

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

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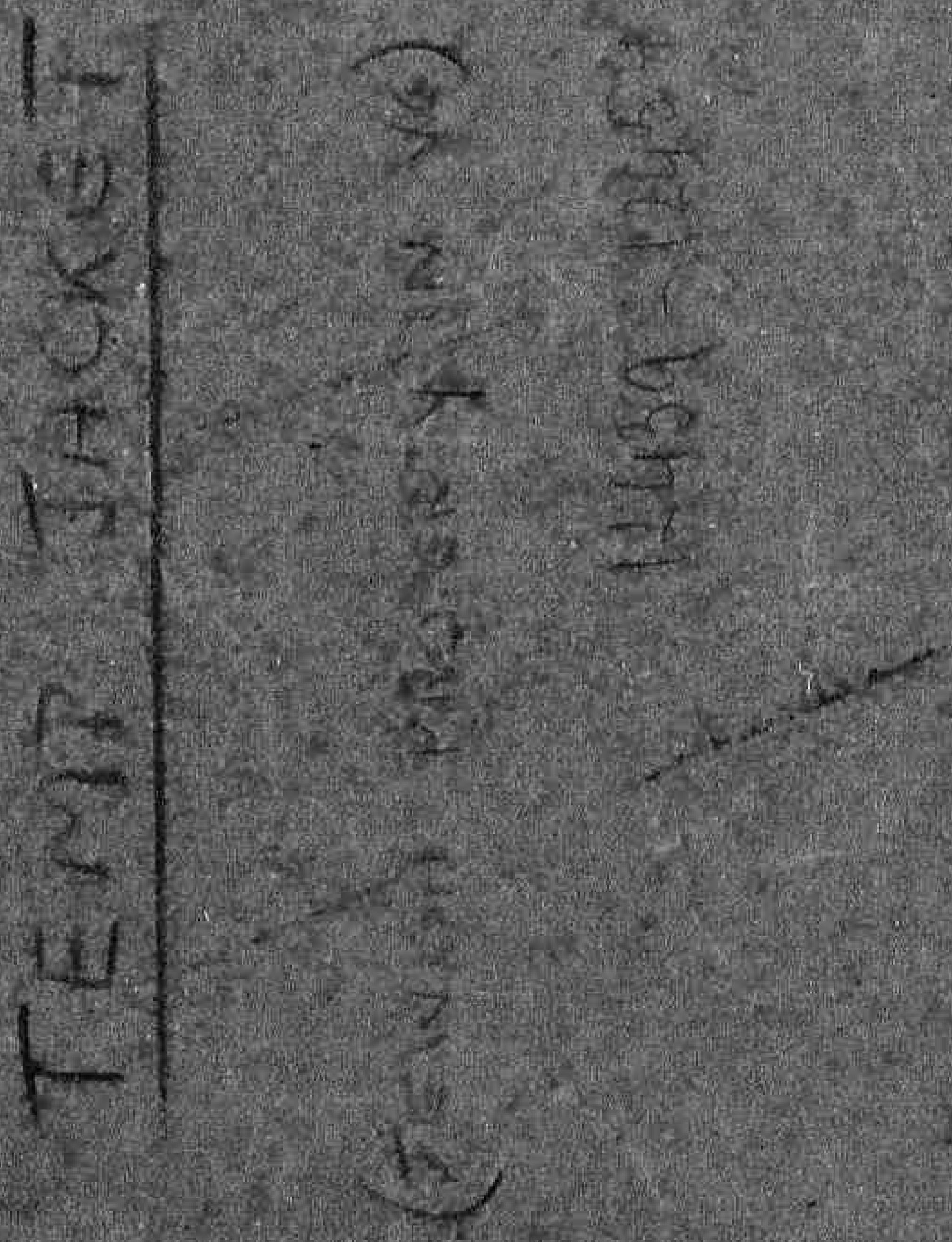
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JEWISH PROPERTY IN V-G
(TEMPORARY JACKET)
NOV. 1946; FEB, MAR. 1947

1015

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1016

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THIS FOLDER	CONTAINS THREE	FROM FEB 1947	TO MAR 1947	CATALOG
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17

Chief of Branch

As explained orally, the facts concerning this order are simple: The order in question was never referred by Venezia Giulia to the Allied Commission. To the contrary, Venezia Giulia by-passed the Commission and dealt directly with G-5.

After the order was issued by Venezia Giulia, our comments were requested by G-5. We prepared and submitted such comments to G-5, for whatever value, if any, they might have.

It seems that G-5 gave certain directions to Venezia Giulia, based on our comments. Presumably Venezia Giulia were displeased, and we were asked by Venezia Giulia if it would not be satisfactory for them to disregard certain phases of our comments.

It was pointed out then and it is emphasized now, that G-5 and Venezia Giulia have dealt directly with each other. We were asked only for comments. We gave them, and our interest in the matter ended at that point.


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

10


Major D. W.


Lt. Col. J. J. T.
Kurowski
Rome 17/17/1944

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It was pointed out then and it is emphasized now, that G-5 and Venezia Giulia have dealt directly with each other. We were asked only for comments. We gave them, and our interest in the matter ended at that point.



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

10

Legal Division

144
The heavy link between Ententes
Russia & the Balkans. Russia's influence
the Balkans has been growing.
It has already been noted
and understood why Dick Nixon
thought it was in the way. No further action.

26/2/47

Main Body

14

To: Mr. Byington, U.S. Embassy
Mr. Hunter, British Embassy

Reference your minutes M + 12.

In view of this 12 from Col Haunstad, it
would appreciate if we could have your
final comments on the subject
in the Chap P Branch
Budapest Sept

15/2/47

15 Feb. 17, 1947
My views remain as stated in minute 11.

Homer W. Byington, Jr.

Homer W. Byington, Jr.
Deputy U.S. Political Adviser,
American Embassy

- - - - -
16/

I recall I have spoken at some length to
Col Haunstad, and agree with him that having
left this piece of legislation so long, one
should not choose this moment for passing
it. Previously I had understood legal division
objection to be based on the fact that this
decree was designed to have effect after the
end of June — on which point my views

15/2/47

15

My views remain as stated in Minute 11.

Feb. 17, 1947

Opinion

Homer M. Byington, Jr.
Deputy U.S. Political Adviser, American Embassy

- - - - - 16 /

I recent. I have spoken at some length to Col. Hamerford, and agree with him that having left this place of legislation so long, one should not choose now moment for passing it. Previously I had understood legal division's objection to be based on the fact that this decree was designed to have effect after the end of Aug. — on which point my view remains as stated in my minute of Feb 12th. But it seems there are further objections. Apart from those mentioned in lot. H's minute attached I understand that the effect of the decree is much more far-reaching than the h. compensatory legislation passed by the Italian Govt. It is plausible arguable that Pius, shielded just in this its last days go more further than the I.G. on a question of which I understand the latter has not been seriously criticized, if at all, with consequent inconvenience to the provisional Govt. of the Sicilian territory, when it comes into existence. Extract, February, 20/21

Polski: A & P

10

The Lt. Commr. agrees with Col Thompson's
estimate at \$700,000 and directs me to submit
to you for your perusal and comments the
Draft of General Order No. 999 which is at this
moment being prepared.

90/1

11

I consider the judgment of this
General Order should rest on
unpublished orders of the
General Staff and I have seen
the recent combatant to have been
I am not involved, but
I am inclined to the conclusion
that the General Order
as it stands is US should
be forthcoming mainly on the excuse
of having to be signed by
the Lt. Governor.
12/2
12/2
12/2
12/2
12/2

90/1
11
I consider the judgment of this
household order should rest on
the merit of the order on
itself.
I am not concerned at all on
the technical point involved, and
do not agree at all with the
order which is given in UG should
be withdrawn merely on the
basis of it being ^{14.12} illegal.

that we might ^{14.12}
hand of the Governor. ^{14.12}
Order 12/2
12/2 US Postal

I have discussed this with Poland &
and agree with him above. If the
Governor of Tricote disapproves legislation
passed by Augt. 1 in force when he assumes
office he will be free to have it amended
by the constitutional means open to him
under the statute.

Mattlandery
British Embassy
12/2

H 023

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C O P Y

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 924.60

4 March 1947

SUBJECT : General Order No. 79.

TO : AMG VENEZIA GIULIA.

Reference your VG/AMG/LD/71/708 of 27 February 1947.

1. The principle of your draft Order No. 79 is approved but it is considered that it is too late to put it into force, no effective action of any importance being possible before "R" Day.

2. So far as the "Italian" part of Zone A is concerned, the order is unnecessary as the persons there resident will from "R" Day have the benefit of the existing Italian decree on this subject.

3. So far as the "Jugoslav" part of Zone A is concerned, the propriety of passing at the last moment an enactment which would saddle the Jugoslav Government with liability to make an unstated number of payments of unknown amounts is very questionable. Further it is extremely doubtful if the Jugoslav Government will allow AMG enactments to survive.

4. So far as TFT is concerned, the same question arises. Is it proper, at the last minute, to pass an enactment which saddles that Government with an unknown liability. Should not the decision rest with that Government?

5. It is appreciated that if this order is not enacted it may be said that, in the two years of its existence, AMG has done nothing to reverse the effects of unjust discriminatory fascist legislation. That is regretable; but, it is too late to remedy it now.

6. It is therefore considered that your proposed order should not be issued but be included in prospective desirable legislation to be passed to the new Government of TFT when it takes office.

BY COMMAND OF LIEUTENANT GENERAL LEE:

/s/ A.L. Hamblen,
Colonel, G.S.C.
Assistant Chief of Staff, G-5.

Copy to : LACAB, Rome.

10401

1024
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C O P Y

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
VENEZIA GIULIA

LEGAL DIVISION

JSR/zs

27 Feb. 47

FILE REF. : VG/AMG/LD/71/708

SUBJECT: : General Order No. 79.

TO : A.F.H.Q. (G-5)

1. General Order 79 is based on the Italian Decree dated 5 May 1946 No. 393 and published in the Italian Gazette No. 128 of 4 June 1946.

2. It has long been felt that a General Order on similar lines is required in this Territory principally because many of the people affected, are resident in Trieste. Should the Order be published those who know where their property is would be able to recover it from the third parties who now hold it. The people mainly affected are of the Jewish Race.

3. In Italy a right has been given to sue the State and while no right could be given to sue the Allied Military Government, it is felt that the right might be given to the claimants to sue the Intendente di Finanza for the property held or confiscated by the State.

4. It was during the occupation by the Germans that most of the depredations took place and it was decided to include the German invader with the right to recover and claim subject to certain provisos.

5. A draft of the Order was submitted to Allied Commission Rome for their considerations and it is understood that they are taking the instructions of Polads in the matter. No reply has yet been received.

6. The Order was prepared by Property Control in conjunction with Legal Division and this Headquarters is of opinion that there is no objection to the Order being promulgated but would like the views of POLAD

7. Your instructions will be appreciated.

For the Senior Civil Affairs Officer:

CHARLES M. MUNNECKE
Lt. Colonel, Infantry
CHIEF LEGAL OFFICER

Copy to: IACAB

1050

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13
Date: (REDACTED) 1945

I am sorry if I have not made myself clear. I am all in favour of passing urgent legislation by AMG decree or of implementing existing Italian decrees in Venezia Giulia. What I am afraid of is the promulgation of orders of a social or political nature without the previous consultation of the people of the Free State.

In the case of Jewish movable property, AMG is endeavoring to satisfy the claims of a minority which may be detrimental to the rest of the people or at least unwelcomed by them.

Why should AMG, at its last stage, impose a legislation which has been in abeyance for many months when a few weeks patience may enable the Governor to pass it through the constitutional means at his disposal.

Supposing that AMG issue the order and it is acted upon for say a period of a few months. Then the Governor decides to amend or cancel it. What will be the situation then? A few Jews with the easiest claims to settle will have received full and ~~passionate~~-satisfaction; while others will have lost all recourse. This would be most unsatisfactory, I think!

Finally, the order has no direct equivalent in Italian law.

G. G. HANNAFORD
Lt. Col.

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Supposing that AMG issue the order and it is acted upon for say a period of a few months. Then the Governor decides to amend or cancel it. What will be the situation then? A few Jews with the easiest claims to settle will have received full and ~~possible~~-satisfaction; while others will have lost all recourse. This would be most unsatisfactory, I think!

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G. G. HANNAFORD
Lt. Col.

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1026

E. Com

Jewish property in V.G.

I think Polakoff should
be consulted over this.

After all the effects of the
proposed order will continue
long after AMG in Venezia Giulia
will have ceased to operate.

Is the Governor of the Free State
going to be tied up by previous
AMG legislation (God help him
if such is the case) or not?

If he is not why not wait a
few weeks at let him take the
responsibility of getting such
delicate legislation passed.

Legal Division

20 JES 47

G. S. Hampton

1418

ISER/SC
HEADQUARTERS
ALLIED MILITARY GOVERNMENT
VENEZIA GIULIA
Provisional.

GENERAL ORDER NO. 79

RESTORATION AND CLAUSURE FOR PROPERTY CONFISCATED OR
SEIZED FROM PERSONS PERSECUTED BECAUSE OF RACIAL OR
POLITICAL REASONS

WHEREAS, by General Order No. 58 provisions were made for the reinstatement in their property rights of persons persecuted because of racial motives;

WHEREAS, it is now deemed advisable, within that part of Venezia Giulia which is administered by the Allied Military Government (hereinafter referred to as the "Territory") to make further provisions for the restoration of property confiscated, sequestered, seized, or in lieu of restoration to provide for compensation;

NOW, THEREFORE, I, ALFRED C. BOWMAN, Colonel, J.A.C.D., Senior Civil Affairs Officer, hereby

ORDERS:

ARTICLE I

RESTORATION OF PROPERTY IN POSSESSION OF PERSONS OTHER THAN THE State Government of the Littoral

Section 1--

The owners, their heirs and assignees and persons lawfully deriving title from them (hereinafter called the

PROPERTY RESTORATION

persons persecuted because of racial motives;

WHEREAS, it is now deemed advisable, within that part of Venezia Giulia which is administered by the Allied Military Government (hereinafter referred to as the "Territory") to make further provisions for the restoration of property confiscated, sequestered,^{or} seized, or in lieu of restoration to provide for compensation;

HQ7, TRIESTE, I, ALFREDO C. BOTTANI, Colonel,
J.A.S.D., Senior Civil Affairs Officer, hereby

ORDEN:

ARTICLE I

RESTORATION OF PROPERTY IN POSSESSION OF PERSONS OTHER THAN THE STATE GOVERNMENT OF HIS TERRITORY

Section 1.-

The owners, their heirs and assignees and persons lawfully deriving title from them (hereinafter called the claimant or claimants) of property which has been confiscated, sequestered, seized or taken in any manner during the reign of the Italian Fascist Government, of the so-called Social Republic, Government ~~of the~~ ^{of the} ~~territory~~ ^{territory}, from persons formerly declared or considered to be of the Jewish race may claim return of their property from whomsoever possesses or holds it subject however to the rights acquired /

by third parties in those cases in which the law admits of the lawfulness of the purchase or of the bona fide possession.

Section 2.

In addition to the provisions of Article 48 of the Civil Code, application may also be made by the territorially competent Jewish Community for the appointment of a special trustee to represent absentee owners, minors, mental defectives or persons who cannot be traced, who will take the necessary action for claiming return of property in accordance with Section 1 of this article and all other actions provided for in this Order. Said trustee shall have full power to take possession of the property which might be voluntarily restored by the holders, and to administer the property so returned. The said trustee will account for all property held and administered by him as provided for in the Italian Civil Code.

ARTICLE III

*Government
Territory*

RESTORATION OF PROPERTY IN POSSESSION OF THE STATE

The action for claiming restoration of property held by the State must be commenced within ten years from the effective date of this Order. The liability of the State for the fruits or profits earned on property held by them shall be limited to the period of three years preceding the lodging of the claim.

mental defectives or persons who cannot be traced, who will take the necessary action for claiming return of property in accordance with Section 1 of this Article and all other actions provided for in this Order. Said trustee shall have full power to take possession of the property which might be voluntarily restored by the holders, and to administer the property so returned. The said trustee will account for all property held and administered by him as provided for in the Italian Civil Code.

ARTICLE III

*Government
of the
Territory*
RESTITUTION OF PROPERTY IN POSSESSION ON THE STATE'S
TERITORY

The action for claiming restoration of property held by the State must be commenced within ten years from the effective date of this Order. The liability of the State for the fruits or profits earned on property held by them shall be limited to the period of three years preceding the lodging of the claim.

ARTICLE III

RESTITUTION OF PROPERTY TRANSFERRED TO UNITED NATIONS

Section 1.

The action for claiming restoration of property in possession of third parties provided for by Article I

- 3 -

must be commenced within the three years from the effective date of this Order.

Section 2.

The claimant may, instead of the claiming the restoration of the property in possession of third parties, claim from the ~~claimant~~ ^{of the} amount realized by the sale thereof together with legal interest therein as from the date of the sale. If the claimant elects to claim the amount realized he will in addition be entitled to claim from any successive purchaser, who has resold, the difference in the price paid by the successive purchaser and the price realized by any of them on resale, together with legal interest therein as from the date of the resale.

Section 3.

The claimant will lose his right against successive purchasers after the expiration of the three years. The claimant will however be entitled to claim from the ~~claimant~~ ^{of the} amount originally realized by them from the sale together with the legal interest. The action against the ~~claimant~~ ^{of the} state must however be taken within ten years from the effective date of this Order as provided for in Article II hereof.

ARTICLE IV

IMPOSSIBILITY OF EXERCISING ACTION ON CLAIM TO RESTORATION OF PROPERTY HELD IN TRUST

Section 1.

ized he will in addition be entitled to claim from any successive purchaser, who has resold, the difference in the price paid by the successive purchaser and the price realized by any of them on resale, together with legal interest therein as from the date of the resale.

Section 3.-

The claimant will lose his right against successive purchasers after the expiration of the three years. ^{The claimant will however be entitled to claim from the ~~State~~ ~~Government~~ of the amount originally realized by them from the sale together with the legal interest. The action against the ~~Government~~ ^{State} must however be taken within ten years from the effective date of this order as provided for in Article II hereof.}

ARTICLE IV

IMPOSSIBILITY OF EXERCISING ACTION OF STATE FOR RESTORATION OF PROPERTY FROM THIRD PARTIES

Section 1.-

Where the claimant is unable to receive possession of his property, he may claim from the ~~State~~ ^{Government} the amount originally realized by them from the sale together with legal interest thereon from the day of such sale. The action against the ~~State~~ ^{Government} must however be taken within ten years from the effective date of this order.

Section 2.-

Whenever the property has been the subject of suc-

cessive transfers the claimant is entitled to claim from each successive purchaser, who has resold the property, the difference between the price paid by the successive purchaser on purchase and the price obtained by him on resale, together with the legal interest as from the date of the resale. Such actions must be taken within the period of three years from the effective date of this Order and only against successive purchasers who were aware that the purchase was defective.

ARTICLE V

CONFISCATION OR SEIZURE BY GERMAN INVADER

Where property has been confiscated, ~~or~~ seized or otherwise taken by the German invader and either sold or given to a third party the claimant shall be entitled to claim and recover possession of the property as provided for in this Order with regard to acts ~~of~~ ^{by} the Italian Fascist Government ~~and~~ the so called Republican Government.

Where the claimant is unable to recover possession of his property he may lodge a claim for compensation for acts committed by the German invader as provided by the

Law 26 October 1940, No. 1543 as amended ^{by} Order No. 266.

No responsibility other than that provided in the aforesaid law and amendments ^{shall fall upon the State for compensation} ~~and~~ ^{upon the State for compensation} nor shall such ~~states~~ be liable to refund any sale price received by the German invader.

ARTICLE VI

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CONFISCATION OR SEIZURE BY GERMAN INVADER

Where property has been confiscated, or seized or otherwise taken by the German invader and either sold or given to a third party the claimant shall be entitled to claim and recover possession of the property as provided for in this Order with regard to acts ^{by} ~~of~~ the Italian Fascist Government ~~and~~ the so called Republican Government.

Where the claimant is unable to recover possession of his property he may lodge a claim for compensation for acts committed by the German invader as provided by the Law 26 October 1940, No. 1543 as amended Order No. 266. No responsibility other than that provided in the aforesaid law and amendments ^{to the Government of the Italian} shall fall upon the State for compensation nor shall such State be liable to refund any sale price received by the German invader.

ARTICLE VI

RIGHTS OF THIRD PARTIES RESTORING PROPERTY

Section 1.-

Where property has been restored to the claimant each successive purchaser shall be entitled to claim from his predecessor in title the amount paid by him together with legal interest as from the date of the sale.

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Section 2.-

Each successive purchaser shall be further entitled to receive from the claimant reimbursement of any sums paid by him for special repairs and for improvements made to property, and the claimant shall pay the amount actually expended for such improvement or the increase in value of the property resulting therefrom, whichever is the lower.

ARTICLE VII

RIGHTS OF CLAIMANTS IN PROPERTY RESTORED

Section 1.-

The claimed property shall be accepted in the condition in which it is at the date of the restoration.

Section 2.-

The claimant shall however have the right to recover damages against any of the purchasers done during the period of time during which the property was in their possession, save where they prove that the said damages were caused by conditions or reasons for which they could not be held responsible.

ARTICLE VIII

ACCOUNTING

An account of the management of the property will be rendered by the ~~State~~ ^{Government of the Territory} to the claimant of property which has not been sold or transferred. Where property has been sold or transferred, an account

Section 1.-

The claimed property shall be accepted in the condition in which it is at the date of the restoration.

Section 2.-

The claimant shall however have the right to recover damages against any of the purchasers done during the period of time during which the property was in their possession, save where they prove that the said damages were caused by conditions or reasons for which they could not be held responsible.

ARTICLE VIII

ACCOUNTING

An account of the management of the property will be rendered by the ~~State~~ to the claimant of property which has not been sold or transferred. Where property has been sold or transferred, an account of the management of same will only be rendered by each successive holder for the period of time during which he held the property. Such accounts shall be submitted within one year from the effective date of this Order where the property has already been restored or within one year from the date of the actual restoration whenever the same takes place after the date of this Order.

- 6 -

Where necessary the time limit for submitting accounts of management may be extended for a further period upon an Order to be issued by the Finance Administration.

ARTICLE IX

DEBITING AND CREDITING CLAIMANTS IN THE MANAGEMENT ACCOUNT

Section 1
Besides being debited with the expenses of ordinary management for the preservation of property, the claimants shall be debited in the account of management with the debts paid on their behalf, special repairs and improvements to the property, and, in general, with all expenses which claimants themselves would have had to pay, had they remained in possession of their property. The account of management will also be debited with the costs due to the managers of the property who shall be paid the minimum necessary for ordinary management.

Section 2
On the credits and debits, prior to the restoration of the property, the rate of interest shall be that payable by banks on current accounts. On the final balance of the account, whether debit or credit, legal interest will be payable as from the date of the restoration.

ARTICLE X

LIENS ON PROPERTY TO BE RESTORED

Section 1
Where the account of management shows a debit balance due by the claimants this balance, if unpaid, shall be a lien on the restored property and shall have priority over preferred debts.

debts paid on their behalf, special repairs and improvements to the property, and, in general, with all expenses which claimants themselves would have had to pay, had they remained in possession of their property. The account of management will also be debited with the costs due to the managers of the property who shall be paid the minimum necessary for ordinary management.

Lecture
On the credits and debits, prior to the restoration of the property, the rate of interest shall be that payable by banks on current accounts. On the final balance of the account, whether debit or credit, legal interest will be payable as from the date of the restoration.

ARTICLE V

LIENS ON PROPERTY TO BE REGISTERED

Lecture
Where the account of management shows ~~a~~ debit balance due by the-claimants this balance, if unpaid, shall be a lien on the restored property and shall have priority even over preferred debts.

Lecture
In the case of moveable property, the property to be restored may be retained, partly or in whole, until such debt is paid.

ARTICLE VI

AMONATIONS OR USES BY WHICH THE INVESTIGATORS IS RECOGNIZED OR COMMISSIONED, ETC.

The deeds by which the ineffectiveness of the

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confiscation, sequestration or seizure concerning properties mentioned under Article I hereof, is recognized, and those of successive transfere shall be annotated on the margin of the copy of the instruments of confiscation, sequestration or seizure and of the successive transfers. Applications for such annotation will be made by the claimants.

ARTICLE XIII.
Government of the Territory
SECTION XIV. THE COMMITTEE OF BEING SUED

All actions against the State in terms of this Order in the Territory will be taken against the ~~State of~~ ~~Confederazione Italiana~~ ~~Confederazione Generale Italiana~~ will represent by the Avvocatura dello Stato. The "Fratelli della Patria" ~~Confederazione Italiana - Federazione Socialista Italiana~~ will represent the State for all purposes of this Order.

ARTICLE III

UNCONTINUOUS OPPOSITIONS IN THE LEXICAL SPHERE OF PROPER NAMES

Six months after the effective date of this Order the block imposed by Article I, paragraph (A) of General Order No. 18 and the right to obtain the note in the Land Register provided for by Article V of General Order No. 18 shall cease and any person concerned shall be entitled to deal with the property formerly blocked and to obtain cancellation of the note in the Land Registry unless an action for recovery has been commenced by the claimant. In any sale or transfer effected under this provision the person

ACTION AGAINST THE STATE IN CAPACITY OF BEING SUED

All actions against the State in terms of this Order in the Territory will be taken against the "Ente Generale delle Immobilizzazioni Immobiliari" (E.G.I.I.) ~~and~~ presented by the Avvocatura dello Stato. The "Ente Generale delle Immobilizzazioni Immobiliari" (E.G.I.I.) will represent the State for all purposes of this Order.

ARTICLE XIII

UNBLOCKING OF PROPERTIES BLOCKED UNDER GENERAL ORDER No 18

Six months after the effective date of this Order the block imposed by Article I, paragraph (A) of General Order No. 18 and the right to obtain the note in the Land Register provided for by Article V of General Order No. 18 shall cease and any person concerned shall be entitled to deal with the property formerly blocked and to obtain cancellation of the note in the Land Registry unless an action for recovery has been commenced by the claimant. In any sale or transfer effected under this provision the person concerned shall be accountable for all intrusions with the property, nothing herein contained shall preclude the commencement of legal action for recovery of the property within the period of 3 years from the effective date of this Order as provided for in Article III hereof.

ARTICLE XIV

EXEMPTION AND REMITTANCE OF TAXES - EXECUTION OF DEEDS

All deeds, including those of judicial character, that

W.H. *[Signature]*
W.H. *[Signature]*
W.H. *[Signature]*

1042

are necessary for the execution of the provisions contained in this Order shall be exempt from all stamp duties and taxes, from the recording tax as well as from all fiscal charges and duties (imposte di registro ed ipotecarie).

Stamp duties and recording and registration taxes, received for ineffective deeds of transfer mentioned in this Order shall be restored to the persons entitled thereto.

The notary fees shall be reduced by one half.

ARTICLE XV

EFFECTIVE DATE

The present Order shall become effective within the Territory on the date it is published in the Allied Military Government Gazette.

Dated at PRINSTON, this _____ day of November 1946

ALFRED C. BOWMAN,
Colonel, J.A.C.D.
Senior Civil Affairs
Officer

The notary fees shall be reduced by one half.

ARTICLE XV

EFFECTIVE DATE

The present Order shall become effective within the territory on the date it is published in the Allied Military Government Gazette.

Dated at TRIESTE, this _____ day of November 1946

ALFRED C. BOWMAN,
Colonel, J.A.C.D.
Senior Civil Affairs
Officer

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