

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

785017

ACC

10000/109/1407

MINUTES OF MEETINGS
APR. 1944

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

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10000/109/1407

MINUTES OF MEETINGS, LEGAL SUB-COMMISSION
APR. 1944

Exc. Comm. ~~over~~
To-Be. ~~11/4~~

3741

1. Personnel.

a. CLO informed the meeting of a recent directive reducing HQ staff to 8 and field staff to 40.

After a long discussion it was unanimously agreed that the minimum figure essential for the working of law and justice in the field should be 50. On this basis it was provisionally agreed that the staff should be allocated between regions and armies as follows:

Region 1 - 1
" 2 - 3
" 3 - 16
" 4 - 14
" 5 - 10
" 6 - 1
Armies - 2
TOTAL 50

CLO would do his best to persuade Executive Commissioner to agree to this figure.

b. Promotions.

CLO stated that in spite of his continual recommendations he had not much progress to report. He wished to remind the Regional Legal

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Officers that recommendations from Regions must go through Regional Commissioners.

2. Interchanges of Personnel.

CIO stated that while there was no objection to Regions arranging temporary attachments of legal personnel from one Region to another direct, the usual channels must be followed, i.e. changes of regional personnel must be notified through the Regions via G-1 channels. He insisted that CIO must also be kept informed of any such changes immediately. (NB Since the meeting, HQ/ACC Special Order 59 dated 1 April 44 has been circulated and nothing said by CIO at this meeting could of course affect the statement made in that Order prohibiting "loaning" of officers). Permanent changes of assignment of legal officers from one Region to another must be done only with approval CIO HQ/ACC and through the usual G-1 channels.

2. New Proclamations.

CIO explained that in all new areas it had been decided to use new proclamations. These did not involve alterations of principle but merely the regrouping of existing proclamations under main headings such as Military Courts, Finance, Industry and Commerce, etc., and the elimination of administrative directives and the abolition of other proclamations which are of no future usefulness, such as existing proclamations 7, 9, 13, 14, 15. Drafts were passed around for perusal and comment.

The following specific points were discussed:

a. Collective fines.

It was agreed that since power to impose these still existed under International Law, it was unnecessary to insert specific powers in proclamations.

b. Shot-guns for farmers.

Colonel Chapman and other officers cited the difficulty, under present proclamations, of proving publication of notice to surrender. It was suggested that the proclamation should be amended so as to make unnecessary the publishing of notices in order to create an offense; at the same time it was agreed that in fairness to Italians the existing procedure of posting notices should be followed; that proclamations and notices should be deposited at Municipios or Carabinieri offices, and that as regards dates of publication, records should be kept by CIOs.

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CIO mentioned proposal of PC Region 3 to amend proclamation to allow farmers in rear areas to hold a shot gun and limited amount of ammunition. It was agreed that this was unnecessary and that CIOs could and had, in Regions 1 & 2, issued licenses to farmers and returned to them their shot guns on application.

c. Wrongful possession of cigarettes, etc.

CIO stated that the Executive Commissioner had decided that the word "wrongful" which had created so much difficulty must remain in the proclamation. The only general test which CIO could suggest was whether the amount of cigarettes involved was large or small.

3. Allied Military Courts.

CIO wished to stress that sentences were still on the low side and instanced a case of an Italian employee driver of an Allied military truck, convicted for theft from his truck, who was given 3 months only. CIOs and CIOs, miles, must see that more severe sentences were given.

a. Consideration of new book.

CIO explained that it was intended, for the assistance of CIOs and their staff, to issue in English a handbook containing the consolidated rules

of procedure, instructions for Military Courts and a. Italian translation of the rules of procedure.

He stated that a recommendation would be made to Executive Commissioner to decentralise reviews to Regions in cases up to 2 years and 50,000 lire, even where there was an appeal, and asked RLOs to give close attention to this work and to review a large proportion of their cases personally as the importance of this work could not be overestimated. He asked RLOs to see that RLOs gained personal contact with CIOs in their provinces as being the best persons to guide and instruct CIOs on Summary Courts within their respective areas.

Major Troxall suggested that verdicts might be set aside on grounds of insufficient sentence. DLO suggested that this might be agreed in cases where appeals were lodged; CLO was doubtful about this suggestion.

Major Mercer suggested power to increase sentences. Colonel Chapman opposed this and suggested that appeals be limited to applications for clemency or abolished altogether. RLO stated that the new book limited the right of appeal to questions of law or fact or excessive sentence. He did not think that we could at this stage go back on the right to appeal. After a general discussion it was however agreed on Colonel Chapman's proposal:

- (1) that the lodging of appeals should be limited to the accused himself or to the lawyer who represented him at the trial, and
- (2) that second and third petitions should not be sent forward for review.

b. Forms.

It was agreed that the Court Record forms should be abolished and that instead use should be made of Form 8a or the back of Form 2 or 4. Major Campbell outlined a counterfoil system for use with Form 8 and it was agreed that F.Q. would send out to Regions on 5th April 1944 typewritten copies of the proposed future forms (see forms attached); after these were approved, the Regions would be responsible for printing, and provided they kept to the prescribed forms it would be a matter for RLOs and SLOs to decide which, according to their own preference.

c. Records of cases of prisoners in unoccupied territory.

CLO stated that Italian Government quite properly wanted records of persons serving sentences imposed by us. He was opposed to giving our records to the Government (agreed by all) and had agreed that in all cases which had been tried by Allied tribunals, other than cases where sentences

Records of cases of prisoners in unoccupied territory.

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- (1) Name and address of prisoner.
(2) Charge.
(3) Sentence and date.
(4) Name of prison.

This information was to go to the Ministry of Justice via CIO HQ ACC.

d. Appointment of General and Superior Courts.

CIO stated that General Courts should consist of :-

- (1) A good President.
(2) A legal officer, and
(3) A layman, if possible.

The Legal Officer will automatically preside. Colonel Chapman was asked to send in his list of names as soon as possible. CIO asked for a careful watch to be kept on persons selected to sit on Superior Courts and if any persons appointed to sit as sole members of a Superior Court were found not to be satisfactory he relied on his RLOs and SLOs Army to inform him.

4. Italian Army.

a. Trial of deserters.

CIO announced that the solution provisionally reached was that they were to be pardoned by the King.

b. Release of personnel convicted of mutiny or sabotage against German or Italian property.

Such cases had apparently only arisen in Sardinia and if Major Alexander would furnish CIO with a list of names he would endeavour to arrange for them to be pardoned or untested.

5. Italian Prisons.

Col. Cousins stressed the grave prison position in Region 2 due to requisitioning and CIO stated that AI had been requested to take these over only where absolutely essential. This had been formally requested by the Chief Commissioner; and it was clear that the matter could not be carried further by the Legal Subcommission.

6. Italian Interpreters, Clerks, etc.

The question of recruitment, rates of pay, etc. was one which concerned primarily Regions 3 and 4; and CIO proposed to discuss with these Regions separately. He stated, however, that the Executive Commissioner had been approached on these matters and that any concessions obtained would be announced to Region 2.

7. Italian Courts-Martial.

It was agreed that the directive circulated in January had never worked and CIO stated that it would now be abandoned.

8. General duties of IO.

a. Disagreement with Regional Commissioner.

CIO stated that the Executive Commissioner had laid down that in the event that a RC refused to take advice of his RLO, the RLO is to report to CIO.

b. Preparation of Regional Orders.

CIO stated that the Executive Commissioner had laid down that in the event that a RC refused to take advice of his RLO, the RLO is to report to CLO.

b. Preparation of Regional Orders.

CIO stated that it is to be understood that RLOs and SLOs may in advising their RCs on proposed regional orders should refer to HQ JOC in following cases:

(1) Cases affecting over-all policies, e.g., censorship, defascistization.

(2) Cases which would involve the amendment or construction of provisions by proclamation, e.g., one region had attempted to construct Proclamation 13 by regional order and another had altered the permit system.

(3) Cases involving long term policy (i.e., extending beyond occupation); these should be done by Italian decree and not by regional order and should be applied in occupied territory by machinery which Major Thachrah explained to the meeting. CIO also pointed out Italian Government were very helpful in passing decrees at our request and RLOs should not overlook this.

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9. Unoccupied Territory and Armistice Terms.

- a. A copy of the Armistice Terms and the terms of restoration were circulated to be read only by the IGOs of the regions in unoccupied territory.
- b. Revision of sentences.

Colonel Cousins stated that two cases had been sent in from Region 2. CLO stressed that there was no general invitation to reduce sentences on ceaser of occupation nor should absurd sentences be given in the expectation of their subsequent reduction.

c. Representation of Allied Forces as Parte Civile.

Major Hamford explained to the meeting the procedure which it was proposed to follow. As regards cases such as stealing of parcels, the procuratore generale should be informed that we intended to claim damages.

d. Appointments of Italian Officials.

After inviting the views of IGOs Regions 1 & 2 it was agreed that in unoccupied territory appointments, removals and transfers of personnel will be made by Ministry of Justice in accord with HQ and communicated direct to First Presidents; IGOs or legal liaison officers being informed of the appointment or transfer by HQ.

10. Occupied Territory.

a. Appointment of Italian Judicial Officials.

CIC stated that justifiable complaints have been received from the Italian Government regarding appointment of Italian personnel to positions of the grade above that to which they were entitled by their term of service. He stated that while it might be necessary to make such appointments in urgent cases, especially in any areas, it was essential that the appointments should be distinctly made on a temporary basis and then an application made to HQ AGC to supply an official of the correct grade. Major Hamford explained that the Italian Government had a pool of about 45 officials for this purpose. The procedure would be for an official to be nominated by the Italian Government through HQ AGC and the actual appointment made by the EC or SCLO Army.

be distinctly made on a temporary basis and then an application made to HQ ACC to supply an official of the correct grade. Major Hamford explained that the Italian Government had a pool of about 45 officials for this purpose. The procedure would be for an official to be nominated by the Italian Government through HQ ACC and the actual appointment made by the RO or SC.O. Army.

b. Parole and Conditional Liberty.

Major Hamford read out the statement reached as to the above matter with the Italian Government. This would be circulated.

c. Defenselization.

CLO stated that the draft decree which covered this matter appeared to be very workable. The only question was whether the Italians would give it real effect.

d. Answers from Prefects.

Major Hamford stated that he would request Ministry of Justice to write again to the Prefects in this connection but that if HQs could interview the Prefects and urge them to comply with the Minister's request this would greatly help matters. HQ had already written to all HQs to that effect.

11. Property Control.

Major Hamford stated that an understanding had been reached with the Ministry of Finance, who would issue the necessary instructions to the Italian authorities concerned, embodying the requirements of the Property Controller. It was hoped that the Royal Decree would be necessary and that the P.C. would step in the shoes of the existing Italian body (D.M.I.) and take over "automatically all seized property sequestered by the Italian Government before occupation".

CIO put to the meeting the view that in advising Property Controllers both in occupied and unoccupied territory our obligation was primarily to look after and preserve Allied property and not to advise individual beneficiaries on their rights. This was agreed as the proper principle by all concerned.

12. A number of points of legal interest submitted by Colonel Shields and other officers were then discussed. In particular considerable discussion ensued on the question of receiving evidence of confessions in MI Courts, especially in spy cases. The proposed directive on this matter (to be incorporated in the MI Courts book) was read to the meeting and ultimately it was agreed that the principles there laid down could not be fettered in any way but that it would be for each Court to decide on its proper application in any given case.

Col. Behrens then asked what steps could be taken to keep women in jail once they had been convicted of illicit prostitution as they could always appeal against their sentence within three days of its pronouncement and were thereupon liberated. Major Hannaford said that this was a question of procedure and he thought it could be satisfactorily amended by the Italian authorities, if Col. Behrens's point was correct, but that he (Major Hannaford) thought that a woman in state of "arresto" could be detained in spite of appeal. Col. Behrens said that the Procuratore del Re in Campobasso had advised him differently and Squadron Leader Dickie agreed.

Major Hannaford said he would look the matter up and communicate with the MIOs on this subject.

13. It was agreed that the next monthly meeting should be held at Colonel Willmer's Office, Banca di Napoli Naples at 0930 hours on 1st May 1944.

G. R. Hannaford

G. R. HANNAFORD

Colonel

Chief Legal Officer.

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G. P. UFGIN
Colonel
Chief Legal Officer.

Distribution:

Chief Commissioner (1)
V.P. Admin. Sec. (1)
Executive Commissioner (1)
All present (1)
Spares (6)

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FORM No. 2
(revised) 3

GOVERNO MILITARE ALLEATO

CITAZIONE

(Name) _____
 (Nome) _____
 (Address) _____
 (Indirizzo) _____

Siete con la presente citato e richiesto di presentarvi personalmente davanti al Tribunale Militare Alleato Sommario/Superiore a _____
 (Indirizzo della Corte)

_____ addi _____ alle ore _____ sotto le seguenti
 (Address of Court) (Data) (Date) (Orario)
 accuse: (Hour)

Accusa: _____

Dettagli: _____

Accusa: _____

Dettagli: _____

(Se non tradotto dall'ufficiale, voi dovete farvelo tradurre da un amico o presso qualsiasi Ufficio di Questura).

- Ogni accusato di fronte ad un Tribunale Militare Alleato ha diritto:
- (a) Di avere in anticipo una copia delle accuse sotto le quali egli sarà processato, sempre che egli lo desideri.
 - (b) Di consultare un avvocato prima del processo e se le esigenze militari permettono, di avere un avvocato in sua difesa durante il corso del processo stesso.
 - (c) Di fare richiesta al Tribunale per ottenere un periodo di tempo sufficiente per preparare la sua difesa, richiesta che il Tribunale può concedere o rigettare a propria discrezione.

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- (c) Di assumere un avvocato prima del processo e se le esigenze militari permettono, di avere un avvocato in sua difesa durante il corso del processo stesso.
- (c) Di fare richiesta al Tribunale per ottenere un periodo di tempo sufficiente per preparare la sua difesa, richiesta che il Tribunale può concedere o rigettare a propria discrezione;
- (d) Di farsi accompagnare dinanzi al Tribunale da testimoni a sua difesa, se così desidera, o far richiesta di farli comparire per ordine del Tribunale;
- (e) Di fornire prove a suo vantaggio durante il processo, ma non potrà essere costretto a fornirle.
- (f) Di farsi tradurre i procedimenti per il suo beneficio quando egli non è capace di comprenderli diversamente.

PER ORDINE

Data:

Firma dell'individuo autorizzato

RAPPORTO DI CITAZIONE

Io riconosco di aver ricevuto la citazione di cui questa è una copia conforme.

Data:

Firma dell'accusato

PROOF OF SERVICE

I hereby certify that I have this..... day of 194. at..... (hours) served the summons of which this is a copy personally/by leaving copy at above address/by mailing it to above address.

Signature of Officer Serving Summons

RECORD OF PROCEEDINGS TO BE ENTERED ON REVERSE OR ON FORM 8

(Ref No.)

PROCEEDINGS

on 1942

Military Court sitting at

Plea(s) of Accused:

- 1st Charge:
- 2nd Charge:
- 3rd Charge:

Summary of Prosecution Evidence:

Summary of Defence Evidence (including any statement in mitigation):

Verdict: ...

- 1st Charge:
- 2nd Charge:
- 3rd Charge:

Sentence (separate on each charge):

- 1st Charge: line fine to be paid by
term in default of payment
- 2nd Charge: line fine to be paid by
term in default of payment
- 3rd Charge: line fine to be paid by
term in default of payment

Terms of imprisonment to be consecutive/concurrent/partly concurrent (if so, give details)

Other orders (confiscation, restitution, etc.)

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term in default of payment
3rd Charge: Imprisonment: fine to be paid by
term in default of payment
Terms of imprisonment to be consecutive/concurrent/partly concurrent (if so, give de-
tails)

Other orders (confiscation, restitution, etc.)

Signature of Presiding Officer

DECISION ON REVIEW

Date: 194

Signature of Reviewing Authority

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Form No. 4
(revised)

GOVERNO MILITARE ALLIATO

Foglio D'ACCUSA

Place
Luogo

Date
Data

(Name of defendant)
(Nome dell'accusato)

(Address)
(Indirizzo)

IS HEREBY CHARGED WITH THE FOLLOWING OFFENSES:
e' accusato delle seguenti offese:

First Charge:

Particulars:

Second Charge:

Particulars:

Third Charge:

Particulars:

TRADUZIONE

Prima Accusa:

Dettagli:

Seconda Accusa:

Dettagli:

Terza Accusa:

Dettagli:

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Seconda Accusa:

Dettagli:

Terza Accusa:

Dettagli:

(Se non tradotto dall'ufficiale, dovete farvelo tradurre da un amico o presso qualsiasi Ufficio di Questura).

LE SUDEVENTE ACCUSE SONO RIFERITE A PROCESSO DAVANTI IL TRIBUNALE MILITARE ALLIGATO, IL GIORNO
SCAMARIO/SUPERIORE A ADDI' (Data)

(Indirizzo della Corte)

DI 194, ALLE ORE

(Mese) (Orario)

Firma dell'individuo autorizzato

Firma dell'individuo autorizzato

Ogni accusato di fronte ad un Tribunale Militare Alloato ha diritto:
(a) Di avere in anticipo una copia delle accuse sotto le quali egli sarà processato, sempre che egli lo desideri.

(b) Di consultare un avvocato prima del processo e, se le esigenze militari permettono, di avere un avvocato in sua difesa durante il corso del processo stesso.

(c) Di fare richiesta al Tribunale per ottenere un periodo di tempo sufficiente per preparare la sua difesa, richiesta che il Tribunale può concedere o rigettare a propria discrezione.

(d) Di farsi accompagnare dinanzi al Tribunale da testimoni a sua difesa, se così desidera, o far richiesta di farla comparire per ordine del Tribunale.

(e) Di fornire prove a suo vantaggio durante il processo, ma non potrà essere costretto a fornirle.

(f) Di farsi tradurre i procedimenti per il suo beneficio quando egli non è capace di comprenderli diversamente.

RECORD OF PROCEEDINGS TO BE ENTERED ON REVERSE OR ON FORM 8

(Ref No.)

PROCEEDINGS

_____ Military Court sitting at _____ on _____ 194_____

Plea(s) of Accused:

1st Charge: _____
2nd Charge: _____
3rd Charge: _____

Summary of Prosecution Evidence:

Summary of Defence Evidence (including any statement in mitigation):

Verdict:

1st Charge: _____
2nd Charge: _____
3rd Charge: _____

Sentence (separate on each charge):

1st Charge: _____
Imprisonment: _____
term in default of payment _____
lire fine to be paid by _____
2nd Charge: _____
Imprisonment: _____
term in default of payment _____
lire fine to be paid by _____
3rd Charge: _____
Imprisonment: _____
term in default of payment _____
lire fine to be paid by _____

Terms of imprisonment to be consecutive/concurrent/partly concurrent (if so, give details)

Other orders (confiscation, restitution, etc.)

in default of payment

Terms of imprisonment to be consecutive/concurrent/partly concurrent (if so, give details)

Other orders (confiscation, restitution, etc.)

Signature of Presiding Officer

DECISION ON REVIEW

Date: 194

Signature of Reviewing Authority

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(Ref No.)

Accused

Address

Date of trial

Member(s) of Court

Prosecutor

Defence lawyer

Charges and pleas:

Comments (for record purposes only)

ALLIED MILITARY GOVERNMENT

PROCEEDINGS OF AN ALLIED MILITARY COURT

held at

on the day of

before

(Name & rank of M
members constitut

REFERENCE No.

a Military Court.

ACCUSED

Name:

Address:

Name:

Address:

Name:

Address:

Name of Interpreter:

Prosecutor:

Advocate for Accused:

CHARGE (S)

Violation of Proclamation No. Article Para
the accused on the day of 194 at

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ALLIED MILITARY GOVERNMENT

(Ref No.)
FORM 8
(revised)

PROCEEDINGS OF AN ALLIED MILITARY COURT

on the _____ day of _____ 194_____

(Name & rank of Member or
members constituting the Court)

a _____ Military Court.

REFERENCE No. _____

ACCUSED

Name:
Name:
Name:

Address:
Address:
Address:

Age:
Age:
Age:

Name of Interpreter:

Prosecutor:

Advocate for Accused:

CHARGE (S)

Violation of Proclamation No. _____, Article _____, Para.(), in that
the accused on the _____ day of _____ 194_____ at _____

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Findings and Sentences

1st Charge

2nd Charge

3rd Charge

Fine (if any) to be paid by

Term in default

Sentences of imprisonment to be
Consecutive/concurrent/partly concurrent

Record forwarded

Petition for Review forwarded

Decision on Review

Violation of Proclamation No. _____, Article
the accused on the _____ day of _____ 194_____ at _____

The Charges were read and explained to the accused

PLEAS OF THE ACCUSED

The Accused _____ pleads _____

The Accused _____ pleads _____

The Accused _____ pleads _____

(If not sufficient space on this form for the notes
should be attached).

EVIDENCE FOR PROSECUTION

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Violation of Proclamation No. _____, Article _____, Para.(), in that
the accused on the _____ day of _____ 194_____ at _____

The Charges were read and explained to the accused.

PLEAS OF THE ACCUSED

The Accused	pleads	to the 1st Charge.
The Accused	pleads	to the 2nd Charge.
The Accused	pleads	to the 3rd Charge.

(If not sufficient space on this form for the notes of evidence, other sheets should be attached).

EVIDENCE FOR PROSECUTION

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EVIDENCE FOR DEFENCE

REMARKS OF COURT

(Comments on evidence, reasons for severity or leniency, etc.)

FINDINGS OF THE COURT

The Accused found guilty/not guilty of the first charge.
" " " guilty/not guilty " " second "

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FOR DEFENCE

OF THE COURT

ons for severity or leniency, etc.)

OF THE COURT

the first charge.

" second "

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FINDINGS OF THE COURT

The Accused found guilty/not guilty of the first charge.

" " " guilty/not guilty " " second "

" " " guilty/not guilty " " third "

SENTENCE OF THE COURT

(If the following space is not sufficient, set out sentences on a separate sheet.)
The Court sentences the accused _____

Charge: _____ Imprisonment: _____ fine: _____ to be paid by _____
default of payment _____

Charge: _____ Imprisonment: _____ fine: _____ to be paid by _____
default of payment _____

Charge: _____ Imprisonment: _____ fine: _____ to be paid by _____
default of payment _____

Terms of imprisonment to be consecutive/concurrent/partly concurrent (if details) _____

Other orders (confiscation, restitution, etc.) _____

Signature _____

REVIEW

Date: _____ 194____ Signature _____

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ge.

sentences on a separate sheet)

as follows:

paid by: term in

paid by: term in

paid by: term in

rtly concurrent (if so, give

