

1863

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

785017

ACC

10000/109/1058

1864

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CONSTITUENT ASSEMBLY
OCT. 1943; APR. 1944 - MAR. 1946

1865

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785017

88

ESP 2/1/64

Re see 84 - info only. It has been
seen by everybody necessary. ERS 2/1/64

Alto to Comp.

75

The see 94 for info. ERS 5/13
I think I marked this
on flight file for you to see
but am not quite sure. H.S. 613

5/1/63

510

1866

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785017

470

1542

ALC
2x Comm

The sec 94 for info. LBS 573
I think I marked this
on flight file for you to see
but am not quite sure. H.S. 613

11/6/63

785017

81

VP CAS

For you & CNA to see
158/515

Executive Commissioner
Through C.A. Sec.

82

Thank you. A copy of the joint statement 791 has been taken
for our files.

Investigations
to CNA

7 Nov. '65

83.

- CC, EXC.
1. 80 seems to have been seen by CAS RELAT - no further action seems necessary.
 2. Thruite 76 refers to a matter already dealt with on another file - they will be "waived" soon - no further action.
- AL 8/11. 11/11

85.

Ex. Comm. See see 84 for info.

86

CAS to see. 10/27/65

86.

Local Galt. 8/27/65

begged (Hart) Henschel

will you please take a copy of 84 for your files and

and 85. Local Galt. 8/27/65

Executive Commission
Through CA Sec.

82

Thank you. A copy of the joint statement 79, has been taken
for our files.

Thompson
for CCA

7 Nov. 1945

83.

Copy

- CC, EXC,
1. 80 seems to have been seen by CAS - no further action seems necessary.
 2. Thunit 76 refers to a matter already dealt with on another file - they will be "waived" soon - no further action.
- AL. 8/11. 11/11

Ex. Comm

Please see 84 for info.

CRS 26/11

85.

CAS. trace. 10/11/27/11

Local Govt. 21/11/45. 86.

Legal- (H.M.)

will you please take a copy of 84 for your files and

supply local Govt. with a copy

CAS
27 NOV. 1945
X-525.

87

Ex. Comm. 21/11/45

CAS
21 NOV. 1945
X-525

Copies of 84 have been taken for legal and L. Govt.

11/11/45

Chief Commissioner.

I forward an excellent report prepared by Major Williams on the Draft Law for Elections to the Constituent Assembly. I discussed this at Ex.Cm's meeting (Polad(B) was absent) and as a result recommend that we take no immediate action with the Italian Government but wait for the further study of the draft Law for the Local Elections when we can pass our comments to the Italian Government before the laws are examined by the select committee of the Consultiva.

30.Oct.45

MSL
Brigadier,
Executive Commissioner.

F.L.

31/10

15.

OCT 30 1945

Noted. Agree that the report is excellent!

GWS

cc

(76)

V.P. CAS

1. Prime Minister's reply to C.C.s letter is now filed at 34 in file 2806 attached.
2. Would you prepare draft letter to P.M. commenting on both laws when study is complete, after discussion with P.D.s & self. We should try to get it in P.M. by Nov 10.

MSL/clr

77

785017

1869

785017

30.Oct.45

MSL Brigadier,
Executive Commissioner.

F.L.

75.

OCT 30 1945

Noted. Agree that the
report is
excellent.
GMS
cc

31/10

(76.)

V.P.C.A.S.

1. Prime Minister's reply to C.C.s letter is now filed at 31 in file 2806 attached.
2. Would you please draft letter to P.M. commenting on both laws when study is complete, after discussion with P.D. notes & self. We should try to get it in P.D. by Nov 10.

MS/1/20

L.S.

77.

Prime Minister's answer

C.A.S.
2 NOV 1945
X 608

ECS

78.

Noted. This is in hand

C.A.S.
3 NOV 1945

H.W. 104

1040

mediate action with the Italian Government but wait for the further study of the draft law for the Local Elections when we can pass our comments to the Italian Government before the laws are examined by the select committee of the Consultative

785017

59

C.S.O. Free & discuss

Mr. [unclear]

Document. We have wait 2005 to 55

S. 6/9

Ex. (over) 62

C.S.O. Re. see 61 - I expect Ex. C. would like to see it.

12/10. 469

OCT 12 1968
1428

63A

Chief Commissioner.

Approval
Attached is submitted for your signature information

Noted [unclear]

Mr. [unclear]

1934

1872

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785017

12/5/64

Read 44 back to 42 for information

ET 12/4

12/4 noted. 7

47

C50/ EC should see 46

[Signature]

6/7/65

48
Executive Committee

Please see photo 46 for information

11/22 July 45. 11/17 EC, S.O.

52

1538

50 to cc

Refer to Chief Commissioner's comment

on Nami's letter 9/100 of 10 July. Please

see also 51 50. for case.

12/4 Noted. 7

21 12/4

47

C50

EC should see 46

[Signature]

10/7/45

48.

Executive Commission

Please see p. 46 for information

11a July 45. *[Signature]* 11/17

[Signature] E.S.O.

52

30 to cc

1538

Refer to Chief Commissioner's comment

on Nenni's letter 9/100 of 10 July. Please see file 51 this file, being C.A. See's reply letters in which Col. Cripps is nominated.

Office 125
24 July 45.

1200

[Signature]
Lt. Col.

1874

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COS Please see 24 + 25 for information.
22/11 78/25/11 Sh
27/11

31

COS Please see 28, 29 + 30 for information.

Sh

11/12
seen Sh 11/12
33

Col. You with the 32 has you it in the original form.
78/14/12 Sh 14/12
35

Sec Col.
34 replies to 32 on subject of Article 1 of
DLK 151 - Constituent assembly. 32 asks for
any proposed legislation to be submitted
to be for prior approval. Assurance of this
is given in last para of 34. No further
action required for the time being.

8 Jan 65 / Think this is satisfactory. Sh 15/37

36.
Copies AT HQ of 60th letter 15/3/71 Sh 8/11
See 37. Sh 9/11

39

COS

785017

COS

Please see 28, 29 + 30 for information.

11/12

See 11/12

33

Col.

You with see 32 has you 11 in the original form.

7/14/20

14/12

35

~~See~~ Col.

34 replies to 32 on subject of article 1 of Dkt 151 - Constituent assembly. 32 asks for any proposed legislation to be submitted to AC for prior approval. Assurance of this is given in last para of 34. No further action required for the time being.

8 Jan 45

1 think this is satisfactory.

1537

36

Colyts AFHQ of both letters. See 37.

11/81

11/91

39

COS

At See 38 - addressed to CC.

11/12

38 seen by CC and COS 11/12

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

CC 200

4 March 1946.

SUBJECT: Transmittal of Draft Decree Law on Institutional Question.

TO : G-5, AFHQ.

There is forwarded herewith translation of letter dated 1 March 1946 from the President of the Council of Ministers which forwarded a copy of a draft decree dealing with the powers of the Constituent Assembly and the determination of the institutional question by referendum, translation of which is also enclosed.

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Copy to: U.S. Polad AFHQ
British Reconn AFHQ

DISTRIBUTION:

US Ambassador
BR Ambassador
US Polad
BR Polad
VP GA Section
Exec Commr
CC Files

PA 23
1536

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785017

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91

92

1 March 1946

MAR 4 1946

91

My dear Mr. Prime Minister:

Thank you sincerely for your letter of this date in which you informed me that agreement had been reached on a draft legislative decree interpreting and modifying the DLL 25/6/44.

I fully appreciate that the proof of the provisions which you enclosed with the letter may be subject to some small modifications before final passage.

Very truly yours,

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Dr. Alcide de Gasperi
The President of the Council of Ministers
Italian Government
Rome

(CARTO) 4/3

P.A. 4/3
P.A.
1535

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

See 4-92 91

MEMORANDUM

THE PRESIDENT OF THE COUNCIL OF MINISTERS

Rome, 1 March, 1946

Dear Admiral,

Following your request, I have pleasure in informing you that last night an accord was reached on a draft legislative decree, interpreting and modifying the D.L.L. 25/6/44, in relation to the Assembly for the new constitution of the State, the oaths of the members of the government, and in regard to the Government's faculty of issuing juridicial regulations.

I enclose a proof of the provisions which will be submitted to the Consulta, advising you that some small modification, not affecting the mass substance of the text, may be made in the final version.

I take the opportunity to send you my very best regards,

Yours truly,

De Gasperi

(s) De Gasperi.

Admiral Ellery W. Stone
Chief Commissioner
Allied Commission
Rome.

CC Distr.

Chief Commissioner
Exec. Com.
Civil Affairs Sect.
Pol Ad A
" " E

(M)

1534

[Handwritten signature]

90

Draft of a legislative Decree of the Lieutenant General establishing supplementary provisions and modifications to the Decree-Law of the Lieutenant General No. 151 of 25 June 1944, relating to the Assembly for the new Constitution of the State, oath of the members of the Government and the powers of the Government to issue new legislative regulations.

HERBERTO DI SAVOIA
Prince of Piedmont

Lieutenant General of the Kingdom

By virtue of the powers vested upon me;
Considering the Decree-Law of the Lieutenant General No. 151 of 25 June 1944 relating to the Assembly for the new Constitution of the State, oath of the members of the Government, and to the powers of the Government to issue new legislative rules;
Considering Decree-Law of the Lieutenant General No. 58 of 1 February 1945 relating to the new rules regulating the issue, promulgation and publication of the Decree of the Lieutenant General and other provisions;
Having considered the necessity to establish supplementary provisions and modifications to the above mentioned Decree-Law of the Lieutenant General No. 151 of 25 June 1944;
Having requested the opinion of the Consulta Nazionale;
Following the decision of the Council of Ministers;
On proposal of the President of the Council of Ministers;
Prime Minister Secretary of State, and of the Minister of the Costituente, in agreement with all Ministers;

We have hereby Decreed as follows;

Art. I

The people will decide by means of a referendum on the constitutional form of the State at the same time as the elections for the "Assemblea Costituente" shall take place;
The following question will be submitted at the referendum :
" Do you want the constitution of a Republic ? "

Art. II

If the majority voting will give an affirmative answer to the

question referred to in art. I The "Assemblée Constituante" in its first sitting will elect the temporary Chief of the State who will exercise his functions until the Chief of the State will be appointed according to the Constitution approved by the said Assembly. A majority of three fifths of the members of the Assembly will be required for the election of the temporary Chief of State. If such majority is not reached after the third ballot an absolute majority will be sufficient.

In the hypothesis referred to in the first para, the functions of the Chief of State will be exercised, from the date of publication of the results of the referendum to the date of the election of temporary Chief of State, by the President of the Council of Ministers in charge at the time of the elections.

If the majority of the voters are against the proposal set out in art. I, the regime of the Lieutenant General will continue until the decisions taken by the Assembly on a new constitution and the Chief of the State shall come into force.

Art. III

As long as the "Constituents" will last and until the convocation of the Parliament, in accordance with the Constitution, the legislative power will remain in the hands of the Government, with the exception of the electoral laws and of the law approving international treaties, which shall be approved by the Assembly.

The Government has the right to submit to the Assembly any other matter for which its decision is deemed necessary.

The Government is responsible to the "Assemblée Constituante".

The refusal by the Assembly to agree to a motion presented by the Government will not carry as a consequence the resignation of the Government itself. The resignation is compulsory only pursuant to an unfavorable vote resulting from a motion of censure, which must take place not earlier than ten days after the date it has been presented and which shall be approved by an absolute majority of the members of the assembly.

Art. IV

The "Assemblée Constituante" shall hold its first meeting in Paris, Montaigne Palace, on the 22nd day after the date of election.

The Assembly shall cease its function on the day when the new Constitution shall come into force and in any case not later than the 6th month after the first meeting. This time limit can be

extended for not over 6 months.

The "Asamblea Constituyente" shall apply the Internal Regulations of the Chamber of Deputies dated 1/7/1900 and following amendments, until its own internal regulations shall be agreed upon.

Art. V

Up to the time when the new Constitution will function, the powers of the Chief of State shall be regulated by the provisions now in force as far as they are applicable.

Art. VI

The legislative provisions which do not lie within the jurisdiction of the "Asamblea Constituyente" as set out in para one of art. 3 and which have been passed during the time referred to in the articles, must be submitted ~~to~~ for the ratification of the new Parliament no later than one year after the first sitting of the said Parliament.

Art. VII

Prior to the holding of the elections of the "Asamblea Constituyente" civilian and military dependents of the State shall pledge their honour to abide by the result of the referendum on the institutional issue as well as the decisions of the "Asamblea Constituyente" and make them respected.

None of the pledges previously given by them shall limit the freedom of opinion and voting of the civilian and military dependents of the State.

Art. VIII

By Decree of the President of Council of Ministers in agreement with the Ministers of the Constituyente and of Interior, the regulations dealing with the operations of the referendum shall be issued with the authority to modify, if necessary, the electoral card, in accordance with other provisions of the law relating to elections of the "Asamblea Constituyente".

Two different cards, one for the affirmative, the other for the negative, are required as answers to be given for the referendum.

1882

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785017



22nd November 1945.

*With the compliments of
His Majesty's Ambassador at Rome.*

Brigadier M.S. Lush,
Chief Executive Commissioner,
Allied Commission,
ROME.

1530

FA
14/11

Q/

650541
Copy for Brigadier Lush.

Telegram from Washington of 14/11/45.

My telegram no. 5508.

NOV 24 1945

Following memorandum has now been received from the State Department.

84
Begins: As the British Embassy has been informed, the Department of State has been giving active consideration to reports from Allied officials in Rome regarding preparations for the holding of the constituent assembly, having in mind especially the opinion of chief legal adviser to the Chief Commissioner of the Allied Commission regarding the powers and functions of the proposed assembly.

The Department of State does not concur in chief legal adviser's opinion. Rather it is the department's view that since Italian constitutional law in the strict sense of the term is based on Statuto of 1848, the nature and functions of the constituent assembly cannot be determined thereby if this strict interpretation is adhered to, since such an institution goes beyond the limits of the law based on the Statuto. On the other hand if the term "Italian constitutional law" is taken in its broadest sense it may be understood to include Italian and foreign precedents for the constituent assembly. There are however scarcely any relevant Italian precedents, while the phrase "constituent assembly" as used in modern Italy has had varied meanings. Therefore to interpret the term "constituent assembly" to mean a body which both governs the country and drafts a new constitution for the State, as the chief legal adviser has interpreted it, it is necessary to choose precedents in European history wherein revolutions or break-downs of existing legal regimes have occurred and in which circumstances required an assembly to perform the two different functions of governing and of drafting a new constitution. The case of Italy is different because a legal regime exists which is recognised by, and under obligations to, the Allied powers and which is competent to administer the country during sessions of the assembly. In these circumstances, the Department of State is of the opinion that more relevant foreign precedents may be found in constitutional conventions held in the United States heretofore; these conventions confine themselves to drafting or amending constitutions and do not attempt to govern.

The present Italian Government with ultimate making power vested in the Council of Ministers and the Lieutenant General of the Realm is the only legal Government of Italy and this Government's powers appear to be restricted only by obligations arising from Italy's

NOV 24 1945

My telegram no. 6503.

Following memorandum has now been received from the State Department.

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The present Italian Government with ultimate making power vested in the Council of Ministers and the Lieutenant General of the Realm is the only legal Government of Italy and this Government's powers appear to be restricted only by obligations arising from Italy's surrender to the Allies and by such limits as may be self-imposed. Having the power to provide for the constituent assembly, the present Italian Government also has the power to provide for procedures in connection therewith, including the power to restrict the assembly to its essential task of forming the new constitution as was in fact accomplished in decree law 151 of June 25th 1944, which provides for the assembly.

See 87

(L.A.P.)

A strict construction of decree law 151 of June 25th 1944, which speaks only of a constituent assembly to devise a new constitution would require that body to confine itself to this one task. Decree law 151 mentions the new parliament which can only mean parliament to be created by the assembly, and contemplates continuance of the council of ministers as the governing authority until this new parliament comes into being.

It is also the Department's contention that a solution of the institutional question in Italy must be found within the framework of the declaration of October 13th, 1943, by the President of the United States, the Prime Minister of Great Britain, and the Prime Minister of the U.S.S.R. which stipulated that "nothing can detract from the absolute and untrammelled right of the people of Italy by constitutional means to decide on the democratic form of government, they will eventually have." This is interpreted by the Department of State to mean that legal continuation of the government must be assured, that any change in the structure of the state must be achieved by constitutional means and that such changes must accord with the will of the people. In a sense, the declaration constitutes an allied pledge to the Italian people, and it is felt that efforts must be continued to encourage the Italian Government to promote democratic processes in Italy and to ensure that the new Italian state is firmly founded on democratic principles.

The Department of State propose therefore that the Allied Commission be directed to revert to previous correspondence between the Chief Commissioner and the Italian Prime Minister on the subject of elections and the solution of the institutional question, with a view to initiating further discussions along the lines of the foregoing, so that the Italian Government may be informed of the continued interest of the British and American Governments in this matter and of their desire to co-operate with the Italian Government for the achievement through orderly and democratic processes of democratic aims sought by all political parties adhering to the present government in Italy. Ends.

2. State Department have in addition given us one copy of full legal opinion of their chief legal adviser, which goes to the Foreign Office by air bag.

JS/TC.

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COPY.

80

HEADQUARTERS ALLIED COMMISSION
Office of Political Adviser (A)

Subject: Joint Statement of October 13, 1947, concerning
Italian Co-Belligerency.

To : Chief Commissioner.

65

With reference to your memorandum of October 29, 1947,
enclosing a paraphrase of a telegram from the Department of State
with respect to the powers and purposes of the Constituent Assembly,
there is enclosed in compliance with your request, a copy of the
Joint Declaration of October 13, 1947, referred to therein.

79

(Sgd) J. Wesley Jones.
Political Adviser (A).

Enclosure.

Rome, November 1, 1945.

See M. 81.82

11-11-47
1328

1.887

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

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COPY.

(79)

The following is a joint statement by the President of the United States, the Prime Minister of Great Britain, and the Prime Minister of the Union of Soviet Socialist Republics, re declaration of war by Italy against Germany.

The Governments of Great Britain, The United States and the Soviet Union acknowledge the position of the Royal Italian Government as stated by Marshal Badoglio and accept the active cooperation of the Italian nation and armed forces as a co-belligerent in the war against Germany. The military events since September eighth and the brutal maltreatment by the Germans of the Italian population, culminating in the Italian declaration of war against Germany have in fact made Italy a co-belligerent and the American, British and Soviet Governments will continue to work with the Italian Government on that basis. The three Governments acknowledge the Italian Government's pledge to submit to the will of the Italian people after the Germans have been driven from Italy and it is understood that nothing can detract from the absolute and untrammelled right of the people of Italy by constitutional means to decide on the democratic form of government they will eventually have.

The relationship of co-belligerency between the Governments of Italy and the United Nations Governments cannot of itself affect the terms recently signed, which retain their full force and can only be adjusted by agreement between the Allied Governments in the light of the assistance which the Italian Government may be able to afford. to the United Nations' cause.

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

AC/45/B/1/LG

Tel: 478706

SUBJECT: Draft Law on the Constituent Assembly.

29 October 1945

TO : Executive Commissioner.

OCT 30 1945

1. There is annexed for your use copy of the report prepared by Local Government Sub Commission on the Draft Law for Elections to the Constituent Assembly. The second copy is sent for use of the Chief Commissioner. Copies have also been sent to Polads (A) and (B).
2. The report has been distributed in this way instead of minuting up the file as the quickest way of informing all concerned.
3. It is suggested that Polads should send any comments they may have to you direct (with copy to this office).

M Carr Brigadier

M. CARR
Brigadier
VP CA Section

CGRW/pec

Distribution:

Polad (A)
" (B)

see M 74-76

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

6505 81

73 'A'

29 October 1945

OCT 30 1945

My dear Mr. Ambassador:

I thank you for your letter of 26 October enclosing a paraphrase of a telegram which was received from the Department of State containing its views with respect to the powers and purposes of the Constituent Assembly.

Yours very truly,

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

The Hon. Alexander Kirk
American Ambassador
Via Veneto 119
Rome

cc-Exe. Commr.

1025

Report on the Draft Law for Elections to the Constituent Assembly1. The Four Points:

Three of the four principal criticisms taken up by the CG in correspondence with the RM have been met.

2. As to prior nomination of candidates, this is met by following the system of the 1919 Law whereby the Parties' lists of candidates have to be deposited at the Court of Appeal (which examines and approves them) 40 days before election day, together with the necessary declarations of acceptance of candidature, etc.

3. As to provision of an official ballot-paper, this point has been met. There is an improvement in this respect over the 1919 Law which only provided for an official envelope, leaving the Parties to print a ballot-paper in standard form which the elector brought into the Polling Station and put in the envelope.

4. As to soldier voting, the franchise is to be extended to MOOs and men as well as officers. They will vote in the place where they happen to be stationed. It is the duty of their Commanding Officer to obtain for them the requisite certificates of registration in the electors' lists (which every elector has to present at the Polling Station) by applying to the Sindaco of the Comune where the soldier is registered 60 days before the election.

5. As to prohibiting electioneering in the vicinity of Polling Stations, this point has not been met. This is the more surprising as in the Draft Law for Local Elections a clause has been inserted forbidding propaganda within 200 metres of the Polling Station. The 2 Draft Laws have, however, been prepared by different people.

6. The remainder of this report draws attention to the more important features of the Draft Law bearing upon the universality of the franchise, the freedom of choice of the elector and the secrecy of the ballot.

7. As to the extent of the franchise, the Draft Law reproduces the disqualifications listed in the Law as to the compilation of electoral lists but with alterations. These alterations are indicated in appendix "A". The disqualifications for Fascism have been enlarged, with particular references to the Republican Fascist Party. On the other hand, disqualifications for "poverty" have been removed. On the whole, the new Draft Law is more liberal in this respect than previous legislation.

It is to be noted, however, that the removal of "poverty" disqualifications may delay still further the preparation of the electoral lists. These Communes that have already compiled their lists will have to prepare supplementary ones to include those persons who were omitted because they were habitually in receipt of public assistance or had been convicted for mendicancy. As convictions for mendicancy have to be notified by Judicial Record Offices--a notorious bottleneck--the consequent delay may be appreciable.

It is nevertheless considered that the progressive spirit manifested by the abolition of the "poverty" disqualifications is more important than the practical difficulties of completing the electoral lists.

8. The Draft Law also lists the disqualifications for being elected to the Constituent Assembly. In general, these disqualifications are notably less restrictive than those enacted by the 1919 Law as to membership of the Chamber of Deputies. In particular, the 1919 Law disqualified all State officials with

system of the 1919 Law whereby the Parties' lists of candidates have to be deposited at the Court of Appeal (which examines and approves them) 40 days before election day, together with the necessary declaration of acceptance of candidature, etc.

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It is to be noted, however, that the removal of "poverty" disqualifications may delay still further the preparation of the electoral lists. These Communes that have already compiled their lists will have to prepare supplementary ones to include those persons who were omitted because they were habitually in receipt of public assistance or had been convicted for mendacity. As convictions for mendacity have to be notified by Judicial Record Offices--a notorious bottleneck--the consequent delay may be appreciable.

It is nevertheless considered that the progressive spirit manifested by the abolition of the "poverty" disqualifications is more important than the practical difficulties of completing the electoral lists.

8. The Draft Law also lists the disqualifications for being elected to the Constituent Assembly. In general, these disqualifications are notably less restrictive than those enacted by the 1919 Law as to membership of the Chamber of Deputies. In particular, the 1919 Law disqualified all State officials with very few exceptions (e.g. Ministers, high-ranking judges and army officers and university professors); but under the new Draft Law all State officials are eligible, with very few exceptions. (e.g. the Chief and Vice-Chief of Police, Ministers, Chiefs of Cabinet, Prefects within their provinces and the High Commissioners for Sicily and Sardinia within their Regions). Even these are eligible if they resign 20 days after publication of the Law.

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The reason for this marked departure from precedent is to be found, of course, in the number of political non-career appointments to State offices made in the last two years.

9. To turn to the freedom of choice of the elector, it is to be noted that the Draft Law provides for proportional representation with remarkably large electoral districts or "colleges". Particulars of these election districts are given at Appendix "B". The desirability of these Regional election districts and their suitability to present conditions in Italy are open to argument; but it cannot be alleged there is anything fundamentally undemocratic in the proposal.

Large elections districts, consisting of one or more provinces, were provided for in the 1919 Law and the number of Deputies assigned to each varied between 5 and 20. Moreover, election districts of sufficiently large size and with a corresponding number of representatives are essential to the particular system of proportional representation adopted by the 1919 Law and also repeated in essentials in the present Draft.

10. This system of proportional representation is well-known and is effectual to distribute among the parties the seats allotted to each election district in proportion to the votes cast for each Party. The desirability of proportional representation is, like the size of the election districts, open to argument. It is equally true that the system cannot be attacked as fundamentally undemocratic.

11. The elector has to vote for all the candidates on the list of his choice. The Draft Law does not, however, provide for him to express his preference as to which of the candidates put forward by the Party he would prefer to see elected. In this respect, the new Draft is more restrictive than the 1919 Law. The number of preference votes the elector may give is reduced. Moreover, the elector's preference vote is a nullity unless the candidate he selects receives a total of preference votes equivalent to 20% of those given to the list in which he figures. There is a further point of difference between the new Draft and the 1919 Law which, it is considered, reduces the voter's freedom of choice. If a political party put in a list of candidates containing less names than there were seats to be filled, the elector could make up the difference by adding names. The names so added, however, had to be those of candidates from other lists. This provision is not repeated in the new Draft.

Even the 1919 Law contained no provision for the elector to delete names from the list of his choice and to substitute (if desired) names from the other lists--a provision which would certainly enlarge the voter's freedom to choose his representatives.

12. The very large election districts, the system of proportional representation adopted, the absence of "additional votes" and the restrictions of "preferential votes" all tend, in the writer's opinion, to minimise the part to be played by the individual voter and to magnify the influence of well organized political Parties. Nevertheless, it cannot be advised that any of these features go to the root principles of democracy so as to justify being taken.

13. On the question of the secrecy of the ballot, Appendix "C" contains a brief description of what the voter actually will do--under the Draft Law--when he goes into the polling station. It is considered that the guarantees for secrecy may be regarded as adequate, both in the polling station and before and in the counting of votes.

14. Attention is drawn to the provision in the Draft Law whereby 70 days must elapse from publication of the Decree proclaiming the elections and

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14. Attention is drawn to the provision in the Draft Law whereby 70 days must elapse from publication of the Decree proclaiming the elections and the election day. Appendix "D" gives a time-table of the principal operations which have to be performed during this interval. The period of 70 days is not too long if it is assumed that no preparatory steps will be taken before the election day is proclaimed. There does not seem, however, to be any need to assume this. For instance, the Ministry could proceed with writing up the registration certificates parallel with the compilation of the electoral lists.

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Likewise, the political parties can begin to draw up their lists of candidates and to collect the candidates' birth certificates and acceptances of candidature, etc. as soon as the elective law is published in the Gazette.

15. The period between the proclamation of the elections and the actual election day will, no doubt, be one of acute political fever, during which the risk of breaches of public order will be at its greatest. Indeed, on the broadest grounds, it is not desirable that the day of elections should be postponed one day later than is strictly necessary.

16. Against this, it could be urged that, as the Governmental and local agencies concerned with the elections are lacking both in re-organization and in experience, ample time must be allowed them for their various tasks.

17. It is for consideration, therefore, whether the Italian Government might not be asked to consider a shortening of this period of 70 days.

18. Conclusions.

From the foregoing, it would seem proper to make observations to the Italian Government upon two points only:--

(a) they should be recommended to include a provision forbidding political propaganda within a given distance of polling stations;

(b) they should be recommended to consider a reduction in the period of 70 days from the proclamation of the elections to the election day.

19. A separate report ^{will be} submitted on the questions which arise in relation to the implementation in Military Government Territory of the Draft Law on elections to the Constituent Assembly.

Charles Williams
Major

C. G. R. WILLIAMS
Major
Executive Officer
Local Government Sub Commission

28 OCT 1945

CCM/pec

Distribution:

- Chief Commissioner
- Exec. Commissioner
- Polad (A)
- " (B)
- VP CA Section
- AG/45/B/1/LG

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28 OCT 1945

CCW/pec

Distributions:

Chief Commissioner
Exec. Commissioner
Polad (A)
" (B)
VF Ch Section
AJ/45/3/2/LC

C. G. R. WILLIAMS

Major

Executive Officer

Local Government Sub Commission

C. G. R. Williams
Major

Disqualifications for Voting--Differences from Law on Compilation of Electoral ListsI - Disqualifications which are Cancelled

- (i) Being habitually in receipt of public assistance.
- (ii) Conviction for begging.
- (iii) Political Secretaries of the RHP can be allowed to vote by the Provincial Commissions for Disfranchisement of Fascists.
- (iv) "Black-shirt" officers are not disqualified if they belong to technical branches, e.g. Railway Militia, Forest Militia, University Militia, etc..

II - Additional Disqualifications

- (i) National Councillors, i.e. members of the Chamber of Fasci and Corporations.
- (ii) Fascist Ministers and Under-Secretaries and Fascist Deputies.
- (iii) Political Secretaries of the RHP in Communes with over 10,000 inhabitants. (H.R. The law on electoral lists confines the disqualification to political Secretaries of Communes with 20,000 or more inhabitants.)
- (iv) The female equivalent of Federal Secretary, Federal Inspector and Political Secretary in the RHP.
- (v) Musketiers of the Duce.
- (vi) Members of the Special and Extraordinary Tribunals of the pseudo-Social Republic--Chiefs of Provinces and Quarters appointed by the pseudo-Republican Government--officers of the armed forces who have served the Republican Government.

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

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(ii) Conviction for begging.

(iii) Political Secretaries of the RPF can be allowed to vote by the Provincial Commissions for Disfranchisement of Fascists.

(iv) "Black-shirt" officers are not disqualified if they belong to technical branches, e.g. Railway Militia, Parent Militia, University Militia, etc..

II - Additional Disqualifications

(i) National Councillors, i.e. members of the Chamber of Fasci and Corporations.

(ii) Fascist Ministers and Under-Secretaries and Fascist Deputies.

(iii) Political Secretaries of the RPF in Communes with over 10,000 inhabitants. (U.B. The law on electoral lists confines the disqualification to Political Secretaries of Communes with 20,000 or more inhabitants.)

(iv) The false-equivalent of Federal Secretary, Federal Inspector and Political Secretary in the RPF.

(v) Masters of the Race.

(vi) Members of the Special and Extraordinary Tribunals of the pseudo-social Republic—Chiefs of Provinces and Masters appointed by the pseudo-Republican Government—officers of the armed forces who have served the Republican Government.

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

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B
ANNEX

Proposed Colleges (i.e. Constituencies or Election Districts)

<u>Colleges</u>	<u>Population</u>	<u>Number of Deputies</u>
Piemonte	3,421,341	43
Valle d'Aosta	84,793	1
Liguria	1,466,915	18
Lombardia	5,036,842	73
Venezia Tridentina	662,029	8
Verone	4,237,836	54
Venezia Giulia and Trentino	977,257	12
Emilia	3,319,058	42
Toscana	2,974,439	37
Marche	1,270,971	16
Umbria	725,918	9
Lazio	2,647,006	33
Abruzzi and Molise	1,589,804	20
Campania	3,709,522	46
Puglia	2,637,022	33
Lucania	543,262	7
Calabria	1,771,651	22
Sicilia	4,900,978	50
Sardegna	1,034,206	13
<u>Total Colleges - 19</u>	<u>42,991,602</u>	<u>517</u> Deputies

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Piemonte	3,421,541	43
Valle d'Aosta	84,793	1
Liguria	1,466,215	18
Lombardia	5,836,542	73
Venesia Tridentina	669,029	8
Veneto	4,267,835	54
Venesia Giulia and Trentino	977,257	12
Emilia	3,339,058	42
Toscana	2,574,439	37
Marche	1,378,071	16
Umbria	725,918	9
Lazio	2,647,088	33
Abruzzi and Molise	1,589,604	20
Campania	3,709,522	46
Puglia	2,637,022	33
Lucania	543,262	7
Calabria	1,771,651	22
Sicilia	4,000,078	50
Sardegna	1,034,206	13
<u>Total Colleagues</u>	<u>42,293,602</u>	<u>537</u>
		<u>Deputies</u>

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APPENDIX "C"

Brief Description of the Procedure in the Polling Station

1. The Polling Station is divided into two compartments by a barrier with a gap in the middle. In the first compartment (where the entrance to the street is) the voters may stand and watch the proceedings. Here are affixed the lists of candidates, a copy of the voters' register, etc.. In the other compartment the officials are seated round a table with two ballot boxes on it--one holds the stamped and numbered ballot-papers ready for voting, and the other the ballot-papers which have been used for voting. The screened polling booths are also in this compartment. Electors can only pass the barrier to vote. The officials consist of a Presiding Officer, 5 clerks and a secretary.

2. At 1600 hours on the day before the election, the officials meet in the Polling Station to number the ballot-papers serially and sign them.

3. At 0700 hours on the election day, the officials mark the ballot-papers with the official stamp.

4. The poll opens at 0900 hours and closes at 2300 hours.

5. Electors desiring to vote must:--

(a) produce their certificates of registration in the electors' list. The Sindaco prepares and sends these to the voter at least 40 days before the election.

(b) prove their identity by:--

(i) producing an official identity card, provided it bears a photograph;

(ii) being known personally to one of the officials who certifies accordingly;

(iii) producing another elector known to the officials who can certify identity--and any elector who has already voted is assumed to be known.

The Presiding Officer then removes the detachable slip from the registration certificate so that the elector cannot attempt to vote twice.

6. The Presiding Officer then draws a ballot-paper--calls out its serial number--which is entered against the voter's name in the electors' list.

7. The elector goes to the booth and with the pencil provided puts a mark on the ballot-paper over the symbol of the list for which he wants to vote. If he wishes, he also writes on the ballot-paper the names of those candidates of the list he has voted for to whom he wishes preference to be given. He then folds and seals up the ballot-paper (which is gummed for the purpose like an envelope) and hands it to the Presiding Officer. The latter tears off the appendix containing the serial number and puts the ballot-paper in the second ballot-box.

8. At 2300 hours, the Polling Station is closed, but electors already inside are allowed to vote.

APPENDIX "D"

Time-Tables

NOTE (1)---"D" = the date of publication of the Decree proclaiming the elections.

(2)---"E" = the day of the elections.

"D" Plus	"E" Minus	Action to be taken
10	E - 60	Last day for military etc. Commanders to apply to Sindaco for certificates of registration in the electors lists for their troops.
15	E - 55	Last day for the "Giunta Comunale" to have ready stamps, ballot-boxes, tables, etc. for Polling Stations.
20	E - 50	Last day for Sindaco to complete preparation of registration certificates.
{ 30	E - 40	Last day for delivery of registration certificates to electors.
{ 30	E - 40	Last day for lists of candidates to be lodged.
40	E - 30	Last day for examination and approval of lists of candidates.
60	E - 10	Last day for Electoral Commissions to transmit the electoral lists to the Sindaco.
{ 62	E - 8	Between these dates the "Giunta Comunale" must
{ 66	E - 4	appoint the Polling Station clerks.
63	E - 1	Last day for lodging the appointments of the candidates' polling and counting agents.
70	E	Election Day

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

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ALLI D [REDACTED] COMMISSION

INTER-OFFICE MEMORANDUM
CIVIL AFFAIRS SECTION

(63)

Tel. Ext. 525.

SUBJECT:

FILE No.

TO : Executive Commissioner

12 Oct 1945

OCT 15 1945

When you were presiding at the Chief Commissioner's Meeting on October 3rd, you raised the question as to the position of the weekly or bi-monthly review which the Minister for the Constituents intended to give information on the subject of certain Commissions which had been set up to study such matters as the Electoral Law, Agrarian and Industrial Organizations, etc.

The publication of this review has been held up for lack of paper. It is understood, however, that the necessary supplies are now available and that the first issue of the review will appear shortly.

(PA)

Mr. [unclear]

M. Carr, Sr.,
VI CA Section.

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

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QUARTERS ALLIED COMMISSION

Office of the Chief Commissioner

APO 394

(65)

29 October 1945.

OCT 30 1945

MEMORANDUM TO: Executive Commissioner.
Vice President, Civil Affairs Section.
U.S. Political Advisor.
British Political Advisor.
Chief Legal Advisor.

There is forwarded herewith a paraphrase of a telegram which has been received from the Department of State with respect to the powers and purpose of the Constituent Assembly and which was sent in response to the Embassy's report of 6 September informing the Department of the views of the C.L.A. as expressed in his memorandum of 30 August.

It would be appreciated if the British or American Embassy could supply the Commission with a copy of the joint declaration of 13 October 1943.

Elery W. Stone

ELERY W. STONE
Rear Admiral, USNR
Chief Commissioner

See 80

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The opinion of the Chief Legal Adviser of the Allied Commission (Embassy's telegram of September 6) on the Constituent Assembly is not concurred in by the Department of State, whose view is that Italian constitutional law cannot determine the functions and nature of the Assembly since constitutional law, strictly speaking, is based on statutes. The only legal government of Italy is the present one with ultimate law-making powers vested in the Council of Ministers and the Lieutenant General of the Realm. Except for self-imposed limitations and those arising from the instrument of surrender, the powers of the present Italian Government are without legal limits. The present Italian Government, having power to create the Assembly, also has authority to limit the Assembly to its fundamental task of framing a new constitution. The decree-law of June 25, 1944 (no. 151), did in fact do just this. But while, in broadest interpretation, Italian constitutional law might be understood to include Italian and foreign precedents for the Assembly, the phrase "constituent assembly" as used in modern Italy has varied interpretations and there are hardly any relevant Italian precedents. The interpretation of "constituent assembly" as an organization which both creates a new constitution and governs the country is based on European precedents where break-downs of the previously existing legal regimes or revolutions occur, thus necessitating the two different functions of drafting a new constitution and of governing being performed by the assembly. Since a legal regime exists in Italy, competent to administer the country during the convention of the assembly and also under obligations to the Allied Governments, the case of Italy is not parallel. The Constituent Assembly would have to confine itself to one task under a strict construction of decree-law no. 151 of June 25, 1944, which provides only for a new constitution to be drawn up by the Constituent Assembly and attributes no other functions to it. The decree-law contemplates the continuance of the Council of Ministers as the governing authority until a new Parliament is formed. The term "new Parliament" which is mentioned therein, means the Parliament to be created by the Assembly. Furthermore, the joint declaration of October 13, 1943, which established the right of the Italian people to choose, by constitutional means, a democratic form of government, must provide the framework within which the institutional question will be solved, and this requires that there be observed legal continuity. Constitutional conventions, such as have been held in the United States, might be relevant foreign precedents for such procedure. Constitutional assemblies of this nature do not attempt to govern but confine themselves strictly to constitution-making.

Since it is the opinion here that the pledges of the Allied Governments to the Italian people require continued efforts on the part of the Government of the United States to ensure that the new Italian state is established on democratic principles and to promote democratic processes in Italy, the British Government is being informed of the foregoing views looking forward to the initiation of discussions with the Italian Government on this subject. The Allied Commission should meanwhile be apprised informally of the Department's views.

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CONFIDENTIAL
HEADQUARTERS ALLIED COMMISSION
A.P.O. 394
PUBLIC SAFETY SUB COMMISSION
SECURITY DIVISION

REF. : SD/151.02

10 October 1945

OCT 11 1945

SUBJECT : Political Activities.

TO : V.P., Civil Affairs Section.

1. It is reported that NENNI and TOGLIATTI will speak publicly in TURIN on Saturday 13 October and the following day both will address meetings at MILAN.

2. In ROME, Luigi LONGO of the Communist Party and Giuseppe ROMITA of the Socialist Party will address a meeting at 1000 hours on Saturday 14 October 1945 in the Palatino.

3. The above have been arranged as part of a nation wide drive to urge convocation of the Costituente and to spur the present Government to take swifter action.

S. J. Harvey
S.J. HARVEY

Major,
Security Division.

Copy to : Executive Commissioner.

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

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Translation

E.C.

The President of the Council of Ministers

Rome, 20 September 1945

SEP 20 1945

Dear Admiral,

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I answer your letter of September 3rd, asking to know the point of view of the Italian Government about the powers and functioning of the Italian Government when the Costituente will be summoned.

The matter on which you questioned me is being carefully studied, and the Government thinks that the Consulta will have to be consulted on problems of such importance. However, from now on, it is quite clear to the Government that its legal powers will come to an end on the day in which the new Assembly elected by the people is installed. A new Government will have to be formed according to the indications of the elections.

I shall later on let you know the results of our debates on such a matter.

Believe me,

Sincerely yours,

B. Ferruccio Parri

Admiral Ellery W. Stone
Chief Commissioner
Allied Commission
Rome

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PERMAN

CA SEC

INFO

CHIEF COMMR

EXEC COMMR

POLAD (A)

POLAD (B)

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(Mr. Kennedy) PA

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4117/1/L.

/rlp.
30 August 1945.

SUBJECT : Constituent Assembly.

SEP - 5 1945

TO : Chief Commissioner.

1. I have discussed at length, with four leading and most responsible Italian jurists, the juridical position of the *Assemblea Costituente* and the relationship which will obtain between that body and the Italian Government of the day. The views of these jurists are set out below. Since the problem is essentially of Italian constitutional law and of the construction of the Italian decree, D.L. No. 151 of 25 June 1944, it is obvious that the solution of the problem must be found according to the canons of Italian law.

2. In the opinion of these jurists the words "*Assemblea Costituente*" are words of art; they cannot be regarded as a mere label to be attached to an Institution created by, and invested solely with the powers specifically conferred in, Art. 1 of the decree. They must be viewed as connoting an Institution juridically associated with the general European concept of a Constituent Assembly. Such a concept derives directly from the French Assembly of 1789 and carries with it the fundamental idea of a sovereign body invested with all power for all purposes and subject to no authority but its own.

3. On the basis of this view the *Assemblea Costituente*, when formed, will be the sovereign power in the state invested with all power of government. If any limitation on this power is to be derived from the terms of D.L. No. 151, the Assembly could immediately remove such limitation by amending the decree.

4. The jurists point out that in addition to the historical background, the better construction of D.L. No. 151 and the general situation support this view:-

a. Art. 1 establishes the Assembly and gives it one specific task; it nowhere limits its functions to this one task. On the contrary the idea behind a body elected by the universal vote of the Italian people is that of a sovereign body.

b. Art. 3 provides that Ministers will not prejudice "until the convocation of the Assembly" the solution of the institutional question.

c. No weight can be attached to the expression "the functioning

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of the new Parliament" in Art. 4. For example, the solution of the institutional question will be known immediately the result of the election is determined. If this solution is republican it will be the duty of the king to abdicate and the King to resign, so that it will not be possible to continue the procedure laid down in Art. 4.

d. The general feeling of the people is that, as in 1789, they are being asked to elect a body which will not only provide a new constitution but will legislate upon all the major issues of the day.

5. I think that it is possible to advance certain arguments in the contrary sense. For example, it might be said:-

a. The expression "Assemblea Costituente" should be regarded as words of description and not of art: as in an American or British statute a definition clause would say "for the purposes of this Act the words.... shall mean....," so the definition, or scope and function, of the Assemblea Costituente is provided in Art. 1. It is to be observed that the meaning of the decree is "Assembly for the new constitution of the State."

b. Art. 3 proves that Ministers, and therefore the existing Government, continue in function as the Government after the convocation of the Assemblea. Since the solution of the institutional question will become clear immediately upon such convocation, there can be no question thereafter of such solution being prejudiced. The article however confines the limiting expression "until the convocation" to this half of the oath, and expressly avoids extending this limitation to that part of the oath, which covers the general performance of their duties.

c. Art. 4 provides that the present form of government shall continue until the new Parliament (which must mean the Government set up in accordance with the new Constitution) starts to function. Even if, by reason of the election of a republican Assemblea, the king decided to abdicate, this could not affect the Council of Ministers; it would be the duty of the king, in abdicating, to provide constitutionally for government through the Council of Ministers pending the functioning of the new Government under the new Constitution.

6. These arguments are however academic, since the Italian lawyers appear to be unanimous. For your information these lawyers are:-

- a. the personal adviser to the President of the Council
- b. the former Chief of Cabinet to Menzi, who was the lawyer then specifically charged by Menzi with framing the proposed laws
- c. the Dean of the Faculty of law in the University of Rome, who is one of the most distinguished advocates in Cassation, and

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

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6. another advocate practicing in Cassation, and Professor in the University of Genoa.

7. As a practical matter I am informed by these lawyers that the procedure contemplated is that when the Assembly convenes the existing Ministers will resign; the Assembly will encharge them with resumption of office for normal day to day administration, but will retain under its own control all questions of policy.

W. N. BERNARD,

W. N. BERNARD,
Colonel,
Chief Legal Advisor.

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

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3 September 1945

Subject: Constituent Assembly

SEP -4 1945

My dear Mr. Prime Minister:

With reference to the Constituent Assembly to be convened pursuant to DLL No. 151 of 25 June 1944, it would be helpful to the Allied Commission if you would advise me of your Government's views as to the powers and machinery of operation of the Italian Government once the Constituent Assembly has been convened.

I should be most grateful, my dear Mr. Prime Minister, for the favor of an early reply.

Yours very truly,

Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Professor Ferruccio Parri
President of the Council of Ministers
Italian Government
Rome

DISTRIBUTION:
American Ambassador
British Ambassador
Executive Commissioner
Civil Affairs Section (2)

SEP 16 1945
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Ref: AG/45/8/10

25 July 1945

JUL 26 1945

My dear Mr. Prime Minister :

I thank you for your letter with which you enclose a copy of the decree instituting the Ministry of the Costituente.

I have also been advised of the appointment of Dr. Ronita who, I understand, will be charged with this matter, and I have instructed the Local Government Sub-Commission to maintain close liaison with him.

Yours very truly,

/s/ ELLERY W. STONE

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner.

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

copy to : b. line
ex. line

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PA
28/7

1912

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

785017

6505

reg. n. 4.

53

Translation

o.

The President of the Council of Ministers

546

Rome, 20.7.1945

JUL 21 1945

Dear Admiral,

I received your letter of July 8th, and I am most happy to tell you that the Italian Government won't fail to keep you informed about the developments of the studies and plans for the preparation of the Costituente.

Yours very truly,

S. Ferruccio Parri

Admiral Ellery W. Stone
Chief Commissioner
Allied Commission
Rome

trans. e/s

E. C. DIST - 25 JUL 45

ACTION: CA Suc (2)

INFO: Chief Comm

Ex Comm

For AD (A)

For AD (B)

Rickson

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

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

Ref : AG/9/8/LG

21 July 45

21 1945

Dear Signor Nenni,

I thank you for your letter 91/100 of 10 July addressed to Admiral Stone.

The Local Government Sub-Commission is the office responsible for liaison with Dr. Romita. The Director is Colonel R.R. CRIPPS who has Major R.R. TEMPLE as his deputy. I suggest a first meeting early next week and have asked Colonel CRIPPS to arrange an appointment by telephone.

Yours sincerely

G. Rhymer
G.R. RHYMER Brig,
VP CA Section

Sig. Pietro NENNI
Vice President of the Council of Ministers
Italian Government
R O M E

Copy to : Executive Commissioner
CHIEF COMM. R.

(Mr. Gordon) *EH* *PH* 24/7.

[Signature] 20/8/45

194

785017

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

6525

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Translation

Council of Ministers
The Vice President and Minister for the Constituents
n. 91/100

Rome, 10 July 1945

JUL 20 1945

To Admiral E. Stone

Allied Commission

Rome

I take the liberty of informing you that I have entrusted Dr. Ernesto Romita, official of the Interior Department, attached to the Cabinet of this Vice Presidency, with the task of contacting the offices of this Commission for the questions concerning this Vice-Presidency.

I shall be most grateful if you will kindly let me know the office and the name of the person that Dr. Romita can contact and, if possible, fix the date of a first meeting.

Sincerely Yours,

The Vice President

s. Pietro Nenni

e/c

E.O. DIST - 20 JULY

ACTION - C.A. SECTION
INFO - CHIEF COMM.
- EX COMM.

SEE FILE 51
100

Translation

The president of the Council of Ministers
5/6

Rome, July 1945

JUL 19 1945

My dear Admiral,

I greatly appreciate the kind offer of the Allied Commission to collaborate in the studies concerning the ways and systems for the election of the Costituente, which will have to decide about the institutional forms of the Italian State.

The liberation of the national territory has rendered the problem urgent, and a new Ministry has been formed to this purpose (I enclose a copy of the regulation), and entrusted to one of the Vice-Presidents of the Council.

I will keep you well informed of the studies made and of the regulations issued; up to now, there is nothing concrete, but for the regulations already issued and already well known to the Allied Commission, on the suspension of electoral rights, contained in the legislation on sanctions against fascism.

I remain, my dear Admiral,

Truly yours,

S. Ferruccio Parri

Admiral Ellery W. Stone
Chief Commissioner
Allied Commission
Rome

EC DIST - 19 JULY 45
1504

ACTION: CA SEC (2)

INFO: CHIEF COMM

EXEC COMM

POLAD (A)

POLAD (B)

e/s

(P. S. Adm. Dir.)

TRANSLATION NO. 537

HUMBERT OF SAVOY
PRINCE OF PIEMONTE - LT. GENERAL OF THE
KINGDOM

NEW TEXT OF DECREE INSTITUTING THE MINISTRY FOR THE COSTITUENTE

ART I

The Ministry for the "Costituente" is hereby instituted.

ART 2

The Ministry for the Costituente shall have the task of arranging for the assembly of the Assemblée Costituente contemplated by D.L. 151 of 25 June 1944 and preparing the material for the study of the new constitution which will be required to establish the political order of the State and the course followed by its economic and social action.

ART 3

In the Ministry for the Costituente shall be constituted a legislative office and a general affairs office.

ART 4

The legislative office shall coordinate the operations of the Commissions contemplated in the following article.

The general affairs office shall administer all matters concerning the personnel and the conducting of services.

ART 5

In the Ministry for the Costituente shall be instituted a Commission for compiling the political electoral law, and examining Commissions for preparing the materials referred to in art 2. These Commissions will be appointed by decree of the Minister of the Costituente, after consulting the Council of Ministers.

ART 6

The Ministry for the Costituente shall provide for its service requirements with personnel drawn from other State departments and with temporary personnel employed in accordance with the rules of RDL 100 of 4 February 1937 and subsequent amendments.

The rules of D.L. 525 of 17 November 1944 and subsequent amendments shall apply to the Cabinet of the Minister for the Costituente.

The lists of reallocated and temporary personnel shall be approved by decree of the Minister for the Costituente, in agreement with the Minister of the Treasury.

ART 7

The main office of accounts for the services of the Ministry for the Costituente is hereby instituted.

ART I

The Ministry for the "Costituente" is hereby instituted.

ART 2

The Ministry for the Costituente shall have the task of arranging for the assembly of the Assemblea Costituente contemplated by DLL 151 of 25 June 1944 and preparing the material for the study of the new constitution which will be required to establish the political order of the State and the course followed by its economic and social action.

ART 3

In the Ministry for the Costituente shall be constituted a legislative office and a general affairs office.

ART 4

The legislative office shall coordinate the operations of the Commissions contemplated in the following article.

The general affairs office shall administrate all matters concerning the personnel and the conducting of services.

ART 5

In the Ministry for the Costituente shall be instituted a Commission for compiling the political electoral law, and examining Commissions for preparing the materials referred to in art 2. These Commissions will be appointed by decree of the Minister of the Costituente, after consulting the Council of Ministers.

ART 6

The Ministry for the Costituente shall provide for its service requirements with personnel drawn from other State departments and with temporary personnel employed in accordance with the rules of RDL 100 of 4 February 1937 and subsequent amendments.

The rules of DLL 325 of 17 November 1944 and subsequent amendments shall apply to the Cabinet of the Minister for the Costituente.

The lists of reallocated and temporary personnel shall be approved by decree of the Minister for the Costituente, in agreement with the Minister of the Treasury.

ART 7

The main office of accounts for the services of the Ministry for the Costituente is hereby instituted.

ART 8

The present decree shall be effective on the day following its publication in the Official Gazette.
We order, etc.

ADQUARTERS ALLIED COMMISSION

Office of the Chief Commissioner
APO 394

AL/45/8/LG.

8 July 1945

JUL 8 1945

My dear Mr. Prime Minister:

The intention of your Government to call together the Constituent Assembly at the earliest possible date, as evidenced by committing to one of the Vice-Presidents of the Council of Ministers the task of preparing the requisite measures to this end, is a matter of the highest interest to the Allies, who have followed and will follow with the closest attention the progress towards this, the first democratic consultation of the people for so many years. I should accordingly value it if the Italian Government would, from time to time, keep me informed as to the development of their plans in this connection. The departments of the Government charged with the preparatory studies will no doubt formulate projects upon such matters as the franchise to be adopted and the disqualifications for voting that are to be applied, the electoral system to be adopted and the mechanism to be prescribed for the recording of votes.

It is my earnest desire that there should be the closest possible exchange of information and collaboration between your Government and the Allied Commission on all such matters to the intent that our common desire and objective may be fully and speedily realized, namely, that the Italian people as a whole pronounce upon their future constitution under conditions of the greatest possible freedom, independence and authority.

Yours very truly,

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Professor Ferruccio PARRI
President of the Council of Ministers
R O M E

1502

SECRET
HEADQUARTERS ALLIED COMMISSION

Office of the Chief Commissioner

APO 394

SECRET

CC 200

11 April 1945

APR 12 1945

SUBJECT: Italian Institutional Question.

TO: * Supreme Allied Commander, Mediterranean Theater.

1. There is forwarded herewith for the information of your Political Advisors a Memorandum of an interview with Foreign Secretary de Gasperi, with whom I met on 9 April 1945.

2. Copies have been sent to the American and British Ambassadors.

HELENY W. STONE
Rear Admiral, USNR
Chief Commissioner

Copy to: U.S. Ambassador
British Ambassador
* G-5 AFHQ

Acting President
/ cc. Political Advisors Office (A) + (B)
Exec. Commissioner ✓
CC Files

* Delivered by hand of
Admiral Stone on
12 April 45.

MA

see M. 45

CONFIDENTIAL

136 PA 13/4

1920

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

SECRET

HQ QUARTERS ALLIED COMMISSION

Office of the Chief Commissioner

APO 394

SECRET

CC 225

11 APR 1945.
ConfidentialMEMORANDUM:

R.E. de Gasperi, Minister for Foreign Affairs, called on me on the afternoon of April 9th to discuss a number of matters, the most important of which was the recent move by Togliatti to reopen the institutional question at this time.

De Gasperi stated that Togliatti contended that the Commitment given by the first Bonomi government on June 18, 1944, ended with the liberation of Northern Italy. Bonomi and de Gasperi argued that the institutional question could not be reopened "until such time as Italy has been liberated and the Italian people have the opportunity of themselves determining the form of Government", which is the language of the commitment.

De Gasperi was apparently unaware that the Prime Minister had renewed this commitment on December 10, 1944, at the time he formed his second government. Moreover, Bonomi informed me on April 6th that he had been unable to find his own file copy of the December 10th commitment and asked me to supply him with a copy, which I have done.

De Gasperi asked if the Allies were disposed to agree with Togliatti's contention that the institutional question could be reopened as soon as the North had been liberated. I told him that the language of the December 10th commitment, which is identical with the language of the commitment of June 18th, was unequivocal and was not limited purely to the question of liberation, that the Government had committed itself to that language both in June and again in December, and that I did not see how the question was debatable.

I asked him what change in the present institutional setup was being advocated by Togliatti, and de Gasperi replied that Togliatti was proposing a Three-Man Regency for the Throne and the abolition of the position of Luogotenente. None of the Regents would be of Royal blood, but would be three outstanding figures, of whom Croce and Agramonte might be two. Togliatti argues that the position of Luogotenente is inconsistent with the commitment not to reopen the institutional question--stating that the functioning of the Prince as Luogotenente was constantly reopening the institutional question.

I pointed out to de Gasperi that the first Bonomi government

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

SECRET

SECRET
MEMORANDUM

12 April 1945
Confidential

commitment had been given just five days after the appointment of the Prince as Luogotenente so that the undertaking "not to reopen the institutional question" would appear to mean the continuation of that particular solution of the monarchical question which had just been placed into effect.

He asked me informally what my personal views were as to the reaction of the Allied Governments if the Italian Government should ask permission to reopen the institutional question immediately upon the liberation of the North and before the Italian people had an "opportunity of themselves determining the form of government". I replied that my private and personal opinion was that I imagined that the British Government would oppose any modification of the existing institutional commitment, that the Russian Government might well be favorable (since I did not believe that Togliatti would be pressing this subject without the approval of Moscow), and that I could not hazard a guess as to the views of the United States Government.

MILVY W. STONE
Rear Admiral, USNR
Chief Commissioner

COMMENT: It might be possible that the Russian Government, through Togliatti, is preparing the ground for requesting a consultation with the U.S. and British Governments on Italy, pursuant to the Crimean Agreement for consultations on liberated countries, as an offset to the Polish and Rumanian situations. There is evidence of Communist concern arising from the recent increasingly favorable receptions which the Luogotenente has had from Italian Patriots, regular troops, and civilians both at the front and in rear areas. This was particularly noticeable at Taranto where he was warmly received by the recently repatriated Garibaldi Division. The soldiers of the Garibaldi Division showed marked anti-Communist feelings and strong support of the Monarchy.

E.W.S.

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

785017

TOP SECRET

TOP SECRET
Auth: Chief Com
Missioner, AC
31 Mar 45

6505/008
CC 200

31 March 1945.
Confidential
APR 1 1945

SUBJECT: Italian Institutional Question.

1. Allied Force Headquarters, AFHQ 512.
Attention: G-5.

2. Attention is directed to my letter of 17 November 1944, File 6505/008 to AFHQ (marked for attention of General Wilson), and my letter of 9 January 1945, File 6505/37/008, addressed to G-5 AFHQ on the subject of determination of the Italian institutional question either through the medium of a constituent assembly or by a referendum (plebiscite).

3. In a recent meeting since the Malta Conference, the Italian Prime Minister unofficially expressed his personal hope that the Allied Governments would require that the Italian institutional question be determined by referendum in order to avoid the danger of having this question decided by less than a majority of the Italian people. Such a decision of the Allied Governments, as felt, would be the most effective method to secure abrogation of R.L. No. 151 of 25 June 1944. Since my previous letters on this subject, the right of suffrage has been extended to women.

4. Consideration of this question by the Advisory Council for Italy is not recommended.

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Copy No.	To:
1 - 2	G-5, AFHQ
3	1/President, AC
4	U.S. Ambassador
5	British Ambassador
6	U.S. Political Advisor, AC
7	British Political Advisor, AC
8	Executive Commissioner, AC
9	Chief Commissioner, AC

TOP SECRET

PA 1498

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

785017

SECRET

6505

S-E-C-R-E-T

HEADQUARTERS ALLIED COMMISSION

Political Section

APO 394

38

Ref: P/520.1

Confidential

11 February 1945

FEB 11 1945

MEMORANDUM FOR Chief Commissioner:

From conversations with officials of the Italian Ministry of Foreign Affairs there is detected an increasing manifestation of a spirit of conservatism and but tepid sympathy with the political ideals of Western democracy. It does not appear that a return of Fascism is desired, but there is rather a hope for the constitution of a strong centralized Government under the Monarchy. Reference is made to Spain where Franco is seen to be setting a course towards a Liberal Monarchy which will have popular support, which will be able to live in harmony with the Western Powers and with which Italy could have intimate idealistic and cultural relations.

Undoubtedly, the political attitude of these officials in large measure is based on the belief that the politicians now in power are suspicious of, and inimical to, career diplomats, and that the present form of Government does not further their position nor their future.

WWS:Schott

WILLIAM W. SCHOTT

Vice President, Political Section

cc: CC files

see M. 39 & 40

SECRET

1497
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(Miss Guss)

1924

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

785017

Ref. 6505/37/GCS.

9 January 1945

SUBJECT: Constituent Assembly.

TO : G-5, AMHQ.

Copies of our CC 200 dated 12 Dec 44, subject as above, to Prime Minister Bonomi together with a copy of his reply 23201/1/1.25 dated 3 Jan 45 are forwarded for information.

For the Chief Commissioner:

see Minute 36

[Signature]
Lieutenant,
Chief of Staff.

PA *[Signature]*
1496
10
1

[Handwritten mark]

6505
Translation

The President of the Council of Ministers

2320/1.25

ROME, 3 January 1945

JAN - 6 1945

Dear Admiral,

I answer your letter of December 12th, about the formation and functions of the Constitutive Assembly which, as it is foreseen by art. 1 of the law-decree of the Lieutenant June 25th, n. 191 - will have to discuss the new constitution of the state.

I have had the opportunity of noting the various and erroneous interpretations about the importance of this regulation and the effective duties that the Constituent will have to fulfill. To my mind, the fact that there are violent discussions about this argument and that sharp contrasts are to be noticed, cannot be surprising. It is a matter which is of particular interest to the various political currents, like that which deals with the choice of the future institutional forms of the country.

In spite of those discussions, the principle which has been so clearly expressed by the mentioned law remains established; in the present circumstance, I am glad to confirm what I already told you verbally on this subject.

As you requested that the successive legal regulations needed for the election of the said Assembly should be submitted to the approval of the Allied Commission, I want to inform you that till now, no such regulation has been studied. Besides, the drafting of such regulations would be premature, for, as from the law, the election of the Constituent Assembly will have to take place after the complete liberation of the whole national territory.

As you know, the instructions which are necessary for the compilation of the electoral lists have been issued lately, by the ministerial decree of October 24th, on the basis of the legislative decree of the Lieutenant 28 September 1944, n. 247. I want to make quite clear that these lists will be prepared principally in view of the administrative elections (in for the election of the organs of the provinces and municipalities); it isn't yet known if and with what adaptations, the lists themselves can be used for the elections for the constituent Assembly. Nor do these regulations contain any reference, even indirect, to the electoral proceedings and mechanism.

I can nevertheless assure you that the regulations which will have to be issued about this matter will be prepared in close understanding with the Allied organs.

I remain, my dear Admiral,

Truly yours,

To Admiral Stone
Allied Commission

G. I. Bonomi

COS Dist 6 Jan
ACTION: CA SEC

INFO: CHIEF COUNCIL

see Minute 354695 in S.

1926

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

6505

RWS/hjp

CC 200

12 December 1944

13 DEC 1944

Dear Mr. Prime Minister,

You will recall the verbal assurances which you have given to me upon the interpretation and scope of DLL No. 151 of the 25th June, 1944, setting up the Constituent Assembly. Nevertheless you are no doubt aware that widely different interpretations have been placed on this decree in different quarters, and the true effect of Article 1 and the functions of the Constituent Assembly have been variously construed.

In view of the concern of the Allies in this matter I should appreciate it if you would submit for the prior approval of the Allied Commission any legislation which it is proposed to pass dealing with the methods and procedure to be adopted to enable the Italian people to select the regime and constitution of the State and to elect the members of the Constituent Assembly.

Yours very truly,

/s/Elery W. Stone

ELERY W. STONE
Commodore, USNR
Chief Commissioner

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

(This letter was sent off.
file Ae/4117/1/L a legal file.)

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12

6505

WIS/dfe

CC 200

6 December 1944

6 DEC 1944

Dear Mr. Kirk:

This is in reply to your letter of November 20 forwarding telegram from the Department of State requesting information regarding Decree Law 151 of June 25.

I have submitted this question to our Legal Subcommittee and enclose herewith a copy of its opinion.

It was because the Decree in question was not submitted to this Commission before its adoption by the Council of Ministers, that I called on the President of the Council and the Undersecretary for Foreign Affairs for an explanation of the Government's intent in this matter. This was reported in my original letter on this subject dated July 3rd to AFHQ, as supplemented by my letter of 17 November to AFHQ, copies of both of which letters were sent to you.

Sincerely,

Ellery W. Stone
ELLERY W. STONE
Commodore, USNR
Chief Commissioner

The Hon. Alexander Kirk
U. S. Ambassador
Via Vittorio Veneto, 119
Rome

cc: DCOS, Civil Affairs
Col S
'A' Files
(Col Shift)

1492

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COPY

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4117/1/L.

29 November 1944

SUBJECT: D.L.L. No. 151 of 25 June 1944.

TO: Chief Commissioner, HQ AC.

1. This Sub-Commission has considered the letter from Ambassador Kirk of 20 Nov 44 and has seen the letters to AFHQ dated 3 Jul and 17 Nov 44 which set out the views of the President of the Council and the Under-Secretary of Foreign Affairs.

2. In spite of the views expressed by the Ministers, however, there can be no doubt that the question of the construction of the Decree Law is a question which must be determined according to Italian canons of construction and according to the principles of Italian Law rather than the avowed intentions of certain ministers at the time when they enacted the Decree.

3. For this reason and in view of the doubts of the State Department this Sub-Commission has consulted independently seven of the most eminent jurists in Rome and has obtained their opinions upon this question. It might be added that these jurists hold widely separated political views. The jurists in question are:-

Prof. Avv. Roberto AGO Professor of Milan University and
Secretary of the International
Institute for the Unification of Law.

Prof. Avv. Filippo VASSALLI. Professor of Rome University.

Prof. Avv. Giuseppe FERRI. Professor of Pisa University.

Prof. Avv. Pasquale CHIOMENTI. Professor of Genoa University.

Prof. Avv. Mario SCERNI. Professor of Genoa University.

Prof. Avv. Giuliano VASSALLI. Professor of Genoa University.

Prof. Avv. Vezio CRISAFULLI. Professor of Trieste University.

4. These jurists unanimously and unhesitatingly agree that it is the function of the elected Constituent Assembly to decide the constitutional question - that is, the question of monarchical or non-monarchical government. They disagree entirely with the State Department upon the construction of the words "le forme istituzionali" in Article 1; further

they point out that since Article 3 restricts Ministers from committing "until the convocation of the Constituent Assembly" acts which may prejudice the solution of the institutional question, this Article makes it clear by necessary implication that the institutional question must be resolved by that Assembly.

5. The jurists point out that the rules for the election and composition of the Constituent Assembly have not been framed. These rules might be framed in such a way (e.g., through elaborate proportional representation) as to ensure that the institutional question was in fact decided by the Constituent Assembly with the same effect as though it had been decided by referendum. It should be observed, however, that the rules have not yet been framed - and in any event it will still be true that the decision is made by the Constituent Assembly and not by direct vote of the people.

6. The views expressed by the President of the Council as set out in the letter of 17th November 1944 do not appear to affect the issue. In the first place these views do not correctly follow the wording of the Decree; secondly, the distinction between "form" and "type" of Government is misleading. The term "forme istituzionali" or "forms of government" is generic, e.g., monarchy or republic, while the term "types of government" which would be rendered in Italian "tipi" would be specific, e.g., conservative, liberal or labor. In my opinion, therefore, the views expressed and reasons given by the President of the Council are not in accordance with the true interpretation of the Decree.

7. As mentioned in the previous opinion of the Legal S/C, it is open to the Italian Government to pass a further decree to vary the terms of the present enactment.

8. It should be added that the jurists consulted were not unanimous on the question whether the Constituent Assembly once elected may decide to determine the issue by a further appeal to the people through a referendum. They say that this is open to doubt and depends on the rules of procedure to be established. Some say that it would in any event be contrary to the spirit of the law.

9. On the further question raised by the State Department there is no evidence either in the files of the Legal S/C or in the memories of its present or past members that this sub-commission was consulted on the decree before October 1944.

/s/ W. E. Behrens
W. E. BEHRENS,
Colonel,
Deputy Chief Legal Advisor.

6505

Office of the Chief Counsel
Confidential

D.L.L. No. 151 of 25 June 1944

CC 200

29 NOV Recd

28 November

4

Colonel W. E. Behrens, Deputy Chief
Legal Advisor, Legal Sub-Commission, Hq AC

1. Attached is copy of a memorandum 6505/COS of 17 Nov to SACMED from Commodore Stone.

2. Commodore Stone requests that you consider your memorandum AC/4117/1/L in the light of this letter as well as of the memorandum of July 3rd incorporating the fact that you have done so in your text. You may or may not thereafter find it necessary to amend your own letter.

J. A. QUAYLE
Major, R. A.
Staff Officer to CC

TOP SECRET

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

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MM XXXXXX XXXXXX
XXXXXXX XXXXXX

25

Office of Chief Commissioner

Italian Constitutional Question

24 CC 200

DCOS Civil Affairs Section

21 November 4
21 NOV Recd

I am passing the attached letter from Ambassador Kirk to you for your consideration today as the Chief Commissioner will no doubt wish to discuss it with you on his return from Caserta tomorrow morning.

J. A. QUAYLE
Major, R.A.
Staff Officer to CC

1 Incl:
Ltr from Alexander Kirk,
dated 20 November 1944

cc: CofS ✓

see Minute 26

28
11489

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

COPY

UNITED STATES REPRESENTATIVE
ADVISORY COUNCIL FOR ITALY

24

Rome, November 20, 1944

My dear Commodore Stone:

I have received a telegram from the Department of State requesting further information regarding Decree Law 151 of June 25. The Department states that it is not clear from Article I of the Decree Law, or from the Legal Sub-Commission's interpretation thereof, as set forth in the memorandum enclosed with your letter to me of October 14, that the Constituent Assembly must decide the institutional as well as the constitutional question. In the Department's opinion, the Decree Law does not specifically empower the Constituent Assembly to decide whether Italy is to be a monarchy or a republic but rather to "decide the new constitution" as well as institutional "forms". In this connection the Department refers to the interpretation of the Decree Law expressed to you by the President of the Council and reported by you in your memorandum of July 3 to Allied Force Headquarters.

The Department of State feels that in view of the Allied pledge to guarantee the Italian people an untrammelled choice of government, this point is exceedingly important. It therefore desires that it be clarified. In this connection the Department also desires to know whether, in giving its approval to the Decree Law the Allied Commission understood that a choice was being made between decision by referendum and decision by elected representatives.

With best wishes,

Sincerely yours,

(sgd) A. KIRK

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

COPY

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1933

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

785017

ALLIED CONTROL COMMISSION
INTER OFFICE MEMO

23

From: Office of the Chief Commissioner

SUBJECT: File on Constitutional Question

FILE No.

TO: Chief of Staff Section
(Attn: RSM Picken)

19 November 1944

1. Enclosed herewith are extra copies for your file of all important papers referring to the Italian Constitutional Question. Those missing are not important but can be supplied if desired.

Compliments of Sgt Shenfield

No.
Please file

1487

TOP SECRET

Chief of Staff
SMB/dlc

6505/CO5

~~CONFIDENTIAL~~

17 November 1944

MEMORANDUM:

TO: Allied Force Headquarters
(Attention: General Sir Henry Daitland Wilson, GCB, GBE, DSO, AIC)

1. Reference is made to my letter A/CO OYL.1 of 3 July 1944 with reference to the determination of the Italian institutional question through the medium of a Constituent Assembly or a referendum (plebiscite).

2. The question has arisen again through publication in the New York "Times" recently of an interview with the Lieutenant General of the Realm in which the Lieutenant General expressed the view that a more accurate expression of popular will could be secured through the medium of a referendum, rather than that of a Constituent Assembly.

3. When news of the publication in America was received in Rome, the Parties of the Left objected and proposed that a resolution be adopted by the Council of Ministers in which the Lieutenant General was severely criticized. The personal attack on the Lieutenant General was deleted and the following resolution adopted and issued as a communique:

"The Government, having considered the declarations which appeared in a report of an audience granted by the Lieutenant General of the Realm to a journalist, reaffirms that the political Parties, from which the Government is emanated, are the expression of the will and of the aspirations of the Italian people fighting for its freedom and reaffirms the solemn pledge to decide about the institutional issue through the vote of a Constituent Assembly, as it has been established by a State law."

4. Since the communique appeared to be at variance with the assurances I had received from the President of the Council and the Undersecretary for Foreign Affairs, set forth in para 2 of my letter of 3 July -- namely, that the question as to the means by which the Italian people might decide the institutional question would be left for future determination -- I called on the President of the Council and the Undersecretary for Foreign Affairs on November 9 for an explanation.

5. They were frank in setting forth the strong resistance of the Parties of the Left to permitting a determination by referendum as to whether Italy should be a constitutional monarchy or a republic, particularly as it is believed universal suffrage will be in effect at the time. They stated that the parties of the Left desire a republic and feel that they are more certain to attain their objective if the determination is made through the medium of a Constituent Assembly.

1 copy held

F486
S. P. M.

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785017

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

TOP SECRET

Confidential 21

CG 200, 17 Nov 44, to AFPM (continued):

6. Notwithstanding the language of the communique, the President of the Council pointed out that the words in the communique "to decide about the institutional issue through the vote of a Constituent Assembly" were limited by the following words "as it has been established by a State law". The law in question, he argued, stated that the form of the Government would be determined by the Constituent Assembly and not the type of Government. In other words, he continued, the law still does not preclude the possibility that the type of Government -- monarchy or republic -- could be determined by referendum and the precise form of monarchy or republic, that is to say the Constitution, would be worked out by the Constituent Assembly.

7. He added that in any case there was nothing to prevent the adoption of a new decree which would clarify this point and he expressed the personal wish that the Allied Governments might ask that the institutional question be decided by referendum. I told him that I doubted that the Allied Governments would be inclined to take any position at this time, except to ask that the assurances previously given as and referred to in my letter of 3 July should be maintained.

8. Should the Allied Governments ultimately desire to take and enforce a position in this matter, it has been suggested that the particular means by which the Italian people should have the right to determine whether they desire a monarchical or republican type of government might be laid down as a clause in the final peace treaty.

Elmer H. Stone
 ELMER H. STONE
 Commodore, USNR
 Chief Commissioner

cc: British Ambassador
 U.S. Representative, A.C.I.
 British Resident Minister
 U.S. Political Adviser
 Chief of Staff, AC
 Political Section, AC

1485

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

SPRIGGE (Reuter) : Cables that Matthews' impressions of conversations with Umberto have largely occupied two days of Ministerial discussions. The Prince made no direct statements and Matthews reports in indirect speech what he gathered Umberto was driving at when discussing the political outlook. The Christian Democrat "Il Popolo" reprinting the article complains that its form renders it impossible to judge exactly what the Prince did, or did not, say. "Italia Nuova" says the contents were too full of importance for the Prince to have spoken without the Government's authorisation and the paper claims that the article is a document of Government policy in the form chosen by Bonomi. Bonomi is said to have seen the article before publication. Among other members of the Government the article has aroused a storm similar to that when Umberto granted an interview to the correspondent of the London "Times" before the liberation of Rome.

Violent exception is taken to the view attributed by Matthews to the Prince that ^{there} is a distinction between "parties whose views about the Monarchy are known and the great mass of people whose views are still unknown. Also to the view attributed to the Prince that the form of the State can best be decided by direct consultation with the people in a plebiscite leaving the subsequent Constituent Assembly which would then merely have the task of implementing the people's decision. Under strong pressure from Ministers who accuse Umberto of political campaigning, Bonomi consented to publication of a Government statement controverting the Prince's alleged views on these two points. Statement affirms that parties whereon the Government is based are an expression of the Italian people's will and declares it is already fixed by law that the future form of the Italian State will be determined by vote of the Constituent Assembly. Although Prince's benevolent views towards the Communist leader Togliatti are emphasised by Matthews, Togliatti on this occasion himself insisted with the demands of the other parties, which at present are more uncompromising than the Communists against alleged Monarchist intrigues.

"Avanti" says the Government passed a resolution on Umberto's ¹⁴⁸⁴⁻ interview with the "New York Times", adding that Bonomi was instructed to convey the terms of the resolution to the Prince.

"Unità" and "Avanti" commented severely on the interview, reaffirmed the party commitments to the programme of an overthrow of the Monarchy by vote of the Constituent Assembly as soon as elections can be held. Croce on behalf of the Liberals says the party refuses to pronounce itself on the Monarchy question, considering the time not yet ripe. A Republican manifesto fixed on certain walls in Rome is indignantly quoted by the Monarchist press. It calls on soldiers and workers to abandon service of a Monarchist tyrant. The ranks of the people's guards await you. The Monarchists demand that the authors of the manifesto be arrested under the charge of sabotaging Italy's and the Allied war effort against Nazi Fascism.

"Daily Trend & Copy"
 from
 Extracts

dated 10 Nov. 1944

operational front. Prince Umberto's interview when the "Times" and the furors it has created, fill in the rest of the picture. NEWS (New York) who achieved the interview, seems to be sitting back watching the reactions, and so far has not ventured into any further discussion.

MATTHEWS (New York Times) : Mentions the Bonomi communiqué which says that the institutional question must be settled by a Constituent Assembly and not by a Plebiscite as the Monarchists desire. The correspondent cables his journal that "the authorized translation of his article was delayed by various developments until today when the entire press devoted great and heated space to it." Regarding "Italia Nuova" statement that it believed Bonomi was behind the whole move, the correspondent remarks that this is not true. Anyway he concludes "the result was that the Government had to come out for a Constituent Assembly or face an immediate crisis, and it naturally opted to calm the atmosphere."

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

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

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1483

HEADQUARTERS ALLIED COMMISSION
APC 354
PUBLIC RELATIONS BRANCH

PBB/R10

November 1st, 1944

Trend of copy filed by correspondents.

MATTREWS (New York Times): Correspondent cables his journal that after 5 weeks work and 9 visits he has interviewed Prince Umberto who gave the Crown's view of the programme for the first time since the fall of Fascism. Three aides were present at the interview. The correspondent writes that his article has been "fine tooth combed" by Umberto, his Minister of the Royal House, Bonomi, Visconti Venosta, Orlando, and much Governmental opposition has been over-teration and not to leave out a single word. "As nobody will forgettell him there is no hurry for its publication, and he asks to be informed when the article is published as the Palace wishes to get its own official version for an Italian translation. The article is given verbatim.

"The Monarchy, like all political institutions in post-war Europe should move to the left" Umberto told the New York Times this morning in a private audience that lasted fully one hour. The Lieutenant General in a casual talk that ranged over every phase of internal and foreign policy spoke out fully and frankly, making it possible for the writer to get an authoritative idea of the political position of the Crown which has been so difficult to obtain due to a lack of new organs for prominent spokesmen.

Life begins at 7 in the Quirinal Palace and my appointment was for the unusual hour of 8.30 am. The Lieutenant General got up from his desk in a corner of a fine old room where he works, with its superb view over old Rome and out to sea. A large photo of his wife's children is on the desk and is one of the first things which catches the eye. The bright sun and our nearness made me realize for the first time how much he resembled his boy ancestors. In photos one gets a general impression that makes him look like his mother, but in detail the resemblance to his father is striking, particularly the nose and that unmistakable Hapsburg lower lip. His voice, too, with his slightly guttural intonation, strikes at first.

The Prince talks excellent English. He was dressed in the simplest sort of uniform, with nothing but bare worn on his sleeve to show his rank. In fact simplicity, unaffectedness, was so evident from the first moment that it made the audience easy. His complete lack of ceremony, his sense of humour, his fluent way of speaking,

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

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The Prince talks excellent English. He was dressed in the simplest sort of uniform, with nothing but bars worn on his sleeve to show his rank. In fact simplicity, unaffectedness, was so evident from the first moment that it made the audience easy. His complete lack of ceremony, his sense of humour, his fluent way of talking showed that he knew what he wanted to say on any given topic and permitted a great deal of ground to be covered in one hour.

Umberto had just returned the day before from a two day trip to

785017

the Cassino district where he found conditions in some of the villages distressing. That was the most fought over area of Italy and the destruction still has not been greatly repaired. In some of the villages the peasants had had no bread for 5 days. "While your soldiers were there it was easier" the Prince said. And it is always gratifying how well liked they are by the Italian people. But then they move on and people get little help. Still I cannot tell you how much Italy, and of course myself, appreciate all the things which your President and people are doing for us in these days." Our talk touched on many and great problems which are facing Italy during its difficult reconstruction period ahead. It seemed to me whenever I have discussed the subject of the question of the monarchy in Italy that the question of time is a vital one and I got that impression today. For obvious reasons Umberto cannot be quoted directly, and anyway, as stated before this audience was not an interview. What is written here is my own interpretation of the position of the monarchy after talking to the Prince. I remarked that everything I have heard points to republican sentiment being even stronger in the North than it is in the liberated zone and that if a solution of the institutional question were sought immediately the results might be unfavorable. The Prince without saying anything in agreement gave the impression that there might well be a distinction between political parties whose attitude has been made clear and popular sentiment which is still unknown. There has been a long controversy in Italy between those who want a Plebiscite and those who want a Constituent Assembly charged with deciding on the institutional form of the State.

In general the monarchist solution would be to have a Plebiscite in accordance with the principles of the Atlantic Charter wherein all people without exception have a chance to express their desires. That is what they want and they don't want to see it take place while the country is in ferment with people desperately seeking for homes to live in, food to keep them alive, jobs to do, but when the nation is turned to some state of normality. There are hundreds of thousands of soldiers and prisoners still outside Italy and it is felt they have a right to express their feelings. The Prince as I see it believes that if there is a Plebiscite it should represent a straight choice of Republic or Monarchy. Then there would be a Constituent Assembly to decide on the exact form which the Republic or Monarchy would take, how Parliament would be constituted, how elected, whether there would be a Senate or single Chamber. What will mean most will be a new Constitution and that will obviously take months to draw up as did Spain after the Republican revolution. I brought up the delicate but important question of the Statute which Umberto's great grandfather Carlo Alberto formulated in 1848. It has been Italy's Constitution and much ink has been spilled over whether it should survive or an entirely new Constitution be drawn up. As I understand it the Lieutenant General would like to see the Statute serve as a basis for a radical revised Constitution. He considers it partially out-dated and used to say frankly in the past, which incidentally led to some political attacks. My under-

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people, by the people.

For some time the discussion turned to foreign affairs wherein I found the Lieutenant General both well informed and keenly interested. He especially wanted to know what Americans in general, and Washington in particular, thought about Italy and what American policy was. My somewhat pessimistic replies did not appear to surprise him. In discussing Russia the talk naturally came back to Italy and its now strong Communist party. The Prince spoke pleasantly about Communism and Socialism in Italy and seemed eager to hear the personal opinions of men I have known since the Spanish civil war like Togliatti, Nenni, and Pacciardi. He has had a number of talks with Togliatti, finding him clever, agreeable and easy to discuss problems with. The general fact that Communists are not at present anti-Monarchist brought me to ask whether some types of support might not be more embarrassing than useful, and I pointed to Roosevelt's recent repudiation of Communist support in the Presidential elections. Umberto would not commit himself on that question but gave the definite impression that he agreed that one of the Monarchy's chief dangers is that certain elements linked to Fascism feel they must rally to the monarchy for safety. He certainly does not want that from what I understood. Umberto fully realizes that the weight of the past is the monarchy's greatest handicap and what he and his best followers want is to demonstrate that in future Italy can be just as democratic under a monarchy as under a Republic. (FOLLOWING SENTENCE WAS CUT OUT: Like others with whom I have talked he argued that under present circumstances not monarchy but republic could lead to a dictatorship in Italy). He felt that many people are beginning to realize that, and these sentiments I gather will soon take political form. However, the Lieutenant General does not believe that the monarchist question should take the form of political parties. He considers his position to be above political parties and does not want to see the monarchist party and republican party fighting each other. But in general the Prince bases his fundamental stand in the belief that the form of government does not affect the problem of democracy since Republic's like Germany can be dictatorial and monarchies like England democratic. The most important impression I received during the whole hour's talk is that he considers it obvious that in future any Italian Government must move towards the Left and there is no reason why that should conflict in the slightest with the monarchical institution. In fact he gave the impression that he wants to see it happen and will do everything he can to bring it about in what he called an ordered Liberal way. It will be a natural development in his opinion. All political parties will have programmes which will be essentially very advanced and monarchy will move with them. Umberto's goal I gather is Liberal democratic democracy - qualitatively like that of England, Sweden, Norway, Denmark - which might be called a monarchy of the Left.

We walked out on the balcony to enjoy the sun and wonderful view.

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1481

We walked out on the balcony to enjoy the sun and wonderful view. The talk turned to Garuso who was executed, and Azolini who was just sentenced to 30 years for giving Italy's gold to the Germans, and that brought up the subject of operation in general. I found in this as in other cases that the Prince had thought seriously and keenly about Italy's many problems. He has no illusions either

about the unhappy period ahead of the difficulties the House of Savoy faces in keeping abroad after during the stern months of reconstruction, but certainly there was a clear impression of a man who has a programme and knows what he is fighting for. On the basis of this audience republicans would appear to have a foe who is stronger than they realise. Whether he wins or loses ~~out~~ is going to be a good fight.

In a supplementary cable the correspondent adds: On the general subject of Constitutional and institutional questions I sensed a feeling that under the present disturbing circumstances people have not had a chance to think deeply or to place them in the forefront of their occupations. Umberto like other Italian leaders sees the urgent need for educating the masses along political lines and he talked frankly of the difficulties which the monarchists are having in presenting their case. There is only one monarchist newspaper in Rome. During the present Allied occupation there still is no freedom of publication since every newspaper or magazine must have Allied consent in advance. The Lieutenant General appeared to me to be somewhat critical of the policy of restricted issuance of more publications.

The same correspondent says that priests at the Russian College in Rome believe that an important political move has been made by Moscow, as an Orthodox Chapel has been opened in the former Soviet Embassy and general consulates in Istanbul. This move cannot have been made without Moscow's direct order. All eyes are now turned towards Belgrade where the Chief Patriarch of the Russian Orthodox Church, the Metropolitan Anastasius, has been having his headquarters.

REA (Il Progresso) : Titles articles on the partisans, with the numbers and names of the various "bands". In Rome, he says, it was the "Lands Internas in Roma". The city was subdivided into three sectors. It also contained a mobile group and a reserve group. 25,000 men formed the main fighting force. In Lazio was "La Bande Esterne" consisting of 3,800 men in 72 party bands.

In a further article he deals with Nazi atrocities throughout Italy, giving the alleged numbers of Italian killed and wounded, while a still further despatch deals with education in Italy and quotes an interview with Bernardo Lettieri, Under Secretary of National Education. Many children cannot attend school as they have no boots and clothes.

This correspondent also promises the inside story of the Mafia in Sicily which for the first time will reveal facts and names. It is for publication in the "American Mercury".

EMS/dfe

A/CC 000.1-2

14 October 1944

My dear Sir Noel:

The attached letters from my Civil Affairs Section regarding the new Constituent Assembly and its effect on the right of the Italian Government to have a referendum of the people of Italy to determine the constitutional question are forwarded for your information.

Very truly yours,

ELMER W. STONE
Commodore, USNR
Acting Chief Commissioner

Sir Noel Charles, Bt., K.C.M.G.
British High Commissioner in Italy
British Embassy
84 Via Venti Settembre
Rome

cc: Hon. Alexander Kirk (in original)
Chief of Staff Section
Civil Affairs Section
'A' Files
Political Section

1480

1947

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

785017

COPY

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394

Ref: 9/16./1/C.A.

5 Oct 44

SUBJECT : Constituent Assembly
TO : Chief Legal Officer

The Acting Chief Commissioner desires to be advised whether D.L.L. No.151 of the 25th June, '44, creating a new Constituent Assembly precludes or in any way prejudices the right of the Government to have a referendum of Italy to determine the constitutional question.

/s/ G.R. UPJHON

/t/ G.R. UPJHON, Brigadier,
G.P. Civil Affairs Section.

GRU/ymb.

see 17

1479

COPY

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACG/4005/L.

WEB/ps.
6 Oct 44.

SUBJECT: Constituent Assembly
TO : Deputy Chief of Staff, Civil Affairs Section

1. We have considered the question raised by your 9/16.1/CA of 5 Oct 44.

2. Article 1 of DLL No. 151 of 25 June 1944 provides, that the new constitution of the Italian State shall be determined by the Constituent Assembly to be elected by the Italian people for that purpose. We are advised and we are of opinion that this provision precludes the Government from determining the constitutional question by referendum. The effect of DLL is to take the direct determination of the issue out of the hands of the Italian people for that purpose. It would be contrary to the terms of the DLL to solve the problem by a direct vote of the people.

3. It is of course possible that the Constituent Assembly, which is a sovereign body with power to adopt any decision, may decide itself to determine the issue by referendum, but in this case both the holding of the referendum and subsequent constitutional decision based thereon will be the responsibility of the Constituent Assembly and not of the Government.

4. DLL No. 151 can be abrogated at any time by a subsequent DLL.

/s/ Richard H. Wilmer

/t/ RICHARD H. WILMER.
Colonel, GAC.
for Chief Legal Advisor.

see 17

COPY

AP 629 JC/mlm

ALLIED FORCE HEADQUARTERS
APO 512

S E C R E T

AUTH : SAC, MT
Initials:

28 September 1944

AG 014/071 GEG-O

Confidential

SUBJECT: Italian Constitutional Developments

TO : Deputy President, Allied Control Commission, APO 394
Attention: Acting Chief Commissioner.

1. Attention is drawn to letter, ¹²this Headquarters, file and subject as above, dated 4 September 1944.

2. The Combined Chiefs of Staff have agreed to the indefinite postponement of action upon their direction to present to the Advisory Council the problem of an Italian constituent assembly. Accordingly the provisional approval contained in the above letter is now confirmed.

By Command of General WILSON:

H. V. ROBERTS;
Colonel, AGD,
Adjutant General.

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ACC CHIEF OF STAFF SECTION DIST. 4 October 1944.
Mr. Alexander Kirk, U.S. Ambassador

1477

- 1 -

S E C R E T

1950

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

785017

- 2 -

Br. High Commissioner.
A/CC "A" File.
Political Section.

SECRET

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SECRET

APD 420

/gem

ALLIED FORCE HEADQUARTERS

CONFIDENTIAL
:Auth: SAC, MT
:Initials: RHC
:4 September 1944
:4 September 1944

AG 014/071 GEG-0

SUBJECT: Italian Constitutional Developments

TO : Commanding Officer, Allied Control Commission, APO 394
ATTENTION: Acting Chief Commissioner

1. Your letter on the above subject, A/CC 000.1 of 6 August 1944, has been received, and the entire matter opened by your memorandum to the Supreme Allied Commander, A/CC 091.1 of 3 July 1944 has been reviewed.

2. The views presented in your letter of 6 August 1944 are provisionally approved; and accordingly the Combined Chiefs of Staff are being asked to agree to the Advisory Council the problem of an Italian constituent assembly. The instruction in our letter on the above subject, CMS/CF/jjr of 29 July 1944, will therefore not be carried out until further notice. If in the future it appears that the matter should be referred to the Advisory Council, you will inform this headquarters to that effect.

By command of General WILSON:

/s/ R. H. CHRISTIE,
Colonel, AGD,
Actg Adjutant General

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4 September 1944

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By command of General WILSON:

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/t/ R. H. CHRISTIE,
Colonel, AGD,
Actg Adjutant General

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~~Confidential~~
TOP SECRET

EWS/ajp

A/CC 000.1

6 August 1944

SUBJECT: Italian Constitutional Developments

TO : Allied Force Headquarters,
(Att: G-5 Section)

1. Receipt is acknowledged of your memorandum CMS/CF/jjr of the 29th July, informing of the desire of the Supreme Allied Commander that the Advisory Council should be apprised of my letter A/CC 091.1 of the 3rd July, as well as of any subsequent developments relating to the solution of the institutional question at the end of the war.

2. After consultation with the American representative on the Advisory Council and the British High Commissioner, I would request authority for postponing the presentation of this particular problem to the Council. Our main reason for making this request is the following. In my previous conversations with the President of the Council and the Under-Secretary for Foreign Affairs, I was informed that the Italian Government had no present intention of debating these matters: in fact, the President of the Council was particularly anxious that his government should avoid such topics and get down to the many pressing problems of administration that confronted them. By this means he hoped that he would be able to weld his government, made up as it is of six disparate elements, into a team. Any other course and in particular, debate of such problems as the institutional question, would, he felt, tend to divide rather than to unite. That he has been correct in this estimate has been amply shown by the Roman press during the last month. If this question were now presented to the Advisory Council in Rome, it is most improbable that the Italian Government would long remain unaware that it had come up for discussion. The consequence could only be to stimulate an immediate discussion in the Italian Government, and there can be no knowing what the effect of such discussion might be on the stability of the Government.

3. I am strengthened in pressing for postponement of this matter by the knowledge that the purpose of bringing it to the attention of the Advisory Council is that the Supreme Allied Commander wishes, as a first step, the members to consult their respective governments. Neither the British nor the American representatives have as yet any instructions. They are, however, endeavoring to find out what the views of the British and

785017

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(Att: G-5 Section)

1. Receipt is acknowledged of your memorandum CMS/GP/jjr of the 29th July, informing of the desire of the Supreme Allied Commander that the Advisory Council should be apprised of my letter A/CG 091.1 of the 3rd July, as well as of any subsequent developments relating to the solution of the institutional question at the end of the war.

2. After consultation with the American representative on the Advisory Council and the British High Commissioner, I would request authority for postponing the presentation of this particular problem to the Council. Our main reason for making this request is the following. In my previous conversations with the President of the Council and the Under-Secretary for Foreign Affairs, I was informed that the Italian Government had no present intention of debating these matters: in fact, the President of the Council was particularly anxious that his government should avoid such topics and get down to the many pressing problems of administration that confronted them. By this means he hoped that he would be able to weld his government, made up as it is of six disparate elements, into a team. Any other course and in particular, debate of such problems as the institutional question, would, he felt, tend to divide rather than to unite. That he has been correct in this estimate has been amply shown by the Roman press during the last month. If this question were now presented to the Advisory Council in Rome, it is most improbable that the Italian Government would long remain unaware that it had come up for discussion. The consequence could only be to stimulate an immediate discussion in the Italian Government, and there can be no knowing what the effect of such discussion might be on the stability of the Government.

3. I am strengthened in pressing for postponement of this matter by the knowledge that the purpose of bringing it to the attention of the Advisory Council is that the Supreme Allied Commander wishes, as a first step, the members to consult their respective governments. Neither the British nor the American representatives have as yet any instructions. They are, however, telegraphing to find out what the views of the British and American Governments may be in this question. When some agreement has been reached between the British and American Governments, it may be less dangerous to submit this question to the Advisory Council. Alternatively, if even the discussion in Rome

TOP SECRET

Confidential

A/CC 000.1

6 August 1944 - contd

might lead to underisable local repercussions, there are, of course, other means by which the British and American Governments can consult the other governments represented on the Advisory Council.

ELLERY W. STONE
Captain, USNR
Acting Chief Commissioner

Copies to:

British Resident Minister
U.S. Political Adviser
Sir Noel Charles
Mr. Alexander Kirk

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

785017

1473

1956

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

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HEADQUARTERS ALLIED CONTROL COMMISSION
Office of the Acting Chief Commissioner
APO 394

LDD/hjp

A/CC 000.1

Confidential 3 August 1944

MEMO TO: Political Section, Hq ACC

SUBJECT: Italian Constitutional Developments

1. References:

- a. Copy memo A/CC 091.1, Hq ACC, 3 July 44, to Allied Force Headquarters, above subject.
- b. Copy letter AFHQ G-5, dated 29 July 44, to Hq ACC, same subject.

2. Instructions contained in reference b provide that the information contained in reference a be placed before the Advisory Council for Italy, as well as any subsequent developments in the situation, with a request that members of the Council consult their respective governments and make recommendations to the Supreme Allied Commander as to the policy which he should direct ACC to pursue.

3. Will you please prepare draft of appropriate letter to Advisory Council?

ELBERT W. STONE
Captain, USNR
Acting Chief Commissioner

2 Incls:
as in para 1 above

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1957

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

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ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

OHEL/CF/3JR

Confidential

29 July 1944

SUBJECT: Italian Constitutional Developments.

TO : Headquarters, Allied Control Commission
APO 394 (Attn: Acting Chief Commissioner)

1. Attention is invited to the matter of the proposed Italian Constituent Assembly, which was the subject of your letter A/CC 091.1 of 3 July. The substance of that letter was transmitted to the Combined Chiefs of Staff with a request for guidance as to the attitude which should be adopted in the matter, and you were informed accordingly.

2. The Combined Chiefs of Staff have now replied to the effect that inasmuch as guidance was sought upon a problem fundamentally political rather than military, the matter should be referred to the Advisory Council for Italy. Accordingly the Supreme Allied Commander desires that you place before the Council the information contained in your letter A/CC 091.1 of 3 July, as well as any subsequent developments in the situation, with a request on his part that the members consult their respective governments and make recommendations to him as to the policy which he should direct the Allied Control Commission to pursue in dealing with Italian constitutional developments.

/s/ Charles M. Spofford
/t/ CHARLES M. SPOFFORD
Colonel, G.S.C.
Asst. Chief of Staff, G-5

Copy to:

Office of the United States Political Adviser
Office of the British Resident Minister.

CERTIFIED TRUE COPY:

Frank J. Slaughter
FRANK J. SLAUGHTER
Captain, AGD
Deputy Secretary General, ACC.

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1471

1958

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

785017

AFHQ FOR ACTION G-5

ACC ADVANCE

454

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ROUTINE

POLITICAL

July 1944 ~~Confidential~~

THE OATH FOR MEMBERS OF THE GOVERNMENT WAS REFERRED TO IN GENERAL
MACFARLANE APOSTROPHE SUGAR TELEGRAM MIKE TWO THREE NINE OF JUNE
ONE ZERO PD PAREN TO AFHQ ACTION GEORGE FIVE FROM ACC ADVANCE
FROM STONE CITE ACC ADV FOUR FIVE FOUR REFERENCE FOX XRAY SEVEN
ZERO SEVEN SIX THREE JULY ONE ZERO CITE GEG PAREN THE FULL TEXT
READS AS FOLLOWS PARA QUOTE WE SWEAR UPON OUR HONOR TO EXERCISE
OUR FUNCTIONS IN THE HIGHEST INTEREST OF THE STATE AND CMA UNTIL THE
CONVOCAION OF THE CONSTITUENT ASSEMBLY CMA TO REFRAIN FROM ACTS
WHICH MIGHT IN ANY WAY PREJUDICE THE SOLUTION OF THE INSTITUTIONAL
PROBLEM END QUOTE

Booth J. Gort

Supplera

[Signature]

000-1 100-100

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COPY

Action: ACC MAIN, INFO: AFHQ ADV GP FOR ACTING CHIEF
COMMISSIONER

AFHQ SGD SACMED

FX-70763

JUL 101027

ROUTINE

CITE FHGEG

CONFIDENTIAL
INSTITUTIONAL PROBLEM RAISED BY YOUR LETTER A/CO 091.1 OF 3
JULY IS BEING SUBMITTED TO COMBINED CHIEFS OF STAFF WITH REQUEST
FOR GUIDANCE OF THE ALLIED GOVTS. YOUR STATEMENT AS TO ALLIED
INTEREST IN THE SUBJECT IS APPROVED.

IN THE MEANTIME DISCUSSION OF CONSTITUTIONAL FUTURE OF ITALY
WILL BE AVOIDED AND NO PREFERENCE WILL BE EXPRESSED OR IMPLIED
AS TO THE MODE IN WHICH THE ITALIAN PEOPLE SHOULD EVENTUALLY
BE CONSULTED AS TO THE INSTITUTIONAL QUESTION OR THE FORM OF
CONSTITUTION TO BE ADOPTED.

WHAT IS THE OATH FOR MEMBERS OF THE GOVERNMENT, REFERRED TO
IN COMMUNIQUE? SEND TEXT.

ACC ADV DIST
ACTION SEC GEN - 2
FILE

see
JUL 110028

1469

SECRET

TOP SECRET AND PERSONAL

COPY

A/CC 091.1

Handwritten:
EWS/npd
5 July 1944

MEMORANDUM:

TO : Allied Force Headquarters
(Attention: General Sir Henry Maitland Wilson,
GEB, ECB, DSO, ADC)

1. In the communique of the 23rd June published after the first meeting of the new Government on the 22nd June, the following passage occurred:

"The President of the Council and the Council approved a draft decree law concerning the calling of a Constituent Assembly, the oath for the members of the Government and the right of the Government to issue laws.

"This measure establishes, by legislative process, that after the liberation of the national territory the institutional question will be decided by the Italian people, who, for this purpose, will elect by universal, direct and secret ballot a Constituent Assembly to decide the new Constitution of the State".

2. In order to elucidate exactly what this part of the communique meant, I made enquiries from the Italian Government and received the following explanation from the President of the Council and the Under Secretary for Foreign Affairs. They were emphatic that it did not mean that the Cabinet had approved any particular scheme whereby the country should choose between a monarchical or a republican form of government. It might appear from the wording of the communique that the scheme in mind was that this question be decided by a Constituent Assembly. This was not the case. The Government had not yet decided and had no present intention of discussing whether the decision should be made by a direct referendum or by the election of delegates to a Constituent Assembly, whose double task would be first to decide between monarchy and republic, and after that, on a form of monarchical or republican government. All that the Government had so far decided was that it was expedient in their first communique to reaffirm publicly their intention to ensure that the Italian people should in due course be free to choose their form of government and that a Constituent Assembly would be elected. There were many forms of monarchical and republican Government and it was clear that a new Constitution would undoubtedly have to be drawn up.

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TO : Allied Force Headquarters
(Attention: General Sir Henry Maitland Wilson,
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see 22
see 8
see 11
TOP SECRET

TOP SECRET

- 2 -

Confidential

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3. In taking note of this explanation, I made it plain that the subject was one of considerable interest to the Allied Governments. Both Prime Minister Churchill and President Roosevelt has a number of occasions affirmed their intention that the Italian people should be free to choose in this matter at the proper moment. The Italian Government should therefore presume that the Allied Governments would wish for full details of any scheme under consideration before it becomes law. In order that this point shall be on record and should not be lost sight of, the Under Secretary for Foreign Affairs has made a minute for the files of the President of the Council.

4. At this stage I would only make one comment. It is clear to me and my advisers that the best chance of a fair decision of the issue between monarchy and republic would be a referendum or plebiscite- preferably under Allied supervision. Even if Allied supervision is not deemed expedient, we are all of the opinion that a referendum under Italian auspices would still be preferable to the election of delegates to a Constituent Assembly, with the double duty of deciding both the principle and the exact form of Government. The reason is simple. In countries such as Italy, with limited experience in recent years of democratic government, and under the circumstances presently existing here, it is unrealistic to expect that no attempt will be made by domestic or external interests to secure the result desired by them. It will be clearly far more difficult to manipulate a referendum throughout the whole country than to lobby and cajole the members of a Constituent Assembly.

5. It is hoped that the Italian Government will maintain their resolve not to discuss this question further for the time being. But sooner or later they will do so and I shall be grateful for instructions on the line which the Control Commission should adopt.

6. I am sending copies of this memorandum to the British High Commissioner and the United States delegate to the Advisory Council, as well as to the British Resident Minister and the United States Political Adviser.

/s/ EWS

/t/ ELLERY W. STONE 1467
Captain, USNR

Acting Chief Commissioner

cc: British High Commissioner in Italy

U.S. Delegate to the Advisory Council

British Resident Minister

U.S. Political Adviser

785017

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/s/ EWS

/t/ ELLERY W. STONE 1467
Captain, USNR

Acting Chief Commissioner

cc: British High Commissioner in Italy
U.S. Delegate to the Advisory Council
British Resident Minister
U.S. Political Adviser.

TOP SECRET

1964

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

785017

COPY

File No. 1246

3/

.....
: HQ ACC. APO 394 :
: Sec'y Gen :
: Rec'd 25 Apr 1530:
: By H.D. :
.....
Salerno, 24 April 1944

Dear General,

The Government over which I preside believes that the agreement reached with the King must be regarded as obligatory until the time when the Italian people will be able to freely express their decision., and this is in perfect agreement with the belief of the Mediterranean Allied Supreme Commander.

Sincerely and cordially yours,

(sgd) BADOGLIO

To General
Sir Noel Mason MacFarlane
Chief of Allied Control Commission
Naples

1466

1963

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

785017

COPY

OC/P/220

22 April 1944

With reference to our recent conversation, I should be grateful if you would be good enough to communicate to the members of the new Italian Government that in the opinion of the Supreme Allied Commander, Mediterranean Theater, the arrangements entered into between the new Government and the King are to be regarded as binding until such a time as the Italian people can freely express their views. It is the view of the Allied Governments that it will not be in the interests of the war effort to raise the institutional question again until that time.

NOEL MASON MACFARLANE
Lieutenant-General
Chief Commissioner

S. E. Marshal Pietro Badoglio,
Capo del Governo.

1465

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36/13

SECRET

PRIORITY

FREEDOM SIGNED CINC PERSONAL FROM WILSON

FATIMA FOR MACFARLANE REPEATED HQ MAAF

APR 131725B

F31721

FHMGB- FHCIC

I HAVE BEEN CONSIDERING THE MANNER IN WHICH ALLIED INTERESTS SHOULD BE SAFEGUARDED IN THE EVENT OF THE FORMATION OF A NEW ITALIAN GOVERNMENT.

THE MOST IMPORTANT CONSIDERATION IS THAT THE NEW GOVERNMENT, WHATEVER ITS COMPOSITIONS, SHOULD ACCEPT ALL THE OBLIGATIONS TOWARDS THE ALLIES ENTERED INTO BY THE OLD "TOP SECRET" GOVERNMENT, INCLUDING BOTH SETS OF ARMISTICE TERMS AND ALL THE SUBSEQUENT UNDERTAKINGS. PLEASE THEREFORE MAKE IT CLEAR TO MARSHAL BADOGLIO AT ONCE THAT WE WILL NOT AGREE TO DEAL WITH ANY NEW GOVERNMENT WHICH DOES NOT FORMALLY DECLARE ITSELF WILLING TO ASSUME ALL THE OBLIGATIONS TOWARDS THE ALLIES ENTERED INTO BY ITS PREDECESSOR.

YOU SHOULD ALSO INFORM MARSHAL BADOGLIO THAT WHATEVER ARRANGEMENTS MAY BE ENTERED INTO BETWEEN THE NEW GOVERNMENT AND THE KING MUST BE REGARDED AS BINDING UNTIL SUCH TIME AS THE ITALIAN PEOPLE CAN FREELY EXPRESS THEIR VIEWS. IT WILL NOT BE IN THE INTERESTS OF THE WAR EFFORT THAT THE INSTITUTIONAL QUESTION SHOULD BE RAISED AGAIN UNTIL THAT TIME AND YOU SHOULD MAKE THIS CLEAR TO THE MARSHAL.

ACC DISTRIBUTION:
CC (Gen MacFarlane).

1967

