit should prevail over the letter. The aim is not to punish (punishment is dealt with by Part I of MG 1/22) but to create the correct way to re-build an honest virtuous and willing service. The expression "amenable to serve the state" should have more than mere lip service to be applied.

2 The persons to be treated are those in the correct and intelligent. Two classes are existing today, those who signed on offices as a mean of nourishment and who may (whether or not for money) prevent and take improper profits or other advantages not correct for civil. The second class are those who have been intolerant or repressive or violent, those who have shown extreme partisanship and have coerced or injured the liberty of others. Persons of both such classes should be removed even though their fascism is not serious.

3 Other cases should be treated more tolerantly, the object is to set up a clean and honest administration. The argument that all fascists are tainted and should be removed is not accepted. Those who were conscientious and honest in still such and may be worthy of retention. A converted fascist need not necessarily be removed if the conversion is correct and not just feigned.

4 The types of ex-fascists to be humanely dealt with are discussed. Syndicats, cotisants etc who are still of low grade. A man who joined the party to its early days but is still of low grade cannot have been a very ardent fascist. Cases of persons in receipt of small salaries should be carefully considered especially where the head will condemn them and their families to complete destitution. It is considered either that a few hundred also should escape their deserts rather than many should suffer more than is deserved. The ex-fascist is not to be removed merely as such, but only if took part in the corruptness of the fascist regime.

5 A further test is the conduct of the individual after the 8 Sep 43. Those who then voluntarily associated themselves with the capitulation Republican Govt must be dismissed, but those who only did so under direct pressure or because of the economic necessity of retaining their appointments, may be awarded lesser punishment.

6 Suspension prior to trial shall not influence the hearing; suspensions are frequently ordered on evidence available at the time, which may later prove false or capable of explanation. Cases of persons suspended should be given priority of hearing.

7 The AG will not hesitate to suggest to suitable cases that no punishment is deserved and will just as readily appeal against decisions of Sanctions Commissions which do not observe, to the prejudice of the accused, the spirit of the above instructions.

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3 ...other cases should be treated more leniently; the object is to set up a climate conducive to rehabilitation. The argument that all fascists are tainted and should be removed is not realistic. Those who have considerations and honour are still suspected by the apathy of retention. A converted fascist need not necessarily be a threat to the reconstruction if he is honest and not intimidated.

4 The types of ex-fascists to be leniently dealt with are discussed. Specifically, the case of a man who joined the party in the early days and is still of low grade cannot have been a very ardent fascist. Cases of persons in receipt of small salaries should be mentally considered especially where dependants will condemn them due to their inability to complete restitution. It is considered better that a few undeserving should escape their deserts rather than a few should suffer more than is deserved. The ex-fascist is not to be removed merely as such, but only if took part in the corruptness of the fascist regime.

5 ...further fact is the conduct of the individual after the 8 Sep 43. Those who then voluntarily associated themselves with the resistance movement must be discussed, but those who only did so under direct pressure or because of the economic necessity of retaining their appointments, may be accorded lesser punishment.

6 Suspension prior to trial shall not influence the hearing; suspensions are frequently ordered on evidence available at the time, which may later prove false or incapable of substantiation. Cases of persons suspended should be given priority of hearing.

7 The AC will not hesitate to suggest in suitable cases that a punishment deserved but still just be strictly ripost against detainees of Sanctions Regulations which do not observe, to the prejudice of the accused, the spirit of the above instructions.

8 Commanders are urged to work expeditiously to reduce as quickly as possible that unsettling period when people do not know what fate awaits them and departments what staff they will be retaining. While they should temper justice with mercy, by an exercise of common judgment and political understanding they will assist in the rebirth of their country.

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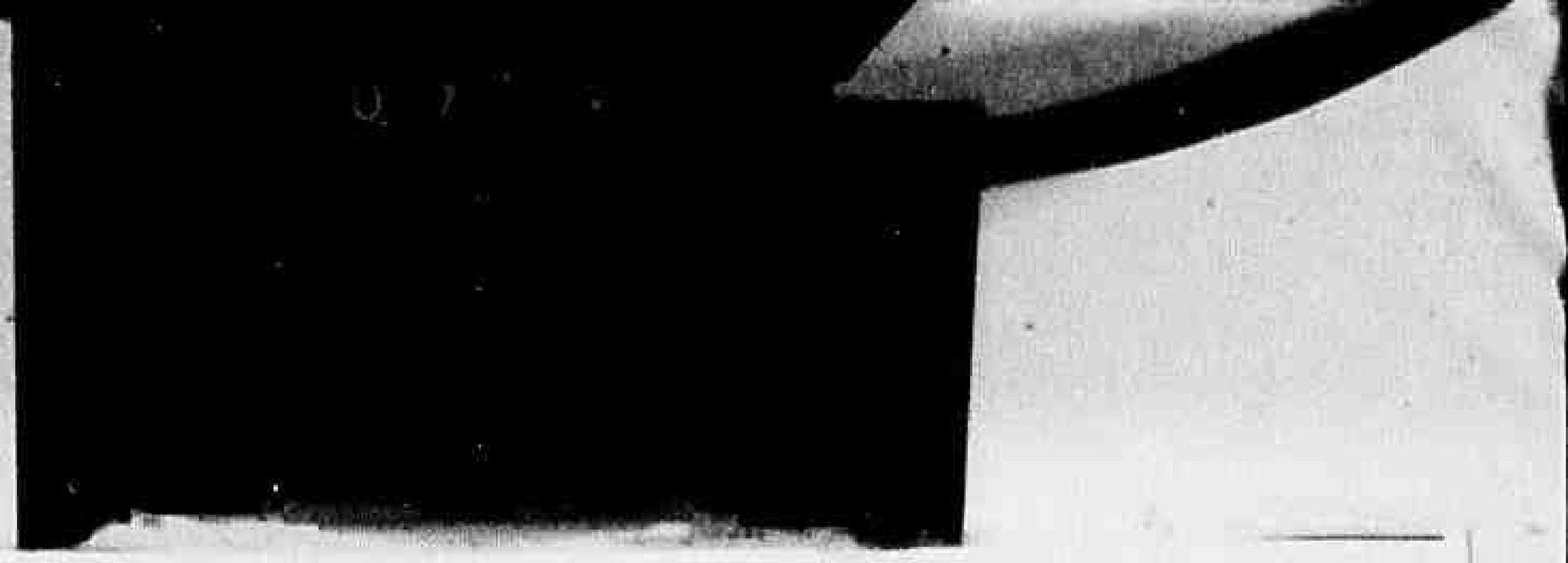

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RESTRICTED

HEADQUARTERS ALLIED COMMISSION
APO 394
OFFICE OF CHIEF OF STAFF

AG/22/2.A/AS. 28 November 1944.

SUBJECT : Epuration in occupied territory.

TO : Regional Commissioner, Lazio-Umbria, Abruzzi Marche, Toscana, Sicilia, Liguria, Piemonte, Lombardia and Venezia Regions.

1. In view of the strong anti-fascist feeling which is likely to prevail in Northern Italy you may find it necessary to ensure you to satisfy the public that Epuration and the removal from office of suspected persons are proceeding as quickly as possible.

2. Epuration is being undertaken by the Italian Government under D.L.L. 159 and subsequent decrees. However in June / 44 an agreement was made between the Italian Government and AC that AC would leave this work to the Government and would not operate an independent scheme of their own. However, the Italian Government has experienced many delays in working their scheme in Southern Italy and you may find it desirable in the North to ensure more rapid progress. With this end in view General Order No. 35 has been prepared which provides for the suspension of fascists through provisional Commissions.

This Order follows the lines of the Italian Government Scheme and does not therefore infringe the spirit of the June agreement. Moreover the Italian Government has been informed of and has welcomed the Order. It is,however, important that the Order if put into operation should be enforced in its entirety so as to ensure uniformity throughout all Regions. The Order will be put into operation at the discretion of Regional Commissioners but much discretion will not be exercised without the previous consent of HQ AC.

3. The Order is in no way intended to prevent the suspension or dismissal of any person from office by a member of the Allied Military Government as heretofore. No system of operation, however, will be employed by any Regional or Provincial Commissioner or any other member of the Allied Military Government except under Executive Memoranda No. 67 and 70 and/or this General Order.

4. It is important that the work under the Order should be done by the Italians themselves, but great care must be taken that the Epuration proceedings shall not become the basis of vindictive or unfair action by any Commission or persons connected with it. Those proceedings must not be allowed to become witch hunts. Close supervision will be necessary particularly in the initial stages.

It is very important that Commissions concentrate on the officials of high grades. Experience so far and / the Italian Government Scheme has shown that the tendency is to pursue the small men occupying low grade and unimportant posts, and to pass over the more important officials.

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possesses the requisite qualifications.

7. Hasty suspensions of persons in important positions in administrations or undertakings performing services essential to the Allied Forces may easily cause disruption of this work unless acceptable substitutes are immediately available. The civil administration and the judiciary may suffer likewise from such action. Therefore, particular care must be taken to avoid any such disruptions. Your attention is drawn to par. 17 of the administrative instructions in this respect.

8. In appointing Commissions only 5 or 3 members should be appointed for each Commission of for each Section when it is contemplated that a Commission will sit in Sections. Where vacancies occur they should not be filled unless it is necessary to do so.

9. Commissions when appointed must proceed speedily with their work and if any member thereof is not performing satisfactory service such member should be removed.

10. When the Order is to become operative in a certain locality the Provincial Commissioner should see that the Order and the separate order fixing the commencement date are posted together sufficient time in advance of the commencement date and at the requisite places to give the public and all persons concerned reasonable advance notice. A suggested form of Provincial Order is attached.

11. The contents of this communication should be made available to officers of Allied Military Government who will perform services in connection with these Commissions, but NOT to the Italians.

12. Attached hereto are copies, in English and Italian, of General Order No. 35 and the Administrative Instructions. The Administrative Instructions which cover details of procedure, are for the use of members of the Commissions as well as members of the Allied Military Government. They are not in any way secret, but it is not thought necessary that they should be publicly posted.

By command of Commodore STONE:

M. S. LUSH,
Brigadier,
Chief of Staff.

Air S/C

9. Commissions when appointed must proceed speedily with their work and if any member thereof is not performing satisfactory service such member should be removed.

10. When the Order is to become operative in a certain locality the Provincial Commissioner should see that the Order and the separate order fixing the commencement date are posted together a sufficient time in advance of the commencement date and at the requisite places to give the public and all persons concerned reasonable advance notice. A suggested form of Provincial Order is attached.

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By Command of Commodore STONE:

M. S. IRISH.
Brigadier,
Chief of Staff.

DISTRIBUTION: CA Soc / Econ Soc / Polit Sec / Soc Govt S/C / Legal Soc / Educ S/C / Commerce S/C / Public Works S/C / Finance S/C / Agric S/C / Air S/C / Army S/C / Naval S/C / Communications S/C / Transportation S/C

ACAO 5 Army ACAO 8 Army

NOTE: Italian copies are in the press and will be forwarded later under separate cover.

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ORDER: FIXING DATE OF COMMENCEMENT OF GENERAL ORDER No. _____

Provincial
Order No.

I, ..., Provincial Commissioner for the Province of ..... do hereby order and direct that General Order No. 35 shall commence and become operative in the Province/Locality of ..... beginning as of 0001 hours on the ..... day of..... 1944.

Dated :

Signed :

.....
(Provincial Commissioner)

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Province of ..... do hereby order and direct that General Order No. 35 shall commence and become operative in the Province/Locality of ..... beginning at of 0001 hours on the ..... day of..... 1944.

Dated :

Signed :

.....
(Provincial Commissioner)

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11. On the hearing of an objection both oral and documentary evidence shall be admitted save that the Commission shall never at any time or at any stage of any proceedings under the General Order receive in evidence or take cognisance of anonymous communications.

Where the person objecting wishes to give evidence in person he shall be permitted to do so, and he and the Commission may call such other relevant evidence as they think fit.

All questions to the person lodging the objection and to other witnesses giving evidence before the Commission will be put only through the President of the Commission or Section.

12. The Commission will NOT appoint any person to carry out functions analogous to a "Public Minister".

13. Any person may denounce another to whom the General Order applies. The denunciation must be in writing and sworn to before it can can be received by the Commission. Hearing on a denunciation shall be had as in any other case.

14. If a person has previously been dismissed or suspended from employment in an administration or undertaking by the Allied Military Government on the sole ground that he had fascist connections, such person may lodge at the office of the Commission appointed for the locality a Scheda Personale duly completed and signed by him. With the approval of the Provincial Commissioner, the Commission may proceed with the case by hearing on the papers filed by such person as on an objection. In the event of the Commission finding that he is in fact not objectionable as a fascist and would not have been suspended on such grounds alone if he had still been employed at the time of the commencement of the General Order, the Commission may, with the consent of the Provincial Commissioner, order that he be restored to the position originally held by him or to such other position for which he may have applied or may later apply, and with the consent of the Provincial Commissioner may order that he be paid the whole or some part of such salary as he would have been entitled to receive had he remained in office.

15. If a person lodging a Scheda Personale under the requirements of the General Order has been appointed to a position by Allied Military Government the particular Commission shall not proceed with the case or enter an order of suspension of such person without the consent of the appropriate Provincial Commissioner.

16. As to persons included in categories Immediate and Routine, the General Order applies without distinction of grade, rank or salary. Nevertheless Commissions will initially concentrate on officials and employees occupying the more important positions in those categories.

In reviewing Schede Personali, serving notices of proposed suspensions, hearing objections thereto, and making orders thereon Commissions will, save in exceptional cases, complete all proceedings in respect of persons in category Immediate before commencing proceedings in respect of persons in category Routine.

17. If a suspension order is made against a person whom the Provincial Commissioner considers to be engaged in essential work and to be irreplaceable, the

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14. If a person has previously been dismissed or suspended from employment in an administration or undertaking by the Allied Military Government on the sole ground that he had fascist connections, such person may lodge at the office of the Commission appointed for the locality a Scheda Personale duly completed and signed by him. With the approval of the Provincial Commissioner, the Commission may proceed with the case by hearing on the papers filed by such person as on an objection. In the event of the Commission finding that he is in fact not objectionable as a fascist and would not have been suspended on such grounds alone if he had still been employed at the time of the commencement of the General Order, the Commission may, with the consent of the Provincial Commissioner, order that he be restored to the position originally held by him or to such other position for which he may have applied or may later apply, and with the consent of the Provincial Commissioner may order that he be paid the whole or some part of such salary as he would have been entitled to receive had he remained in office.

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16. As to persons included in categories Immediate and Routine, the General Order applies without distinction of grade, rank or salary. Nevertheless Commissions will initially concentrate on officials and employees occupying the more important positions in those categories.

In reviewing Schede Personali, serving notices of proposed suspensions, hearing objections thereto, and making orders thereon Commissions will, save in exceptional cases, complete all proceedings in respect of persons in category Immediate before commencing proceedings in respect of persons in category Routine.

17. If a suspension order is made against a person whom the Provincial Commissioner considers to be engaged in essential work and to be irreplaceable, the Provincial Commissioner may require the Commission to order the reinstatement of such employee until a suitable replacement is obtained.

18. The Commission shall have power, from time to time and at any time,

a. to make rules, for the regulation of its proceedings provided they are not inconsistent with the General Order or these instructions.

b. to amend or revoke such rules, and to make rules in place thereof; and

c. to publish such rules as for the time being are in force, the contents of which shall be available for inspection by the public.

All such rules or amendments shall be subject to the approval of the Provincial Commissioner.

19. While certain specific times are prescribed in the General Order for things to be done, a Commission has the right to extend the time whenever in its

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judgment it is necessary to do so. However, such extensions of time should not be given as a regular course as it is highly important that this work should proceed as rapidly as possible.

20. Each Commission must keep full and accurate records and shall keep all 'Schede Personali', objections, denunciations, notices, statements and documents lodged at its office and copies of all notices and orders served and made by it in such manner that they can easily be found, and shall dispose of all such records in such manner as the Provincial Commissioner shall direct. All such records shall at all times be open for the inspection of the Provincial Commissioner.

21. Copies of forms required for the full purposes of the General Order are attached and will be used by all Commissions without substantial change.

a. SCHEDA PERSONALE

b. NOTICE OF PROPOSED SUSPENSION

c. NOTICE OF HEARING

d. SUSPENSION ORDER

e. ORDER SUSTAINING OBJECTION

f. CERTIFICATE OF SERVICE.

For the Supreme Allied Commander and Military Governor:

ELLERY W. STONE.
Commodore, USNR.
Chief Civil Affairs Officer.

November 1944.

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CONSIGNED FOR REGISTRATION,_____

SCHEDA PERSONALE
(To be completed personally by the party concerned in accordance with provisions of General Order No.).

1. Surname .....Name.....Paternity.....
Maternity..... Place and dat. of birth .....
.....Place of residence.....
Profession .....Present condition .....

2. Date and place of entering the fascist party.....
Squadrista?..... Squadrista?..... Fascista? Ante Marcia?.....
Marcia su Roma?..... Sciarpa Littorio?.....

3. Have you been a member of the Fascist Government?..... of the Grand Fascist Council?..... of the Special Tribunali for the defense of the State?.....

4. Have you been a member of the Accademia d'Italia and in what status?.....
.....

5. Have you been President, Vice President or Managing Secretary of any corporation, confederation, federation, or syndicate union ?.....

6. Have you been National Secretary or Vice Secretary, a member of the National Directory, or a national inspector of the fascist party ?.....

7. If you have been a member of the Senate of the Kingdom give the date of your appointment to Senator and the date on which you took the oath, setting out in full your functions, duties, or public offices administrative or commercial.....
.....

8. Have you been a fascist deputy or a national councellor and for what legislature or period ?.....

9. Have you been federal secretary or a vice secretary, administrative, federal vice secretary, a member of the federal directory or federal inspector or some inspector, a "fiduciario" of the national fascist group in the Capital of a province (when, where and for how long)?.....
.....

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[illegible] Inscritto? Ante Marcia?.....

Marcia su Roma?..... Squadre d'azione?.....

5. Have you been a member of the Fascist Government?..... of the Grand Fascist Council?..... of the Special Tribunal for the Defense of the State?.....

6. Have you been a member of the Accademia d'Italia and in what status?.....

5. Have you been President, Vice President or Managing Secretary of any corporation, confederation, federation, or syndicate union ?.....

6. Have you been National Secretary or Vice Secretary, a member of the National Directory, or a national inspector of the Fascist party ?.....

7. If you have been a member of the Senate of the Kingdom give the date of your appointment to Senator and the date on which you took the oath, setting out in full your functions, duties, or public offices administrative or commercial.....

8. Have you been a Fascist deputy or a national counsellor and for what legislature or period ?.....

9. Have you been federal secretary or a vice secretary, administrative, federal vice secretary, a member of the federal directory or federal inspector or zone inspector, a "fiduciario" of the sectional fascist group in the Capital of a province (when, where and for how long)?..... 2327

10. Have you occupied any of the following positions in the Fascist party?
   a. A position of authority in the CDI ?.....
   b. A position of authority in the GUF ?.....
   c. Any other office in the Party ?.....

11. Have you been President, vice president or Rector (Governor) of a Province (when, where and for how long) ?.....

12. Have you been Podesta', vice-Podesta', Consultore, Commissario by royal appointment or by appointment by Prefetto, of any Capital of a Province (when, where and for how long)?.....

13. Have you been President or a member of the Central Court or of the federal commission for Fascist party discipline (when, where and for how long)?....
.....

14. Have you been Podesta', Commissario by royal appointment or by appointment of the Prefect, of any comune with a population of more than 50,000 inhabitants (according to the last census)?.....

15. Have you been a fascist political secretary (when, where and for how long)?
.....

16. Have you been Provincial fiduciario of women fascists (when, where and for how long)?.....

17. Set out below any other offices national, provincial, or comunal, governmental, or para-statal held by you since 1921.....
.....
.....
.....

18. Have you been a director or chief editor of any political periodicals or daily papers? (which ones, where and when)?.....
.....
.....
.....

19. Have you been a professional journalist, political writer and what has been your journalistic activity since 3rd January 1925 ?.....
.....
.....
.....

20. Have you ever made a radio political broadcast? .....

21. Set out your chief sources of income during the Fascist regime.
.....
.....
.....
.....

22. Have you done military service ?.....
a. In what arm ?.....
b. When?.....
c. What was your last rank?.....
d. Where did you do your service?.....
e. Were you a volunteer in the Spanish Civil War ? .....
f. Were you a volunteer in the East African Campaign?.....
North African Campaign?..... Russian Campaign ?.....
g. Have you ...

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.....
.....
.....
.....

18. Have you been a director or chief editor of any political periodicals or daily papers? (which ones, where and when)?.....
.....
.....
.....

19. Have you been a professional journalist, political writer and what has been your journalistic activity since 3rd January 1925 ?.....
.....
.....
.....

20. Have you ever made a radio political broadcast? .....

21. Set out your chief sources of income during the fascist regime.
.....
.....
.....
.....

22. Have you done military service ?.....
a. In what arm ?.....
b. When? .....
c. What was your last rank?.....
d. Where did you do your service?.....
e. Were you a volunteer in the Spanish Civil War ? .....
f. Were you a volunteer in the East African Campaign?.....
North African Campaign?..... Russian Campaign ?.....
g. Have you enjoyed any exemption from military service?.....
For what reasons ?.....

23. Have you been a member of the permanent service of the fascist militia and in what branch and for how long ? .....

24. Have you received any German decoration of honor and what was the circumstance for which you were decorated?.....
.....Date.....

25. Where were you and how were you employed on 8 September 1943?.....
.....

26. Where have you been and how have you been employed since 8 September 1943?.
.....
I declare that all that I have stated above is the truth

Date .....
Signature of person making declaration.....

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Form No. 35(a)

COMMISSION FOR EDUCATION .....

NOTICE OF PROPOSED SUSPENSION

TO .....
(Name)

.....
(Address)

1. TAKE NOTICE that the Commission for Education has under consideration the PROPOSAL that you be SUSPENDED from the office or employment which you now hold with .....
(name of employing administration or undertaking)

2. AND FURTHER TAKE NOTICE that the grounds upon which the Commission is considering this proposal are :-

3. AND FURTHER TAKE NOTICE that you have the right within 10 days of the service upon you of this notice to put forward an objection in writing which should state the reasons why you consider that such proposal should not be put into effect. You may attach to your objection any documents you wish.

4. AND FURTHER TAKE NOTICE that unless you put forward such objection within such time and lodge the same with this office at .....
....., this Commission will proceed forthwith to make against you an order suspending you from your said office or employment.

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Date :

Signed :

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(name of employing administration or undertaking)

2. AND FURTHER TAKE NOTICE that the grounds upon which the Commission is considering this proposal are :-

3. AND FURTHER TAKE NOTICE that you have the right within 10 days of the service upon you of this notice to put forward an objection in writing which should state the reasons why you consider that such proposal should not be put into effect. You may attach to your objection any documents you wish.

4. AND FURTHER TAKE NOTICE that unless you put forward such objection within such time and lodge the same with this office at .....
....., this Commission will proceed forthwith to make against you an order suspending you from your said office or employment.

2321

Date :

Signed :

(Secretary of the Commission)

Copy to:
(employing administration or undertaking)

(address)

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Form No. 35 c

COMMISSION FOR THE REVISION .....

NOTICE OF HEARING

To .....
(name)

.....
(address)

1. You are hereby notified that the hearing of your case will take place at the office of the Commission, viz .....
on the ..... day of ..... 1944 at ..... hours.

2. You are at liberty to appear at the said hearing with or without an attorney and to be heard by the Commission. At the said hearing you may call such witnesses and produce such documents as are relevant to the case as you may desire.

3. In default of appearance by you, the Commission will proceed to consider your objection in your absence.

Date : .....

Signed .....

.....
(Secretary of the Commission)

1. You are hereby notified that the hearing of your case will take place at the office of the Commission, Wia ..... on the ..... day of ..... 1944 at ..... hours.

2. You are at liberty to appear at the said hearing with or without an attorney and to be heard by the Commission. At the said hearing you may call such witnesses and produce such documents as are relevant to the case as you may desire.

3. In default of appearance by you, the Commission will proceed to consider your objection in your absence.

Date : .....

Signed .....

.....
(Secretary of the Commission)

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Form No. 35 d

COMMISSION FOR EDUCATION FOR .....

SUSPENSION ORDER

TO .....
(person suspended)

of .....
(private address)

1. TAKE NOTICE that with effect from the date of this Order you are SUSPENDED from your office or employment as ..... (state nature of employment) with or under ..... (state name of employing administration or undertaking)

2. The reasons for making this order are that .....

.....

.....

.....

.....

.....

Dated the _____ day of _____ 194__.

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1. TAKE NOTICE that with effect from the date of this Order you are SUSPENDED from your office or employment as ..... (state nature of ..... with or under ..... employment) (state name of employing administration or undertaking)

2. The reasons for making this order are that .....

.....

.....

.....

.....

.....

Dated the _____ day of _____ 194__.

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.....
President of the Commission

Copy to .....
(employing administration or undertaking)

.....
(address)

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

PCEA No. 35(a)

COMMISSION FOR EPURATION .....

ORDER MAKING OBJECTION

The Commission for the Epuration above mentioned.....

having considered the objection entered by .....
(objector)

ORDERS

that the notice of proposed suspension served against him and dated ..... shall be cancelled and

that no action shall be taken in respect of the office or employment held by the said .....
(name) (address)

With or under _____
(state name of employing administration or undertaking)

Date : ...

Signed:

.....
(President of the Commission)

Copy to: _____
(employing administration or undertaking)

_____
(address)

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Form No. 35 f

COMMISSION FOR EMPLOYER FOR .....

Certificate of service.

I, ...
(name)

of .....
(address)

hereby declare

(i) that on the ____ day of _____ 194__ I did serve

a Notice of Proposed Suspension
a Notice of Hearing
a Suspension Order
an Order sustaining objection

of which a copy is attached hereto on .....
(name of person affected)

of .....

by (handing it to him personally
(leaving it at .....

and

(ii) that on the ____ day of _____ 194__ I did also serve a copy of the same document on .....
(employing administration or undertaking)

by (handing it to .....
(leaving it at .....

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That on the ____ day of _____ 194_ I did serve

a Notice of Proposed Suspension
a Notice of Hearing
a Suspension Order
an Order sustaining objection

} of which a copy is attached

hereto on .....
(Name of person affected)

of .....

by (handing it to him personally

(leaving it at .....

and

(ii) that on the ____ day of _____ 1944 I did also serve a copy

of the same document on .....
(employing administration or undertaking)

2319

by (handing it to .....

(leaving it at .....

Dated the _____ day of _____ 1944.

.....
(signature of servor)

.....
Office held by servor: employee of
Commission : RE CC etc)

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HEADQUARTERS ALLIED COMMISSION
APO 794
CIVIL AFFAIRS SECTION

DB/CA/CA

Tel: APO 794
Ext: 466

SUBJECT: Defascism.

27 Nov 44.

TO: RC Tuscanna Region.
RC Lazio-Umbria Region.
RC Abruzzi-Marche Region.
MC Piemonte Region
SCAD 5 Army

RC Liguria Region.
RC Lombardia Region.
RC Venezia Region.
RC Emilia Region.
SCAD 8 Army.

1. Much difficulty has been occasioned in some provinces in the matter of epuration of officials through an incorrect understanding of the relative responsibilities and procedures of AMG and Italian Government officials. This Memo is intended to clarify the position.

2. On first entry into a territory, AMG officers will put Proc Memo 47 into operation and in doing so it is important that lists A and B should be used together, that is to say that an official in list A should only be suspended if he is also within a description in list B and vice versa. AMG officers will be careful to refrain from a wholesale sacking of officials for administrative chaos would only result. They must only worry about major officials appearing in list A and neglect the fascist character of minor officials.

3. Thereafter in AMG territory two phases may be distinguished.
a) Where there is no immediate probability of PGL 159 being implemented.
b) Where conditions have been so far restored that PGL 159 can be implemented.
In no case will AMG set up methods of epuration except as described in this Memo. See 31/167/CA of 4 Aug 44.

4. In the former case defascism by AMG under General Order 95 (which will shortly be circulated) may be authorised by HQ AC.

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5. Where PGL 159 is in force (*) the responsibility is that of the Italian Government working through the machinery set up by that decree. This is that the cases of :
a) Government servants and employees of concerns of national importance

(*) Except that matters to be overseen will include with by Epuration

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DRAFT

22 Nov 44.

RC Toscana Region
RC Lazio-Umbria Region
RC Abruzzi-Marche Region
SCAO 5 Army
SCAO 8 Army.

Reference to draft.

~~The assistant High Commissioner (Con Aff) for Defascism has drawn attention to the difficulties with which the Part IV Officers are meeting in carrying out de-fascising.~~ This difficulties indicate that many CMG officers have not a clear understanding of the relative responsibilities for Defascising of the ~~AMG and the Italian Government~~ the Italian Govt & the AMG officer.

2 In territory to which BLL 159 has been extended, the responsibility is that of the Italian Government working through the machinery set up by that decree. ~~All other defascising schemes were ordered to be stopped by AFHQ/167/Ops. of 4 Aug (para 2).~~

3 On first entry into a territory CMG officers will put Exec Memo 67 into operation and in doing so it is important that lists A and B should be used together, that is to say that an officer in list A should only be suspended if he is also within a description in list B and vice versa.

4 Thereafter in AMG Territory two phases may be distinguished.

a) Where there is no immediate probability of BLL 159 being implemented.

b) Where conditions have been so far restored that BLL 159 can be implemented.

5 In the former case defascism by AMG under General Order 35 (which will

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2 In territory to which MLL 159 has been extended the responsibility is that of the Italian Government working through the machinery set up by that decree.

3 On first entry into a territory AMG officers will put Exec Memo 67 into operation and in doing so it is important that lists A and B should be used together, that is to say that an officer in list A should only be suspended if he is also within a description in list B and vice versa.

4 Thereafter in AMG Territory two phases may be distinguished.

a) Where there is no immediate probability of MLL 159 being implemented.

b) Where conditions have been so far restored that MLL 159 can be implemented.

5 In the former case defascism by AMG under General Order 35 (which will shortly be circulated) may be authorised by HQ AFHQ.

6 Where MLL 159 is in force the functions of AMG Officers broadly speaking are

a) In the case of Government servants and employees of concerns of national importance only to keep the appropriate sub comm of HQ informed. Though AMG officers are not responsible for defascising, this does not prevent them from suspending individuals (including fascists) for good cause but they will not undertake any general purging.

b) In the case of bodies depending from Provinces

i to inform HQ if the Provincial Commission is not appointed reasonably quickly by the President of the Council of Ministers.

ii to see that the Provincial Commissions function efficiently and rapidly.

iii to keep HQ informed.

7 It must be realised that where AMG officers act they will only ~~suspend~~ dismissal will in all cases be dealt with by the Italian Government under MLI 159. ~~Dismissals suspended before 27 July 44, the date MLI 159 came into force, can only be paid from that date).~~

8 Though the responsibility for dismissal is that of the Italian Government, AMG officers have an over-riding duty to see that essential services are not disorganised either by wholesale dismissals or by dismissals of key employees where no substitute is available. This does not mean that every proposal of the Commission requires prior approval by an AMG but the AMG officers must arrange to be kept in the picture and be prepared to interfere if disorganisation is seriously threatened.

[illegible]

C.F. [illegible] Brig,
[illegible]
AMG

2316

Copy to : HQ Piemonte Region
HQ Liguria Region
HQ Emilia Region
HQ Sardegna Region

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~~Italian Government under~~
~~No. 159. [illegible] suspended before 27 July 44, the date [illegible] No. 159 came into force,~~
~~can only be paid from that date).~~

3 Though the responsibility for dismissal is that of the Italian Government, AMG officers have an over-riding duty to see that essential services are not disorganised either by wholesale dismissals or by dismissals of key employees where no substitute is available. This does not mean that every proposal of the Commission requires prior approval by an AMG but the AMG officers must arrange to be kept in the picture and be prepared to interfere if disorganisation is seriously threatened.

~~BY COMMAND OF THE ALLIED CONTROL [illegible]~~

C.R. [illegible] Brig.
[illegible] Section
[illegible]CB

231.

Copy to : HC Piemonte Region
HC Liguria Region
HC Lombardia Region
HC Venezia Region
HC Emilia Region
HC Sardegna Region
HC Sicilia Region
HC Southern Region.

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

Take to Siena

DRAFT

HC Regions Tos[illegible]na: Lazio-Umbria: Abruzzi-Marche 2BAC 5 & 8 Armies

1 The Assistant High Commissioner (the AHC) for Defascism ~~at a recent conference~~ drew attention to the difficulties with which his staff is meeting in carrying out defascising. ~~The~~ difficulties ~~appear to~~ indicate that AMG officers have not ~~all got~~ a clear understanding of the relative responsibilities for defascising of AHC and the Italian Government.

2 On first entry into a territory AMG Officers may suspend officials under Exec Memo 67 and thereafter, though they may suspend individuals (including fascists) for good cause, they should not undertake a general defascising campaign (see para 2 of 313/167 CA of 4 Aug).

3 In some cases lists A and B of Exec Memo 67 (see particularly para 4 of the Memo) have not been used jointly and people have been dismissed merely because they are in list B. To use list B freely may disorganise public services. This type of fascist should not be dealt with under Ex Memo 67 but as will appear later

4 The result of action by AMG Officers is in all cases suspension - after that, and as soon as the AHC can get his organisation going, the Italian Govt starts operating under LGL 159. They also may suspend persons. In due course the cases of those who have been suspended (whether by AMG or the AHC) and of those who, though not suspended, have been prominent fascists are enquired into; the verdict is now dismissal or a finding that the man is not a fascist which implies a right to re-employment though not necessarily in the same job.

2215

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

fascists) for good cause, they should not undertake a general defascising campaign (see para 2 of 313/167 CA of 4 Aug).

3 In some cases lists A and B of Exec Memo 67 (see particularly para 4 of the Memo) have not been used jointly and people have been dismissed merely because they are in list B. To use list B freely may disorganise public services. This type of fascist should not be dealt with under Ex Memo 67 but as will appear later

4 The result of action by AMG Officers is in all cases suspension - after that, and as soon as the AMG can get his organisation going, the Italian Govt starts operating under DLL 159. They also may suspend persons. In due course the cases of those who have been suspended (whether by AMG or the AMG) and of those who, though not suspended, have been prominent fascists are enquired into; the verdict is now dismissal or a finding that the man is not a fascist which implies a right to re-employment though not necessarily in the same job.

5 In all cases the final word on defascising (i.e. final dismissal) is with the Italian Govt. In Italian Govt Territory there is no difficulty. AC Officers act to the Italian Govt as advisers and prompters and to HQ as the source of information.

6 In AMG Territory two phases may be distinguished:

a) where administration and communications have been so far restored that DLL 159 can be implemented.

b) where there is no immediate probability of the DLL 159 being employed.

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7 In the former case the responsibilities of AMG Officers are as laid down in paras 6 and 8 of 313/167. Broadly speaking they are that, beyond keeping HQ informed on local matters, they have no responsibility for actual defascising of either Government servants or employees of concerns of national importance. This will be undertaken by the AMG under the supervision of HQ AC. If things go too slowly for his liking, it is for the AC to report to HQ not to improvise or allow a local defascising campaign. He can also ask to be allowed to put GO 35 (see para 10 below) into operation.

8 Employees of bodies depending from Provinces are however defascisable locally (see HQ/CMF/AS of.....) and Provincial Commissioners can issue directions as to this.

9 AMG Officers have however one over-riding function. Though dismissals are the function of the Italian Administration (either through the central or provincial commission), it is the AMG Officers duty to see that essential services are not disorganised either by wholesale dismissals or by dismissals of key employees where no substitute is available. For this reason it is necessary that he should be kept informed of proposals but the position is not so much that every proposed action requires his approval but that he may interfere to prevent disorganisation when that is seriously threatened.

10 No provision has previously been made for the second case in para 231 above: but a General Order (No 35) on this subject is in course of preparation

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

operation.

8 Employees of bodies depending from Provinces are however defasciable locally (see TW/ZB/AS of.....) and Provincial Commissioners can issue directions as to this.

9 AMG Officers have however one over-riding function. Though dismissals are the function of the Italian Administration (either through the central or provincial commission), it is the AMG Officers duty to see that essential services are not disorganised either by wholesale dismissals or by dismissals of key employees where no substitute is available. For this reason it is necessary that he should be kept informed of proposals but the position is not so much that every proposed action requires his approval but that he may interfere to prevent disorganisation when that is seriously threatened.

10 No provision has previously been made for the second case in para 231 above: but a General Order (No 35) on this subject is in course of preparation and will shortly be issued.

11 Another matter which has been causing trouble is that of pay. All persons suspended (but in the case of those suspended by AMG Officers from 27 Jul only) are entitled to be paid in accordance with the last paragraph of Art 22 of PBI 169 and for this purpose the caro vita allowance counts as a part of the basic pay (finance letters.... .refers). Any other arrangement is unauthorised and improper.

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12 Appended are some of the complaints which have been received which Regional Commissioners will take up in the light of the above instructions.

Copy to [illegible] AFHQ.

Comments made by AFHQ.

A CHIETI — A number of employees of the Posts and Telegraphs had been suspended as fascists by AMG Officers though they are not defascisable under MG. 139 and in any event are defascisable centrally and not locally (they have with the consent of AC ~~MG~~ been re-instated by order of the Prefect).

[illegible] — The local Provincial Finance Office has ordered the suspension of the allowances to the entire State personnel holding the classification of "squadriste", "Marcia su Roma", and "Squadre Littorio", without even communicating if the personnel must be kept in service or not.

A [illegible] — The Prefect has ordered, with the approval of the local Allied Authorities, the suspension from service of the employees considered as fascists or supporting fascism, ordering that they be given one third of their salary for their support.

L [illegible]
L [illegible]
A [illegible] — Repatriation Commissions have been informed that they cannot dismiss any official without obtaining prior approval of AMG.
A [illegible]

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

Comments made by AFHQ.

A CHIETI — A number of employees of the Posts and Telegraphs had been suspended as fascists by AMG Officers though they are not defascistable under JAO 159 and in any event are defascistable centrally and not locally (they have with the consent of AC been re-instated by order of the Prefect).

A AVEZZO — The local Provincial Finance Office has ordered the suspension of the allowances to the entire state personnel holding the classification of "squadriste", "Marcia su Roma", and "Sciarpe Littorio", without even consulting if the personnel must be kept in service or not.

A MATERATA — The Prefect has ordered, with the approval of the local Allied Authorities, the suspension from service of the employees considered as fascists or supporting fascism, ordering that they be given one third of their salary for their support.

A TERNI
A RIETI
A MACERATA
A ANCONA — Epuration Commissions have been informed that they cannot dismiss any official without obtaining prior approval of AFHQ.

2313

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

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

DRAFT

2) Nov 44

2) Tuscano Region
2C Lazio-Umbria Region
2C Abruzzi-Marche Region
2CAO 5 Army
2CAO 8 Army.

1 The Assistant High Commissioner (the AHC) for Defascism has drawn attention to the difficulties with which his staff is meeting in carrying out defascising. His difficulties indicate that many AFC officers have not a clear understanding of the relative responsibilities for defascising of the AHC and the Italian Govt.

2 In territory to which ACL 159 has been extended, the responsibility is that of the Italian Government working through the machinery set up by that decree. All other defascising schemes were ordered to be stopped by 313/167/C of 4 Aug (para 2).

3 On first entry into a territory AFC officers will get from Memo 67 into operation and in doing so it is important that lists A and B should be used together, that is to say that an official in list A should only be suspended if he is also within a description in list B and vice versa.

4 Thereafter in AFC Territory two phases may be distinguished.
a) Where there is no immediate probability of ACL 159 being implemented.
b) Where conditions have been so far restored that ACL 159 can be implemented.

5 In the former case defascising by AHC under General Order 35 (which will shortly be circulated) may be authorised by HQ AC.

6 Where ACL 159 is in force, the functions of AHC officers broadly speaking are
a) in the case of Government servants and employees of concerns of national importance only to keep the appropriate sub comm of HQ informed.
Though AHC officers are not responsible for defascising, this does not prevent them from suspending individuals (including fascists) for good cause but they will not undertake any general purging.
b) in the case of bodies depending from provinces
i to inform HQ if the Provincial Commission is not appointed reasonably quickly by the President of the Council of Ministers.
ii to see that the Provincial Commissions function efficiently and rapidly.
iii to keep HQ informed.

7 It must be realised that where AHC officers act they will only suspend. Dismissal will in all cases be dealt with by the Italian Government under ACL 159.

8 Though the responsibility for dismissal is that of the Italian Government, AHC officers have an over-riding duty to see that essential services are not disorganised either by wholesale dismissals or by dismissals of key employees where no substitute is available. This does not mean that every proposal of the Commission requires prior approval by an AHC but the AHC officers must arrange to be kept in the picture and be prepared to interfere if disorganisation is seriously

2919

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be suspended if he is also

4 Thereafter in AMG Territory two phases may be distinguished.
a) Where there is no immediate probability of MG 139 being implemented.
b) Where conditions have been so far restored that MG 139 can be implemented.

5 In the former case defascism by AMG under General Order 5 (which will shortly be circulated) may be authorised by HQ AFC.

6 Where MG 139 is in force, the functions of AMG officers broadly speaking are
a) in the case of Government servants and employees of concerns of national importance only to keep the appropriate sub comm of Hq informed.
Though AMG officers are not responsible for defascising, this does not prevent them from suspending individuals (including fascists) for good cause but they will not undertake any general purging.
b) in the case of bodies depending from provinces
i to inform Hq if the Provincial Commission is not appointed reasonably quickly by the President of the Council of Ministers.
ii to see that the Provincial Commissions function efficiently and rapidly.
iii to keep Hq informed.

7 It must be realised that where AMG officers act they will only suspend. Dismissal will in all cases be dealt with by the Italian Government under MG 139.

8 Though the responsibility for dismissal is that of the Italian Government, AMG officers have an over-riding duty to see that essential services are properly organised either by wholesale dismissals or by dismissals of key employees where no substitute is available. This does not mean that every proposal of the Commission requires prior approval by an AMG but the AMG officers must arrange to be kept in the picture and be prepared to interfere if disorganisation is seriously threatened.

-312-

BY COMMAND OF FIELD MARSHAL ALEXANDER

G.R. UPTHORN Brig.
VS GA Sec COS.

Copy to : HQ Piemonte Region
HQ Liguria Region
HQ Lombardia Region
HQ Venezia Region
HQ Emilia Region
HQ Sardegna Region
HQ Sicilia Region
HQ Southern Region.

(a) This Decree has been implemented in the Provinces of

Terni		Arezzo	
Perugia	✓	Livorno	✓
Ascoli	✓	Pisa	✓
Macerata		Florence	✓
Ancona	✓	Lucca	✓
Pesaro	✓	Pistoia	✓
Grosseto	?	Napoli	
Siena	✓		

0814

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2311

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

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

COPY

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394
ADMINISTRATIVE SECTION

DF/Gen/AS 5 Sep 44

SUBJECT : Defascism - Fortnightly Return.

TO : See Distribution.

1 It has been decided to ask all Ministerial Sub-Commissions to make a return on Defascism on a stereotyped form a draft of which has been submitted to the Asst High Commissioner and approved by him.

2 One form at least should be completed by each Ministerial Sub-Commission (two if it deals with both civil servants and outside bodies) but this will not prevent a seperate return being required for any large organisation or group of organisations such as banks which have a particular or seperate importance which it may be desirable to watch seperately.

3 These returns will be for the information of Sub-Commissions.

4 Sub-Commissions will keep Administrative Section informed of the position by aggregating the returns received by them and submitting to Administrative Section two returns one for Civil Servants the other for other concerns.

5 Ministries will be informed that we require the information in this form and that we ask this with the approval of the Asst High Commissioner.

6 Sub-Commissions can obtain from Chief Clerk, Administrative Section supplies of the form in Italian at the rate of 10 (5 months) for each Ministerial Sub-Commission with which they deal of either or both forms as may be necessary and also forms in English for their aggregated returns to Administrative Section.

7 The first return will be made immediately after the 15 Sep and will consist of two sets of forms. An opening form showing the position as at the 30 Aug and a second form showing the position as at 15 Sep. 2308

8 With regard to the form itself; a comparison of the columns mentioned below shows

Cols a/b	Indication
	how far investigation is complete.

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

Declassified E.O. 12356 Section 3.3/NND 785015

0 8 2 3

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7 The first return will be made immediately after the 15 Sep and will consist of two sets of forms. An opening form showing the position as at the 30 Aug and a second form showing the position as at 15 Sep. 2307

8 With regard to the form itself; a comparison of the columns mentioned below shows

Cols	Indication
a/b	how far investigation is complete.
d/c	the proportion of suspensions.
e/d	the progress made with hearings and cases pending.
f/e	the proportion of convictions, the attitude of the commission.
g/f	how far the decisions are accepted.
h/g	progress of hearing of appeals and appeals outstanding
i/h	the proportion in which decisions are upset and the attitude of the appeal Tribunal.
f less i/e	shows the total proportion dismissed.

a/ S.H. WHITE Lt Col.

Ext 469
SHW/jwf

S.H. WHITE Lt Col,
for VP Admin Section

DISTRIBUTION: Admin Sec, Room Sec, Polit Sec, Legal SC, Army SC, POW Sec, Agric SC, Educ SC, Commerce SC, Public Works SC, Finance SC, Navy SC, Air SC, Communications SC, Transportation SC, Interior SC

HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.G. SECTION
APO 394

Ref: 313/167/CA

4 August 44

Subject: Defascism.

To: Regional Commissioners, Region: I II III IV V VI VII VIII IX &
S.C.A.C.'s 5 and 8 Armies.

1. ML 159 "Sanctions against Fascism" was published on July 29. A translation has already been circulated for distribution down to Provincial Commissioners.

2. The decree has already been extended to Military Government Territory which is under Regional Control and all Regional Orders or other instructions on this subject will no longer be enforced.

3. The decree which is in six parts, deals with three main classes of cases:
   a Part I declares certain political acts committed in the past to be crimes against the state, sets up courts to try such cases and lays down the punishments.
   b Part II provides the machinery for investigating the political background of officials and of employees of national concerns and of local bodies and directs the removal from office or employment of those with fascist sympathy.
   c Part III provides for the investigation of cases of "enrichment" and for forfeiture of property where no satisfactory explanation of "enrichment" is forthcoming.
   d The other three parts are of an administrative nature.

4. So far as AOC is concerned Ja and Je are for the time being regarded as matters domestic to the Italian people though AOC may have to take supervisory steps later; but, AOC is pledged (as is the Italian Government) to remove fascists and to clear Italian administration and industry of fascism. It therefore is very much the concern of AOC.

2307

5. The decree provides for the setting up in every Ministry of a commission

Declassified E.O. 12356 Section 3.3/NND 785016

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4. So far as AOC is concerned Ja and Jc are for the time being regarded as matters domestic to the Italian people though AOC may have to take supervisory steps later; but, AOC is pledged (as is the Italian Government) to remove fascists and to clear Italian administration and industry of fascism. Jb therefore is very much the concern of AOC.

5. The decree provides for the setting up in every Ministry of a commission which is responsible for investigating the political history and in appropriate cases dismissing or otherwise dealing with not only the officials of that Ministry down to junior officials in rural areas but of all employees of national concerns for which under Italian law the Ministries are responsible, again right down to the branch office.

6. At HQ AOC the appropriate Sub-Commission is responsible for ensuring that defascism is effectively carried out by these Commissions (col 2 of A/CC 250 of 15 Jul). Though these Sub Comms will be notified by the Ministerial Commissions of persons dismissed that will give them no picture of the persons remaining in Regions who ought to be but have not been dealt with, nor with the rate at which defascising is proceeding; for this information they must rely upon reports from Regions. At Regional level Regional Commissioner will be responsible for supervising the progress of defascising: he will ensure that his Divisional officers keep him and Sub-Comms fully informed of the progress of defascism and in particular report persons who should be but have not been dealt with and see that any dismissals ordered are effectively carried out.

2307

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

7. The decree also provides for the setting up in every province of a Provincial Commission which is responsible for dealing with the officers and employees of local bodies, welfare institutions and the like which are under the control of provinces or communes and do not come directly under any Ministry.

8. The responsibility for supervising the progress of defascisation by the Provincial Commissions devolves upon the Regional Commissioner. Instructions as to the returns required to enable progress to be watched will be the subject of a separate communication.

9. The usual distinction between military and Italian Government territory will apply; namely that in the former the responsible officer can direct the prefect to set up a commission and ensure that it functions; in the latter he can only advise and press. In the latter case if no satisfactory response is obtained, the matter will be reported so that HQ AGC (which has received the Italian Government's undertaking that defascisation will be dealt with expeditiously) can through that Government bring pressure to bear on the defaulting party.

10. It is important that as much progress as possible should be made in areas soon to be restored to the Italian Government. If it is possible to get provincial commissions formed and functioning before the Italian Government takes over, much time will be saved.

11. Nothing in this decree affects the right of a CA officer in Military Government territory to remove any Italian officials from their employment whether for fascism, incompetence, corruption or for any other reason.

In Army areas in particular, it is important that the directive contained in Exec Memo 67 should continue to be effectively applied.

NORMAN E. PERCE,
Colonel,
Deputy Executive
Commissioner.

Copy to : Acting Chief Commissioner.
Exec Sec (10)
Admin Sec (10)
Pol Sec (2)
Army Sub Comm (2)
Navy Sub Comm (2)
Air Sub Comm (2)
Communication Sub Comm (2)
Security Branch (2)
PRO (2)

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

[illegible] understanding that defascising will be dealt with expeditiously) can through that Government bring pressure to bear on the defaulting party.

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In Army areas in particular, it is important that the directive contained in Exec Memo 67 should continue to be effectively applied.

//

3

...

NORMAN S. FIELD,
Colonel,
Deputy Executive
Commissioner.

Copy to : Acting Chief Commissioner.
Room Sec (10)
Admin Sec (10)
Pol Sec (2)
Army Sub Comsn (2)
Navy Sub Comsn (2)
Air Sub Comsn (2)
Communication Sub Comsn (2)
Security Branch (2)
EMO (2)
File (2)

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

785016

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SERVIZIO DELL'ISTITUTO DELLA DENAZIFICAZIONE
(Amministrazioni di Stato)

Alla spett. Direzione _____

Spett.le Ufficio _____

Stato	Numero dei Dipendenti Impiegati Salariati	Assunti il Specialità Incarichi	Numero Straordinari Supplenti	Pro
(a)	(b) (c)	(d) (e)	(f)	(g)
I				
II				
III				
IV				
V				
VI				
VII				
VIII				
IX				
TOTALE				

NOTA BENE :-
Le colonne da (a) a (g) si riferiscono : (b e c) alle impiegati compresi (anche i coniugati) e (e) al personale di ruolo; (d e e) a quelli avventizi alle Commissioni Centrali.
Le colonne (a) (b) e (f) si riferiscono ai totali dei risultati sopra le diverse in modo da ricavare:
La colonna (a) indicherà soltanto il personale dei territori soggetti all'amministrazione Italia
La colonna (b e c) indicherà soltanto il personale dei territori soggetti all'amministrazione Italia
La colonna (g) indicherà il totale complessivo del personale di ruolo e non di ruolo.
Nella colonna (g) indicherà il totale complessivo del personale di ruolo e non di ruolo.
Nella colonna (g) indicherà il totale complessivo del personale di ruolo e non di ruolo.

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

PROGRESS REPORT
(State Department)

_____ Sub-Committee

Letter as to Ministry of_____
(Sub-Committee will make one return only for all matters dealt with by them)

GRADE	Employees Number Investigated		Separation Proceedings Initiated	Concluded	Appeals Lodged	Heard
(a)	(b)	(c)	(d)	(e)	(f)	(g)
I						
II						
III						
IV						
V						
VI						
VII						
VIII						
IX						
TOTAL						

I am of opinion that progress may be regarded as

Explanation :-
Cols b to g deal with proceedings in the Ministries in and of before Separation Commission of first i
Cols b to h deal with the results of separation adjusted by the results of appeals.
Col i will include only staff in the territory in which M. 153 is in full force.
Col j will include all persons against whom it is not intended to proceed.
All figures will show totals to date not the number of cases since the last return.

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((

DEPARTMENT PROGRESS REPORT
(State Department)

per period ending
15
30

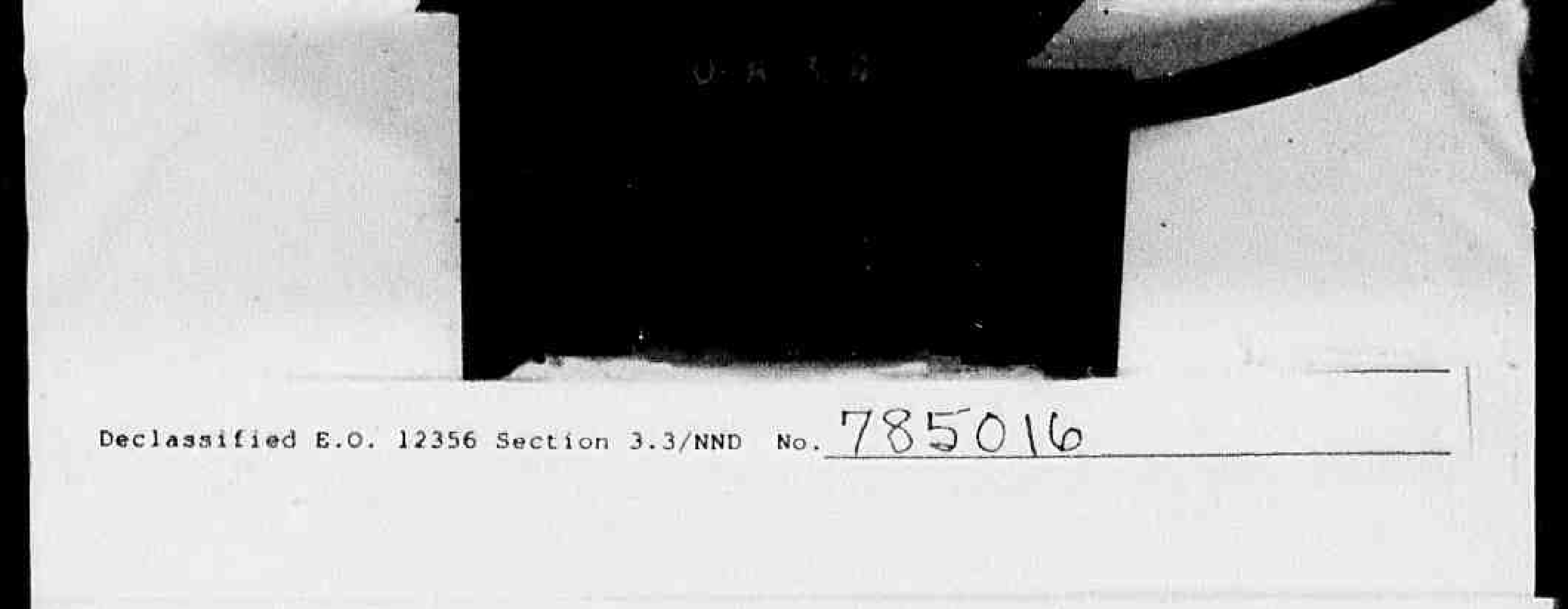
or all cases dealt with by ebum)

Employees Investigated	Separation Proceedings Initiated	Separation Proceedings Concluded	Appeals Lodged	Appeals Heard	Results Dismissed	Results Retired	Results Lesser Punishment
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)

egarded as

3d

the Regulations (b and c) before Separation Completion of first instance (c and f) and of appeal (f and g).
appellant adjusted to the results of appeals.
tendency in which it is in full force.
t when it is not intended to proceed.
ot the number of cases since the last return.



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

( ) ( ) ( )

DEFASCISM PROGRESS REPORT
(Bodies of National Importance)

_____ Sub-Comm'n

(return as to Ministry of _____
Sub-Comms will make one return only for all bodies dealt with by them)

	Employees Number Investigated	Expulsion Proceedings Initiated	Concluded	Appeals Lodged	Heard
(a)	(b)	(c)	(d)	(e)	(f)	(g)
HEAD OFFICE Directors Managers Deputy or Asst. Managers Works Managers Asst. or Deputy Works Managers Technical Staff Senior Technicians Senior Foremen BRANCH Managers Deputy or Asst. Managers Senior Technicians Works Managers Asst. Works Managers Senior Foremen						
TOTAL						

I am of opinion that progress may be regarded as

INSTRUCTIONS :-

1. Col a to deal with proceedings in the Ministries (b and c) before Expulsion Commission of first
2. Col d to deal with the results of appeals adjusted by the results of appeals.
3. Col e will include only staff in the factory to which II 150 is in full force.
4. Col e will include all persons against whom it is not intended to proceed.
5. The figures will show totals to date not the number of cases since the last return.

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

LOYALTY PROGRESS REPORT
(Bodies of National Importance)

For period ending
19
To _____

(All blocks dealt with by them)

Employees Not Investigated	Deportation Proceedings Initiated	Deportation Proceedings Concluded	Appeals Lodged	Appeals Heard	Results Dismissed	Results Retired	Results Lesser Punishment
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)

(Signed as _____)

(a) The Ministries (a and c) orders Deportation Decision of first instance (b and d) and of appeal (f and g).
(b) Not to be adjusted as the results of appeals.
(c) Secretary to state if 1(b) is in full force.
(d) Whether it is not intended to proceed.
(e) The number of cases since the last return.

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

APPUNTO SULL'ARGOMENTO DELLA PRESENTAZIONE
(Enti d'Importanza Nazionale)

Alla Sotto Commissione

Speciale Riguardante

(a)	Numero dei Dipendenti Impiegati assunti (b)	(c)	Gradini di Operaio Inizio (d)	Conclusi (e)	Incarichi Precedenti (f)	Attuali (g)
DIRIGENTI SUPERIORI Consiglieri d'Amministrazione Direttori Vice Direttori Direttori di Stabilimento Vice Direttori di Stabilimento Capi Reparti Tecnici Specializzati Capi squadra TECNICI Esecutivi Vice Esecutivi Impiegati Specializzati Direttori di Stabilimento Vice Direttori di Stabilimento Capi Reparto						
TOTALE						

23017

NOTAZIONI :-

Le colonne da (b) a (g) si riferiscono: (b e c) alle indagini compiute presso i Ministeri, (d e e) ai pro
tti Commissioni di Epurazione di prima istanza e (f e g) a quelli davanti alla Commissione Centrale.
Le colonne da (b) a (f) si riferiscono ai totali dei risultati dopo la decisione in sede di ricorso.
La colonna (a) indicherà la categoria del personale sul territorio soggetto all'Amministrazione Italia
La colonna (c) comprenderà anche il numero delle persone a carico nelle quali si intende procedere.
Tutte le altre indicazioni i totali relativi alla data cui lo specchio si riferisce e non quelli relativi
precedente tra la data di due segnalazioni successive.

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

SPECCHIO SULL'ANDAMENTO DELLA DENATURALIZZAZIONE
(Enti d'Importanza Nazionale)

Per il periodo fino al
15
20 _____

dei Dipendenti Enti esaminati	Giudizi di Sperequazione Inviati	Giudizi di Sperequazione Esaminati	Ricorsi Presentati	Ricorsi Esaminati	Ricorsi Rimasti	Totali Collocati a riposo	Totali Sanzioni minori
(c)	(d)	(e)	(f)	(g)	(h)	(i)	(k)

N.to _____

(d e) alle indagini compiute presso i Ministeri, (e ed f) ai procedimenti avanti
Commissione (f e g) a quelli davanti alla Commissione Centrale.
(colonna dei risultati sopo le decisioni in caso di ricorso.
(e precedente del territorio soggetto all'amministrazione Italiana.
(e delle persone a carico delle quali si intende procedere.
(ivi alla data cui lo specchio si riferisce e non quelli relativi al periodo
successivo.

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

CONSIGLIO DEI MINISTRI

July 25. 5 p.m. 1944

Dear Personal Report.

Back from Papey where I
found the whole of Rome [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible]

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0840

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Alta Commissaria: S.E. Sforza

Alti Commissari Aggiunti:

1) Funzione della M.: Bertinguer

2) Emergenza: E. Briganti
(già Commissione di Cassazione,
mai tenuta
mandato via la Guerra)

3) Prof. M. Regina: On. Cingolani
democ-cristiano

4) Beni Esteri: Stangoni (democ-liberale)

Alta Corte di giustizia: (?) 2301

Presidente: Casati (primo Presidente Cassazione)
Ferraudo, magistrato
Belfiore, magistrato
On. D. Rodinò
Reale, comunista ---

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

CONSIGLIO DEI MINISTRI

Roma, 26th of July, 1944.

Dear National Unity,

Since you have received Sforza's message -

and consider you are going to see him again - I send you now

a letter of mine to Allied Governments explaining to him what

I have told Bonomi and his Socialist friends.

Sforza yes

0842

Roma, 2e luglio, 1944.

Caro Togliatti,

Ieri a mezzo Secchiarroli le due stesse esitazioni - provenienti da senso del dovere - mi persuasero viepiu' che la sua collaborazione sarebbe ottima, anzi l'ottima.

Partendo da Napoli - ove ero soprattutto venuto per intendermi con lei e con il P.C. - trovo la sua sfi "sami in chiesa". Lei sapeva anche prima quanto cio' sia antitetico al mio pensiero: ma che altri fuor di me due - io possa credere mi renda ancor piu' cauto a non accettare il posto di Alto Commissario ove se avro' la collaborazione di Secchiarro e sua.

Il Consigliere di Cassazione Brigante cui Bonomi e io avevamo in passato pensato come Alto Commissario aggiunto per l'Epurazione mi ha dichiarato essere disposto, per deferenza verso di me e per dovere morale superiore, a andare sotto Secchiarro come semplice Commissario. E' un'idea di primissimo ordine che torna a favore Secchiarro e a me ogni ora che non sia direttiva. Per mio ordine e' gia' al lavoro per formare le Commissioni Ministeriali.

Ora lei e Secchiarro siete tutto. La mia dimissione e sostituzione sono nelle vostre mani. Mi dorrei di dover rifiutare anche perche' non vorrei che gli scioccchi e furbi credessero che voglio imbarazzare il P.C., con cui invece sarei felice di collaborare per la purificazione immediata dell'atmosfera italiana.

Il vostro

2293

P.S. - Ieri al Consiglio ristretto feci inserire all'ultimo momento nella legge una nuova frase che permettera' di far giudicare subito e severamente dall'Alta Corte molti colpevoli che altrimenti potrebbero sfuggire. Mi permisi dire ai colleghi senza portafoglio che, tornando da una lunga conversazione con lei a Napoli, ero certo del Suo consenso e della Sua approvazione.

0843