

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

785017

ACC

10000/109/577
(VOL. II)

Declassified E.O. 12356 Section 3.3/NND No. 785017

10000/107/577
(VOL. II)

MONTHLY REPORT, LEGAL SUB/COM
OCT. 1944 - DEC. 1946

785017

162.

162.
 The Ep. Comm. has seen the
 abridged Report of Legal Div. for
 October - so I don't suppose we
 will want to see the full report
 which is at files 165-161. W.E.
 J. W. P. M. 21/11 H.S. 22/11

Dec 21/11 H. F. Johnson

Ex Comm. 166

Ex Comm. 166.
Please see Legal & Monthly Report
for Nov. at folios 164-165. Presaged
of interest have been marked. NC
G. W. C. W. 18/12. JH 18/12
19/12

21181 841 21/12 18/12 21/12 18/12

143.
142 is Legal sub. monthly report
 for June. Passages of interest have
 been marked.
 G.M.C.M. 19/7

146.
 Ex Comm. Legal sub. Commission's Monthly report
 for July is at 144-145. This report was
 only received this morning. I compiled
 our report from CA Section's immediate Report
 for July, received on 12 of July.
 G.M.C.M. 26/7.

147.
 It should like all 76 to be circulated. G.M.C.M.
 15/7/68

150.
 Ex Comm. Legal sub. Commission's Monthly
 Report for August is at 147-149.
 Passages of interest have been
 marked.

14/9/68

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95 would like all of 6 to be included. Y 1000
 155/16/10

Ex Comm 150.
 Legal Sub. Commission monthly
 Report for August is at folios 147-149.
 Passages of interest have been
 marked.

G. m. c. m. 14/9. 155/16/9

Ex Comm 157.
 Legal Sub. Commission monthly Report
 for Sept. is at folios 158-159.
 Passages of interest have been marked.
 G. m. c. m. 15/10
 H. S. 19/10
 M. C. 21/10

Ex Comm.
 Legal Sub. Commission monthly Report for
 Oct. is at 157-159. Passages of
 interest have been marked.
 G. m. c. m. 18/11
 H. S. 18/11/11

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NOTE:-

1314

Ref Min 129, 130, & 133 referring to the COGENA Case.
 The summary up by the Court of the Cogen case received &
 filed with previous correspondence on file 5601/EC.

Thompson
 11/4/6

Ex Comm. 1346.

Legal & the monthly report for April is at 130.
 Passages of interest marked.

D. McCull 17/5 H.S. 17/5.

52

Mr [unclear]

Ex Comm. 138.

Legal Sub Commission monthly report for May
 is at 137. Passages of interest have been
 marked.

D. McCull 19/6 H.S. 20/6

43

139.

Summary para 11 is incorrect. Review in conference

WATG [unclear]

Dr [unclear]

Ex Comm: BB
 Legal Sub Commission monthly report for May
 is at 137. Passages of interest have been
 marked.

J. M. C. M. 19/6 J.S. 20/6

139.
 Subj para 11 is incorrect. Review is complete
 (AMG finance) W. (27)

140. 3034
 Legal S/C. Please see minute 139 above in regard to
 para " of your monthly report for May
 (folio 137)

J. M. C. M. 19/6
 Officer of the Exe. Comm.

141.

Ex. Comm. Ref. m. 139. The report should read.
 "Review of all AMG cases." This error is
 being corrected in monthly report for June legal S/C.
 J. M. C. M. 11/6

C.S.O. J. Land the Inter, 122

1. I should like a special info from CLO Livorno
to be in the situation referred in para 6 (p 27)
2. I should much like to see the summary of the President
of the Court in the Cogan Trial. Ask DCA to produce.

122/373

A/c.c.

130.

C.S.O. Rep M 109 above

(1) A letter has been written to CLO Livorno
requesting a report on situation referred to in
para 6 (p 27) see 131.

(2) The summary ~~is~~ referred to in (2) above
is in the process of being completed and
will be produced within the next two or
three days.

S. M. C. M. 2/4

M. 414

122/374

A/c.c.

133.

C.S.O. (P) legal S/c report for March at 132.
para 7 explains fairly well the situation in

Para 60 (p 27) re 131.

(2) The summing up referred to in (2) above is in the process of being completed and will be produced within the next two or three days.

G. m/c M 2/4 H.A. 414 NY 13/4

A.R.C.

133.

(6) Legal S/C report for March at 132. para 7 explains fairly well the situation in the Livorno Courts (which 129 para (1) refers to - no reply yet received to letter at folio 131. Hartman sent 7/6/4)

(2) Ref. m. 130 para 2. The legal S/C has had a shortage of typing staff hence delay in presentation of summing up. I have been assured by Col. Weber that it will be sent to us immediately. It is completed (LX is a very lengthy document.)

G. m/c M. 17/4. H.A. 18/4

NY 15/4

123.

Legal S.C.

Please see Minute 121 and forward your
Comments.
J. K. Sullivan, Major
CA Section.

26 Feb. 46.

124

CA Sect. Para 12 MO. Report:

"Of Course" referred to previous sentence calling attention to increase of work. The personnel promised by the new TO has never arrived. Col. Weber⁶² has been one month on General Court at Naples; Lt. Col. Hannaford has been north on business and Judge Thomas away on leave. Capt. Bern and the undersigned have been carrying on, but are both due for release 31 March 1946. For lack of proper rank much of the work of the undersigned must await the signature of Colonel Weber and I would estimate that he cannot complete in a solid week the work that has been placed on his desk, disregarding his other work.

Para 8 Mo. report:

The position in Udine is that there are about 90 AMG cases per month. There are two legal officers, one a major the other a 1st Lt. The Major can review only such cases as are tried by the Lt. The Major could not review his own trials but thus far none have been sent to this Hd. for review, except those sentences of over two years.

27 February 1946

Anthony P. Nugent
Anthony P. Nugent, Major
Chief Counsel.

125.

Ex. Comm.

Please see minute 124.

M. Campbell
M. Campbell, Major
CA Section.

28 Feb. 46. Discussed with Ex. Comm. 2/3.

H. H. 4/3

128

Chas. E. Sullivan
Chas. E. Sullivan, Major
CA Section.

Legal S/C report for February is at 127.
Passages of interest have been marked.
8/5 10/3

(2)

113

EXECUTIVE COMMISSIONER.

Reference minute No. 112.

Provision for such Board has been recommended by AC/AFHQ to the Joint Chiefs of Staff. Tentative arrangements have been made for personnel and the Board may be set up as a going concern on approval by the Joint Chiefs of Staff.

[Signature]

JOHN E. WEBER,
Colonel, Infantry,
Chief Legal Advisor.

LEGAL SUB-COMMISSION

28 December 1945.

[Signature] 114.

Please see 13 in answer to Ex. C's comment at 11. The provision for this board was contained in the Telegram to CCAC on the subject of the reorganization of AF.
P. 115 see for - f -

28/12.

[Signature] 30/12.

[Signature] 31/12.

28/12.

117.

Please see legal S/C report to December 1945. Paragraphs of interest are marked.

[Signature] 120.

in the Telegram to C.C.A.C. on the subject of the
 reorganization of A.C.
 P. 115 and 100 - f.

28/12.

30/12.

20/11

401.

CCO Ex.C

117.

Please see legal S/C report to December
 at 116. Paragraphs of interest are marked.
 28/12/11

Legal Ex. Comm.

120.

Legal S/C report to January is at 118-119
 Paragraphs of interest are marked 19/12. 118-119

CCO

121.

Para 8. What is the present position in London?
 Para 12. Why "of course" is understood?

122.

V.P. CAS,

Can you answer the Ex. Comm's question
 at 121 please. See 118-119. 118-119

785017

C80

P102 Play 7 has news of Valerio Valen. Para 5.

C.L.A.

105. 172/207x

Please see 104 above, referring to para 5 of Julio 102.
What is the present position as regards Valerio Valen?

C.A. Pic. CP

106

107. 29/10.

Signal was sent on Saturday to the Regional Commander, Virginia Region, informing him that the Petition had been denied.

13 Nov '25.

C80

107

Ref Ex. Co query at 104, please see 106, para 3 of 109.
108. 16/11.

Ref to Ex. Com. 20711

Ex. Com. 110.

Legal S/C October report at 109. Passages of interest are marked.

P.O. also see min 106 in reply

to go min. 104.

10

17/11

13 Nov 25

C.S.O.

107

Ref Ex. Co query at 104, please see 103.9 para 3 of 105 109.

36 to Ex. Com. 20/11

Ex. Com. 110

Legal S/C October report at 104. Passages of interest are marked.

PS. also see min 106 in reply to yr. min. 104.

17/11

10

C.S.O.

111

Clearly a reviewing Board is necessary 3028

17/11/11

C.H.A.

112

Please see 24. C's minute at 111, with reference to the delays being encountered in appeals. Your comments on his suggestion would be appreciated.

14/12

92.

Executive Commission

Please see 91. This is a good report.

W/C/S

D.L. 18/5/45

95.

C.S.O.

Please see Legal Sec. Report for May. Passages of interest have been marked.

D.L. 23/6/45 P. 24/6

97

C.S.O. Please see Legal Sec. report for June at 96. The delay in para 5. was taken up by the C.C. with the Station staff.

Box 24/7

W/C/S

27/7

99.

Executive Commission

Legal Sec. report for July is at 98. Passages of interest have

1724

97

C.S.O. Please see Legal S.C.'s report for June at 96. The delay in para 5. was taken up by the C.C. with the Station Govt.

Rec'd 24/7

Thank you

27/7

99

Executive Commission

Legal S/C report for July is at 98. Passages of interest have been marked. A good report.

3023

D.H.

22/8/45

23/8 noted. 2

Executive Commission

Please see Jolio 100. A very good report.

65. 2/10. 103.

27/11

Ex. Commission

Please see Legal S/C report at 93/24/80 19/10.

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72.

C.S.O.

To see. No comment.

WHR

80

8-10-81 PH 1/11

C.S.O.

To see Enco. 78.79 - No comment

C.O.S. (Ext. 457)
17/10/44

H. Mason J/can

C.O.S.

82

To see Enco. 81 - No comment

C.O.S. (WHR. 785)
3.1.45

HTT com 17 can

188/241

86.

Ex.C.

Please see legal S.C. report for January at 85.

Off of Ex.C.
27.2.45

D.H. 785/43

C.S.O.

88.

Legal S/C Report for February is at 87. Passages of interest have been marked but most of the information you was already.

MLH
86
Ex.C. Please see Legal S.C. report for January at 85.
Off of Ex.C. 27.2.45.
C.50. DL 23/43.

88.
Legal S.C. Report for February is at 87. Passages of interest contained in Report have been wanted but most of the information you know already.
DL 24/3. PA 24/3.

90
C.50. Please see Legal S.C. Report for November 87. A good report.
DL 23/4. SA 23/4

2603 *Q*
HEADQUARTERS ALLIED COMMISSION

APC 794

LEGAL DIVISION

LJG/ns
18 December 1946

AC/4043/L.

Abridged Monthly Report.

AMG Courts.

1. In the month of November Allied Military Government Courts were continued in session in Venezia Giulia and the Province of Udine. Superior and Summary Courts were in operation in the former place and Summary Courts in the latter.

2. In Venezia Giulia 95 accused persons were tried (as compared with 131 in October) on 105 charges (as compared with 141 in October) by Superior Courts, and 101 accused persons were tried (as compared with 180 in October) on 103 charges (as compared with 206 in October) by Summary Courts. A general improvement in the "good order" prevalent in this area during the past month may be indicated not only by substantial reduction in numbers of persons tried by the Courts there, but to some extent also by the nature of the offences with which they were charged and sentences imposed therefor. In the Superior Courts cases involving possession of firearms decreased in number from 21 in October to 11 in November. Out of the remaining total of cases tried in these Courts, 48 had to do with theft of UNRRA property. Only 3 of them resulted in sentences of as much as 2 years, the maximum imposed in any case. Of all cases tried by Summary Courts 38 pertained to unauthorized meetings, 18 to offences against good order, and 23 to theft and possession

with 141 in October) by Superior Courts. persons were tried (as compared with 180 in October) on 103 charges (as compared with 206 in October) by Summary Courts. A general improvement in the "good order" prevalent in this area during the past month may be indicated not only by substantial reduction in numbers of persons tried by the Courts there, but to some extent also by the nature of the offences with which they were charged and sentences imposed therefor. In the Superior Courts cases involving possession of firearms decreased in number from 21 in October to 11 in November. Out of the remaining total of cases tried in these Courts, 48 had to do with theft of UNRRA property. Only 3 of them resulted in sentences of as much as 2 years, the maximum imposed in any case. Of all cases tried by Summary Courts 38 pertained to unauthorized meetings, 18 to offences against good order, and 23 to theft and possession of property. In all of these sentences were very moderate, the average being between 1 and 2 months. In general, court calendars of the area are up to date, persons now in prison there awaiting trial having been confined for less than 2 weeks.

3. In the Province of Udine 11 cases were tried by summary Courts, all of which resulted in convictions. Charges in 6 of these cases were for theft and possession of Allied property.

Italian Courts and Italian Section.

4. Italian Courts generally are discharging their functions in satisfactory manner.

5. The Italian Section has continued to be busy

Pd. H. M. M.

- 2 -

with a large volume of matters almost as varied as they are numerous. These have included :

- a. Conferences with Italian governmental departments regarding removal of civil disabilities of persons sentenced by Allied Courts, procedure to be adopted in questioning Von Mackensen and Maeltzer as witnesses in the Pollastrini trial, release of members of the Italian Forces sentenced by AMG Courts, establishment of tax arrangements covering property of members of Allied Forces who died in Italy, and release to United States Forces of a member thereof held in custody by Italian judicial authorities.
- b. Preparation of legal opinions regarding requisition of private property in Pantelleria, recovery of vehicle hulks, General Orders in Venezia Giulia, persons dispersed under Nazi aggression, Italian electric companies in Tripolitania, personal property of the Tribunale Court of Rome, the legal status of the SA Naphtha and SLOP Companies, and matters arising currently in various departments of Allied Commission concerning the Armistice Agreement and Italian legislation.
- c. Correspondence concerning Yugoslavs detained in Italy, trials of War Criminals, the transfer of judicial officials, claims for traffic accidents, release of AMG prisoners on Conditional Liberty, thefts of Allied property, repatriation of judicial officials, interrogation of POW by Italian magistrates, recompense to families of shot parachutists, Italians involved in crimes against the U.S. Army, prisoners of Italian origin in the Dodecanese Islands, and Italian citizens sentenced by AMG Courts in Germany and since repatriated to Italy.
- d. Translation of Police reports, certificates, petitions

property of the Tribunalis Court of Assize, and matters status of the SA Naphtha and SLOP Companies, and matters arising currently in various departments of Allied Commission concerning the Armistice Agreement and Italian legislation.

- c. Correspondence concerning Jugoslavs detained in Italy, trials of War Criminals, the transfer of judicial officials, claims for traffic accidents, release of AMG prisoners on Conditional Liberty, thefts of Allied property, repatriation of Judicial officials, interrogation of POW by Italian magistrates, recompense to families of shot parachutists, Italians involved in crimes against the U.S. Army, prisoners of Italian origin in the Dodecanese Islands, and Italian citizens sentenced by AMG Courts in Germany and since repatriated to Italy.
- d. Translation of Police reports, certificates, petitions and other documents concerning AMG cases in process of review.

Extraordinary Courts of Assize.

6. In Venezia Giulia the Special Court of Assize disposed of 32 cases by trial during the month of November. Six of the persons so tried were convicted and the rest acquitted. Of these convicted 5 received sentences of between 5 and 10 years and 1 between 20 and 30 years. Special supervision established over the operations of this Court has obtained good results. On 30 November 1946, 15 cases were pending on the docket of this Court, as compared with 17 at the end of the month of October.

7. The Special Court of Assize of the Province of Udine tried 1 case during the month of November, and had 21 cases pending for trial at the end thereof, as compared with 25 on 25 October 1946.

General.

The undertaking of the Legal Division to make a check on all prisoners held in Italian jails under color of Allied authority, with the object of assuring that when the Allies leave Italy no persons will be so held without justification, is proceeding satisfactorily.


JOHN K. WEBER,
Colonel, Infantry,
Chief Legal Advisor.

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

785017

John K. Weber
JOHN K. WEBER,
Colonel, Infantry,
Chief Legal Advisor.

8-01

DEC 16 1948 165

2603 81

HEADQUARTERS ALLIED COMMISSION
APO 754
LEGAL DIVISION

AC/4043/L

16 December 1948

SUBJECT: Legal Division,
Monthly report of November, 1948

TO : Chief Commissioner, Allied Commission.

Legal Courts.

1. In the month of November Allied Military Government Courts were continued in session in Venezia Giulia and the Province of Udine. Superior and Summary Courts were in operation in the former place and Summary Courts in the latter.

2. In Venezia Giulia 95 accused persons were tried (as compared with 131 in October) on 105 charges (as compared with 141 in October) by Superior Courts, and 151 accused persons were tried (as compared with 180 in October) on 105 charges (as compared with 208 in October) by Summary Courts. A general improvement in the "good order" prevalent in this area during the past month may be indicated not only by substantial reduction in numbers of persons tried by the Courts there, but to some extent also by the nature of the offences with which they were charged and sentences imposed thereon. In the Superior Courts some involving possession of firearms disappeared in number from 21 in October to 11 in November. Out of the remaining ten, 10 were tried in these Courts, 48 had to do with theft of real property. Only 3 of them resulted in sentences of as much as 2 years, the maximum imposed in any case. Of all cases tried by Summary Courts 28 pertained to unauthorized meetings, 18 to offences against good order, and 23 to theft and possession of property. In all of these sentences were very moderate, the average being between 1 and 2 months. In general, court calendars of the area are up to date, persons now in prison there awaiting trial having been confined for less than 2 weeks.

3. In the Province of Udine 11 cases were tried by Summary Courts, all of which resulted in convictions. Charges in 6 of these cases were for theft and possession of Allied property.

were tried (as compared with 100 in October) by Summary Courts. A general improvement in the "good order" prevalent in this area during the past month may be indicated not only by substantial reduction in numbers of persons tried by the Courts there, but to some extent also by the nature of the offences with which they were charged and sentences imposed thereon. In the Superior Courts cases involving possession of firearms dropped in number from 21 in October to 11 in November. Out of the remaining total of cases tried in these Courts, 45 had to do with theft of Allied property. Only 3 of them resulted in sentences of as much as 2 years, the maximum imposed in any case. Of all cases tried by Summary Courts 38 pertained to unauthorized meetings, 16 to offences against good order, and 23 to theft and possession of property. In all of these sentences were very moderate, the average being between 1 and 2 months in general, court orderlies of the area are up to date, persons now in prison there awaiting trial having been confined for less than 2 weeks.

3. In the Province of Udine 11 cases were tried by Summary Courts, all of which resulted in convictions. Charges in 6 of these cases were for theft and possession of Allied property.

Italian Courts and Italian Section

4. Italian Courts generally are discharging their functions in a satisfactory manner.

3008

5. The Italian Section has continued to be busy with a large volume of matters almost as varied as they are numerous. These cases deal

a. Many conferences with officials of the Ministry of Public and Justice, the Office of the Procuratore Generale Militare, and other Italian governmental departments, concerning matters arising in this and other divisions of Allied Commission among the more important of which were the removal of civil disabilities in the case of persons sentenced by Allied Courts; procedure to be adopted in the questioning of von Mackensen and Mulbrier, requested by the Italian authorities to appear as witnesses in the Pollestrini trial

PP 19
12

CC Dist.

1- CC
1- Public Relations
1- Public Safety
1- Travel Rep
1- Working Unit

Pollestrini trial

- 2 -

in Rome; release of members of the Italian Armed Forces sentenced by AMG Courts, and procedure in connection therewith; drafting of a decree establishing certain tax arrangements covering property belonging to members of the Allied Forces who died in Italy; and release to United States Forces of a member thereof temporarily held in custody by Italian judicial authorities.

b. Preparation of legal opinions regarding requisition of private property in Pantelleria; recovery of vehicle hulks; General Orders of AMG in Venezia Giulia; persons dispersed under Nazi aggression; Italian electric companies in Tripolitania; personal property of the Tribunale to Court of Rome; the legal status of the SA Maghthas and Slog Companies; problems arising currently in the various departments of the Allied Commission as to interpretation of provisions of the Armistice agreement and Italian legislation and procedure.

c. Correspondence with the Ministry of Pardon and Justice concerning Yugoslav nationals detained in Italy; with the Theatre Judge Advocate, MOWSA, concerning various trials of War Criminals; with Hq. AMG Venezia Giulia re granting pardon and transfer of judicial officials, petitions for pardon and transmission of copies of the Italian Official Gazette and other documents; with the WFOC & D hearings regarding claims for traffic accidents; with the Ministry of Justice regarding release of AMG prisoners on Conditional Liberty; and regarding thefts of Allied property at Capri; railway thefts; repatriation of judicial officials; interrogation of POW by Italian Magistrates; repatriation to families of shot parachutists; Italians involved in crimes against the US Army; prisoners of Italian origin in the Dodecanese Islands; and Italian citizens sentenced by AMG Courts in Germany and since repatriated to Italy.

d. Translation of Police reports, medical certificates, petitions and other documents concerning AMG cases in process of review.

to interpretation of provisions of the Armistice agreement and Italian legislation and procedure.

- c. Correspondence with the Ministry of Pardon and Justice concerning Yugoslav actions is detained in Italy; with the Theatre Judge Adreosto, MINUSA, concerning various trials of War Criminals; with Hq. AMG Venezia Giulia re granting pardon and transfer of judicial officials, petitions for pardon and transmission of copies of the Italian Official Gazette and other documents; with the VPCC & D. Hq. Rome regarding claims for traffic accidents; with the Ministry of Justice regarding release of AMG prisoners on Conditional Liberty; and regarding thefts of Allied property at Capri; railway thefts; desertion of judicial officials; internment of POW by Italian Militaries; recompense to families of shot parachutists; Italians involved in crimes against the US Army; prisoners of Italian origin in the Dodecanese Islands; and Italian citizens sentenced by AMG Courts in Germany and since repatriated to Italy.
- d. Translation of Police reports, medical certificates, petitions and other documents concerning AMG cases in process of review.

Extraordinary Courts of Assize

6. In Venezia Giulia the Special Court of Assize disposed of 32 cases by trial during the month of November. Six of the persons so tried were convicted and the rest acquitted. Of those convicted, 5 received sentences of between 5 and 10 years and 1 between 20 and 30 years. Special supervision established over the operations of this Court has obtained good results. On 30 November 1946, 15 cases were pending on the docket of this Court, as compared with 17 at the end of the month of October.

7. The Special Court of Assize of the Province of Udine tried 1 case during the month of November, and had 21 cases pending for trial at the end thereof, as compared with 25 at 25 October 1946.

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General

8. The Chief Legal Officer, as usual, has been kept busily occupied attending to the numerous duties of his office during the past month. Among the more important of these may be mentioned participation in many conferences, presentation of legal opinions for the Chief Commissioner, dispensing advice to officials of other departments of the Commission regarding matters arising in the course of their routine, and performance of the judicial function in the final review of AMG cases. In addition, a trip was made by him to Trieste, at which place he held lengthy conferences with AMG officials of Venezia Giulia regarding action taken there in the matter of loans to industry, report of which has been duly rendered.

9. In order that it may be made certain that no individuals remain in Italian prisons under color of Allied authority without justification, upon departure of the Allies from Italy, the work of making a check of all prisoners now so held on Allied account, referred to in the last monthly report, has been continued by this Division. As this undertaking has progressed the importance of the results to be obtained therefrom has become more apparent. Through all of it runs some element of human interest. There are in Italy approximately 1,100 penal institutions, 117 of which contain prisoners for the account of the Allies. From Allied Military Government, Venezia Giulia, and from the Ministry of Pardon and Justice as to the rest of Italy, lists have been obtained which show prisoners in the following categories:

Serving sentences of Allied Military Courts	748
Awaiting trial by Allied Military Courts	74
Others	255
Total prisoners for Allied account	<u>1,077</u>

In this connection it has been revealed that some of these alleged to be serving AMG sentences are unknown to the Legal Division and that the names of others who should be in jail according to Legal Division records do not appear on lists received. Also it has been found that there are instances of two prisoners having the same name, of prisoners being reported as being in two prisons at the

Serving sentences of Allied Military Courts	746
Awaiting trial by Allied Military Courts	74
Others	255
Total prisoners for Allied account	<u>1,075</u>

In this connection it has been revealed that some of these alleged to be serving AMG sentences are unknown to the Legal Division and that the names of others who should be in jail according to Legal Division records do not appear on lists received. Also it has been found that the records are in two prisons at the same time, of prisoners who would have been brought to trial long since but have necessarily instead been confined in some way, and of a prisoner serving an AMG sentence in an Italian Army prison. In addition to causing adjustment of these matters, inquiries are being made, with the cooperation of the Public Safety Division, regarding persons held for security reasons, and a list of prisoners not identified as Legal Division cases has been submitted to G-2, AFHQ. Thus, finally it is expected that we may be satisfied that no prisoners remain in Italian jails for the account of the Allies except those held for war crimes and for security reasons, for whom AFHQ will acknowledge responsibility, and those actually serving AMG sentences.

John K. Weber
 JOHN K. WEBER
 Colonel, Infantry
 Chief Legal Adviser

HEADQUARTERS ALLIED COMMISSION

AWO 794

LEGAL DIVISION

10/4043/2.

ms
16 November 1946

SUBJECT : Legal Division,
Monthly report of October, 1946.

TO : Chief Commissioner, Allied Commission.

ALL COURTS.

1. During the month of October Allied Military Government Courts were again in session in Venezia Giulia and the Province of Udine. Both Superior and Summary Courts were convened in the former of these areas, and Summary Courts in the latter.

2. In Venezia Giulia 171 accused persons were tried (as compared with 92 in September) on 141 charges (as compared with 61 in September) by Superior Courts, and 205 accused persons were tried (as compared with 134 in September) on 180 charges (as compared with 144 in September) by Summary Courts. Among these cases tried before Superior Courts there were only 5 charges of prejudice to the good order, but a number of them involved aggravated instances of possession of arms and abduction. Three defendants in such latter cases received sentences respectively of 5, 7 and 8 years. Of the total of 141 charges dealt with in these courts 80 resulted in findings of not guilty. From these circumstances it may be appropriate to draw the inference that, though an abnormally troubled condition still exists in this area, at least for the present the forces of mob psychology have in large degree run their course. In the trials before Summary Courts charges of larceny and unlawful possession, violation of permit regulations and offences against the good order predominated. The bulk of the

NOV 18 1946
FILE 161

and 206 accused persons were in September) on 100 charges (as compared with 141 in September) by Summary Courts. Among these cases tried before Superior Courts there were only 5 charges of prejudice to the good order, but a number of them involved aggravated instances of possession of arms and abduction. These defendants in such latter cases received sentences respectively of 5, 7 and 8 years. Of the total of 141 charges dealt with in these courts 80 resulted in findings of not guilty. From these circumstances it may be appropriate to draw the inference that, though an abnormally troubled condition still exists in this area, at least for the present the forces of mob psychology have in large degree run their course. In the trials before Summary Courts charges of larceny and unlawful possession, violation of permit regulations and offences against the good order predominated. The bulk of the sentences imposed by these courts were for the period of 1 month or less.

3004

3. Fourteen cases were tried in the Province of Udine, all of which resulted in convictions by Summary Courts. Two of these involved offences of theft and possession of Allied property and 1 the possession of arms and ammunition.

Italian Courts and Italian Section

4. In general the Italian Courts continue to

EC Dist 21/11/46

PA 23

2 P.R.O.
1 C.P. D.
1 Fr. Rpt.
1 Ex. O. (S)
1 C.C. (S)

See Mem. 162

Glenn M. M.

perform satisfactorily. Owing to an existing backlog of cases in these courts in Venezia Giulia which involve confinement in excess of 8 months before trial, in spite of pressure brought to bear to cause disposition of them, it is planned to transfer all such matters remaining undisposed of by the end of November to ALG Courts trial. Originally these cases numbered about 50 and included offences ranging from larceny to murder. In view of this apparent delinquency it is intended shortly to inquire into the whole judicial system of this area with the object of seeking the removal of incompetent personnel.

5. The work of the Italian Section in all of its various aspects has continued undiminished. This has included:

- a. Numerous conferences with officials of the Ministry of Pardon and Justice and other agencies of the Italian Government regarding matters of general concern to this and other agencies of Allied Commission, and with Italian counsel concerning the draft of Italian Decrees in amendment of laws relating to marriage between Allied Nationals.
- b. Preparation of legal opinions regarding elements required under Italian law to establish charges of theft and attempt to commit this offence; validity of judgements of courts established during German occupation of Venezia Giulia, and their status in Italian territory in the post-occupational period; the bearing of International Law upon possible trial in Trieste (Zone "A") of persons charged with offences committed in Zone "B", now occupied by Yugoslav Military Forces; liability for payment of an Italian firm for work done on a machine delivered to Allied Naval authorities as war material; jurisdiction of Italian

Allied Commission; and with Italian counsel concerning the draft of Italian Decrees in amendment of laws relating to marriage between Allied Nationals.

b. Preparation of legal opinions regarding elements required under Italian law to establish charges of theft and attempt to commit this offense; validity of judgments of courts established during German occupation of Venezia Giulia, and their status in Italian territory in the post-occupation period; the bearing of International Law upon possible trial in Trieste (Zone "A") of persons charged with offenses committed in Zone "B", now occupied by Yugoslav Military Forces, liability for payment of an Italian firm for work done on a machine delivered to Allied Naval authorities as war material; jurisdiction of Italian Courts to try British and American merchant seamen for offenses committed in Italian ports, (including those in Venezia Giulia), and, in this connection, the right of Italian Police to go aboard merchant ships to make arrests, and the liability of British and American seamen to obey Italian Customs Laws, General Orders of the AMG in Venezia Giulia, and especially the promulgation of General Order 70 on the "Confiscation of Profits of the Fascist Regime"; operation of the Amnesty in Italian colonies now under BMA; transfer of Italian citizens, sentenced in Germany, to Italian prisons; and daily problems of the various departments of Allied Commission as to interpretation of provisions of the Armistice agreement and Italian legislation and procedure.

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c. Correspondence with the Ministry of Pardon and Justice and AFHQ regarding War Crimes, thefts of Allied property at Capri, railway thefts, and petitions for pardon in cases tried by Italian Courts in Udine Province; with the Civil Affairs Branch, GHQ, MEPP, and the Ministry of Pardon and Justice, concerning sentences imposed by Italian Courts in Tripolitania; with HQ. BIA in Asmara, and the Ministry of Pardon and Justice, regarding service of summonses on Italian citizens residing in Asmara, and the transmission of copies of the Italian Official Gazette and other documents, with the Town Major of Naples and the American Real Estate office of HQ. PDS on matters concerning requisition of property; and with the Ministry of Pardon and Justice regarding release of AMG prisoners on Conditional Liberty.

d. Translation of police reports, medical certificates, petitions and other documents concerning AMG cases in process of review.

Extraordinary Courts of Assise

The Special Court of Assise in Venezia Giulia has been continued in operation for a further period of 3 months from 3 November 1945. This Court disposed of 24 cases by trial during the month of October. Of the defendants convicted in these cases 3 received sentences of between 1 and 5 years, 2 between 5 and 10 years, 1 between 10 and 20 years and 2 between 20 and 30 years. At the end of October 23 cases stood on the docket of this Court for trial, as compared with 21 on the last day of September.

7. In the Province of Udine the Special Court of Assise tried 12 cases during the month of October. On the 25th of that month this Court had 25 cases pend-

6. Transmission of petitions and other documents concerning AMG cases in process of review.

Extraordinary Courts of Assize

4. The Special Court of Assize in Venice, which has been continued in operation for a further period of 3 months from 3 November 1946. This Court disposed of 24 cases by trial during the month of October. Of the defendants convicted in these cases 3 received sentences of between 1 and 5 years, 2 between 5 and 10 years, 1 between 10 and 20 years and 2 between 20 and 30 years. At the end of October 23 cases stood on the docket of this Court for trial, as compared with 21 on the last day of September.

7. In the Province of Udine the Special Court of Assize tried 12 cases during the month of October. On the 25th of that month this Court had 25 cases pending for trial as compared with 31 at the end of September.

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General

8. During the month of October the Chief Legal Officer continued to be actively engaged in the performance of the manifold duties of his office. As usual these included attendance at many conferences, advising officials of other departments of the Commission regarding matters arising in the course of their operations, and conduct of final review of AMG cases. They also concerned some reorganization of divisional activities with the object of enabling more effective and expeditious termination of the functions of this Division at

the time its mission shall have been fulfilled.

9. A number of persons now confined in Italian jails under Allied authority are not serving sentences of Allied Military Government Courts. It is known that the majority of such persons are being detained for security reasons. To ensure that persons other than those undergoing sentences of Allied Courts, or held for security reasons, are not being detained generally under pretended authority, an organized check is being made of the status of all persons in Italian Courts. This task has been assigned to a newly created section of the Legal Division. Report on this undertaking will be made as the results thereof become available.

JAMES E. WELLS,
Colonel, Infantry,
Chief Legal Advisor.

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HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL DIVISION

NOV 18 1946

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AC/4043/L.

IJC/m.
15 November 1946.

Abridged Monthly Report

AMG Courts

1. During the month of October Allied Military Government Courts were again in session in Venezia Giulia and the Province of Udine. Both Superior and Summary Courts were convened in the former of these areas, and Summary Courts in the latter.

2. In Venezia Giulia 131 accused persons were tried (as compared with 52 in September) on 141 charges (as compared with 61 in September) by Superior Courts, and 206 accused persons were tried (as compared with 134 in September) on 180 charges (as compared with 144 in September) by Summary Courts. Among these cases tried before Superior Courts there were only 5 charges of prejudice to the good order, but a number of them involved aggravated instances of possession of arms and abduction. Three defendants in such latter cases received sentenced respectively of 5, 7 and 8 years. Of the total of 141 charges dealt with in these courts 80 resulted in findings of Not Guilty. From these circumstances it may be appropriate to draw the inference that, though an abnormally troubled condition still exists in this area, at least for the present the forces of mob psychology have in large degree run their course. In the trials before Summary Courts charges of larceny and unlawful possession, violation of permit regulations and offences against the good order predominated. The bulk of the sentences imposed by these courts were for the period of 1 month or less.

3. Fourteen cases were tried in the Province of Udine, all of which resulted in convictions by Summary Courts. Two of these involved offenses of theft and possession of Allied property and 1 the possession of arms and ammunition.

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Italian Courts and Italian Section

4. In general the Italian Courts continue to perform satisfactorily. Owing to an existing backlog of cases in these courts in Venezia Giulia which involve confinement in excess of 8 months before trial, in spite of pressure brought to bear to cause disposition of them, it is planned to transfer all such matters remaining undisposed of by the end of November to AMG Courts for trial. Originally these cases numbered about 50 and included offenses ranging from larceny to murder. In view of this apparent delinquency it is intended shortly to inquire into the whole judicial system of this area with the object of seeking the removal of incompetent personnel.

5. The work of the Italian Section in all its various aspects has continued undiminished. Briefly, this has included:

- a. Numerous conferences with officials of the Ministry of Pardon and Justice and other agencies of the Italian Government regarding matters of general concern to this and other agencies of Allied Commission.
- b. Preparation of legal opinions regarding Italian laws, the judgements of Courts, General Orders, and the trial of persons in Venezia Giulia, trial of British and American merchant seamen by Italian Courts, the operation of the Amnesty in former Italian colonies and the transfer of Italian citizens, sentenced in Germany, to Italian prisons.
- c. Correspondence regarding War Crimes, thefts of Allied property, petitions for pardon, sentences imposed by Italian Courts in Tripolitania, service of summonses on Italian citizens in Asmara, the requisition of property and release of AMG prisoners on Conditional Liberty.

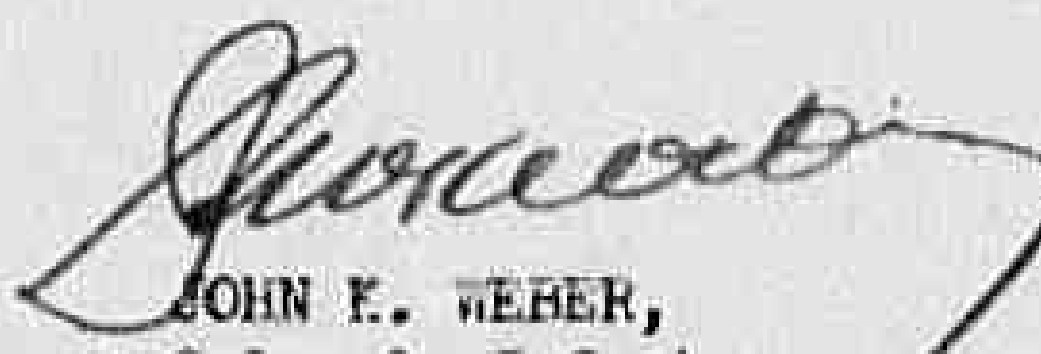
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- d. Translation of police reports, medical certificates, petitions and other documents concerning AMG cases in process of review.

Extraordinary Courts of Assize

6. The Special Court of Assize in Venezia Giulia has been continued in operation for a further period of 3 months from 8 November 1946. This Court disposed of 24 cases by trial during the month of October. Of the defendants convicted in these cases 3 received sentences of between 1 and 5 years, 2 between 5 and 10 years, 1 between 10 and 20 years and 2 between 20 and 30 years. At the end of October 23 cases stood on the docket of this Court for trial, as compared with 21 on the last day of September.

7. In the Province of Udine the Special Court of Assize tried 12 cases during the month of October. On the 25th of that month this Court had 25 cases pending for trial as compared with 31 at the end of September.


JOHN K. WEBER,
Colonel, Infantry,
Chief Legal Advisor.

terms. Seven of such defendants were referred against persons in view is the fact that the number of charges referred against persons from 103 Courts for offenses to the prejudice of the good order dropped from 103 during the month of August to 11 for the month of September. This circumstance, of course, may be considered as tending in line with some cessation of subversive activities in recent times in this area. As heretofore charges for offenses against the good order, in many, and unlawful possession were most prominent in trials before Summary Courts. In such cases the average sentence was for 1 month or less, only 4 defendants having been sentenced for 3 months or more. With reference to these Summary Courts it is of interest that cases on their calendars for the months of August and September are the lowest in numbers that have been experienced during the past 10 months.

3. In the Province of Maine 2 cases were tried before Superior Courts and 11 before Summary Courts. All of the defendants therein were found guilty. Among them 4 were charged with carrying and pass violations and 1 with possession of arms and ammunition.

Article Courts and Section

4. Italian Courts in general have apparently continued to function satisfactorily. In general Civil, because of failure to give earlier instructions given Local Civil Courts to dispose of cases involved in confinement in excess of 8 months, additional written notice was given to the judges such cases were tried by the end of November 1944. Applied ill-considered government policy as to jurisdiction over them. To remain such jurisdiction it is believed that these Local Courts will extend special effort to obtain desired results.

5. The Indian section has continued to be busy with a large volume of matters as diversified as:

- (1) preparation of legal opinions regarding the sale of
allied vehicles; the validity in certain territory

See
m 157.

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of sentences imposed in Venezia Giulia during the German occupation; the right of Italian authorities to requisition German owned property in Italy; claims relating to the cargo of the Steamship "Protestans"; on the procedure required to be followed in Italy in the case of detention before an Italian Court;

(2) A great deal of routine correspondence regarding numerous matters such as War Crimes, the interpretation of Allied proclamations in connection with Italian laws; the release of 15 prisoners on Condition of Liberty; the progress of various criminal trials concerning British POWs and soldiers; claims made by Italian soldiers, forgery of U.S. Naval bills; and, with the Ministry of Foreign Affairs, on the service of Court documents;

(3) Conferences in the Ministry of War and Justice regarding accelerating procedure of Italian tribunals in cases relating to offenses against Allied interests; the Ministry of the Treasury regarding restitution of certain gold sovereigns; and in various other Ministries concerning problems of this and other Sub-Commissions of Allied Commissions.

Extraordinary Court of Assize

6. In Venezia Giulia the Special Court of Assize tried 44 cases during the month of September. Of the 7 defendants convicted as a result of these trials 1 was given a sentence of between 1 and 5 years, 2 between 5 and 10 years, 1 between 10 and 20 years, 1 between 20 and 30 years, and one of life imprisonment. On 30 September 1947, 21 cases were docketed for trial in this Court, as contrasted with 51 at the end of the preceding month.

7. The Special Court of Assize of the Province of Udine tried 7 cases in the month of September and had 31 cases remaining on its docket at the end thereof, as contrasted with 25 on the last day of the month of August.

General

8. The Chief Legal Advisor, during the month of September, in addition to administering the affairs of his office in such matters as

concerning, progress of this trial of the Sub-Commission
of Allied Commission.

Extraordinary Court of Cassation

6. The Venetian Court of Cassation tried 44 cases during the month of September. Of the 7 defendants convicted as a result of these trials 1 was given a sentence of between 1 and 5 years, 2 between 5 and 10 years, 1 between 10 and 20 years, 2 between 20 and 30 years, and one of life imprisonment. On 30 September 1944, 21 cases were docketed for trial in this Court, as contrasted with 51 at the end of the preceding month.

7. The Special Court of Cassation of the Province of Trieste tried 7 cases in the month of September and 31 cases remaining on its docket at the end thereof, as contrasted with 25 on the last day of the month of August.

General

8. The Chief Legal Advisor, during the month of September, in addition to administering the affairs of his office in such matters as giving advice to other Sub-Commissions, attending numerous conferences, and making final review of cases, sat as a member of the Military Commission in the trial of the Crises case at Florence.

9. When the review of long term sentences imposed by Allied Military Government Courts was undertaken by the Legal Sub-Commission, one ultimate objective was to make certain that upon completion of the task there would remain in Italian jails under long sentences only prisoners whose status was fully confirmed by appropriate records. This situation has now been reached wherein realization of this objective is in sight. Special work on this project has been started, and in the near future, upon completion of case reviews still remaining to be disposed of, it may be announced with finality that prisoners then serving sentences of Allied Military Courts are held under specific bona fide authority.

10. The ground work having been laid for such action there also

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Declassified E.O. 12356 Section 3.3/NND No. 785017

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has been undertaken the work on preparation of a consolidated catalogue to cover all A.P. cases tried in the Southern Region of Italy, to replace the inadequate system in this connection now available.

[Signature]
JOHN W. ELLER,
Colonel, Ref. Atty.,
Chief Legal Advisor.

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

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HEADQUARTERS ALLIED COMMISSION

JPO 794

LEGAL SUP-COMMISSION

AC/4043/L.

LSC/ra.
14 October 1946.Abridged Monthly Report.

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ALL Courts

1. Allied Military Courts continued in session during the month of September in Venezia Giulia and the Province of Udine. Superior and Summary Courts were held within both of these jurisdictions.

2. In Venezia Giulia a total of 52 accused were tried (as compared with 123 in August) on 41 charges (as compared with 166 in August) by Superior Courts, and 134 accused were tried (as compared with 139 in August) on 144 charges (as compared with 149 in August) by Summary Courts. In the cases disposed of before Superior Courts there were 17 charges for possession of firearms and ammunition. One of the defendants in these cases was sentenced to imprisonment for 5 years, 3 for 18 months, 2 for 1 year and 3 for minor terms. Seven of such defendants were found Not Guilty. Worthey of note is the fact that the number of charges preferred against persons in these Courts for offenses to the prejudice of the good order dropped from 103 during the month of August to 11 for the month of September. This circumstance, of course, may be considered as falling in line with some cessation of subversive activities in recent times in this area. As heretofore charges for offenses against the good order, larceny, and unlawful possession were most prominent in trials before Summary Courts. In such cases the average sentence was for 1 month or less, only 4 defendants having been sentenced for as much as 6 months. With reference to these Summary Courts it is of interest that cases on their calendars for the months of August and September are the lowest in number that have been experienced during the past 10 months.

3. In the Province of Udine 2 cases were tried before Superior Courts and 12 before Summary Courts. All of the defendants therein were found Guilty. Among them 4 were charged with currency and

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compared with 123 in August) on charges of possession of firearms (as in August) by Superior Courts, and 134 accused were tried (as compared with 139 in August) on 144 charges (as compared with 149 in August) by Summary Courts. In the cases disposed of before Superior Courts there were 17 charges for possession of firearms and ammunition. One of the defendants in these cases was sentenced to imprisonment for 5 years, 3 for 18 months, 2 for 1 year and 3 for minor terms. Seven of such defendants were found Not Guilty. Worthily of note is the fact that the number of charges preferred against persons in these Courts for offenses to the prejudice of the good order dropped from 183 during the month of August to 11 for the month of September. This circumstance, of course, may be considered as falling in line with some cessation of subversive activities in recent times in this area. As heretofore charges for offenses against the good order, larceny, and unlawful possession were most prominent in trials before Summary Courts. In such cases the average sentence was for 1 month or less, only 4 defendants having been sentenced for as much as 6 months. With reference to these Summary Courts it is of interest that cases in their calendars for the months of August and September are the lowest in number that have been experienced during the past 10 months.

3. In the Province of Udine 2 cases were tried before Superior Courts and 23 before Summary Courts. All of the defendants therein were found Guilty. Among them 4 were charged with curfew and pass violations and 1 with possession of arms and ammunition.

Italian Courts and Italian Section.

4. Italian Courts in general have apparently continued to function fairly satisfactorily. In Venezia Giulia, because of failure to comply with earlier instructions given Local Civil Courts to dispose of all cases involving confinement in excess of 8 months, additional written notice was given that unless such cases were tried by the end of November 1946 Allied Military Government would assume jurisdiction over them. To retain such jurisdiction it is believed that these Local Courts will extend special effort to obtain desired results.

See M 154.

See # 155-156

P.A. 21/1/56

(Second M.N.)

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In Venezia Giulia the Special Court of Assize tried 44 cases during the month of September. Of the 7 defendants convicted as a result of these trials 1 was given a sentence of between 1 and 5 years, 2 between 5 and 10 years, 1 between 10 and 20 years, 2 between 20 and 30 years, and one of life imprisonment. On 30 September 1946, 21 cases were docketed for trial in this Court as contrasted with 31 at the end of the preceding month. The Special Court of Assize of the Province of Udine tried 7 cases in the month of September and had 31 cases remaining on its docket at the end thereof as compared with 25 on the last day of the month of August.

5. The Italian Section has continued to be busy with a large volume of matters as diversified as:

- (1) Preparation of legal opinions regarding the sale of Allied vehicles; the validity in Italian territory of sentences imposed in Venezia Giulia during the German occupation; the right of Italian Authorities to requisition American owned property in Italy; claims relating to the cargo of the Steamship "Prometheus"; and the procedure required to be followed in bringing a charge of defamation before an Italian Court;
- (2) A great deal of routine correspondence regarding numerous matters such as War crimes; the interpretation of Allied Proclamations in connection with Italian Laws; the release of 300 prisoners on Conditional Liberty; the progress of various War Crime trials concerning British POWs and soldiers; claims made by Italian shopkeepers; forgery of U.S. Naval bills; and, with the Ministry of Foreign Affairs, on the service of Court documents;
- (3) Conferences with the Ministry of Pardon and Justice regarding accelerating the procedure of Italian Tribunals in cases relating to offenses against Allied interests; the Ministry of the Treasury regarding restitution of certain sold sovereigns; and with various other Ministries concerning problems of this and other Sub-Commissions of Allied Commission.

of Allied proclamations in connection with Italian laws; the release of AMG prisoners on Conditional Liberty; the progress of various War Crimes trials concerning British POWs and soldiers; claims made by Italian shopkeepers; forgery of U.S. Naval bills; and, with the Ministry of Foreign Affairs, on the service of Court documents;

- (5) Conferences with the Ministry of Pardon and Justice regarding accelerating procedure of Italian tribunals in cases relating to offenses against Allied interests; the Ministry of the Treasury regarding restitution of certain sold sovereigns; and with various other Ministries concerning problems of this and other Sub-Commissions of Allied Commission.

General

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6. The Chief Legal Advisor during the month of September, in addition to administering the affairs of his office in the giving of advice to other Sub-Commissions, attending numerous conferences, and making final review of AMG cases, sat as a member of a Military Commission in the trial of a War Crimes case at Florence.

7. The ground work now being laid for such action new projects were instituted by this Sub-Commission, during the past month, having as their objectives:

- (1) Preparation of a consolidated catalogue to cover all AMG cases tried in the Southern Region of Italy, to

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(2) replace the inadequate system now available, and
Through coordination with the Italian Ministry of
Pardon and Justice, establishment of a system which
will currently show the numbers and status of persons
confined in Italian jails under sentences of AHC
Courts, in view of power vested in the Italian Govern-
ment to grant conditional liberty in such cases and
of normal expiration of sentences.

John E. Fisher
JOHN E. FISHER,
Colonel, Infantry,
Chief Legal Advisor.

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HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB COMMISSION

AC/4043/L

13 September 1946 /ns

SUBJECT : Legal Sub-Commission,
Monthly Report of August, 1946.

TO : Chief Commissioner, Allied Commission.

AMG Courts.

1. Allied Military Courts were in session during the month of August in Venezia Giulia and the Province of Udine. Both Superior and Summary Courts were held in the former place and Summary Courts in the latter.

2. In Venezia Giulia a total of 128 accused were tried (as compared with 108 in July) on 166 charges (as compared with 140 in July) by Superior Courts, and 139 accused were tried (as compared with 120 in July) on 149 charges (as compared with 137 in July) by Summary Courts. Owing to the continued unsettled conditions in this area further increase in the number of cases tried by Superior Courts is noted. Of the total of 166 charges preferred in these courts 93 of them were for offences against the good order resulting in sentences of 3 months or less. Thirty-three of these charges were for possession of firearms and ammunition. Eleven of the accused in such cases were treated with some severity, receiving sentences of from 1 to 4 years. In the Summary Court trials charges for offences against the good order, larceny and unlawful possession again predominated. With the exception of one of these cases, in which imprisonment for 6 months was imposed, sentences were for 1 month or less. Thirty-seven defendants were found Not Guilty of charges preferred against them in these Courts.

accused were tried (as compared with 120 in July) on 149 charges (as compared with 137 in July) by Summary Courts. Owing to the continued unsettled conditions in this area further increase in the number of cases tried by Superior Courts is noted. Of the total of 166 charges preferred in these courts 93 of them were for offences against the good order resulting in sentences of 3 months or less. Thirty-three of these charges were for possession of firearms and ammunition. Eleven of the accused in such cases were treated with some severity, receiving sentences of from 1 to 4 years. In the Summary Court trials charges for offences against the good order, larceny and unlawful possession again predominated. With the exception of one of these cases, in which imprisonment for 6 months was imposed, sentences were for 1 month or less. Thirty-seven defendants were found Not Guilty of charges preferred against them in these Courts.

3. In the Province of Udine a total of 5 cases were tried, each by Summary Court, all of which resulted in convictions. In 3 of these the charges were for theft and possession of Allied property.

Italian Courts and Italian Section.

4. Italian Courts generally seem to have functioned with reasonable satisfaction.

5. The work of the Italian Section continued unabated in diversity and quantity. It included (1) preparation of opinions regarding claims of the Republic of San Marino and Santa Colnata against the Allied Forces, Jugo-

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See 7-150

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slav and Greek claims for restitution of property and damages, cases of Allied merchant seamen, legislation in Venezia Giulia, UFFRA goods stolen in Trieste, the status of Allied companies in Libya and Tripolitania, and the status of Allied Italian officials and companies in the Dodecanese Islands; (2) voluminous correspondence with G-5, AFHQ, on fishing rights in the Adriatic, jurisdiction of AMG Courts in Venezia Giulia, French War Criminals, and progress of trials in Italian Courts, with the Ministry of Justice and Italian Courts on the trial of various Italian civilians, charged with War Crimes, who had previously escaped Allied justice, and pertaining to implementation of Italian laws and decrees in Udine Province; (3) conferences with Italian counsel regarding amendments of Italian laws concerning marriage between Allied nationals, the Ministry of Justice regarding War Crimes, the Italian Patent Office regarding patents and trade marks, on behalf of the U.S. Patent Office, the Procura Generale Militare and the Special Court of Assize regarding the case of Rite ZUCCH (Axis Sally), and with the Ministry of Justice, for the American Judge Advocate General, concerning thefts of Allied property; (4) translations of laws and legal documents for the Allied Embassy, and of police reports, statements and documents to enable the Italian Courts to initiate penal proceedings against persons who have previously escaped Allied justice; and (5) research work on Italian commerce regulations made for the Economic Section.

Extraordinary Courts of Assize.

6. In Venezia Giulia 48 cases were tried before the Special Court of Assize in the month of August. Of the defendants convicted in 6 of these cases, 1 received a sentence between 1 and 5 years, 4 between 5 and 10 years and 1 between 20 and 30 years. At the end of the month 51 cases were standing on the docket of this Court for trial, as compared with 93 so pending at the end of the month of July.
7. Fifteen cases were handled by the

who have previously escaped Allied justice; and (5) research work on Italian commerce regulations made for the Economic Section.

Extraordinary Courts of Assize.

6. In Venezia Giulia 48 cases were tried before the Special Court of Assize in the month of August. Of the defendants convicted in 6 of these cases, 1 received a sentence between 1 and 5 years, 4 between 5 and 10 years and 1 between 20 and 30 years. At the end of the month 51 cases were standing on the docket of this Court for trial, as compared with 93 so pending at the end of the month of July.

7. Fifteen cases were handled by the Special Court of Assize of the Province of Udine in the month of August. Eleven of these were actually tried, 3 were transferred to other Courts for trial, and one resulted in dismissal of the accused without trial. Twenty-five cases were awaiting trial on the docket of this Court on 31 August 1946 as compared with 41 such cases at the end of the preceding month.

General.

8. During the past month the Chief Legal Advisor has been continuously engaged with such routine affairs of his office as giving advice to the different Sub-Commissions, attending numerous conferences, and making final review of cases tried by AMG Courts.

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9. The routine review of AMG cases has been continued in accordance with plan and the usual large volume of correspondence, relating in major part to requests for information regarding cases tried by AMG Courts and advice concerning procedure to be followed therein, has been handled.

10. Numerous letters directed to higher and other authority, urging clemency for detained persons, are being forwarded to this office for consideration. In quite a number of such cases the supplicant has simultaneously written to several sources seeking relief. Each such forwarding agency, of course, expects a reply regarding the status of the matter concerned. The multiplication of correspondence entailed in handling matters of this kind places additional strain on the reduced personnel of the office, now limited to numbers required for normal routine. Many of these communications concern prisoners undergoing long terms of imprisonment in Italian felon prisons upon conviction of violation of provisions of our Proclamations regarding spies. It is considered that such convictions may be in conflict with well established principles of International Law which recognize the right of belligerents to employ spies or other secret agents in obtaining information regarding the enemy. Thus, resort to that practice involves no offence against International Law. Spies are punished not as violators of the laws of war but rather to render their use in obtaining information as dangerous, difficult and ineffective as possible for the enemy. For this reason the killing of spies is a lawful act of belligerents comparable to the killing of enemy soldiers in combat. Neither are killed as punishment for crime. This proposition is well expounded in "Rules of Land Warfare". Field Manual 27-10, War Department, United States, paragraphs 203 and 209. Therefore, the opinion is held that provisions of our proclamations for long term felon imprisonment of unexecuted spy offenders may be a departure from established rules of International Law. From our standpoint the same result might be obtained by keeping such persons in detention camps as persons dangerous to our security. Captured enemy soldiers

their use in obtaining information as dangerous, difficult and ineffective as possible for the enemy. For this reason the killing of spies is a lawful act of belligerents comparable to the killing of enemy soldiers in combat. Neither are killed as punishment for crime. This proposition is well expounded in "Rules of Land Warfare". Field Manual 27-10, War Department, United States, paragraphs 203 and 209. Therefore, the opinion is held that provisions of our proclamations for long term felon imprisonment of unexecuted spy offenders may be a departure from established rules of International Law. From our standpoint the same result might be obtained by keeping such persons in detention camps as persons dangerous to our security. Captured enemy soldiers are so detained, not imprisoned. The cases of these prisoners remain in status quo pending a final decision on this proposition by G-5, AFHQ.

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JOHN K. WEBER,
Colonel, Infantry,
Chief Legal Advisor.

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HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB COMMISSION

AC/4047/L.

/ns
19 August 1946

SUBJECT : Legal Sub Commission,
Monthly report of July, 1946.

TO : Chief Commissioner, Allied Commission.

AMG Courts.

1. Allied Military Courts were in session during the month of July in Venezia Giulia and the Province of Udine. Superior and Summary Courts were held in both of these areas, and a General Court was convened in the former at Trieste.

2. In Venezia Giulia a total of 103 accused were tried (as contrasted with 44 in June) on 140 charges (as contrasted with 62 in June) by Superior Courts, and 120 accused were tried (as contrasted with 262 in June) on 137 charges (as contrasted with 290 charges in June) by Summary Courts. The increase in the number of cases tried before Superior Courts may be attributed largely to civil disturbances which have occurred in this location in recent times. This conclusion is supported by the fact that of the total of 140 charges preferred in these Superior Courts 103 pertained to offences against good order. Larceny, unlawful possession of property and offences against good order made up the bulk of charges preferred in Summary Courts.

3. The General Military Court at Trieste presided over by the Chief Commissioner.

2. In Venezia Giulia a total of 103 accused were tried (as contrasted with 44 in June) on 140 charges (as contrasted with 62 in June) by Superior Courts, and 120 accused were tried (as contrasted with 262 in June) on 137 charges (as contrasted with 290 charges in June) by Summary Courts. The increase in the number of cases tried before Superior Courts may be attributed largely to civil disturbances which have occurred in this location in recent times. This conclusion is supported by the fact that of the total of 140 charges preferred in these Superior Courts 103 pertained to offences against good order, Larceny, unlawful possession of property and offences against good order made up the bulk of charges preferred in Summary Courts.

3. The General Military Court at Trieste, presided over by the Chief Legal Officer A.C., after lengthy trial acquitted 7 defendants, all members of the Venezia Giulia Police Force, charged with homicide and inflicting personal injuries by reason of having fired into a crowd of persons to quell a disturbance.

4. In the Province of Udine a total of 51 cases were tried before Superior and Summary Courts. Of this number 34 trials by Superior Courts all resulted in convictions. In 2 of the 17 cases tried by Summary Courts the accused were acquitted.

EC DIST - 26/8/46

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See M-1467

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P. 2

(7/10/46 m.m.)

Italian Courts and Italian Section.

5. The Italian Courts continue to function reasonably well. To expedite disposition of some 250 cases awaiting trial in Venezia Giulia an Officer has been specially appointed locally to maintain contact with Italian Courts there. The greater part of these cases stand for hearing before the Tribunal, a court having jurisdiction over cases of intermediate importance.

6. The Italian Branch was active during the month of July, and among the legal matters which necessitated dealings with the Ministry of Justice and other Italian authorities may be listed:

Status of Allied merchant seamen in Italy, sales of bulls during the administration, implementation of Italian laws and decrees in Udine Province, claims from the Republic of San Marino, Principlality of Monaco, the Greek Delegation and various private concerns, seignioring rights of Italian fishermen in Yugoslav waters, claims by the Yugoslavs for restoration of shipping seized by Italians and a number of other Yugoslav claims, legislation in Venezia Giulia, extent of the Amnesty, rights of stateless Jews, alleged war criminals in Zone A claimed by Yugoslavs. Conferences at the Ministry of Justice regarding amendments required in Italian law relating to marriages between Allied Nationals; correspondence relating to War Crimes, correspondence with the Procuratori Generali of various tribunals regarding trials where Allied interests are concerned; transmission of petitions from persons convicted of War Crimes for consideration by the appropriate authorities, and correspondence with Procuratore Generale Militare. Considerable work is given to this Branch in the preparation of memoranda requested by the Ministry of Justice for the release of A.M.G. prisoners on conditional liberty.

Principality of Monaco, the Greek delegation on various private concerns, sailing rights of Italian fishermen in Yugoslav waters, claims by the Yugoslavs for the restoration of shipping seized by Italians and a number of other Yugoslav claims; legislation in Venezia Giulia; extent of the Amnesty; rights of stateless Jews; alleged war criminals in Zone A claimed by Yugoslavs. Conferences at the Ministry of Justice regarding amendments required in Italian law relating to marriages between Allied Nationals; correspondence relating to War Crimes; correspondence with the Procuratori Generali of various tribunals regarding trials where Allied interests are concerned; transmission of petitions from persons convicted of War Crimes for consideration by the appropriate authorities, and correspondence with Procuratore Generale Militare. Considerable work is given to this Branch in the preparation of memoranda requested by the Ministry of Justice for the release of A.M.G. prisoners on conditional liberty.

7. Legal opinions were prepared concerning various points of Italian Commercial Law and marriage law, translations of laws and legal documents were made for the Allied Embassies; proper Italian Authorities were contacted to clarify the position of British interests in some Italian firms and continuous correspondence was carried on with the Italian jails.

8. Written legal opinions were supplied to various agencies on most of the questions above-mentioned

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- 3 -

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including APAC, the various Sub Commissions concerned, on daily problems, and Italian and Yugoslav authorities, regarding interpretation of the Armistice and other instruments complementary thereto.

Extraordinary Courts of Assize.

9. In Venezia Giulia 28 cases were tried before the Special Court of Assize during the month of July. Eight of these trials resulted in conviction, 4 in acquittal, and 3 in other disposition. Of the defendants convicted 2 received sentences between 1 and 5 years, 4 between 5 and 10 years, and 2 between 10 and 20 years. Ninety cases were standing on the docket of this court for trial as of 31 July 1946.

10. Thirty-six cases were handled by the Special Court of Assize of the Province of Udine during the month of July, 4 of which were finally adjudicated and 32 of which resulted in dismissal. At the end of the month 41 cases were on the docket of this Court awaiting trial.

Gentile.

11. The Chief Legal Officer, in addition to giving advice to the various Sub-Commissions and attending many conferences, presided at the trial by General Military Court at Trieste of the case of 7 members of the Venezia Giulia Police Force referred to in paragraph 3 hereof.

12. The usual large volume of correspondence has been handled by all branches of the Sub-Commission and review of AMG cases has continued systematically.

13. While the Board of Review is making substantial progress, these cases wherein citizens are

ing trial.

General.

11. The Chief Legal Officer, in addition to giving advice to the various Sub-Commissions and attending many conferences, presided at the trial by General Military Court at Trieste of the case of 7 members of the Venezia Giulia Police Force referred to in paragraph 3 hereof.

12. The usual large volume of correspondence has been handled by all branches of the Sub-Commission and review of AMG cases has continued systematically.

13. While the Board of Review is making substantial progress on those cases wherein prisoners are known to be in jail under lawful AMG sentences, the ultimate goal of accounting for every person in Italian Jails under color of Allied authority must receive attention. Through process of elimination it now appears that 101 persons are being detained in Italian prisons under Allied authority other than judgement of an AMG Court. Only by painstaking inquiry into each case may the lawfulness of such detention be finally determined. This inquiry is now underway. The legal Sub-Commission makes no forecast concerning the ultimate results to be expected in this connection. /.

- 4 -

From observations made it presently appears that some of these persons may be unjustifiably detained. It is submitted that this inquiry should be completed ere the Allies depart from Italy.

John A. Weber
JOHN A. WEBER,
Colonel, Infantry,
Chief Legal Advisor.

2603 / 21
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HEADQUARTERS ALLIED COMMISSION
APC 794
LEGAL SUB-COMMISSION

/md.

12 July 1946.

JUL 13 1946

AC/4043/L.

SUBJECT : Legal Sub-Commission, Monthly
Report of June, 1946.

TO : Chief Commissioner, Allied Commission.

LEGAL COURTS.

1. Allied Military Courts were in session in VENEZIA GIULIA and UDINE Province. Superior and Summary Courts were held in both VENEZIA GIULIA and UDINE. In VENEZIA GIULIA a total of 44 accused (86 in May) were tried on 62 charges (115 in May) in Superior Courts and 260 accused (450 in May) were tried on 290 charges (595 in May) in Summary Courts during June. In addition to this noticeable reduction in cases tried it is noteworthy that the number of pending cases continues to decrease. In the TRIESTE Area 330 cases were pending at the end of April, 100 at the end of May and there are only 53 cases pending at the end of June with no accused in jail awaiting trial. In the GORIZIA Area there are 25 cases pending trial with 14 accused in jail and in the PUL. Area 4 persons are in jail awaiting trial.

2. Twentytwo cases of which 2 were Superior Court cases, were tried in UDINE Province during the period 29 May to 26 June, 1946. Of the Superior Court cases tried one resulted in conviction and one in acquittal; of the Summary Court cases 3 resulted in acquittals and 17 in convictions.

ITALIAN COURTS AND ITALIAN SECTION.

3. Italian Courts are functioning generally with reasonable satisfaction. In VENEZIA GIULIA the Ordinary Court of Assize has

1. Allied Military Courts were in session in VENEZIA GIULIA and UDINE Province. Superior and Summary Courts were held in both VENEZIA GIULIA and UDINE. In VENEZIA GIULIA a total of 44 accused (86 in May) were tried on 62 charges (145 in May) in Superior Courts and 260 accused (450 in May) were tried on 296 charges (505 in May) in Summary Courts during June. In addition to this noticeable reduction in cases tried it is noteworthy that the number of pending cases continues to decrease. In the TRIESTE area 330 cases were pending at the end of April, 100 at the end of May and there are only 53 cases pending at the end of June with no accused in jail awaiting trial. In the GORIZIA area there are 25 cases pending trial with 14 accused in jail and in the PORDENONE area 4 persons are in jail awaiting trial.

2. Twentytwo cases of which 2 were Superior Court cases, were tried in UDINE Province during the period 29 May to 26 June, 1946. Of the Superior Court cases tried one resulted in conviction and one in acquittal; of the Summary Court cases 5 resulted in acquittals and 17 in convictions.

ITALIAN COURTS AND ITALIAN SECTION.

3. Italian Courts are functioning generally with reasonable satisfaction. In VENEZIA GIULIA the Ordinary Court of Assize has recessed for vacation and tried no cases during the month of June. As this Court has jurisdiction of the more serious criminal cases and as, in the usual practice, no cases would be heard until the latter part of August the Chief Legal Officer has directed a request to the Court Officials to institute a special term of Court to dispose of some of the 15 cases pending in June during the month of July.

4. The Court of Appeals of NAPLES is still concerned with the problems of lack of experienced personnel and transportation therefor and inadequacy of salaries with present high cost of living.

5. LIVORNO reports include an Allied interest case of more than usual importance before the Tribunale of FLORENCE in which 12 accused were charged with theft. The leader was sentenced to 2 years imprisonment and a fine of 4000 lire. Three others were sentenced to terms varying from 1 year 3 months to 6 months. The serving 6 accused were granted judicial clemency being under age.

EC Dist. 18 July

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6-Pr. Br.

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1-FA Rep.

See M. 143

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EXTRAORDINARY COURTS OF ASSISE.

6. In VERBAIA GIULIA during June the Special Court of Assize which deals with charges of collaboration with the Germans and Fascist Republicans after 8th September 1943, tried 385 cases, resulting in 11 convictions and 367 acquittals, with 5 cases otherwise disposed of. Of those convicted one was sentenced for life, one sentence was in that bracket between 20 and 30 years, 5 were given sentences between 5 and 10 years and 4 were given sentences from 1 to 5 years.

7. Cases tried before the Special Court of Assize in Udine Province numbered 26, of which 1 was dismissed.

GENERAL.

8. The Legal Officers in NAPLES and Liaison Officers who have been looking after legal activities in LIVORNO and MARLES are being withdrawn.

9. The number of ~~cases~~ ^{inmates} of LIVORNO and PISA jails is considerably decreased because of recent amnesty.

10. The Chief Legal Officer, in addition to giving advice to the various Sub-Commission, attended many conferences during June. Officers of the Sub-Commission made a thorough study of the new amnesty Decree passed by the Italian Government, and the Deputy Chief Legal Advisor went to TRIESTE to discuss implementation of the Decree in Zone A, and procedure to be followed by the Courts. The usual large volume of correspondence was handled by all branches of the Sub-Commission, and the review of all AMG cases continues steadily.

JUN E. FRANK,
Colonel, Infantry,
Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB-COMMISSION

AC/4043/L.

12 June 1946

SUBJECT : Legal Sub-Commission, Monthly
Report of May, 1946.

JUN 18 1946

TO : Chief Commissioner, Allied Commission.

AMG COURTS.

1. Allied Military Courts were in session in Venezia Giulia and Udine Province. Superior and Summary Courts were held in both Venezia Giulia and Udine. In Venezia Giulia a total of 86 accused were tried on 115 charges in Superior Courts and 450 accused were tried on 505 charges in Summary Courts during May. These figures are higher than the normal ~~monthly~~ totals but they are due to a special effort to bring the Court Calendars, particularly in the Area of Trieste, up to date. This was accomplished by holding extra session of Superior and Summary Courts. As a result the number of cases pending took a noticeable drop; in the case of the Trieste area Summary Court cases pending dropped from 330 at the end of April to 100 at the end of May. Of this 100 pending Summary Court cases, only 4 accused were detained pending trial.

2. Thirty-nine cases, of which 12 were Superior Court cases, were tried in Udine Province during the period 27 April, 1946 - 28 May, 1946. Of the Superior Court cases tried 6 resulted in convictions and 6 in acquittals; of the Summary Court cases 24 resulted in convictions and 3 in acquittals.

ITALIAN COURTS AND ITALIAN SECTION.

3. In Venezia Giulia the Ordinary Civil Courts are functioning with reasonable satisfaction. Some progress was made during May toward supplying needed additional personnel, particularly in the Office of the Clerks of the Courts.

drop; in the case of the Trieste area Summary Court cases pending dropped from 330 at the end of April to 100 at the end of May. Of this 100 pending Summary Court cases, only 4 accused were detained pending trial.

2. Thirty-nine cases, of which 12 were Superior Court cases, were tried in Udine Province during the period 27 April, 1946 - 28 May, 1946. Of the Superior Court cases tried 6 resulted in convictions and 6 in acquittals; of the Summary Court cases 24 resulted in convictions and 3 in acquittals.

ITALIAN COURTS AND ITALIAN SECTION.

3. In Venezia Giulia the Ordinary Civil Courts are functioning with reasonable satisfaction. Some progress was made during May toward supplying needed additional personnel, particularly in the Office of the Clerks of the Courts.

4. The Italian Courts are working satisfactorily in Udine Province.

5. In Naples cooperation of Italian Courts and AO is 2983 notable.

6. Livorno reports show active cooperation by Italian Courts concerning Allied interest cases. During May the Tribunale of Livorno disposed of 20 penal cases involving 50 defendants, 14 of whom were acquitted. The most serious

See W-1389

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case was that concerning SCHIANO Livio and 7 others charged with various thefts. The gang leader was sentenced to 4 years and 10 months imprisonment and a fine of 14,000 lire. Two others were sentenced to three years each and the others received shorter and relatively minor sentences. Pisa Province also reported active prosecution of Allied interest cases.

7. The number of serious crimes in the entire Toscana Region is constantly decreasing.

EXTRAORDINARY COURTS OF ASSIZE.

8. In Venezia Giulia during May the Special Court of Assize held public trials of 27 accused, resulting in 7 convictions and 20 acquittals. The range of sentences of those convicted was from 5 to 14 years, 3; from 10 to 20 years, 3; 30 years, 1.

a) This Court deals with charges of collaboration with the Germans and the Fascist Republicans after 8th September, 1943 (Proclamation No. 5).

b) The Order giving jurisdiction to the Ordinary Penal Courts to try Fascist offences committed prior to 8th September, 1943, referred to in the April report, was signed on 3 May, 1946, (General Order No. 53) and is now in effect.

9. Cases tried before the Special Court of Assize in Udine Province numbered 18, of which 4 were dismissed.

GENERAL

10. The Sub-Commission, in addition to giving advice to the various Sub-Commissions, has furnished Officers for trial of cases and attendance at conferences, and answered a voluminous correspondence concerning cases tried by AMG Courts in Italy.

11. The review of all cases of persons confined in prisons is progressing steadily

W. L. L. L. L.

Penal Courts to try Fascist offences committed prior to 8th September, 1943, referred to in the April report, was signed on 3 May, 1944, (General Order No.53) and is now in effect.

9. Cases tried before the Special Court of Assize in Udine Province numbered 18, of which 4 were dismissed.

GENERAL

10. The Sub-Commission, in addition to giving advice to the various Sub-Commissions, has furnished Officers for trial of cases and attendance at conferences, and answered a voluminous correspondence concerning cases tried by AMG Courts in Italy.

11. The review of all cases of persons confined in prisons is progressing steadily

John K. Weber
JOHN K. WEBER,
Colonel, Infantry
Chief Legal Advisor.

2603

HEADQUARTERS ALLIED COMMISSION

APO 394

LEGAL SUB-COMMISSION

AC/1043/L.

/mda.

14 May, 1946.

SUBJECT : Legal Sub-Commission, Monthly
Report of April, 1946.

MAY 17 1946

TO : Chief Commissioner, Allied Commission.

ANG COURTS.

1. Allied Military Courts were in session in VENEZIA-GIULIA and UDINE Province. Both Superior and Summary Courts were held in VENEZIA-GIULIA while Summary Court cases only were tried in UDINE. The Superior Court cases tried in VENEZIA-GIULIA showed an increase; April - 135, March - 55, due to the fact that all cases arising out of the demonstrations at TRIESTE and CORNELIA were disposed of in Superior Courts. Summary Court cases tried here in April, on the other hand, showed a large decrease; April - 82, March - 515.

2. Seven Summary Court cases were disposed of in Udine Province during April, 1946 all resulted in convictions. The small number of cases tried during the month is due, in part, to the replacement of experienced C.A.O.'s by Officers inexperienced in the procedure of Allied Military Courts.

ITALIAN COURTS AND ITALIAN SECTION.

3. In VENEZIA-GIULIA the ordinary Civil Courts continue to function with reasonable satisfaction although the problem of adequate personnel is a cause of some concern.

4. The Italian Courts are working satisfactorily in UDINE Province and a session of the Ordinary Court of Assize sat from the 1st to the 15th of April, during which 3 cases were disposed of.

5. The Italian Courts in TRIESTE continue to be concerned with material difficulties, lack of adequate courtroom accommodation, lack of sufficiently trained personnel and the lack of adequate salaries.

135

Superior Courts. Summary Court cases tried here in April, on the other hand, showed a large decrease; April - 62, March - 518.

2. Seven Summary Court cases were disposed of in Udine Province during April, 1946 all resulted in convictions. The small number of cases tried during the month is due, in part, to the replacement of experienced C.A.O.'s by Officers inexperienced in the procedure of Allied Military Courts.

ITALIAN COURTS AND ITALIAN SECTION. -

3. In VENEZIA-GIULIA the ordinary Civil Courts continue to function with reasonable satisfaction although the problem of adequate personnel is a cause of some concern.

4. The Italian Courts are working satisfactorily in UDINE Province and a session of the Ordinary Court of Assize sat from the 1st to the 15th of April, during which 8 cases were disposed of.

5. The Italian Courts in TRIESTE continue to be concerned with material difficulties, lack of adequate courtroom accommodation, lack of sufficiently trained personnel and the lack of adequate salaries considering present high cost of living.

6. LIVORNO reports show an effort by Italian Courts to cooperate in those cases involving Allied interests. A general improvement in the entire zone as to the criminal situation is noted.

2982

EXTRAORDINARY COURTS OF ASSIZE. -

6. In VENEZIA-GIULIA during April the Special Court of Assize held public trials of 59 accused resulting in 25 convictions and 16 acquittals.

7. The Special Court of Assize deals with charges of collaboration with the Germans and the Fascist Republican State after the 8th of September 1943 (Proclamation No. 5). The duration of the Court, which has already been extended once, was further extended by Order for 3 months from the 8th of May 1946. The order to permit the Ordinary Civil Courts to assume jurisdiction of such offences committed prior to the 8th of September 1943,

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1-Subch. Rep.
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See Min-136

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in accordance with the law and procedure in Italy proper, mentioned in the April report, has been approved and is expected to be signed and published early in May.

8. Cases tried before the Special Court of Assize in UDINE Province numbered 22, of which 9 were dismissed.

GENERAL. -

9. The Sub-Commission, with a decreasing personnel, in addition to giving advice to the various Sub-Commissions, has answered an increasing amount of correspondence concerning cases tried by A.M.G. Courts in Italy.

10. The work of reviewing the cases of all persons confined in prisons is progressing steadily and with good results.

John A. Warr
JOHN A. WARR,
Colonel, Infantry,
Chief Legal Advisor.

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2603-580

HEADQUARTERS ALLIED COMMISSION
AEO 394
LEGAL SUB-COMMISSION

/mda.

AC/4043/L.

13 April 1946.

APR 16 1946

SUBJECT : Legal Sub-Commission, Monthly
Report for March 1946.

TO : Chief Commissioner, Allied Commission.

AMC COURTS

1. Allied Military Courts, Superior and Summary, were in session in Venezia-Giulia and the Province of Udine, and a General Military Court was held at Naples. The Courts in Venezia-Giulia tried 206 more accused than in the month of February. The increase is due largely to the great number of cases in the Trieste area for violation of the Order for the conservation of electricity, which Udner is no longer operative. In the Province of Udine the number of cases tried in March was but two thirds of those tried in February.

2. A General Court in Naples presided over by the Chief Legal Officer, rendered its decision in the Cagna fraud case - Director General Dett. Eugenio Sarnella was acquitted. A Sarnella and Captain Santo Sorotto were found guilty and sentenced to 1 and 2 years imprisonment respectively and each was fined 10,000 lire. On motion of the Prosecutor the prison sentences were suspended because of the long time both of those convicted had spent in jail awaiting trial. Both fines were paid.

3. Another General Military Court held in Naples tried Antonio Vitale, Salvatore Vitale and Carmine Vitale, for killing an Allied soldier on 16 April, 1945. All three defendants were found not guilty.

ITALIAN COURTS AND ITALIAN SECTION

4. The difficulties and problems confronting the Italian Courts

due largely to the great number of cases in the Province of Udine, which violation of the Order for the conservation of electricity, which Order is no longer operative. In the Province of Udine the number of cases tried in March was but two thirds of those tried in February.

2. A General Court in Naples presided over by the Chief Legal Officer, rendered its decision in the Corvino fraud case - Director General Dett. Eugenio Sarnella was acquitted. A Sarnella and Captain Santo Sorrento were found guilty and sentenced to 4 and 2 years imprisonment respectively and each was fined 10,000 lire. On motion of the Prosecutor the prison sentences were suspended because of the long time both of these convicted had spent in jail awaiting trial. Both fines were paid.

3. Another General Military Court held in Naples tried Antonio Vitale, Salvatore Vitale and Carmine Vitale, for killing an Allied soldier on 16 April, 1945. All three defendants were found not guilty.

ITALIAN COURTS AND ITALIAN SECTION

4. The difficulties and problems confronting the Italian Courts in Naples are many - lack of adequate Court accommodations, transport, communication facilities and sufficiently trained personnel. The high cost of living as compared to their low salaries is another problem of the Neapolitan judiciary. The high character and continued devotion to duty of the Italian magistrates is commendable and the Italian Courts are functioning satisfactorily.

5. In the Province of Udine, Italian Courts were working satisfactorily during the month. At the Special Session of the Court of Assize 31 cases were tried during the month and 29 cases were dismissed without trial.

6. In Venezia-Giulia the ordinary Civil Courts continue to function with reasonable satisfaction.

7. Livorno reports on Italian Courts show, in these cases dealing with the theft and possession of Allied property, that 8 of the 18 accused before the Tribunal were acquitted. While this report

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seems to indicate a large percentage of acquittals inquiry developed no lack of cooperation on the part of Italian authorities. On the contrary Italian judicial officials have indicated a definite desire to protect Allied interests. Some of the difficulties result from preparation of cases by Allied personnel trained for a different system. Other difficulties arise from redeployment of Allied personnel resulting in absence of essential witnesses. With the withdrawal of AMG Courts we take Italian Courts as they exist. This includes all their jurisdictional rules. They can no more depart from their laws than can those of the United States or the United Kingdom.

ORDINARY COURTS OF ASSISE

8. In the Province of Udine the Special Court of Assise had 60 cases before it, 34 cases were tried and 29 dismissed without trial after investigation. 160 cases are awaiting trial.

9. In Veracina-Giulia 35 accused were tried resulting in 20 convictions and 15 acquittals. The sentences ranged from 1 to 30 years. The report calls attention to press criticism concerning the Courts' lack of jurisdiction to try cases dealing with Fascist offences committed before 8 September 1943. The Italian Government was contacted through the Local Sub-Commission and the Ministry of Justice has consented to the publication of legislation for the prosecution of offences prior to 8 September 1943. The proposed order has been prepared and has been submitted for approval to ARHQ.

GENERAL

10. The Sub-Commission besides giving advice to the various Sub-Commissions has assumed an increasing amount of correspondence regarding cases tried by AMG Courts all over Italy.

11. The work of reviewing the cases of all persons confined in prisons is progressing steadily with noticeable good results.

9. In Venezia-Giulia 35 accused were tried resulting in 20 convictions and 15 acquittals. The sentences ranged from 1 to 30 years. The report calls attention to press criticism concerning the Courts' lack of jurisdiction to try cases dealing with Fascist offences committed before 8 September 1943. The Italian Government was contacted through the Local Sub-Commission and the Ministry of Justice has consented to the publication of legislation for the prosecution of offenses prior to 8 September 1943. The proposed order has been prepared and has been submitted for approval to AFHQ.

GENERAL

10. The Sub-Commission besides giving advice to the various Sub-Commissions has answered an increasing amount of correspondence regarding cases tried by AMG Courts all over Italy.

11. The work of reviewing the cases of all persons confined in prisons is progressing steadily with satisfactory end results.

John K. Weber
JOHN K. WEBER,
Colonel, Infantry,
Chief Legal Advisor.

Ref: 2603/131/EC

4 April 1946

SUBJECT: Italian Courts.

TO : C.L.G. Livorno.

The Executive Commissioner directs me to inform you that he wishes you to make a special report to him on the following extract from the Legal Sub-Commission's monthly report for February 1946:

Para (6).

"Livorno reports on Italian Courts are not entirely satisfactory, in cases involving Allied interests, specially those dealing with theft, and possession of Allied property. 51 out of 85 accused tried before the Tribunale were acquitted".

G. McMaster

Chief Staff Officer
to Executive Commissioner

*Copy to 2604/EC
Copy to: Legal s/c.*

Further action on 2604/EC

[Signature]

[Signature]

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MAR 15 1946

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/mda.

12 March 1946.

AC/LDL3/L.

SUBJECT : Legal Sub-Commission, Monthly
Report for February 1946.

TO : Chief Commissioner, Allied Commission.

ALIC COURTS

1. Allied Military Courts, supervisor and summary, were in session in Venezia-Giulia and the Province of Udine, and a general Military Court was held at Naples. The Courts in Venezia-Giulia tried 37 more accused than in the month of January, most cases being unlawful possession and theft of Allied property. Cases for the unlawful possession of arms and munitions increased by 12 over the month of January. The Province of Udine tried only summary Courts cases and had about half the number tried in January.

2. A general Military Court in Naples presided over by the Chief Legal Advisor completed the trial of the Bogdan Fraud case, consuming nearly a month's time. Dr. Eugenio Barnella Director General of Cogema Society was acquitted by the Court and 2 other defendants received sentences and fines.

ITALIAN COURTS and ITALIAN SECTION

3. Italian Courts in Naples, facing the usual difficulty, such as inadequate Court accommodations, lack of transport, lack of communications and personnel, have been functioning as well as could be expected. The Courts have received encouragement in the fact that public confidence in these Courts is being maintained.

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in session in Venezia-Giulia and the Province of Udine, and a general Military Court was held at Naples. The Courts in Venezia-Giulia tried 37 more accused than in the month of January, most cases being unlawful possession and theft of Allied property. Cases for the unlawful possession of arms and munitions increased by 12 over the month of January. The Province of Udine tried only summary Courts cases and had about half the number tried in January.

2. A general Military Court in Naples presided over by the Chief Legal Advisor completed the trial of the Cogema fraud case, consuming nearly a month's time. Dr. Eugenio Carnella, Director General of Cogema Society was acquitted by the Court and 2 other defendants received substantial fines.

ITALIAN COURTS AND ITALIAN SECTION

3. Italian Courts in Naples, facing the usual difficulty, such as inadequate Court accommodations, lack of transport, lack of communications and personnel, have been functioning as well as could be expected. The Courts have received encouragement in the fact that public confidence in these Courts is being restored.

4. In the Province of Udine, Italian Courts were working satisfactorily during the month, and it is reported that a session of the ordinary Court of Udine will sit from April the 1st to the 15th to dispose of cases awaiting trial.

5. In Venezia-Giulia the civil Courts continued to operate with reasonable satisfaction. The ordinary Court of Udine which has jurisdiction of more serious offences was reconstituted during January and began to function normally in February. The first public trial was held in February. 4 cases were tried involving 10 accused. 22 cases are pending.

6. Livorno reports on Italian Courts are not entirely satisfactory, in cases involving Allied interests, especially those dealing with theft and possession of Allied property. 54 out of 85 accused tried before the Tribunale were acquitted. The report as to other parts of Toscana Region reflect a more satisfactory condition.

7. The Port of Livorno during the same period disposed of 28 Allied interest, cases the majority of which were for violations of Art. 157 TULPS. Only one defendant was acquitted while the others were sentenced from 1 to 6 months in prison.

See Min 129.130.
7.131.

(MISS)

8. The Court of Assise in Livorno tried 6 cases involving 12 defendants resulting in the acquittal of 8 defendants.

EXTRAORDINARY COURTS OF ASSISE.

9. In the Province of Udine the Special Court of Assise had 68 cases before it. 23 cases were tried and 40 dismissed without trial after investigation. At the beginning of the month there were 184 prisoners awaiting trial. 12 new arrests were made during the month.

10. In Venezia-Giulia 22 accused were tried resulting in 15 convictions and 7 acquittals, the sentences ranged from 1 to 30 years. The report again calls attention to press criticism in former reports concerning the Court's lack of jurisdiction to try persons for acts of collaboration occurring before the 8th of September 1943. On 1 February 328 cases were pending before the Court. 31 additional denunciations were received during the month. On the 28th of February 296 cases were pending.

GENERAL

11. In the wake of the "turn back" matters have arisen requiring opinions wherein new and novel legal questions have to be answered requiring research and extended discussion on the part of all members of the staff, already heavily engaged in the review of cases and routine operations of the Sub-Commission.

12. During the greater part of the month the Chief Legal Advisor was in Naples presiding over the General Military Court. The Deputy Chief Legal Advisor was in England on in the North on business. This Sub-Commission besides giving advice to the various Sub-Commissions has answered and increasing amount of correspondence carried on with Liaison Officers, in addition to correspondence with the various Ministries.

13. The work of reviewing the cases of all persons confined in prisons throughout Italy progresses steadily and is showing worth while results.

1791

Declassified E.O. 12356 Section 3.3/NND No. 785017

requiring opinions wherein new and novel legal questions have to be answered requiring research and extended discussion on the part of all members of the staff, already heavily engaged in the review of cases and routine operations of the Sub-Commission.

12. During the greater part of the month the Chief Legal Advisor was in Naples presiding over the General Military Court. The Deputy Chief Legal Advisor was in England or in the North on business. This Sub-Commission besides giving advice to the various Sub-Commissions has answered and increasing amount of correspondence carried on with Liaison Officers, in addition to correspondence with the various Ministries.

13. The work of reviewing the cases of all persons confined in prisons throughout Italy progresses steadily and is showing worth while results.

John K. Weber
JOHN K. WEBER,
Colonel, Infantry,
Chief Legal Advisor.

DIST 15/3
1. EC.
6. PRB.
1. MIL ATT.
AM EMB.
1. FRENCH REP.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AG/1043/L.

15 February 1946.

SUBJECT : Legal Sub-Commission, Monthly
Report for January 1946.

TO : Chief Commissioner, Allied Commission.

ALG COURTS

1. During the month of January ALG Courts were held only in Venezia-Giulia and the Province of Udine. However, the report from Livorno, sets out the final work of the Summary Court there, presided over by Major John W. Lynch, JCD, PBS, showing the disposition of 26 cases involving 57 defendants for the period running from 20 December to 31 December. This had not been received in the December report.

2. In Venezia-Giulia during January, 271 were tried by Summary Courts on 331 charges, showing a decrease against December. It is well to note that only seven cases of illegal possession of arms and ammunition were tried. The majority of the remaining cases being for theft and possession of Allied Property. Superior Courts showed an increase over December of seven cases. No General Courts were held.

3. The General Court at Naples, presided over by the Chief Legal Advisor, reconvened on 28 January and was adjourned till 12 February. It is hearing the Corgens shipping fraud case.

ITALIAN COURTS AND ITALIAN SECTION

4. In La Spezia, seven Allied interests cases are still pending before the Italian Military Courts. Most of them are CID cases of relatively serious nature. The Court at Florence has only one case directly concerning Allied interests.

3. The General Court at Naples, presided over by the Chief Legal Advisor, reconvened on 26 January and was adjourned till 12 February. It is hearing the Cogena shipping fraud case.

ITALIAN COURTS AND ITALIAN SECTION

4. In Le Spezie, seven Allied interests cases are still pending before the Italian Military Courts. Most of them are CID cases of relatively serious nature. The Court at Florence has only one case directly concerning Allied interests.

5. The Tribunale and Pretura in Livorno, tried seventy four defendants on charges involving Allied interests. Ten were acquitted, and the others given terms of imprisonment ranging from fifteen days to eleven months. Forty nine cases involving Allied interests were tried throughout other parts of Tuscany Region.

6. The Italian Courts in Naples faced serious obstacles due to shortage of transportation, personnel and communication.

7. In Venezia-Giulia the Italian Civil Courts are functioning with reasonable satisfaction. The Ordinary Courts of Assize appointed sixty assessors and this court will hold its first public sessions on 11th of February, 1946.

See M 120, 121, 122, 123, 124, 125, 126.

EC DIST. 19 Feb.

- 1 - EC*
- 6 - PROR*
- 1 - Mil Attache an Ent.*
- 1 - Fr. Rep.*

PA 14 Feb 46

(ms. 5)

6. In the Province of Udine the regular Italian Courts are functioning normally. It is again reported that it is thought desirable that the Ordinary Courts of Assize hold a session as soon as possible in Udine. It is stated that this request was forwarded through MG channels during December. The delay in convening the requested session is probably due to a scarcity of qualified judicial personnel.

7. An order was issued on 19 January providing that all Italian Decrees which had been previously excluded from operation in Allied Military Government territory, or certain parts thereof including the Province of Udine, should come into operation in the Province of Udine on 1st January 1946.

The order further provided that all Decrees published in the Gazzetta Ufficiale of 1st December and in the following issues should come into effect in Udine Province on the same date as in the territory administered by the Italian Government, with a proviso that the Provincial Commissioner may suspend or modify any provisions of such Decrees as applied in the said Province.

During the month a number of legal opinions were given to other Sub-Commission concerning the interpretation of various Articles of the Austro-Hungarian Terms relating for example to the right to confiscate war material; law for the claims of the Yugoslav authorities to war booty in Venezia Giulia are justified; the extent of the right to make use of Italian patents; the obligations of the Italian Government to make available to the Allies intercommunication systems throughout territory restored to the government. Numerous claims from Italian firms against A.R.G. were received and passed with legal opinions to the Sub-Commissions concerned.

ITALIAN LEGISLATION

The Decree exempting from transfer tax Allied property fictitiously sold to Italian National is being the war in order to avoid confiscation was passed. The Decrees relating to the rate of exchange and the Status of Alto Adige were also approved by the Council of Ministers. There have been a large number of applications by the Yugoslav Delegation to the Advisory Council for Italy for the

provisions of such decrees as applied in the said Province.

During the month a number of legal opinions were given to other Sub-Commission concerning the interpretation of various Articles of the Armistice Terms relating for example to the right to confiscate war material; how far the claims of the Jugoslav authorities to war booty in Venezia Giulia are justified; the extent of the right to make use of Italian patents; the obligations of the Italian Government to make available to the allies intercommunication systems throughout territory restored to the government. Numerous claims from Italian firms against A.M.G. were received and passed with legal opinions to the Sub-Commissions concerned.

ITALIAN LEGISLATION

The Decree exempting from transfer tax Allied property fictitiously sold to Italian Nationals during the war in order to avoid confiscation was passed. The decrees relating to the rate of exchange and the Status of Alto Adesini were also approved by the Council of Ministers. There have been a large number of applications by the Jugoslav Delegation to the Advisory Council for Italy for the release of persons claimed as Jugoslav Nationals, at present under sentence in Italian prisons. These cases involve a considerable amount of correspondence with the Ministry of Justice.

EXTRAORDINARY COURTS OF USINE

10. Progress of the Extraordinary Court of Usine in Udine brought a letter of commendation from the Primo Presidente di Corte d'Appello di Venezia. The cases tried have been complicated and time consuming. The matter of establishing another session of the court for Udine has been called to the attention of the Corte d'Appello di Venezia, however, the establishment will be difficult due to the lack of qualified personnel.

11. It is reported from Venezia-Giulia that the press criticisms mentioned in the November and December reports, continues. Criticisms of the results in specific cases lessened appreciably. However, sharp attacks were made in many quarters upon the ability of court, due to its limited jurisdiction, to deal with Fascists offenses committed prior to 8 September 1943. Twelve cases were disposed of during the month, two resulting in acquittals.

GENERAL

12. Since the turn back, it is a surprising fact that the work of this Sub-Commission has increased immensely. Of course the Sub-Commission is understaffed, and the constant call of the various Sub-Commission, Liaison Officers and Venezia-Giulia Region for advice and guidance, along with the review of cases, keeps every one in this Sub-Commission fully occupied at all times. Also Italian laws are constantly being discussed and interpreted.

13. A definite working system for the review of all cases of persons remaining in prisons under M.G. orders, began functioning during the month and is showing satisfactory progress.

14. An additional burden has been placed on this Sub-Commission by the request to furnish personnel to set up courts for the trial of cases in various parts of the country, in accordance with Directive from higher authority issued last August.

J. K. Weber

JOHN K. WEBER,
Colonel Infantry,
Chief Legal Advisor.

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J. K. Weber

JOHN K. WEBER,
Colonel Infantry,
Chief Legal Advisor.

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HEADQUARTERS ALLIED COMMISSION

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LEGAL SUB-COMMISSION

2603 5

40/4043/L.

15 January 1946.

SUBJECT : Legal Sub-Commission, Monthly
Report for December 1945.

TO : Chief Commissioner, Allied Commission.

AMC COURTS

1. In Venezia Giulia 294 persons were tried in AMC Courts during December. It is interesting to note that there were only 12 cases of illegal possession of arms and amcs. About half of the remaining cases tried were for theft and possession of Allied Property. No General Court cases were tried and half as many Superior Court cases as in November. No cases were tried in Naples, except in the Port Court, sitting as a Summary Court until 18 December. A short report was received from the one officer in Liguria and shows that all cases involving Allied interests were tried by Italian Courts. Venetian reports to General Courts; 2 Superior Court cases and 105 Summary Court cases, 99 of which were tried in Udine. Due to the increased law violations in Livorno, Allied Military Courts were reopened, PMS furnishing Major John W. Lynch JAG to sit as judge. Small offenses and prostitution are left to the Italian Courts. 4 cases were tried.

ITALIAN COURTS AND ITALIAN SECTION

2. Extraordinary Courts of Assise in Venezia Giulia held seven public trials during December, resulting in 1 conviction and 3 acquittals. 50 cases were still pending on 31 December. Press criticism of the Courts continued, none of which appeared to be based upon any particular study of the case under consideration. Liguria had no figures on the Court's work there. Venetian reports the normal functioning of these Courts.

ITALIAN SECTION

3. The month of December brought in a number of legal problems of a new type, the solution of which was rendered more acute by the fact that the handover date was not known until 20 December. (All documents for the restoration of territory to Italian administration

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18 December. A short report was received from the one office shown that all cases involving allied internees were tried by Italian Courts. Venice reports no General Courts; 2 superior Court cases and 105 summary Court cases, 59 of which were tried in Udine. Due to the increased law violations in Livorno, allied military Courts were reopened, PMS punishing Major John W. Lynch JAG to sit as judge. Small offenses and prostitution are left to the Italian Courts. 4 cases were tried.

ITALIAN COURTS AND ITALIAN SECTION

2. Extraordinary Courts of Assize in Venezia Giulia held seven public trials during December, resulting in 4 convictions and 3 acquittals. 380 cases were still pending on 31 December. Press criticism of the Courts continued, none of which appeared to be based upon any particular study of the case under consideration. Liguria had no figures on the Court's work there. Venezia reports the normal functioning of these Courts.

ITALIAN SECTION

3. The month of December brought up a number of legal problems of a new type, the solution of which was rendered more acute by the fact that the handover date was not known until 20 December.

All documents for the restoration of territory to Italian Administration were prepared, discussed and finally agreed by the Chief Commissioner and by December 26 all proclamations or orders had reached the provinces of the North through Milan. This entailed considerable extra work for the Legal Staff and the "Poligrafico dello Stato".

There were no hitch and the handover took place smoothly. 29744
important issues on constitutional law which came up as a result of the resumption of power by the crown on the question of the power to appoint Death sentences which underwent. 8 of the statute is vested in the Sovereign. This point of international law was entirely new and involved the "jus cogens" of the returning Sovereign.

On 31st December after lengthy discussion and in agreement with both the Lucomotente and the Minister of Justice, the decision was taken to hand over to the Lieutenant General of the Regia all pending petitions for clemency. A covering letter was forwarded to the Minister of the Royal Household explaining the reasons for such decision. It stressed that it did not lie within the C.G.I.'s province "to ascertain what internal constitutional practice was in force in Italy," considering that the point at issue had no precedent in international law and therefore allied authorities had to abide by the text of the fundamental statute of the Kingdom of Italy, which was still operative. During the month a considerable amount of legal advice was given to Pol-As and various Sub-Go. divisions, including

Ex. Com. Dist - 14. Jan. 1946.

1 - Ex. Com.
6 - P. R. B.
1 - P. R. B. (a) by Mr. Arx.
1 - FRENCH REP.

See M.117

(Miss S.)

the question of the Status of Zone B, Score of the Amistice Ports, Yugoslav claims, salvage of Italian ships in foreign waters, issue of Yugoslav lines in Piusa etc. etc.

GENERAL

4. Several death penalty cases involving a consideration of Proclamation and Italian law, were reviewed by this Sub-Commission and prepared for examination and decision by the Chief Commissioner.
5. Many cases of repatriation in which clemency was sought, were examined and recommendations made.
6. Proclamations covering the turn back to the Italian Government were prepared.
7. All current reviews of AMG Court cases were brought up to date.
8. The Chief Legal Advisor, in addition to giving advice to various Sub-Commissions, attended many conferences and the entire Sub-Commission handled an unusually large amount of correspondence.

John K. Warner
JOHN K. WARNER,
Colonel Infantry,
Chief Legal Advisor.

AC/4043/L.

2603 46
LEGAL SUB-COMMISSION

AFD 394

LEGAL SUB-COMMISSION

14 December 1945

DEC 21 1945

SUBJECT : Legal Sub-Commission, Monthly Report for November 1945

TO : Chief Commissioner, Allied Commission.

1. Venezia Giulia, Venezia, Lombardia and Livorno are the only Regions from which we have received reports for November. Due to lack of personnel we will probably not receive any other reports. The Legal office at Naples was closed without any notice to this Sub-Commission but records were returned there and the office reopened under Capt. Gasiano and the Port Court reopened under a Lt. who had been prosecutor under Lt. Col. Claire, returned to the States. Venezia Giulia reported 270 Superior and Summary Court cases, with no General Court cases for the three areas. Fifty one of the cases were charges against good order growing out of the demonstrations mostly in Trieste on 3 and 4 November. Report from Venezia showed less than 100 cases, none of them General Court. One General Court sat in Lombardia at Milan near the end of November. Sentences of 16 and 8 years were imposed on two civilian AMG employees. The first being a Doctor in Public Health convicted for selling distilled water and other harmless substances as Penicillin, and of offences in connection with controlled materials in which the second accused was concerned. At Livorno the cases were all tried by Italian Courts involving thefts and possession. Out of 210 defendants, 135 were acquitted. 81 were cases of Allied interests, in which the sentences ranged from 300 lire fines to 6 months imprisonment. Throughout the balance of Toscana, cases involving Allied interest were tried by Italian Courts, resulting in adequate sentences.

ITALIAN COURTS

2. It is reported that the Italian Courts in Venezia are badly in arrears. The newly established Tribunale Militare at Verona is faced with a heavy docket of cases. From Venezia Giulia again comes the report that the Slovene judges in Gorizia

out of the demonstrations mostly in Trieste on 3 and 4 November. Report from Venezia showed less than 100 cases, none of them General Court. One General Court sat in Lombardia at Milan near the end of November. Sentences of 16 and 3 years were imposed on two civilian AMG employees. The first being a Doctor in Public Health convicted for selling distilled water and other harmless substances as Penicillin, and of offences in connection with controlled materials in which the second accused was concerned. At Livorno the cases were all tried by Italian Courts involving thefts and possession. Out of 210 defendants, 135 were acquitted. 81 were cases of Allied interests, in which the sentences ranged from 300 lire fines to 6 months imprisonment. Throughout the balance of Toscana, cases involving Allied interest were tried by Italian Courts, resulting in adequate sentences.

ITALIAN COURTS

2. It is reported that the Italian Courts in Venezia are badly in arrears. The newly established Tribunale militare at Verona is faced with a heavy docket of cases. From Venezia Giulia again comes the report that the Slovene Judges in Gorizia have refused to serve unless the official language in the Courts is made Slovene. They are showing a tendency, however, to reach some compromise on the subject. The progress of trials in Milan 2973 is slowed down by the lack of heat in the Courts which have been badly damaged and are without window glass.

3. Extraordinary Courts of Assize appear to be functioning well in Venezia, having during the month condemned four persons to death, which sentences have been carried out. There were no death sentences in Venezia Giulia, most of the trials resulting in prison sentences. Newspapers and organizations have objected the

AC DIST - 21 Dec 44
1- EC
6- PK/Br
1- Mil Attache Am Embassy
1- Fr Rep AC

X1 See 1008/EC ref
See "Port Court"
P-12
See h. 114.

(miss)

the court to severe criticism, with the result that the President has asked to be relieved, which request has not been granted. In Lombardy interest is beginning to weaken in these Courts, which are only kept alive by certain sections of the press. It is believed that their passing would not create any unfavorable comment. There were six death sentences during the month in Lombardy, 3 at Lodi and one each at Milan, Voghera and Monza. Two death sentences were executed.

ITALIAN LEGISLATION

4. Due to the Governmental crisis existing during the month, there does not appear to be any Italian legislation of importance to report.

GENERAL

5. There were no General Orders issued during the month.

6. In the Legal Sub-Commission the petitions for review continue to pile up and will have to take their place among the more than twelve hundred now awaiting review. Since such reviews must be made by an officer not below the rank of Lt. Col. and there is no Lt. Colonel available in the entire legal set up in Italy, it is suggested, as suggested many times before, that a Major with experience in such matters be immediately advanced to the rank of Lt. Colonel and proceed with these reviews. It is impossible for the Chief Legal Advisor to make these reviews and keep up with his usual duties and current reviews. The petitions continue to arrive at more than twenty per day.

During the past two weeks a wave of crime has been festering and is assuming alarming proportions in the Livorno, Pisa, Viareggio area. An American enlisted man and thereafter an officer have been slain. General Oxy has indicated he will urge that persons charged with these murders be tried by Army Courts. During the current week the situation has steadily deteriorated, with threats of Allied property becoming commonplace. Sentences of Italian Courts punish an offender but lack the sobering deterrent effect of sentences imposed by Allied Courts. General Oxy has personally directed that suitable officers be detailed to

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be made by an officer not below the rank of Lt. Col. and there is no Lt. Colonel available in the entire legal set up in Italy, it is suggested, as suggested many times before, that a Major with experience in such matters be immediately advanced to the Rank of Lt. Colonel and proceed with these reviews. It is impossible for the Chief Legal Advisor to make these reviews and keep up with his usual duties and current reviews. The petitions continue to arrive at more than twenty per day.

During the past two weeks a wave of crime has been festering and is assuming alarming proportions in the Livorno, Pisa, Viareggio area. An American enlisted man and thereafter an officer, charged with these murders be tried by A/G Courts. During the current week the situation has steadily deteriorated, with thefts of Allied property becoming commonplace. Sentences of Italian Courts punish an offender but lack the sobering deterrent effect of sentences imposed by Allied Courts. General Cax has personally directed that suitable officers be detailed from his organization to act as A/G judges until the hand-over. The Courts have resumed their functions after having been idle for lack of personnel.

LEGAL OPINION

7. During the month of November a considerable number of opinions were given by the Legal Sub-Commission at the request of the Chief Commissioner, Executive Commissioner, Embassies, AFHQ and other Sub-Commissions. Most of these opinions dealt with current matters such as Project of Amnesty, Pardon, Telephone Rates in North Italy, Venezia Giulia, War Booty, War Crimes, Yugoslav citizens in Italy, Status of Zone B, Naval patents owned by private firms, Ships in Greek and Yugoslav waters, Institutional question, Language in Bolzano, etc.

JOHN K. [unclear]
Col. Infan [unclear]
Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION

APO 394

LEGAL SUB-COMMISSION

AC/4043/L.

1c.
15 November 1945.

SUBJECT: Legal Sub-Commission, Monthly Report for October 1945. NOV 17 1945

TO: Chief Commissioner, Allied Commission.

ALLIED MILITARY COURTS:

1. The AMJ Courts in most regions have ceased to function, due to the withdrawal of legal officers, and the transfer of cases to the Italian Courts. Lombardia, as of the last of the month had one legal officer and at the date of this report, we are informed that he is being posted to East Africa. His monthly report expressed the thought that there was no reason for the continued existence of AMJ in Lombardia. Only 38 cases were tried by AMJ Courts in that region during October. One death sentence was given at Bergamo. The AMJ Courts at Livorno ceased during the month, but the Italian Courts tried 205 cases involving Allied interests. Even with reference of 836 cases to Italian Courts, AMJ Courts in Naples, disposed of 731 cases. One legal officer remains there, but is due to leave any day. Venezia Region reports no General Court cases during the month; 87 Superior Court and 165 Summary Court cases. Udine appears to have had the majority. 53 of the cases were for illegal possession of arms and ammunition. It is interesting to note that Venezia-Giulia region reports only 5 cases of illegal possession of arms and ammunition. Also the number of cases of all types in Trieste was 108 less than September. It is thought that the elimination of curfew has caused the drop. Theft and possession, as usual, are the most prominent offences.

ITALIAN COURTS:

2. Venezia-Giulia reports all the Civil Courts are functioning except three Preture Courts in the Area of Gorizia, which is predominantly Slovene and the Judges appointed have refused to serve unless Slovene is accepted as one of the official languages of the court. Inasmuch as the people of this area should have a judicial forum, it has been decided to attach these areas for jurisdictional purposes, to Pretura of Gorizia. There is a shortage of Civil Judges in the territory. Venezia reports the Italian courts functioning normally. Livorno reports quite a lot of activity in the Civil Courts. Lombardia and Naples report normal conditions.

3. Extraordinary Courts of Assize, in Venezia-Giulia...

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Naples, disposed of 37 cases. Venezia Region reports no General Court cases leave any day. Venezia Region reports no General Court cases. Udine appears to have had the 87 Superior Court and 165 Summary Court cases. Udine appears to have had the majority. 53 of the cases were for illegal possession of arms and ammunition. It is interesting to note that Venezia-Giulia region reports only 5 cases of illegal possession of arms and ammunition. Also the number of cases of all types in Trieste was 108 less than September. It is thought that the elimination of curfew has caused the drop. Theft and possession, as usual, are the most prevalent offences.

ITALIAN COURTS:

2. Venezia-Giulia reports all the Civil Courts are functioning except three preture Courts in the Area of Gorizia, which is predominantly Slovene and the judges appointed have refused to serve unless Slovene is accepted as one of the official languages of the court. Inasmuch as the people of this area should have a judicial forum, it has been decided to attach these areas for jurisdictional purposes, to Pretura of Gorizia. There is a shortage of Civil Judges in the territory. Venezia reports the Italian courts functioning normally. Lirorno reports quite a lot of activity in the Civil Courts. Lombardia and Naples report normal conditions.

3. Extraordinary Courts of Assize; in Venezia Giulia established in Aug., has handled 894 denunciations of which 556 are pending, 23 cases were tried in October, with ten convictions and thirteen acquittals; the average sentence was about 6 years and two months. Lombardie reports, that mindful of the watchful eye of the public, and under the occasional spur of the journalists, these courts seem to function more expeditiously than ordinary courts of the country. In Venezia Region, discontent is expressed over the case of Valerio Valeri, who was sentenced to death in June, his appeal dismissed by Court of Cassation in July, and his petition for grace and pardon still undecided. This discontent was openly expressed on 4 November by a thousand persons demonstrating outside the prison. While there was no violence, the incident carries its own warning. The report again urges that strongest representations be made to expedite the disposal of petitions.

See h.

EXPIRATION

4. There appears to be considerable activity in Lirorno on Expiration. 49 denunciations involving 80 defendants have been received by the State Attorney's Office of the Special Section of the Courts of Assize. There has been little change in Lombardie in Expiration. The same is true of Venezia. The report is not complete from Venezia Giulia due to the withdrawal of the officer in charge of Expiration, however, three commissions have been appointed and are functioning.

EC DIS - 16 Nov

See h. no. 11-11-11-11

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1-11-11-11-11
1-11-11-11-11*

(Miss Simpson)

ITALIAN LEGISLATION

5. D.L.L. No. 625 of 5 October 1945, modifying the provisions concerning sanctions against fascism. D.L.L. No. 669 of 12 October 1945. Rules regulating leases for urban real estate. D.L.L. 678 of 5 October 1945, new rules for Italian film industry, would seem to cover Italian legislation of interest to the Allies.

GENERAL :

6. General Order 52 was drawn during the month, relating certain paragraphs of General Order No. 41 concerning wages and prices in the north.

7. With insufficient officer and enlisted personnel, the Legal Sub-Committee has kept abreast with current work, the burden falling upon two officers and one civilian attorney. Two sergeants of long and valuable experience have been sent home and another in the Italian section will leave shortly. The review of cases in which the sentences are over two years has been curtailed for some time, because under the rules laid down, they must be passed on by an officer of the rank of Lt. Colonel or higher. The petitions for review, many of which are second and third petitions, arrive at the rate of not less than forty a day, which is naturally forming a backlog of cases where the sentences exceed two years. The civilian attorney is engaged with the Italian section and cannot, under the rules, review these cases.

John K. Wheeler
JOHN K. WHEELER,
Colonel,
Chief Legal Advisor.

PROB

Declassified E.O. 12356 Section 3.3/NND No. 785017

ACTION

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B/w to GC
20/11/11

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EXHIBITING ALLIED COMMISSION

LHO 59L

LEGAL SUB-COMMISSION

10/4043/L

102

10.
24 October 1945.

SUBJECT : Legal Sub-Commission, Monthly Report for September 1945.

OCT 19 1945

TO : Chief Commission, Allied Commission.

ALLIED MILITARY COURTS

1. Venezia Giulia Region is the only one that has shown a slight increase in the number of cases tried in the AMG Courts those being merely summary violations, theft and possession. The other regions have been transferring cases to the Italian Courts for trial which has cut down the work of AMG Courts in those regions.

2. Since making the bridged monthly report commenting on the decline in possession of arm cases, the Venezia Region report has arrived showing 61 such cases during the month. This, however, does not change the picture a great deal, as two other regions report only 3 each of such cases, so we can still call it discouraging, since it is noted that one of the regions reporting only three was Venezia-Giulia, where many more might have been expected.

3. General Courts were held in several regions handling murder and counterfeiting cases. Colonel Piccini sat as President of the General Court at Vicenza which tried parties from the Schio massacre. Five were convicted, three of them were sentenced to death and two to life imprisonment. Two of the seven tried, were acquitted. Colonel Vetter sat as President of the General Court at Bolzano which convicted Sergeant Karl Stant for culpable homicide under the Italian Code and possession of firearms under the proclamation. He received five years on the first and two years on the second consecutively totaling seven years. In Lombardia six of ten persons were convicted of large scale counterfeiting and given sentences of from 4 to 21 years. Two cases tried by General Courts in Liguria Region are trial involving 5 defendants, charged with the murder and robbery of three carabinieri and possession of arms, the trial lasting seven days. Four were convicted on all charges; two being given the death penalty; two terms of imprisonment up to 21 years; the fifth because of his age (15) was sent to the reformatory for 3 years. The second trial involving 4 defendants charged with the handling and possession of seventy million lire and Italian currency. Ten were sentenced to 10 to 15 years for counterfeiting and the other two were discharged.

ITALIAN COURTS

4. The report on the extraordinary Courts of Assize is little different from last month with cases being handled about as well as can be expected. Some regions report some progress. There appears to be more general order during the conduct of the trials due perhaps, as suggested by the Lombardia legal officer, to the fact that the more important cases when the public clamored have been disposed of. This of course obviates the necessity of the main shooters who for 74,200 per day thronged the courts calling "a morte" and are said to have been hired by certain political groups.

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cases. Colonel Bultrons sat as President of the Federal Court at Palermo and for the Sicilian massacre. Five were convicted, three of whom were sentenced to death and two to life imprisonment. Two of the seven trials were acquitted. Colonel Weber sat as President of the General Court at Palermo which convicted Heinrich Karl Stark for culpable homicide under the Italian Code and possession of firearms under the revolution. He received five years on the first and two years on the second consecutively totaling seven years. In Lombardy six of ten persons were convicted of large scale counterfeiting and given sentences of from 4 to 21 years. Two cases tried by General Courts in Liguria resulted in trial involving 5 defendants, charged with the murder and robbery of three carabinieri and possession of arms, the trial lasting seven days. Four were convicted on all charges; one trial involving 5 defendants, charged with the murder and robbery of three carabinieri and possession of arms, the trial lasting seven days. Two were convicted on all charges; two being given the death penalty; two found of ineffectiveness up to 21 years; the fifth because of his age (25) was sent to the reformatory for 3 years. The second trial involved 4 defendants charged with the killing and possession of firearms under the Italian Code and Italian currency. Two were sentenced to 10 to 15 years for counterfeiting and the other two were discharged.

IV. ITALIAN COURTS

4. The report on the extraordinary courts of Anzio is little different from last month with cases being handled about as well as can be expected. Some vigorous report came progress. There appears to be more general order during the conduct of the trials day perhaps, as suggested by the Lombardy legal officer, to the fact that the more notorious cases, as suggested by the public clamor have been dismissed. This of course diverts the necessity for which the public clamor have been dismissed. This of course diverts the necessity of the trial shovels who for 3,200 per day arranged the courts calling "Monte" and are said to have been hired by certain political groups.

5. Complaints on appeal delays are still prevalent. A specific case in Venezia gives a fair idea of these complaints. Valerio Valeri was convicted and sentenced to death 26th June 1945. The hope is expressed in the regions that something will be done 29 July. These delays create the greatest suspicion and disquiet in the mind of the public. Numbers of prisoners in jails have decreased greatly.

APPENDIX

6. Transmissions under G. C. No. 35 continue to produce satisfactory results. Report however, state that the same can not be said for G. C. 46. Lombardy Region states that Delegated under P.L.I. 155 have not as yet added themselves to the. Some provincial delegates report that they are ready to function under art. 8 P.L.I. 155 for the disbursement of proceeds as soon as the orders of Italian Government mandating presidents, are laid down in their territory.

ITALIAN LEGISLATION

7. Legislation dealt with regulations for the Costa Valley, economic and tax facilities. Decree No. 572 of 31 August 1945 contains provisions relating to the appointments and disbursements made by Allied Military Government. E.E. DIST

AMS CAMPBELL

See (Continued)

1- EX COMM

2- PHS

1- H.C. For Anzio

See 7/103 - 103/106/107

GENERAL

8. There were no General Orders issued during the month. The personnel of this sub-division has been reorganized and retrained. Chief Counsel and one civilian lawyer.

John K. Warner
JOHN K. WARNER,
Colonel,
Chief Legal Advisor.

2603 88

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HEADQUARTERS ALLIED COMMISSION

APC 394

LEGAL SUB-COMMISSION

AC/4043/L.

/rlp.
15 September 1945.

SUBJECT : Legal sub-Commission Monthly Report for August 1945. SEP 17 1945

TO : Chief Commissioner, Allied Commission.

ALLIED MILITARY COURTS

1. In northern Italy the main attention of AMG Courts is still focussed on wrongful possession of arms. There are indications however that the sentences of these courts and the publicity attached to them are having an effect. In Venezia for example many piles of arms have been discovered abandoned by their holders, presumably for fear of the consequences of retaining them. The largest number of cases of this nature was in Lombardia where there were 106 trials.

2. There are still a large number of ^{cases of} wrongful possession of Allied property. These cases still form the bulk of the calendars in Naples and Livorno, and are on the increase in Venice.

3. Cases are still occurring of counterfeiting. A large organization was unearthed in Milan, dating from pre-occupation days, which equipped itself against the Allied arrival with large numbers of fake U.S. and English money, in addition to the more common Lira and RM currency. The counterfeit currency involved has a total face value of about 300 million lire.

4. Two other serious cases were tried by General Courts, both ~~on~~ charges of murder.

ITALIAN COURTS

5. The Extraordinary Courts of Assize are making reasonable progress but there is still considerable delay in obtaining from the Ministry of Justice an opinion on the merits of petitions against death sentences. Great dissatisfaction is expressed throughout the north at the length of time taken in the execution of these prisoners.

6. The atmosphere of the trials is becoming calmer and more acquittals are being recorded. Out of 49 cases in Liguria 12 death sentences were imposed; in Venezia 14 out of 217; in Lombardia 14 out of 134; in Piemonte 9 out of 136.

7. The number of new cases is decreasing and it is the opinion of the

on the increase in Venice.

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7. The number of new cases is decreasing and it is the opinion of the Minister of Justice that the work of these courts should be brought to a close as soon as possible and all untried cases referred to the regular courts of assize. In the meanwhile the procedure of the Extraordinary Courts has been modified by a new decree, which speeds up the procedure and makes more personnel available for service with the courts.

8. Experience in many cases has shown that bad offenders cannot obtain a fair trial in their home surroundings owing to popular feeling. Arrangements have therefore been made, with the concurrence of the Minister of Justice, for such cases to be transferred to another court. It may well be that this transfer will not affect the final result of the trials but the trials themselves will be more satisfactory.

9. An important decision of the Italian Courts was reached during the month, under which it was held that the mere fact of having been a member of the Fascist Republican Army did not in itself constitute the offense of collaboration with the Germans. This sensible decision was circulated by the Minister of Justice to all courts. In some cases the decision was very badly received.

Handwritten:
E. C. DIST
1-12-18
8 Feb

10. Possible difficulties have been experienced in Trieste over the question of appeals in cases where the court of first instance is under Yugoslav control but the court of appeal is at Trieste. The problem has been brought to the notice of the Yugoslav Delegation who are assisting with the solution.

GENERAL

11. There has been no General Order of 1940 published during the month.

12. The Italian Government has passed legislation (inter alia):

a. Extending time limits for expatriation.

b. Preventing the holding of, or dealing in, gold and foreign currencies.

13. As the period of 1940 in Italy seems to be drawing to a close, it may not be inappropriate to remark that the train of Italian justice appears to be lumbering along, with a much heavier load and a far smaller permanent staff, but not much more creakily or slowly than it did before the war. While the ever-dwindling members of the Legal Sub-Commission cast longing eyes over their shoulders as they murmur with Cicero: "Oudent arma togae."

W. B. E. E. E.

W. B. E. E. E.,
Colonel,
Chief Legal Advisor.

HEAD-QUARTERS ALLIED COMMISSION

APO 394

LEGAL SUB-COMMISSION

AC/4043/L.

WEB/mb.

14 August 1945.

SUBJECT : Legal Sub-Commission Monthly Report for July 1945. AUG 22 1945

TO : Chief Commissioner, Allied Commission.

ALLIED MILITARY COURTS

1. During July a determined effort was made to check the illegal possession of arms in the north. Wherever possible offenders were brought to trial and severe sentences were imposed. Full publicity was given to these trials and sentences and there is reason to believe that a measure of success has been obtained. The number of arms cases tried has led to a substantial increase in the total cases heard by AMF courts in the north. The number is still extremely small, however, in comparison with the number which used to be heard in southern and central Italy, and it is almost always possible, even in the Summary Courts, for the Provincial Legal Officer to preside.

2. Except for these arms cases the work of the AMF courts followed closely the pattern of recent months. In Naples, Livorno and Ancona there were the usual charges of theft and illegal possession of allied property. These offences are becoming more frequent, also in the north. Four serious trials were held; one concerned the killing of an allied soldier, and the accused was sentenced to 15 years imprisonment; the second arose from a series of highway robberies and murders committed by a gang of ex-partisans; the third revealed the existence of a large group in Milan engaged in counterfeiting L.M. lire; the fourth was the case of a German national in Bolzano who murdered and robbed six Italians.

ITALIAN COURTS

3. The Extraordinary Courts of Assize continued throughout the month. They were entirely free from extraordinary incidents, as when a carabinieri at Brescia recognised the accused man in the dock and proceeded to shoot him in the course of the hearing. The courts are however working hard and in most places are administering a fair justice in an atmosphere which has tended from time to time to become electrified by the local feeling. In general, however, public interest in these courts is fortunate.

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4. The number of cases tried in the different areas has varied considerably. In Piemonte the courts have disposed of 981 cases, but there were a large number of acquittals and most of the convictions were for small offences. 40 accused were sentenced to death. In Lombardia, where 2 further courts were opened in the month, out of 274 cases 249 accused were convicted and 25 sentenced to death. In Emilia out of 144 cases only 65 were convicted, but of these 31 were sentenced to death. In Venetia Region 180 cases were tried, 140 convicted and 15 death sentences imposed.

5. In Liguria and Venetia Region there are relatively few persons awaiting trial before these courts, and at the present rate of progress the calendars should be finished in 2 or 3 months. In Lombardia there are 3580 in Emilia 3395. In Piemonte 4882 persons waiting trial. If all these accused are brought to trial, the Extraordinary Courts will have to continue for a considerable time. The great majority of the accused however to be persons who belonged to neofascist organisations without committing any other specific offences and it is hoped that it will be possible after investigation to release them without trial.

6. The remainder of the Italian Courts throughout north Italy is suffering from the priority afforded to the special Courts of Assize in the matter of personnel. With the limited resources available to them these courts are working well. In most areas they are keeping pace at least in criminal matters with their current work but are not able to make such impression upon the accumulation of arrears.

7. Throughout the north, and particularly in the area of Bolzano Province much dissatisfaction is being caused by the ill-discipline of the Italian troops. Three Italian Military Tribunals have already been established to handle these cases, at Bologna, Milan and Turin. The Tribunal at Bologna is in session, those at Milan and Turin have been formed but the personnel has not yet arrived. One additional court has not been established for Verona, and one for La Spezia, and arrangements are being made for the appointment of the personnel. The ceiling of the Italian Army and the consequent limitation upon the number of military judges make the staffing of these courts a difficult problem.

8. General Order 52, promulgating the machinery for the introduction of an economic price of bread in the north, has been issued. The order grants an allowance of 95 lire per month to indigent persons and their families. It is perhaps worthy of record that upon the occasion of the transfer of Emilia Region to the Italian Government, an Italian decree officially ordered in the Gazette that there shall remain in operation the rules contained in the Gazette 51 issued by Rear Admiral STONE for and on behalf of the Supreme Allied Commander and Military Governor.

9. The Italian Government decrees of amnesty for common offences committed before allied occupation have been extended to AMG territory. The effect of this has been to release a few persons from prison and, which is more important, to clear from the records of the criminal courts a large number of pending cases on which time was inevitably being wasted.

10. The Italian Government has passed the following, among other, legislation during the month:

Decree for the confiscation of fascist profits

Decree for the Establishment of the Ministries for Reconstruction, Alimentation and Post-war Assistance.

Decree for the modification of the law on Extraordinary Courts of Assize

Decree providing heavier penalties for failure to cross train.

11. The special problems of Bolzano Province have been under study, as the doubtful nationality of many of the inhabitants has raised difficulties in the application of the General Order for the Registration of aliens and the law for the preparation of electoral lists. A modification of order

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- Decree for the modification of the law on Extraordinary Courts of Assize
- Decree providing heavier penalties for failure to amass grain.

11. The special problems of Bolzano Province have been under study, as the doubtful nationality of many of the inhabitants has raised difficulties in the application of the General Order for the Registration of aliens and the law for the preparation of electoral lists. A modification of order for the registration of aliens has been issued, but the question of electoral lists is still under discussion with the Italian Government.

W. E. HEFFENS
W. E. HEFFENS,
Colonel,
Chief Legal Advisor.

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HEADQUARTERS ALLIED COMMISSION

AFO 394

LEGAL SUB-COMMISSION

LC/4043/L.

/rlp.
14 July 1945.

SUBJECT : Legal Sub-Commission Monthly Report for June 1945.

JUL 17 1945

TO : Chief Commissioner, Allied Commission.

ALLIED MILITARY COURTS

1. Allied Military Commission ceased in Toscana Region during the month of June. With the exception of the military zones of Naples, Ancona and Livorno, no regular AMG Courts are held south of the northern regions. There is no change to report in the conditions in any of the three military zones.

In Naples one more gang of counterfeiters was brought to trial; of eight persons accused, seven were convicted and sentences from 15 to 2 years imprisonment were imposed.

One serious case was heard in Pisa. The accused threw a grenade which exploded and caused the death of one Allied soldier and wounded a second. The trial was held before a General Court and the case is now under review.

2. In the northern regions the number of AMG Court cases has been maintained at a very low level, although the figures generally show a slight increase on the month of May. The majority of cases have arisen out of the illegal possession of arms or of Allied property. There appears to be a lucrative traffic in Allied patrol in various districts. In Genoa a substantial proportion of persons brought to trial for possession of Allied property was acquitted owing to the removal of the military police concerned before the trial could be held. In Venezia Region there has been a number of cases arising out of political disorders.

ITALIAN COURTS

3. The Extraordinary Courts of Assize are now getting into their stride throughout the northern regions. On 30 June these courts had been established in all provinces of the AMG northern regions except Polzano, Apuania and Lucca. In Polzano the particular local problems have delayed the opening of these courts, but they are now being established. Apuania and Lucca are outside the scope of the Italian decrees as originally drafted. It has, however, been found necessary to institute the courts in these provinces also, and the Italian Government has prepared the necessary legislation.

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4. The courts appear to be doing their best, in the face of much popular clamour, to administer a fair justice. Criticism from extremist elements has suggested vociferously that these sentences are often too lenient; some other sources have expressed a contrary view. In Liguria Region out of 52 cases disposed of during the month, there were 16 acquittals, and 14 death sentences. In 7 provinces of Venezia Region corresponding figures are 114, 9, 30; in Lombardia, 135, 23, 13.

5. Various difficulties and problems which have arisen in the working of these courts were discussed at a conference in Milan on 30 June between all the heads of the Courts of Appeal and Public Ministries concerned. The main problem was to reduce the delays in procedure and particularly the delay between the imposition of a sentence of death and its execution. This delay is causing considerable unrest and has been responsible for at least some of the outrages in which armed men have broken into jails and murdered prisoners awaiting trial or execution. Instructions were given at the conference which should reduce these delays.

Arrangements were also made for the suspension of holidays of registrars in the north and for the formulation of a plan to enroll large numbers of advocates into the public Ministry for periods of service and thereby to reduce the time taken in pre-trial instruction procedure.

AMG ORDERS

6. The problem of operation in private industry in the north continued to press and in particular a scheme was required for the removal from the directing staffs of important industries of officials who were considered tainted. The Italian Government has been considering a scheme for this purpose, but owing to the Government crisis little progress was made, and a General Order (No. 47) along the lines of the scheme was accordingly prepared. The order was not actually issued as a General Order, as it was considered that it should only be used where definite need exists. The scheme will therefore be operated through Regional Orders where such are required.

7. General Order No. 48 was issued as a temporary measure to prevent mass discharges from industry in the north, where lack of raw materials makes it difficult for industrial firms to find employment for all the workers on their books. The scheme for the retention of these workers was agreed with the Italian Government, and as at present designed continues in operation until 31 July 1945.

W. E. Behrens

W. E. BEHRENS,
Colonel, R.A.
Chief Legal Adviser.

2603

HEADQUARTERS ALLIED COMMISSION
AFG 394
LEGAL SUB-COMMISSION

AC/4043/L.

/rlp.
14 June 1945.

SUBJECT : Legal Sub-Commission Monthly Report for May 1945.

TO : Chief Commissioner, Allied Commission.

JUN 18 1945

ALLIED MILITARY COURTS

1. In the ports of Naples and Ancona, AMG Courts have continued on the same scale as in previous months. The type of crime remains unchanged; in Ancona the thefts of large quantities of sugar have caused the imposition of heavy punishments on convicted offenders.

In Naples the crimes arising from the activities of the port have continued at a high level. In addition, several cases of large scale counterfeiting of AMG lire have been heard. Some 16 accused have been tried and convicted; in view of the enormous scale on which the printing of these notes was being practised, sentences up to 15 years imprisonment were imposed.

2. In Toscana Region Generally, and in Livorno in particular, the volume and type of crime remain reasonably constant but the reduction in military police in the area has led to fewer arrests, and reduction of legal personnel has involved the transfer to the Italian Courts of a number of cases which would previously have been heard by the AMG Courts. This practice causes delay but is unavoidable.

3. In the northern regions very few AMG Court cases have been held and these were mostly held during the early days of Allied occupation when curfew and travel restrictions were still being enforced. On the other hand, no attempt has yet been made to prosecute in AMG Courts persons who have failed to surrender their arms. The total number of cases tried by AMG Courts in the whole of North Italy is less than 300.

ITALIAN COURTS

4. In southern Italy the Italian Courts continue to function normally and there is nothing in particular to report.

5. In northern Italy the principal activity has been the establishment of Special Courts of Assize to try persons accused of collaboration with the enemy. A very large number of persons are at present awaiting trial on charges of this nature, the largest number being some 5000 in Milan. Courts have been established in every province, and in the larger cities several sections have been set up.

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6. The number of these Special Courts has created a problem of personnel both on the judicial side, since every court requires a president of grade 5, and on the side of the Public Ministry. In the main, north Italy is reluctant to accept judges imported from the south but there is an insufficiency of magistrates of the appropriate grade in the north and therefore a number of southern officials have already been imported and it is recognized that additional staff importations are inevitable. So far as the Public Ministry is concerned, in Milan alone, 40 officials were required. It has accordingly been necessary to employ throughout northern Italy a large number of avvocati to assist in the work of the Ministry. By agreement with the Ministry of Justice, arrangements have been made for such avvocati to be paid as Sostituti Procuratori del Regno as officials of the 6th grade.

7. In the early stages, difficulty was caused by the fact that against many of the prisoners who had been arrested, there was no evidence available. Notices however were inserted in the press regarding such evidence which thereupon was rapidly forthcoming and the preparation of the cases was able to proceed.

Trials in court started in most provinces during the last week of May; it is therefore too early to form any reliable judgment on the conduct of these courts but the number of death sentences awarded has been comparatively low. The prison sentences have been extremely heavy but it is unlikely that the prisoners will actually serve any substantial portion of the sentences imposed.

8. Many of the persons imprisoned have claimed that they are entitled to be treated as prisoners of war and in accordance with instructions received from ARHQ a directive has been issued to clarify this position.

9. In the early days of liberation from the enemy, irregular military courts were established by the Italians for the trial of collaborationists. These continued for a short time after the Allied occupation but have now been stopped and all persons accused of collaboration are being brought before the Special Courts of Assize. Regular Military Tribunals have been set up to deal with military personnel guilty of current crimes.

10. Apart from the Special Courts of Assize, all ordinary Italian courts are functioning. Pending epuration proceedings, the greater part of the magistracy appears to be satisfactory and has been retained in office. There are a few shortages of personnel but provision has been made for every court to operate, if necessary with a reduced staff.

11. Special Section of the Court of Cassation has been established in Milan to hear appeals from the Special Courts of Assize. No appeal actually reached this court during the month.

12. Arrangements have been made for safeguarding and transportation to Rome of the archives and documents found in the office of the Fascist Republican Ministry of Justice and Section of Supreme Court of Cassation in Brescia and Cremona. The position of personnel who took part in the operation of this Ministry and this court is under investigation with a view to epuration proceedings.

AMG ORDERS

13. During the month, General Orders Nos. 45 and 46 have been issued.

General Order No. 45 provided for the relaxation of certain security measures contained in Proclamation No. 3.

General Order No. 46 established and regularized a form of epuration in private industry in the north. This order was required in order to protect employees in industry who are being subjected to threats and dismissals, superficially on the ground of alleged fascist activities but in reality as a

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14. General Order No. 41 which was issued in April 1945 as an interim measure to stabilize economy for the north provided that changes in the price of certain commodities could be modified by further AMG order when this became necessary. Provincial Orders have accordingly been prepared permitting increases in the price of certain foodstuffs to accord with the conditions which are in existence locally.

ITALIAN LEGISLATION

15. Legislation enacted by the Italian Government from the 8th September 1943 to the present date has been implemented throughout the north of Italy (excluding the provinces of Venezia Giulia) with a few exceptions. The principal process of delivery of this legislation involved the transport of eight tons of laws to each region, and even then the number of copies available for the many lawyers who wished to study legislation was not always adequate.

16. During the month, the Italian Government has passed the following principal legislation:

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A decree enabling women to hold certain positions in educational institutions; an emergency measure re-introducing the recently abolished death penalty as a punishment for certain types of robbery and violence; a decree providing rules for the execution of the law restoring property rights to persons effected by the fascist racial laws; a decree exempting patriots from penal liability for certain acts performed in the fight against the enemy; a decree setting out rules for punishment of fascist activities in liberated Italy; a decree setting up the framework for the National Consultative Assembly.

W. E. Berrens

W. E. BERRENS,
Colonel,
Chief Legal Advisor.

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ALLIED MILITARY COMMISSION

JAG 304

LEGAL SUB-COMMISSION

40/4047/2.

14 May 1945.

SUBJECT : Legal Sub-Commission Monthly Report for April 1945.

TO : Chief Commissioner, HQ Allied Commission.

ALLIED MILITARY COMMISSIONS

MAY 17 RECD

1. In preparation for the Allied advance it was necessary to provide legal personnel for the northern regions before any further territory was actually occupied. The consequent withdrawal of officers from Sicily and INFILIA-LIGIA regions and from Naples Commune has substantially reduced the number of cases heard by MG Courts during the month. In certain areas, such as the inland portions of UMBRIA-MARCHE, the withdrawal of Allied troops has led to a reduction in the number of crimes committed, or at least the withdrawal of CAP has reduced the number of crimes detected. In most districts however the offences have continued, but have been referred to the Italian Courts for trial.

2. There has been little serious crime. The General Court sitting in Florence for the hearing of espionage cases concluded the calendar of cases immediately ready for trial and was therefore closed. The similar Court in Bologna continued to hear cases until about 20 April 1945. There is still a small number of cases awaiting trial in this area. Of the 6 espionage cases reviewed in this HQ during the month, 2 death sentences were confirmed, 2 prison sentences were affirmed and 1 conviction was quashed.

3. There were 3 other General Court cases held during the month; two arose out of the killing of Allied personnel. In one case the accused were acquitted; in the other, which arose in Italian Government territory and was therefore tried under Italian law, a sentence of 15 years imprisonment was imposed. The third case was the trial of Prof. DI NICHIS, Chief Director of the Farm Hospital in Naples, together with two of his assistants. The allegation of the prosecution was that over a long period of time the accused had fulfilled regulations and had authorized the premature release from the hospital of diseased prostitutes. After a long and detailed trial, before a court which included one medical officer who was a specialist in venereal disease, the accused were acquitted.

4. Part from these cases the type of crime has remained substantially unchanged. There is of Allied stores from the part of a report to be on the increase.

5. There has been no report of any MG Court case having been held in any of the newly liberated areas.

LEGAL SUB-COMMISSION

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4. Part from these cases the type of crime has remained substantially unchanged. Steals of Allied stores from the port of Ancona appear to be on the increase.

5. There has been no report of any MG Court case having been held in any of the newly liberated areas.

6. The additional cases entrusted to the Italian Courts as the result of the above policy have increased the already heavy burden on these Courts. Nevertheless they are doing their best to cope with their difficulties and are cooperating as much as possible with the Allied in the disposition of cases affecting Allied interests. The situation is still not entirely satisfactory in the areas of Bari and Naples where large scale thefts from the various depots and dumps continue.

7. Further sessions of the Court of Ancona took place in November and December in the regions. They were largely concerned in the trial of fascist crimes.

8. In order to provide a speedier and more immediate trial for those fascists in northern Italy who have been cooperating with the Germans, the Italian Government has passed a decree instituting Special Courts of Justice. These Courts consist of a panel of 5, the president being a judicial official and the 4 lay members being selected from a list supplied by the GIL. This Court was made effective in AMG territory and was put into operation immediately upon the entry of AMG into any province. These Courts appear to have had an enthusiastic reception from the local population; owing to the time taken in the formation of the court panels and

See 92. E.C. Dist. 1-Ex Comm. M. J. 3-1945

the "instructional" period of the trials, the courts will not be ready to hear their first cases for about a month.

ECONOMIC POLICY FOR NORTHERN ITALY

9. As a result of the decision to establish, upon initial occupation of the northern territory, a cordon sanitaire so as to prevent or at least delay the spread of inflation from southern to northern Italy, it has been necessary to suspend for the month the operation of a number of Italian Government economic decrees which had been brought into operation by AM in the territory previously occupied. A special AMG order was accordingly published in the Gazzetta Ufficiale suspending the operation of these laws until further notice.

10. The publication of this order represents an extension of the principle of implementation hitherto admitted. Previously the only orders in the Gazzetta were simple orders bringing into operation, in their entirety, approved Italian decrees. The present order utilizes the Italian Official Gazette as a channel for the publication of AMG orders suspending or modifying Italian decrees which had previously been approved. The Minister of Justice is entirely in agreement with this form of procedure.

11. To still to some extent the void created by the suspension of these decrees the following General Orders have been issued.

General Order 41, establishing wage rate and price levels in the north;
 " " 42, fixing corn rates and agricultural rules.
 " " 43, fixing transportation rates.

AMG LEGISLATION

12. In addition to the General Orders mentioned above, the following General Orders were prepared.

General Order 39 and 39 A for Italian frontier control;
 " " 40 for control of civilians in their relations with surrendered German troops;
 " " 41 for control of currency and fixing rates.

ITALIAN DECISIONS

13. After prolonged negotiations, the Italian Government finally passed the

the following General Orders:

General Order 41, establishing wage rate and price levels in the north;
" " 40, fixing corn rates and agricultural rules;
" " 42, fixing transportation rates.

AMC LEGISLATION

12. In addition to the General Orders mentioned above, the following General Orders were promulgated:

General Order 39 and 39 A for Italian frontier control;
" " 43 for control of civilians in their relations with surrendered German troops;
" " 44 for control of currency printing notes.

ITALIAN LEGISLATION

13. After prolonged negotiations, the Italian Government finally passed the decree for the constitution of DIP as the body for the control and distribution of petroleum products throughout Italy.

14. A decree has been passed abrogating all limitations on the freedom of listening to radio broadcasts. The limitations had, in practice, been dead since the armistice, but two cases were recently discovered in which charges were still listed as "pending" for the offense of listening to the London radio in 1942.

W. E. B. Williams

W. E. B. WILLIAMS,
Colonel,
Deputy Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION

LFO 394

LEGAL SUB-COMMISSION

AC/4043/I

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2603

14 April 1945

SUBJECT: Legal Sub-Commission Monthly Report for March 1945

APR 17 REC'D

TO: Chief Commissioner, Allied Commission

ALLIED MILITARY COURTS

1. (a) "Anything can happen when Italian culprits line up before the Allied bar of justice."

This is the opinion of the author of an article in the Stars and Stripes of Sunday, 1st April 1945 after spending a day in a Summary Court at LIVORNO. The author also quotes the presiding officer as saying that on some days his summary court is "just like Gilbert and Sullivan".

- (b) "And therefore we think that the recent sentence of the General Court and others of the Allied Courts, inspired by serene impartiality, are a lasting element for an effective rapprochement between our people and the victorious Allied Nations."

This quotation is from an article in "Il Giornale dell'Imbria" of 24 March 1945 commenting on a recent General Court case in FERRUGLIA and contrasting the German policy of reprisals with Allied Justice.

2. During March 5 espionage cases were reviewed: two death sentences were confirmed; two convictions were quashed; and one death sentence was commuted to a term of imprisonment.

3. In Naples Commune the Allied Courts have remained busy: out of a total of 771 convictions during March, 612 were for theft or wrongful possession of Allied property. The case against Professors Dr. ALICKS and PLASIO, Directors of the Pace Hospital, referred to in last month's report was heard at the end of the month.

In Toscana, some 2500 Military Court cases were disposed of: of these LIVORNO and FERRUGLIA between them accounted for about 1800. The two most prevalent offences were travelling without proper permits (combined frequently with clandestine trading) and unlawful possession of Allied property. One case in FERRUGLIA is noteworthy. A gang of 3 Italian soldiers upon some Allied soldiers.

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In TOSCANA, some 2500 Military Court cases were disposed of; of these LIVORNO and FIRENZE between them accounted for about 1800. The two most prevalent offences were travelling without proper permits (combined frequently with clandestine trading) and unlawful possession of Allied property. One case in FIRENZE is noteworthy. A gang of 3 Italian soldiers set upon some Allied soldiers and cut off a large part of her hair. In the struggle one of the Allied soldiers was stabbed. With the permission of this sub-commission, the Italian soldiers were tried before an Allied Military Court: they were all convicted and sentenced to 10 years of imprisonment. As a result the number of offences of this type has decreased substantially.

General Military Courts are in almost constant session in FIRENZE and RUCCIONE (FLORENCE province). The bulk of the work consists of trying espionage cases.

4. A recent case at BARI caused great interest locally. A woman employee of the Allied Commission and two friends were convicted for having carried on a very profitable business in procuring various permits from the local office of the Allied Commission. Most of the prosecution witnesses admitted in Court that they personally had paid large sums to procure permits through the good offices of the accused.

Only two other cases were tried by Allied Military Courts in Italian Government Territory. By the end of March almost all legal officers had been withdrawn from Italian Government Territory in accordance with the policy now in force.

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WORK WITH ITALIAN MINISTERS

5. Cases have come to light in which patriots are in course of prosecution for offences committed during the German occupation in the course of their patriot activities. The Minister of Justice has presented a draft decree to authorize the discontinuance of such cases when the circumstances so justify and is preparing a decree of amnesty to cover appropriate cases of this type. A similar policy is being followed in ASD territory.

6. In view of the withdrawal of legal officers from Southern Italy the jurisdiction over petitions for pardon and conditional liberty in respect of offences against Allied interests tried by Italian Courts in Italian Government Territory has been transferred to the Italian authorities.

7. A study is being made of a draft decree on confiscation of illicit profits derived from the fascist regime which has been prepared by the Italian Government.

AND LEGISLATION

8. Two General Orders were drafted during March: to raise the price of bread, in accordance with the price fixed in Italian Government Territory by the Italian Government; and to regulate delivery of cereals to the Granaries of the People.

ITALIAN LEGISLATION

9. The Italian Government has produced a draft decree setting up Special Courts of Assize intended principally for Northern Italy. These courts, which consist of one professional judge and lay members, are designed to meet out rapid justice to collaborators and leading fascists.

10. The scarcity of judicial personnel has remained the central problem in Italian civil and military courts. The Italian Government has been urged to introduce legislation to release judges from their duties on epuration Commissions.

11. The Military Tribunal of Oristano (Sardinia) has acquitted several Italians who parachuted from German planes and were accused of espionage. The case has been discussed with the Procuratore Generale Militare, who has been requested to submit a copy of the sentence for consideration.

TEMPORARY FILM BOARD

12. A representative of Legal Sub-Commission has been sitting on the "Temporary Film Board" set up to reestablish the Italian film industry on a basis free from monopoly and censorship.

the people.

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11. The Military Tribunal of Cristiano (Sardinia) has acquitted several Italians who parachuted from German planes and were accused of espionage. The case has been discussed with the Procuratore Generale Militare, who has been requested to submit a copy of the sentence for consideration.

TEMPORARY FILM BOARD

12. A representative of Legal Sub-Commission has been sitting on the "Temporary Film Board" set up to reestablish the Italian film industry on a basis free from monopoly and propaganda and has supplied the Board with a report on existing Italian Film legislation.

for
W.E. HARRIS,

Colonel,

Deputy Chief Legal Advisor.

26034-42
HEAD MATTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4043/L.

WEB/2a.
12 March 1945.

SUBJECT : Legal Sub-Commission Monthly Report for February 1945.

TO : Chief Commissioner, Allied Commission.

MAR 16 1945

ALLIED MILITARY COURTS.

1. Allied Military Courts continued to be held in AMG territory throughout the month. The amount of serious crimes is very small in all areas, the bulk of the cases handled being for ourfew and pass violations, and for illegal possession of W.D. property.

2. There is considerable crime in the port areas of Naples and Livorno, where the civilians are not slow to take advantage of the opportunities for black-market which are increased by the cooperative attitude of some of the local troops. In Livorno one serious case of pilfering of Allied mail was heard and also one conspiracy to defraud the Allied Forces in a deal involving Lire 6,000,000. In Naples a gang of 10 persons was convicted for counterfeiting A.M. Lire.

3. The Courts established at Bari and Bitonto for the trial of cases arising out of thefts from the Depots in those areas were brought to a close. During a 2½ months' existence they heard 600 cases, involving some 850 accused. It is reported that pilfering in the Bitonto area has practically ceased and that crimes affecting the Allies in Bari have been materially reduced. The local military authorities attribute these results to the working of the Allied Military Courts. The sentences imposed by the Courts were not heavy but, contrary to the custom previously prevalent in the area, the cases were heard speedily and a sentence of imprisonment was actually followed by a period spent in gaol.

4. Apart from these Courts, a very small number of cases was specially authorized to be held by A.M. Courts in Italian Government Territory. They were all cases in which Allied soldiers had been killed or seriously wounded by Italians.

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5. The case of Professors DE ANTONIS and BLASIO, Directors of the Pace Hospital, Naples, is in course of trial before the A.M. Court there. The accused are suspected of taking bribes to grant premature releases from the hospital to diseased prostitutes. The investigations have not been concluded and the accused, although originally arrested, are not on bail.

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ITALIAN COURTS

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6. Ten cases of espionage were reviewed at this HQ during the period. / 3 death sentences were confirmed: 5 were commuted on account of the age or sex of the accused: 2 sentences of imprisonment were affirmed.

ITALIAN COURTS.

7. The Italian civil courts have continued to operate during the month but they are still suffering from the usual difficulties, and particularly lack of transportation. 9980

8. The arrival of a new Procuratore Generale and Primo Presidente at the Court of Appeal at Bari appears to have introduced a new current of cooperation into the local atmosphere. The example of the A.M. Courts appears to have acted as an additional stimulus.

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9. Conferences have been held by local officers with leading magistrates of the Courts round Naples and here too it would appear that the Courts have at last realised their responsibilities and are prepared to discharge them.
10. In Grosseto the Court of Assize sat for the trial of several fascists accused under D.L. 159. Speedy trials were held, sentences of a reasonable severity were passed and a good effect was produced on the local population.
11. The Tribunale Militare of Macerata has started work. Complete absence of prison accommodation is at present proving a handicap. A decree has been recently passed extending the jurisdiction of this Court over the provinces of Ravenna and Forli'.
12. The Tribunale Militare has also been established in Toscana. It will sit in Florence as soon as the necessary personnel have arrived there. There is considerable demand for this Court not only because of the crimes committed by presently active members of the Italian Army but also because many crimes, and particularly crimes of violence, are committed in the area by persons who were formerly members of the army, were not at the date of their crimes officially discharged and are therefore not subject to the Civil Courts.

WORK WITH ITALIAN MINISTRIES.

13. At the request of the Allied Commission the Italian Government has passed a decree prohibiting the harbouring by civilians of Allied deserters or absentees. The decree has been implemented in AMG territory.
14. Examinations are being held in Florence for Procuratori and Avvocati. Arrangements have been made for similar examinations to be held in Rome during March.
15. Further, if slow, progress is being made in the provision of judicial officials for the Northern Regions. The Minister of Justice has issued a circular to all Courts throughout Italian Government territory to discover additional available personnel. The Minister has expressed confidence that he has a sufficient reserve but has not yet produced much evidence to justify it.
16. Tribunale Militari are authorized for the Northern Regions. As the ceiling of the Italian Army does not allow the allocation of additional personnel from this Service, arrangements have been made with the Ministero of Marine and Air for their services to ~~cover~~ the requirements. The personnel have not yet, however, been nominated.
17. Arrangements have been made with the Italian Government for the transfer to the Italian Government of the assets of the Istituto Nazionale di Trasporto di Sicilia. Captured German and Italian vehicles were transferred to this organization which was operated under the auspices of AMG. Several of these vehicles were insured by the Italian Government.

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17. Arrangements have been made with the Italian Government for the transfer to the Italian Government of the assets of the Istituto Nazionale di Trasporto of Sicily. Captured German and Italian vehicles were transferred to this organization which was operated under the auspices of AMG. Several claims for personal injuries were incurred by the organization but the profits made were for more than sufficient to meet these claims. Under the present arrangements, all assets and liabilities will be taken over by the Italian Government.

18. Various decrees prepared by the Italian Government on Expropriation were considered. In particular a new decree was submitted to facilitate expropriation of private companies.

AMC LEGISLATION.

19. General Order No. 37 was prepared during the period. This Order, following the policy of the Italian Government, provides for the granting of advance payments in respect of certain pensions.

W. E. BEPPENS

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

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AG/4043/L.

/rhp.
10 February 1945.

SUBJECT : Legal Sub-Commission Monthly Report for January 1945.

TO : Chief Commissioner, Allied Commission.

FEB 10 1945

1. ADVICE.

The main problems upon which the Legal S/C was asked to advise were as follows:

- a. Control of the management of the Societa' Editrice Meridionale, a dispute having arisen owing to the appointment by AGS of a manager of the concern and to the appointment by the tribunale of a sequestrator of the property of one of the owners.
 - b. The proper preparation and presentation of espionage trials in Allied Military Courts.
 - c. The rights of property acquired by civilians in WD vehicles found by them abandoned and in a state of disrepair and subsequently put into working order by them.
 - d. A proposed contract submitted by transportation S/C for the hire by the Commission to civilians of commercial vehicles.
 - e. A transaction involving the purchase of silk in which Commerce S/C was interested.
 - f. The establishment of military zones.
 - g. Prostitution and the Italian Criminal Procedure with respect thereto.
2. ORDERS AND PROCLAMATIONS.
- The following orders were drafted:
- a. A General Order relating to the declaration of certain essential commodities such as wheat, animal fats, flour and olive oil and the fixing of the prices therefor.
 - b. A General Order providing for the anticipatory payment of certain

c. The rights of property acquired by the Government, abandoned and in a state of disrepair and subsequently put into working order by them.

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f. The establishment of military zones.

g. Prostitution and the Italian Criminal Procedure with respect thereto.

2. ORDERS AND PROCLAMATIONS.

The following orders were drafted:

a. A General Order relating to the declaration of certain essential commodities such as wheat, animal fats, flour and olive oil and the fixing of the prices therefor.

b. A General Order providing for the anticipatory payment of certain pensions corresponding to payments provided for by order of the Council of Ministers of 29 Dec 44.

These two orders are for use in the Northern Regions in the period between the institution therein of Allied Military Government and the implementation of the appropriate Italian decrees covering the same subjects.

3. VISITORS.

Lord Schluter, Senior Legal Advisor designate Austria, and a staff officer visited the sub-commission. The work carried on at HQ was explained and a memorandum setting out the system of implementation in Military Government Territory of Italian Government decrees which has been evolved was supplied. A visit was made to Florence to see Allied Military Courts, General, Superior and Summary, in action.

4. ITALIAN LEGISLATION.

In cooperation with the Italian Government the following decrees were prepared or studied:

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- a. To strengthen the law covering the harboring of Allied deserters and to increase the penalty therefor.
- b. To establish military tribunals to operate in the Northern Regions when occupied by the Allies. This course was adopted to meet the contingency that civilian courts may not be functioning and that Allied Military Courts almost certainly will not be sufficiently numerous to handle all cases.
- c. To modify the exercise of the right to order citizens to "confinio."
- d. To facilitate the marriage of personnel and employees of the United States Armed Forces.

Study was made of proposed Italian decrees dealing with the following matters:

- a. The appointment of receivers for certain types of undertakings.
- b. The restoration of rights to patents, trade marks and designs expired due to circumstances arising out of the war.
- c. The setting up of a special procedure dealing with the grant of salary increases to public employees in Military Government Territory, such procedure to be given effect by implementation.
- d. Modifying certain provisions of previous laws dealing with sanctions against Fascism.

5. WORK WITH THE MINISTRY OF PRISON AND JUSTICE.

In order to meet the scarcity of judicial personnel, the Minister took steps to recall retired judges physically and mentally fit and politically suitable and arranged that all judges whose regular seats of office are in enemy held territory shall be temporarily assigned to vacant posts; also preparations are being made to hold a competitive examination to recruit new personnel.

Two circulars were issued by the Minister at the request of the sub-commission instructing Italian judicial authorities to use sparingly the power to grant provisional liberty in proceedings for offences concerning prostitution or involving Allied interests.

A new President of the Court of Appeal of Bari has been despatched to Bari with the assistance of this sub-commission and measures have been taken to ensure that competent and cooperative personnel be assigned to the courts dealing with prostitution at Bari.

A comprehensive collection of all Italian legislation on prostitution and on power to arrest and to grant

5. WORK WITH THE MINISTRY OF PARDON AND JUSTICE.

In order to meet the scarcity of judicial personnel, the Minister took steps to recall retired judges physically and mentally fit and politically amiable and arranged that all judges whose regular seats of office are in enemy held territory shall be temporarily assigned to vacant posts; also preparations are being made to hold a competitive examination to recruit new personnel.

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A comprehensive collection of all Italian legislation on prostitution and on power to arrest and to grant provisional liberty has been prepared including instructions issued by the Ministry of Interior and Justice on these subjects. A copy of the collection has been distributed to all legal officers.

Appointment of air force and naval officers to Italian Military Tribunals was discussed in conjunction with the Ministry of War and with the Air Force and Navy Sub-Commissions.

The financial difficulties of auxiliary personnel hired by AMF authorities in Naples in the early days of the Allied Military Government were considered.

Arrangements were made in cooperation with the Ministry for holding examinations for attorneys (procuratori legali) and for the organization of notarial councils in Military Government Territory.

The establishment of Circuit Sections of the Court of Appeal at Ancona and personnel problems of this court were considered.

A new tribunale was constituted at Veste.

6. SUPERVISION OF ALLIED MILITARY COURTS.

The permanent Allied Military Courts in Bari continued in full operation. The indications were that the institution of these courts had had a noticeable effect in reducing crimes against Allied property and that the work of these courts was tending to diminish.

Nine espionage cases were reviewed; four death sentences were affirmed; four death sentences were commuted and one sentence of imprisonment was affirmed.

In response to requests from this Commission, AFHQ issued a directive laying down the procedure for determining what information should be responsible for carrying out sentences of death imposed by Allied Military Courts and to ensure that unnecessary delays are avoided. Appropriate instructions were issued to AFHQ of Armies and to Regions.

Normal review work has continued. A substantial proportion of serious Superior Court cases came from Naples. Most of these cases concern charges of theft, or attempted theft, of Allied stores frequently accompanied by bribery or attempted bribery of Allied soldiers or Italians employed by the Allies. Figures in respect of Allied Military Court cases show no significant trend. Livorno remains busy, but of the 700 cases tried there, only 6 were Superior Court cases. The number of cases tried at Ancona showed an appreciable reduction.

A study was made of the procedure for enforcing payment of fines imposed by Allied Military Courts in Italian Government Territory with particular regard to the courts at Bari. It was agreed with the Ministry that such fines should be enforced by the Italian authorities in all respects as if they had been imposed by an Italian court.

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

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but of the 700 cases tried there, only 8 were Superior Court cases. The number of cases tried at Areona showed an appreciable reduction.

A study was made of the procedure for enforcing payment of fines imposed by Allied Military Courts in Italian Government Territory with particular regard to the courts at Bari. It was agreed with the Ministry that such fines should be enforced by the Italian authorities in all respects as if they had been imposed by an Italian court.

W. E. HARRIS,

Colonel,

Deputy Chief Legal Advisor.

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26020
HEADQUARTERS ALLIED COMMISSION

APO 904

LEGAL SUB-COMMISSION

/rlp.
14 January 1945.

SUBJECT: Legal Sub-Commission Monthly Report for December 1944.

TO: Chief Commissioner, Allied Commission.

JAN 19 1945

1. ADVICE.

The main problems upon which advice of the Legal S/C was asked were:

- a. A study was made and advice given with respect to the obligation of the Italian Government under the terms of surrender to pay the operating expenses of CIP incurred in connection with the distribution of petroleum products.
- b. Conferences were held with and advice given to IWE with respect to the nomination by the Tribunale of Naples of a Commissioner Extraordinary under the Evacuation Laws for newspaper interests under IWE Control.
- c. A critical study was made of a draft of Evacuation Proceedings against the Italian Industrialist Massimo DEL FANTE.
- d. Consideration was given to methods best calculated to increase the number of Italian judges required by reason of increased volume of Italian criminal cases, additional cases involving Allied interests, additional judicial personnel for evacuation committee, and losses of judges who themselves are evacuated.
- e. An opinion was given to Transportation Sub-Commission with respect to violation by owners of requisitioned facilities of terms of charter party and permits issued by Allied authorities.
- f. Consideration was given to the method of a claim and disposition of claims for personal injuries and property damage asserted against IWT.
- g. Further study was made of the subject of Military Zones.
- h. An analysis was made of the applicable provisions of Italian law pertaining to:
 1. a. Ineffective in Italian law applicable in case of theft of or damage to ammunition and other war stores and prepared and distributed.
 2. An examination was made of the extent of the jurisdiction of the Evacuation Commission over Italian judges serving in colonies administered by British Military Authorities.
 3. Conferences were held with and a contract drawn for Transportation S/C covering the operation of a restaurant.
 4. An opinion was prepared with respect to alleged violation of rationing laws.

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1. In opinion was given to Transportation Sub-Commission with respect to violation by owners of requisitioned freighters of terms of charter party and permits issued by Allied authorities.
2. Consideration was given to the method of handling and disposition of claims for personal injuries and property damage asserted against Italy.
3. Further study was made of the subject of Military Zones.
4. An analysis was made of the applicable provisions of Italian law pertaining to forced labor.
5. A directive in Italian law applicable in cases of theft of or damage to ammunition and other war stores was prepared and distributed.
6. An examination was made of the extent of the jurisdiction of the Eviction Commission over Italian judges serving in colonies administered by British Military Authorities.
7. Conferences were held with and a contract drawn for Transportation S/C covering the operation of warehouses.
8. An opinion was prepared with respect to alleged violation of rationing laws by members of the Bank of Italy.

2. WORK WITH THE MINISTRY OF AGRICULTURE AND FORESTRY.

During the early days of Allied Military Government in Sicily, certain representatives of judicial officials were not in exact conformity with Italian laws. The Minister has now requested the consent of this sub-commission to the revision of such appointments. The matter was fully discussed and due to the tense situation in Sicily referred to higher authority.

Procedure to be followed in cases of arrest by Federal Carabinieri of Italian civilians employed by the Allies was discussed.

Strom's representations were made to the Minister regarding the handling by the prosecution of the case of Massimo M. F. M. M., the wealthy contractor accused of collaboration with the Germans.

Measures were discussed for a more effective repression of prostitution at night and an undertaking given by the Minister to draft a circular thereon.

2603
 HEADQUARTERS ALLIED COMMISSION

ALSO FOR

LEGAL SUB-COMMISSION

AC/4043/L.

12 December 1944.

SUBJECT : Legal S/C Monthly Report for November 1944.

TO : Chief Commissioner, Allied Commission.

1. ADVICE

The main problems upon which the advice of the Legal S/C was asked were:

- a. D.L. 151 of 25 June 1944 which established the Constituent Assembly. The problem was the extent to which this decree precluded a referendum to decide the institutional question.
- b. UNRRA. In order to establish a working basis, UNRRA prepared a draft directive for issue by ASAC and a draft agreement with the Italian Government.
- c. Yugoslav Forces. Crimes committed in ASY Territory by members of ALAS raised the issue whether these members were subject to the jurisdiction of ASY Courts.
- d. Public Utility Rates. The proposed increase in rates for public utility services involved a comprehensive study of the relevant legislation and the difficulties arising from the proposed methods of calculating the increase.
- e. QIP. A draft decree constituting CIP as an Ente di Gestione was finally agreed with the Italian Government subject to an exchange of letters to protect Italian interests.
- f. Rori. The inability of the local Italian Courts to deal with the offences in the ammunition depots led to the decision to establish ASY Courts in the area.
- g. Regius Coeli. An investigation of the troubles in Regius Coeli Prison led to the appointment of 4 additional Judicial Detention in Rome.
- h. S. COERS.

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directive for issues by law and draft agreement with the Italian Government.

2. Judicial Forces. Crimes committed in all Territory by members of ALI, raised the issue whether these crimes were subject to the jurisdiction of ALI Courts.
- a. Public Utility Rates. The proposed increase in rates for public utility services involved a comprehensive study of the relevant legislation and the difficulties arising from the proposed methods of calculating the increase.
- c. CIP. A draft decree constituting CIP as an Ente di Gestione was finally agreed with the Italian Government subject to an exchange of letters to protect Italian interests.
- f. Bari. The inability of the local Italian Courts to deal with the offences in the ammunition depots led to the decision to establish MP Courts in the area.
- g. Regina Coeli. An investigation of the trouble in Regina Coeli Prison led to the appointment of 4 additional giudici istruttori in Rome.
4. 2. GUERS.
- a. General Order No. 25 for Definition of administration in AMG Territory was completed.
- b. Orders for the establishment of Labor Offices under G.O. #28 were prepared.
3. WORK WITH THE MINISTRY OF PARDON AND JUSTICE.

Only two meetings with the Minister of Pardon and Justice were held in 29-15
resumption of the Italian Government.

In these, the personnel problems of the Italian Courts figured prominently. Three main methods for remedying the shortage of personnel which has developed in the judicial system were agreed upon: promotions of qualified candidates in local ranks, recruitment of new personnel, restriction of judicial officials held as POWs in Africa and elsewhere. Particular attention was given to the Courts of Naples where the two key members of the judiciary are being replaced and by the Court of Appeal Section at Lucera. Also discussed were the steps to be taken against the Procuratore del Re of S. Maria Capua Vetere who has been charged with certain irregularities in connection with his handling of cases involving Allied interests. Suggestions were made to the Ministry regarding further legislation abolishing royal laws and comments were requested on the recent reform of penal and civil codes. Minister's queries concerning the interpretation of General Order No. 25 on labor matters were answered. The subject

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problems of certain groups of officials and the selection of lay judges for courts of assizes were considered.

4. ITALIAN LEGISLATION AND JUDICIARY.

Further discussions were held with the Vatican authorities and the Ministry of Justice to obtain speedy publication of the amended decree on marriages of members of U.S. Armed Forces in Italy.

A case of contemplated marriage between an American colored soldier and an Italian woman necessitated a detailed study of the present Italian law on this subject.

The possibility of future elections in Italy called for an examination of the question of women's suffrage under Italian law.

Decreases submitted by sub-commissions or Italian ministries were examined. The subjects covered by these decrees included: defascism of high grade officials, liquidation of fascist property, procedural rules for defascism of the administration, appointment of receivers for fascist-controlled concerns, revision of sentences passed by fascist tribunals, increased cost of living allowances, emergency housing, reorganization of legal profession, penalties for violations of the rationing laws, war damage to privately owned railways.

5. SUPERVISION OF LAW COURTS.

a. Due to the incapacity of the Italian Courts, permanent Superior and Summary Military Courts have had to be established in the Bari District to deal with cases of sabotage or damage to Allied supplies and installations.

b. Experience has shown that certain amendments are necessary to the rules of procedure as set out in the Consolidated Instructions for Allied Military Courts. These have now been prepared and are being printed for distribution.

c. Reviewing. 9 espionage cases have been reviewed at this HQ during the past month, six death sentences being confirmed and one death sentence being commuted to imprisonment for life by the Chief Commissioner and two prison sentences being confirmed. Normal reviewing work has continued.

d. Points from the regions:

(1) Southern Region

Investigations into the forging of warrants of release from prison have now been completed. The PLO specially commends the work and cooperation of the Questura at Naples in their investigation.

There were two General Military Courts at Naples during the month. One accused was acquitted and the other was sentenced to two years imprisonment.

5. SUPERVISION OF ALL COURTS.

- a. Due to the incapacity of the Italian Courts, permanent Superior and Summary Military Courts have had to be established in the Bari District to deal with cases of sabotage or damage to Allied supplies and installations.
- b. Experience has shown that certain amendments are necessary to the rules of procedure as set out in the Consolidated Instructions for Allied Military Courts. These have now been prepared and are being printed for distribution.
- c. Reviewing. 9 espionage cases have been reviewed at this HQ during the past month, six death sentences being confirmed and one death sentence being commuted to imprisonment for life by the Chief Commissioner and two prison sentences being confirmed. Normal reviewing work has continued.
- d. Points from the regions:

(1) Southern Region

Investigations into the forging of warrants of release from prison have now been completed. The HQ specially commends the work and cooperation of the Quersure at Naples in their investigation.

There were two General Military Courts at Naples during the month. One accused was acquitted and the other was sentenced to two years imprisonment for the killing of a British sailor in circumstances that amounted to manslaughter.

Summary of cases.

General Court	NG	G	TOTAL
Superior Court	1	1	2
Summary Court	17	50	67
	16	918	934
TOTAL	34	969	1003

(2) Abruzzi-Marche Region

For the second month in succession there has been no case involving the death of or injury to Allied troops.

Summary of cases.

Superior Court	NG	G	TOTAL
Summary Court	3	13	16
	34	357	391
TOTAL	37	368	407

(3) Toscana Region

Cops distributed
1-4/4/44
3-P. 1/4/44

Superior Court	NG	G	TOTAL
Summary Court	8	58	66
	179	1575	1754
TOTAL	187	1633	1820

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

HEADQUARTERS ALLIED COMMISSION
AFC 304
LEGAL SUB-COMMISSION

AC/4043/L.

SUBJECT : Legal S/C Monthly Report for October 1944.

TO : Chief Commissioner, AC.

11 November 1944.
16 NOV Recd

1. The work of this S/C during the month of October 1944 in addition to advisory and legislative work has been principally as follows:

OFFICE OF THE CHIEF LEGAL ADVISOR:

2. Completion of documents for restoration of additional territory to jurisdiction of the Italian Government and working out with its representatives relative to the details of the decree to be published in connection therewith; conferences di Costituzione; considering various questions relative to the future structure of the press, radio and film industry in Italy; further work on General Order No. 35 (Defascistization) and Administrative Instructions with respect to regional defascistization; working on decree to free United Nations properties of sequestration and for establishment of method of returning requisitioned properties to owners; advising on various questions arising in connection with the Republic of San Marino; final work and conferences in connection with the Republic of property rights; making arrangements for military tribunals; study of Bari situation; issue of directives on enemy partisans.

OFFICE OF THE CHIEF COUNSEL:

3. Preparation of opinions with respect to various problems arising out of the Armistice Terms; conferences with public works in re to votes and examination of decrees; conferences with Labor S/C and preparation of draft of rules and regulations and examination of applicable decrees and numerous conferences with and advice to various sub-commissions.

ITALIAN SPANCH:

4. Legal matters discussed with the Minister of Justice during the month of October included the following:
a. Method which would ensure that draft decrees of interest to AC are first discussed with the S/C concerned before being submitted to the Council of Ministers.

(Defascistization) and Administrative Instructions with respect to regional defascistization; working on decrees to free United Nations properties of sequestration and for establishment of method of returning sequestered properties to owners; advising on various questions arising in connection with the Republic of San Marino; final work and conferences re decree to restore Jewish property and property rights; making arrangements for military tribunals; study of Peri situation; issue of directives on enemy partisans.

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ITALIAN BRANCH:

4. Legal matters discussed with the Minister of Justice during the month of October included the following:

- a. Method which would ensure that draft decrees of interest to AC are first discussed with the s/c concerned before being submitted to the Council of Ministers.
- b. Appointment of a new Italian member to the Mixed International Tribunal of Tangier.
- c. Reorganization of the legal professional organizations.
- d. Rules for execution of the recently published law restoring property rights to Italian citizens and foreigners "considered of Jewish race."
- e. Reopening of the Court of Appeal Section of Lucera and personnel matters in General; Minister's policy of retiring overage personnel and possibilities of recruiting new personnel.
- f. Progress in operation of the judiciary.
- g. Paper shortage in Italian Courts.
- h. Interpretation of decree No. 174 in limitation of cases of compulsory arrest, etc.

PA- [Signature]

[Signature]

5. Several conferences took place between the members of the s/a, the Chief of the General Staff and Procuratore Generale Militare on the subject of the Italian Military Tribunals at Rome and planning for the Military Tribunals at Milan.

6. Numerous draft decrees proposed by the Italian Government were studied such as the draft decree on leases of uncultivated land, on increase of railroad fares, on "epuration" of the highest four career grades of the Italian State employees. The recently promulgated decree concerning the fascist Republican legislation and administrative acts as well as sentences rendered by ordinary and special judicial authorities under the Fascist Republican rule was studied, translated and circulated to all sub-commissions and AC authorities in the field.

7. A collection of the most important Directives of the Minister of Justice prepared by the Minister at the request of this s/c and effecting Allied interests was transmitted to FIOs for distribution to Italian authorities concerned.

8. The problem of entrapment in Italian law as applied in proceedings before Allied Military Courts was considered; numerous charges under Italian law were prepared for prosecution before Allied Military Courts.

9. Upon receipt of a letter from the Political Section enclosing copies of a number of complaints made by the representatives of the Italian Waldensian Church to the Bishop of Litchfield, an opinion was prepared as to the present position of the "admitted cults" in Italy following the agreement between the Vatican and the Italian State embodied in the provisions of the Lateran Treaty and the Concordat of 1929.

10. Several conferences took place with the Directorate of Property Control and experts representing the Italian Government on the drafting and approval of a decree having for object the assumption by the Italian State of the administration of the property of Nationals of the United Nations arising out of the War Laws.

11. The text of a decree for facilitating the marriage under Italian law of members of the U. S. Forces was finally approved by AFHQ after its proposed application to the British forces had been considered and rejected.

OFFICE OF THE CHIEF, JUDICIAL OFFICER:

12. During October a tour of inspection was made by the CJO, covering a large part of TOSCANA Region. After a conference with the Regional Legal Officer at Siena, the following places were visited: Livorno, Pisa, Lucca, Pistoia and Florence.

The situation at Livorno is one which may become difficult. There are many colored troops doing port work. The racial situation is very bad. There are

Church to the Bishop of Litchfield, an expression of the "united cults" in Italy following the agreement between the Vatican and the Italian State embodied in the provisions of the Lateran Treaty and the Concordat of 1929.

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The situation at Livorno is one which may become difficult. There are many colored troops doing Port work. Their discipline is very bad. They give away and sell a large amount of military stores and equipment. Moreover, there have been many crimes of violence committed by these troops, which have resulted in the death of a few Italians. This is no immediate concern of ARHQ, but it is reasonable to expect that such conduct will lead, sooner or later, to Italians killing Allied soldiers. Political feeling runs high in that area.

Work in the AMG Courts is considerable. At the time of the visit, there were two legal officers covering Livorno, Pistoia and other smaller places. This staff was inadequate having regard to the large number of cases to be tried and the many other problems which face a PJO in a large base. The Regional Legal Officer accepted the recommendation to increase the team by one.

At the other places visited, all was found to be running smoothly. The number of cases before Allied Military Courts was negligible except for Florence, where there are a substantial number of trifling cases. Every effort had been made, and generally with considerable success, to re-open the Italian Courts.

13. ESPIONAGE CASES.

The following figures show the number of such cases reviewed at HQ AC during the month of October.

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Death sentences confirmed.....6

Death sentences submitted for
confirmation.....2

Total 8

No such cases came up for review in which any sentence other than death had been imposed.

14. Normal reviewing of cases continued. Owing to the comparatively small number of Allied Military Courts which have been sitting recently, pressure of work has been reduced.

15. The following points arise from work in Regions.

SOUTHERN - In Naples Commune a Superior Court has been in constant session during the month. The number of cases tried in Naples is as follows:

COUNT	G	MG	TOTAL
General Courts	2	0	2
Superior Courts	47	21	68
Summary Courts	843	33	876
TOTALS	892	54	946

ABRUZZI-MARCHE - About 530 Summary Court cases were tried during the month. Of these 350 were in Ancona province. Approximately one-half of all the cases tried were on charges of theft or wrongful possession of Allied property.

EMILIA - Parts of this region have not been occupied and a small number of cases has been tried by Allied Military Courts. These cases give rise to no special comment.

W. E. Penrens

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

Col S. Distante

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

Cof S Distinctive

*1 - File Copy Cso. Cof S C.E.
3 - P.R. Dr.*

2943

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4043/L.

SUBJECT : Legal Sub-Commission, Monthly Report
for September 1944.

9 October 1944.
/ap.

17 OCT Recd

TO : Acting Chief Commissioner, ACC.

1. The work of this sub-commission during the month of September 1944 in addition to advisory and legislative work has been principally as follows:

OFFICE OF CHIEF LEGAL ADVISOR.

2. Weekly conferences with Minister of Justice; numerous conferences with representatives of Petroleum Section AF HQ and Economic Section ACC concerning the appointment of commissario for AGIP and ANIC and creation of C.I.I. into an Ente di Gestione; working with Admin. Sec. on drafts of various decrees dealing with or connected with Sanctions against Fascism. Preparation of Regional form of Defascistization Order No. 35, executive memorandum with forms and letter in relation to such order; working on changes in Proclamation No. 1; reviewing spy and sabotage cases; visiting Regional HQ Toscana Region and two of its provincial headquarters; conducting periodic meeting of all RIOS and discussing their individual problems; preparation of first draft of new restoration documents; working on various Property Control matters.

OFFICE OF CHIEF COUNSEL.

3. Conferences with and advice to various sub-commissions; preliminary conferences with interested sub-commissions and preparation of General Orders No. 33 (War Salvage), No. 34 (Wage Adjustments) and Notice No. 4 (Petrol Cans); preparation opinions on powers vested in "Armistice"; preparation directive on enemy partisans; conferences with Finance, Welfare, Labour and Administrative Section and preparation

Economic Section AGC concerning the appointment of Commissioners for AGIP and ANIC and creation of E.I.I. into an Ente di Gestione; working with Admin. Sec. on drafts of various decrees dealing with or connected with sanctions against Fascism, preparation of Regional form of Defascistization Order No. 35, executive memorandum with forms and letter in relation to such order; working on changes in Proclamation No. 1; reviewing spy and sabotage cases; visiting Regional HQ Toscana Region and two of its provincial headquarters, conducting periodic meeting of all RLOs and discussing their individual problems; preparation of first draft of new restoration documents; working on various Property Control matters.

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ITALIAN BRANCH.

4. There were five conferences with the Minister of Justice during September at which matters discussed included the following :-

- (a) Promotions and transfers of magistrates of the highest three career grades with special consideration for selection of adequate number for Northern Provinces.

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- (b) Ministry's policy on retirement of magistrates in accordance with Italian laws.
- (c) Judicial personnel problems in general with special regard to Sardinian Courts.
- (d) Fascist Republican Laws.
- (e) Revision of Public Safety Laws.
- (f) Draft decree on revision of sentences rendered by the fascist Special Tribunal for the defence of the State.
- (g) Draft decree on the new time limits for the presentation and conversion into law of decrees-laws.
- (h) The publication of the decree abolishing death penalty in Penal Code.
- (i) Certain disturbances which occurred in Calabria and steps taken by the judicial authorities in this connection.
- (j) Establishment of a mesa for ministerial officials.
- (k) Possibility of the return of the Court of Appeal and Tribunal of Ancona to their original seat at Ancona.
- (l) Interference by Italian Courts at Bari with the jurisdiction of Allied Military Courts.
- (m) Policy as to the removal of officials in Military Government Territory.
- (n) Modification of the division of Italian and Allied jurisdiction over petitions for pardon and conditional liberty consequent upon agreement that the effect of the Amnesty decree shall be extended to cover common offences committed

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- (m) Policy as to the removal of officials in Military Government Territory.
- (n) Modification of the division of Italian and Allied jurisdiction over petitions for pardon and conditional liberty consequent upon agreement that the effect of the Amnesty decree shall be extended to cover common offenses committed during Allied occupation of territory since restored to Italian Administration (but excluding offenses tried by Allied Courts or involving Allied interests.
- (o) Procedural rules for operation of Italian Administration.
- (p) Extensive discussion at a special meeting in the presence of representatives of the Army Sub-Commission and Italian Ministry of War in respect to functioning of Italian Military Tribunals.
- (q) Further discussion on the repeal of racial legislation.

(r) Separation of Courts of Appeal.

(s) Increase of salaries of judicial officials.

(t) Repeal of a law enacted in 1930 and establishing obligatory Jewish Community.

(u) Numerous conferences took place with the Director of Property Control in connection with the implementing of the recently adopted policy for ensuring the continuity of responsibility of the Italian Government in regard to Allied Property under the Law of War. Translations were made of the Italian laws on the sequestration and transfer of enemy property to Italian nationals with the object of examining and approving the draft Italian Decree to carry out the necessary legislation and administrative changes.

(v) The work in connection with the supervising of "repatriation" of the magistracy was transferred to a special branch of the Civil Affairs Section, organized to deal with all the departments of the Italian Government.

OFFICE OF CHIEF JUDICIAL OFFICER.

5. At ACC HQ.

The work during September was largely routine: review of cases continued.

The figures for espionage cases reviewed during the month under review are :-

(i) Death sentences submitted for confirmation	4
(ii) Prison sentences affirmed	2

Upon the German withdrawal from Rome and that General area, the Germans left behind certain Italian agents some of whom had been previously trained in sabotage. These agents were provided with explosives for sabotage purposes. One of the group turned informer and consequently the security agencies effected several arrests. Proceedings have been taken in 44 Courts in Rome.

lation and administrative changes.

- (v) The work in connection with the supervising of "repatriation" of the magistracy was transferred to a special branch of the Civil Affairs Section, organized to deal with all the departments of the Italian Government.

OFFICE OF CHIEF JUDICIAL OFFICER.

5. At AOC HQ.

The work during September was largely routine: review of cases continued.

The figures for espionage cases reviewed during the month under review are:-

- | | |
|--|---|
| (i) Death sentences submitted for confirmation | 4 |
| (ii) Prison sentences affirmed | 2 |

Upon the German withdrawal from Rome and that General area, the Germans left behind certain Italian agents some of whom had been previously trained in sabotage. These agents were provided with explosives for sabotage purposes. One of the group turned in former and consequently the security agencies effected several arrests. Proceedings have been taken in AMG Courts in Rome against these men. The cases having been started during the subsistence of AMG in Rome. These cases have largely been referred to as "sabotage cases"; in fact, in no case yet seen this HQ was there any act of sabotage or any attempt to commit sabotage, in spite of the eld of a substantial time from the withdrawal of the Germans to the date of arrest. The only charges which could therefore be laid were for possession of explosives contrary to Proclamation No. 1, Part II, Art. IV (5). During the month of September, 4 convictions on such charges were affirmed on review: sentences varied from 2 to 10 years. Much of the time of the Chief Judicial Officer is occupied on account of the practice of Italians, when sentenced to imprisonment of presenting innumerable petitions to all possible authorities. When a petition to the Allied authorities has been of no avail, a further and even less accurate petition is presented, through normal channels.

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to the Ministry of Grace and Justice; these are forwarded to the Chief Judicial Officer. From 50 to 100 such petitions are received each week. These are all scanned. In the vast majority of cases they disclose no point of substance, but in the odd case the petition does raise some point which, on the face of it, is worth consideration. In such cases the record is called for and scrutinized by the Chief Judicial Officer. It is usually found that the petition is highly inaccurate and that there is no cause of complaint. Although this causes a substantial amount of work it provides a valuable check and has, on a few occasions, enabled action to be taken to prevent injustice or undue hardship.

6. Regions.

The Allied Military Courts in Naples continue to handle a substantial amount of work. The figures for the month under review were :-

	M.C.	C.	Total
Summary Courts	12	916	928
Superior Courts	6	34	40
General Court	-	1	1
Total	18	951	969

It is noticeable that most of the cases are small : 928 (out of 969) were Summary Court cases made up as to 237 cases of curfew and pass violations; 609 cases of thefts or wrongful possession of Allied property and 105 others. At Bari one accused was convicted of espionage and sentenced to death.

In LAZIO Region there have been 5 persons tried for espionage : these trials resulted in 2 death sentences, 2 sentences of imprisonment for 20 years and one acquittal. The above sentences are still subject to review. Provision of personnel to form the Court and of a prosecuting and defending officer imposes a strain on the legal personnel of the Region.

In ABRUZZI-MARCHE Region one accused was tried for espionage: he was convicted and sentenced to death. The number of cases dealt with by Allied Military Courts in this Region is small: only 580 cases in the month of September. This is due in part to the fact that it is a country region without large towns, and in part to the fact that much work has been handed over to the Italian Courts.

In TOSCANA Region, Allied Military Courts were more busy: in September 1109 cases were disposed of; of these 1077 were Summary Court cases. LIVORNO shows signs of developing into a small edition of NAPLES. It is hoped that there will soon be established a special "Port Court" to deal with petty offences (chiefly theft) in the port.

7. General Military Courts.

In Southern and Abruzzi-Marche Regions new General Court Panels have been established. These panels authorize a General Military Court to be convened consisting of a President, to be selected from a list of named legal officers, and two or more other officers to be appointed by the Regional Commissioner. As a result, a General Military Court may consist of one legal officer (President) and two lay officers as members : and it may well be that one or even both of the lay officers may not be officers of ACC. This departure from previous practice has been made imperative by the extreme shortage of legal and other ACC officers in

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8. Conclusion.

Work in Allied Military Courts follows its well defined lines. The principal offences are theft or wrongful possession of Allied property. The second greatest problem is possession of firearms. These cases always give rise to difficulty in assessing sentence, this difficulty will increase as the more northern regions are occupied and number of Patriots (or self styled Patriots) increases.

Cop 5 Distribution

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1 copy - Monitor

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Richard H. Wilder

RICHARD H. WILDER,
Colonel, C.A.C.,
Chief Legal Advisor.

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