

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

785017

ACC

10000/109/1554
(VOL. II)

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

10000/109/1554
(VOL. II)

AMG COURTS, ITAL GOV'T TERRITORY
JULY - SEPT. 1944

2014

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

CONFIDENTIAL

264/cr

Amg - Courts

ITALIAN. GOVT. TERRITORY

VOL II

2586 9070

Expt. Sec. 9/9/44

2015

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

LEAHMAN. GOVT. TERRITORY

VOL II

25586 7610

top of 260- 953.1344
Adm Sec. 9/9/44

10000 / 109 / 1554

THIS FOLDER
CONTAINS PAPERS
FROM July 44
TO Sept 44
CATALOGUE

VP Adm Sec

①

28 Aug 44

1. Please see for a 123, 112 and attached papers.
2. It seems plain that the accused persons did take the credits in question. In view of the seriousness of the situation at and near BARI and in view of the recent developments with which you are familiar I recommend the cases be tried in an Allied Military Court. If you approve I will have the charges prepared immediately.

Russard H. Wilcox
 RICHARD H. WILCOX, Colonel, S.A.C.
 Acting Chief Legal Officer.

②

To Legal.

Ref bundle ①

Trial in A.M. G. C. approved.

W.R. Lytle Brig
 for A/Chief, Commission

28/1/44

Admin
CLO

See

✓✓✓✓✓

③

5 SEP 1944

see 128.

4/9.

To Dept.

Ref limits ①

Print in Attn. G. C. approved.

VR bprg
for Chief, Commission

28/1/44

Admin Sec. ^③ ~~3/1/44~~
CNC

see. 128.

4/9.

L.

2010

Major General R P HAREB CBE MC
GOC No 2 District CMF

2 Sep 44

Dear *Maurice*

See 118

I should like to thank you very much for your assistance in the matter of trials for sabotage of ammunition by the Italian Military Tribunals in HARI.

I trust that as a result of the measures taken by you, the situation will improve.

Yours,

Eric S. Hareb

Brigadier M S LUSH CBE MC
Executive Commission AOC.

Admin Sec } to sec 11/9/44
CLO

seen

11/11/44
200/1

2614 PERSONAL
127

CAO's Office,
Adv HQ AAI,
CMF.
8001/3/CAO.

28 Aug. 44.

My dear Genl. 102 30 AUG Recd

Thank you very much for
your 864/CA of 25 August. I
am grateful to you for the action
which has been taken and feel
sure that it will produce useful
results.

Yours sincerely,

W. Robertson

Brigadier H.S. Lush, CBE, MC,
Executive Commissioner,
HQ Allied Control Commission.

BHR/ceb

117 Lush by jls

785017

2648
126
WD
HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

/r/p.
1 September 1944.

ACC/4129/19/L.

SUBJECT : Trial by Allied Military Court.

TO : Regional Legal Officer (THRU: Regional Commissioner),
Southern Region.

112
1. In reply to the request from RLO, Region II, reference 2201/74/3 dated 20 August 1944 for trial in an Allied Military Court of Serafino Giuseppe and Carmine Antonio, please be advised that the Vice President, Admin Sec has authorized the holding of this court.

2. The court will be constituted out of your regional panel and you will make all necessary arrangements.

3. The accused will be charged and tried for the offences set out Appendix A attached hereto.

125-
Richard H. Wilder
Richard H. Wilder, Jr.
Colonel, CAC.
Chief Legal Officer.

1 Incl.

APPENDIX A

125

CHARGE

1. - CAMPASANO Antonio.
2. - BRANZINA Sinsoppe.

Both Charged

(a) with malicious sabotage against military articles (pursuant to Art. 158, Para (1), Sub-Para (2), of the Military Penal Code of war in conjunction with Art. 15 of the said Code) in that on or about 17th May 1944 in a place declared to be in a state of war and when in the employment of ~~the~~ 14 Base Ammunition Dump situated on the road from Sinsoppe to Holfet-
ta, they rendered unserviceable a stock of British munitions by extracting therefrom the cordite contained therein and by acting with malice;

(b) with doubly aggravated theft (pursuant to Art. 534, 635 Para (1), Sub-Para 2~~nd~~, of the Penal Code) in that on the aforesaid date and in the same capacity and place indicated in the first charge, they did by the use of violence on the said military articles abstract quantities of cordite contained in ~~the~~ munitions the property of the British Army deposited in ~~the~~ 14 Base Ammunition Dump, a British Military Establishment.

IMPUTAZIONE

APPENDICE A

- 1). - BRUSAPISA Giuseppe.
- 2). - CAMPANALE Antonio.

Imputati

(a) di sabotaggio doloso di cose militari (art. 150, comma 1°, n. 2, C.P.M.G., in relazione all'art. 15 dello stesso codice), per avere il giorno 17 maggio 1944 in luogo dichiarato di guerra, e precisamente come lavoratori impiegati nella Base Ammunition Dump sulla strada Bisceglie-Molfetta, reso inservibili una quantità di munizioni del servizio inglese sottraendo la cordite in esse contenuta e agendo con dolo;

(b) di furto dolosamente aggravato (art. 624, 625 comma 1°, n. 2 e 7 C.P.) per avere, nel giorno, nella qualità e nel luogo indicati sub (a), mediante violenza alle cose, sottratto quantitativi di cordite contenuta in munizioni appartenenti al servizio inglese ed esistenti nello stabilimento militare britannico la Base Ammunition Dump.

264, 283 + 281. 2
123A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

AO3/4002/L.

/rip.
28 August 1944.

SUBJECT : AME Courts - long term sentences.

30 AUG Recd

TO : Regional Legal Officers (THREE Regional Commissioners),
Regions I, Southern, IV, V, VI, VIII, IX and "Z".

1. a. In all General Military Court cases and in all Superior Court cases in which a total sentence in excess of 5 years is imposed, the Court will include as part of its record a statement of its findings on any material question of fact particularly as to one which may be in dispute. It is not necessary that this statement be made to the public.

b. The object of this statement is to supply information to the reviewing authority. Frequently there is a serious conflict of evidence on some vital element in the case, e.g., in a case in which an Allied soldier is killed in a fight, the conduct of the soldier prior to the fight is most material; had he been behaving quietly or in a noisy or drunken way? had his manner been hostile or offensive? or had he actually threatened or used force against the accused or members of the accused's family? It is the duty of the Court, having heard the evidence and seen the witnesses, to decide such questions of fact. The statement is required to inform the reviewing authority of such decisions; it should be as short as possible provided that it fulfils the above requirements.

2. In any case in which a Court, for some special reason or on account of some special circumstances in that case, imposes a sentence either heavier or lighter than it would normally do in such a case, the Court will make a note on the record to that effect and will state the nature of such reason or circumstances.

3. The above instructions will be brought to the attention of all legal officers and copies for distribution are enclosed herewith.

Richard H. Wilmer
RICHARD H. WILMER.
Colonel, CAC.
Acting Chief Legal Officer.

Copy to: SCAGS, 5 & 8 Armies.
PO & MD Sec (8).

Ref 26w/116/CA

August 26th, 1944

123

Chief Legal Advisor

Trial by AMG Courts

1. With reference to Folio 112, I am of the opinion that these cases should be tried by an AMG court. Commander No. 2 District has been worried about the number of sabotage cases and I think it is essential that he should be given the strongest backing by A.G.C., especially in view of the remarks of Col. Cousins in para 2 of his letter.

2. If you agree, will you please make recommendations to the Acting Chief Commissioner.

for *W. S. Lush*
W. S. LUSH
Brigadier
Executive Commissioner
For Acting Chief Commissioner

HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.G. SECTION
APO PX

REF : 26/ /CA.

SUBJECT : Interment of the Trial.

TO : H.Q. A.A.I.

26 August 1944

1. Reference this H. letter 26/106/CA of 2 August 44,
please send the enclosure with that letter as follows: Delete
para 6 and send to read.

" 5. H.Q. A.A.I. under date of 19 July 44 has issued
a Memorandum covering the contents of paras 3 and 4
above.

Brigadier,
Executive Commissioner
For A/Chief Commissioner.

To: *RCMG Section*

264
File

120

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4016/5/L.

/rlp.
25 August 1944.
25 AUG Read

SUBJECT : Trial and possible internment of accused in connection with security offences.

TO : Regional Legal Officers (THRU: Regional Commissioners),
Regions I, II, III, IV, V, VI, VII, VIII, IX, 2 and
FLO Foggia (THRU: PC).

104

1. Reference ACC/4016/5/L dated 29 July 1944.

2. Please amend the above letter as follows:

Delete para 6 and amend to read:

"5. Hq AAC under date of 19 July 1944 has issued a memorandum covering the contents of paras 3 and 4 above."

W
26/8

Richard H. Wilmer
RICHARD H. WILMER.
Colonel, CAC.
Acting Chief Legal Officer.

2003

Copy to: RCMG Sec
(ref ACC/4016/5/L dated 30 July 44).

CONFIDENTIAL

MEMORANDUM
 FOR THE RECORD
 SECURITY DIVISION
 JPO 354

100/1016/5/1.

/rly.

25 July 1944.

SUBJECT: Trial and possible internment of accused in connection with security offenses.

TO: Regional Legal Officers (MEMO: Regional Commissioners),
 Regions I, II, III, IV, V, VI, VII, VIII, IX, X, RCM Region and
 JPO 354 (MEMO: JPO).

1. When persons are brought to trial on charges of some serious security offense such as espionage, sabotage or major subversive activities, it must be clearly understood by all concerned that all evidence required to support the prosecution's case must be given in court (a closed court may be ordered and that full right of cross examination of witnesses on all relevant matters in the presence of the accused and their counsel must be permitted).

2. In the event that a substantial number of persons are involved in one particular offense and it does not appear that a reasonably strong case can be made against some of them or if they were found guilty sentences would likely be light, generally only the ring-leaders should be tried, the remainder being interned, if this is required by the security agencies, and not tried. The reason for this is that, where there are many accused each with his own counsel, the trial is unduly prolonged and complicated with no real substantial and accomplished as to the detection of major offenders, with the limited personnel now available for Allied Military Courts it is obvious that long trials must be avoided wherever possible.

3. When such persons are brought to trial for such an offense, it is frequently necessary for reasons of security that such persons should be interned after the conclusion of the trial even in the event of their acquittal.

4. In such cases, the fact that the accused is not set at liberty when acquitted is liable to create an unfortunate impression. It is realized, however, that the requirements of security must override this consideration, and in order to dispell or forestall any misunderstanding or undue criticism, the following procedure should be followed:

a. When the HQ or security agency which is responsible for bringing the case to trial considers that the accused should be interned even in the event of acquittal, this fact will be notified before the commencement of the trial to the President of the Court and to any other AGO/JM officers who may be directly concerned with the case. It will then be made quite clear to the President of the Court that if he is acquitted of the charges

2. In the event that a substantial number of persons are involved in one particular offense and it does not appear that a reasonably strong case can be made against some of them or if they were found guilty sentences would likely be light, generally only the ring-leaders should be tried, the remainder being interned, if this is required by the security agencies, and not tried. The reason for this is that, where there are many accused and with his own counsel, the trial is unduly prolonged and complicated with no real statistical end accomplished as to the doubtful or minor offenders, with the limited personnel now available for Allied Military Courts it is obvious that long trials must be avoided whenever possible.

3. That such persons are brought to trial for each offense, it is frequently necessary for reasons of security that such persons should be interned after the conclusion of the trial even in the event of their acquittal.

4. In such cases, the fact that the accused is not set at liberty when acquitted is liable to create an unfortunate impression. It is realized, however, that the requirements of security must override this consideration, and in order to dis-allow or to stall any demonstration or undue criticism, the following procedure should be followed:

a. When the HQ or security agency which is responsible for bringing the case to trial considers that the accused should be interned even in the event of acquittal, this fact will be notified before the commencement of the trial to the President of the Court and to any other AGO/JM officers who may be directly concerned with the case. It will then be made quite clear to the accused, at the opening of the Court, that, if he is acquitted of the charges preferred against him, he will nevertheless be interned immediately after the trial, as he is considered a danger to Allied security. It will be explained to him that internment is distinct from imprisonment.

b. At the conclusion of the trial it will be the responsibility of the HQ or security agency concerned to arrange for the accused, after his acquittal, to be moved under escort from the Court to the nearest PW Camp or Camp for Evacuation to 571 PW Camp. He should NOT be returned to prison.

5.8. HQ AG under date of 19 July 1944 has issued a memorandum covering the contents of pages 3, 4 and 48 ~~therein~~ above.

Richard H. Wilmer
 RICHARD H. WILMER,
 Colonel, GIC,
 Acting Chief Legal Officer.

CONFIDENTIAL

PERSONAL AND CONFIDENTIAL

HEADQUARTERS,
ALLIED CONTROL COMMISSION,
APO 39.

Regional Control and Military Government Section.

Ref: 284/CA.

25th August 1944.

In reply to your SCOT/9/CAO of 15th August, there is no doubt that the Italian Tribunals in Bari have been deliberately unco-operative in dealing with persons charged with offences at our ammunition depots there.

It should be stated that the Tribunals did their best to deceive our local officers as to the cases being tried and the sentences being passed; so soon as our attention was drawn to the situation by the Regional Legal Officer at Bari the Acting Chief Legal Officer of the Allied Control Commission went to Bari and took immediate action to ensure that such behaviour does not occur again. He also conferred with Brigadier Palmer at Bari concerning this situation.

General TRIMM, the officer in charge of the Italian Military Tribunals, was interviewed and informed that such conduct by his tribunals would not be tolerated. He was instructed and he promised to send out strong directives to his officers ordering them for the future to ensure proper trials of such cases and adequate deterrent sentences.

The personnel of the military tribunals has also been changed as a new President has been appointed and the existing Procuratore Militare has been suspended.

In one case, when the Allied Military witnesses were not accepted, General TRIMM considered the trial completely unsatisfactory and he stated that he would order a re-trial. In the other cases, it is, unfortunately, not possible to increase the sentences or revoke the suspensions.

Furthermore, it has been decided that until the future conduct of the Italian Military Tribunals becomes clear, a more liberal policy will be pursued in the authorisation of trial of such cases in Allied Military Courts in the territory.

I hope that by these measures a substantial and immediate improvement in the situation will be secured.

Major-General Sir Brian R. Robertson, Bt.,
K.C.V.O., C.B., C.B.E., D.S.O., M.C.,
Chief Administrative Officer,
HQ Allied Armies in Italy.

(Sgd.) M.S. Lush Sel
Copy to: 2001
Mares, GRR, GOC. No. 2 Dist.
V.P. Adm Sec (Attn. Legal
Officer).

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4129/11/L.

RHW /ap.
24 August 1944.

SUBJECT : Sentences -Saboteurs.

TO : Admin Section.

1. Herewith draft of letter it is suggested be sent by Brigadier LUSH to Major-General Sir BRIAN H. ROBERTSON BT., in reply to his 5001/9/CAO dated 15 Aug 44, also enclosed.

Richard H. Wilmer
RICHARD H. WILMER,
Colonel, CAC.,
Acting Chief Legal Officer.

1 Incls.

To Brig Lush.

I think this draft puts it rather well

grm

Issac 22/8

DRAFT

HEADQUARTERS
ALLIED CONTROL COMMISSION
RC & MG SECTION
APO 394

August 1944

DEAR

In reply to your 5001/9/CAC of 15 Aug 44 there is no doubt that the Italian Tribunals in Bari have been deliberately uncooperative in dealing with persons charged with offenses at our ammunition depots there.

It should be stated that the tribunals did their best to deceive our local officers as to the cases being tried and the sentences being passed; so soon as our attention was drawn to the situation by the Regional Legal Officer at Bari the Acting Chief Legal Officer went ~~down~~ to Bari and took immediate action to ensure that such behavior does not occur again. He also conferred with Brig. Palmer at Bari concerning this situation.

General TRAINA, the officer in charge of the Italian Military Tribunals, was interviewed and informed that such conduct by his tribunals would not be tolerated. He was instructed and he promised to send out strong directives to his officers ordering them for the future to ensure proper trials of such cases and adequate deterrent sentences.

The personnel of the military tribunals has also been changed as a new President has been appointed and the existing Procureurs Militars has been suspended.

In one case, when the Allied Military witnesses were not summoned, General TRAINA considered the trial completely unsatisfactory and he stated that he would order a re-trial. In the other cases, it is, unfortunately, not possible to increase the sentences or revoke the suspensions.

Furthermore, it has been decided that until the future conduct of the Italian Military Tribunals becomes clear, a more liberal policy will be pursued in the authorization of trial of such cases in Allied military courts in the territory.

I hope that by these measures a substantial and immediate improvement in the situation will be secured.

N. S. LUSH.

Director,

Executive Commission

Major Gen. G. P. Nares C.B.M.C.

Copy to Headquarters Gen. Nares

Col Shipp.

File 264

115-115A

Trial by AMG Court.

Folio 112.

1. Region 2 have requested that two men SERAFINA GUISEPPE and CAMPANALE ANTONIO who were found in possession of Cordite extracted from British Shells be tried by a Military Court.
2. In view of the fact that previous cases down for trial by AMG Court in Region 2 had been tried in a civilian Court I am of Opinion that these cases should be tried by a Military Court. Recently rather than try a case the accused were sent to Padua, by Region E.
3. I had a talk with Col Tilmer and he indicated that there was a new Policy on this question namely that Col Upjohn would make the decisions. I believe it is very recent but I have not heard about it.

Plush Maj.

15th Aug. 44.

785017

Major-General Sir Brian H. Robertson Bt.,
Chief Administrative Officer,
Adv

ALLIED ARMIES IN ITALY

ADM. ECHELON, C.M.F.

5001/9/CAO.

15 Aug. 44.

PERSONAL &
CONFIDENTIAL

My dear Lush,

General Nares has sent me a copy of his letter 2169/GSI of 11 Aug. 44 to you on the question of sentences passed by Italian Courts on certain saboteurs in one of our Ammunition Depots.

I do feel it to be very important that when a flagrant case of sabotage or pilfering is detected action should be swift and drastic. As you know, there is a very great deal of pilfering which goes undetected. It is mainly by the infliction of exemplary punishments on the offenders which we catch we can hope to deter the many whom we should never catch.

Yours sincerely,

B. Robertson

Brigadier M.S. Lush, CBE, MC,
Executive Commissioner,
Headquarters,
Allied Control Commission.

BHR/emb

2097

C O P YSECRETHQ 2 District CMP
2169 GSISUBJECT : Co-operation with
Allied Authorities

// Aug. 44

HQ ACC

Copy to: HQ AAI

HQ Region II ACC
6 Base Sub Area

I wrote to you on 24 Jun requesting an AMG Court to try charges of sabotage of ammunition from 14 BAD involving 29 persons--(please see my 2022/46/GSI of 24 Jun).

In your letter of 2 Jul (ACC/4129/11/L) you informed me that arrangements had been made to try 13 of the accused persons by AMG Court.

HQ Region II, however, wrote to my HQ on 13 Jul, stating that none of the cases of sabotage of ammunition could be tried by AMG Courts as the Italian Courts had already tried the cases; this without any of the Military Police, the chief witnesses for the prosecution, being called to give evidence, and without the knowledge of Region II. A copy of Region II letter is appended, as you do not appear to have received one.

Moreover, such sentences as were passed were suspended by the Court, with one exception.

Since the trial and publication of the sentences by the Italian Courts, the pilferage rate in 14 BAD has almost trebled, culminating in the destruction of some five thousand mortar shells by the theft of the silk parachutes inside, and the destruction of 15,000 rounds of MMG ammunition by the theft of the stripless belts.

I request, therefore, that the fullest enquiry into the conduct of these trials be instituted by you and the officials found responsible be at once removed: also that the suspension of the sentences be revoked.

In your letter of 2 Jul (ACC/4129/11/L) you informed me that arrangements had been made to try 13 of the accused persons by AMG Court.

HQ Region II, however, wrote to my HQ on 13 Jul, stating that none of the cases of sabotage of ammunition could be tried by AMG Courts as the Italian Courts had already tried the cases; this without any of the Military Police, the chief witnesses for the prosecution, being called to give evidence, and without the knowledge of Region II. A copy of Region II letter is appended, as you do not appear to have received one.

Moreover, such sentences as were passed were suspended by the Court, with one exception.

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I request, therefore, that the fullest enquiry into the conduct of these trials be instituted by you and the officials found responsible be at once removed: also that the suspension of the sentences be revoked.

I again ask, as requested in my letter 2022/16/G of 24 Jul, that the Italian authorities be told to take the gravest view of these offences, which may cause the loss of lives of unknown numbers of Allied soldiers, and not to treat them as petty larceny or unintentional sabotage.

(signed) E.P. NARES,
Major General
Commanding

VJ

2098

HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.C. SECTION
APO 394

113 file

Ref/264/CA.

24 August 44

SUBJECT : Court of Inquiry - MESSINA
Incident.

TO : Admin. Section (For Legal Sub-Commission).

There is forwarded for your attention and action letter from AAI 5063/69/A (PS) of 22 Aug 44 with original copy of the proceedings of the Court of Inquiry. HQ AAI state that the C in C directs that Lt. PAUL Maglio, 2 Bn. 45 Inf. Regt., Italian Army be brought to trial before an Allied Military Court at an early date, in regard to his conduct on this occasion.

JH

HUBERT E. FLECK
Colonel,
Deputy Executive
Commissioner.

264 253
 HEADQUARTERS
 ALLIED CONTROL COMMISSION
 REGION II

20.8.44.

Ref. 2201/74/D

Subject:- In re Serafina Giuseppe and
Campanale AntonioTo :- RC & MG Section ACC ROME
Copy to CLO Legal Subcommittee ACC ROME

1. Following upon a recent conference held at this H.Q., the CLO being present, application is made for trial by AMG Court of the case against the above individuals, particulars of which are attached.

2. No 6 Base Subarea is anxious that all cases of Sabotage of ammunition from the 14th BAD should be tried by AMG Court. In view of the recent scandalous treatment of such cases by the Tribunale Militare, and of the extremely serious results of these wholesale thefts on Allied troops at the front, this HQ is in complete agreement.

3. The Court would be composed from the panel authorized by you. The prosecutor would be Captain German. The accused would be defended by an Avvocato. The case would be likely to last 2 days, and would be ready for trial, ten days after receipts of charges.

HP04132 208044

(3rd) D.E.S. COUSINS, Lt. Col.
 R.L.O.
 Region

HEADQUARTERS

22 AUG 1944
 2594
 A. C. C.

62nd Special Investigation Section,
Corps of Military Police.
Central Mediterranean Forces.
17th May 1944.

Ref: -515/62/44/V/203
Your ref: -

SUBJECT: - Persons in Custody. SAPOVITA.

- (1) MASSIMO GIUSEPPE.
No. 45. Centre Balbi.
NOVA 41 20411.
- (2) CARLO ANTONIO.
No. 7. Venezia Lido.
NOVA 41 20411.

To: -

The Officer Commanding.
62nd S.I. Section.
S.I.B. C.M.F.

Sir,

I have to report that on the 17th May 1944 I arrested the above-mentioned men on charges of:-

- (a) SABOTAGE. In that they whilst employed as labourers by the 14 Base Ammunition Dump on the BRICCONO-BOLOGNA road did maliciously and wilfully render useless a quantity of British service ammunition by extracting the cordite therefrom.
- (b) RECEIVING STOLEN GOODS. In that they whilst employed as labourers by the 14 Base Ammunition Dump on the BRICCONO-BOLOGNA road did steal a quantity of cordite. Property of the British Air Dept.
- (c) RECEIVING STOLEN GOODS. In that they whilst employed as labourers by the 14 Base Ammunition Dump did wilfully and maliciously damage a quantity of British service ammunition by breaking down cordite sacks.

The facts of the case, and evidence supporting the arrest of the above named are as follows:-

On the 10th May 1944 information was received at this office from the 14 Base Ammunition Dump BRICCONO that two Italian employees had been arrested for the larceny of

Sir,

I have to report that on the 17th May 1944 I arrested the above-mentioned men on charges of:-

- (a) SARAFIN. In that they whilst employed as labourers by the 14 Base Ammunition Dump on the BISHOPSTON-TOLETTA road did wilfully and wilfully render useless a quantity of British service ammunition by extracting the cordite therefrom.
- (b) BITONTO. In that they whilst employed as labourers by the 14 Base Ammunition Dump on the BISHOPSTON-TOLETTA road did steal a quantity of cordite, property of the British War Dept.
- (c) BITONTO. In that they whilst employed as labourers by the 14 Base Ammunition Dump did wilfully and wilfully damage a quantity of British service ammunition by breaking down cordite sacks.

The facts of the case, and evidence supporting the arrest of the above named are as follows:-

On the 10th May 1944 information was received at this office from the 14 Base Ammunition Dump BITONTO that two Italian employees had been arrested for the larceny of sacks of cordite. The assistance of this branch was requested.

On the 11th May 1944 I went to the 14 B.A.D. BITONTO and was there informed by Lieut Lewis RICE that, a routine search had been made of all Italian employees who had been working at the ammunition dump. Sarafin and Campanale had both been found in possession of small sacks of cordite.

I saw Sarafin (statement attached) and he stated that he had taken the cordite from an ammunition box. He was going to take it home for his own amusement. He admitted stealing same.

continued:

Sheet 2.

110
SERFINA (statement attached) states that the
corrito which was found in his possession was put there by
some persons unknown.

The houses of both men were searched but
nothing was found relative to the charge.

An inspection of the ammunition site, revealed
that a considerable amount of steel ammunition boxes had
been broken open and part of the contents removed. The
remainder had been left on the ground and had been trampled
under-foot, or had been damaged beyond repair by rain.

Both men were taken to the Quetzaltenango Jail and
detained.

In the Field.
13th May 1944.

H. J. Sherman
H. J. Sherman, Sergt.
62nd. S.I. Section.

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

Both men were taken to the Question Bank on
10/1/44
M.J. Sherman, Serget,
62nd, S.V. Section.

retained.

In the Field.
18th May 1944.

2092

1009
Statement of: - SERAFINO GIUSEPPE,
No. 13, Centre Balbi,
MURGO DI FUSINA.

who says:-

I have been cautioned by Sergt Sharnen of 62nd Special Investigation Section through the interpreter Jacob Levi that:- I am not obliged to say anything unless I wish to do so but that anything I do say will be taken down in writing and may be given in evidence. To show that I understand this caution I append my name.

Signed L. (illiterate)

I have been working for the ANGLISH on the munition depot between BL. CANTIERI and COLPASTRA road. I have been working for them for about six days.

On the 10th May 1944 about 1500 hours I took two sacks of COMBITE from a box of ammunition. I put them in my pocket. I was going to have some fun with it. An interpreter then came and told us to go to the office to get our pay. When we got to the office I saw that the other men were being searched. I tried to throw the sacks away, but the sergeant saw me and arrested me.

The above statement has been read over to me and is true. I have had opportunity to add or delete from same and no threat or persuasion has been held over me.

In the field.
17th May 1944.

Signed. L/ (illiterate)

Statement taken down by me, Dr Jacob Levi and signed in the presence of Sergt Sharnen BL. 112. At 1500 hours on the 17th May 1944, and translated from Italian into English to the best of my ability.

In the field.
17th May 1944.

Dr Jacob Levi.
62. 31. Interpreter.

working for them for about six days.

On the 10th May 1944 about 13:00 hours I took two sacks of cornmeal from a box of ammunition. I put them in my pocket. I was going to have some fun with it. An interpreter then came and told us to go to the office to get our pay. Then we got to the office I saw that the other men were being searched. I tried to throw the sacks away, but the sergeant saw me and arrested me.

The above statement has been read over to me and is true. I have had opportunity to add or delete from same and no threat or persuasion has been held over me.

Signed. I/ (illiterate)

In the Field.

17th May 1944.

Statement taken down by me, Dr Jacob Levi and signed in the presence of Serjt Sherman G2 SIC. at 1520 hours on the 17th May 1944, and translated from Italian into English to the best of my ability.

In the Field.

17th May 1944.

Dr Jacob Levi.
G2. SIC. Interp refer.

Statement of:- CARLAVALE Antonio,
No. 7. Venelli Lici.
SUVO di FUGLIA.

who says:-

I have been cautioned by Jergt Sherman of the Special Investigation Section through the interpreter Dr Jacob Levi that:- I am not obliged to say anything unless I wish to do so but that anything I do say will be taken down in writing and may be given in evidence. To show that I understand this caution I append my name.

Signed. X. (illiterate)

I have been working for the ENGLISH for about two months, at the munition depot on the FISCAGLIA: SOLIVETTA road.

On the 10th May 1944 in the afternoon we were told to go to the office to get our pay. I picked up my jacket and over-coat which was lying on the ground and went with the others. The sergeant searched me and found some sacks of COMBITE in the pockets. I don't know how they got there, somebody must have placed them there when I was not looking.

The above statement has been read over to me and is true, I have had opportunity to add or delete from same and no threat or persuasion has been held over me.

Signed. X. (illiterate)

17th May 1944.
In the Field.

Statement taken down by Lt Dr Jacob Levi and signed in the presence of Jergt Sherman S. S. S. at 15:40 hours 17th May 1944, and has been translated from Italian into English by the best of my ability.

Dr Jacob Levi.
S. S. S. Interpreter.
17th May 1944.

Signed. X. (illiterate)

I have been working for the ENGLISH for about two months, at the munition depot on the BISCHOLIA:VOLPETTA road.

On the 10th May 1944 in the afternoon we were told to go to the office to get our pay. I picked up my jacket and over-coat which was lying on the ground and went with the others. The sergeant censured me and found some sacks of CORN in the pockets. I don't know how they got there, somebody must have placed them there when I was not looking.

The above statement has been read over to me and is true. I have had opportunity to add or delete from same and no threat or persuasion has been held over me.

17th May 1944.
In the Field.

Signed. X. (illiterate)

Statement taken down by me Dr Jacob Levi and signed in the presence of Serjt Sharan 52 312. at 15:10 hours 17th May 1944, and has been translated from Italian into English in the best of my ability.

Dr Jacob Levi.
62. 315. Interpreter.
17th May 1944.

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HEAD OFFICE
ALLIED COUNCIL REPRESENTATION
R.O. AND R.A. SECTION
AFC 394

102/334/107/O.A.

7 August 1944

SUBJECT: Italian judicial situation at Bari.
TO : Regional Commissioner, Region 2.

1. This is in answer to your letter
2201/74/4 2/7/44
7201/74/4 3/7/44
2201/74/4 1-7/44. **VOL I**

2. R.O. and R.A. have discussed with the Administration Section the problem which you outline. It is understood that the Legal Sub-Commission has received a long report relative to the Italian Military Tribunals, has received a short report from the R.I.C. Region 2 and a copy of the report of Signor Diamantorio of the Ministry of Justice who has returned from Bari. It is also understood that as a result of a conference here between the R.I.C. and the Legal Sub-Commission, 7 August 1944, that he will submit a detailed report giving factual data as to the failure of the Italian Civil Courts to function properly.

3. The Legal Sub-Commission advises this section that it will discuss with the Minister of Justice the report of Signor Diamantorio and his recommendations.

WHS/D

for
ROBERT H. FINE,
Colonel,
Deputy Executive
Council Sec.

Administration Sec. (3 copies)

HA
8989

HEADQUARTERS
ALLIED CONTROL COMMISSION
E.C. & H.C. SECTION
APO 334

Ref/26./106/CA

2 August 1944

SUBJECT: Internment after trial.

TO : Rq. AAI

Reference your AAI/1201/7/CSI(b) of 20 July 44, there
is attached for your information copy of instructions sent out
by this Hq. to Regions dated 25 July 44.

Brigadier
Executive Commissioner
For A/Chief Commissioner

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718

11A-2084
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264 105
CONFIDENTIAL

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

31 JUL Recd
/rlp.
30 July 1944.

ACC/4016/5/1.

SUBJECT : Trial and possible internment of accused in connection with
security offences.

TO : HQ & HQ Section.

- 102 VOL I 104 9 page copy
1. Reference your Ref/264/102/C dated 27 July 1944.
 2. Enclosed are 10 copies of a directive which has been sent out to
HLOs and HLO Poggia Province.
 3. The memorandum of Hq AAI which you enclosed was based on an earlier
letter that had been sent by this sub-commission to HLO, Region II.

PK 118
Richard H. Wilmer
RICHARD H. WILMER,
Colonel, GAO,
Acting Chief Legal Officer.

Encl.

2087

CONFIDENTIAL

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 01-11-2001 BY 304

102/1016/51.

/rlp.

29 July 1944.

SUBJECT : Trial and possible internment of accused in connection with security offenses.

TO : Regional Legal Officers (RLOs: Regional Commissioners),
Regions I, II, III, IV, V, VI, VII, VIII, IX, X, XII Region and
SAC Region (SAC: PG).

1. When persons are brought to trial on charges of some serious security offense such as espionage, sabotage or major subversive activities, it must be clearly understood by all concerned that all evidence required to support the prosecution's case must be given in court (a closed court may be ordered) and that full right of cross examination of witnesses on all relevant matters in the presence of the accused and their counsel must be permitted.

2. In the event that a substantial number of persons are involved in one particular offense and it does not appear that a reasonably strong case can be made against some of them or if they were found guilty sentences would likely be light, possibly only the ring-leaders should be tried, the remainder being interned, if this is required by the security agencies, and not tried. The reason for this is that, where there are many accused and with their own counsel, the trial is unduly prolonged and complicated with no real substantial end accomplished as to the detection or minor offenders; with the limited personnel now available for Allied Military Courts it is obvious that long trials must be avoided whenever possible.

3. When such persons are brought to trial for such an offense, it is frequently necessary for reasons of security that such persons should be interned after the conclusion of the trial even in the event of their acquittal.

4. In such cases, the fact that the accused is not set at liberty when acquitted is liable to create an unfortunate impression. It is realized, however, that the requirements of security must override this consideration, and in order to dispell or forestall any misunderstanding or undue criticism, the following procedure should be followed:

5. When the file or security agency which is responsible for bringing the case to trial considers that the accused should be interned even in the event of acquittal, this fact will be notified before the commencement of the trial to the President of the Court and to any other RLO/ID officers who may be directly concerned with the case. It will then be made quite clear to the accused, at the opening of the Court, that, if he is acquitted of the charges preferred against him, he will nevertheless be interned immediately after the

to clearly understand by all concerned that all evidence related to support the prosecution's case must be given in court (a closed court may be ordered) and that full right of cross examination of witnesses on all relevant matters in the sentence of the accused and their counsel must be permitted.

2. In the event that a substantial number of persons are involved in one particular offense and it does not appear that a reasonably strong case can be made against some of them or if they were found guilty sentences would likely be light, normally only the ring-leaders should be tried, the remainder being interned, if this is required by the security agencies, and not tried. The reason for this is that, where there are many accused each with his own counsel, the trial is unduly prolonged and complicated with no real substantial and accomplished as to the doubtful or minor offenders; with the limited personnel now available for Allied Military Courts it is obvious that long trials must be avoided whenever possible.

3. When such persons are brought to trial for such an offence, it is frequently necessary for persons of security that such persons should be interned after the conclusion of the trial even in the event of their acquittal.

4. In such cases, the fact that the accused is not set at liberty when acquitted is liable to create an unfortunate impression. It is realized, however, that the requirements of security must override this consideration, and in order to dispell or forestall any misunderstanding or undue criticism, the following procedure should be followed.

a. When the life or security agency which is responsible for bringing the case to trial considers that the accused should be interned even in the event of acquittal, this fact will be notified before the commencement of the trial to the President of the Court and to any other HQ/IX officers who may be directly concerned with the case. It will then be made quite clear to the accused, at the opening of the Court, that, if he is acquitted of the charges preferred against him, he will nevertheless be interned immediately after the trial, as he is considered a danger to Allied security. It will be explained to him that internment is distinct from imprisonment.

b. At the conclusion of the trial it will be the responsibility of the life or security agency concerned to arrange for the accused, after his acquittal, to be moved under escort from the Court to the nearest PW Camp or Camp for evacuation to 371 PW Camp. He should NOT be returned to prison.

5. HQ XII under date of 19 July 1944 has issued a memorandum covering the contents of paras 3, 4 and 5 *above*.

Richard H. Miller
 RICHARD H. MILLER,
 Colonel, GIC,
 Acting Chief Legal Officer.

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