

1750

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

785017

ACC

10000/109/596

1751
Declassified E.O. 12356 Section 3.3/NND No.

785017

10000/109/596

ITALIAN DECREES, GENERAL
MAR. 1944 - DEC. 1945

1752

785017

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

4407

37

~~4407~~ Ex Com

Ex. Com. would probably like to see 36.6 info.

60 40/100.

38

36 already seen by Ex. Com. $\frac{1}{2}$ W. L. L.

785017

18

Rf. 18

1. This is a direction & (1) should be signed for CC
(2) - - - - - by me.

DW/4/3

19

Spoke with Col Cripps re minutes
19. CAS apologetic.

Si 5/3.

24

Ex Com
GSO

Please see 23 particularly para 2.
For info I have pencilled in the subject of the each
decree.

17 Mar 45

Si 17/3.

Sh.

25

C80

Deal with Laban Sub Com direct that
he agrees with para 2. If he does not
instruct CAS not to issue Order in 28/3

DW/18/3

26

4406

Ex Com

He does - see 27.

Si 19/3.

18/19/3

785017

Note 8. Economic Section are studying 2 and will raise at
next C.A. meeting. 28/10/10

6.

CSO... Has this been discussed?

4/20/10.

20/10/10.

7.

Discussed at C.O. meeting today (see minutes) ~~discussed~~
~~meeting~~ ~~discussed~~ ~~discussed~~

20/10

10.

Col.

DCS, CAs want 8 and 9 discussed at Economic
C.O. meeting. This draft letter to the P.M. follows the lines
agreed at previous discussion and provides for a 100%
check by us if decrees. I think providing delay can be cut
out, worked by and get some such system enforced, but
I agree with Mr. Halden that the timing for this is bad.

11

28/10

I agree. I think K/CC may bring news
back with him from AFHQ. But we can
discuss at V.P.s meeting. 17/10/10

12

DD/CC/AFHQ

785017

check by us if deers
out, watched by and get some such by then enforced, but
I agree with Mr. Halstein that the timing for this is bad.

I agree. I think Kees may bring news 23/10
back with him from AFHQ. But we can
discuss at V.P.s meeting. 17/12/12

Discussed. NY Bureau 12/12/12

16

CSD

a good point is covered in 15.

3 Mar 45 4000

17

Ex Com To see 15

18 4/3

4405

18

20 4/3

1756

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

785017

HEADQUARTERS ALLIED COMMISSIC

APO 394

Office of the Executive Commissioner

Ref: 2612/39/80

4 December 1945

SUBJECT: AMG's Order in Northern Italy

TO

: GA Section

Recan. Section for Liaison S/C.

I enclose a copy of a letter 13/23/45 dated 1 Dec 45 received by the Executive Commissioner from Sir D'Arcy Osborne with reference to an alleged AMG's Order in Northern Italy publishing the application of an Italian Decree increasing the stipends of its Italian clergy.

Will you please take action as appropriate and submit a reply to the letter a copy of which is enclosed for signature by the Ex. Commissioner.

C. R. BRAYBROOKE

Chief Staff Officer
to Executive Commissioner

4404
10/12
Noted
at. PA
4/12

1757

785017

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

2612

40

British Legation to the Holy See,
Rome.

13/23/45

1st December, 1945.

DEC 4 1945

Dear Brigadier Lush,

The Under Secretary at the Secretariat of State of the Vatican sent for me today to invoke my assistance in the following matter.

2. In view of the increasing cost of living the Italian Government has recently decreed (Decree Law No. 213 of 22nd March, 1945) an increase in the stipends of the Italian clergy. By this law the annual stipend of a parish priest is raised from Lire 3,500 to Lire 10,010; that of a curate is raised to Lire 5,720, of an Archbishop to Lire 51,480, of a Bishop to Lire 48,620. (I cannot see how they contrive to exist on even these increased salaries; they must have other resources.) Anyway, it appears that in North Italy, i.e. in the Provinces north of the Provinces of Ravenna, Florence and Pistoia, Lucca and Apuania, an A.M.G. Order dated 5th June, 1945 prohibits the application of the Italian Decree, so that the clergy in those Provinces must still live on the previous, and completely inadequate stipends. They have accordingly appealed to the Vatican to urge reconsideration of the A.M.G. Order, and the Vatican have invoked my

/good

Brigadier M.S. Lush, C.B.E., M.C.,
Headquarters,
Allied Commission,
Rome.

41
1413

1758

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

785017

39

good offices to this end.

3. Unless there is some very good overriding consideration, there would seem to be a very good case on compassionate grounds for the modification of the Order so as to allow the clergy to receive their increased pay. Would you kindly let me know what I can reply to the Vatican.

Yours sincerely,

D. G. O'Connor

4462

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

2612 86

36

66

29 October 1945

DL 30 1945

Ref: DM/5.23/CA

My dear Mr. Prime Minister,

34

I have reconsidered the request in your letter 45411/10124-6-19/1/7 of 17 September that DL 149 should be implemented in North Italy and am prepared to implement the Decree if the Italian Government will make two amendments.

They are as follows:

- (1) To DL 149 so that the appeal under Article 3, (whereby a man may be interned or sent to a labour camp for 5 years) shall be to the Court of Cassation and not to a special ad hoc Court of Appeal.
- (2) To DL 625 to add at the end of Article 14, (which provides that the case of a man arrested shall be disposed of within 30 days), the proviso that if his case is not disposed of within the 30 days he shall be acquitted and released and shall not be liable to further process as being politically dangerous.

Yours very truly,

Ernst
31/10

/s/ HILARY W. STONE
Rear Admiral, USNR,
Chief Commissioner.

Professor Ferruccio PARRI
The President of the Council of Ministers,
Italian Government,
Rome.

Seen and approved by Council of Legal Sub-Commission.

DL 31.38
440
JA
2/11

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785017

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

2612

35

DM/5.23/CA

26 September 1945

SEP 21 1945

My dear Mr. Prime Minister,

34

I have read with sympathy your letter 4541/1012, 6-19/1/7 of 17 Sep asking that the Allied Commission should reconsider its decision not to implement DL 149 but in view of the fact that AMG will so soon be coming to an end in North Italy and that DL 149 will then in any event come into force there, there would appear to be little advantage in re-opening the question.

Yours very truly,

12

ELLERY W. STODOL
Rear Admiral, USNR,
Chief Commissioner.

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

(ea)

200
2/4

1761

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

162

Translation

15411/10124 -6 - 19/1/7

The President of the Council of Ministers

Rome, 17 September 1945

SEP 19 1945

My dear Admiral,

in your letter of June the 8th, you told me the reasons which prevented D.L.L. n. 149, of April 26th, from being enforced in the territories under Allied Military Government.

As you know, the decree in question consists in two kind of dispositions. It regulates the matter already dealt with in art. 8 of D.L.L. 27 July 1944, n. 159, modifying and completing the regulations contained in the said article, for what concerns the sanctions foreseen, as well as for what concerns the relative procedure; Decree n. 149 also foresees the assignation to farming colonies, and working houses, or the internment of the people whose behaviour inspired by fascist methods might be dangerous for democratic freedom; also of the people whose actions tend to bring back or praise fascism.

I don't deny that the terms in which decree n. 149 has been drafted give rise to well founded objections, especially for what concerns the concept of political dangerousness admitted in fact in the new regulations. However, I think that such exceptional regulations - obviously inadmissible in normal times - find their explanation, and also, up to a certain point, their justification in all the particular historical and political circumstances which characterize the life of the country, now that democratic institutions are being rehabilitated. The punishment of fascists, and the strong repression of all fascist remains are - as the Allies well know - the essential conditions of the rehabilitation and reinforce the said institutions. Now, besides the actual penal sanctions, it has been indispensable to foresee adequate safety measures, for a better and quicker preventive and repressive action.

The fact that the regulation isn't being enforced by the Allied Authorities creates - on the delicate ground of sanctions against fascism - a prejudicial difference in the legal position of the territories already under Italian Administration and those that are still under A.M.G.

As you know, the formation of the provincial Commissions foreseen by art. 2 of decree 149, particularly urgent to exclude fascists from the electoral lists, is to take place. An agreement was made with the offices depending from you, and the A.C. will have the institutive decrees of the said commissions enforced in the

Admiral Ellery W. Stone
Chief Commissioner
Allied Commission
Rome

See 14536

See 14536
1359
4

1762

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

785017

- 2 -

North. However, in this occasion, the offices of the A.C. explained that this agreement concerns only the formation of the said organisms and does not change the point of view of the Allies, for what concerns the D.L.L. n. 149, which could still not be enforced in the territories of the North.

Meanwhile, it has again been pointed out to me, also by the Minister of Justice, that it is now urgent that the regulations foreseen by decree n. 149 should be enforced in some of the Northern provinces. This mostly in relation with delicate local situations, and with the state of mind of the population, opposed to unjustified clemency towards the most compromised and dangerous among the fascists.

I shall therefore be most grateful if you kindly reconsider the question and let me know your decisions.

Believe me, my dear Admiral,

Sincerely yours,

S. Terruccio Parri.

trans. e/c

BY DIST - 19 Sept 45

Action : C A Sec (2)
Info : C COMINT
E COMINT

4398

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

26124

32

Translation

The president of the council of Ministers

38032/10.124.6.19 -1.7

Rome, 13 June 1945

15 JUN 1945

My dear Admiral,

In your note of the 8th, you expressed your displeasure at P.L.I. 26 April 1945, n. 149, concerning sanctions against politically dangerous fascists, having been issued without the Government previously consulting the Allied Authorities. Besides, you told me you didn't approve of extending the said decree to the territories under A.M.G.

For what concerns the procedure followed in issuing the said decree, I must tell you that the draft of the decree wasn't previously submitted to the Allied Commission, according to para 6 of the Mac Millan memorandum, 24 February 1945, saying that the legislative activity of the Italian Government no longer required the approval of the Allied authorities, except for the controls required by military interests. It was thought - as in the case of many other regulations - that the new legal force given by the said Memorandum to the relations between the Allied Organs and the Italian Government allowed the free publication of the decree in question, except for what concerned its possible extension to the territories under A.M.G. which would require the approval of the Allied authorities.

For what concerns the reasons which, in your opinion, prevent the said extension, I meant to refer to the Council of Ministers. The crisis which has taken place will leave to the new Government the task of examining the situation.

I remain, my dear Admiral,

Yours very truly,

S. I. BONNAI

Admiral Ellery A. Stone
Chief Commissioner
Allied Commission
ROME

E.E. DIST-16 JUN 45
ACTION: C.A. 54 4397
INFO: CHIEF COMNAV
EX COMNAV

e.c.

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785017

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

31

BB/L. 14/CA

8 June 45

8 JUN 1945

My dear Mr. Prime Minister,

I refer to Decree RL No 149 of 26 April 1945, "Application of Sanctions against Politically Dangerous Fascists".

My advisors inform me that contrary to the usual practice with proposed decrees dealing with defascistization and democratization, a subject in which the Allies are vitally interested, they were not consulted before the decree was passed and published.

I regret that this should have been so for the decree in question is not, in my opinion, satisfactory.

Not only does the decree duplicate, to some extent, the existing provisions on this subject, rendering the state of the law quite confusing, but its wording is so vague as to make it impossible for the subject to know with any clarity for what offences he may be punished.

Furthermore, yet another Central Commission is set up to consider appeals instead of leaving such matters to the Court of Cassation as under the former legislation, surely an unwise provision; and finally the powers of arrest granted by Art. 5 are so wide as to lead to the belief that there may be grave abuses in its use.

I regret to have to inform you, my dear Mr. Prime Minister, that because of the foregoing objections I am not prepared to implement this decree in A.M.G. territory.

Yours very truly,

ELERY W. STONE

ELERY W. STONE
Rear Admiral, USNR
Chief Commissioner

His Excellency Ivo de BONIS
The President of the Council of Ministers,
Italian Government
ROME

(Mrs. Gordon)

cc: [unclear] (A)
[unclear] (B)
JH PA

See 74
1353
6

Translation

The President of the Council of Ministers

325

Rome, 17 May 1945

Dear Admiral,

I have received your letter of April 11th about the decrees for the Administration of parastatal institutes in Libya and in Italian East Africa.

For what concerns the decree which suppresses the Italian Africa Police Corps, we agree; it is understood that this decree can change neither the status of the officers and other ranks who belonged to this Corps and as such are still prisoners of war in Africa, nor the action which has been taken by the Allied Military Authorities for the possible utilization of elements of the P.A.I. in the Italian Colonies.

For what concerns the other regulations, as you have seen, their aim is to take care of the patrimony of the parastatal institutes, which exercise an industrial or commercial activity, and administer their property placed under the administration of the Italian Government, and settle the question of the personnel, in the service of these institutes, and at present in liberated Italy. I am also very anxious that these regulations shouldn't create juridical difficulties, for what concerns our commercial laws, in relation with analogous regulations for the patrimony and personnel of the said institutes in Africa, which might be issued by the Allied Military Government in the territories of Italian Africa. To avoid future difficulties, I think it would be advisable, meanwhile, to agree with the Allied Military Administrations concerned to an exchange of informations. These administrations might be told

for what concerns the other regulations, as you have seen, their aim is to take care of the patrimony of the parastatal institutes, which exercise an industrial or commercial activity, and administer their property placed under the administration of the Italian Government, and settle the question of the personnel, in the service of these institutes, and at present in liberated Italy. I am also very anxious that these regulations shouldn't create juridical difficulties, for what concerns our commercial laws, in relation with analogous regulations for the patrimony and personnel of the said institutes in Africa, which might be issued by the Allied Military Government in the territories of Italian Africa. To avoid future difficulties, I think it would be advisable, meanwhile, to agree with the Allied Military Administrations concerned to an exchange of informations. These Administrations might be told about the regulations which we have issued up to now, and we might ask information about the similar regulations which might have been made, thus reaching a periodical exchange of news on the administrative functioning of the various institutes, to assure here as well as there, a regular administration of their balance.

I remain,

Truly yours,

S. I. Bonomi

Admiral Henry M. Stans
Chief Commissioner
Allied Commission
R o m e

e.o.

1394

EEC DIST-8/11/45

ACTION: C A Sec (2)

INFO: Chief Comm

Ex Comm

19/5

4/4

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785017

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

2612

21

22/4/13/2/L

11 April, 1945.

APR 11 1945

My Dear Mr. Prime Minister,

The Italian Government has recently passed five Decrees for the administration of parental institutions in Libya and Italian East Africa.

The Decrees are:-

Decree of 13 Feb 45 (G.U.N. 43)

Suppression of the African Italian Police Corps.

Decree of 7 Oct 44 (G.U.N. 36)

Designating a Receiver for the State for the administration of Assets in Italian East Africa.

Decree of 26 Jan 45 (G.U.N. 37)

Appointment of Liquidator for the A.S.A.

Decree of 10 Oct 44 (G.U.N. 40)

Appointment of Receiver for the Libya Savings Bank.

Decree of 13 Feb 45 (G.U.N. 45)

Substitution of administrator of A.S.A.

I appreciate that it is necessary to make provision for the management and administration of assets of such concerns which are at present situated in Italian Government Territory. I feel, however, that the enactment of decrees of this nature, without limitation as to the territory to which they refer, may cause confusion and may create legal difficulties as to the validity of measures taken by the Military Administrations which are at present governing Italian Colonial territories.

I must therefore request Your Excellency that if it is necessary in the future to issue further Decrees of this nature, you will ensure that the decrees are so framed as to contain definite words of limitation which restrict the scope of the Decree to property or assets now situated in Italian Government territory and actually under the control of the Italian Government.

Yours very truly

15/1/1945

WILLIAM G. STONE
Major General, USAR
Chief of Mission

4353

His Excellency Ivanoe Bonomi,
The President of the Council of Ministers,
Italian Government,
Rome.

(Mr. Hanson)

100-20

1A

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

Translation

262

MAR 24 1945

(28)

The President of the Council of Ministers
30/12/1.1.26

Rome, 22 March 1945

My dear Admiral,

with reference to your letter of the 9th, I fully agree with you that it is necessary to avoid that the Italian authorities should issue any regulations whatever concerning the territories which are still under the juridical authority of the Allied Military Government.

Though it is obvious - as you pointed out, - that no Italian regulation can be in force in the said territories if and as long as the competent organs of A.M.G. do not make it so, according to regulations, it is necessary to avoid that Italian regulations, mistakenly applied to the said territories, give rise to prejudicial misunderstandings about their being compulsory.

I therefore drew the particular attention of the Ministers on this question, and asked them, in future, not to issue regulations like the one you pointed out to me. I also gave the necessary orders so that in any regulation whatever which, because of the question it regulates, might give rise to some doubts about the territorial zone of its efficacy, a clause will be inserted to define its enforcement in the territories which have not yet been handed back to the Italian Administration.

I remain, my dear Admiral,

Truly yours,

S. I. Bonomi

EC DIST - 23 MAR 45.

Admiral Henry H. Stone
Chief Commissioner
Allied Commission
R o m e

Action: CA See
INFO : CHIEF COM 4392
Ex. Com.

S.C.

PA 21

PA 21

1769

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

612

27

HEAD, EASTERN ALLIED COMMISSION
AFC-394
LABOR SUB-COMMISSION

DCS/af

19 March 1945

TEL : 492

RSP :

SUBJECT : Implementation of Italian Decree

MAR 20 1945

TO : Legal Sub-Commission
Attention: Col. Lawrence

23

1. Reference your AC/40109/4 of 15 March concerning above subject, this will confirm the assent of the Labor Sub-Commission to the statement in your memo.

2. It is suggested that a directive issue reference procedure for implementation of DSA 303 of 2 November 1944 by provincial commissioner as described in par. 1B of your memo.

3. It was also decided at the conference that the decree of 25 January 1944 for Christmas bonus and the thirteenth month be excluded from further implementation.

4. It is understood that the caro-pare decree is being implemented without modification.

DAVID C. JONES
Labor sub-Commission

cc. Finance Sub-Commission
Economic Section

4350

PA

4/13

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Declassified E.O. 12356 Section 3.3/NND No. 785017*Executive Commission*HEADQUARTERS ALLIED COMMISSION
AFD 394
LOCAL SUB-COMMISSION

AC/4010/9/L.

REB/pa.
15 Mar 45.

SUBJECT : Implementation of Italian Decrees.

TO : ~~Economic Section (Attn: Labour Sub-Commission).~~

1. As a result of the conference held yesterday with representatives of the Italian Government, it is understood that the AMG policy for the future implementation of existing Italian labour decrees is now agreed and is as follows :-

- (a) RDL No. 16/B of 6 Dec 43 - *Decreto di legge n. 16 del 6 dicembre 1943*
 DDL No. 507 of 5 Nov 44 - *Decreto di legge n. 507 del 5 novembre 1944*
 DDL No. 328 of 18 Nov 44 - *Decreto di legge n. 328 del 18 novembre 1944*

These decrees are to be implemented in all future territory but their retroactive effect in any province is to be limited to the date of liberation of the provincial capital.

- (b) RDL No. 23/B of 7 Dec 43 - *Decreto di legge n. 23 del 7 dicembre 1943*
 DDL No. 303 of 2 Nov 44 - *Decreto di legge n. 303 del 2 novembre 1944*

The decision to implement or exclude these decrees will depend upon the rate of advance of the Allied Armies and the local conditions prevailing upon liberation. The decrees should therefore be excluded from General implementation but power should be reserved to PCs to implement them. In case of implementation the date of commencement of payments should be decided according to requirements but should not be earlier than the date of liberation of the provincial capital, according to local conditions. Authority is not intended to be delegated to PCs to decide upon this implementation; if implementation is desired the question will be referred to this HQ.

2. I am directed by VJCA Sec to state that unless he receives from the Executive Commissioner orders to the contrary he intends to make on 20 March 1945 an order giving effect to the policy above stated.

3. It is understood that a new decree affecting salaries is in course of preparation. No decision has yet been made as to the implementation of this decree, when published, either in existing AMG territory or in territory hereafter to be liberated.

4. The Italian Government is to be encouraged to produce a consolidated

1388

see M 24 to 26

1771

785017

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

22

decree which will set out the final effect of this piecemeal legislation. If such a decree is produced and is in a form acceptable for implementation it will be implemented in present and future AMG territory. This however will not prejudice or be prejudiced by the order mentioned in paragraph 2.

W. E. BEARDS

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

Copy to :
Chief Commissioner
Executive Commissioner
CA Sec
Finance Sub-Commission.

4387

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

AG/4016/2/L

9 March 1945

MAR 10 1945

My dear Mr. Prime Minister:

It has come to my attention that certain decrees recently promulgated by the Italian Government, purport to legislate for territory still under the control of the Allied Military Government.

These decrees are:

- 1) Ministerial Decree of 14 November 1944.
Entrusting the Italian Federation of Agrarian Consortiums with the task of providing for the provincial and interprovincial transportation of wheat. - Gazzetta Ufficiale No. 83 of 15 Nov 44.
- 2) Ministerial Decree of 2 February 1945.
Appointing a Commissioner Extraordinary for the autonomous body "Exhibition and Market of Artisans" ("Mostra-Mercato dell'Artigianato") with seat in Florence. - Gazzetta Ufficiale No. 16 of 16 Feb 45.
- 3) Ministerial Decree of 15 October 1944.
Restoring the Judicial Office of Livorno (Court of Appeal of Florence) to its original seat. - Gazzetta Ufficiale No. 19 of 13 Feb 45.
- 4) Ministerial Decree of 2 February 1945.
Constituting a new Deputation for the Stock-Exchange of Florence for 1945. - Gazzetta Ufficiale No. 21 of 17 Feb 45.

While it is generally understood that the legislation of the Italian Government is inoperative in territory not yet subject to its administration unless expressly implemented by order of the Allied Military Government, I feel that it would be prudent to adopt a legislative safeguard. This would seem necessary in order to obviate an appearance of conflict between the authority of the Italian Government and that of the Allied Military Government.

4385

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785017

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

2c
Difficulties have also arisen, as you are aware, in the operation in AMG territory of certain decrees such as the repatriation decrees. Some of these decrees have expressly provided that, in territory not yet subject to Italian administration the time limits laid down by the decrees shall start to operate from the date of restoration of such territory to the Italian administration.

It is suggested that such difficulties will be avoided if the time limits in decrees are made to operate from the date the decree becomes effective in any territory. The decree can then be applied simply to AMG territory by implementation.

In any event in order to avoid the appearance of legislation being passed by the Italian Government for AMG territory it is requested that whenever a decree is promulgated which may be interpreted to have effect, in whole or in part, in territory subject to the control of the Allied Military Government, the final clause be made to read substantially as follows:

" In territory subject to the administration of the Italian Government this decree shall come into effect on the day following its publication in the Gazzetta Ufficiale; in territory not yet subject to the administration of the Italian Government, the decree shall come into effect on the date of the restoration of such territory to Italian administration or on the date when it is put into effect by order of the Allied Military Government whichever is the earlier."

Yours very truly,

/s/ Emory W. Stone

EMORY W. STONE
Rear Admiral, USNR
Chief Commissioner

His Excellency Ivanoe Bonomi
The President of the Council of Ministers
Italian Government
Rome

Prepared by: Col. W. F. BEHRENS, DCLA, Legal Sub-Commissioner.....
Colonel

Cc : Legal S/C
Chief of Staff
"CC" Files.

4353

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Executive Proceedings

2612

BUREAU OF THE COMMISSION

EX 534

CIVIL AFFAIRS SECTION

10/10/19/2/L.

12/23/22.
1 March 1945.

MAR 2 - 1945

SUBJECT : Italian Decrees.

TO : All Sub-Commissions.

1. Several decrees have recently been published in the Gazzetta Ufficiale which purport to legislate expressly for territory still under AM control. In most cases the decrees are understood to have been served before publication between the Ministry and Sub-Commission concerned.

2. It should be borne in mind that the Italian Government has no authority to enact legislation in AM territory and that any legislation enacted by the Italian Government is inoperative in AM territory unless expressly implemented by order of AM.

3. The publication by the Italian Government of decrees expressed to operate in AM territory is therefore entirely inoperative in law, but it produces the following unfortunate results :-

- (a) It creates the impression that the Italian Government has authority to legislate in AM territory;
- (b) It practically forces the hand of AM to implement the legislation since refusal to implement would probably create administrative difficulties.

4. The difficulty can be avoided if, on any occasion when it is decided to pass a decree which will have effect either in whole or in part in AM territory the final clause of the decree be made to read :-

"In territory subject to the administration of the Italian Government this decree shall come into effect on the day following its

1775

785017

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

- (a) It creates the impression that the Italian Government has authority to legislate in its territory;
- (b) It practically forces the hand of the Italian Government to legislate in its territory; it is not probable that the Italian Government would probably create administrative difficulties.
- 4. The difficulty can be avoided if, on any occasion when it is decided to pass a decree which will have effect either in whole or in part in NW territory, the final clause of the decree be made to read:-
 "In territory subject to the administration of the Italian Government this decree shall come into effect on the day following its publication in the Gazzetta Ufficiale; in territory not yet subject to the administration of the Italian Government, this decree shall come into effect on the date of the restoration of such territory to Italian administration or on the date when it is put into effect by order of the Allied Military Government whichever is the earlier."

5. Directors of Sub-Commissions will ensure that all decrees which may be submitted to them by the Ministry concerned and which are intended to apply to NW territory do contain words to the effect stated in para 4.

1. A 129 100
 1302
 G. M. URSIN, Secy.
 17 Dec 1945

Copy to: Chief Commissioner
 Executive Commissioner
 Economic Section.

P/H

M. 16. 19.
 see
 JAH/13

1776

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

785017

Translation

The President of the Council of Ministers
26519.13803.9/1.1.26

16 February 1945

FEB 17 1945

Dear Admiral,

I refer to your letter of January 25th (DF/513/C.A.) about the legislative decree of January 15th, 1945, n. 2, bearing the complementary regulations of the epuration law.

I deeply regret that the Allied Commission didn't have the possibility of expressing its opinion on the modifications made to the original text, which was communicated to you. I want to tell you that this is only due to the circumstance that such modifications were made by the Council of Ministers while examining the draft of the regulation.

The decree having been approved - all the Ministers gave their adhesion - we didn't think of consulting the Allied Commission again before ordering its publication. It seemed that the above mentioned modifications were not important enough to be submitted to a particular examination of the Allied Organs,

for what concerns art. 1 of the decree, the regulation relative to the exercise of the functions of High Commissioner when the charge is vacant, has been determined by obvious reasons of a contingent character. On the other hand, the solution adopted, while it has a temporary character, doesn't substantially alter the system of the pre-existent law. The regulation in question doesn't create a new organ, for those who are to collaborate with the High Commissioner when he is in charge are to substitute him. The hypothesis of the vacancy of the charge, not unlike that of absence or that of impossibility for the titular to fulfill his post, is therefore regulated by the normal principle by which the inferior organ fulfills the functions of the superior organ in case its titular should be missing. The perfect parity in which are the Deputy Commissioners made it necessary that these functions should be entrusted to them as a body, under the guidance of a President. A propos of this, I want to point out to you that, according to the law, the High Commissariat institutionally depends from the President of the Council of Ministers.

Trusting that you will be satisfied by these explanations, I remain, my dear Admiral,

Truly yours,

G. I. Bonomi

Admiral Ellery W. Stone
Chief Commissioner of the Allied Commission
H o m e

c.c.

ECIIST - 17 FEB 30 1945

Admiral C.A. SEC
INFO: Chief Commr
EX Commr

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

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DP/5.13/CA

29 January 1945.

18M 30 1945

My dear Mr. Prime Minister:

The removal of fascists from positions of authority is one of the points specifically mentioned on the Armistice Terms and as such is one of the matters of more particular moment to this Commission and one on which this Commission must be kept particularly well informed.

This Commission recently received from the Assistant High Commissioner a draft of the proposed decree which has recently been published as decree No. 2 of 1945. On this subject I have two comments to make: firstly, that the decree was published without waiting to see whether this Commission had any comment to make on the draft; and secondly, that the text of the decree as published was not identical with the draft which was supplied to this Commission. The most important variation was the addition of the paragraph instituting a College to act when the High Commissionership is vacant.

This is a matter on which this Commission would specifically have desired to consider and express an opinion and it is considered that it should have had an opportunity of doing so on a matter with which it is so intimately responsible.

The departure from the draft has also had the unfortunate result of incorrect information as to your proposals being given to those concerned. You will, I am sure, agree that where a matter so concerns this Commission that it is desirable that a draft of a proposed decree should be submitted to it, it is essential that changes therein should also be communicated and that no publication of a decree governed by the Armistice Terms should be made without the consent of this Commission.

Yours very truly,

/s/ Elery W. Stone

ELERY W. STONE
Rear Admiral, USNR
Chief Commissioner

His Excellency Ivanoe Bonomi,
The President of the Council of Ministers,
Italian Government,
Rome.

(Copy passed for A Files)

1778

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

785017

HEADQUARTERS
ALLIED CONTROL COMMISSION
CIVIL AFFAIRS SECTION
APO 394

Ref:- 9/174/CA

21 Oct '44

SUBJECT:- Approval by Allied Control Commission 2. T Recd
of Italian Government decisions.

CO:-
C.O.S. ✓
Econ. Sec.
Political Sec.
Establishment Sec.

1. Herewith draft of the proposed letter which I would like to discuss at next C.O.S. meeting, 24 Oct '44.

G.R. Wynn

C.R. WYNN, Brig
T CA Sec.
Dep. C. of S.

WU/yab.

see Minute 12

PA 30/x

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

8

HEADQUARTERS
ALLIED CONTROL COMMISSION
Office of the Acting Chief Commissioner
APO 304

Ref:-

21 Oct '44

My Dear Prime Minister,

1. Arising out of our agreement that the Allied Control Commission should see decrees proposed to be passed by the Italian Government in order that the Commission may be in a position to approve matters which are of interest to it, I have the following plan to propose.
2. I am informed that it is the custom for all proposed decrees to be submitted to the Minister of Justice for his consideration or the decrees on technical grounds, and it is at this stage that I think the decrees could usefully be placed before my legal advisers. In many cases of course decrees will already have been considered in conjunction with one of the technical sections or sub-commissions of the Commission and its consideration by my legal advisers would be purely formal, but in other cases where decrees have not been promulgated in conjunction with this Commission a more detailed inspection would be required. However I can assure you that everything will be done to reduce any delay necessitated by such inspection to the minimum.
3. As decrees of necessity frequently undergo changes during their consideration by the Council of Ministers, it would be necessary for my legal advisers again to see the decree before it is officially passed, and this I suggest could usefully be done when the decree is presented for registration before the Corte di Cassazione.

technical review, and it is at this stage that I think the decrees could usefully be placed before my Legal Advisers. In many cases of course decrees will already have been considered in conjunction with one of the technical sections or sub-commissions of the Commission and its consultation by my Legal Advisers would be purely formal, but in other cases where decrees have not been promulgated in conjunction with this Commission a more detailed inspection would be required. However I can assure you that everything will be done to reduce any delay necessitated by such inspection to the minimum.

3. As decrees of necessity frequently undergo changes during their consideration by the Council of Ministers, it would be necessary for my Legal Advisers again to see the decrees before it is officially passed, and this I suggest could usefully be done when the decrees is presented for registration before the Corte di Conti.

4. If you agree with the foregoing, my dear Prime Minister, will you please give the necessary instructions to the Minister of Justice ^{ask} ~~4318~~ the Chief Legal Adviser to arrange the details with the Minister.

Yours sincerely,

HENRY W. SINGER
 Counsellor, U.S.A.R.
 Acting Chief Commissioner.

WHS/jmb.



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

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394
CIVIL AFFAIRS BRANCH

Ref:- 9/17.3/GA

12 Oct '44.

SUBJECT:- Approval by ACC of Italian Government decrees. 14 OCT Read

TO:- CCS.

1. After discussion with the Directors of the Legal and Finance sub-commissions the following plan for securing that all decrees in which ACC is interested are approved by it before becoming law is submitted for your approval. The plan will of course have to be discussed in detail with the Italian Government before it can be put into effect.
2. At present there is no co-ordinated plan for supervising the issue of decrees; when a sub-commission is interested in certain legislation it takes the matter up with the appropriate Ministry and such sub-commission, if it desires, consults the Chief Legal Advisor on any legal points that may arise. All negotiations are carried on between the sub-commission and the Minister concerned, and the Chief Legal Advisor is not concerned therewith otherwise than as purely a legal adviser (See Directive dated 5th Mar '44 copy attached). While certainly not the universal practice, some of the Ministries have been cooperative in submitting in advance, to their opposite ACC sub-commission for approval, decrees they propose to submit to the Council of Ministers for enactment even when it is believed that ACC would not really be interested. This system has worked quite well in practice ever many months and it is not desired to interfere in any way therewith (except to modify the Directive in a few minor particulars to bring it up to date) but to devise a system to ensure no decrees escape a preview by ACC.
3. All decrees when they have been passed by the Council of Ministers have to be registered with the Corte Dei Conti and published in the official Gazette before becoming law. An officer of the Finance sub-commission already sees all decrees when presented to the Corte Dei Conti for registration in order to see that they are financially acceptable. It is recommended that an officer of the Legal sub-commission should also be assigned to this work and should, with the officer from the Finance sub-commission examine all decrees when presented for registration. It is not thought that, beyond any original legal advice referred to above, examination by the Legal sub-commission at an earlier stage will be of much value owing to the last minute alterations which are almost invariably made in decrees. However, if the Secretary of the President of the Council has received any

785017

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

take the matter up with the appropriate Ministry and such sub-commission, if it desires, consults the Chief Legal Advisor on any legal points that may arise. All negotiations are carried on between the sub-commission and the Minister concerned, and the Chief Legal Advisor is not concerned therewith otherwise than as purely a legal adviser (See Directive dated 5th Dec 1944 copy attached). While certainly not the universal practice, some of the Ministries have been cooperative in submitting in advance, to their opposite AOC sub-commission for approval, decrees they propose to submit to the Council of Ministers for enactment even when it is believed that AOC would not really be interested. This system has worked quite well in practice over many months and it is not desired to interfere in any way therewith (except to modify the Directive in a few minor particulars to bring it up to date) but to devise a system to ensure no decrees escape a preview by AOC.

3. All decrees when they have been passed by the Council of Ministers have to be registered with the Corte Dei Conti and published in the official Gazette before becoming law. An officer of the Finance sub-commission already sees all decrees when presented to the Corte Dei Conti for registration in order to see that they are financially acceptable. It is recommended that an officer of the Legal sub-commission should also be assigned to this work and should, with the officer from the Finance sub-commission examine all decrees when presented for registration. It is not thought that, beyond any original legal advice referred to above, examination by the Legal sub-commission at an earlier stage will be of much value owing to the last minute alterations which are almost invariably made in decrees. However, if the Secretary of the President of the Council has received any copy of a draft decree before it has been examined it would expedite the examination of decrees if a copy was handed at the earliest possible moment to the Legal sub-commission. If it is possible to persuade the Government to revert to the system whereby the Minister of Justice sees all decrees before submission to the Council of Ministers the task of the Legal sub-commission will be even more simplified.

4. It will be the duty of the Legal sub-commission to cause an accurate translation to be made of all decrees, and it will then be the duty of the Chief Legal Advisor to advise the Chief Commissioner whether any such decrees are of interest to AOC either:-
 a) as affecting the execution of the Armistice terms, or
 b) as affecting the war effort.
 The exact principles on which the Chief Legal Advisor is to act in expressing his opinion as to whether or not a decree is of interest to AOC

see Memoirs 7
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Declassified E.O. 12356 Section 3.3/NND No.

will have to be the subject of a careful directive to him.

5. If a decree contains nothing in which ACO is interested, then of course no further step is taken to stay its registration or publication. If, however, the decree is one in which the Chief Legal Adviser advises that ACO is interested, it will be the duty of the appropriate Deputy C.O.S. to report to the C.O.S. as to whether the principles and policy of the decree are in accordance with the principles and policy of ACO. If there is a divergence the matter will be taken up by the ACO with the Prime Minister. In practice of course in many instances these decrees will be cleared direct between the Legal sub-commission and the sub-commission concerned without reference to higher authority as it will be the duty of the legal officer assigned to this duty to keep in close touch with the work of the sub-commissions in this respect.

6. If this outline plan is adopted it is estimated that one additional legal officer must be assigned to the legal sub-commission and the he will require the services of at least 2 Italian legal experts; for the work of translating is lengthy and arduous and the mounting and operation of the presses can only be properly interpreted by Italian legal experts. If this additional staff, together with two extra typists and two typewriters, is not provided the plan will break down owing to the inevitable delays in translating and typing. The question of payment of these experts also arises and I propose to bring up the whole question at the next C.O.S. meeting.

G. R. Weyler

C.R. WEJOHN Brigadier.
VF CA Sec.
Dep C. of S.

Duty to Econ. Sec.
Finance sub-commission
Legal sub-commission.

CHU/ynd.

C O P Y

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

ACC/4113/L

5th March 1944

SUBJECT : Italian Legislation.

TO : Distribution Below.

- 1 In the course of meetings between Sub-Commissions and their opposite numbers in the Italian Government and discussions on matters of policy it frequently becomes necessary for Sub-Commissions to consider the initiation and preparation of decree laws by the Italian Government and this directive lays down the procedure to be followed.
- 2 The method of preparation of decrees by the Italian Government is as follows :
Under the present Italian system of administration all legislative proposals emanating from the several Ministries of State are drafted by the originating department itself for submission to the legal adviser to the Cabinet of Ministers as a preliminary to consideration by that body. The draft bill or administrative decree when approved in principle by the Council of Ministers is examined as to its final legal form by the Minister of Justice before presentation to the King or Chief of Government for signature and publication in the Official Gazette.
- 3 When a Sub-Commission and a Ministry are agreed on a joint policy which necessitates a decree law it is the duty of the Ministry concerned to prepare the decree and not ACC. When considering the terms of the draft decree with the Ministry concerned the Sub-Commission should AT THIS STAGE consult the Legal Sub-Commission to see that the draft decree in fact carries out what the Sub-Commission has in mind.
- 4 It is then to the duty of the Italian Ministry concerned to carry through the draft in accordance with the procedure outlined above. If any changes are made in the draft at a latter stage the Ministry concerned should be asked to inform the Sub-Commission concerned and if any difficulty arises therein the latter should consult the Legal Sub-Commission.
- 5 The decree only becomes effective in law on the date of its publication in the Gazzetta Ufficiale and is NOT operative in territory still occupied by the Allied Forces. If the Sub-Commission concerned desire to make such decree operative in occupied territory the Legal Sub-Commission should be so informed in writing BEFORE, if possible, the date of publication in the Gazzetta.

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

...coming from the several Ministries of State are drafted by the originating department itself for submission to the legal adviser to the Cabinet of Ministers as a preliminary to consideration by that body. The draft bill or administrative decree when approved in principle by the Council of Ministers is examined as to its final legal form by the Minister of Justice before presentation to the King or Chief of Government for signature and publication in the Official Gazette.

3 When a Sub-Commission and a Ministry are agreed on a joint policy which necessitates a decree law it is the duty of the Ministry concerned to prepare the decree and not A.C.C. When considering the terms of the draft decree with the Ministry concerned the Sub-Commission should AT THIS STAGE consult the Legal Sub-Commission to see that the draft decree in fact carries out what the Sub-Commission has in mind.

4 It is then to the duty of the Italian Ministry concerned to carry through the draft in accordance with the procedure outlined above. If any changes are made in the draft at a latter stage the Ministry concerned should be asked to inform the Sub-Commission concerned and if any difficulty arises therein the latter should consult the Legal Sub-Commission.

5 The decree only becomes effective in law on the date of its publication in the Gazzetta Ufficiale and is NOT operative in territory still occupied by the Allied Forces. If the Sub-Commission concerned desire to make such decree operative in occupied territory the Legal Sub-Commission should be so informed in writing BEFORE, if possible, the date of publication in the Gazzetta.

6 A part from the foregoing the Italian Government may initiate and prepare decrees on their own and not as the result of a common or agreed policy. The relationship between Sub-Commission and Ministries should be such that Ministries will as a matter of course inform their opposite numbers of their intentions in this respect at the earliest stage so that any defects may be remedied and that any appropriate action may be taken thereon sooner rather than later.

...over

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- 7 Contrariwise when a Sub-Commission is considering the submission to the Executive Commissioner of proposals which involve the preparation of a new General or Regional Order, they should normally consult the Italian Government and ascertain their views so that continuity of policy may be established. This does not apply, of course, where the proposed Order is intended to deal only with a short term local situation in occupied territory and does not affect any question of overall or long term (post occupation policy).
- 8 In order that co-ordination of views and requirements of Sub-Commissions can be handled, Sub-Commissions will, at the earliest practical time, advise the appropriate VP of any proposed decree. This decree may be initiated either by Sub-Commissions or by one of the Ministries of the Italian Government, the VP will then decide whether or not it is necessary for him to deal primarily with the appropriate Minister. The latter course will be adopted when a decree involves several Sub-Commissions and will avoid Italian Government being required to deal with several branches of the Control Commission over one decree.

By Command of Lieut General MASON MACFARLANE.

M.S. LUSH,
Brigadier,
Executive Commissioner.

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1787