Declassified E.O. 12356 Section 3.3/NND No. 785015

ACC

10000/136/319

Declassified E.O. 12356 Section 3.3/NND No. 785015

0000/136/319

LEGAL AFFAIRS, GENERAL
FEB. - NOV. 1946

0004

Declassified E.O. 12356 Section 3.3/NND No. 785015

2602/CC

AGF (Old No. 499)
1918

LIST OF PAPERS

Office of the
Chief Commissioner

File under No. 2602 LEGAL AFFAIRS - GENERAL

ALLIED COMMISSION

From 5 Feb 46
To 16 Nov 46

Confidential

Vol IV Page 7

SERIAL NUMBER	FROM—	DATE	TO—	SYNOPSIS
353	Ltr 9006/352/EC	28 Oct 46	AFHQ	Alleged improper transactions CEM
353a	Ltr A6/14388/PS	29 Oct 46	AJLC	Clandestine passage of Jews across the Italo- Austrian border
354	Ltr Stone	1 Nov 46	AFHQ	Frwd ltr re removal furniture from Royal Place, Caserta
355	Ltr Stone	1 Nov 46	Cappa	Ack of ltr 29 Oct 46
356	Ltr Stone	1 Nov 46	Bowman	Frwd of ltr re di Demetrio
357	Ltr SD/266.01-139	5 Nov 46	GHQ CMF	Appointment of Cdl Del Prato as official It observer Ardeatine case
357a	Ltr ES/11.01	5 Nov 46	Cagnazzo	Re paying of duty on Br. vehicles
357b	Cbl 5448 EC	8 Nov 46	AFHQ G-5	Request handover of Durcansky as WC
358	Ltr 926.11R	7 Nov 46	CC	Infrm CC of action being taken on ltr of 1 Nov
358a	Cbl AG3/00226	7 Nov 46	Sec Div	Req Maussa as witness Ardeatine case
358b	Cbl AG3/00293	9 Nov 46	Sec Div	Re witness required Ardeatine case
359	Ltr CC2603	12 Nov 46	Cappa	Infrm Cappa of action being taken re ltr 85275/47183/4.1
360	Cbl AG3/622	12 Nov 46	Sec Div	Request action on cbl 5458 9Nov
361	Cbl AG517	13 Nov 46	E.O (Br)	Arrange attendance witness Capt Faiweather trial
362	Ltr 6536/EC	13 Nov 46	AFHQ	Re extradition alleged WC Durcansky
362a	Ltr Stone	13 Nov 46	Fauliny-Toth	Extradition of Alleged WC
363	Ltr SD/266.01-91/AC	14 Nov 46	Prunes	Refusal of request contained in ltr 21 Oct 46
364	Special order	15 Nov 46	CC	Re arrangements Ardeatine case trial
364a	Cbl AG 300 5	15 Nov 46	RAAC	Prov fr It Official - Ardeatine Case
365	Ltr Tomlin	16 Nov 46	CC	Invitation to Ardeatine trial
365a	Aide Memoire	16 Nov 46		Alleged acts depredation Tenda&Briga

Confidential

INSTRUCTIONS.—When papers on a subject become numerous, they will be numbered serially and brief entries made on this form.

0 0 0 5

Declassified E.O. 12356 Section 3.3/NND No. 785015

Form 353 (Old No. 400)
d July 26, 1918

2602/CC

Office of the
Chief Commissioner

LIST OF PAPERS

File under No. 2602 LEGAL AFFAIRS - General

ALLIED COMMISSION

From: 05 Feb 46
To :

SECRET

Vol. IV Page 6

8—6788

SERIAL NUMBER	FROM—	DATE	TO—	SYNOPSIS
340a	Memo Col Weber	25 Sept	CC	Memo on VG Allied Military Gov General Order 70
341	Ltr AC/4005/L	26 Sep 46	CC (AFA)	Forgery of U.S. Naval Bills
342	Cbl 3TC/WC6	27 Sept 46	Security Div	Defendants Bank case handed over civilian prisoner
343	Cbl AG1 5526	3 Oct 46	Legal S/G	Patracchini not to appear as accused in Banks Case
344	Cbl 5139 Security	7 Oct 46	CMF	War Crimes - Ardeatine Caves Massacre
345	Ltr AC/4079/1/L	8 Oct 46	Montini	Ack of ltr of 18 Sep 46
346	Cbl AG(1) 5571	8 Oct 46	Sec Div	Re inform It auth acq of Turolla
347	Ltr AC/4014/13/L	14Oct 46	G-5 AFHQ	Chief Legal Advisors Rep on UNRRA case
348	Cbl 5230	17 Oct 46	CHQ CMF	Re war criminals Bank case
349	Cbl FX 72708	17 Oct 46	Security Div	Re alleged arrest fr espionage of Dr Senist
350	Ltr SD/266.01-91/AC	21 Oct46	Dr Prunas	Re auth It magist membership on tribunal re Ardeantine case
351	LtrStone	24 Oct 46	Lombardi	Re inquirty into Lombardi case
352	Ltr Tomlin	24 Oct 46	CC	War Crimes - Ardeantine Caves

INSTRUCTIONS.—When papers on a subject become numerous they will be numbered serially and brief entries made on this form.

Confidential

0006

Declassified E.O. 12356 Section 3.3/NND No. 785015

2602/CC

Form 353 (Old No. 490)
July 26, 1918

LIST OF PAPERS

Office of the
Chief Commissioner

File under No. 2602 LEGAL AFFAIRS - General

ALLIED COMMISSION

From: 05 Feb 46
To :

SECRET

Vol. IV Page 6

SERIAL NUMBER	FROM—	DATE	TO—	SYNOPSIS
340a	Memo Col Weber	25 Sept	CC	Memo on VG Allied Military Gov General Order 70
341	Ltr AC/4005/L	26 Sep 46	CC (AFA)	Forgery of U.S. Naval Bills
342	Cbl 3TC/WC6	27 Sept 46	Security Div	Defendants Bank case handed over civilian prisonr
343	Cbl AG1 5526	3 Oct 46	Legal S/G	Patracchini not to appear as accused in Banks Case
344	Cbl 5139 Security	7 Oct 46	CMF	War Crimes - Ardeatine Caves Massacre
345	Ltr AC/4079/1/L	8 Oct 46	Montini	Ack of ltr of 18 Sep 46
346	Cbl AG(1) 5571	8 Oct 46	Sec Div	Re inform It auth acq of Turolla
347	Ltr AC/4014/13/L	14Oct 46	G-5 AFHQ	Chief Legal Advisors rep on UNRRA case
348	Cbl 5230	17 Oct 46	GHQ CMF	Re war criminals Bank case
349	Cbl FX 72708	17 Oct 46	Security Div	Re alleged arrest fr espionage of Dr Senist
350	Ltr SD/266.01-91/AC	21 Oct46	Dr Prunas	Re auth It magist membership on tribunal re Ardeantine case
351	LtrStone	24 Oct 46	Lombardi	Re inquirty into Lombardi case
352	Ltr Tomlin	24 Oct 46	CC	War Crimes - Ardeantine Caves

INSTRUCTIONS.—When papers on a subject become numerous they will be numbered serially and brief entries made on this form.

Confidential

0007

Declassified E.O. 12356 Section 3.3/NND No. 785015

2602/CC

Form 3553 (Old No. 490)
[illegible] 1918

LIST OF PAPERS

Office of the
Chief Commissioner

File number No. 2602 LEGAL AFFAIRS - GENERAL
MORALS AND CONDUCT

ALLIED COMMISSION

SECRET

Vol. IV Page 5

SERIAL NUMBER	FROM—	DATE	TO—	SYNOPSIS
330	Memo Stone	29 Jul 46	Carr	Arrest of Pres of Jewish Women's Club
330a	Ltr Bye	1 Aug 46	ASC Rome	Case of Luigi Motta; Incl ltr
330b	Ltr Piccone	5 Aug 46	CC	Re alleged illeg arrest Piccone
331	Ltr Stone	15 Aug 46	Vecchiolla	Info re cases of Moncada & Bramante; Incl Memo of Col Weber
332	Ltr Stone	19 Aug 46	Lawson	Investigation of case of Piccone
332a	Ltr Tilley	20 Aug 46	Comm Gen 13 Corps	Murder of Protulipac by Benic; Incls
332b	Ltr Bertolino	21 Aug 46	Stone	Appeal to Corte di Cassazione; Incl
332c	Ltr 941.32R Hamblen	23 Aug 46	CC	Request fr Release - Carlo Camillo
333	Ltr Stone	26 Aug 46	Comgen MTOUSA	5th Ind to correspondence re theft of US Govt Property; Incls.
334	Ltr Doren	27 Aug 46	Bertolino	Ack of ltr of 21 Aug 46
334a	Ltr AC/14057/PS	27 Aug 46	ASC	Query re Case of Motta
335	Cbl AG387 Disthree	31 Aug 46	Security	Pleas to court re Banks Case
335a	Ltr HQ/5/HGLeB/LFA	3 Sep 46	Hq AC	Delivery of testimonial to Motta
335b	Cbl AG (1) 5308	5 Sep 46	Security	Query re Romano re Banks Case
335c	Cbl 4876 Sec Div	5 Sep 46	"A" Naples Area	Info re Romano re Banks Case
336	Ltr AC/4083/23/L CC	6 Sep 46	Restagno	Cases of Costanzo, Gai, Bacinotti
336a	Cbl AG (1) 5316	6 Sep 46	13 Corps Rear	Ottavics required as witness in Banks Case
336b	Cbl AG 430 Disthree	6 Sep 46	HA G-1 Br	Info re Romano re Banks Case
337	Ltr Rively	7 Sep 46	Motta	Delivery of testimonial to Motta
338	Cbl 4886 Sec Div	7 Sep 46	'A' Naples Area	Tracing of Romano re Banks Case
+339	Ltr 2619/EC Stone	14 Sep 46	VP CA Sec	AMG Courts - Trieste
339a	Ltr 138971/SA	18 Sep 46	CC	Request extension of amnesty decree to Trieste Area
340	Cbl FX 72260 CMF	25 Sep 46	Disthree	War Crimes Trial - Ardeatine caves massacre
~~341~~	~~Cbl AG15526~~	~~9 Oct 46~~	~~Legal S/G~~	~~Petracchini not to appear as accused in banks case.~~

INSTRUCTIONS.—When papers on a subject become numerous they will be numbered serially and brief entries made on this form.

CONFIDENTIAL
SECRET

0 0 0 8

Declassified E.O. 12356 Section 3.3/NND No. 785015

C. Form 353 (Old No. 400)
July 20, 1918

LIST OF PAPERS

2602/CC

Office of the
Chief Commissioner

File under No. 2602 LEGAL AFFAIRS - GENERAL
MORALS AND CONDUCT

ALLIED COMMISSION

SECRET

Vol. IV Page 4

SERIAL NUMBER	FROM—	DATE	TO—	SYNOPSIS
319a	Ltr 6/2423/954	13 Jun 46	CA Sec	War Crimes - Trials
320	Cbl 3567 HQ AC	13 Jun 46	AFHQ, G-5	Arrest and Proceedings of Allied Merchant Seamen
320a	Ltr AC/4083/23/L	14 Jun 46	CC	Case of Lombardo re ltr of 29 Apr
320b	Cbl C 48698 AFHQ	14 Jun 46	AC, EC	Re 3657 para 2 agreed
321	Ltr CC 2602 CC	17 Jun 46	Toth	Ans to ltr of 16 May re extradition of Durcansky to Czechoslovakia
322	Ltr AC/4083/23/L	18 Jun 46	Lombardo	Case of Lombardo
322a	Memo Jones	21 Jun 46	EC CA	Trial of US Merchant Seaman Askew
322b	Ltr AC/4119/5/L	22 Jun 46	De Gasperi	Sentencing of Col Turco
322c	Ltr 5606/130/EC	22 Jun 46	AFHQ G-5	Arrest and Prcdngs of Alld Mer Sea
323	Ltr AC/4088/L CC	24 Jun 46	AFHQ G-5	International Law Books
324	Ltr 73387/50077.4	24 Jun 46	CC	Frwdng info re It Gvt provision of amnesty ,pardon fr Fascist crimes; request fr similar AMG provision.
325	Ltr 443/50810	28 Jun 46	EC	Control of foreign people in Italy
326	Ltr SD/550.05 CC	Jul 46	AFHQ G-5 Section	Italian Subjects in Allied Internment Camps
327	Ltr Stone	8 Jul 46	G-5 AFHQ	It Amnesty; Incl Amnesty decree and preamble to also ltr fm P.M.
327a	Ltr Vecchiolla	12 Jul 46	CC	Cases of Moncada & Bramante
328	Ltr AC/4079/2/L	19 Jul 46	AFHQ G-5	Implementation of Amnesty Decree in Venezia Giulia
329	Cbl C 54885 AFHQ	22 Jul 46	Legal S/C	It Amnesty - Queries

INSTRUCTIONS.—When papers on a subject become numerous they will be numbered serially and brief entries made on this form.

Confidential

0009

Declassified E.O. 12356 Section 3.3/NND No. 785015

2602/CC

Q. M. C. Form 353 (Old No. 490)
Revised July 20, 1918

LIST OF PAPERS

Office of the
Chief Commissioner

File under No. 2602 LEGAL AFFAIRS - GENERAL
MORALS AND CONDUCT

ALLIED COMMISSION

SECRET

SERIAL NUMBER	FROM—	DATE	TO—	SYNOPSIS
311	Ltr 67490/66838 De Gasperi	3 May 46	CC	Request for clemency for Pertisans sentenced by AMT in Ferrara
311a	Ltr AC/4129/3/L	6 May 46	AFHQ G-5	Reduction of Sent.- Ruo Bernucchio
311b	Ltr AC 000.5	14 May 46	President of AC	Reduction of Sent.- Ruo Bernucchio
311c	Ltr 3231/46 Toth	16 May 46	CC	Extradition of Durcansky to Czechoslovakia
312	Cbl 13C/AMG/4	17 May 46	Legal S/C	Trial of 8 Ven Giu Police
312a	Ltr AC/4079/1/L	18 May 46	Min of Pardon, Just	Cond liberty cases sent. by AMC
312b	Cbl 3252 HQ AC	24 May 46	Prov Comm Udine	Sentence of Nerino
312c	Cbl F 66674 SACM	24 May 46	Pub Safety S/C	Kennard to see Fascist Records
313	Cbl H/3328 AMG Udine Province	25 May 46	Legal S/C	Suspension of Sentence
314	Cbl 3273 Bye	25 May 46	AFHQ	Investigation of Neo-Fascist Black Guards in Milan
314a	Ltr 2604/EC Lush	28 May 46	Low	Subjection to It jurisdiction of Allied & non-It Civilian Nationals
315	Ltr 69416 De Gasp.	31 May 46	CC	Request fr commutation of Turco's sentence
315a	Ltr 57/46 Halford	31 May 46	CC	Clemency for Prisoners.
316	Ltr AC/4119/5/L	3 Jun 46	De Gasperi	Commutation of Turco's sentence
317	Cbl 3516 HQ AC	6 Jun 46	AFHQ G-5	Arrest and proceedings of Allied Merchant Seamen
317a	Ltr Jones	7 Jun 46	CC	Extrdtn to Czechslvk of Durcansky
318	Ltr Stone	8 Jun 46	Taylor	Clemency fr prisioners sentenced in Allied Courts
319	Ltr AC/4083/23/L	11 Jun 46	CC	BOZZI Arturo

INSTRUCTIONS.—When papers on a subject become numerous they will be numbered serially and brief entries made on this form.

0010

Declassified E.O. 12356 Section 3.3/NND No. 785015

U. S. C. Form 353 (Old No. 490)
Revised July 25, 1918

2602/CC

LIST OF PAPERS

Office of the Chief Commissioner

File under No. 2602 LEGAL AFFAIRS - GENERAL
MORALS AND CONDUCT

ALLIED COMMISSION

SECRET

SERIAL NUMBER	FROM—	DATE	TO—	SYNOPSIS
303a	Ltr 63064/40062/1.6.4	18Mar46	Stone	Penal proceedings for disturbances
304	Memo Stone CC 2602	19 Mar 46	Jones and Halford	Expulsions fm Italy-Durcansky,Mec.
305	Ltr CC2602 Stone	20 Mar 46	Pauliny-Toth	Expuls. fm Italy-Durcansky,Mecier
306	Memo CC2602 Stone	20 Mar 46	Min For Affs	Expuls. fm Italy-Durcansky,Mecier
307	Cbl 2090 HQ Alcom	26 Mar 46	SCAO Ven Giu	Approval on sanctions against Crimes of the Fascist nature
308	Ltr Stearns	1 Apr 46	CC	Frwd of Memo concerning SCAO - Ven Giu cbl
309	Ltr AC/4092/1/L EC	4 Apr 46	De Gasperi	Powers of Court of Assize in V.G.
309a	Ltr [illegible]	29		
309a	Ltr 5606/112/EC	26 Apr 46	Key	Smuggling and theft in Port of Genoa; Incl
309b	Ltr Lombardo	29 Apr 46	CC	Request fr CC intereession in Case of Lomburdo
310	Cbl F65634 SACMED	2 May 46	Public Safety S/C	Graziana to be interrogated in connection wth trial of Kesselring

INSTRUCTIONS.—When papers on a subject become numerous they will be numbered serially and brief entries made on this form.

SECRET

Declassified E.O. 12356 Section 3.3/NND No. 785015

0011

M. C. Form 353 (Old No. 490)
Revised July 20, 1918

2602/CC

LIST OF PAPERS

Office of the
Chief Commissioner

File under No. 2602 LEGAL AFFAIRS - GENERAL
MORALS AND CONDUCT

ALLIED COMMISSION

SECRET

SERIAL NUMBER	FROM—	DATE	TO—	SYNOPSIS
294	Ltr Stone	5 Feb 46	De Gasperi	Expell Aliens
294a	Memo for Alcom	5 Feb 46	Alcom-	Exmulsions from Italy-Czech Subs.
294b	Ltr 1029/46 P-Toth	8 Feb 46	Leg Div Alcom	Extradition of Durcansky, Mecier
295	Ltr Stone	9 Feb 46	AFHQ G-5	Clemency for Prisoners
295a	Cbl C 22765 AFH2	14 Feb 46	Alcom	Courts Martial of PWs
~~295b~~	~~Ltr 1860/46 P-Toth~~	~~14 Mar 46~~	~~Stone~~	~~Extradition of Durcansky & Mercai~~
296	Ltr AC/4180/2/LUSH	16 Feb 46	SCAO AMG 13 Corps	Special Courts of Assize
297	Cbl 1236 HFW Div	18 Feb 46	NASC Casablanca	Trials of Italian Service Unit Mn
298	Cbl 1353 HQ ALCOM	21 Feb 46	AFHQ	On Request for Info
298a	Ltr 62382 De Gasp	28 Feb 46	Stone	Crimes of Collaboration in Ven Giu judged by Court of Assize
299	Cbl 314 /AR/201	2 Mar 46	ALCOM	Arrests
300	Memo 6/1052/484	5 Mar 46	Alcom	Expulsions from Italy-Dr.F.Durcansky and Dr.J.Merciár-Czech Sub.
301	Ltr CC 2602 Stone	7 Mar 46	Czech Minister	Request concerning Durcansky and Merciár
302	Ltr 1668/46 Pauliny-Toth	9 Mar 46	Stone	Acknowledgement of ltr of 7 Mar
303	Ltr 1860/46 P-Toth	14 Mar 46	Stone	Extradition of Durcansky & Mecier

INSTRUCTIONS.—When papers on a subject become numerous they should be numbered serially and brief entries made on this form.

SECRET

0012

Declassified E.O. 12356 Section 3.3/NND No. 785015

16 November 1946

ATLAS DEMOLITION
ALLEGED ACTS DESTRUCTION - TENDA AND BRIGA

Frequent allegations are presently being made that material is being removed by the Italian authorities from the region of Briga and Tenda. These allegations include the following:

(a) 1. Forest industries. Intensive felling of trees with the risk of seriously compromising the exploitation of the woods in the coming years.

2. Hydro-electric factories. The whole stock of copper wire (about 3,200 kgs) part of the line San Dalmazzo-Menton, spare pieces as well as material have been taken away to Cuneo.

3. Stations. The stations have been emptied of all material (stocks of rails, wire, cranes etc.) and the electric traction wires are being taken down. The buildings have been deprived of their doors, windows, fromework, pipes - always for the benefit of Cuneo.

While there would appear to be no objection to the removal of private property in the normal transaction of business, the abnormal reduction of natural resources or the removal of permanent plants or equipment would appear to be a violation of Article 12 of the Armistice terms.

EC 1
1

Article 12 of the Armistice terms lays down that there will be no destruction of, nor damage to, nor, except as authorized or directed by the United Nations, any removal of war material, wireless or radio locations or meteorological stations, railroad, port or other installations or, in general, public or private utilities or property of any kind wherever situated and the necessary maintenance and repair will be the responsibility of the Italian authorities.

An immediate investigation into the above allegations and a report on the result of such investigations is required.

If it transpires that any irregularities have been committed, the Italian Government should arrange for the reinstatement or repair of plants or equipment which have been damaged or wrongfully removed, and assurances should be given by the Italian Government that their responsibilities under Article 12 of the Armistice Terms will be fulfilled and that no further irregularities will be committed in this region.

File - 11
Polad 1130 - 16/XI
365 a TO PRIME MINISTER

Dist:
Ex Com
POLAD A
POLAD B
CC

HQ R.A.A.C.

16 Nov 46

Dear Admiral Stone,

Please find enclosed a VIP ticket for the War Crimes Trial commencing 18 November.

Though marked "Non-transferable" another officer or Allied official may use it provided you put a note with it authorizing it's use.

A few seats are available for other Allied persons and ladies in another place in the court. For this, day tickets are obtainable the day before from DAA/QMG, Major KELLY, phone 66422.

Please be seated a quarter of an hour before trial session is due to commence.

M.R. of Court:- 734672

Times:- 1000hrs and 1400hrs.

Yours, sincerely

H.C. Gowlin

5040

Declassified E.O. 12356 Section 3.3/NND No. 785015

A few seats are available for other Allied persons and ladies in another place in the court. For this, day tickets are obtainable the day before from DAA/QMG, Major KELLY, phone 66422.

Please be seated a quarter of an hour before trial session is due to commence.

M.R. of Court:- 734672

Times:- 1000hrs and 1400hrs.

Yours, sincerely

5940

H.L. Gomlin

To Rear Admiral Ellery W Stone Chief Commissioner.

71

(4)(5)

Declassified E.O. 12356 Section 3.3/NND No. 785015

0015

Declassified E.O. 12356 Section 3.3/NND No. 785015

AG300.5
NPT

SECRET

H/7934
NOV 161515
IMMEDIATE

GHQ CMF
ACTION - RAAC (BE) - INFO - AFHQ HQ ALCOM

NOV 18 1946

SECRET ADMINISTRATIVE CASE.

1. TEXT OF AFHQ CABLE F93175 OF 12. QUOTE FOREIGN OFFICE HAS INFORMED BRIT POLAD THAT WAR OFFICE AND JAG AGGREE ITALIAN REPRESENTATIVE SHALL SIT ON BENCH AS OBSERVER BUT WITHOUT POWER TO VOTE OR SPEAK AND ASK FOR ARRANGEMENTS TO BE MADE ACCORDINGLY. UNQUOTE.

2. REQUEST YOU MAKE PROVISION FOR COL DEL PRATO ITALIAN OFFICIAL OBSERVER AND COL JAMES NOTESTEIN US ARMY OFFICIAL TO SIT ON BENCH UNDER CONDITIONS AS IN ONE. MR STIRLING JUDGE ADVOCATE WILL ADVISE ON DETAILS OF PROCEDURE.

3. ALCOM LETTER SD/166.01-13 DATED 5 NOV AND AFHQ G5 CABLE 066391 OF 7 NOV REFER.

2402/46

A C DIST
INFO ACT: C COMM
INFO: EX COMM
FILE
SKELETON
SECURITY (2)

5049

NOV 16 1946

SECRET

CC Radio Sheet
(8 Nov)

264a

SECRET

SECRET

Copy No 21.

SPECIAL ORDER ARDEATINE CAVES TRIAL

BY

Lieutenant-Colonel S. C. TOMLIN, OBE, MC
Commander British Troops Rome
D/Commander R. A. A. C.

1. INFORMATION 15 NOV 46

It is now possible to issue detailed orders for all preliminary arrangements for the War Crimes Trial commencing ROME 18 NOV 46. The Advance Order dated 24 OCT 46 is still effective, except Von MACKENSEN is accommodated at 56Rest Camp. Appendix 'D'.

2. INTENTION

To publish final preliminary orders.

3. METHOD

I.(a) Locations

Place of Trial:	University of Rome (La Sapienza) MR 754672
HQ R.A.A.C.:	Piazza Venezia MR 741669
56 Rest Camp:	MR 797702
32 Mil Prison:	MR 805606

(b) Accommodation

Grand Hotel:	President. JAGs.
Flora Hotel:	British Officer Members of Court and Officials
56 Rest Camp:	Gen Von MACKENSEN. German defence counsel and witnesses. British OR officials.
32 Mil Prison:	Gen MAELTZER. Witnesses in confinement or close arrest.

(c) Court layout

Shown on plans at Appendices 'A', 'B' and 'C'. The court layout may be amended as the President directs.

Declassified E.O. 12356 Section 3.3/NND No. 785015

2. INTENTION

To publish final preliminary orders.

3. METHOD

I.(a) Locations

Place of Trial:	University of Rome (La Sapienza) MR 734672
HQ R.A.A.C.:	Piazza Venezia MR 741669
56 Rest Camp:	MR 797702
32 Mil Prison:	MR 805606

(b) Accommodation

Grand Hotel:	President. JAGs.
Flora Hotel:	British Officer Members of Court and Officials
56 Rest Camp:	Gen Von MACKENSEN. German defence counsel and witnesses. British CE officials.
32 Mil Prison:	Gen MAELTZER. Witnesses in confinement or close arrest.

(c) Court layout

Shown on plans at Appendices 'A', 'B' and 'C'. The court layout may be amended as the President directs.

(d) Officials

Marshal of the Court:	Colonel L.R.C. WATSON
Gov Mil Prison & OC 56 Rest Camp:	Lt-Col A.C. LONG
APM:	Lt-Col S.H. BOND, MBE, MC
CE:	Capt F.A. KEY
Signals Officer:	Major P.J. HARRISON

II. Responsibilities

(a) The Governor Military Prisons and OC 56 Rest Camp (Lt-Col LONG) is responsible for accommodation and safe custody of all accused (Generals von MACKENSEN and MAELTZER) and witnesses and defence counsel accommodated in his command, except for such periods when they are handed over to the APM, RAAC.

Particular care will be taken to prevent suicide or escape of the two accused officers and witnesses KAPPLER and AMMON.

(b) APM RAAC will be responsible for the safety of the accused and such

....over

(A64)

Declassified E.O. 12356 Section 3.3/NND No. 785015

prisoners and close arrest witnesses while in his care. The APM's task is to take over the accused and witnesses in confinement at the door of the prison or confinement place, convoy them to the court, guard them while they are there and return them to their quarters handing them over at the gate or door of their living quarters at 32 Military Prison or 56 Rest Camp.

For this duty the APM is responsible direct to Commander British Troops Rome. For other matters at the court the APM is responsible to the Marshal of the Court.

The APM will select routes to and from the court.

(c) Marshal of the Court is responsible for all matters at the Court. The chief items being:

(i) Carrying out any wishes of the President of the Court
(ii) The proper admittance of all persons to the Court and buildings
(iii) Parking of vehicles inside the court buildings
(iv) Administrative arrangements, meals, etc, of persons remaining all day at the Court
(v) Maintenance of suitable communications inside by messenger or phone and to outside by phone assisted by Signals Officer
(vi) Establishment and maintenance of an office to be manned during court working hours.

III. Admittance

(a) Admittance will be by ticket or pass and will be controlled under arrangements of the Marshal of the Court at the entrance to the court buildings and at the court entrance. The various classes of entrants are as follows:

i	President, Members and Allied Officials, approx numbers	30
ii	German Counsel and Officials	8
iii	Interpreters and Secretaries	10
iv	Allied VIPs	16
v	Italian VIPs	20
vi	Press - Allied	20
vii	Press - Italian	20
viii	Photographers (Allied	5
	(Italian	5
ix	Allied spectators	14
x	General Public	80

(b) No person will be admitted unless in possession of a pass stamped by HQ RAAC and issued by DAA & QMG.

Permanent Passes will be issued to i, ii, iii and iv.
Special Passes are allotted for vi, vii, viii.
DAA & QMG will allot day passes for ix.

Declassified E.O. 12356 Section 3.3/NND No. 785015

III. Admittance

(a) Admittance will be by ticket or pass and will be controlled under arrangements of the Marshal of the Court at the entrance to the court buildings and at the court entrance. The various classes of entrants are as follows:

i	President, Members and Allied Officials, approx numbers	30
ii	German Counsel and Officials	8
iii	Interpreters and Secretaries	10
iv	Allied VIPs	16
v	Italian VIPs	20
vi	Press - Allied	20
vii	Press - Italian	20
viii	Photographers (Allied	5
	(Italian	5
ix	Allied spectators	14
x	General Public	80

(b) No person will be admitted unless in possession of a pass stamped by HQ RAAC and issued by DAA & QMG.

Permanent Passes will be issued to i, ii, iii and iv.
Special Passes are allotted for vi, vii, viii.
DAA & QMG will allot day passes for ix.
Chief of Italian Questura will submit request for Italian VIPs to HQ RAAC by 1200 hrs for the following day, giving full names, official position and identity card number. A day pass will be issued.
Chief of Italian Questura will allot 80 seats for the general public each day from applications made direct to him. Admission cards for these people will be made out by the Questura showing Name and Identity Card Number of each person. The cards with a nominal roll will be sent to DAA & QMG, RAAC, for stamping by 1200 hrs the day before admittance is required.

(c) Members of the General Public will leave hats, sticks, umbrellas and parcels at a cloak room near the main entrance, and will be searched under arrangements made by the Marshal of the Court as they enter the courtroom. No member of the public who leaves the court will be permitted to return until the next session.

...../3

Declassified E.O. 12356 Section 3.3/NND No. 785015

IV. Times

The time of commencing the trial each day will be regarded as Zero.

Z - 2 hrs — Military Police and Court Attendants to be in position
Z - 2 to Z - ½ — Entry of General Public
Entry of Allied Spectators
Italian VIP
Press
Photographers
All to be in position by Z - ½
Z - ½ to Z - ½ — Arrivals arrival of accused and "prisoner" witnesses
Z - ¼ — All other witnesses report at Main Entrance
Z - ¼ — Allied VIPs to be in Court.

Times for remainder of the day as issued by the Marshal of the Court on the President's instructions.

V. Italian Witnesses

RAAC, Captain FORGIONE, will be responsible for the attendance of Italian prosecution witnesses as follows: Alianello, Frosti, Sparante, and any others which may be given later.

VI. Court Orderlies & General Duties

Det 57 A/T Regt (Capt PILKINGTON) approx 60 all ranks will be at disposal of Marshal of the Court for all general duties, messengers, gate attendance, telephone orderlies, etc. The Marshal will prepare his plan and be ready to rehearse it.

VII. Rehearsal

A rehearsal will be held on Sunday 17 Nov at the court as follows:

1030 hrs — Court staff's briefing in their duties by Marshal, Signals Officer and APM
1100 hrs — All staff in position as for first day
1115 hrs — MP arrive with substitute accused and prisoners.

4. ADMINISTRATION

(a) Transport

Declassified E.O. 12356 Section 3.3/NND No. 785015

prosecution witnesses [illegible]
others which may be given later.

VI. Court Orderlies & General Duties

Det 57 A/T Regt (Capt PILKINGTON) approx 60 all ranks will be at disposal of Marshal of the Court for all general duties, messengers, gate attendance, telephone orderlies, etc. The Marshal will prepare his plan and be ready to rehearse it.

VII. Rehearsal

A rehearsal will be held on Sunday 17 Nov at the court as follows:

1030 hrs Court staff's briefing in their duties by Marshal, Signals Officer and ADC
1100 hrs All staff in position as for first day
1115 hrs MP arrive with substitute accused and prisoners.

4. ADMINISTRATION

(a) Transport

For Senior Court Officials will be allotted by DAA & QMG from HQ RAAC. Phone 66422. He will also arrange a "bus" service to collect minor court officials daily.
OC 56 Rest Camp will arrange transport for all persons quartered in his camp.
ADC is allotted four armoured cars and two closed vans for the conveyance of persons under close arrest and prisoners.

(b) Meals

Will be arranged by OCs. A haversack ration is suggested for those who will be called upon to remain at the Court at mid-day.

5. COMMUNICATIONS

(a) HQ RAAC. Staff Captain Trial. Phone 66244.
(b) HQ DAA & QMG. Phone 66422.
(c) The court building has two dial numbers for its exchange:
478066
478067

Extensions are .....Over

Declassified E.O. 12356 Section 3.3/NND No. 785015

Court room	3
Court Recess room	4
Prosecution Recess Room	5
Marshal of the Court office	6
Press Room	7
Main Entrance	8
Back Entrance	9

6. TIME OF COMMENCEMENT OF TRIAL

The President directs that the trial will commence at 1000 hrs on 18 NOV 46.

S.C. TOMLIN
Lieutenant-Colonel
Commander British Troops Rome
D/Commander R. A. A. C.

15 NOVEMBER 46

DISTRIBUTION

	Copy No
President of Court	1
J.A.G.	2
Members	3 - 7
Colonel FALSE JAG	8
Marshal of the Court	9
CC 56 Rest Camp	10
APM	11
Major LEES	12
Lieut SLEATOR	13
Major FORREST	14
Major READ	15
Colonel James OPPENHEIM	16 (Information)
GHQ C-2 CMF	17 "

Declassified E.O. 12356 Section 3.3/NND No. 785015

S.C. TOMLIN
Lieutenant-Colonel
Commander British Troops Rome
P/Commander R. A. A. C.

15 NOVEMBER 46

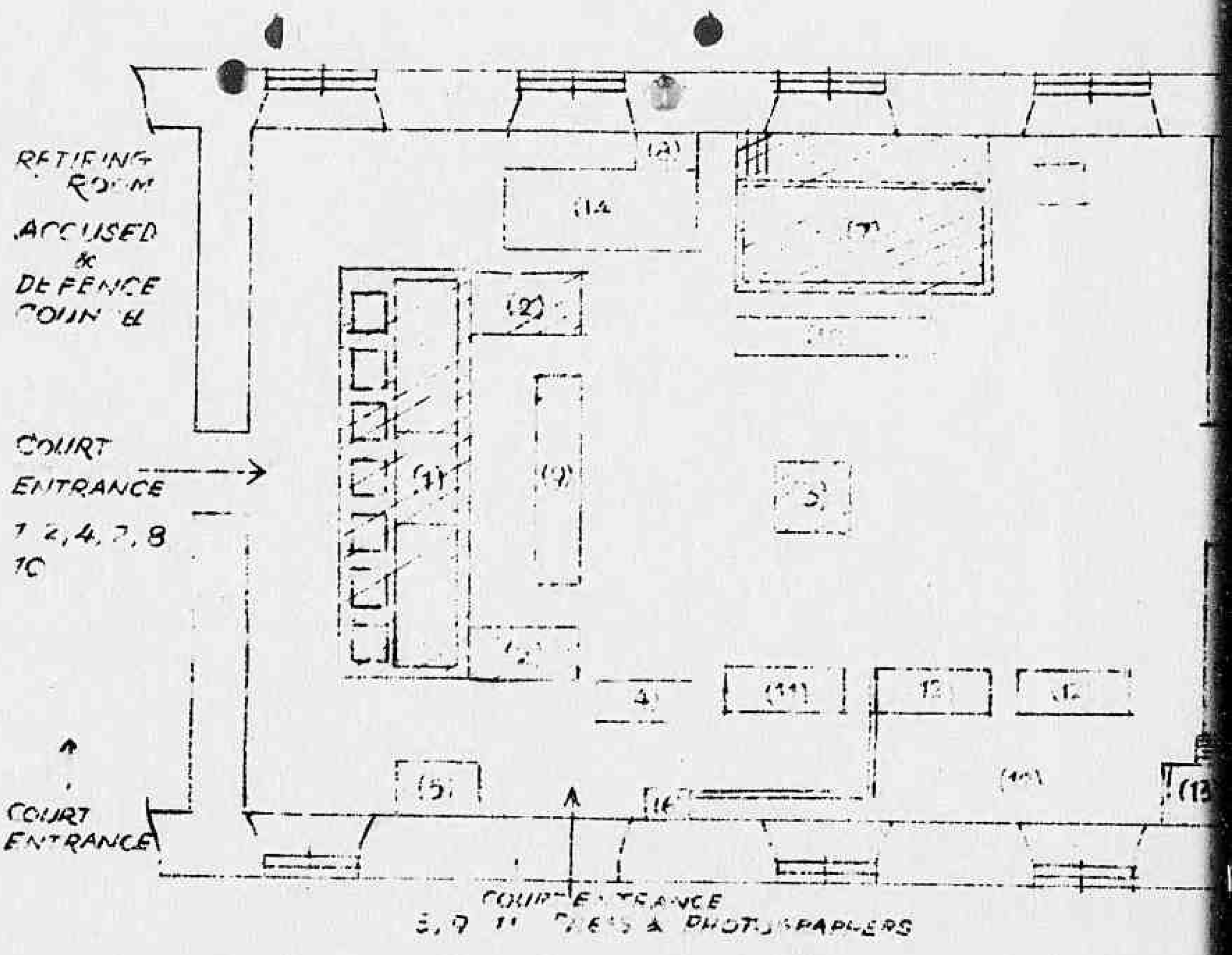
DISTRIBUTION

	Copy No
President of Court	1
J.A.G.	2
Members	3 - 7
Colonel FRISE JAC	8
Marshal of the Court	9
OC 56 Rest Camp	10
AFM	11
Major LEES	12
Lieut SLEATOR	13
Major FORREST	14
Major READ	15
Colonel James OTESTETY	16 (Information)
GHQ G-2 CMF	17 "
GHQ JAG	18 "
AFHQ JAG	19 "
OC 56 A/T Rest Det	20
Chief Commissioner AC	21
Public Security Offr AC	22
Town Major	23
File	24 - 25
Regtl History	26
British Ambassador ROME	27
OC 2 Fd Hospital	28
Spares	29 - 40

Declassified E.O. 12356 Section 3.3/NND No. 785015

0024

Declassified E.O. 12356 Section 3.3/NND No. 785015



PROPOSED WAR CRIMINAL COURT

COURT ROOM

Scale 1/96

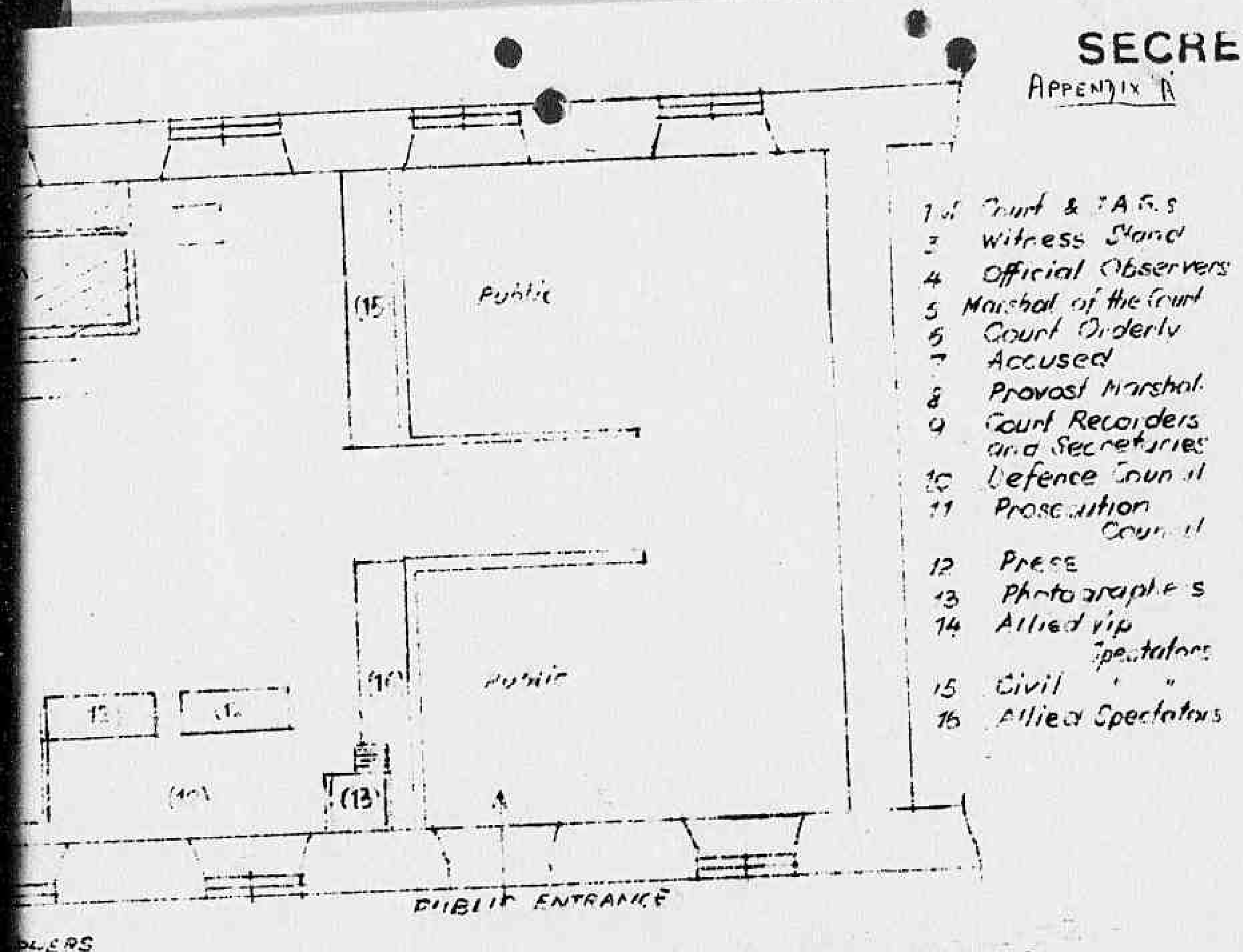
10

SECRET

Declassified E.O. 12356 Section 3.3/NND No. 785015

SECRET

APPENDIX A



SECRET

SECRET

Copy No 21.

SPECIAL ORDER ARDEATINE CAVES TRIAL

BY

Lieutenant-Colonel S. C. TOMLIN, CBE, MC
Commander British Troops Rome
D/Commander R. A. A. C.

1. INFORMATION 15 NOV 46

It is now possible to issue detailed orders for all preliminary arrangements for the War Crimes Trial commencing ROME 18 NOV 46. The Advance Order dated 24 OCT 46 is still effective, except Von MACKENSEN is accommodated at 56Rest Camp. Appendix 'D'.

2. INTENTION

To publish final preliminary orders.

3. METHOD

I.(a) Locations

Place of Trial:	University of Rome (La Sapienza) MR 734672
HQ R.A.A.C.:	Piazza Venezia MR 741669
56 Rest Camp:	MR 797702
32 Mil Prison:	MR 803606

(b) Accommodation

Grand Hotel:	President. JAGs.
Flora Hotel:	British Officer Members of Court and Officials
56 Rest Camp:	Gen Von MACKENSEN. German defence counsel and witnesses. British OR officials.
32 Mil Prison:	Gen MAELTZER. Witnesses in confinement or close arrest.

(c) Court layout

Shown on plans at Appendices 'A', 'B' and 'C'. The court layout

Declassified E.O. 12356 Section 3.3/NND No. 785015

2. INTENTION

To publish final preliminary orders.

3. METHOD

I.(a) Locations

Place of Trial:	University of Rome (La Sapienza) MR 734672
HQ R.A.A.C.:	Piazza Venezia MR 741669
56 Rest Camp:	MR 787702
32 Mil Prison:	MR 803606

(b) Accommodation

Grand Hotel:	President. JAGs.
Flora Hotel:	British Officer Members of Court and Officials
56 Rest Camp:	Gen Von MACKENSEN. German defence counsel and witnesses. British OR officials.
32 Mil Prison:	Gen MAELTZER. Witnesses in confinement or close arrest.

(c) Court layout

Shown on plans at Appendices 'A', 'B' and 'C'. The court layout may be amended as the President directs.

(d) Officials

Marshal of the Court:	Colonel L.R.C. WATSON
Gov Mil Prison & OC 56 Rest Camp:	Lt-Col A.C. LONG
APM:	Lt-Col S.H. BOND, MBE, MC
CE:	Capt F.A. KEY
Signals Officer:	Major P.J. HARRISON

II. Responsibilities

(a) The Governor Military Prisons and OC 56 Rest Camp (Lt-Col LONG) is responsible for accommodation and safe custody of all accused (Generals von MACKENSEN and MAELTZER) and witnesses and defence counsel accommodated in his command, except for such periods when they are handed over to the APM, RAAC.

Particular care will be taken to prevent suicide or escape of the two accused officers and witnesses KAPPLER and AMMON.

(b) APM RAAC will be responsible for the safety of the accused and such

....over

(B64)

Declassified E.O. 12356 Section 3.3/NND No. 785015

prisoners and close arrest witnesses while in his care. The APM's task is to take over the accused and witnesses in confinement at the door of the prison or confinement place, convey them to the court, guard them while they are there and return them to their quarters handing them over at the gate or door of their living quarters at 32 Military Prison or 56 Rest Camp.

For this duty the APM is responsible direct to Commander British Troops Rome. For other matters at the court the APM is responsible to the Marshal of the Court.

The APM will select routes to and from the court.

(c) Marshal of the Court is responsible for all matters at the Court. The chief items being:

(i) Carrying out any wishes of the President of the Court
(ii) The proper admittance of all persons to the Court and buildings
(iii) Parking of vehicles inside the court buildings
(iv) Administrative arrangements, meals, etc, of persons remaining all day at the Court
(v) Maintenance of suitable communications inside by messenger or phone and to outside by phone assisted by Signals Officer
(vi) Establishment and maintenance of an office to be manned during court working hours.

III. Admittance

(a) Admittance will be by ticket or pass and will be controlled under arrangements of the Marshal of the Court at the entrance to the court buildings and at the court entrance. The various classes of entrants are as follows:

i	President, Members and Allied Officials, approx numbers	30
ii	German Counsel and Officials	8
iii	Interpreters and Secretaries	10
iv	Allied VIPs	16
v	Italian VIPs	20
vi	Press - Allied	20
vii	Press - Italian	20
viii	Photographers (Allied	5
	(Italian	5
ix	Allied spectators	14
x	General Public	80

(b) No person will be admitted unless in possession of a pass stamped by

Declassified E.O. 12356 Section 3.3/NND No. 785015

III. Admittance

(a) Admittance will be by ticket or pass and will be controlled under arrangements of the Marshal of the Court at the entrance to the court buildings and at the court entrance. The various classes of entrants are as follows:

i	President, Members and Allied Officials, approx numbers	30
ii	German Counsel and Officials	8
iii	Interpreters and Secretaries	10
iv	Allied VIPs	16
v	Italian VIPs	20
vi	Press - Allied	20
vii	Press - Italian	20
viii	Photographers' (Allied	5
	(Italian	5
ix	Allied spectators	14
x	General Public	80

(b) No person will be admitted unless in possession of a pass stamped by HQ RAAC and issued by DAA & QMG.

Permanent Passes will be issued to i, ii, iii and iv.
Special Passes are allotted for vi, vii, viii.
DAA & QMG will allot day passes for ix.
Chief of Italian Questure will submit request for Italian VIPs to HQ RAAC by 1200 hrs for the following day, giving full names, official position and identity card number. A day pass will be issued.
Chief of Italian Questura will allot 80 seats for the general public each day from applications made direct to him. Admission cards for these people will be made out by the Questura showing Name and Identity Card Number of each person. The cards with a nominal roll will be sent to DAA & QMG, RAAC, for stamping by 1200 hrs the day before admittance is required.

(c) Members of the General Public will leave hats, sticks, umbrellas and parcels at a cloak room near the main entrance, and will be searched under arrangements made by the Marshal of the Court as they enter the courtroom. No member of the public who leaves the court will be permitted to return until the next session.

...../3

0 0 2 0
Declassified E.O. 12356 Section 3.3/NND No. 785015

IV. Times

The time of commencing the trial each day will be regarded as Zero.

Z - 2 hrs — Military Police and Court Attendants to be in position
Z - 2 to Z-1½ — Entry of General Public
Entry of Allied Spectators
Italian VIP
Press
Photographers
All to be in position by Z - ½
Z - ½ to Z - ½ — Approx arrival of accused and "prisoner" witnesses
Z - ½ — All other witnesses report at Main Entrance
Z - ½ — Allied VIPs to be in Court.

Times for remainder of the day as issued by the Marshal of the Court on the President's instructions.

V. Italian Witnesses

RAAC, Captain FORGIONE, will be responsible for the attendance of Italian prosecution witnesses as follows: Alianello, Frosti, Sparante, and any others which may be given later.

VI. Court Orderlies & General Duties

Det 57 A/T Regt (Capt PILKINGTON) approx 60 all ranks will be at disposal of Marshal of the Court for all general duties, messengers, gate attendance, telephone orderlies, etc. The Marshal will prepare his plan and be ready to rehearse it.

VII. Rehearsal

A rehearsal will be held on Sunday 17 Nov at the court as follows:

1030 hrs — Court staff's briefing in their duties by Marshal, Signals Officer and ADM
1100 hrs — All staff in position as for first day
1115 hrs — MP arrive with substitute accused and prisoners.

4. ADMINISTRATION

(a) Transport

For Senior Court Officials will be allotted by DAA & QMG from HQ RAAC.

Declassified E.O. 12356 Section 3.3/NND No. 785015

RAAC, Captain FORGIONE, will be responsible for the attendance of Italian prosecution witnesses as follows: Alianello, Frosti, Spamanto, and any others which may be given later.

VI. Court Orderlies & General Duties

Det 57 A/T Regt (Capt PILKINGTON) approx 60 all ranks will be at disposal of Marshal of the Court for all general duties, messengers, gate attendance, telephone orderlies, etc. The Marshal will prepare his plan and be ready to rehearse it.

VII. Rehearsal

A rehearsal will be held on Sunday 17 Nov at the court as follows:

1030 hrs Court staff's briefing in their duties by Marshal, Signals Officer and ADC

1100 hrs All staff in position as for first day

1115 hrs MP arrive with substitute accused and prisoners.

4. ADMINISTRATION

(a) Transport

For Senior Court Officials will be allotted by DAA & QMG from HQ RAAC. Phone 66422. He will also arrange a "bus" service to collect minor court officials daily.

OC 56 Rest Camp will arrange transport for all persons quartered in his camp.

ADC is allotted four armoured cars and two closed vans for the conveyance of persons under close arrest and prisoners.

(b) Meals

Will be arranged by OCs. A haversack ration is suggested for those who will be called upon to remain at the Court at mid-day.

5. COMMUNICATIONS

(a) HQ RAAC. Staff Captain Trial. Phone 66244.
(b) HQ DAA & QMG. Phone 66422.
(c) The court building has two dial members for its exchange:
478066
478067

Extensions are .....Over

Declassified E.O. 12356 Section 3.3/NND No. 785015

Court room	3
Court Recess room	4
Prosecution Recess Room	5
Marshal of the Court office	6
Press Room	7
Main Entrance	8
Back Entrance	9

6. TIME OF COMMENCEMENT OF TRIAL

The President directs that the trial will commence at 1000 hrs on 18 NOV 46.

S.C. TOMLIN
Lieutenant-Colonel
Commander British Troops Rome
D/Commander R. A. A. C.

15 NOVEMBER 46

DISTRIBUTION

	Copy No
President of Court	1
J.A.G.	2
Members	3 - 7
Colonel HAISE JAG	8
Marshal of the Court	9
CC 56 Rest Camp	10
AFN	11
Major IFES	12
Lieut SLEATOR	13
Major FORREST	14
Major READ	15
Colonel James CHESVEIN	16 (Information)
GHQ G-2 CMF	17 "
GHQ JAG	18 "

Declassified E.O. 12356 Section 3.3/NND No. 785015

S.C. TOMLIN
Lieutenant-Colonel
Commander British Troops Rome
D/Commander R. A. A. C.

15 NOVEMBER 45

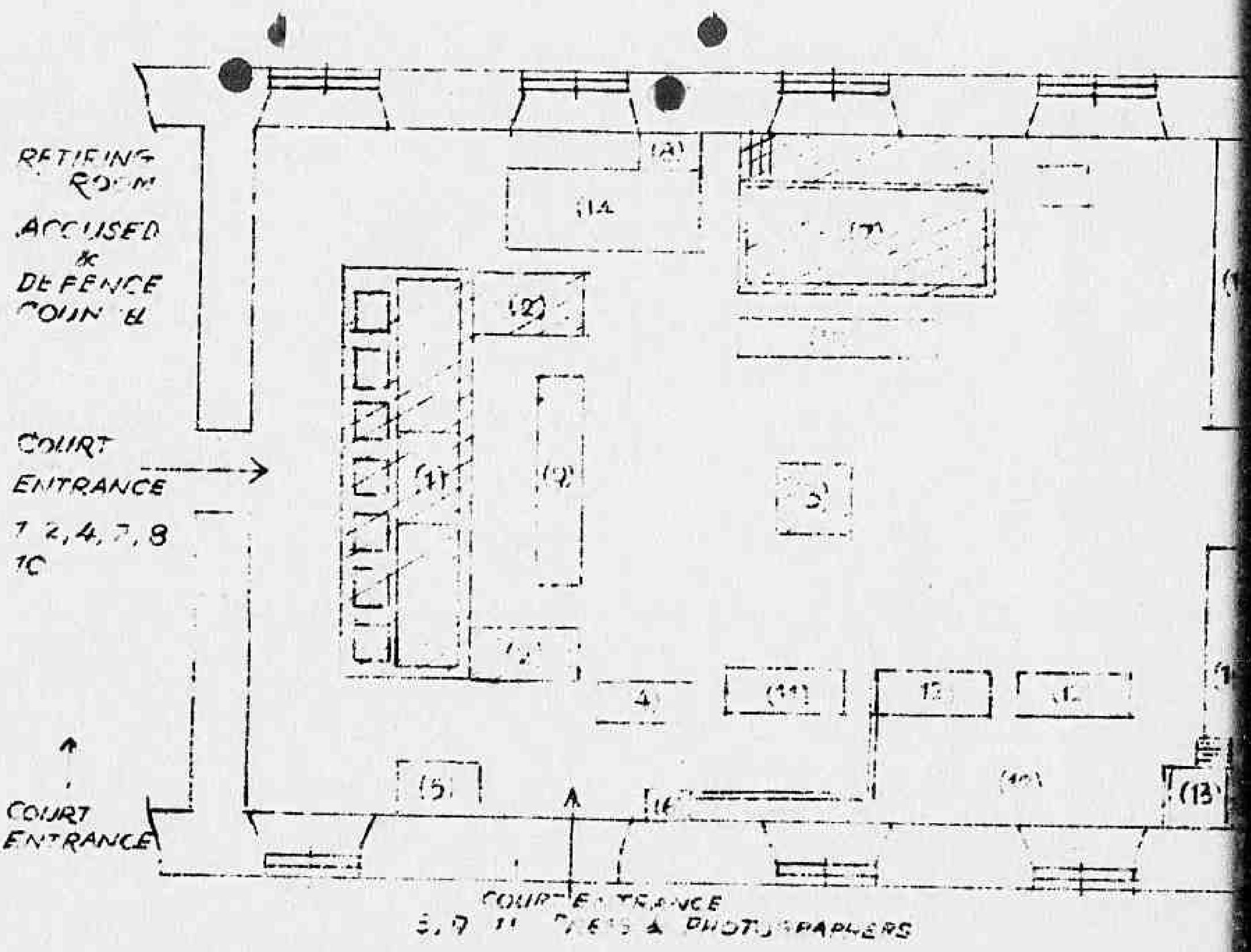
DISTRIBUTION

	Copy No
President of Court	1
J.A.G.	2
Members	3 - 7
Colonel HAISE JAG	8
Marshal of the Court	9
OC 56 Rest Camp	10
APM	11
Major LEES	12
Lieut SLEATOR	13
Major FORREST	14
Major READ	15
Colonel James OTESTETT	16 (Information)
CMR G-2 CMF	17 "
CMQ JAG	18 "
AFHQ JAG	19 "
OC 56 A/T Rest Det	20
Chief Commissioner AC	21
Public Security Offr AC	22
Town Major	23
File	24 - 25
Regtl History	26
British Ambassador ROME	27
OC 2 Fd Hospital	28
Spares	29 - 40

Declassified E.O. 12356 Section 3.3/NND No. 785015

0034

Declassified E.O. 12356 Section 3.3/NND No. 785015



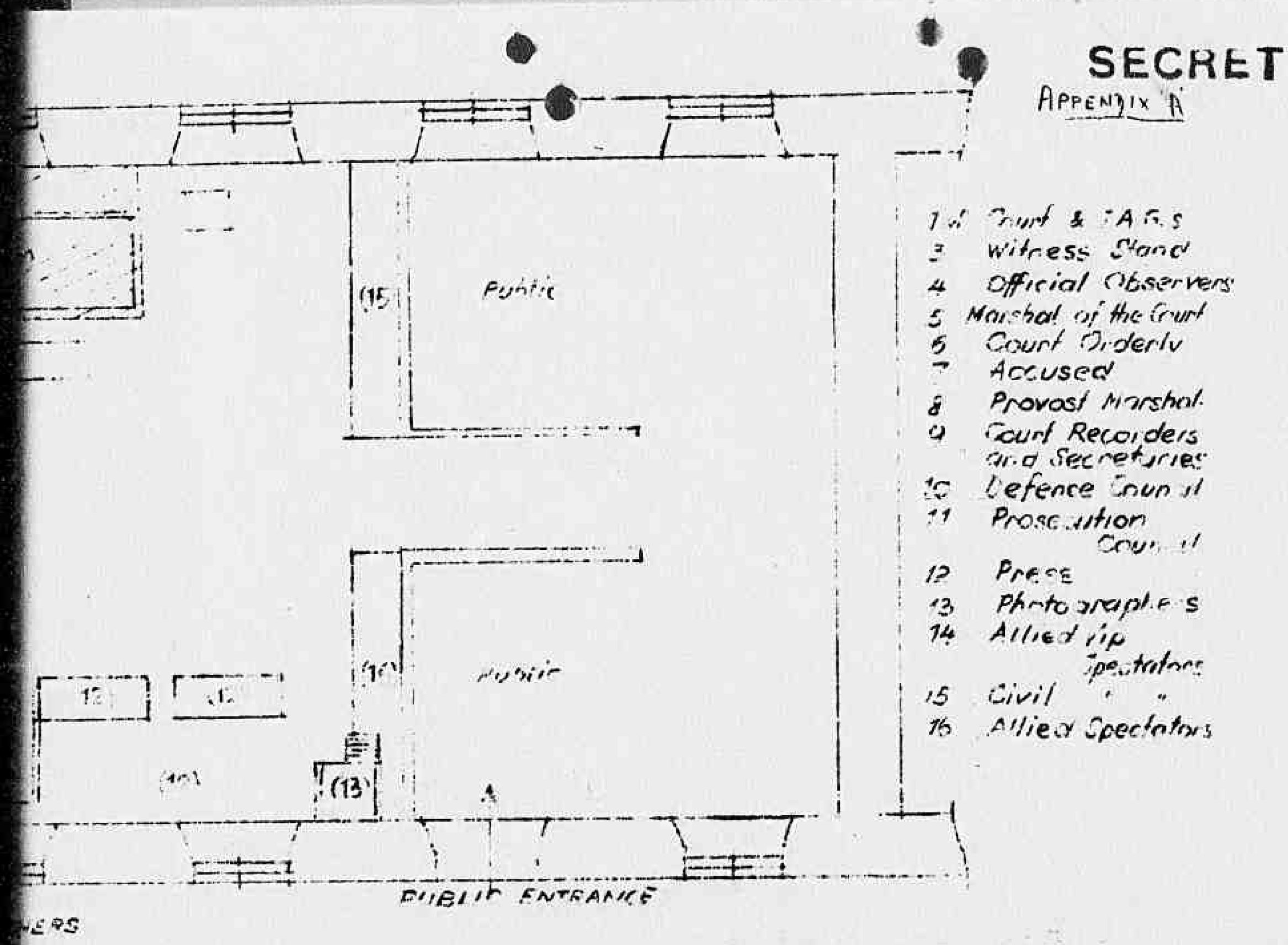
SECRET

0035

Declassified E.O. 12356 Section 3.3/NND No. 785015

SECRET

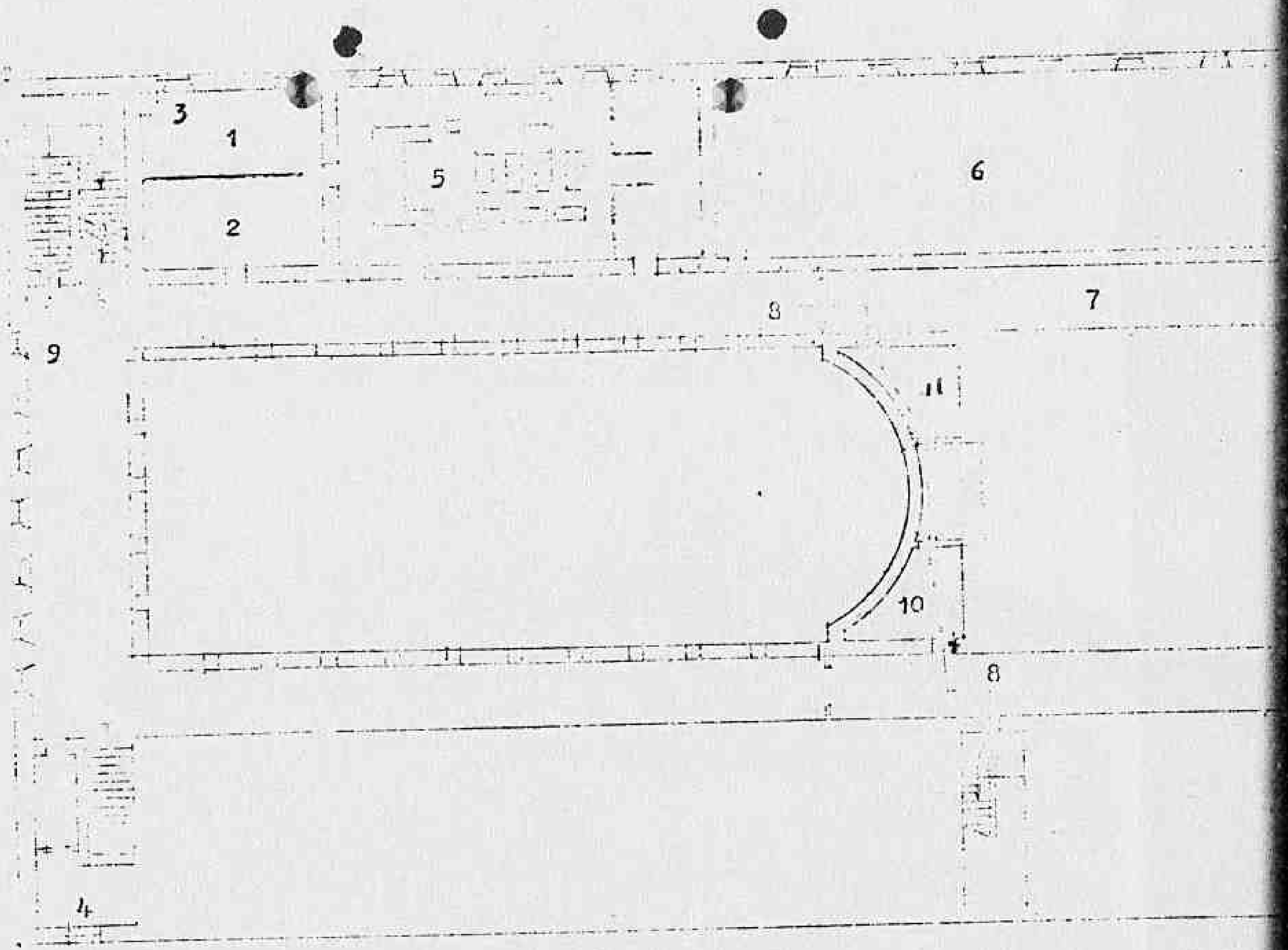
APPENDIX 'A'



1 Court & TAGS
3 Witness Stand
4 Official Observers
5 Marshal of the Court
6 Court Orderly
7 Accused
8 Provost Marshal
9 Court Recorders and Secretaries
10 Defence Council
11 Prosecution Council
12 Press
13 Photographers
14 Allied VIP Spectators
15 Civil " "
16 Allied Spectators

0036

Declassified E.O. 12356 Section 3.3/NND No. 785015



PROPOSED WAR CRIMINALS COURT

FIRST FLOOR PLAN

15 1050 25

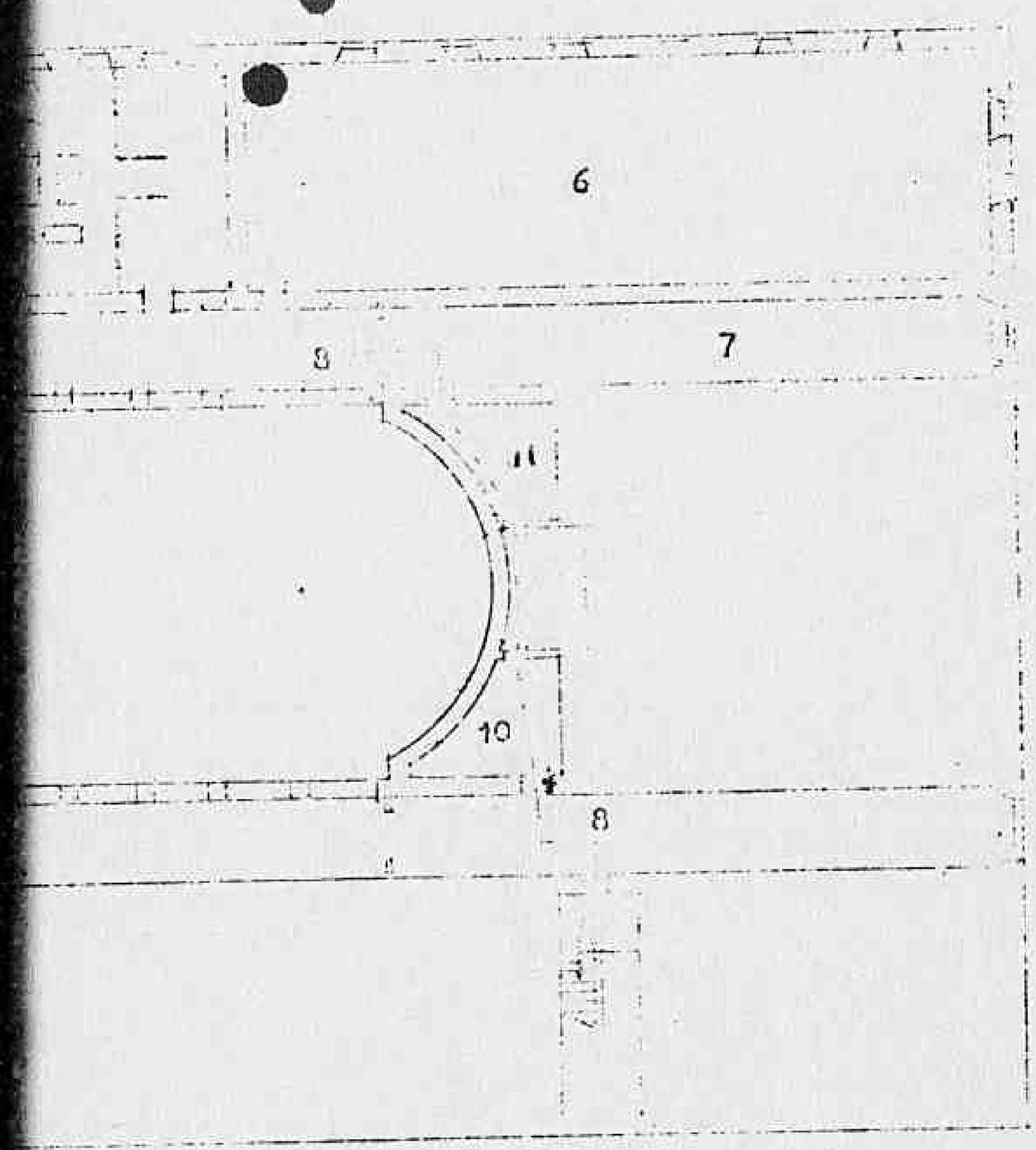
SECRET

0037

Declassified E.O. 12356 Section 3.3/NND No. 785015

SECRET

APPX 'B'

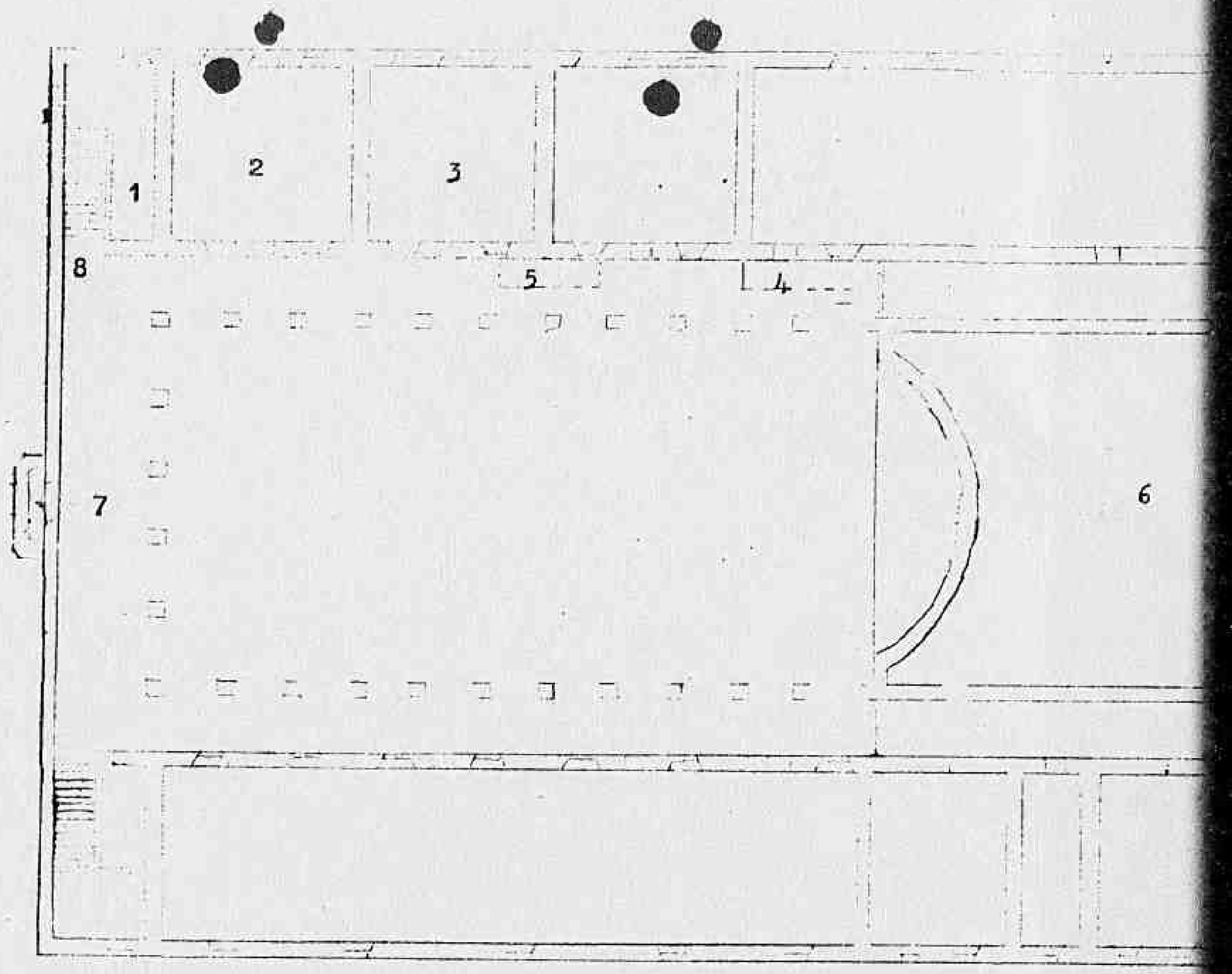


(1) Accused
(2) Defence Counsel
(3) Accused Latrine
(4) ~~Spare Room~~ PRESS ROOM
(5) Court Room
(6) Court Recess
(7) Prosecution Recess
(8) Way to Ladies Toilet (br)
(9) Way to Public Latrines (British)
(10) Br. Witnesses or Waiting Rm.
(11) OFFICE - MARSHAL OF COURT

15 10 5 0 25 50 75 100

0038

Declassified E.O. 12356 Section 3.3/NND No. 785015



15 0 25 50 100

Scale of Feet

SECRET

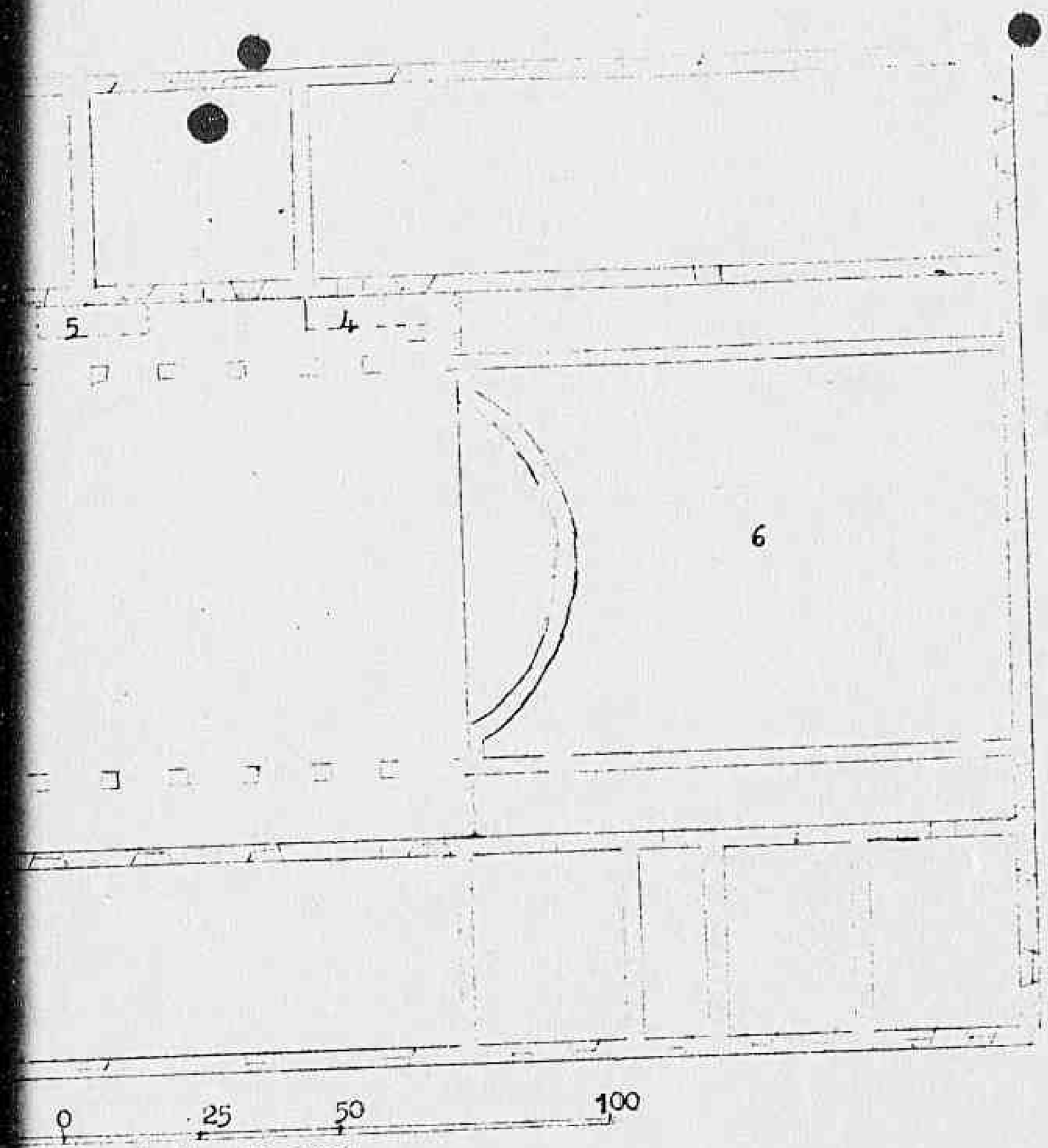
PROCESS FOR CERTAIN CODES

00391

Declassified E.O. 12356 Section 3.3/NND No. 785015

Appx. VIC

SECRET



1 German Lots
2 German Witness
3 Italian Witness
4 Italian Male Lots
5 Italian Female Lots
6 Church
7 Main Entrance
8 Staircase to Court Room
9 Accused Entrance

SECRET

SECRET

ADVANCE ORDER, ARRESTING CAV[illegible] TRIAL

APPENDIX "D"

by

Lieutenant-Colonel TOLLEY OBE MC
Commanding British Troops ROME

24 Oct 46

1. INFORMATION The trial of Colonel-General Von Mackensen and Lieutenant-General Maeltzer for war crimes will take place in ROME commencing 18 Nov 46.

Commander British Troops ROME is responsible for all administrative matters concerning the trial and for the safety and proper keeping of the members of the court, witnesses and accused.

2. INTENTION To take all administrative and precautionary measures in accordance with instructions and information received to date.

3. METHOD

(a) Place of Trial The trial will take place in the Old University of ROME (La Sapienza) M.P. 734672.

(b) Accomodation - Prison The accused will be accommodated in a wing of the barracks lately occupied by 32 Military Prison M.P. 803606. O.C. 56 Rest Camp (Lt-Col LONG), in his capacity as Governor Military Prison, will be responsible for the safekeeping of the accused and will take and hand them over at the prison door.

Witnesses who are serving sentence or are otherwise in confinement will be accomodated suitably in 32 Military Prison and similarly handed and taken over.

Governor Military Prison will ensure that the arrangements he makes will afford to the accused all proper measures to assist them to prepare their defence.

External guarding of the prison will be the duty of the Governor Military Prison.

(c) Security APM (Lt-Col BOND) will be responsible for a [illegible] from the prison door outwards, less the guar[illegible]

0 0 4 0 1

Declassified E.O. 12356 Section 3.3/NND No. 785015

(a) Place of Trial The trial will take place in the Old University of ROME (La Sapienza) M.R. 734672.

(b) Accomodation - Prison The accused will be accommodated in a wing of the barracks lately occupied by 32 Military Prison M.R. 803606. O.C. 56 Rest Camp (Lt-Col LONG), in his capacity as Governor Military Prison, will be responsible for the safekeeping of the accused and will take and hand them over at the prison door.

Witnesses who are serving sentence or are otherwise in confinement will be accommodated suitably in 32 Military Prison and similarly handed and taken over.

Governor Military Prison will ensure that the arrangements he makes will afford to the accused all proper measures to assist them to prepare their defence.

External guarding of the prison will be the duty of the Governor Military Prison.

(c) Security AFM (Lt-Col BOND) will be responsible for security from the prison door outwards, less the guard of the prison itself. This includes the conveying of the accused and prisoner witnesses to and from the court and their safekeeping at all times until handed over to the Governor Military Prison.

In addition to his own resources the AFM will be allotted two plns, two covered vans from 56 Rest Camp and expected armoured cars from 3 District.

AFM will decide upon any RE work needed for security and inform GS

(d) Health of Accused O.C. No 2 Field Hospital will be responsible for the health of the accused and witnesses while they are in ROME.

He will take special measures for the safety of the accused and in conjunction with AFM will carry out all precautions necessary, particularly against attempted suicide.

...../. He will arrange

Declassified E.O. 12356 Section 3.3/NND No. 785015

0042

Declassified E.O. 12356 Section 3.3/NND No. 785015

REF : [illegible]

14 November 1945

My dear Doctor Pirano,

1350

I refer to my letter of even number dated 1 October 1945 regarding the subject of allowing Italian legal trato to sit on the tribunal for the trial of German officers in connection with the Ardeatine Caves case.

I have now been instructed by Allied Forces Headquarters to inform you that the trial in question is being held under the terms of the British Regulations for the trial of War Criminals and nothing therein empowers the Commander in Chief, Central Mediterranean Forces to appoint an Italian Magistrate as a member of a British Military Court. It is therefore regretted that it is not possible to comply with your proposal.

Arrangements have been made for a representative of the Italian Government, in the person of Colonel [illegible], Legal Department of the Ministry of War, to attend the trial as an observer.

Yours very truly,

/s/ Ellery W. Stone

ELLERY W. STONE,
Rear Admiral, U.S.N.
Chief Commissioner.

Doctor Renato Prano,
Ministry of Foreign Affairs,
Italian Government,
ROME.

5022

(h/23)

0043

Declassified E.O. 12356 Section 3.3/NND No. 785015

CC.

13 November, 1946.

Dear Sir:

With reference to your letter No. 7337 /46 of 7th November, 1946, I am taking the matter up immediately with Allied Force Headquarters and will inform you of the result of my letter as soon as a reply is received.

Very sincerely,

ELLERY W. STONE+
Rear Admiral, USNR
Chief Commissioner

Hon. Jan PAULINY-TOTH,
Minister of Czechoslovakia,
Czechoslovakian Legation,
Rome.

22/2092

KQ21

3620

0044

Declassified E.O. 12356 Section 3.3/NND No. 785015

CC

Ref: 6536/G

13 November, 1946.

FROM : Allied Commission
Allied Mar Council.

TO : Allied Force Headquarters
Attention : G-5 Section.

1. Reference is made to this Headquarters signal No. 5248 of 8th November 1946.

2. There is forwarded to you, a copy of a letter dated 7th November 1946 with enclosure, addressed to me by the Czechoslovakian Minister. It will be noted that the enclosure, while dated 19th September, does not refer to any war Criminals List of that date as stated by the Italian Government and reported in our above mentioned signal.

3. The letter of last June referred to in the enclosed letter was the Czechoslovakian Minister and relevant correspondence dealt with the matter of arrest and extradition of [redacted] who was then not classed as a United Nations War Criminal.

The result of that correspondence was that the Minister of Czechoslovakia was informed by me on 27th June 1946 that the Allied Authorities had no grounds for taking any further action other than had reported to him in a previous letter to the effect that I had sent a memorandum to the Italian Ministry of Foreign Affairs, stating in response to the Ministry's two questions as to the status of [redacted] that (a) his sojourn in Italy was not authorised by the Allied Commission and (b) that he was not to be considered as under the protection of the Allied Authorities.

In the same memorandum, however, I made it clear to the Italian Government, who had also informed me of the request of the Czechoslovakian Minister for the arrest and extradition of [redacted], that the case appeared to be covered by the Italian normal extradition procedure and pertinent extradition treaties with Czechoslovakia.

The above course of action was based on the opinion of my American and British Political Advisors.

4. May this Commission please be instructed as to the action to be taken in this matter in view of the enclosed communication from the Czechoslovakian Minister.

5930

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USN
Chief Commissioner

CC FILE COPY
PLEASE RETURN
(962)

CC

1946

Ref: 6536/10

13 November, 1946.

SUBJECT : [illegible]
Alleged War Criminal.

TO : ALLIED FORCE HEADQUARTERS
Attention : G-5 Section.

1. Reference is made to this Headquarters signal No. 5446 of 8th November 1946.

2. There is forwarded to you, a copy of a letter dated 7th November 1946 with enclosure, addressed to me by the Czechoslovakian Minister. It will be noted that the enclosure, while dated 19th September, does not refer to any War Criminals List of that date as stated by the Italian Government and reported in our above mentioned signal.

The letter of May 16th 3112 referred to in the enclosed letter from the Czechoslovakian Minister and relevant correspondence dealt with the matter of arrest and extradition of DURCANSKY who was then not claimed to be a United Nations War Criminal.

The result of that correspondence was that the Minister of Czechoslovakia was informed by me on 17th June 1946 6911 that the Allied Authorities had no grounds for taking any further action other than that reported to him in a previous letter to the effect that I had sent a memorandum to the Italian Ministry of Foreign Affairs, stating in response to the Ministry's two questions as to the status of DURCANSKY that (1) his sojourn in Italy was not authorised by the Allied Commission and (2) that he was not to be considered as under the protection of the Allied Authorities.

In the same memorandum, however, I made it clear to the Italian Government, who had also informed me of the request of the Czechoslovakian Minister for the arrest and extradition of DURCANSKY, that the case appeared to be covered by the Italian normal extradition

2600/2/CC

Declassified E.O. 12356 Section 3.3/NND No. 785015

The letter of May 15th referred to in the enclosed letter from the Czechoslovakian Minister and relevant correspondence dealt with the matter of arrest and extradition of DURCANSKY who was then not claimed to be a United Nations War Criminal.

The result of that correspondence was that the Minister of Czechoslovakia was informed by me on 17th June 1946 that the Allied Authorities had no grounds for taking any further action other than that reported to him in a previous letter to the effect that I had sent a memorandum to the Italian Ministry of Foreign Affairs, stating in response to the Ministry's two questions as to the status of DURCANSKY that (1) his sojourn in Italy was not authorised by the Allied Commission and (2) that he was not to be considered as under the protection of the Allied Authorities.

In the same memorandum, however, I made it clear to the Italian Government, who had also informed me of the request of the Czechoslovakian Minister for the arrest and extradition of DURCANSKY, that the case appeared to be covered by the Italian normal extradition procedure and pertinent extradition treaties with Czechoslovakia.

The above course of action was based on the opinion of my American and British Political Advisers.

3. May this Commission please be instructed as to the action to be taken on this matter in view of the enclosed communication from the Czechoslovakian Minister.

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

CC FILE COPY
PLEASE RETURN
(362)

2600/11

2830

Declassified E.O. 12356 Section 3.3/NND No. 785015

0047

Declassified E.O. 12356 Section 3.3/NND No. 785015

S/C

CONFIDENTIAL

AG 517
NOV.131035

H/7859
NOV.141700
ROUTINE IMPORTANT

HQ 217 AREA
HQ ALCOM ROME (FOR G1 BR) MILAN OFFICE CEM BRANCH ALCOM 5 TRANSIT CAMP BO DET 95 SEC SIB APM 217 AREA

CONFIDENTIAL.
Subject is ~~e~~trial FGCM T/Capt Er Fatweather (143544 Loyals late AC Bolzano on 20 November 46.
Request you arrange attendance following witness by 0900 hrs 20 th Nov at HQ 217 Area Bologna. Col SW Miller Mc Ra late AC Bolzano Major Howorth Re Milan Office Cem Branch Alcom 14528522 Corporal cosement as Ras (S)C T/14609432 ~~Corporal~~ Driver Breeze A Ras(S)C both attached RT(T) transit camp 14778854 Corporal Jones P Bo Det 95 Sec SIB Carlo Crespi lately Emp by Bolzano AC Ascanio Palchetti via Argentieri 18 Bolzano Giuseppe Bacche Corso Libertà 50 Bolzano Demar Ortwin Ford Garage Bolzano Margarete Harrasser Villa Steger 46 Rio de Pusteria Bolzano.
Officersi will be given Accn Baglioni Hotel Bologna or and Civs 5 Transit Camp.
Please confirm witness available.

AC DIST

ACTION E.O (B)
INFO CHIEF COMMISSIONER
EX COMM
FILE
SKELETON

CONFIDENTIAL

(B.G.)

NOV 14 1946

0048

Declassified E.O. 12356 Section 3.3/NND No. 785015

AG 3/622
NOV.121845A

H/7831
NOV.131515
ROUTINE

GHQ CMF
HQ RAAC (BE) INFO: ACSEC HQ ALCOM

UNCLASSIFIED.
Subject Ardeatine Case.
Request you action on ACSEC HQ Alcom Coble 5458 of 9 Nov referring to defence witness Moussa (Matta).

AC DIST

INFO ACTION SECURITY 2
INFO CHIEF COMMISSIONER
EX COMM
FLOAT
FILE

27/2692

5078

BLO

0049

Declassified E.O. 12356 Section 3.3/NND No. 785015

CC 2602

12 November 1946

My dear Dr. Cappa:

354

Reference your letter 85275/47183/4.1 concerning the removal of furniture from the Royal Palace at Caserta, Allied Force Headquarters has advised me that the complaints contained in your letter are being investigated and that a reply will be forwarded in due course.

Sincerely yours,

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Dr. Paolo Cappa,
Undersecretary of State to the
Presidency of the Council of Ministers,
Italian Government,
Rome.

5097

(354)

0050

Declassified E.O. 12356 Section 3.3/NND No. 785015

AG3/00293
NOV 071544

H/7749
NOV 091630

IMPORTANT

GHQ CMF
TROOPERS ,INFO: EXFOR USFET CONCOMB BERCOMB HQ RAAC (BE) DJAG GHQ CMF

FOR G-2

CONFIDENTIAL

CONFIDENTIAL:

Subject war crimes Ardeatine case.

Following defence witness required.

1. Mil Werw Oberrat. Warle Bei Schaeningen. Brusswick ~~[illegible]~~ believed working Br Mil Govt Office.

2. First Lieut Fu Eberhard . Home address Sevbelsdorf Bei Kronach believed working with unit in France.

3. Baron Von Weizz former German Ambassador in Italy believed living in Aeshach Bavaria.

4. Field Marshal Kesserling believed now at Defe 20 Allendorf.

5. Lieut Gen Wilhelm Harster possibly London district cage.

6. Maj Gen Hauser . Trial due 18 November. Request every effort be made to trace and return to Rome by fastest means request this HQ advised ETA as applicable.

NOTE: This message received corrupt. Please advise us if any ~~check~~ Gs required.

AC DIST

NOV 9 - 1946

INFO ACTION - SECURITY DIV 2

INFO - CHIEF COMMISSIONER

EX COMR

DEP. PTIE SECRETARIAT

CONFIDENTIAL

0051

Declassified E.O. 12356 Section 3.3/NND No. 785015

AG3/00702

H/7827

NOV 141000

IMMEDIATE

GHQ CMF

HQ RAAC (BE) INFO ACSEC HQ ALCOM DJAG GHQ

UNCLASSIFIED

Ardeatine case. Following additional prosecution witnesses required in person at trial.

1. Gen Giuseppe Garibaldi. 300 Via Salarna. Rome.

2. Eleanora Lavagnino. Via Cosserta 5. Rome. Please ensure attendance. Late notice regretted.

AC DIST

INFO ACTION : SECURITY DIV

INFO : CHIEF COMMISSIONER

EX COMMISSIONER

FLOAT

FILE

NOV 14 1946

0052

Declassified E.O. 12356 Section 3.3/NND No. 785015

CONFIDENTIAL

AG3/00226

NOV

H/7691

NOV 071430

ROUTINE

GHQ CMF
HQ ALCOM ,INFO: HQ RAAC (BS)

CONFIDENTIAL:

Subject war crimes Ardeatine caves case.

Following defence witness Eccellenza MAUSSA (Former Italian Governor of Rome) urgently required request you attempt to traca and arrange attendance at trial.

Please inform this HQ of action taken.

AC DIST

ACTION - SECURITY 2

INFO - CHIEF COMMISSIONER

LEGAL

FILE

SKELETON

EX. COMM.

5094

NOV 7 - 1946

CONFIDENTIAL

0053

Declassified E.O. 12356 Section 3.3/NND No. 785015

3311 C. Comm

NOV 12 1946

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 926.11 R

7 November 1946

SUBJECT: Removal of furniture from the Royal Palace CASERTA.

TO : Chief Commissioner,
Allied Commission,
APO 794.

354

1. Receipt is acknowledged of your letter dated 1 November enclosing translation of a letter from the Under-secretary of State to the Presidency of the Council of Ministers, on the above subject.

2. The complaints contained in the letter are being investigated and a reply will be forwarded to you in due course.

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

for A. L. HAMBLEN
Colonel, G.S.C.
Assistant Chief of Staff, G-5.

5093

354

0054

Declassified E.O. 12356 Section 3.3/NND No. 785015

COPY

HEADQUARTERS ATOOM 8th November 1946

ATHQ for G-5

5448 SECRET

PARA ONE PD

ITALIAN MINISTRY FOREIGN AFFAIRS REPORT THAT CZECH LEGATION ARE REQUESTING HANDOVER OF FERDINAND DURCANSKY AS LISTED WAR CRIMINAL ON GROUNDS THAT HE IS IN UNITED NATIONS WAR CRIMES COMMISSION LIST QUOTE A UNQUOTE OF ONE NINE SEPTEMBER ONE NINE FOUR SIX PD

PARA TWO PD

THIS COMMISSION IS IN POSSESSION OF LIST FOUR TWO OF SEPTEMBER ONE NINE FOUR SIX BUT NOT OF ANY LIST QUOTE A UNQUOTE OF ONE NINE SEPTEMBER ONE NINE FOUR SIX PD THERE IS NO RECORD OF INCLUSION OF ABOVE NAMED IN ANY LIST IN POSSESSION OF THIS COMMISSION PD REQUEST INFORMATION AS TO WHETHER ABOVE NAMED IS A LISTED WAR CRIMINAL

27/6/72

F0022

PRIORITY

EXECUTIVE COMMISSIONER

JOHN R. HAYES
MAJOR AGD
ADJT

35-76

0055

Declassified E.O. 12356 Section 3.3/NND No. 785015

Ref: ES/11.01

5 November 1946

Dear Ing. Cagnazzo:

Your letter dated 8 October 1946 refers.

It is the opinion of the Legal Advisors that the vehicles you received from the British G. H. Q., C. M. F., should not be subject to any tax or duty whatever by the Italian Government.

A draft decree was enacted on 21 September 1945 and published as DLL No. 712 in the Gazzetta Ufficiale No. 139 dated 20 November 1945. Under Article (1) of this decree all goods and material of whatever source destined for the use of the Armed Forces of the United Nations in Italy are exempt from customs duties.

The vehicles in question came into Italy as army supplies free of all taxes and duties. Your documents indicate that the British War Office wished to satisfy a debt for the valuable services rendered by you to the Allied cause. Instead of paying the debt in money, the War Office deemed it proper to pay you in kind from army material.

It is suggested that you present this letter to the agency of the Italian Government which is claiming taxes and duties for the vehicles G. H. Q., C. M. F., assigned to you as payment for the services you rendered to the Allies.

Very truly yours,

EDWARD M.S. SULLIVAN,
Major, Air Corps,
Chief Staff Officer to
Admiral Stone.

5021

Ing. Ruggero Cagnazzo
Via dei Prefetti 8
Rome

(357a)

0056

Declassified E.O. 12356 Section 3.3/NND No. 785015

CONFIDENTIAL

NOV 7 1946

HEADQUARTERS ALLIED COMMISSION
A.P.O. 794
PUBLIC SAFETY DIVISION
SECURITY SUB DIVISION

REF : SD/266.01-139 5 November 1946

SUBJECT : War Crimes : ARDEATINE Caves Massacre

TO : A Branch, CIC, CMF

ENCL

1. Reference your signal AG 02050 and in confirmation of this HQ signal 5393.

ENCL

2. Col. DR. PRATO of the Military Legal Department, Ministry of War, has been nominated to act as official Italian observer at the trial of Generals von MACKENSEN and MAELTZER. This officer will be accompanied by an interpreter, S/Lieut. BORGOMANERO.

FOR THE CHIEF COMMISSIONER:

R.J. BYE,
Colonel,
Director,
Public Safety Division.

AHB/nb

Copy to:- Chief Commissioner
Executive Commissioner.
HQ RAOC (BS)

5920

CONFIDENTIAL

0057

Declassified E.O. 12355 Section 3.3/NND No. 785015

AG 02050

H/7588
NOV 021530

ROUTINE

GHQ CMF
ACSEC HQ ALCOM ,INFO: HQ RAAC (BE)

RESTRICTED:

RESTRICTED

Your BD/6/266/01-139 of 24 September. Our 16203/A3 of 10 October.
Ardeatine caves trial will be held in old University of Rome (La Sapienza) commencing Monday 18 November. Are details of official Italian observer yet available.

AC DIST

ACTION - SECURITY 2

INFO : CHIEF COMMISSIONER
Legal
FILE

SKELETON

5019

NOV 2 1946

RESTRICTED

0058

Declassified E.O. 12356 Section 3.3/NND No. 785015

ACSEG HQ ALCOM 5 NOVEMBER 1946

A BRANCH CHG CMF

HQ MAAG (BL)

9393 RESTRICTED

F

SUBJECT IS ARRIVING CARGO TRIAL ED

I AM ONE ED REFERENCE YOUR ABET BRONZE ZERO TWO ZERO FIVE ZERO ED

I AM TWO ED OFFICIAL ITALIAN OBSERVER WILL BE COLONEL DEL GRATO OF THE MILITARY LEGAL DEPARTMENT OF MINIST I OF WAR ED

WILL BE ACCOMPANIED BY LIEUTENANT BORGOGNORO TO ACT AS INTERPRETER ED

5018

ROUTINE

SECURITY SUBDIVISION

JOHN R. HAYES
Maj r AGD
ADJUTANT

A.H. Stein, Capt.

(357) 367

0059

Declassified E.O. 12356 Section 3.3/NND No. 785015

1 November 1946

Dear Colonel Bowman:

I am forwarding to you for transmission to Mr. di Demetrio my reply to his letter of 12 October.

Very sincerely yours,

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Colonel Alfred C. Bowman
SCAO
AMG Venezia Giulia

5017

copy to Pasold (A)

(356)

00600

Declassified E.O. 12356 Section 3.3/NND No. 785015

1 November 1946

My dear Mr. di Demetrio:

I wish to acknowledge receipt of your letter of 12 October forwarding a copy of Colonel Bowman's letter and your reply thereto.

I must inform you that Colonel Bowman's letter was based on a directive dispatched from Allied Force Headquarters on 23 August which left no alternative but to request that you suspend the exercise of your consular functions during the interregnum prior to the final disposition of the Venezia Giulia problem.

It is suggested that the Rumanian consul at Venice might wish to make occasional visits to Trieste to transact the necessary consular business as suggested in the last paragraph of Colonel Bowman's letter.

Very sincerely yours,

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

RSIC

Mr. Antonio di Demetrio
Via San Nicolo 14
Trieste

copy to Poland (A)

0061

Declassified E.O. 12356 Section 3.3/NND No. 785015

24 October 1946.

My dear Mr. Di Demetrio :

I wish to acknowledge receipt of your letter of 12 October forwarding a copy of Colonel Bowmen's letter and your reply thereto.

I must inform you that Colonel Bowmen's letter was based on a directive dispatched from Allied Force Head= quarters on 23 August which left no alternative but to re= quest that you suspend the exercise of your Consular functions during the interregnum prior to ~~the establishment of the Free Territory.~~ United Nations definitive solution of the VG problem.

With respect to your allegation that the Swiss Consu= late has been excepted from the requirements of the A.F.H.Q. directive, I have written today to the Senior Civil Affairs Officer at Trieste for additional information.

In order to comply with the instructions of Allied Force Headquarters, I have suggested to the Rumanian Lega= tion in Rome that their Consul at Venice might transact the necessary consular business by occasional visits to Trieste until such time as the Free Territory is established.

Very sincerely yours

EMERY W. STONE
Rear Admiral, USNR
Chief Commissioner

5015

Mr. Antonio di Demetrio
Via San Nicolò, 14
T R I E S T E

(956)

0062

Declassified E.O. 12356 Section 3.3/NND No. 785015

HEADQUARTERS, ALLIED MILITARY GOVERNMENT, 13 CORPS

Office of the Senior Civil Affairs Officer

130/AMG/4a

12 September 1946.

Signor Antonio di Demetrio
Via S. Nicolò 14,
Trieste

Dear Sir:

I draw your attention to the fact that consular functions cannot be exercised without approval of the government of the Territory within which it is proposed to perform them.

No such approval has either been applied for or given in your case, and you are therefore advised not to represent in any way that you have any consular powers or are exercising consular functions in this territory. Action will include the removal of all consular signs from buildings and discontinuance of the use of consular letterheads.

It is not intended, during the period prior to the establishment of the Free Territory, to permit the opening of any new consular offices. National property will be left in the hands of a caretaker. Arrangements can be made with this headquarters for the care of national interests.

If special circumstances arise which make it desirable, no objection will be raised to an accredited consul, having offices elsewhere, making an occasional visit to Trieste to transact necessary consular business, subject to individual application to Allied Military Covernment for the necessary entry permit.

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

La copia corrisponde
12/10/46

0063

Declassified E.O. 12356 Section 3.3/NND No. 785015



Mr. James Bowles
Chief Counsel to Governor Smith
Executive Mansion
Albany
New York

Anthony J. di Demetrio
Consul General of Roumania
from 1920 to 1946

Trieste 12 th October 1946.

His Excellency the

Rear Admiral E. W. Stone

Chief Commissioner

Allied Commission

R o m e.

I have the honour to submit you, Excellency , copy of the letter which was sent me by Colonel Bowman, J.A.G.D., Senior Civil Affairs Officer, as well as the copy of my reply to his letter.

I beg you, Excellency , to give the kindest consideration to this matter and remain

yours most faithfully

Anthony J. di Demetrio

Consul General of Roumania

Declassified E.O. 12356 Section 3.3/NND No. 785015

Allied Commission

R o m e.

I have the honour to submit you, Excellency , copy of the letter which was sent me by Colonel Bowman, J.A.G.D., Senior Civil Affairs Officer, as well as the copy of my reply to his letter.

I beg you, Excellency , to give the kindest consideration to this matter and remain

yours most faithfully

Anthony J. de Cantacuzino

Consul General of Roumania.

5019

(356)

Declassified E.O. 12356 Section 3.3/NND No. 785015

MINISTERIUL
AFFACERILOR STREINE
№ 16426

Bucuresci 31 Oct 1879.
12 Nov.

Domnule meu,

Alteţa Sa Regală Domnul, în urma raportului meu N. 15138, a binevoit prin Înaltul decret № 2238, a ve numi Consul comercial al României la Tulcea.

Am deci onórea a ve face cunoscut acésta Înalta dispositiune şi a ve ruga, Domnule meu, se primiţi asigurarea prée osebitei mele consideraţiuni.

Ministru (1) Boerescu

0067

Domnule meu,

Alteța Sa Regală Domnul, în urma rapor-
tului meu No 15738, a binevoit prin înaltul decret
No 2239, a mă numi Consul comercial al României
la Trieste.

Iau deci onoarea a vă face cunoscut acéstă
înaltă dezlegare și a vă ruga, Domnule meu,
să primiți asigurările prée osebite mele conside-
rațiuni.

Semnat (ss) Daeles

5912

Șeful Guvernului

N. Fleva

(256)

Domnie-sale
Domnului Ion A. de Demetrio

Declassified E.O. 12356 Section 3.3/NND No. 785015

Anthony J. di Demetrio
Consul General of Roumania
from 1920 to 1946.

Trieste October 12 th 1946.

Copy for information of his Excellency
the Rear Admiral E. W. Stone
Chief Commissioner, Allied Commission
Rome.

Copy

Dear Sir,

On returning from my leave I found your letter 13 C/AMG/49 of September 12 th 1946, concerning the Venezia Giulia Consulate' s activity.

It is not for me to discuss this disposition taken by the A.M.G. , because I depend directly from my Roumanian Royal Legation, to which I sent a copy of your letter, whils awaiting superior ordres.

During my absence my colleagues in Trieste decided to remove the ensignes of the Consulates and my office conformed to the decision taken by the majority of the Consular Corps.

As regarding the motive pointed out by the A.M.G., I beg to state that I, as well as my colleagues, did not at the time apply for the authorisation to be able to continue our activity in the Venezia Giulia , and the other Provinces indicated in our regular " exequatur " , because according to our opinion, the A.M.G. was not enabled to give us this authorisation, it being a " Governo Fiduciario ", while up to the present , the Italian Law is still recognised in this territory, (according to Marshal Alexander's Proclamation N.1).

We are further award that the Swiss Consulate did not ask, nor get any special authorisation, and that the A.M.G. made an exception for that Consulate.

Declassified E.O. 12356 Section 3.3/NND No. 785015

because I depend directly from my Roumanian Royal Legation, to whom
I sent a copy of your letter, whils awaiting superior ordres.

During my absence my colleagues in Trieste decided to remove the ensignes of the Consulates and my office conformed to the decision taken by the majority of the Consular Corps.

As regarding the motive pointed out by the A.M.G., I beg to state that I, as well as my colleagues, did not at the time apply for the authorisation to be able to continue our activity in the Venezia Giulia , and the other Provinces indicated in our regular " exequatur " , because according to our opinion, the A.M.G. was not enabled to give us this authorisation, it being a " Governo Fiduciario ", while up to the present , the Italian Law is still recognised in this territory, (according to Marshal Alexander's Proclamation N.1).

We are further award that the Swiss Consulate did not ask, nor get any special authorisation, and that the A.M.G. made an exception for that Consulate.

I also should like to point out the fact that in August 1945 the seven Foreign Consuls who were in service on the 12 th June 1945, payed an official collective visit (introduced by the Swiss Consul, our senior Consul) to Colonel Armstrong and to yourself Sir, presenting themselves in their quality of Foreign Consuls in the Venezia Giulia.

You recived the Consular Corps very kindly and encouraged us to continue in our functions , assuring us of the support from the A.M.G. and you didn't mention then, Sir , nor later on, that we ought to apply for any authorisation.

To Colonel
ALFRED C. BOWMAN, Colonel, J.A.G.D.
Senior Civil Affairs Officer
Allied Military Governement Venezia Giulia
Trieste.

0069

Declassified E.O. 12356 Section 3.3/NND No. 785015

The General Consulate of Roumania in Trieste is the oldest General Consulate in Venezia Giulia, instituted at my father's suggestion in 1879, and my father and I (my fther was the first Consul here) represented Roumania in Venezia Giulia for 67 years with two short lapses : 1916 - 1918 when Roumania fought on the side of the Allies, and from August 1944 to May 1945 when Roumania, liberated from the Germans, fought with the Allies against the German Army.

The activity of my office from May 1945 to September 1946 was exclusively limited to the assistence of our interned who, from the German and Italian Concentration Camps came to Trieste to be sent home. About 200 were sent back to Roumania (65 in a single day).

I am in duty bound to acknowledge the moral and material aide that my office got from the Welfare (Displaced Persons) the 13 th Corps, as from the American Red Cross, and it is only thanks to these Departements that the Roumanian refugees could be sent home at a time when I was entirely deprived of any directions or material means from my own superior authorities.

Finally, allow me to remark, Sir , that it was with astonishment that I learnt the fact, that you had a letter sent (not a verbal- note) to me who, am the senior General Consul of Venezia Giulia , as well to the other Foreign Consuls, finishing off, this letter without even a conventional word of courtesy.

According to the old rules of International Politesse I present you Sir, with my compliments

yours faithfully

signed : Anthony J. di Demetrio
Consul General of Roumania.

Declassified E.O. 12356 Section 3.3/NND No. 785015

offices got from the Welfare (Displaced Persons) the 15 th Corps, as from the American Red Cross, and it is only thanks to these Departements that the Roumanian refugees could be sent home at a time when I was entirely deprived of any directions or material means from my own superior authorities.

Finally, allow me to remark, Sir , that it was with astonishment that I learnt the fact, that you had a letter sent (not a verbal- note) to me who, am the senior General Consul of Venezia Giulia , as well to the other Foreign Consuls, finishing off, this letter without even a conventional word of courtesy.

According to the old rules of International Politesse I present you Sir, with my compliments

yours faithfully

signed : Anthony J. di Demetrio
Consul General of Roumania.

5210

Declassified E.O. 12356 Section 3.3/NND No. 785015

0072

Declassified E.O. 12356 Section 3.3/NND No. 785015

1 November 1946.

Dear Dr. Cappa,

354

I wish to thank you for your letter of 29 October concerning the property belonging to the Royal Palace at Caserta.

I have forwarded a translation of your letter to Allied Force Headquarters inviting attention to your request for the appointment of an officer to aid the caretaker in assessing damages and carrying out investigations. I shall advise you as soon as their reply is received.

Very sincerely yours,

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Avv. Paolo Cappa
Undersecretary of State
Presidency of the Council of Ministers
Italian Government
Rome.

220/22

PEX COMM

5009

355

0073

Declassified E.O. 12356 Section 3.3/NND No. 785015

1 November 1946.

SUBJECT: Removal of furniture from the Royal Palace at Caserta.

TO : G-5,Section, AFHQ.

"B"

1. Forwarded herewith is a translation of a letter received from the Undersecretary of State to the Presidency of the Council of Ministers concerning the removal of furniture from the Royal Palace of Caserta. Your attention is invited to the request that an officer be appointed to assess damages and cooperate with the caretaker in the checking of the inventory.

2. It is requested that I be advised of the action contemplated in this regard so that I may reply to Avvocato Cappa.

See 355
for CC Ack.
of Cappa's ltr.

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USN
Chief Commissioner

Incl.: - Translation of letter
from Avvocato Cappa. A

22/2 67 7

CCS x COMM-

Ford

1554

0074

Declassified E.O. 12356 Section 3.3/NND No. 785015

TRANSLATION

THE UNDERSECRETARY OF STATE
TO THE PRESIDENCY OF THE COUNCIL OF MINISTERS

85275/47163/4.1

Rome, 29 October, 1946.

Dear Admiral,

The caretaker of the Royal Palace at Caserta, who has been charged with the checking of the inventory and the taking over of furniture after release of the premises formerly occupied by Allied troops, has informed me that almost all the very valuable pieces of furniture of the palace have been removed for furnishing requisitioned villas, houses and barracks, not only in the town of Caserta itself but also in other localities, among which even Padua.

In order to limit a damage which might result in a serious loss when the necessary verifications are made, it is advisable that an officer of the British Command make arrangements with the caretaker of the Royal Palace to carry out investigations and inquiries.

I beg you therefore kindly to intervene with the competent authorities regarding this matter.

With many thanks,

Sincerely yours,

/s/ Cappa.

Admiral Ellery W. Stone
Chief Commissioner
Allied Commission
Rome.

5007

(954)

Il Sottosegretario di Stato
alla Presidenza del Consiglio dei Ministri

85275/47183/4.1

Roma, 29 ottobre 1946

Caro Ammiraglio,

il Conservatore della Reggia di Caserta, incaricato della ricognizione e ritiro dei mobili a seguito dello sgombero di quei locali già occupati dalle truppe alleate, ha informato che la quasi totalità delle sontuose suppellettili delle sale del palazzo sarebbe stata asportata per l'arredamento di ville, case e caserme requisite sia nella città di Caserta che in altre località, tra le quali, presumibilmente, anche Padova.

Allo scopo di limitare un danno la cui entità potrebbe risultare assai grave quando sarà possibile procedere ai necessari accertamenti, è stata prospettata la opportunità che un ufficiale del Comando inglese prendesse accordi col Conservatore della Reggia per eseguire indagini e ricerche.

Mi rivolgo pertanto alla S.V. perchè voglia intervenire presso le competenti autorità nel senso suindicato.

La ringrazio di quanto Ella riterrà di disporre in proposito e Le invio distinti saluti.

(Avv. Paolo Cappa)
Sottosegretario di Stato
alla Presidenza del Consiglio dei Ministri

Declassified E.O. 12356 Section 3.3/NND No. 785015

di ville, case e caserme requisite sia nella città di Caserta che in altre località, tra le quali, presumibilmente, anche Padova.

Allo scopo di limitare un danno la cui entità potrebbe risultare assai grave quando sarà possibile procedere ai necessari accertamenti, è stata prospettata la opportunità che un ufficiale del Comando inglese prendesse accordi col Conservatore della Reggia per eseguire indagini e ricerche.

Mi rivolgo pertanto alla S.V. perchè voglia intervenire presso le competenti autorità nel senso suindicato.

La ringrazio di quanto Ella riterrà di disporre in proposito e Le invio distinti saluti.

(Avv. Paolo Cappa)
Sottosegretario di Stato
alla Presidenza del Consiglio dei Ministri

Paolo Cappa

All'Ammiraglio Ellery W. STONE
Commissario Capo della Commissione Alleata

ROMA

(954)

Declassified E.O. 12356 Section 3.3/NND No. 785015

0077

Declassified E.O. 12356 Section 3.3/NND No. 785015

HEADQUARTERS ALLIED COMMISSION
A P O 794
Office of the Executive Commissioner

Ref: AC/11,388/23 29th October 1946.

SUBJECT: Clandestine Passage of Jews.

TO : Director,
American Joint Distribution Committee.

1. From a report received from the Ministry of the Interior dated 27 September 1946 on the subject of the clandestine passage of Jews across the Italo-Austrian Frontier, the following facts emerged.

2. A stateless civilian named SCHOFI Marco had in his possession a military card No.15/14 which was shown as issued by the "American Joint Distribution Committee-Inter-Governmental Committee on Refugees, Allied Commission."

The card had also been stamped with a round stamp bearing the marking: "American Joint Distribution Committee H.Q. AC-APO 334 P.M.N.J."

As neither the American Joint Distribution Committee nor the Inter-Governmental Committee on Refugees are a part of the Allied Commission I should be grateful if you would take the following action:

(a) Please ensure that the address of your organization is not shown as HQ. Allied Commission but as 30-35 Via Veneto, Rome, or such other address as you consider appropriate.

(b) Please ensure that no rubber stamps showing your organization as part of this Commission or of the Inter-Governmental Committee on Refugees are used and that all such rubber stamps are destroyed.

It would appear from the report that the above-mentioned civilian was issued with his military card in Milan from which it seems possible that stamps of the type referred to above may be in use in some of your field organizations.

3. It is not known on what authority military cards are issued to personnel as in the case referred to above. 5805

4. I would appreciate your co-operation in this matter.

M. Carr Brigadier

M. CARR, Brigadier.
Executive Commissioner.

Copy to : CC.
EC
IGCR

0078

Declassified E.O. 12356 Section 3.3/NND No. 785015

HEADQUARTERS ALLIED COMMISSIO'
A P O 794
Office of the Executive Commissioner

Ref. : 9006/352/30 28 October 1946

SUBJECT: Alleged Improper Transactions - C.T.C.

TO : G-5
AFHQ.

1. Reference is made to your letter No. G-51 902.333-1 of 19th Sept. 1946.

2. This matter has been referred to the Provincial Commissioner A.M.G., Udine and from his explanation it would appear that some misunderstanding has arisen in this matter, partly owing to the way in which the list of materials was compiled. From this list it would appear that complete vehicles have been sold, whereas in fact, the only sales effected are stated to have been of Battlefield Scrap. P.G. Udine Province reports that no entire vehicles have been sold by the Transportation Division of AMG Udine Province.

3. It is pointed out that a differentiation has always been made between C.T.C. and "Battlefield Scrap", which latter has never been treated as C.T.C. and has not been considered to be covered by directives concerning C.T.C. Battlefield scrap has frequently included hulks of Allied vehicles.

4. The disposal of battlefield scrap is the responsibility of the Local Military District Commander (A.F.H.Q. Letter A.G. 400.93/217 G.M.B.-O, 31st July 1945 refers), and in the case of Nos. 2 and 3 Districts requests were made by the District Commanders to C.M.F. to assist them in effecting sales of such scrap.

5. These sales in Udine Province were effected by the Transportation Division of the Provincial Military Government under authority of H.Q. Venezia Region. So far as can be traced this authority was verbal and was stated to be in agreement with H.Q. 2 District and C.M.F. Branch, A.C., Milan. This Headquarters has no reason to doubt that the sales in question were of battlefield scrap.

6. The total amount realised by the sales, 15,683,750 lire, was credited to A.F.A. No. 1 A/C in the Bank of Italy.

7. As regards Venezia Giulia, C.M.F. has always been made available for disposal to AMG XIII Corps in accordance with A.F.H.Q. directive.

0079

Declassified E.O. 12356 Section 3.3/NND No. 785015

Such materials as have been surplus to unit and A.M.G. requirements have been disposed of to the highest civilian bidder at public auctions. This appears to be quite regular as in this area it is obviously not possible to pass such material to the Italian Government. Moneys received from such sales are paid into C.F.C. A/C Hq. A.M.G. XIII Corps - Sale of Captured Enemy Materials - and are held at the Banca d'Americn ed Italia.

2. List of scrap vehicles sold is returned herewith as requested.

FOR THE CHIEF COMMISSIONER:

/s/ M Carr
Brigadier,
Executive Commissioner.

Encls. as above.

Copy to: Econ. Div. (For C.E.M.)

5803

00800

Declassified E.O. 12356 Section 3.3/NND No. 785015

Rome, 24 October 1946.

My dear Mr. Lombardi,

In accordance with notification already forwarded to you I have caused inquiry to be made with Italian Judicial authorities concerning the status of the case of your brother and have been unable to discover any proper ground upon which may be based interference therein by the Allied Commission. In the course of the investigation made of the matter there was obtained a certified copy of the official record of sentence in the case, a translation of which I forward herewith for your information.

At the present time this matter is before the Court of Cassation, which is the highest Court of the land here, where in due course it will be considered on review. It is still possible, therefore, that at that time justification may be found for some favourable action in this connection.

Yours very truly,

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner.

Mr. Michael Lombardi
80 Underhill Ave.,
Brooklyn, N.Y.

5902

B-51

0 0 8 1

Declassified E.O. 12356 Section 3.3/NND No. 785015

TRANSLATION

EXTRACT OF SENTENCE passed by the Court of Assize Naples against LOMBARDI Costantino son of Giambattista and Raia Margherita, born in New York on 11 July 1909 and residing at S. Giovanni a Teduccio (Naples).

Date of Trial	:	16 February 1946
Date of Arrest	:	22 April 1944
Findings	:	Guilty of robbery, attempted robbery and insults to public officials in accordance with Arts. 110, 81, 29, 32, 230 and para 2 (1) of Art. 628 of the Penal Code as read with the Arts. 274, 488, 489 of the Code of Penal Procedure.
Sentenced to	:	15 years imprisonment, and a fine of 20.000 lires to a perpetual interdiction from Public Offices. To a legal interdiction as established under Art. 32 of the Penal Code. Subject to supervided liberty for a period not less than 3 years. The penalty of one year imprisonment to be impoeed for having insulted a public official is remitted in compliance with Royal Decree of 5 April 1944.

Appeal is now pending before the Court of Cassation.

Dated : Naples 9 October 1946.

This is a certified true copy

Signed: MAGLIANO

5801

OCT 25 1946

CONFIDENTIAL

HEADQUARTERS
ROME AREA ALLIED COMMAND

24 Oct 46

SUBJECT : War Crimes - Ardeantine Caves

TO : GHQ, CMF (5 copies)
HQ 5 District (2 copies)

With reference to GHQ, CMF letter 16203/A3 of 16 Oct 46.

1. It has been confirmed to A3 GHQ, CMF that 18 Nov 46 is a suitable date for commencing the trial. This Headquarters AG926 of 19 Oct refers.

2. A court room has been selected in the Old University of Rome (La Sapienza) M.R. Rome Town Plan (South) 754672 and the President of the Council of Ministers of the Italian Government has placed the whole building entirely at our disposal w.e.f. 11 Nov 46.

Plans and lay out are attached. Any alterations can readily be made as the President may direct. Appendices A, B, & C.

In seeking the accommodation due regard to the dignity of the proceedings was paid as also to the safety of the accused. The attached operation order gives details as far as they can at present be decided. Appendix D.

The court should hold about 80 of the general public. It is not recommended that this number should be exceeded. The greater the number the more difficult is search and control. A plan for restricting and deciding admittance is being worked out.

Reservation will be made for notable visitors apart from the general public.

3. 56 Rest Camp is nominated as the unit to which the accused and witnesses will be attached. This O.C. is also Governor Military Prison. This information has already been signalled to you. This Headquarters AG 912 of 15 Oct refers.

320

Declassified E.O. 12356 Section 3.3/NND No. 785015

Council of Ministers [illegible] entirely at our disposal w.e.f. 11 Nov 46.

Plans and lay out are attached. Any alterations can readily be made as the President may direct. Appendices A, B, & C.

In seeking the accommodation due regard to the dignity of the proceedings was paid as also to the safety of the accused. The attached operation order gives details as far as they can at present be decided. Appendix D.

The court should hold about 80 of the general public. It is not recommended that this number should be exceeded. The greater the number the more difficult is search and control. A plan for restricting and deciding admittance is being worked out.

Reservation will be made for notable visitors apart from the general public.

3. 56 Rest Camp is nominated as the unit to which the accused and witnesses will be attached. This G.C. is also Governor Military Prison. This information has already been signalled to you. This Headquarters AC 912 of 15 Oct refers.

4. Defending Officers are not yet available but the charges will be explained to the accused when the opportunity offers.

5. Witnesses ALLANELLO, ERESTI and SEMMINATO have been traced and steps taken to ensure their attendance.

6. The only suitable places of confinement for the accused are the buildings vacated by 32 Military Prison about M.R. 805686 or at 56 Rest Camp Guard Room about M.R. 796703. In either case they can be accommodated with sufficient amenities to ensure that they have the fullest opportunity to prepare their defence.

7. Similarly other witnesses who are in confinement may be accommodated at either of these two places mentioned in para 6. The first choice being 32 Military Prison.

8. Two suitable covered vehicles are held which can be used to transport accused and prisoner witnesses, in addition to which G.C.C. 5 District promises supply up to four armoured cars. This will put "prisoner" transport on a satisfactory basis.

[illegible]

...../2.

27/1092

Declassified E.O. 12356 Section 3.3/NND No. 785015

9. Accommodation for defence witnesses can be arranged when their kinds and categories are known.

10 10 Rooms have been reserved at the Grand Hotel ROME for Major-General Playfair and for members of the court, J.A., Prosecutor and British Defending Officers w.e.f. 10 Nov. Earlier date can be fixed if required.

Other officials can be suitably accommodated when their ranks are known.

11. Interpreters are being arranged and those employed for the Banks Case are being contacted. More can be reported on this subject later.

12. Owing to the greatly increased correspondence which this case is bound to cause the very small staff of this headquarters it is requested that a suitable staff officer, not less than Major, be appointed. His duties would be to deal with all correspondence concerning the case before the trial and to act as O I/C all arrangements at the court during the trial including the duties of Marshall of the Court. G.O.C. 5 District agrees on the necessity for this officer, whose early arrival is requested.

13 It would be appreciated if any information and experiences gained from previous courts could be passed to this HQ. Such matters as care of prisoners, avoidance of suicide, screening and control of the general public are a few of the items about which some knowledge has doubtless been gained.

14 Application for 3 VIP cars has been made to 'Q' GHQ, CMF. These vehicles will be required for the use of the several senior officers and important persons who will be attending the trial.

S.C. TOMLIN
Lt-Col
Commanding
British Troops in ROME

DISTRIBUTION

Declassified E.O. 12356 Section 3.3/NND No. 785015

on the necessity for this officer, whose early arrival is [illegible]

13 It would be appreciated if any information and experiences gained from previous courts could be passed to this HQ. Such matters as care of prisoners, avoidance of suicide, screening and control of the general public are a few of the items about which some knowledge has doubtless been gained.

14 Application for 3 VIP cars has been made to 'Q' GHQ, CMF. These vehicles will be required for the use of the several senior officers and important persons who will be attending the trial.

S.C. TOMLIN
Lt-Col
Commanding
British Troops in ROME

DISTRIBUTION

Commander R.A.A.C.	1+
Chief Commissioner Allied Commission	1
Executive Commissioner Allied Commission	1
Public Safety Officer Allied Commission	1+
O.C. 56 Rest Camp	2
DAG, R.A.A.C.	1+
OC 2 Field Hospital	1
'A' Branch R.A.A.C.	1
'Q' Branch R.A.A.C.	1
Town Major	1+
Garrison Engineer	1+
File	4+

+ : with appendices A, B, & C

Declassified E.O. 12356 Section 3.3/NND No. 785015

CONFIDENTIAL

ADVANCE ORDER, ARDEATINE CAVES TRIAL

by

Lieutenant-Colonel TOMLIN OBE MC
Commanding British Troops ROME

24 Oct 46

1. INFORMATION The trial of Colonel-General Von Mackensen and Lieutenant-General Maeltzer for war crimes will take place in ROME commencing 18 Nov 46.

Commander British Troops ROME is responsible for all administrative matters concerning the trial and for the safety and proper keeping of the members of the court, witnesses and accused.

2. INTENTION To take all administrative and precautionary measures in accordance with instructions and information received to date.

3. METHOD

(a) Place of Trial The trial will take place in the Old University of ROME (La Sapienza) M.R. 734672.

(b) Accommodation-- Prison The accused will be accommodated in a wing of the barracks lately occupied by 32 Military Prison M.R. 803606. O.C. 56 Rest Camp (Lt-Col LONG), in his capacity as Governor Military Prison, will be responsible forthe safekeeping of the accused and will take & hand them over at the prison door.

Witnesses who are serving sentence or are otherwise in confinement will be accommodated suitably in 32 Military Prison and similarly handled and taken over.

Governor Military Prison will ensure that the arrangements he makes will afford to the accused all proper measures to assist them to prepare their defence.

External guarding of the prison will be the duty of the Governor Military Prison.

(c) Security APM (Lt-Col BOND) will be responsible for all security from the prison door outwards, less the guardir

Declassified E.O. 12356 Section 3.3/NND No. 785015

University of ROME (La Sapienza) M.R. 734672.

(b) Accommodation-- Prison The accused will be accommodated in a wing of the barracks lately occupied by 32 Military Prison M.R. 803606. O.C. 56 Rest Camp (Lt-Col LONG), in his capacity as Governor Military Prison, will be responsible forthe safekeeping of the accused and will take & hand them over at the prison door.

Witnesses who are serving sentence or are otherwise in confinement will be accommodated suitably in 32 Military Prison and similarly handed and taken over.

Governor Military Prison will ensure that the arrangements he makes will afford to the accused all proper measures to assist them to prepare their defence.

External guarding of the prison will be the duty of the Governor Military Prison.

(c) Security APM (Lt-Col BOND) will be responsible for all security from the prison door outwards, less the guardir of the prison itself. This includes the conveying of the accused and prisoner witnesses to and from the court and their safekeeping at all times until handed over to the Governor Military Prison.

In addition to his own resources the APM will be allotted two plns, two covered vans from 56 Rest Camp and expected armoured cars from 3 District.

APM will decide upon any RE work needed for security and inform CE

(d) Health of Accused O.C. No 2 Field Hospital will be responsible for the health of the accused and witnesses while they are in ROME.

He will take special measures ~~toor~~ for the safety of the accused and in conjunction with APM will carry out all precautions necessary,particular against attemted suicide.

...../. He will arrange

Declassified E.O. 12356 Section 3.3/NND No. 785015

He will arrange for the daily "fitness for trial" examination of accused.

(e) Plans Plans of the court are attached. They show the present lay-out, and admit of considerable additions and amendments as the President may direct.

(f) Marshall of the Court A staff officer will be appointed later from outside or within this command. His duties will be to act as Marshall of the Court and Officer I/C of all matters as the Court Buildings (less security of confined persons) while the trial is on.

4. ADMINISTRATION

(a) Officer Commanding O.C. 56 Rest Camp will be Officer Commanding for accused and all persons attached for the period of the trial.

(b) RE Work CE will prepare plans of the court and accommodations to be used. In addition he will decide upon RE work needed for administrative purposes and advise upon and carry out work as requested by APM for security.

(c) Staff Officer The officer to deal with correspondence now is DAA & QMG of R.A.A.C. (Major KELLY). Later a special officer may be appointed. If so, this staff officer will be Marshall of the Court and other duties as at para 3 (f)

(d) Accommodation - Normal The Town Major ROME will allot accommodation for members of the court, other officials and observers, witnesses and military personnel according to information supplied to him by this Headquarters.

(e) Communications All communications to HQ R.A.A.C. (British)

S.C. TOMLIN
Lt-Col
Commanding
British Troops ROME

5207

Declassified E.O. 12356 Section 3.3/NND No. 785015

to be used. In addition he will decide upon [illegible] for administrative purposes and advise upon and carry out work as requested by APM for security.

(c) Staff Officer The officer to deal with correspondence now is D.A. & Q.M.G of R.A.A.C. (Major KELLY). Later a special officer may be appointed. If so, this staff officer will be Marshall of the Court and other duties as at para 3 (f)

(d) Accommodation - Normal The Town Major ROME will allot accommodation for members of the court, other officials and observers, witnesses and military personnel according to information supplied to him by this Headquarters.

(c) Communications All communications to HQ R.A.A.C. (British)

S.C. TOMLIN
Lt-Col
Commanding
British Troops ROME

5207

DISTRIBUTION

'A' Branch R.A.A.C.	1
'Q' Branch R.A.A.C.	1
OC 56 Rest Camp	2
2 Field Hospital	1
APM	2
Town Major ROME	1
Garrison Engineer	1
CHQ, C.F	5
3 District	2
Allied Commission	3
File	4
Spare	4

Declassified E.O. 12356 Section 3.3/NND No. 785015

0 0 9 0

Declassified E.O. 12356 Section 3.3/NND No. 785015

Ref: SD/266.01-1/AC

21 October 1946

My dear Doctor Brunes,

I acknowledge with thanks receipt of your letter No. 33140/77 dated 4 October 1946 on the subject of allowing Italian Magistrates to sit on the tribunal arranged for the trial of German officers in connection with the Ardeantine Cave case. with SD

This letter has been referred to the Allied Force Headquarters and I shall be pleased to inform you in due course of the decision made regarding this matter.

Yours truly,
/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Doctor Renato Brunes,
Ministry of Foreign Affairs,
Italian Government,
ROME.

2902/cc

5506

0091

Declassified E.O. 12356 Section 3.3/NND No. 785015

OCT 17 1945

FX 72708
OCT -----

H/7243
OCT 171645
IMPORTANT

AFHQ SIGNED SACMED CITE FHGBI

ALCOM ROME

INFO: GHQ CMF FOR GSI(B)

TOP SECRET

TOP SECRET

Have recieved via GHQ from PRO- Allied Commission a request for information concerning the arrest for espionage of a certain Doctor Berekto Senist who is alleged to be held at Forte Boccea Rome.

This HQ holds no information of arrest of any person by this name by British or American Police.

If the request was for the information concerning Renato Senise this man was arrested last January on espionage charges but no information as to his present whereabouts can be given for Security reasons.

AC DIST

Action: Security Div. (2)

Info: Chief Commissioner
PRO
File
Skeleton

5505

OCT 17 1945

Confidential

0092

Declassified E.O. 12356 Section 3.3/NND No. 785015

17 OCTOBER 1945

5230

CONFIDENTIAL

1617/90/A-

3

5204

367 , Capt. Major
Adjutant

17 OCTOBER 1946

ACCRJ HQ 3JCOM

A BRANCH GHQ CMF

HQ 3 DISTRICT

CONFIDENTIAL

5230

SUBJECT I WAR CRIMINALS DESIRED BANKS CASE PD

PARA ONE PD REFERENCE YOUR ONE IX ONE SEVEN ONE SIXTY NINE ZERO ONE/61701/90 N.R. REL DESIRED

THREE DATED TWO EIGHT AUGUST PD PARA SIX CMA PARA ONE BRACKET CHARLIE BRACKET PD

PARA TWO PD WARRANT FOR ARREST OF GIOVANNI BILLINI ISSUED BY ASSIZE COURT FERRARA PD

REQUEST BILLINI IF ACQUITTED BE TRANSFERRED POG IO RELEASE DISPOSITION OF PROCURATOR FERRARA PD

2607/2

Declassified E.O. 12356 Section 3.3/NND No. 785015

P R TWO PD W RR HT FOR RRS T OF GIOVANNI [illegible]

REQUE T RESCIND IF AC ITTED BE TRAN FERRED POG IO BE LE T DI POSITION OF U TURA

FERR RA PD

2607/E

5704

NO TIME

SECURITY DI ICN

367

.H.EGLI , Capt.

JOHN [illegible], H Yes
Major AGD
Adjutant

Declassified E.O. 12356 Section 3.3/NND No. 785015

17 OCTOBER 1946

ACSEB HQ AFOGM

A BRANCH GHQ CMF

HQ 3 DISTRICT

5230

CONFIDENTIAL

SUBJECT I. WAR CRIMINALS DASH BAKER CASE PD

PARA ONE PD REFERENCE YOUR ONE SIX ONE SEVEN ONE SLANT NINE ZERO SLANT ABEL DASH THREE DATED TWO EIGHT AUGUST FOUR SIX CMA PARA ONE BRACKET CHARLIE BRACKET PD

PARA TWO PD WARRANT FOR ARREST OF GIOVANNI BILLINI ISSUED BY ASSIZE COURT FERRARA PD

REQUEST BILLINI IF ACQUITTED BE TRANSFERRED POGGIO REALE DI POSITION OF CUSTURA FERRARA PD

N.R.

2607/c

Declassified E.O. 12356 Section 3.3/NND No. 785015

FERRARA FD

2607/c

5204

ROUTINE

SECURITY DIVISION

367

A.H.ELLI, Capt.

JOHN E. HAYES
Major AGD
Adjutant

Declassified E.O. 12356 Section 3.3/NND No. 785015

0097

Declassified E.O. 12356 Section 3.3/NND No. 785015

Ref.: AC/4014/13/L.

14 October 1946.

SUBJECT : Trial of UNRRA cases.

TO : Allied Force Headquarters, G-5 Section,
APO 512.

1. Reference is made to Senior Civil Affairs Officer, Venezia Giulia letter of 27 August 1946 and Allied Force Headquarters G-5 Section Indorsement 942.30 (TS) of 3 September 1946.

2. The investigation required by that indorsement has been carried out and a copy of the Chief Legal Advisor's Report of Investigation of Court procedure and policy in Venezia Giulia (formerly A.M.G. 13 Corps Area) of 10 October 1946 is sent herewith.

3. Of the five recommendations made in that report A and C have already been adopted. Authority is requested for me as Chief Civil Affairs Officer to require the Senior Civil Affairs Officer Venezia Giulia to act on recommendations B, D and E.

2602/22

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

5709

(347)

0098

Declassified E.O. 12356 Section 3.3/NND No. 785015

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB-COMMISSION

AC/4014/13/L. 10 Oct 46.

SUBJECT : Report of Investigation of Court Procedure and Policy in A.M.G. 13 Corps Area.

TO : The Chief Commissioner.

1. I refer to your written instruction of 14 September 1946, Ref. 2619/EC and AFHQ 1st Indorsement No.942. 30(TS) of 3 September referred to in it.

2. About 29 May 1946 a defendant convicted of possession of UNRRA property contended successfully on appeal that such property was not Allied Forces property within the terms of the Proclamation. The Legal Division advised that three courses were open :

(a) To enlarge the scope of the Proclamation offence specifically to include UNRRA property;

(b) To try such cases by Allied Military Courts as offenses against Italian Law as authorized in the Proclamation;

(c) To channel such cases directly to the Italian Courts for trial by them under Italian Law.

3. The third course was the one adopted. In justice to the Legal Division it should be recorded that these three courses were detailed in a Memorandum submitted on 1st June to the Deputy Senior Civil Affairs Officer and the Senior Civil Affairs Officer should not therefore have fallen into the error of expression in para 4 of his report to G-5 Allied Forces Headquarters where he comments " there appears to be no other basis for military jurisdiction".

4. At a conference at Trieste on 19 Sept 46 at which were present Colonel Hamblen, Colonel Weber, Colonel Bowman and Lt.Colonel Munnecke the matter was fully discussed and the first of the recommendations in para 8 below was adopted, and

0099

Declassified E.O. 12356 Section 3.3/NND No. 785015

it was moreover pointed out by Colonel Hamblen as a rule of thumb that where, as here, there might exist a choice of solutions it is the affirmative continuing duty of Allied Military Government to enforce vigorously occupational law and uphold the prestige of occupational Government.

5. The report of the Senior Civil Affairs Officer of Venezia Giulia reveals that sentences heretofore imposed by A.M.G. Courts on offenders against UNRRA property leave much to be desired. There may be many reasons for that: not the least being a result of the position referred to in para 7 below. I took the opportunity when in Trieste to have all available legal officers together (and all were there except two on leave and one in hospital) and to advise them in the light of experience gained the hard way right up Italy. Without detailing the formulae I have evolved in this way or the recommendations I have made for the future I do believe that a uniformity of practice and a firmness of treatment, which will go far to meet the needs of occupational Government and be in entire conformity with the Gone Lideted Instructions under which the Courts are regulated, will be achieved.

6. It must be borne in mind that the majority of the legal stuff of Venezia Giulia have had but brief experience in the performance of their present tasks. It would not be justified to class them as "incompetent" at this stage. We no longer have the reserves of talented and experienced officers on which to draw, and whatever errors of judgment may have been committed the present officers are all eager to discharge their trust and responsibilities within the scope of their talents.

7. There appears to me to have been some confusion caused by the failure to distinguish between the judicial and executive functions of military government. A Civil Affairs Officer may indicate to his legal officer whether or not he wishes a particular type of offence to be dealt with in one Court or another; he may indicate reasons that sentences be of a deterrent nature; or may indicate that the executive takes a particular view of certain types of offence. But when a case comes before a legal officer in his judicial capacity it is for that legal officer to try the case and decide it on the evidence. The sentence to be imposed is the one which the judge deems appropriate.

0100

Declassified E.O. 12356 Section 3.3/NND No. 785015

Consolidated Instructions wisely provides that sentences are constantly subject to review and therefore deterrent sentences which often are necessary in occupational Government can be, and are, adjusted in appropriate cases when their deterrent purpose has been served. This is quite apart from the long established prerogative of pardon vested in the Executive.

The judiciary in occupational Government in its administration of justice must be independent of the executive. The Senior Civil Affairs Officer does not have the judges as his agents in the administration of the law and in the reviewing of cases there must be the same independence. By the rules of Consolidated Instructions the Senior Civil Affairs Officer may review cases himself or he may delegate the duty to a legal officer not below the rank of major. Whichever course is adopted the review is a judicial function and there should be no combining of the courses as, for instance, the Senior Civil Affairs Officer assuming control by issuing instructions to be carried out by the reviewing officer as his agent. There is no agency in the judicial function.

These generalizations are stressed because it appears to me that failure to recognise these principles has adversely affected the judicial efficiency in Venezia Giulia and that is the reason for the recommendation "E".

8. Recommendations.

A. That cases affecting UNRRA property be tried by Allied Military Courts administering Italian Law. As mentioned steps have already been taken to implement this.

B. That Allied Military Courts should adjudicate in all cases where Allied influence and prestige is even indirectly concerned.

C. That the value of deterrent sentences with all the safeguards provided by Consolidated Instructions should be brought to the notice of the judges. As mentioned this has now been done.

D. That there be regular (preferably, weekly) conferences of the officers performing judicial duties to exchange ideas and arrive at a basis of uniformity.

E. That the letter and spirit of Consolidated Instruc-

Declassified E.O. 12356 Section 3.3/NND No. 785015

tions on the review of cases be followed strictly and therefore the judicial function in Venezia Giulia be wholly assumed by the Senior Civil Affairs Officer or that it be wholly assumed by a judicial officer or officers named by him for that purpose.

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

5259

0102

Declassified E.O. 12356 Section 3.3/NND No. 785015

AG(1)5571
OCT. 08 NFT

H/~~XXXXXX~~ 091015 H/7086
OCT.091015
IMPORTANT

A NAPLES AREA
HQ ALLIED COMMISSION PUBLIC SAFETY SUB-COMMISSION SECURITY DIV.
INFO; A DISTHREE

CONFIDENTIAL

CONFIDENTIAL.
Subject banks case. Further to 3 transit camp 3TC/WC6 dated 27 Sept addressed to you. The undermentioned were acquitted by war crimes court and placed in custody of Poggio Reale Naples in accordance with GHQ CMF direction 16171/90/A-3 dated 28 August copy to you.
LUIGI BORDON/ MARIO FABBRI. UGO IANUZZI. DINO MACCAPANI.
SARA TUROLLA. LA ST named defence states that at time of banks case trial SARA TUROLLA was serving prison sentence awarded by civilian court and under amnesty is eligible for release. Italian judical authorities will not sentence until her acquital in bank case confirmed. Will you please take any action you consider necessary to inform italian authorities.

AC DIST

ACTION SECURITY 2
INFO CHIEF COMMISSIONER
LEGAL
FILE
SKELETON

CONFIDENTIAL

OCT 9- 1946

0103

Declassified E.O. 12356 Section 3.3/NND No. 785015

AC/4079/1/L 8 October 1946

My dear Monsignor Montini:

I am writing to acknowledge receipt of your letter N. 138971/SA of 18 September 1946.

An initial decision was taken by the Supreme Allied Commander in July last that the amnesty decree should not, for the time being, take effect in Venezia Giulia. I am, however, having further consideration given to this matter and will write you again.

With all good wishes,

Sincerely,

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

His Excellency Monsignor G. B. Montini
Secretariat of State of His Holiness
Vatican City

0104

Declassified E.O. 12356 Section 3.3/NND No. 785015

7 Oct 19 4c

ACSEC ATCOM

A BRANCH GHQ CMF

JAG HAYES CI (Br) RAAC

5139 RESTRICTED

Encl.

SUBJECT IS WAR CRIMES PD

ARDEATINE CAVES MASSACRE PD

PARA ONE PD YOUR FOX XRAY SEVEN ONE TWO FOUR FOUR DATED THREE ZERO AUGUST FOUR SIX AND LETTER ONE SIX TWO ZERO THREE SLANT ABLE THREE DATED FOUR SEPTEMBER FOUR SIX REFERS PD

PARA TWO PD BRUNO SPAMPANATO TRACED TO THREE EIGHT VIA CELIMONTANA CMA ROME PD WARNED TO REMAIN AVAILABLE AS WITNESS AT TRIAL BY QUESTURA PD

2102/42

5295

ROUTINE

SECURITY DIVISION

JOHN R. HAYES
Major AGD
ADJUTANT

367 A.H.ELLIS, Capt.

344

0105

Declassified E.O. 12356 Section 3.3/NND No. 785015

FX 71244
3018188 AUG

H/6162
AUG 310915

PRIORITY

AFHQ A BRANCH GHQ CMF
ACSEC ALCOM INFO DISTURBD-JAG NAPLES

RESTRICTED

RESTRICTED

Your 4777 of 29 Aug.Subject is Spampanato Bruno.In view subject released under amnesty no necessity to Be arrest.Our FX 71083 of 27 Aug amended accordingly.Request you notify address of subject soonest and instruct Italian Authorities to ensure he remains available to appear as witness war crime ardeatine caves massacre.

AC DIST

ACTION: SECURITY DIV 2

INFO: CHIEF COMMISSIONER
CAS
FILE
FLOAT 2

344

Confidential

0106

Declassified E.O. 12356 Section 3.3/NND No. 785015

AC1 5526

OCT

H/6764

OCT 031030 B

IMPORTANT

A NAPLES AREA

HQ ALCOM APO ~~Addx~~ 794 LEGAL SUB COMMISSION

CONFIDENTIAL

CONFIDENTIAL.

Ref your AG/4913 dated 20 Sept 46. CHQ CMF have directed that VITTORIO PATTACCHINI will not appear as an accused in the banks case.

AC DIST

ACTION LEGAL 2

INFO CHIEF COMMISSIONER
C A S
FILE
SKELETON

5204

OCT 3 1946

CONFIDENTIAL

(34)

0107

Declassified E.O. 12356 Section 3.3/NND No. 785015

3TC/WC6
SEPT 271340 N

H/6021
OCT 011500 B
ROUTINE

3 TRANSIT CAMP CMP
SECURITY DIVISION PUBLIC SAFETY SUB COMMISSION, HQ ALLIED COMMISSION
INFO: AA & QMG, HQ. NAPLES AREA

UNCLASSIFIED.

Ref banks case. The following have been handed over to civilian prison. POGGIOREALE to await disposal. LUIGI BORDON, MARIO FABBRI, UGO IANUZZI, DINO MACCAPANI.

AC DIST

ACTION SECURITY
INFO CHIEF COMMISSIONER
FILE
FLOAT

5503
OCT 1 1945

0108

Declassified E.O. 12356 Section 3.3/NND No. 785015

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB COMMISSION

SEP 27 1946

AC/4005/1. GGH/ns
26 September 1946.

SUBJECT : Forgery of U.S. Naval bills.

TO : Allied Finance Agency.

1. Will you please forward to the Banca d'Italia the following information received to-day from Navy Sub-Commission :

a) Subject check or bill is spurious and have never been issued by any U.S. Navy agency or personnel

b) Complete record and reports of investigation made by U.S. C.I.D. are available in this office to the Bank of Italy. This report contains confessions and exposé of a "ring" of Italian operators involving about five hundred thousand dollars.

M.M. ZIROLLI
Commodore, USN
Deputy Chief Navy S/C.

2. In consequence this Sub Commission is of opinion that the matter should be dealt entirely with by the Italian authorities, considering that all the offenders are Italian citizens and that no Allied interests are at stake.

G.G. HANNAFORD,
Lt. Colonel,
Deputy Chief Legal Advisor.

Copy to : CC
Navy S/C

(341)

0109

Declassified E.O. 12356 Section 3.3/NND No. 785015

RESTRICTED

AC3/00448 R/7769

NOV 09 NOV 101430

ROUTINE

CHIC CMP

HQ NAPLES ARNA ,INFO: ACSEC HQ ALCOM 21 CM ANF HC DJAG CHIC JAG NAPLES

RESTRICTED:

Subject is bandu case war criminal PATTACCHINI VITTORIO.

Subject admitted Poggio Reale 9 September. 209 PW Camp cable 209/PW2/C/3490 of 10 September refers. Request you collect from Poggio Reale and transfer to 21 CM and HC in war crimes status. For ACSEC HQ ALCOM. Your 5433 of 07. See our FX 71940 of 16 September. PAVANINI not now of war crimes interest to this HQ. May revert to Italian disposition to serve sentence of 30 years imprisonment. Was admitted Poggio Reale ex 209 PW camp on 9 Septcaber . All informed.

AC DIST

INFO ACTION - SECURITY DIV 2

INFO -- CHIEF COMMISSIONER

EX COLER

FLOAT

FILE

Confidential

MEMORANDUM ON VENEZIA GIULIA ALLIED MILITARY GOVERNMENT

GENERAL ORDER 70

1. This Order carries signs of having been prepared and published under pressure. It was not submitted to the Legal Division, Allied Commission before publication but, following the Chief Commissioner's attention being drawn to it by adverse Italian newspaper comment, has been carefully scrutinized by that Division. It does not appear that the newspaper criticism was justified.

2. The English version of Allied Military Government Proclamations and Orders prevails. The English of this Order, however, leaves much to be desired. It is substantially a not very good translation of the provisions of an Italian Decree of the Lieutenant General - No. 134 of 1946. The lack of precision in the English of the Order is a serious defect. Parts of the Order are incomprehensible and parts are wide-open to misinterpretation. An Order which leaves those administering it to decide interpretation according to individual taste, and which could embarrass any Court into constructive legislation to interpret it, is a bad one. There are a number of misprints in the Order: two at least are really serious, "action" where the word intended is "auction", and "formally" where the word intended is "formerly". Two expressions are frequently used in the Order and are not interpreted - "Public Treasury" in whose favor the profits etc. are expropriated and property confiscated and "Finance Administration" which has onerous duties under the Order. It is left doubtful who is to receive the profits which are expropriated and the property, or proceeds of it, that is confiscated. This doubt is accentuated by a definition of Public Treasury in one article of the Order as "Public Treasury (Tesoreria Provinciale)" as the authority to whom payment of fascist regime profits may be ordered. The identification of "Public Treasury" in this article as the "Tesoreria Provinciale" raises the assumption that wherever the expression is used elsewhere in the Order it has a different meaning.

The various time limits under the Order are not satisfactory, and one of which expires 30 days from 23rd September 1946 gives the position some urgency.

3. It is the recommendation of the Legal Division Allied Commission

(a) that all action under the Order be suspended forthwith (without public announcement)

(b) that the Order be substantially rewritten and reprinted in its entirety.

Declassified E.O. 12356 Section 3.3/NND No. 785015

tration" which has onerous duties under the Order. It is [illegible] ful who is to receive the profits which are expropriated and the property, or proceeds of it, that is confiscated. This doubt is accentuated by a definition of Public Treasury in one article of the Order as "Public Treasury (Tesoreria Provinciale)" as the authority to whom payment of fascist regime profits may be ordered. The identification of "Public Treasury" in this article as the "Tesoreria Provinciale" raises the assumption that wherever the expression is used elsewhere in the Order it has a different meaning.

The various time limits under the Order are not satisfactory, and one of which expires 30 days from 23rd September 1946 gives the position some urgency.

3. It is the recommendation of the Legal Division Allied Commission

(a) that all action under the Order be suspended forthwith (without public announcement)

(b) that the Order be substantially rewritten and reprinted in its entirety.

4. In view of the recommendation (b) above, and indeed in obtaining the information to prepare this Memorandum, this Division has prepared lengthy notes on the Order, Article by Article. If the recommendation (b) is accepted, a copy of these notes could be made and forwarded to Allied Military Government Venezia Giulia in supplement to the generalized comments of this Memorandum.

JOHN K. WEBER
Colonel, Infantry
Chief Legal Advisor

(3403)

Declassified E.O. 12356 Section 3.3/NND No. 785015

0112

Declassified E.O. 12356 Section 3.3/NND No. 785015

FX 72260 H/6806

SEP 2514308

IMPORTANT

A BRANCH GHQ CMF

DIVTEIRIS INFO TROOPERS JUDVOCATE LONDON ACCOM HQ PUBLIC RELATIONS

(CM) CMF REAR 13 CORPS RAAC NAPLES AREA 22 ARMY NEWSPAPER UNIT CMF

CONFIDENTIAL

CONFIDENTIAL

Subject is war crimes trial ardeatine caves massacre.Our 16203/A3 of 04 your 156/40A of 10.

1.Trial will be held in Rome not Naples.

2.Court will be convened by this HQ.

3.Special security arrangements and provisionm of 2 infantry platoons for special guard dution will be carried out by this HQ.

4.Request you (A) select suitable court room for trial.(B) Arrange suitable accommodation for accused and witnesses (C) ensure witnesses Allanello and Presti available.(D) arrange suitable accommodation in Rome for Maj Gen Playfair.

5.Date for trial will be decided by this HQ.Date not yet fixed.

6.Full instructions in explification and modification our 16203/A3 of 4 Sept will be issued soonest.

AC DICT

INFO ACTION: SECURITY 2 .

INFO: CHIEF COMMISSIONER

LEGAL

L FORCES

FILE

SKELETON

SEP 25 1946

CONFIDENTIAL

340

0 1 1 3

Declassified E.O. 12356 Section 3.3/NND No. 785015

Dal Vatic..o September 18, 1946

SEGRETTERIA DI STATO
Di Sua Santità
N° 138971/SA

Dear Admiral Stone,

The Secretary of State of His Holiness has been advised by Bishop Santin of Trieste that the Italian Government amnesty is not being extending to those tried and imprisoned in the Trieste area for the same offences for which in the other areas of Italy liberation from imprisonment has already been granted.

His Excellency indicates that much suffering has been and continues to be caused by the discrimination applied in the limitation of the amnesty areas.

In view of the circumstances, the Secretary of State of His Holiness is transmitting the request of Bishop Santin that, if possible, the amnesty be extended to the above mentioned area.

With kind personal regards,

Sincerely yours,

Sgd.: J.B. Montini

Admiral Ellery Stone
Chief Commissioner
Allied Commission
Via Veneto
Rome

See [illegible]

3-9c

3391a

CIA

Declassified E.O. 12356 Section 3.3/NND No. 785015

CROSS REFERENCE SHEET

See 65 in 851/CC

2602/cc

339

0115

Declassified E.O. 12356 Section 3.3/NND No. 785015

335 b

A 6 ( ) 5 3

335 c

5278

338

Declassified E.O. 12356 Section 3.3/NND No. 785015

7 September 1946.

Dear Sir:

In reply to your letter of 25 July, Admiral Stone has asked me to inform you that he has taken this matter up with the Allied Screening Commission with the result that an appropriate testimonial certifying to the assistance you gave to the Allies during the war was taken to Milan on 3 August for delivery to you.

I trust that this testimonial is now in your possession.

Very truly yours,

J. C. RIVELY
Major, Inf.
Staff Officer to CC

Comm. Luigi Motta,
Via Eustachi 30,
Milano.

330 a

See 334 a
335 a

Public Safety S/C

331

0117

Declassified E.O. 12356 Section 3.3/NND No. 785015

Cable AG/4430 dated 6 Sept 46.

Transferred to CE 378-3 4/5/10 84.

5771

3368

0118

Declassified E.O. 12356 Section 3.3/NND No. 785015

Cable AG 5016 dated 6 Sept 46.
Transfd to EE 3753 file 85.

3568

0119

Declassified E.O. 12356 Section 3.3/NND No. 785015

SEP 6 1946

AC/4083/23/L. 6 September 1946.

SUBJECT : Cases of COSTANZO Giuseppe, GAI Giuseppe and BACINOTTI Giacomo.

TO : Dr. R.V. Restagno, Undersecretary of State, Ministry of Public Works.

1. Receipt of your letter No.652 dated 19 August 1946, on behalf of the above named persons, is hereby acknowledged. In view of the contents thereof re-examination of the records of their cases has been made by the Board of Review and decision rendered that no just cause has been revealed for extraordinary action regarding them. These records show that the conviction and sentence of each of the persons concerned were based solely upon evidence of the substantive offences with which they were charged, and that the Courts which adjudged their cases did not include consideration of possible other offences that may have been committed by them in imposing sentences. No evidence of crimes of violence was presented or admitted against them.

2. At the time of prior review of these cases, in the regular course, the Board of Review decided upon action to reduce the sentence in each instance to three and one half years. Thus, if they may be otherwise eligible, conditional release may be invoked in favour of these men in the not distant future.

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USN
Chief Commissioner

376

0120

Declassified E.O. 12356 Section 3.3/NND No. 785015

ACSEC HQ ALCOM 5 SEPTEMBER 1946

"A" NORTHERN AREA

A 3 GHQ CMF REAR XIII CORPS DJAG GHQ CMF 86 AREA DISTREE

1876 UNCLASSIFIED

SUBJECT RE BANKS CASE FD

PARA ONE FD YOUR ABLE GEORGE BRACKET ONE BRACKET FIVE THREE ZERO EIGHT

DATED SIX SEPTEMBER FOUR SIX REFERS FD

PARA TWO FD PORINO ANTONIO LEFT ROME JANUARY FOUR SIX FOR MESSINA FD

PARA THREE FD ITALIAN POLICE AT MESSINA REQUESTED TO MAKE ENQUIRIES AND TELEGRAPH THIS HQ QUOTE OF RESULT FD

PRIORITY

SECURITY DIVISION

A.H. ELLIS,
Captain,
Security Division

PAUL COLE
1st, Lt. Air Corps
Asst. Adjutant

0121

Declassified E.O. 12356 Section 3.3/NND No. 785015

AG (1) 5308
SEPT.051115B

H/6330
SEPT.6/0900

IMMEDIATE

'A' NAPLES AREA
ALCOM INFO: GHQ CMF A-3 REAR XIII CORPS DJAG GHQ CMF 86 AREA
DISTHREE

UNCLASSIFIED.

Subject is Banks case. Ref this HQ AG (1) 5273 prosecution witness Romano Antonio. Please inform this HQ if Romano has been traced. Urgently required by war crimes court Naples. The A/Q signal was dated 02 Sept 46.

AC DIST

ACTION SACURITY 2
INFO CHIEF COMMISSIONER
LEGAL
FLOAT 2
FILE

335

335 C

338

335-b

0 T 2 4

Declassified E.O. 12356 Section 3.3/NND No. 785015

HEADQUARTERS
ALLIED SCREENING COMMISSION (ITALY)
APO 512
C.M.F.

In/S/HTD el/ifn

3 Sep 46

To: Headquarters, Allied Commission
APO.

Subject: IOTTA Luigi

334 a

1. With reference to your letter AC/IA/057/Pa dated 27 Aug 46.

2. We are now able to inform you that a certificate of thanks was taken to Milan by Capt Litts on 3 Aug 46, and has now presumably been delivered to Signor IOTTA.

H. F. De BURGH, Lt Col, GS,
Commanding

See 330 a

337

ACTION: CHIEF COMMR
INFO: PS S/C

330

335 a

0123

Declassified E.O. 12356 Section 3.3/NND No. 785015

AG387
AUG NFT

H/6167
AUG 311630
IMPORTANT

DISTHREE
ALCOM 13 CORPS 59 SUB AREA
INFO GHQ CMF A-3 NAPLES AREA

CONFIDENTIAL

CONFIDENTIAL

Subject is Banks Case

1."To the honourable Allied Military Court. The undersigned counsel of Dino Maccapanni begs to ask the honourable court to obtain from the Questura Centrale of Milan Police HQ the copy of the order of arrest of Maccapanni Dino. The arrest took place on 4 July 45. Also the copy of the denounce presented by SignorAntonio Mantorani which caused to arrest. These documents cannot be obtained by a private request,thank you" Signed Avv Vineezo Stazio.

2."Honourable Allied Court Martial. The Corte D'Assise Ordinaria(Ordinary assize court) of Rovigo is at the present moment in possession of a file which concerns the trial against the false Partisan Boccato Eolo who is charged with several killings made in order to plunder with violations and other crimes.I beg to ask the court to obtain the file of this trial from the Corte D'Assise Ordinaria of Rovogo or to ascertain the existence of it and the existence of the charges against Boccato contained in the charge sheet" Signed Franco Di Lella counsel for Cattani Anna Maria. Court recommend these requests be granted. Please take all action to secure these documents and despatch to this HQ by the fastest possible means.

335

See 335 b

338 335 c

CONFIDENTIAL

0124

Declassified E.O. 12356 Section 3.3/NND No. 785015

H/6117

CONFIDENTIAL

CONFIDENTIAL

AC DIST

Action: Security

Info: Chief Commissioner

Legal

File

Skeleton

HEADQUARTERS
31 AUG 1946
D. C.
5768

CONFIDENTIAL

335

0125

Declassified E.O. 12356 Section 3.3/NND No. 785015

HEADQUARTERS ALLIED COMMISSION
Public Safety Sub-Commission.
APO 794

AUG 28 1946

AC/14057/PS

27 August 46.

SUBJECT : Motta Luigi.

TO : Allied Screening Commission
Rome.

330a

1. Reference our AC/14057/PS of 1 August 1946.

2. May it be stated please what action was taken by you regarding the rendering of an appropriate testimonial to the a/m.

See 335a

337

E.J. BYE Colonel
Acting Director.

5587

Copy to : Chief Commissioner.

EJB/ac

334a

0126

Declassified E.O. 12356 Section 3.3/NND No. 785015

Joe—

Wirtz, says "Admiral Stone has asked me to thank you for your letter of August 21 and its enclosures which he will read with interest. Regs— JD"

0 1 2 7 1

Declassified E.O. 12356 Section 3.3/NND No. 785015

27 August 1946.

Dear Sir:

Admiral Stone has asked me to thank you for your letter of 21 August and the enclosure which he will read with interest.

332 a

Respectfully,

J. E. DORAN
CY, USNR

Avv. Salvatore Bertolino,
Via G. Avezzana, 8,
Roma.

5526.

334

0128

Declassified E.O. 12356 Section 3.3/NND No. 785015

5th Ind to ltr Hq Base Area HTUSA, APO 512, dtd 25 July 1945, subj: Transmittal of Report of Survey.

OFFICE OF THE CHIEF COMMISSIONER, HEAD QUARTERS ALLIED COMMISSION, APO 794, U.S. Army, 26 August 1946.

TO: Commanding General, HTUSA, APO 512, U.S. Army.

1. Forwarded, concurring in recommendation made in paragraph 4 of 4th indorsement.

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

2 bnpl
+ 520/12

5785

Ln Defense
CC ✓

337

0-129

Declassified E.O. 12356 Section 3.3/NND No. 785015

1st Ind to Ltr Dq Base ... a AFO 512, dtd 25 July 1945, subj: Transmittal of Report of Survey.

CONFIDENTIAL

1th Ind

ALLIED FORCES SUB COMMISSION (AUSA), HEADQUARTERS ALLIED COMMISSION, APO 794, U. S. ARMY, 23 August 1946.

TO: Chief Commissioner, Headquarters Allied Commission, APO 794, U.S. Army.

1. The inclosed Report of Survey and attendant exhibits have been under discussion by this Sub Commission and the War Ministry for a protracted period. The opinion of the War Ministry is attached, in translation, as Inclosure 2 and, since it was the first objection received to the procedure of debiting the Italian Government for the theft or damage of U.S. Government property occasioned by the negligence or fault of Italian military guards or drivers, it was forwarded to the Legal Sub Commission for review to determine if the arguments presented were legally valid.

2. The opinion of the Legal Sub Commission (Inclosure 3) agrees unfortunately with the view taken by the War Ministry, viz., that the Italian Government cannot be held liable financially for the irregular conduct of Italian military personnel especially when such personnel, by reasons of their employment, are in effect agents of a unit of the Allied Forces. This opinion, if sustained by the Theater Judge Advocate General, can result in the Italian Government applying for a credit of approximately $ 120,000 which represents the amount heretofore debited to the Italian Government.

3. There is no indication that the Italian Government will make any such claim, particularly since the present case is the first to be questioned by the Ministry of War. However, should a claim be made, a settlement would be further complicated by the fact that in all cases of damaged vehicles, the vehicle itself was turned over to the Italians for repair or salvage and the Italian Government was charged at list price less the depreciation according to classification. Therefore, it would be necessary to ascertain the value of each vehicle at the time it was consigned to the Italian Government and to deduct that sum from the total of the refund.

4. It is recommended that this correspondence be forwarded to Headquarters, USFA, for review and opinion so as to establish a precedent which will be applied in all cases of loss or damage to U.S. Government property due to the fault or neglect of Italian military personnel employed by U.S. military formations.

[illegible]
Colonel, Cavalry,
Deputy Director, USFA, ERR

3 Incls:
Added 2 Incls:
Incl 2 -- Translation of War Ministry Letter, subj: Theft of an American Truck, dated 20 June 1946.

Incl 3 -- Opinion of Judge Advocate [illegible], Legal Sub Commission, AFHQ.

(311)

CONFIDENTIAL

0130

Declassified E.O. 12356 Section 3.3/NND No. 785015

COPY OF TRANSLATION

From: Ministry of War

To : H.Q.I.S.

Date: 28th/VI

Date: 10/6/46

Subject: Theft of an American Truck.

In reply to letter No. 2/3/Ital - 114 dated 10/5/46.

Re the theft of the American truck from the Mestre Center guarded by U.S.F. Tuttigh de Roberto, the one of the opinion, together with the Stato Maggiore Generale, that the Italian Admin. should not pay for the damages done to the American Admin. by De Roberto who, by allowing another army driver to use the truck in question, lost same. - The reasons are as follows:-

U.S.F. in Roberto, according to reports, was serving under the American HQ. and was billeted by and under the administration of the Allied. American HQ. and was billeted by and under the administration of the Allied.

Therefore, he was not acting on orders of the Italian Admin. which had nothing to do with the custody of the vehicles and the organisation of the guard details, but he was under the Allied Command who, having accepted to take on strength U.S.F. for employment under Allied officers, due to the insufficient strength of H.Q., cannot hold the Italian Admin., which completely ignorant about U.S.F. are employed or organised, either directly or indirectly responsible for any offence that might be committed by the U.S.F. in question. Since these U.S.F. become members (as far as employment is concerned) of the American Admin., the American Admin. should consider the damage as having been done by one of their own unit.-

Therefore, should the American Command (in accordance with the results of the enquiries) hold U.S.F. De Roberto responsible, it should deal directly with him and not with the Italian Admin. which knows nothing about the service and employment of personnel transferred to the American Command.

/sgd/ WILLIAMS
Gen.

5783

(37) Encl 2

OPINION of JUDGE ADVOCATE.

Owing to the shortage of Military Police a number of Carabinieri were transferred for service with the A.A.A.C. for the purpose of guarding the motor-vehicles of the Message Centre. They were duly instructed by the C.O. of the Signal Service Company that each carabiniere was to guard the particular vehicle to which he had been assigned as guard and allow no one else to touch it except its appointed driver.

In the particular case under consideration a Jeep returned to the Message Centre; its driver went inside for fresh orders, leaving the vehicle in the charge of its guard, Carabiniere [illegible]. A few minutes later an American soldier, not the driver of the vehicle, came out of the office into which the driver had gone, told the guard he had spoken to the driver, and he would be back immediately, drove the Jeep away, and never returned.

It is clear that the theft of the Jeep was the direct result of the negligence of the guard de [illegible] in acting contrary to the specific orders he had received by allowing a person other than the allotted driver to take the vehicle, and for the loss occasioned by his negligence the guard is undoubtedly personally liable.

The 11 carabinieri, with a brigadiere in charge, when transferred for duty with the Signal Service Company were [illegible] by that unit and carried out their duties in obedience to its orders. During [illegible] under the control and subject to the orders of the Signal Coy they were become those of the Allied Forces. The question arises as to whether the negligence of the guard can be extended to the Italian Government so as to make it liable in addition to the guard. If such liability can be extended, it must be by operation of law, by the fiction of agency, or by contract.

We are unaware of any provision of law or any regulation that imposes a liability on the Italian Government in the circumstances.

On the question of agency there is nothing in the facts submitted that would justify holding that the guard de [illegible] was acting as an agent of the Italian Ministry of War; on the contrary the facts indicate that he was an agent of a unit of the Allied Forces under whose [illegible] he was carrying out his duties.

Declassified E.O. 12356 Section 3.3/NND No. 785015

0132

he had stolen by the driver, and he would be then responsible, [illegible] the jeep away, and never returned.

It is clear that the theft of the jeep was the direct result of the negligence of the guard de Tuberdis in acting contrary to the specific orders he had received by allowing a person other than the allotted driver to take the vehicle, and for the loss occasioned by his negligence the guard is undoubtedly personally liable.

The Ll carabinieri, with a brigadiere in charge, when transferred for duty with the Signal Service Company were billetted by that unit and carried out their duties in obedience to its orders. During [illegible] under the control and subject to the orders of the Signal Coy their acts became those of the Allied Forces. The question arises as to whether the negligence of the guard can be extended to the Italian Government so as to make it liable in addition to the guard. If such liability can be extended, it must be by operation of law, by the fiction of agency, or by contract.

We are unaware of any provision of law or any regulation that imposes a liability on the Italian Government in the circumstances.

On the question of agency there is nothing in the facts submitted that would justify holding that the guard de Tuberdis was acting as an agent of the Italian Ministry of War; on the contrary the facts indicate that he was an agent of a unit of the Allied Forces under whose control and orders he was carrying out his duties.

As regards liability under contract this could not arise if there were an obligation in the nature of a guarantee by the Ministry of War that the carabinieri transferred for guard duties were reasonably fit for such duties. There is nothing in the documents to show that there is any such obligation resting upon the Italian Government, and, even if there were, the sworn statement of the brigadiere in command of the detachment that "de Tuberdis is honest and conscientious and has always been one of my best men" conclusively negatives any breach of such hypothetical obligation.

This Sub Commission is unaware of any legal ground other than those mentioned above upon which the liability of de Tuberdis could be extended so as to render the Italian Government liable also, and no such further ground of liability has been put forward.

In the opinion of the Sub Commission the Italian Government is not liable to pay the value of a jeep stolen as a result of the negligence of the carabinieri who was guarding it.

s/ John L. Weber,
t/ JOHN L. WEBER,
Colonel, [illegible],
Chief Legal Advisor.

Encl. 1. CONFIDENTIAL

Declassified E.O. 12356 Section 3.3/NND No. 735015

0133

Declassified E.O. 12356 Section 3.3/NND No. 785015

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

23 August 1946

G-5 941.32P

SUBJECT: Request for Release-CARLO CAMILLO

TO : Chief Commissioner,
Allied Commission,
APO 794

1. Letter from Carlo Camille Dated 10 July 46, together with translation, forwarded herewith for acknowledgement and appropriate action.

2. Subject is of no interest to this Headquarters.

BY COMMAND OF LIEUTENANT GENERAL LEE:

A.L. HAMBLEN
Colonel, G.S.C.
Assistant Chief of Staff, G-5

Encl: as above

All correspondence sent to A.F.H.Q. Com for action of Maj. Reed this 5764 SEP 3 1946 WM

332c

Avv. SALVATORE BERTOLINO
VIA G. AVEZZANA, 8 - TEL. [illegible] 383
ROMA

Roma 21 / 8 / 1946

Sir ,

new and serious events have made worse the fate of my country since the day I had; the privilege of being introduced to you by my friend M.se Borgogna; I am greatly sha_ ken and gieved .

Yet I have great hope that it will not take long for my country to revive under the wise guide of a worthy Leader .

Meanwhile " quippe qui de populo, homo novus " I strug_ gle all alone using law as a weapon, so that the dishonesty of a few, may not spoil the honour of Italy who is proud to be Mother of Law and Master of Civilization.

I therefore send you enclosed herewith an appeal made by me to the Supreme Court (Corte di Cassazione) along with an explanatory note in your language .

Beeing a true friend of Italy and a firm believer in democratic liberty, you will be kind enough to welcome this hum_ ble effort of mine .

Yours sincerely

Avv. Bertolino

Declassified E.O. 12356 Section 3.3/NND No. 785015

Meanwhile " quippe qui de populo, homo novus " I strug_ gle all alone using law as a weapon, so that the dishonesty of a few, may not spoil the honour of Italy who is proud to be Mother of Law and Master of Civilization.

I therefore send you enclosed herewith an appeal made by me to the Supreme Court (Corte di Cassazione) along with an explanatory note in your language .

Beeing a true friend of Italy and a firm believer in democratic liberty, you will be kind enough to welcome this hum_ ble effort of mine .

Yours sincerely

Avv. Bruno

60

A S. E.
ELLERY STONE
Capo Commissione Alleata
R O M A

See

334

3326

Declassified E.O. 12356 Section 3.3/NND No. 785015

Declassified E.O. 12356 Section 3.3/NND No. 785015

Avv. SALVATORE BERTOLINO
ROMA
Via Giuseppe Avezzana 8
Tel. 38...

PATRIAE AC FIDEI

SUPREMA CORTE DI CASSAZIONE

RICORSO

d'AZIONE POPOLARE

per i Signori ITALO e MARIA TAJANI dom.ti in Milano ed elett.in Roma a Via G. Avezzana n. 8 presso e nello studio dell'Avv. Salvatore M. Bertolino-Verona e per quanto occorra per il procuratore stesso in proprio, il quale li rappresenta e difende per mandato in calce.

Contro

IL MINISTERO DELL'INTERNO in persona del Ministro pro-tempore

nonchè, per quanto di ragione

contro

IL CONSIGLIO DEI MINISTRI in persona del Presidente pro tempore

entrambi domiciliati ex lege in Via dei Portoghesi n. presso l'Avvocatura Generale dello Stato;

elett.in Roma [illegible]

dell'Avv. Salvatore M. Bertolino-Verona e per quanto occorra per il procuratore stesso in proprio, il quale li rappresenta e difende per mandato in calce.

C o n t r o

IL MINISTERO DELL'INTERNO in persona del Ministro pro-tempore

nonchè, per quanto di ragione

c o n t r o

IL CONSIGLIO DEI MINISTRI in persona del Presidente pro tempore

entrambi domiciliati ex lege in Via dei Portoghesi n.

presso l'Avvocatura Generale dello Stato;

per l'annullamento delle elezioni dei deputati alla Assemblea Costituente e del referendum istituzionale.

P r e m e s s o

che con D.L.L. 10/3/1946 n. 74 venivano dettate norme per l'elezione dei deputati all'Assemblea Costituente;

che con D.L.L. 16/3/1946 n. 98 veniva stabilito che contem-

(332b)

Declassified E.O. 12356 Section 3.3/NND No. 785015

poraneamente a tali elezioni il popolo doveva essere chiamato a decidere mediante referendum la formula istituzionale (Repubblica o Monarchia); con D. Luog. in pari data n.99 veniva indetta la convocazione dei comizi elettorali con temporanea esclusione dei collegi elettorali della Venezia Giulia e della provincia di Bolzano;

- che ad integrazione e parziale modifica del citato D.L.L. n. 74, con successivo D.L.L. 23/4/1946 n. 219 venivano dettate le norme definitive per lo svolgimento del referendum e la proclamazione dei risultati di esso;

- che le operazioni di votazione avevano luogo nei giorni fissati, 2 e 3 giugno 1946;

- che le norme surriferite venivano menzionate e promulgate su deliberazioni del Consiglio dei Ministri e su proposta del Presidente del Consiglio stesso;

- che tutte le operazioni inerenti al servizio elettorale e alla disciplina di esso venivano predisposte ed espletate dal Ministero per l'Interno;

CONSIDERATO

Declassified E.O. 12356 Section 3.3/NND No. 785015

- che ad integrazione e parziale modifica del citato D.L.L. n. 74, con successivo D.L.L. 23/4/1946 n. 219 venivano dettate le norme definitive per lo svolgimento del referendum e la proclamazione dei risultati di esso;

- che le operazioni di votazione avevano luogo nei giorni fissati, 2 e 3 giugno 1946;

- che le norme surriferite venivano menzionate e promulgate su deliberazioni del Consiglio dei Ministri e su proposta del Presidente del Consiglio stesso;

- che tutte le operazioni inerenti al servizio elettorale e alla disciplina di esso venivano predisposte ed espletate dal Ministero per l'Interno;

CONSIDERATO

a) - per quanto attiene al referendum;

1) - che secondo le norme di attuazione sopra indicate, la proclamazione definitiva della forma istituzionale prescelta dalla maggioranza degli elettori, deve intendersi subordinata alla convocazione dei comizi per i collegi della Venezia Giulia e per la provincia di Bolzano;

3326

Declassified E.O. 12356 Section 3.3/NND No. 785015

- che per conseguenza i risultati del referendum dovranno in ogni caso essere integrati dalle risultanze nei suddetti collegi nonchè in quelli che si è mancato di costituire;

1) - presso le comunità italiane all'estero;

2) - nelle provincie italiane dell'Africa Settentrionale le quali, benchè attualmente occupate da forze alleate, non hanno, cessato di far parte del territorio metropolitano;

3) - tra i cittadini dei possedimenti e delle colonie dell'Africa orientale;

- che d'altronde la esclusione dei collegi elettorali della Venezia Giulia e della provincia di Bolzano è avvenuta in forza di un decreto luogotenenziale, cui, secondo le vigenti norme di diritto costituzionale, non può riconoscersi natura ed efficacia di moficicare il precedente D.L.L. 16/3/46 n. 98, per il che è in corso apposita impugnativa presso il Consiglio di Stato;

- che le risultanze del referendum non possono con la

Declassified E.O. 12356 Section 3.3/NND No. 785015

2) - nelle provincie italiane dell'Africa Settentrionale le quali, benchè attualmente occupate da forze alleate, non hanno, cessato di far parte del territorio metropolitano;

3) - tra i cittadini dei possedimenti e delle colonie dell'Africa orientale;

- che d'altronde la esclusione dei collegi elettorali della Venezia Giulia e della provincia di Bolzano è avvenuta in forza di un decreto luogotenenziale, cui, secondo le vigenti norme di diritto costituzionale, non può riconoscersi natura ed efficacia di moficicare il precedente D.L.L. 16/3/46 n. 98, per il che è in corso apposita impugnativa presso il Consiglio di Stato;

- che le risultanze del referendum non possono con la necessaria esattezza determinarsi in quanto :

1) - in difetto di sufficiente specificazione al riguardo, dovrà con apposita legge interpretarsi in via autentica la norma contenuta dell'art. 2 del D.L.L. 16/3/46 n. 98 circa la determinazione della "maggioranza degli elettori votan

3326

Declassified E.O. 12356 Section 3.3/NND No. 785015

ti", stabilendosi il quorum;

2) - le operazioni preliminari e di votazione si sono svolte attraverso irregolarità gravissime preordinate o intese ad alterare la maggioranza delle schede in favore della forma istituzionale repubblicana;

3) - che con eccesso di potere si sono inoltre escluse dalla votazione varie categorie di cittadini, temporaneamente sospesi dall'elettorato attivo per reati politici, i quali però conservano diritto ad esprimere il loro voto in materia istituzionale (altro motivo del cennato ricorso al Consiglio di Stato);

4) - il deplorevole cumulo di reati perpetrati sia da elettori che da componenti di seggi incide sostanzialmente sulla validità delle operazioni dai medesimi effettuate o quanto meno ne altera le risultanze nel loro complesso, del che finora non si è potuto tener conto per la pendenza dei giudizi relativi ai reati più gravi commessi nei centri elettorali più importanti;

5) - che in violazione dell'art. 9 comma 2° e con

Declassified E.O. 12356 Section 3.3/NND No. 785015

3) - che con eccesso di potere si sono inoltre escluse dalla votazione varie categorie di cittadini, temporaneamente sospesi dall'elettorato attivo per reati politici, i quali però conservano diritto ad esprimere il loro voto in materia istituzionale (altro motivo del cennato ricorso al Consiglio di Stato);

4) - il deplorevole cumulo di reati perpetrati sia da elettori che da componenti di seggi incide sostanzialmente sulla validità delle operazioni dai medesimi effettuate o quanto meno ne altera le risultanze nel loro complesso, del che finora non si è potuto tener conto per la pendenza dei giudizi relativi ai reati più gravi commessi nei centri elettorali più importanti;

5) - che in violazione dell'art. 9 comma 2° e con eccesso di potere il Ministero per l'Interno ordinava per fonogramma all'ultimo momento la protrazione della votazione oltre l'ora stabilita per legge(terzo motivo del ricorso al Consiglio di Stato);

- che in gran numero di comuni gli uffici elettorali con azioni od omissioni colpose o dolose hanno tra l'altro ine-

3326

Declassified E.O. 12356 Section 3.3/NND No. 785015

sattamente compilato le liste elettorali e la regolare tempestiva notifica dei relativi certificati a cospicuo numero di cittadini che sono quindi rimasti esclusi dalla votazione;

- che le Giunte Municipali di molti Comuni hanno colposamente o dolosamente nominato gli scrutatori tra persone non idonee sia per analfabetismo che per età condizioni fisiche e sociali a tali delicate e complesse funzioni, con la conseguenza di facilitare o provocare :

1) - l'alterazione delle schede;

2) - l'immissione nelle urne di schede in sopranumero;

3) - la falsa certificazione nelle liste elettorali di votazioni non avvenute;

4) - irregolarità varie durante le operazioni preliminari e di votazione avvenute secondo criteri disparati e spesso arbitrari;

5) - la redazione di verbali irregolari, incomplet[illegible] e addirittura falsi;

Declassified E.O. 12356 Section 3.3/NND No. 785015

mente o dolosamente nominate gli scrutatori tra persone non idonee sia per analfabetismo che per età condizioni fisiche e sociali a tali delicate e complesse funzioni, con la conseguenza di facilitare o provocare :

1) - l'alterazione delle schede;

2) - l'immissione nelle urne di schede in sopranumero;

3) - la falsa certificazione nelle liste elettorali di votazioni non avvenute;

4) - irregolarità varie durante le operazioni preliminari e di votazione avvenute secondo criteri disparati e spesso arbitrari;

5) - la redazione di verbali irregolari, incompleti o addirittura falsi;

- che in correlazione e conseguenza di quanto sopra, all'Ufficio Elettorale Nazionale, non può esser possibile procedere all'esame dei ricorsi, denuncie e reclami ad esso pervenuti in cifra eccezionale, ed esaurirne la decisione nel termine di legge;

(332) 6

0145

Declassified E.O. 12356 Section 3.3/NND No. 785015

C O N S I D E R A T O

per quanto attiene alla elezione dei deputati all'assemblea costituente :

- che questa si è svolta sulle medesime liste e in base agli stessi certificati elettorali che per il referendum;

- che pertanto i motivi sopra dedotti e le denunciate irregolarità incidono e infirmano nel loro complesso anche le elezioni politiche che si sono svolte contestualmente al referendum:

R I T E N U T O

per quanto attiene alla natura e alle finalità del presente ricorso;

1) - <u>dal punto di vista sostanziale</u>

che secondo i principi generali di diritto ed in analogia al disposto dell'art. 36 T. U. 2 settembre 1928 n. 1993 in materia di elezioni amministrative, ricorrono gli estremi per la promuovibilità di un'azione popolare;

2) - <u>dal punto di vista processuale</u> :

che l'azione stessa dà luogo ad un giudizio in materia che

Declassified E.O. 12356 Section 3.3/NND No. 785015

- che pertanto i motivi sopra [illegible]

golarità incidono e infirmano nel loro complesso anche le elezioni politiche che si sono svolte contestualmente al referendum:

R I T E N U T O

per quanto attiene alla natura e alle finalità del presente ricorso;

1) - <u>dal punto di vista sostanziale</u>

che secondo i principi generali di diritto ed in analogia al disposto dell'art. 36 T. U. 2 settembre 1928 n. 1993 in materia di elezioni amministrative, ricorrono gli estremi per la promuovibilità di un'azione popolare;

2) - <u>dal punto di vista processuale</u> :

che l'azione stessa dà luogo ad un giudizio in materia che per legge forma oggetto di competenza esclusiva di codesta Ecc.ma Corte;

che tale giudizio, altrimenti di competenza del giudice di merito, rende necessario in questa sede l'espletamento di mezzi istruttori e l'assunzione di materiale probatorio;

premesso e ritenuto quanto sopra, il sottoscritto pro-

3326

Declassified E.O. 12356 Section 3.3/NND No. 785016

curatore rivolge rispettosa

I S T A N Z A

a codesta Ecc.ma Corte, affinchè, ritenuta la propria esclusiva competenza, voglia :

<u>in via principale</u> :

dichiarare nulle ed inefficienti nel loro complesso le risultanze delle elezioni dei deputati all'assemblea costituente e del referendum istituzionale in esito ai motivi sopra dedotti e alla documentazione già esibita dagli interessati o trasmessa dagli uffici competenti a codesta Ecc.ma Corte in sede di Ufficio Elettorale Nazionale.

<u>In linea subordinata</u> :

disporre con le modalità e termini che si rimettono in difetto di norme positive al prudente arbitrio di codesta Ecc.ma Corte, previo parere del Pubblico Ministero, l'assunzione se del caso di ulteriori mezzi istruttori, al cui riguardo si formula particolare riserva di singole istanze e deduzioni.

Salvo e riservato ogni altro diritto, azione e ragione

0 1 4 8

Declassified E.O. 12356 Section 3.3/NND No. 785015

dichiarare nulle ed inefficienti nel loro complesso le risultanze delle elezioni dei deputati all'assemblea costituente e del referendum istituzionale in esito ai motivi sopra dedotti e alla documentazione già esibita dagli interessati o trasmessa dagli uffici competenti a codesta Ecc.ma Corte in sede di Ufficio Elettorale Nazionale.

In linea subordinata :

disporre con le modalità e termini che si rimettono in difetto di norme positive al prudente arbitrio di codesta Ecc.ma Corte, previo parere del Pubblico Ministero, l'assunzione se del caso di ulteriori mezzi istruttori, al cui riguardo si formula particolare riserva di singole istanze e deduzioni.

Salvo e riservato ogni altro diritto, azione e ragione anche in separata sede giurisdizionale o amministrativa.

- Ai fini dell'accoglimento delle conclusioni che precedono, il sottoscritto procuratore rivolge istanza perchè, previa nomina del Consigliere Istruttore, voglia determinarsi il giorno e l'ora della prima udienza, di comparizione delle parti, fissandosi congruo termine entro il quale dovranno com-

372 b

Declassified E.O. 12356 Section 3.3/NND No. 785015

piersi le notificazioni di rito.

Roma, li 16 giugno 1946.

Avv. SALVATORE M.BERTOLINO-VERONA

Declassified E.O. 12356 Section 3.3/NND No. 785015

0151

Declassified E.O. 12356 Section 3.3/NND No. 785015

Appeal of "POPULAR ACTION"

An appeal so called "Popular Action" has been filed at the High Court (Corte di Cassazione). Such an appeal differentiates itself from all others thas filed in as much as the latters call for a judge= ment passed in chamber of Council, and therefore are of a judicial ad= ministrative nature, while the former calls for civil judgement by the judicial Authority (Criminal Courts) and calls for a sentence in the fullest sense and meaning of the word.=

The so called popular action, is an ancient institution of pu= blic right, going back to the Roman right, although with different ap= plications.

It has been particularly developped in intermediate right espe= cially in other European Countries.

In our administration where different laws of application, one administrative when institutional matters of public welfare are concer= ned and two where jurisdictional procedure of the administrative and political election are concerned.

For the first two types of appeals it has been ascertained that there are jurisprudential precedents in Italy: while for the therd case (political election) there does not seem to exist any precedent since the unification of Italy. (1870)

However students of Law agree, not only in believing the actual

Declassified E.O. 12356 Section 3.3/NND No. 785015

fullest sense and meaning of the word.=

The so called popular action, is an ancient institution of pu= blic right, going back to the Roman right, although with different ap= plications.

It has been particularly developped in intermediate right espe= cially in other European Countries.

In our administration where different laws of application, one administrative when institutional matters of public welfare are concer= ned and two where jurisdictional procedure of the administrative and political election are concerned.

For the first two types of appeals it has been ascertained that there are jurisprudential precedents in Italy: while for the therd case (political election) there does not seem to exist any precedent since the unification of Italy. (1870)

However students of Law agree, not only in believing the actual existance of such juridic institution, as a corner stone of constitu= tional guarenties of each single citizen, but that such an action is still possible and could not only impound the result of single election, on electoral bodies, but could only impound the validity of political elections in their whole and in their final result.

-51

./.

3326

Declassified E.O. 12356 Section 3.3/NND No. 785015

The peculiarity of such an institution which is the cause of its name, is that each citizen, taking the initiative of it, defending his own right and the right of the comunity on behalf of which, and on whose implicit authority granted by the very same character of the judicial action, will act as one of the parts in a civil tryal. =

By thus submitting to the judgement of the supreme magistrates any irregularity which may have happened during the preliminary operations and during the elections, themiselves any citizen will be enable to examine and check any evidence concerning irregularities and electoral crimes which may have been committed the trials being held in public.

The importance of such an action is quite obvious, where the constitutional freedom is concerned, because the Supreme Court (Corte di Cassazione) is no longer called in as a National Election Office through the power on it best owed upon it by the laws that discipline the elections, but is called in as the Supreme Jurisdictional Body of the State.

Declassified E.O. 12356 Section 3.3/NND No. 785015

to examine and check any evidence concerning irregularities and electoral crimes which may have been committed the trials being held in public.

The importance of such an action is quite obvious, where the constitutional freedom is concerned, because the Supreme Court (Corte di Cassazione) is no longer called in as a National Election Office through the power on it best owed upon it by the laws that discipline the elections, but is called in as the Supreme Jurisdictional body of the State.

332b

Declassified E.O. 12356 Section 3.3/NND No. 785015

0156

Declassified E.O. 12356 Section 3.3/NND No. 785015

/CA

ALLIED FORCE HEADQUARTERS

APO 512

20 August 1946

SUBJECT : BENCIC Gino

TO : Commanding General, XIII Corps,
Attn: Capt. Watson, "A" Branch, Rear, XIII Corps.

1. It is desired that BENCIC Gino, a Yugoslav National, now held in custody, Coroneo prison, Trieste, Italy, be released and be surrendered to the following named officers upon presentation of this letter :

1st Lt Carl I. Mercer, CMP, O-1797502, or
2nd Lt Walter W. Osborne, Inf, O-2020962

2. Subject is desired by U.S. Military Authorities for surrender to the Yugoslav Government at such time as the Commanding General, Mediterranean Theater of Operations shall direct.

BY COMMAND OF LIEUTENANT GENERAL LEE:

RALPH C. TILLEY
Colonel, AGD,
Adjutant General

5719

332a

MAJ FLEETWOOD (CIC) 6897
EXCEL OF 4751/3

412 Field Security Section
C.M.F.

SECRET.

Ref: A12/FS/1.

6 Feb. 1946

Subject: Murder of Dr. Ivan PROTULIPAC

CSI(b) 13 Corps
HQ 5 SOI Unit
5 FLD
429 FS Section
Asst. Chief of Police. TRIESTE

1. PROTULIPAC was murdered in broad daylight on 1 Feb. 1946 in via Slataper, TRIESTE, by a certain BENCIC Ginc. The motives for the murder are NOT yet clear but information on PROTULIPAC himself and the few details available on the murderer, who was captured almost immediately after he had killed his victim, would point to the probability of the murder having been organized by Jugoslav Intelligence.

2. P. was born in 1899 in KARLOVAC (Croatia) of peasant stock. He went to school in his home town and ZAGREB, where he later opened a solicitor's office and became one of the foremost solicitors in Croatia. He was known as the "lawyer of the poor", always ready to help people of the poorest classes.

3. He became one of the organizers of the Catholic Youth Movement together with Dr. KRELE, who was considered for canonisation by the Catholic Church. They founded the movement 'ORAO', of which P was president until 1929, when this organization was disbanded by the Serbian Dictatorship. He later founded another Catholic Youth Movement, the 'KRIZARI', of which he was also the president. His ideals were democratic and religious. He was a good orator and his actions were NOT in contradiction to his words: [illegible] Catholic Youth firmly behind him.

5718

Declassified E.O. 12356 Section 3.3/NND No. 785015

785015

1. PROTULIPAC was murdered in broad daylight on 1 Feb. 1946 in via Slataper, TRIESTE, by a certain MENCIG Vinc. The motives for the murder are NOT yet clear but information on PROTULIPAC himself and the few details available on the murderer, who was captured almost immediately after he had killed his victim, would point to the probability of the murder having been organized by Jugoslav Intelligence.

2. P. was born in 1899 in [redacted] (Croatia) of peasant stock. He went to school in his home town and [redacted], where he later opened a solicitor's office and became one of the foremost solicitors in Croatia. He was known as the "lawyer of the poor", always ready to help people of the poorest classes.

3. He became one of the organizers of the Catholic Youth movement together with Dr. [redacted], who was considered for canonisation by the Catholic Church. They founded the movement 'CRO', of which P was president until 1929, when this organization was disbanded by the Serbian Dictatorship. He later founded another Catholic Youth Movement, the 'KRIZARI', of which he was also the president. His ideals were democratic and religious. He was a good orator and his actions were NOT in contradiction to his words: thus he had the Catholic Youth firmly behind him.

4. Dr. MACEK is reported to have appreciated his work very much, declaring that his work in the social and cultural field was a good basis for democracy in Croatia. He had the sympathies of all classes, except the Communists, who, knowing his ability and aims, considered him an obstacle to their plans. Because of this he together with Dr. MACEK was attacked by them in their press.

5. He also founded a Youth Movement for the Moslems called "[redacted]". This organisation was disbanded after the German occupation; since it was considered an anti-fascist movement. P was arrested by the Ustachi and then released. Later he was invited by PAVELIC to form a youth movement for the Ustachi, which he refused. He was arrested again and released after some time. Thereupon he retired from public life and resumed his work as a solicitor, taking NO further part in activities until the end of the war. Before the arrival of the partisans he left Jugoslavia and came to TRIESTE, knowing that the partisans were as much against him as against MACEK. Earlier in 1945 he had married and left his wife behind at Strossmayer Street No. 5

5748

772

Declassified E.O. 12356 Section 3.3/NND No. 785015

ZAGREB.

6. In TRIESTE, P continued his political activity, being the main link between the Archbishop of ZAGREB and the Vatican, passing despatches from the one to the other. He was engaged in writing anti-Tito leaflets which he was sending through into Jugoslavia. He is also reported to have been in contact with anti-Tito groups in Jugoslavia known as 'DOMANI'.

7. Paras 2 - 6 inc. are assessed for reliability at B plus.

8. Little is known of the murderer BENCIC, who is stubborn under interrogation and has to date NOT revealed anything which would connect him with P. Claiming to have been in TRIESTE since April, 1945, he can NOT name the street in which he bought his pistol, appears to possess only the clothes in which he was captured, has NOT yet given an address in TRIESTE at which he was resident. He knows nothing about the past of his victim and appeared and appeared to have difficulty in recognising him from the photograph shown him by the police. Originally he had claimed that his victim had been responsible for the conviction and subsequent execution of his parents: of the trial, however, he could give no details. It may or may NOT be of significance that the 'Lavoratore' dismissed the crime in some fifteen lines as a personal feud and indicative of the undesirable elements in the town.

9. A Right Wing Jugoslav Source claims to have learned from a partisan deserter who plays the accordian in the Serbian Caffe Piazza Guido Neri, that the latter met BENCIC the day before the murder, when B stated that he had come from Jugoslavia to buy food. This man knows B personally and maintains that he is a member of OZNA at SUSAK. The reliability of this information is NOT known, but the accordian player is being interviewed by another source.

10. Same source claims that BENCIC arrived with two other persons who had similar missions. Reliability NOT known.

Declassified E.O. 12356 Section 3.3/NND No. 785015

[illegible] about the past of his victim and appeared ~~and~~ appeared to have difficulty in recognising him from the photograph shown him by the police. Originally he had claimed that his victim had been responsible for the conviction and subsequent execution of his parents: of the trial, however, he could give no details. It may [illegible] or may NOT be of significance that the 'Lavoratore' dismissed the crime in some fifteen lines as a personal feud and indicative of the undesirable elements in the town.

9. A Right Wing Jugoslav Source claims to have learned from a partisan deserter who plays the accordian in the Serbian Caffe Piazza Guido Neri, that the latter met BENCIC the day before the murder, when B stated that he had come from Jugoslavia to buy food. This man knows B personally and maintains that he is a member of OZNA at Sušak. The reliability of this information is NOT known, but the accordian player is being interviewed by another source.

10. Same source claims that BENCIC arrived with two other persons who had similar missions. Reliability NOT known.

5547

..... Capt.
C.C. 412 Field Security Section

332a

Declassified E.O. 12356 Section 3.3/NND No. 785015

0161

Declassified E.O. 12356 Section 3.3/NND No. 785015

COPY. POLIZIA DELLA VENEZIA GIULIA

DIVISIONE CRIMINALE INVESTIGATIVA

No. 1755 Special Branch. Trieste 2nd February 1946

Oggetto: Murder of Proutulipac Giovanni, of Giovanni, born in Karlovac on 4.7.899, residing via Slataper n.1. lawyer.

To the Superintendent C.I.D. Trieste.

On 31st January 1946 Protulipac Giovanni at 11.35 a.m. near his home, was murdered with a silent-pistol shot fired at close range to his nape by an individual who immediately ran away.

The murderer followed by some people on the street was caught near Portici di Chiozza and disarmed.

Taken to this Office he stated:

To be BENCICH Gino of late Vittorio, born in Susak, 21 years old, student, homeless. To have come to Italy at end of April last year to escape reprisals of Titio partisans, because he did not want to be enlisted in the Jug. Army. The a/m added that he had heard that Protulipac was in Trieste and his purpose was to find him out at any rate to be revenged, as Protulipac had ordered a Ustascia squad to burn his house and kill his parents.

The murdered stated to have bought the pistol in Trieste on August last from an unknown individual and to have carried it always in his pocket also during his travelling in Italy. It was impossible to make him state where he had lived, here or elsewhere. He answered to all questions showing much cynicism and often contradicting himself. At the end he stated to be very glad to have attained his purpose.

Following enquiries immediately carried out it results that Protulipac was in Trieste since June last, coming from Zagabria, where he was practising the profession of lawyer.

He escaped in order to avoid being arrested by his political adversaries for he was the leader of a catholic organisation.

Here he modestly lived in a furnished room and had a few acquistances between the Croatian exiles. He used to go home every night before dark, in order to avoid to be abducted by members of OZNA.

On the morning of 31 last he went out at about 9 a.m. and went to Hotel Istria to meet a lady he knew. With her he went to the Central Post Office to post some letters. The lady noticed they were followed by a young man whose description is corresponding to Bencich's personal appearance. Therefore it

../..

332a

0162

Declassified E.O. 12356 Section 3.3/NND No. 785015

is thought that the murderer followed his victim on the purpose of shooting him down at the right moment and not - as Bencich stated - to have met him occasionally.

This Office thinks that pretended Bencich (whose identity was impossible to be determined as his identity card issued in Fiume on 17.1.945 n.057570 is forged) is an agent of OZNA charged to kill an adversary, who for his political personality could have been a danger.

It has been ascertained that Protulipac was in epistolary contact with persons residing in England and U.S.A. and with members of the Vatican.

Signed. THE CHIEF INSPECTOR. ??

1. Letters referred to herein have been impounded and are undergoing translation (Croat). 4.2.46 (Signed Initials ??)

2. Deceased was President of Catholic Youth Party. (Y.S.)

785015

332a

0 1 6 3

Declassified E.O. 12356 Section 3.3/NND No. 785015

COPY.

POLIZIA DELLA VENEZIA GIULIA

DIVISIONE CRIMINALE INVESTIGATIVA

C.I.D. Special Branch

TRIESTE. 2nd February 1946

Subject: Murder of Protulipac by pretended Bencich.

To the Supt. of V.G./Civil Police
Trieste Zone.

TRIESTE.

On 31st January last at 11.35 a.m. at Via Slataper a pretended Bencich Gino of late Vittorio, born in Sussak, 21 years old, student, homeless, killed with a shot fired close at the nape (the gun used was a specially build soundless pistol) the political refugee Protulipac Giovanni, of Giovanni, born in Karlovac, 46 years old, living here at No.1. via Slataper, lawyer.-

The murder - immediately arrested - stated that Protulipac in 1943 had ordered to an ustaša squad to burn his house and to kill his parents.-

Enquiries have been promptly carried out and it is thought, on the contrary, that Bencich - an OZNA agent - had been charged to kill Protulipac, who in Zagabria was a leader of a catholic organisation and who had contacts with important persons residing in England, USA and members of the Vatican.

Signed. ?? The Deputy Superintendent.

5144

3220

0164

Declassified E.O. 12356 Section 3.3/NND No. 785015

19 August 1946.

Dear Sir:

Replying to your letter of the 29th, I am having the Piccone case investigated and will communicate with you.

Normally, however, it would be impossible for an Italian citizen to have his case reviewed by Allied authorities unless Allied interests, military or financial, are concerned.

The Allied Governments restored the Province of Bari to Italian Government administration early in 1944 and we have no right of intervention whatsoever as I am sure you can understand. But if our investigation shows that a manifest injustice has been committed, perhaps we can drop a hint.

Sincerely,

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Mr. Victor E. Lawson,
Pent House Studio,
19 W. 34th Street,
New York, N.Y.

5743

cc Legal Dept

0165

Declassified E.O. 12356 Section 3.3/NND No. 785015

15 August 1946.

My dear Major:

Thank you for your letter of 12 July with reference to the cases of Salvatore MONCADA and Salvatore BRAMANTE of Sicily.

With regard to MONCADA's case, Colonel Weber informs me that it was the unanimous opinion of the three members of the Review Board that the conviction should be quashed. Colonel Weber concurred and ordered the release of the accused and the remission (not suspension) of the fine, if paid. MONCADA was duly released in March 1946. Colonel Weber adds that on examination of the case he could see where the order to quash may have been misunderstood and therefore, to foreclose any doubt in the case, he has sent an amended order to the Ministry of Grace and Justice with explicit instructions thereon.

I am grateful to you for calling MONCADA's case to my attention.

BRAMANTE's case was one of alleged sabotage and, as you know, Allied Force Headquarters has not delegated to the Allied Commission authority to deal with such cases. In this case it was the unanimous opinion of the Review Board that the facts there presented did not warrant a conviction under the theory of espionage, but merely unauthorized political activity, and following a conference between representatives of the Allied Commission and AFHQ on 10 July 1946, BRAMANTE was ordered released. According to the record, this was accomplished by the Ministry on 24 July 1946, and he is now at liberty.

With best wishes,

Sincerely,

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Major Frank L. Vecchiolla,
30 Colone Street,
Meriden, Connecticut.

0166

Declassified E.O. 12356 Section 3.3/NND No. 785015

15 Aug 46

MEMORANDUM TO CHIEF COMMISSIONER:

Re the case of MONCADA, Salvatore (the famous, or should I say infamous S.I.C.P. Case), the unanimous opinion of three members of the Review Board (not two as suggested by Major Vecchiolla) was that the conviction should be quashed. I concurred therein, and ordered the release of the accused and the remission (not suspension) of the fine, if paid. The accused was duly released in March 1946.

On examination of the record I can see where the order to quash may have been mis-understood. To foreclose any doubt in the case, I am sending an amended order to the Ministry of Grace and Justice with explicit instructions thereon. To that extent, the letter of Major Vecchiolla may have served a useful purpose.

The case of BRAMANTE, Salvatore, was one of alleged sabotage. You will recall that the subject of spies, espionage and sabotage has been the topic of much discussion between A.C. and G-5 AFHQ. In my opinion the spies in particular do not belong in felon prisons. But AFHQ thinks otherwise. At any rate, authority to deal with the cases of spies, espionage and sabotage as not been delegated to us by AFHQ.

It was readily agreed between General Hamblen and I that cases wherein the accused did not act with intent to do a war wrong, as for example, where some Italian cut a communication wire as an act of theft, and not as an act of interference with the operation of the lines, or where, as in the Bramante case, the accused acted in a political rather than enemy character, the cases should be considered in the light of mere theft or unauthorized political activities and not as the more serious war offences under which they were originally charged.

341

331

0167

Declassified E.O. 12356 Section 3.3/NND No. 785015

In the Bramante case, it was the unanimous opinion of the review board that the facts there presented did not warrant a conviction under the theory of espionage, but merely unauthorized political activity, and following the conference with General Humblen, on 10 July, 1946, the Bramante case was duly reached, and the accused was ordered released. According to the record, this was accomplished by the Ministry on 24 July 1946, and he is now at liberty.

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

321

0168

Declassified E.O. 12356 Section 3.3/NND No. 785015

August 5, 1946

Reno Piccone
135-34 Roosevelt Avenue
Flushing, Long Island, N.Y.

My father's name is Antonio Piccone. He is a Captain of Police in Corato, Province of Bari, Italy, where he is in difficulties with the present administration.

It appears that he was charged, during his absence, with having done something against the law, and that, without having an opportunity to defend himself, he was convicted and sentenced to serve five years in prison.

Father is still at large. He desires to be granted an opportunity to receive a fair trial, where he can appear and defend himself, before the American Government in Italy. He feels and still believes that he cannot get a fair trial from the present administration, but he is confident that he can prove that he is innocent, before an American Court.

Father was in the Service for forty-four years and is a Veteran of World War I. At the time he served in that war, he was the father of four children. He is now the father of eight children. My sister is a school teacher; one brother is a Doctor of Medicine, and the other is a Lieutenant of Police.

The same people who are responsible for my father's present difficulties charged him, about six years ago, with illegal acts. He was, however, vindicated of those charges and was re-instated in the Service, receiving back pay and pension.

Now these people are in control again. Again they have charged him falsely, and in addition have obtained a conviction while he was absent.

My father writes repeatedly that he is innocent and that he wants a fair trial.

Reno Piccone

5290

Note

See 321

My father's address is -

Antonio Piccone
Viale A Diaz No. 67
Corato, Province of Bari, ITALY

5306

0169

Declassified E.O. 12356 Section 3.3/NND No. 785015

AUG 6 1946

C.Y. Dorn — Trace with ASC

HEADQUARTERS ALLIED COMMISSION
Public Safety Sub-Commission
APO 794

16/VIII Encl —

Vol: 4-39-01-309

1 August 1946

AC/14057/PS.

SUBJECT : [illegible]

TO : Allied Screening Commission, Rome.

1. The attached letter received from subject is forwarded for your information and such action as you may deem necessary.

2. If it is decided to send an appropriate testimonial to writer, the Chief Commissioner has asked that a copy be forwarded to him for information.

For Harold Tittmann, Jr.
U. S. N., Colonel
Acting Director.

RJF/ec

Copy to Chief Commissioner.

See 334 & Encl 335 & 337

330 a

0170

Declassified E.O. 12356 Section 3.3/NND No. 785015

COPY

Milano 25-7-46

Comm. LUIGI MOTTA
Via Rustichi N. 30
M I L A N O

Tel. 25[illegible]47

Mr. Macgillony
United Press Staff
R O M E

Sir,

I do not know whether I will have the pleasure of a reply from you, but I do think the writer and journalist who is writing to you deserves it at least for what he did for your brothers. For it was on account of my having saved and helped some English officers that I was arrested by the German S.S. in February 1944 and I spent a year in an alternative of death and life in the worst prisons, and I only regained my freedom in April 1945. The Allied Screening Commission asked for the documents proving that I had been in prison and how much I had given and spent for those I had helped saving them from the S.S.

I stated, for it was true, that during the prison term of a year in order to avoid starvation and to have the help of lawyers and for my wife's journeys I spent more than Lit. 200.000.= while that same year in prison during which I had to give up my work as a writer and journalist cost me more than Lit. 300.000.

To the Allied Screening Commission has called me to give me Lit. 96.000 and this as a payment for what I had given to the prisoners and. Well I did not like this for I did not mean to have [illegible] officers and to be paid for it! On the contrary I hoped that I should be repayed partly if not wholly for what I spent and lost during my year in prison, and that for my good deed I should receive [illegible], but some [illegible] I have not yet received. I wrote to the Allied Screening Commission about this, but I did not get any answer and I beg leave to complain with you for it is not right that a man who risked his own life to help the Allied be treated thus without even answering his letters.

Since I know, Sir, that you are a fair minded person, I take the liberty of writing to You and begging you to interest yourself of this matter very important to me also because I should like to keep of the Allied the best of memories and I want to perpetuate it in a book I am writing.

I hope to receive an answer from you and meanwhile I remain,

Sir,

Respectfully yours

/s/ Luigi Motta

Dott. Luigi Motta
Writer, journalist.

730

0171

Declassified E.O. 12356 Section 3.3/NND No. 785015

29 July 1946.

MEMORANDUM TO: Brigadier Carr.

With reference to the attached telegram, will you please get on to Trieste and see what this is about.

Based on our unfortunate experience at La Spezia, when I was in the States, I trust, if these people have been arrested, that their offense was some violation of local AMG rules and not because of cooperation with a potential violation of regulations in Palestine.

I have had considerable doubt as to our rights to take action in Italy (including Zone "A") because of conspiracy to violate the laws of another country unless such conspiracy is in fact illegal under local Italian laws or their equivalent AMG regulations.

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR.
Chief Commissioner

2602/cr

Sixty Board of Dirs of Jewish Women's Club.
Cable re S.H. Long Case & ret 5796
returned.

330

0172

Declassified E.O. 12356 Section 3.3/NND No. 785015

Chief Comm.

C 54885
JUL.221145B

H/4894
JUL.221600
ROUTINE

AFHQ G-5.
ALCOM ROME

UNCLASSIFIED.
1. Your letter subject Italian amnesty dated 8 July refers. As offenses are described largely by reference to previous laws impossible to understand most previsions. Request either brief of offences covered or copies of pertinent reference decrees be forwarded by mail.
2. How many persons in prisons pursuant to AMG sentence of 3 years or less query of over 3 years query if information readily available how many persons in prison for offenses against Allies pursuant to Italian court sentences query statistics for Venezia Giulia should be given separately.

AC DIST
ACTION LEGAL SC
INFO CHIEF COMMISSIONER
C.A. SEC
BLOAT 2
FILE

5995

0173

Declassified E.O. 12356 Section 3.3/NND No. 785015

HEADQUARTERS ALLIED COMMISSION
Office of the Chief Commissioner
A P O 794

Ref: AC/4079/2/L. 19 July 1946.

SUBJECT: Implementation of Amnesty Decree in VENEZIA GIULIA.

TO : ALLIED FORCE HEADQUARTERS.
Attn: G-5 Section.

321

References my letter AC/4079/1/L and in particular to para 7.

1. The question of extending all or part of the amnesty decree to VENEZIA GIULIA was discussed in TRIESTE at a meeting at which Colonels Bowman and Robertson, AMG 13 Corps, and Lt.Col. Hannaford of this HQ were present.

2. It was agreed, for political as well as practical reasons, not to publish a General Order embodying the provisions of the decree pending instructions from your HQ.

3. The Special Court of Assizes is still operating in TRIESTE and the consequence of a political amnesty liberating Fascists a few months after their sentences have been pronounced by Courts created by AMG might be prejudicial to the whole jurisdiction thus established.

4. On the other hand, there remains the injustice of a functionary appointed by the Republican Fascist Government remaining in prison just because he was unfortunate enough to be assigned to a locality now in disputed territory.

5. The former Minister of Justice, Palmiro Togliatti, in an interview with Lt.Col. Hannaford expressed the opinion that it would be premature to implement in VENEZIA GIULIA the amnesty decree under some form or other. Togliatti pointed out that the political conditions which justified the promulgation of anti-Fascist legislation, now partly rescinded by the amnesty, had subsided in Italy but still obtained in VENEZIA GIULIA. The implementation, he thought, would at present do more harm than could be justified by the desire to redress a small number of individual cases of injustice.

6. I am of opinion that the amnesty decree of 22 June 1946 should not for the time being take effect in VENEZIA GIULIA.

7. Will you please say if you concur.

/s/ Ellery W. Stone
ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Copy to: Chief Commissioner
Exec. Commissioner
Polad (A)
Polad (B)
AMG 13 Corps.

2

0174

Declassified E.O. 12356 Section 3.3/NND No. 785015

Col. Weber

For report, pls.

Tus

cc

19/VII

Declassified E.O. 12356 Section 3.3/NND No. 785015

FRANK L. VECCHIOLLA
ATTORNEY AND COUNSELLOR AT LAW
MERIDEN, CONNECTICUT
30 Colony Street

July 12, 1946.

Admiral Ellery Stone
Chief Commissioner
Via Veneto,
Rome, Italy

My dear Admiral Stone:

It is a pleasure to inform you that I have returned to the United States and have now taken up my civil duties. Having been a former Allied Commission Legal Officer I am taking the liberty of directing this communication to you.

Since my return I have received two letters from Italy, one from a Salvatore Moncada of Palermo, Sicily and one from Salvatore Bramante of Trapani, Sicily. The sum total and substance of these letters are to the effect that I employ my efforts in their behalf. Moncada was tried and convicted by an A.M.G. Court for filing a false and or an exaggerated claim against A.M.G. and was found guilty and was sentenced to seven years imprisonment together with a payment of a large fine. At the time of the trial I was the Regional Legal Officer for the Island of Sicily and handled the forwarding of the appeals and therefore am very familiar with all the facts in the case. Some time in February of 1946, while at Rome I was asked by Colonel Weber to review this case as well as that of Bramante and to make my recommendations. This case was also reviewed by Major Nugent independently of my review and we both arrived at the conclusion that the Moncada case should have been quashed on the ground, first that the trial court had no jurisdiction, secondly assuming that they did have jurisdiction the evidence as contained in the record was insufficient to warrant a conviction. While it may be true that trial records may not in themselves be complete I have been taught by the Harvard School of Law and by trial experience that an appeal should stand or fall upon the record. Although the recommendation was made to quash this case, the Chief Legal Officer Colonel Weber reduced the sentence from seven to two years, suspended the fine and released Moncada forthwith. It is my opinion that although the man is free at the present time that a gross injustice has been done to him because he having been a contractor and engaged in governmental construction will be barred from future work and also will be unable to recover payment for work done prior to his arrest. I am inclosing herewith a letter received from Moncada which explains his present situation.

With respect to Bramante at the time of his trial for sabotage I was appointed by the General Court to act as his counsel. The trial court found him guilty as charged and imposed the sentence of death.

(27a) 331

0 1 7 5

Declassified E.O. 12356 Section 3.3/NND No. 785015

FRANK L. VECCHIOLLA
ATTORNEY AND COUNSELLOR AT LAW
~~3 West Main Street~~
MERIDEN, CONNECTICUT
30 Colony Street

On appeal the sentence was commuted to twenty years. This case was reviewed by a Major Parlin a New York lawyer whose judgement I respect very highly, and after the completion of the review he stated to me that the seriousness of this case was highly exaggerated by the trial judge, Colonel Pollock (B). A perusal of the trial record of this case will disclose that the trial judge acted both as judge and prosecutor. While I appreciate, that in view of the state of war exsisting in Italy at that time that it was necessary to take deterrent measures, nevertheless the conditions under which this sentence was composed no longer exsist. I was asked by Colonel Weber to review this case and make my recommendation and my recommendation was that the remainder of the sentence be suspended and that Bramante be released. This recommendation was concurred by another Legal Officer and Colonel Weber distincly told me that he agreed with my recommendation, but that in view of many other similar cases he desired to set a general policy and thereby effectuate a release in other similar cases. Five months have now passed since my recommendation and I note that Bramante is still languishing in prison. Bramante is a young man of twenty five years of age, a University student, capable, intelligent and possesses an unquestionable character. He hails from a poor hard working and honest family. It is my opinion that this young man is worthy of every clemency and consideration.

While I have no personal interest in these two cases I do however most strongly feel that in the name of justice and humanity that these two cases should be immediatly re-reviewed in the light of the recommendations heretofore stated.

If I can be of any assistance with respect to these two cases or other cases I shall consider it an honor to be able to render any aid whatever.

With kindest personal regards.

Very truly yours,

Frank L. Vecchiolla

Frank L. Vecchiolla

FLV/LRA

327a

0177

Declassified E.O. 12356 Section 3.3/NND No. 785015

Salvatore Moncada

Costruttore Edile

Palermo 21 Giugno 1946

Via Carlo Pisacane 6

Mr. Atty Frank L. VECCHICLLA
29 Colony ST.
MERIDEN (Conn)
U.S.A.

Da tempo mi proponevo di scriverLe ed oggi mi decido in seguito ad aver parlato con il Sig. GIARDINA che mi ha informato della lettera da Lei ricevuta.

Egregio Sig. Maggiore io sono sempre grato di tutto quanto Lei ha fatto per me e le parole non potrebbero in nessun modo esprimere la vera grande riconoscenza ed affetto che a Lei mi lega.

Però malgrado tutto quanto Lei ha fatto per me io trovomi sempre in una condizione disperata a Palermo, perchè impossibilitato a guadagnarmi il pane. Il Genio civile di quì mi tiene lontano, non mi consente di potere lavorare, sono da tutti boicottato e trattato sempre da un malfattore che ha commesso un reato, e che per la clemenza dei magistrati ha avuto sospesa la pena. Questa macchia mi esaspera, Sig.Maggiore, e mi spingerà a lasciare Palermo, mia moglie, i miei figli, il dolce focolare domestico al quale io sono tanto legato; per andare in qualche altra città dove potere lavorare.

Nello stato d'animo in cui mi trovo e che Lei bene comprenderà, come ultima ancora di salvezza ancora una volta a Lei mi rivolgo implorando aiuto.

La mia completa felicità sarebbe raggiunta se Lei potesse farmi annullare la sentenza, in maniera di essere io completamente riabilitato e potere guardare tutti i miei nemici in viso senza arrossire.

Io sono sempre animato di grande e tenace volontà lavorativa, tanto che ho messo su un magnifico ufficio in questa Via Roma n°188 per cercare a tutti i costi di lavorare, ma tutto è inutile senza la mia resurrezione morale che consiste in quanto a Lei imploro.

La prego di non considerarmi un seccatore ma è la sicurezza dei suoi sperimentati nobili sentimenti che mi incoraggiano a Lei rivolgermi.

Io con tutta la mia famiglia preghiamo sempre per Lei affinchè la santa benedizione di Dio scenda su di Lei, sulla sua gentile Signora e sui suoi figli che mi auguro abbia riabbracciati in ottime condizioni di salute. Il Sig. GIARDINA e la sua gentile consorte mi incaricano di porgerLe affettuosi saluti.

A Lei Sig. Maggiore con il più profondo del cuore invio distinti saluti e con l'augurio di potere ricevere presto buone sue notizie in ansiosa angoscia distintamente La ossequio.

MONCADA Salvatore

Moncada Salvatore

321a

0178

HEADQUARTERS ALLIED COMMISSION
APO 794

AC/4079/1/L

8 July 1946

SUBJECT : Italian Amnesty.

TO : AFHQ (G-5 Section).

1. My advisors and I have given full consideration to the Italian Government's Presidential Decree No. 4 of the 22nd June 1946 which grants a wide measure of amnesty and pardon for common, political and military offences and of which a version in English is enclosed. I have also received from the Prime Minister a letter dated 24th June 1946 on this subject, a copy of which is enclosed.

2. I am of opinion that there is nothing in the above mentioned decree which transgresses the long armistice terms or the Moscow declaration. This view is shared by my political advisors and Chief Legal Officer.

3. Attention is drawn to the interpretation of Article 3 of the decree. Read together with the explanatory notes which accompanied the decree, as submitted to the Council of Ministers, this Article excludes from any benefits under the decree those persons who, possessed of high functions of a civil, political or military nature, committed certain specified offences. It means, moreover, that the persons concerned need not necessary be of high rank, but that the provisions can be applied to a subordinate officer who held an appointment normally granted to an officer of high rank.

4. The only other article of the decree which calls for comment is Article 13 which deals with offences committed

Declassified E.O. 12356 Section 3.3/NND No. 785015

version in English is enclosed. I have also received from the Prime Minister a letter dated 24th June 1946 on this subject, a copy of which is enclosed.

2. I am of opinion that there is nothing in the above mentioned decree which transgresses the long armistice terms or the Moscow declaration. This view is shared by my political advisors and Chief Legal Officer.

3. Attention is drawn to the interpretation of Article 3 of the decree. Read together with the explanatory notes which accompanied the decree, as submitted to the Council of Ministers, this Article excludes from any benefits under the decree those persons who, possessed of high functions of a civil, political or military nature, committed certain specified offences. It means, moreover, that the persons concerned need not necessary be of high rank, but that the provisions can be applied to a subordinate officer who held an appointment normally granted to an officer of high rank.

4. The only other article of the decree which calls for comment is Article 13 which deals with offences committed to the detriment of the Allied Forces. Under this Article, according to the Italian Government's interpretation, with which I agree, persons who committed offences to the detriment of the Allied Forces or to members of the said Forces who have been tried by Allied or Italian Courts are excluded from the provisions of the decree.

In making my recommendations concerning this category of persons, I have borne in mind the legal distinction between amnesty and pardon. Shortly put, amnesty is the act of forgiveness of the offence and acts as a bar to trial. Pardon is a forgiveness of the punishment and may carry a restoration of civil rights.

321

6410

Declassified E.O. 12356 Section 3.3/NND No. 785015

5. Persons convicted of offences to the detriment of the Allied Forces can be divided into two classes:

(a) Those tried and convicted by A.M.G. Courts.

(b) Those tried and convicted by Italian Courts. It is the Italian practice to consider all such persons to be at the disposal of the Allies. The Prime Minister includes this category in the words "at the disposal of Allied Authorities" in the fourth paragraph of his letter.

6. As regards persons convicted by A.M.G. Courts, sentences imposed are at present being reviewed at this Headquarters and in many instances reductions of sentences have been ordered. The review is carried out with a view to determining that the evidence is sufficient to warrant the conviction and that the sentence is fair, reasonable and uniform. No action is taken by the Review Board to reduce sentences merely on the grounds of clemency. In this connection reference is made to your Headquarters letter G-5:014.5 of 28th February 1946 and in particular to paragraph 4 of that letter.

Your Headquarters has never agreed to amnesty being applied to offences triable in A.M.G. or Italian Courts affecting Allied Interests or personnel but by letter G-5:014.5 of 30th April 1946 has agreed to the Italian Government applying 'provisional liberty' to the cases specified in para 5 of this letter.

I am not in favour of applying amnesty to these offences, as such offences are probably even now being committed against Allied interests, e.g. in Udine, but am of opinion that pardon could be applied in the case of convictions as set out in the Decree.

In so far as the cases in para 5 (a) are concerned, I strongly recommend that pardon be applied through the medium of the Review Board who would be given directions to apply pardon to all A.M.G. cases on lines similar to those set out [illegible] of 22nd June 1946.

Declassified E.O. 12356 Section 3.3/NND No. 785015

evidence is sufficient to warrant the conviction and that the sentence is fair, reasonable and uniform. No action is taken by the Review Board to reduce sentences merely on the grounds of clemency. In this connection reference is made to your Headquarters letter G-5:014.5 of 28th February 1946 and in particular to paragraph 4 of that letter.

Your Headquarters has never agreed to amnesty being applied to offences triable in A.M.G. or Italian Courts affecting Allied Interests or personnel but by letter G-5:014.5 of 30th April 1946 has agreed to the Italian Government applying 'provisional liberty' to the cases specified in para 5 of this letter.

I am not in favour of applying amnesty to these offences, as such offences are probably even now being committed against Allied interests, e.g. in Udine, but am of opinion that pardon could be applied in the case of convictions as set out in the Decree.

In so far as the cases in para 5 (a) are concerned, I strongly recommend that pardon be applied through the medium of the Review Board who would be given directions to apply pardon to all A.M.G. cases on lines similar to those set out in the Italian Decree of 22nd June 1946.

I would also recommend that so far as the cases in 5 (b) are concerned, pardon should be applied. This could be done by the issue of an amendment by the Italian Government to Art. 13 of the Decree.

7. With regard to Article 16 the decree will automatically come into operation within the A.M.G. territory of Udine, and it is not proposed to take any action to prevent this.

It will not have effect in Venezia Giulia, but it may

327

Declassified E.O. 12356 Section 3.3/NND No. 785015

politic to consider how far a modified application might be made in Zone "A". My Deputy Chief Legal Adviser is visiting Venezia Giulia this week and will discuss this question with the authorities on the spot.

6. In order to make clear the Allied policy to date, I recommend for consideration the publication of a statement explaining the action being taken by the Allies as regards the review of cases tried by A.M.G. Courts. If approval is given to apply pardon to A.M.G. cases, this statement could also explain the proposal which I should make to the Prime Minister for the issue of an amendment to Article 13 regarding pardon in respect of cases tried by Italian Courts as recommended in para 5.

9. A separate communication has been sent to you on the subject of Italian citizens interned in concentration camps who are mentioned in the Prime Minister's letter paragraphs 4, 5 and 6.

10. I should be grateful for an early and sympathetic consideration of the recommendations made in paragraphs 5 and 6 above.

/s/ Ellery W. Stone
ELLERY W. STONE.
Rear Admiral, USNR.
Chief Commissioner.

5997

Declassified E.O. 12356 Section 3.3/NND No. 785015

ing pardon in respect of cases tried by Italian Courts as recommended in para 6.

9. A separate communication has been sent to you on the subject of Italian citizens interned in concentration camps who are mentioned in the Prime Minister's letter paragraphs 4, 5 and 6.

10. I should be grateful for an early and sympathetic consideration of the recommendations made in paragraphs 6 and 8 above.

/s/ Ellery W. Stone
ELLERY W. STONE.
Rear Admiral, USNR.
Chief Commissioner.

5797

327

Declassified E.O. 12356 Section 3.3/NND No. 785015

0184

Declassified E.O. 12356 Section 3.3/NND No. 785015

PREAMBLE TO DECREE PROVIDING FOR AMNESTY AND PARDON DATED 22 JUNE 1946. -

Mr. President,

The Republic is celebrating its birth issuing as its first act a general provision of clemency.

It is unnecessary to discuss this act as far as the common offences are concerned as such a policy is constantly being applied in accordance with the Italian constitutional and political practices adopted on historical dates; a more solean event than this one, on which the Italian people called to express its will upon the institutional form of the State has chosen the Republic, cannot be found; this choice was recognised and announced in accordance with the law in force and the first constitutional modifications deriving from it have already been accomplished.

With the passage from Monarchy to Republic the beginning of a new period of life has been opened to the united Italian State, and it is fair that an act of clemency be granted at this time in order to alleviate also the position of those persons, who having violated the penal law are enduring or have to endure the consequence thereof and to assist as well a large number of their miserable and unfortunate relatives.

As far as common offences are concerned, it was thought advisable not to excessively extend this measure in view of the considerable increase of common crimes committed in the last two years and especially in view of the particular types of offences. A general desire to return to a normal situation of order and security both in regard to persons and property has created the necessity of granting an act of clemency and in the same time has fixed the limits of its application.

In regard to political crimes, it may be considered that a political and social peace is necessary for this country. The Republic has to satisfy this necessity and pacify all the Italians.

It must not be forgotten that in the past years, and especially during the period of the German occupation, many citizens have violated their loyalty towards the State and towards their country. They entered into the service of the invaders, violated both political and civil rights, committed detestable acts of persecution and violence. But it has to be taken into consideration that the despotic fascist regime has not given the young generation a proper education, which is necessary in order to distinguish good from evil. This has been taken into consideration by the provisions of the amnesty.

327

0185

Declassified E.O. 12356 Section 3.3/NND No. 785015

But if the alleviation of such repression is fully justified in less serious cases, or in cases where the act was committed by persons who were not entrusted with high functions, it is not advisable that it be applied for more serious offences or in cases where the act was committed by persons entrusted with high public, political or military functions.

If clemency would have been extended also to such cases, the measure would have seriously hurt the people's feeling and would have been contrary to principles of equity.

There is a juridical, political and moral necessity that th persons who committed said crimes against their country, which they betrayed and ruined, against their fellow citizens, against the most elementary duties of humanity continue to serve their punishment under all severity of the law.

Having in such a way illustrated the basic principles of the decree, its single provisions should appear clear.

Article 1, of the amnesty covers all the offences - therefore also military as well as political ones, which are punished by detention only or by detention and fine, n t superior to five years imprisonment. For the granting of such benefit art. 32 of the Penal Code applies.

In regard to political offences, the decree makes a distinction between those which were committed in certain parts of the State after the beginning of the AMG Administration or in territory which remained under the Administration of the legitimate Italian Government from the 8th September 1943, as well as for those which were committed before this time limit.

In the first case the amnesty, excepting the cases under Article 4, is complete, and also includes criminal acts committed by certain elements or groups which belonged to the sicilian separatist - movement, or which attempted to reconstitute the fascist movement. Acts committed in violation of penal laws after the liberation of the national territory, committed by the partisans are also included in these provisions. Even the crime under art. 575 of the Penal Code falls under the amnesty if it were committed in the conditions established by D.L.L. 17-XI-1945 No. 719, and before 31-VII-1945. In the second case, which covers crimes under Articles 3 and 5 of D.L.L. 27-VII-1944 No. 159, and Art. 1 D.L.L. 22-IV-1945 No. 142, and the crimes connected with them by virtue of Art. 45, No. 2 of the Penal Code, the persons who were entrusted with duties of high responsibility and those who committed or were associated with murder, massacre, robbery and other crimes committed with the purpose of obtaining a personal profit are excluded from the amnesty. In this way, the amnesty is applied in favour of those persons who were not entrusted with high functions, or have not committed criminal acts of great importance while in cases of great responsibility and cases of criminal acts the full severity of law is applied.

The judge may request that necessary investigations be made in cases where the application of articles and 3 is not clearly established.

(17)

0186

Declassified E.O. 12356 Section 3.3/NND No. 785015

The offences excluded from the amnesty are very few. These are only particularly serious crimes, even in cases where penalty is not superior than 5 years, or in cases of offences committed against the moral rehabilitation of the Country. The above considerations apply as well for the offences under art. 575 of the Penal Code, as far as the political crimes are concerned.

The financial offences (art. 14), (for which another decree shall be issued) and the military offences (governed by the provisions of Decree of 29.3.1946, No. 132, - the effect of which is extended up to the 18.6.1946 (art. 15) are excluded from the amnesty.

Art. 6 contains a new provision which recognises the right to refuse the benefit of the amnesty. It was introduced for the first time by decree of 29.3.1946 No. 132, relating to an amnesty for military offences. It was considered as advisable to insert it also in the present decree in order to protect the persons who refuse to recognize the offence with which they were charged.

It is obvious that once a person has renounced to take advantage of the benefit provided by the amnesty, the same is no longer applicable.

If the accused has been proved guilty at the trial the judge shall pass sentence and may provide for the application of pardon.

The difference of treatment made between common offences and political crimes is also applicable for the granting of clemency. In fact, for common offences the pardon is granted only in cases where the penalty does not exceed three years and the fines are not higher than three thousand lire. In cases where a higher penalty or fine is imposed or is to be imposed, the pardon will provide a reduction of three years and of three thousand lire.

As far as political crimes are concerned, the clemency provides for a commutation in the most severe sentences and a liberal application of pardon in the other cases. It has been decided that the death penalty be commuted to that of imprisonment for life in all cases in which the exceptions established under Art. 3 of the amnesty decree are not applicable and that all sentences imposing an imprisonment for life be commuted to a term of 30 years. Other sentences of imprisonment are reduced as established under Art. 9 (c). The monetary penalties are totally remitted. The policy in regard to the objective exclusion from the benefit which is always more favourable to political prisoners is also different. Finally, in so far as the most severe sentences for which a commutation of penalty has been granted are concerned, the provisions under Art. 12 relating to the revocation of the benefit are not applicable. These apply only in the case of pardon.

3-7

0187

Declassified E.O. 12356 Section 3.3/NND No. 785015

It has been established, in the present decree, in so far as previous penal records are concerned to deviate from the provisions contained in the Penal Code. Said previous penal records shall not be taken into consideration as far as political crimes are concerned except in cases of habitual, professional or potential delinquents. In other cases they will be taken into consideration only within the limits established in the second and third paragraphs of Art. 11.

Art. 13 establishes that those persons who are accused of crimes committed against the Allied Forces, sentenced by Allied Courts or awaiting trial before such Courts are excluded from all benefits.

As far as the effective date of the decree is concerned, it has been established to deviate from the provisions contained in the Code.

It has been fixed that the benefits are applicable to offences committed up to 18 June 1946 with the particular exceptions set out in the present decree.

This amnesty which has been approved in the most critical moment of our national life, certainly will contribute to create in the Country a new atmosphere of unity and harmony which is the most favourable for the political and economic rehabilitation of the nation.

5723

(7-7)

0 1 8 8

Presidential Decree No. 4 of 22 June 1946 granting amnesty and pardon for common, political and military offences.

The President of the Council of Ministers by virtue of the powers of temporary Chief of State vested upon according to Art. 2, I° para of the D.L.L. 16 March 1946 No. 98;

Having seen the Art. 8 of the Statute;

Having heard the Council of Ministers;

On the proposal of the Minister of Pardon and Justice in full accord with the Ministers of Interior, of War, of Navy, of Air Force and Agriculture hereby.

DECREES

Art. 1

Amnesty for crimes

An amnesty is granted for the crimes which are punished by imprisonment for not more than five years and or by fine, or both.

Art. 2

Amnesty for political crimes committed after the liberation

An amnesty is granted for political crimes which are punishable with a penalty even superior to that indicated in art. 1 above, provided they have been committed in any part of the national territory after the beginning of A.M.G. administration as well as for all political crimes committed after the 8th Sept. 1943 in the part of

5722

Declassified E.O. 12356 Section 3.3/NND No. 785015

Art. 1

Amnesty for crimes

An amnesty is granted for the crimes which are punished by imprisonment for not more than five years and or by fine, or both.

Art. 2

Amnesty for political crimes committed after the liberation

An amnesty is granted for political crimes which are punishable with a penalty even superior to that indicated in art. 1 above, provided they have been committed in any part of the national territory after the beginning of A.M.G. administration as well as for all political crimes committed after the 8th Sept. 1943 in the part of the national territory which remained under the administration of the legittimate Italian Government.

5722

Art. 3

Amnesty for other political crimes

An amnesty is granted for the crimes provided for by Art. 3 and 5 of the D.L.L. 27 July 1944 No. 159 and by Art. 1 of the D.L.L. 22 Apr. 1945 No. 142 as well as for crimes governed by the provisions of Art. 45 No. 2 of the Penal Procedure Code except in case they have been committed by persons of high civil political or military functions, or in the case where massacre, savage tortures, murder, pillage have been committed or in the case they have been committed for purpose of profit.

327

Declassified E.O. 12356 Section 3.3/NND No. 785015

Art. 4

Exclusion from amnesty

The amnesty granted in the articles above does not apply to:

1. The crime under Art. 575 Penal Code, except in case it has been committed before the 31 July 1945 in the conditions provided for by Art. 1, first para of the D.L.L. 17 Nov. 1945 No. 719;

2. The crimes provided for in the D.L.L. 12 October 1944 No. 323 repressing the prostitution and the crimes provided for by Art. 531 and following of the chapter II, Part. IX, Book II of the Penal Code;

3. The crimes under arts. 318, 319, 321, 422 and 564 of the Penal Code;

4. The crimes provided for by chapter IV, Part. I, Book II of Penal Code;

5. The military crimes under Art. 15 below.

Art. 5

Political nature of the crimes

In case a sentence has been passed and on the basis of such sentence or from the acts of procedure it cannot be ascertained if the crime is of a political nature or not, the judge who has jurisdiction to declare the amnesty shall order necessary investigations to take place.

The same investigations shall be ordered by the Supreme Court of Cessation if an appeal to the same is pending.

Art. 6

Declassified E.O. 12356 Section 3.3/NND No. 785015

of Penal Code;

5. The military crimes under Art. 15 below.

Art. 5

Political nature of the crimes

In case a sentence has been passed and on the basis of such sentence or from the acts of procedure it cannot be ascertained if the crime is of a political nature or not, the judge who has jurisdiction to declare the amnesty shall order necessary investigations to take place.

The same investigations shall be ordered by the Supreme Court of Cassation if an appeal to the same is pending.

Art. 6

Request of trial by the accused

The amnesty does not apply if the accused, before the issuing of the sentence which sets out that the crime is extinguished because of the amnesty, states that he does not want to take advantage of its benefit.

Art. 7

Reckoning of penalties

For the purpose of applying the amnesty, establishing the penalty

Declassified E.O. 12356 Section 3.3/NND No. 785015

imposed and for any other purpose established by law the rules set down in Art. 32 of the Code of Penal Procedure shall apply.

Art. 8

Pardon for common offences

Excluding the cases in which amnesty is granted under Art.1, pardon is granted for sentences not over three years imprisonment and for fines not over 3000 lire. Sentences imposing higher penalties shall likewise be reduced by the same term and limits as established above.

Pardon is reduced by one year for sentences imposing a term of penal servitute and by 1000 lire for sentences imposing a fine in cases where the beneficiary has received or may receive, for the same offence, a pardon granted under Royal Decree No. 96 of 5 April 1944.

If the offence was committed after D.L.L. No. 679 of 5 October 1945 came into operation, the limits for the fine under para 1 above are doubled.

Art. 9

Pardon and commutation of penalty for political offences.

Excluding the cases in which an amnesty is granted under Art. 1, 2 and 3, for political offences and other crimes governed by the provisions of Art. 45 (No. 2) of the Code of Penal Procedure, the following rules shall apply:

(a) The penalty of death is commuted to one of life imprisonment, save for the exceptions provided for an amnesty granted

Declassified E.O. 12356 Section 3.3/NND No. 785015

of penal servitude and by 1000 lire for sentences imposing a fine in cases where the beneficiary has received or may receive, for the same offence, a pardon granted under Royal Decree No. 96 of 5 April 1944.

If the offence was committed after D.L.L. No. 679 of 5 October 1945 came into operation, the limits for the fine under para 1 above are doubled.

Art. 9

Pardon and commutation of penalty for political offences.

Excluding the cases in which an amnesty is granted under Art. 1, 2 and 3, for political offences and other crimes governed by the provisions of Art. 45 (No. 2) of the Code of Penal Procedure, the following rules shall apply:

(a) The penalty of death is commuted to one of life imprisonment, save for the exception provided for an amnesty granted under Art. 3.

(b) The penalty of life imprisonment is commuted to one of 30 years imprisonment. 5721

(c) All other sentences of imprisonment over five years shall be reduced by one third but in any case such reduction shall not be less than five years; all other sentences of imprisonment not over five years are fully pardoned.

(d) All fines are fully remitted.

Art. 10

Exclusion for from pardon

Pardon shall not apply:

327

Declassified E.O. 12356 Section 3.3/NND No. 785015

1. In favour of those persons who at the date upon which this decree shall come into force, are in hiding, save that they surrender themselves for imprisonment wit in four months from such date. This provisions is not applicable in cases where the penalty or the remaining penalty are fully pardoned or in cases where penalty of death is commuted for life imprisonment by virtue of Art. 9.

2. For offences indicated in Art. 4.

3. For offences under Arts. 314, 317, 452, 575, 628, 629 and 630 of the Penal Code, save if committed for political reasons.

4. For offences under Art. 1 and 2 of D.L.L. No. 234 of 10 May 1945 relating to penal provisions of an extraordinary nature.

Art. 11

Consideration of previous penal Records.

The previous penal records shall be taken into consideration in applying the benefits of the present decree in the limits established by the following provisions.

The benefits are not applicable to those persons who at the date of the present decree have been once, or more, sentenced, for having committed a unpremeditated offence, to an aggregate term of penal servitute superior to 3 years.

In examining the persons penal records the following shall not be taken into consideration.

Sentences declared extinct by reason of previous amnesty; offences extinct at the date of the present decree for expiration of the time limits under Art. 167 of the Penal Code establishing a suspension of conditional liberty; sentences for which a provision of rehabilitation has been issued.

In applying the benefits to cases of political crimes, previous penal records shall not be considered, but said benefits shall not apply to habitual and professional criminals or to other criminals who are naturally inclined to

Declassified E.O. 12356 Section 3.3/NND No. 785015

Consideration of previous penal
Records.

The previous penal records shall be taken into consideration in applying the benefits of the present decree in the limits established by the following provisions.

The benefits are not applicable to those persons who at the date of the present decree have been once, or more, sentenced, for having committed a unpremeditated offence, to an aggregate term of penal servitute superior to 3 years.

In examining the persons penal records the following shall not be taken into consideration.

Sentences declared extinct by reason of previous amnesty; offences extinct at the date of the present decree for expiration of the time limits under Art. 167 of the Penal Code establishing a suspension of conditional liberty; sentences for which a provision of rehabilitation has been issued.

In applying the benefits to cases of political crimes, previous penal records shall not be considered, but said benefits shall not apply to habitual and professional criminals or to other criminals who are naturally inclined to commit offences.

Art. 12

Revocation of pardon

Pardon shall be revoked in cases where the person to whom it was granted is sentenced, to a term of penal servitude of not less than one year, for an unpremeditated crime committed within five years after the date of the present decree.

Declassified E.O. 12356 Section 3.3/NND No. 785015

Art. 13

Offences committed to the detriment
of the Allied Forces

In any case offences committed to the detriment of the Allied Forces or to members of said Forces or tried or being tried by Allied Courts are excluded from amnesty and clemency.

Art. 14

Financial offences.

The present decree does not cover financial offences and does not affect the law establishing forfeiture of profits of the regime.

Art. 15

Military offences.

D.L. No. 132 of 29 March 1946 granting amnesty and pardon for military offences is extended to offences herein contemplated provided they were committed up to 18 June 1946.

In cases where such decree provides that the benefit shall be granted subject to a fulfillment of an obligation, such obligation shall be carried out within 30 days after the present decree comes into force. Such time limit shall start from the first day the interested person, in case he is abroad, reaches Italy. In applying articles 1 and 2 of the above mentioned D.L. the increase of penalty provided by Art. 47 of the Military Penal Code of War shall not be taken into consideration.

Declassified E.O. 12356 Section 3.3/NND No. 785015

regime.

Art. 15

Military offences.

D.L. No. 192 of 29 March 1946 granting amnesty and pardon for military offences is extended to offences herein contemplated provided they were committed up to 18 June 1946.

In cases where such decree provides that the benefit shall be granted subject to a fulfillment of an obligation, such obligation shall be carried out within 90 days after the present decree comes into force. Such time limit shall start from the first day the interested person, in case he is abroad, reaches Italy. In applying articles 1 and 2 of the above mentioned D.L. the increase of penalty provided by Art. 47 of the Military Penal Code of War shall not be taken into consideration.

5720

Art. 16

Date of operation.

The present decree shall come into operation on the ... first day of its publication in the G.U. and has full force of law for offences committed up to the 18th June 1946 save for what has been differently provided for by the preceding articles. The present decree shall come into operation in the territory not yet restored to the Italian Administration upon restoration of the same or at a date established by order of the Allied Military Government etc. etc.

We order that the present decree bearing the seal of the state,

321

Declassified E.O. 12356 Section 3.3/NND No. 785015

be inserted in the official collection of laws and decrees of the Italian Republic.

We order whomsoever it concerns to observe it and have it observed as a law of the State.

Dated, 22 June 1946.

DE GASPERI

Togliatti - Romita - Brosio -
- De Courten - Cevolotto -
- Gullo

Seen, the Keeper of the Seals:
Togliatti.

Declassified E.O. 12356 Section 3.3/NND No. 785015

0199

Declassified E.O. 12356 Section 3.3/NND No. 735015

TRANSLATION

THE PRESIDENT OF THE COUNCIL OF MINISTERS

73387/50077.4.2.4.2. Rome, 24 June 1946

My dear Admiral,

As you already know, in occasion of the advent of the Republic and with a view to a fruitful internal pacification, the Government has made a large provision of amnesty and pardon for the crimes committed up to June 1946.

Besides, all the sanctions foreseen by art. 3 of the Decree of 26 April 1945, No. 149, against those who developed Fascist activities were pardoned. Also, the Minister of the Interior has been requested to make arrangements for the liberation of those who, in compliance with Public Safety laws, were assigned to police confinement.

I am sending you herewith the text of the provisions so that you may exactly know their terms.

From the amnesty and pardon decree ar expressly excluded the persons sentenced by Allied Military Courts, in whose favour the Italian Government had no power to dispose. Equally excluded from any benefit are those who are still interned in concentration camps under Allied administration or anyhow at disposal of Allied authorities.

In consideration of the same reason which inspired the above provisions by the Italian Government, I feel that I ought to call your attention to the painful disparity of situation arising from the above mentioned exclusions, so that you, with your deep sense of justice, may value the possibility of a similar act of clemence granted by Allied Authorities.

Besides, I shall be grateful if you will kindly let me know the number of interned citizens at the disposal of Allied Authorities, as the Italian Administration does not possess precise data in this regard. 5719

Believe me, my dear Admiral;

respectfully yours
/s/ DE GASPERI

Admiral Ellery W. Stone
Chief Commissioner
Allied Commission - Rome.

727

0200

Declassified E.O. 12356 Section 3.3/NND No. 785015

Ref. SD/350.05 July 1946

SUBJECT : Italian Subjects in Allied Internment Camps.

TO : AFHQ (G-5 Section)

1. I am enclosing herewith a copy of a letter dated 24th June received from the Italian Prime Minister with regard to the recent Italian Government Amnesty Decree, and to the question of Italian subjects interned in Concentration Camps under Allied Administration or otherwise at the disposal of Allied Authorities.

2. The request of the Prime Minister regarding these internees reflects the concern with which the Italian people regard the continued incarceration of these persons without trial - a concern which, I must add, is shared by a number of Allied nationals.

3. I am of the opinion that the time has come when the majority of Italian subjects still in Allied Internment Camps should now be released and that only in most exceptional circumstances should such subjects continue to be detained.

4. Such a policy should also apply to Italian subjects who (having been handed over by the Allies to the Italian Authorities for trial for political crimes) as a result of the Italian Amnesty Decree of 22 June are now being released from Italian Prisons and who since they are at the disposal of the Allied Authorities are liable to reinternment on Allied Security grounds.

5718

4. Can I please be advised at an early date as to

326

0201

Declassified E.O. 12356 Section 3.3/NND No. 785015

what reply should be given to the Prime Minister in respect of this matter, and be furnished with particulars as to the number of Italian subjects still held in Allied Interment Camps for the information of the Prime Minister in accordance with the final paragraph of his letter.

5. With reference to the Italian Amnesty decree, the question of the action to be taken in regard to persons convicted for offences committed to the detriment of the Allied Forces is being made the subject of a separate communication to your Headquarters.

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Copy to : Office of the Executive Commissioner
Public Safety S/C.
File AC/4079/I/L

326

0202

Declassified E.O. 12356 Section 3.3/NND No. 785015

copy

TRANSLATION

MINISTRY OF INTERIOR
Public Safety Direction
443/50340

Rome, 28 June 1946.

SUBJECT: Control of foreign people in Italy.

TO : Headquarters A.C.
Executive Commissioner.

This Ministry is in agreement in taking the control of all the foreigners in Italy as previously, and will let you know, in a short time, for your information, all the details of the matter.

We are working now in order to definitely establish satisfactorily results and take all appropriate action.

for THE MINISTER
/s/ ...

E.C DIST - Sfuelg

Action
Inf: CC
EC

321

0203

Declassified E.O. 12356 Section 3.3/NND No. 785015

JUL 2 DECD

TRANSLATION

THE PRESIDENT OF THE COUNCIL OF MINISTERS

73387/50077.4.2.4.2. Rome, 24 June 1946.

My dear Admiral,

As you already know, in occasion of the advent of the Republic and with a view to a fruitful internal pacification, the Government has made a large provision of amnisty and pardon for the crimes committed up to 18 June 1946.

Besides, all the sanctions foreseen by art.3 of the Decree of 26 April 1945, No.149, against those who developed Fascist activities were pardoned. Also, the Minister of the Interior has been requested to make arrangements for the liberation of those who, in compliaance with Public Safety laws, were assigned to police confinement.

I am sending you herewith the text of the provisions so that you may exactly know their terms.

From the amnisty and pardon decree are expressly excluded the persons sentenced by Allied Military Courts, in whose favor the Italian Government had no power to dispose. Equally excluded from any benefit are those who are still interned in concentration camps under Allied administration or anyhow at disposal of Allied authorities.

In consideration of the same reason which inspired the above provisions by the Italian Government, I feel that I ought to call your attention to the painful disparity of situation arising from the abovementioned exclusions, so that you, with your deep sense of justice, may value the possibility of a similar act of clemence granted by Allied Authorities.

Besides, I shall be grateful if you will kindly let me know the number of interned citizens at the disposal of Allied Authorities, as the Italian Administration does not possess precise data in this regard.

Believe me, my dear Admiral,

Respectfully yours
/s/ DE GASPERI

5916

EC DIST. 1 July
ACTION - CA Sec
INFO - CC
- EC
- POLAD 'A'
- POLAD 'B'

Admiral Ellery W. Stone
Chief Commissioner
Allied Commission
Rome.

0204

Declassified E.O. 12356 Section 3.3/NND No. 785015

Ref: AC/4023/1.

24 June 1946.

SUBJECT : International Law.

TO : ASTHQ, (C-5).

Reference your C-5: 461 of 22 June 1946.

It is regretted that the Legal Sub-Commission does not possess the books requested nor has it any means to obtain them.

/s/ Elihu W. Stone

ELIHU W. STONE
Rear Admiral USNR
Chief Commissioner

5215

323

0205

Declassified E.O. 12356 Section 3.3/NND No. 785015

JUN 2 REC

HEADQUARTERS ALLIED COMMISSION
APO 394
Office of the Executive Commissioner

Ref.: 5606/130/51

22 June 946

SUBJECT: Allied aircraft losses.

TO : C-S Section
CCAC.

3206

320

With reference to our signal no.3657 dated 13 June and your reply no C 41693 of 14 June, Lt.Col. Hannaford, Deputy Chief Legal Adviser to the Allied Commission attended a meeting, as an observer, held at Geneva on 17 June 46 and a copy of the minutes is forwarded for your information.

For the Chief Commissioner,

A. W. Knisely.

Brigadier,
Executive Commissioner

Copy to: U. S. Embassy
British Embassy

3224

5714

0206

Declassified E.O. 12356 Section 3.3/NND No. 785015

COPY

Allied Screen

Meeting held on Monday 15 17 June 1945 at Office of P. C., Court of Appeal, Genoa

Present: P.President, Procurator General, Chief Cabinet and
Lt.Col.Hammaford.

P.President on the Minister's instructions gave a long exposé of the situation in Genoa.

Smuggling was the most common offence, but there were also cases of theft, attacks on Italian citizens, drunkenness etc.

The lack of Allied Police and Court rendered these offenders practically immune, and the situation was likely to grow worse.

P.P. had been charged by the Minister to make a complete report on the situation and to suggest a remedy which would be acceptable to the Allies without prejudicing Italian sovereignty. The report would be ready this week.

The P.P. was of opinion that a special Court would have to be set up. It would have to be staffed with Allied observers, as he did not think that the Italian Government would accept any form of capitulation Court of which other Allied countries might take unfair advantage.

He did not believe either that the Italian Government could accept to surrender all Allied nationals committing an offence on Italian soil. It would make it too easy for other nations than U.S. and Britain to create a state of chaos in Italian ports.

The powers and functions of Allied observers, the question of saluting would be also studied in the report the P.P. was to send to the Minister.

There seemed to be complete agreement among the Italians.

Col. Hammaford stated that, no doubt, P.P. would be pleased to forward to SAC any suggestion which might help the settlement of this difficult question.

5713

3226

0207

Declassified E.O. 12356 Section 3.3/NND No. 785015

HEADQUARTERS ALLIED COMMISSIC
APO 794
LEGAL SUB COMMISSION

AC/4II9/5/L

22. AP/ns
June 1946.

My dear Mr. Prime Minister,

Further to my letter AC/4II9/5/L of 3 June 1946 please be advised that the sentence of death passed on Col. TURCO at Milan on 10 April 1946 was on 14 May 1946 commuted to one of fifteen years imprisonment.

Orders have been issued for this sentence to be put into execution and it is regretted that no further appeals or petitions can be entertained on behalf of Col. TURCO.

Yours very truly,

M S. LUSH

Brigadier,
Executive Commissioner
for the Chief Commissioner.

His Excellency
Dott. Alcide De Gasperi
Prsidente del Consiglio dei Ministri
ROME.

5212

Copy to: C. Com. ✓
E. Com

0208

Declassified E.O. 12356 Section 3.3/NND No. 785015

COPY

COPY

HEADQUARTERS ALLIED COMMISSION
Office of Political Adviser (A)

June 21, 1946.

MEMORANDUM TO: Executive Commissioner
Civil Affairs Section

SUBJECT : Trial of U.S. merchant seamen.

Reference is made to previous correspondence regarding jurisdiction over Allied merchant seamen ashore in Italian ports.

The ruling of the U.S. War Department in the case of Billy Askew is contained in the attached paraphrase of telegram received from the U.S. Political Adviser in Caserta.

/s/ J. WESLEY JONES
Political Adviser (A)

Enclosure:
paraphrase of telegram

DIST - AC

INFO ACTION - CAS
CC
INFO - Ex. Com.
Polad A
Polad B

2711

322 a

0 2 0 9

Declassified E.O. 12356 Section 3.3/NND No. 785015

copy copy

S E C R E T

Seaman Billy Askew will be tried by AMG court at Peninsular Base Section, Leghorn, by instructions from War Department, issued on May 8 to MTOUSA. Court will be convened under authorization from SAC.

The directive issued by General Wilson in 1944 is regarded by MTOUSA as still valid, but, since ship on which Askew was crew member was carrying Belgian relief and FEA cargo and no troops or army cargo, War Dept feels that under authority of article 10 of short terms, AMG is proper court.

STAMP: Headquarters Allied Commission (2249)

5710

322a

0210

Declassified E.O. 12356 Section 3.3/NND No. 785015

AC/4083/23/L

18 June 1946

SUBJECT: CONSTANTINE LOMBARDO

TO : Mr. Michael Lombardo
80 Underhill Avenue
Brooklyn, New York

1. A diligent search of the records fails to disclose a case wherein the above-mentioned accused was ever before an Allied Superior Court in Naples.

2. In the event you can forward more definite information a further search will be made.

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

5769

0211

Declassified E.O. 12356 Section 3.3/NND No. 785015

CC 2602

17 June 1946.

Dear Sir:

I must apologize for the delay in replying to your letter of May 16th, which was not actually received at the Allied Commission until May 20th, due to the necessity of securing advice on this subject which has just come to hand.

Replying specifically to the question contained in the second paragraph of your letter, the letter of the United States Secretary of State dated March 8, 1946, does not seem to give the Allied authorities grounds for taking any further action other than that which I reported in the first paragraph of my letter to you dated 20 March 1946.

Very sincerely,

/s/ Ellery W. Stone
ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Hon. Jan PAULTHY-ROTH,
Minister of Czechoslovakia,
Czechoslovakian Legation,
Rome.

2708

Copy to:
Dr. Bombassei
Poland A
Poland B
Ex Comm
CC 247

0212

Declassified E.O. 12356 Section 3.3/NND No. 785015

C 48698

141931B JUNE

H/3900

JUNE 150915

PRIORITY

AFHQ G5

ALCOM ROME INFO CINC MED

UNCLASSIFIED

Reur 3657. Your para 2 agreed.

AC DIST

ACTION: EX COMMISSIONER

INFO: CHIEF COMMISSIONER

POLAD A

POLAD B

LEGAL SC

FLOAT 2

FILE

5207

0213

Declassified E.O. 12356 Section 3.3/NND No. 785015

JUN 1 5 REC'D

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB COMMISSION

AC/4083/23/L

JKW/ns
14 June 1946.

Memo to Chief Commissioner :

3090

The letter in question complains of a conviction of an accused by the Italian Court of Assise, in Naples. It is urged that he is innocent of the crime because the Allied Superior Court of Naples had "discharged" him for the same crimes.

A diligent search of the records in Archives fails to disclose a case wherein this accused was ever before an Allied Superior Court in Naples, much less that he was tried and acquitted for an offence. At the time given in the letter, 16 February 1946, there were no Allied Superior Courts in operation at Naples. Further, for sometime prior to the 16 February 1946, it was the policy to hand over to Italian authorities whenever and however possible, cases involving Allied interests.

The writer is not claiming that the accused is an American citizen, but contents himself with the assertion that the accused was born in the United States. A person can be born in the United States, and can thereafter change his citizenship. Incidently, the rights of citizenship are bottomed on more secure grounds than those of what a person may "consider" his status to be.

I see nothing in the letter which occasions any action in the matter.

5706

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

See ref. 322

3200

0214

Declassified E.O. 12356 Section 3.3/NND No. 785015

HQ ALCOM

JUNE 131800 46B

AFHQ FOR G-5

3567

3516

UNCLASSIFIED

MY THREE FIVE ONE SIX OF SIX JUNE PD

PARA ONE PD ITALIAN GOVERNMENT THROUGH MINISTER OF JUSTICE HAS NOW CALLED ATTENTION TO UNSATISFACTORY SITUATION IN GENOA AND HAS ASKED ME TO SEND DEPUTY CHIEF LEGAL ADVISER TO ATTEND MEETING THERE ON ONE SIX JUNE TO STUDY WAYS AND MEANS OF TRYING SUCH SEAMEN PD MINISTER SUGGESTS SETTING UP ITALIAN TRIBUNAL WITH ASSISTANCE OF ALLIED REPRESENTATIVES OR OBSERVERS TO TRY THESE CASES PD PARA TWO PD I DO NOT THINK I CAN REFUSE TO SEND DEPUTY CHIEF LEGAL ADVISER TO THIS MEETING BUT HE WILL GO WITH STRICT INSTRUCTIONS TO ACT AS OBSERVER ONLY AND NOT REPEAT NOT TO COMMIT US TO ANY ACQUIESCENCE PD IN VIEW OF THE BEARING OF ANY RECOMMENDATION OF THIS MEETING MAY HAVE ON ITALIAN GOVERNMENTS ATTITUDE TOWARDS RELEVANT ARTICLES IN CIVIL AFFAIRS AGREEMENTS CMA THIS ATTITUDE IS IN MY OPINION ESSENTIAL PD I LEARN ALSO THAT ITALIAN GOVERNMENT CMA HAVING RECEIVED A DRAFT OF THE BRITISH CIVIL AFFAIRS AGREEMENT CMA IS ALIVE TO THE CAPITULATORY EFFECT OF THESE ARTICLES AND ARE PARTICULARLY CONCERNED LEST FRENCH CMA RUSSIANS CMA YUGOSLAVS CMA ETCETERA MAY CLAIM SIMILAR RIGHTS FOR THEIR SEAMEN

Copy to: Polad (A)
Polad (B)
Legal S/C

PRIORITY

EX. COMMISSIONER

(Sgd) N. Hind Smith, Lt.Col.
for, M.S.LUSH, BRIGADIER,
EXECUTIVE COMMISSIONER.

343

320

2705

0215

Declassified E.O. 12356 Section 3.3/NND No. 785015

Ministero degli Affari Esteri

JUN 17 1954

6/2423/954

Val/Sa

MEMORANDUM FOR THE ALLIED COMMISSION

Subject: War crimes.

1. The Ministry for Foreign Affairs have taken duly note of the communication concerning the handing over to the Italian Authorities responsibility for the trial of enemy nationals accused of atrocities of war crimes committed against Italians, with the exception of:

(a) Persons who are not required for trial by any Allied Nation;

(b) German senior officers, who were responsible for the organization and planning of the reprisal campaign against the Italian civil population, to be tried before a British Military Court.

2. As regards the persons referred under paragraph (a), the Ministry for Foreign Affairs are of the opinion that the fact that the offenders be required for trial by another Nation for atrocities of war crimes committed elsewhere, should not preclude the possibility that they could be brought for trial in Italy for crimes committed here. In such a case it should be admitted that the foregoing officers, as soon as trial in another nation is concluded, be put at the Italian Authorities' disposal for trial to be conducted in Italy for war crimes whose judgment is the competenct of the Italian jurisdiction, following in this respect principles which have generally been adopted, in similar cases, in treaties of extradition and assistance in penal matters. For cases of persons who are accused of war crimes committed in different countries, a possibility to bring them for trial before mixed Courts, could also be considered.

3. As regards the exception concerning German senior officers, referred under paragraph (b), the Ministry for Foreign Affairs are pointing out that such an exception is not foreseen by the Moscow Declaration of November 1st, 1943, on war atrocities.

EC DIST - 15 June EMD

ACTION - CA Sec (2)

INFO CC

EC

319a

0216

Declassified E.O. 12356 Section 3.3/NND No. 785015

According to the above Declaration, the Italian Government have drawn up a list of German officers accused of atrocities and war crimes perpetrated in Italy.

The motives which could justify the aforesaid exception are not visualized.

Should the German senior officers not be brought for trial before the Italian Courts, the persons more directly responsible of atrocities and war crimes committed in Italy would escape these courts' jurisdiction. They, as per Moscow Declaration, should be tried in this country by Italian Courts according to the Italian Law.

The Ministry for Foreign Affairs, though being of the opinion that no motives are existing for excepting from the principles solemnly set forth in the Moscow Declaration regarding Germany in the respect of German senior officers, beg to add that a derogation could be admitted only in case that the creation of an Italo-British Mixed Court for the trial of said officers could be envisaged.

Rome, June 13th, 1946.

R203

319a

0217

Declassified E.O. 12356 Section 3.3/NND No. 785015

11 RECD

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB-COMMISSION

/a a.

AC/14083/25/L.

11 June 1946.

SUBJECT : BOZZI Arturo.

TO : H.B.M. Minister to the Holy See
Vatican, Rome
(Attn: Mr. Leigh Smith).

1. On 19 March 1946, a decision was rendered in the case of Dr. BOZZI Arturo. Without going into detailed discussion of the action taken on this voluminous record of 345 pages, exclusive of exhibits, you are advised that the sentence imposed by the Court was reduced from sixteen years to six years imprisonment.

2. Dr. BOZZI was indeed charged with selling medical supplies that belonged to the Allies, but he was found not guilty of these charges.

3. He was, however, convicted of various fraudulent transactions, including, on clear evidence, the use of his official position to sell to various Italian civilians for their serious ill relatives distilled water and other liquids which he assured them were penicillin.

2092

JOHN K. [illegible],
Colonel, Infantry,
Chief Legal Advisor.

Copy to : (a) Chief Commissioner
(b) Executive Commissioner

319

0218

Declassified E.O. 12356 Section 3.3/NND No. 785015

8 June 1946.

Dear Mr. Taylor:

This is in reply to your letter of May 16th which enclosed a copy of Vatican Note No. 127212/SA concerning Lieutenant Franco Barelli and Corporal Michelon Gastone.

The question of clemency for prisoners sentenced in Allied courts is a subject of correspondence currently being exchanged between the British and United States Governments, occasioned by proposals submitted by the Italian Ministry. It may be assumed that merited consideration is being given to the subject. Current instructions preclude me from granting clemency in cases where the accused have been convicted of espionage or sabotage, presumably because of the correspondence now passing between the Governments. In anticipation of an announcement of policy thereon, espionage and sabotage cases have been segregated by the Chief Judicial Officer of the Allied Commission.

As soon as any decision is reached which would enable clemency to be considered, I should be glad at that time to give the fullest consideration to Monsignor Montini's letter.

Sincerely,

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Hon. Myron C. Taylor,
Personal Representative of the President
of the United States to His Holiness
the Pope,
2 Via Boncompagni,
Rome.

Rest of Corres. in file A 0/4079/1/2
Legal Sub - Commission

312

5701

0219

Declassified E.O. 12356 Section 3.3/NND No. 785015

J.W.J.

The Admiral wants our views on the attached.

I don't think that the State Dept. letter alters our position as stated in the letter at 305. I take it to confirm our view – i.e. that it is for the Italian authorities to act.

23/V/46

317a

0220

Declassified E.O. 12356 Section 3.3/NND No. 785015

Write you prepare letter, pls, to

JUN 11 RECD

HEADQUARTERS ALLIED COMMISSION
Office of Political Adviser (A)

June 7, 1946

MEMORANDUM TO: Chief Commissioner

SUBJECT : Extradition to Czechoslovakia of Czech National.

I agree with Polad (B)'s views that the enclosure to the Czech Minister's letter of May 16 would not seem to alter the position expressed by you in paragraph (3) of your memorandum to the Italian Ministry of Foreign Affairs (Folio 306, File CC 2602). I would suggest that you refer Dr. Toth to the Italian Government, to which he is accredited, as the proper authority with which to negotiate for the extradition of Mr. Durcansky.

J. Wesley Jones
Political Adviser (A)

CC: Polad (B)

5700

317a

0221

Declassified E.O. 12356 Section 3.3/NND No. 785015

HQ AICOM

AFHQ: G-5

6 June 1946

3516

CONFIDENTIAL

PARA ONE PD LOCAL ITALIAN AUTHORITIES HAVE RECENTLY RAISED THE QUESTION OF THE APPARENT IMMUNITY FROM ARREST AND PROCEEDINGS OF ALLIED MERCHANT SEAMEN PD THIS HEADQUARTERS HAS HAD UNDER CONSIDERATION THE QUESTION OF OFFENCES COMMITTED IN ITALIAN TERRITORY BY SUCH PERSONS AND HAS COME TO THE CONCLUSION THAT THERE SHOULD BE REVERSION TO THE PEACE TIME PROCEDURE BRINGING SUCH SEAMEN UNDER ITALIAN JURISDICTION CMA SINCE NO ALLIED COURTS OR PERSONNEL TO FORM THEM ARE AVAILABLE AND AT MANY PORTS SUCH AS GENOA THERE ARE NO ALLIED POLICE OR FACILITIES AVAILABLE FOR ARREST AND DETENTION PD ALTHOUGH THIS PROCEDURE CANNOT BE CONSIDERED SATISFACTORY OWING TO THE STATE OF ITALIAN PRISONS CMA IT WAS CONSIDERED THE ONLY POSSIBLE SOLUTION PD POLITICAL ADVISERS CONCUR PD

PARA TWO PD IT IS OBSERVED FROM ARTICLE TEN OF THE DRAFT BRITISH CIVIL AFFAIRS AGREEMENT THAT BRITISH MERCHANT SEAMEN WILL BE TRIED BY NAVAL COURTS OR OTHER APPROPRIATE MEANS PD HAVING REGARD TO THE ABSENCE OF PERSONNEL MENTIONED IN PARA ONE IT APPEARS NECESSARY TO CONSIDER WHAT MACHINERY IS TO BE SET UP UNDER ARTICLES TEN AND TWELVE PAREN B PAREN OF THIS AGREEMENT CMA AND ANY SIMILAR ARTICLES IN U S AGREEMENT WHICH HAS NOT YET BEEN RECEIVED PD POLADS AGREE PD

PRIORITY

LEGAL S/C

302

0222

Declassified E.O. 12356 Section 3.3/NND No. 785015

Major R—
What is This
about?
Guy

FM AIDGH

6 June 1946

AFHQ: G-5

3516

CONFIDENTIAL

PARA THREE ED WE HAVE GIVEN NO REPLY TO THE ITALIAN AUTHORITIES

DISTRIBUTION :

CHIEF COMMISSIONER
EXECUTIVE COMMISSIONER
POLAD (A)
POLAD (B)

5800

(71) PRIORITY
LEGAL S/C

Sexson E. Humphreys
CWO, USA
Asst Adjutant

0223

Declassified E.O. 12356 Section 3.3/NND No. 785015

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB-COMMISSION

AC/4119/5/L. 3 June 1946.

My dear Mr. Prime Minister,

(315)

Your letter of yesterday asking the Chief Commissioner to intervene with the Allied Authorities for a commutation of the death sentence passed upon Colonel Francesco Paolo Turco by a War Crimes Tribunal at Milan on 8th April is being sent at once to Caserta for consideration by the Supreme Allied Commander. When a reply is received I shall inform you at once.

Yours very truly,

M. S. LUSH

Brigadier,
Executive Commissioner
for the Chief Commissioner.

His Excellency
Dott. Alcide de Gasperi
Presidente del Consiglio dei Ministri
Roma.

Copy to Gen Gen ✓
Gen

5697

(316)

0224

Declassified E.O. 12356 Section 3.3/NND No. 785015

JUN 3 RECD

57/ /46

Office of British
Political Adviser

The Chief Commissioner
Allied Commission.

Subject: Clemency for Prisoners

Your letter No. AC/4079/1/L of 6th November 1945 (250) to Allied Force Headquarters, G-5 Section.

The British Government have been in correspondence with the United States Government on the subject of a general act of clemency in Italy. This act, as you are aware, was originally intended to mark the return of North Italy to Italian administration but it now seems likely that any such act can only take place on the signature of a Peace Treaty with Italy.

2. The British Ambassador has been instructed to inform you of the above-mentioned correspondence and I accordingly enclose copies of a Note Verbale addressed by the British Embassy in Washington to the United States Department of State and of the latter's reply thereto.

31.v.46

BR. Political Adviser

Copied to: Executive Commissioner, AC
Vice-President Civil Affairs Section, AC
Political Adviser (US), AC

EC DIST - 3 JUNE
ACTION - 5496 SEC (HEGD)
INFO - CC
- EC

315a

accn by sc

0275

Declassified E.O. 12356 Section 3.3/NND No. 785015

COPY

No. 192
Ref: 1353/2/46

MEMORANDUM

In November 1945 the Italian Government suggested to the Allied Commission that the Supreme Allied Commander, Mediterranean, should grant a general act of clemency to mark the return of North Italy to Italian administration and as a token of Allied appreciation and goodwill. Allied Forces Headquarters felt unable to adopt the proposal but it was agreed in Rome that the matter should be referred to the United States Government and His Majesty's Government in case the two Governments should think it desirable to pursue it any further.

2. The suggestion of the Italian Government for a general act of clemency reached His Majesty's Government too late for consideration before the transfer of further territory in the North of Italy to Italian Government administration. Nevertheless, His Majesty's Government are inclined to think that the suggestion merits serious consid eration, and in particular they are advised that the argument that a general act of clemency would reflect on the aptness of the sentences passed by the Allied Military Government courts is unsound. They are therefore prepared to consider whether a general act of clemency should be made at some date in the future.

3. The obvious occasion for such an act would be the conclusion of the Peace Treaty, provided always that this were not unduly delayed. It is, on the whole, a matter of no great concern to His Majesty's Government whether sentences imposed by Allied Military Government courts continue to be enforced after the conclusion of tne Peace Treaty, and His Majesty's Government do not intend for their part to propose that any provision to limit Italian sovereignty in this respect should be inserted in the Peace Treaty. For the most part severe sentences were passed as deterrent

/deterrent

315a

0226

Declassified E.O. 12356 Section 3.3/NND No. 785015

deterrent to protect what were at the time important Allied Military interests and when the Peace Treaty is concluded, this factor ceases to be operative. In these circumstances it would seem superfluous at this stage to take any special measures, apart from the normal work of reviewing performed by the Allied Commission, to reduce sentences which are still outstanding.

4. On the other hand, His Majesty's Government would see no objection to agreeing to any proposal from the Italian Government that sentences of Allied Military Government courts which are still outstanding at the time of the conclusion of the Peace Treaty should be remitted or reduced by the Italian Government at their discretion.

5. His Majesty's Government would be grateful for the views of the United States Government on this question, and would be glad to know whether they agree to the procedure suggested in the foregoing paragraph.

28th March 1946.

BRITISH EMBASSY,
WASHINGTON, D.C.

0221

Declassified E.O. 12356 Section 3.3/NND No. 785015

copy

MEMORANDUM

The Department of State concurs with the views expressed in the British Embassy's memorandum No. 192 dated March 28, 1946, concerning the suggestion that the Supreme Allied Commander, Mediterranean, should grant a general act of clemency at the conclusion of the Italian peace treaty. The Department of State agrees that for the most part factors involved in the imposition of severe sentences by Allied Military Government courts will cease to be operative at the conclusion of the treaty and is prepared to agree to any proposal from the Italian Government that sentences from such courts outstanding at the conclusion of the treaty should be remitted or reduced by the Italian Government at their discretion.

Department of State,
WASHINGTON, May 1, 1946

740.00119 CONTROL (Italy) /3-2846

815a

0228

Declassified E.O. 12356 Section 3.3/NND No. 785015

CC

JUN 2

TRANSLATION

THE PRESIDENT OF THE COUNCIL OF MINISTERS

Rome, 31 May 1946.

69416/67528/8.4.E

Dear Admiral,

Colonel Francesco Paolo TUROO has been sentenced on 30 April 1946 by the Allied Military Court of Milan to death.

Following the requests received from the Italian military authorities and the warm appeal addressed to me by the family of the abovenamed officer in his favour, I take the liberty to appeal to your sense of humanity asking you - if you consider this possible - to intervene without delay with the competent Allied Authorities for a commutation of the inflicted penalty.

Col TUROO was wounded in the War 1915-1918 and, besides various Italian military awards, is also decorated with the Distinguished Service Order which was conferred upon him by the Royal British Government with decree of 7 July 1917.

With many thanks,

yours very truly,

/s/ De Gasperi

cc Kirk

Admiral Ellery W. Stone
Chief Commissioner
Allied Commission
Rome.

EC DIST - 31 May

ACTION :- CA See for Legal
INFO - CC -
- EC. ECOI

See O

Filed

3/5

0229

Declassified E.O. 12356 Section 3.3/NND No. 785015

MAY 8 1946

HEADQUARTERS ALLIED COMMISSION
APO 394
Office of the Executive Commissioner

Ref. : 2604/EC

28 May 1946.

We have discussed from time to time the question of the subjection to Italian jurisdiction of Allied and other non-Italian civilian nationals. I refer to those who are not subject to military law by virtue of their being in Italy under military orders and so subject to the military law of their own country.

I have discussed it with the Commission's legal advisers and with the legal adviser of the British Embassy, as well as with other members of the Embassy.

The Allied Commission legal advisers point out that on no less than four occasions they, both British and US, have given their opinion "that civilian allied nationals who are (i) not subject to the military law of the Occupying Powers, or (ii) are not excluded under the Restoration Agreements, are within the jurisdiction of the Italian Courts and may be tried by them."

The argument that a country, e.g., Great Britain, is de jure still at war with Italy, makes no difference to this ruling. The facts are that Great Britain with her Allies have recognised the Italian Government as the legal government in co-belligerent Italy, pending the elections, and therefore must recognise her courts. It follows, therefore, that Allied nationals who are not subject to military law must be subject to the only other law in the land, viz., the Italian law.

The fact that those persons shown in parenthesis in paragraph 3 above are specifically mentioned in Clause 12 of the "Terms of Restoration" as not liable to trial by Italian Courts without SACMED's approval (and note that he can give such approval) points to the fact that other Allied civilian nationals are subject to Italian law.

I hope the above may help to clarify your mind, as it has mine.

5693

Brigadier Alban Low, CBE, MC,
Commander,
Headquarters,
Rome Area Allied Command.

314

0230

Declassified E.O. 12356 Section 3.3/NND No. 785015

ADVSY HQ ALCOM 25 MAY 1946

AFHQ

3273 CONFIDENTIAL

SUBJECT IS INVESTIGATION OF NEOFASCIST BLACK GUARDS IN MILAN PD
REUR FOX SIX SIX SIX SEVEN FOUR OF TWO FOUR MAY PD
PARA ONE PD ITALIAN GOVERNMENT CONTACTED AND AGREED FOR COPIES OF INTERROGATION REPORTS TO BE SUPPLIED TO MAJOR KENNARD OR CAPTAIN HIRD ON UNDERSTANDING ACTION CONFINED SOLELY TO ALLIED INTERESTS PD
PARA TWO PD INSPECTOR GENERAL LANTAFFI INSTRUCTED BY MINISTRY OF INTERIOR PD
PARA THREE PD MAJOR KENNARD INFORMED BY COLONEL BYE CMA PUBLIC SAFETY ALCOM CMA DECISION OF ITALIAN GOVERNMENT PD

5592

PRIORITY

Public Safety D/C

E.J. Bye
E.J. BYE, Colonel.

NICHOLAS PIOMBINO
CWO, USA
Assistant Adjutant.

0231

Declassified E.O. 12356 Section 3.3/NND No. 785015

C/C

MQAC/MAY/10.
25MAY1200B

H/3328
26MAY1000
ROUTINE

AMG UDINE PROVINCE

HQ ALCOM

CONFIDENTIAL

CONFIDENTIAL.

REFFRENCE YOUR TELEGRAM NO 3252 IT IS CONFIRMED THAT EXECUTION OF SENTENCE IS SUSPENDED UNTIL AUTHORITY OF CHIEF COMMISSIONER IS RECEIVED .

AC DIST

ACTN: LEGAL 2
INFO: CHIEF COMMISSIONER
FILE
SKELETON

5691

CONFIDENTIAL

313

0232

Declassified E.O. 12356 Section 3.3/NND No. 785015

F 66674
MAY 241404B

H/3266
MAY 241630
PRIORITY

AFHQ SIGNED SACMED CITE FHQEG

AICOM ROME

CONFIDENTIAL

CONFIDENTIAL.

MAJOR KENNARD, ALLIED COUNTER-INTELLIGENCE REPRESENTATIVE IN MILAN, REPORTS THAT INSPECTOR GENERAL IANTAFFI, IN CHARGE OF CURRENT INVESTIGATION OF NEO-FASCIST "BLACK GUARDS" ORGANISATION IN MILAN, IS RELUCTANT TO SHOW HIM INTERROGATION REPORTS ON PERSONS ARRESTED AND TO ALLOW BRITISH SECURE PERSONNEL TO ATTEND INTERROGATIONS.

IN VIEW OF ORIGINAL ALLEGATION THAT THIS GROUP WAS PLOTTING ANTI-ALLIED "COUP" IT IS ESSENTIAL THAT KENNARD BE TAKEN IMMEDIATELY INTO IANTAFFIS CONFIDENCE TO ENABLE HIM TO ASSESS DEGREE TO WHICH ALLIED INTERESTS ARE INVOLVED.

PLEASE TAKE URGENTLY WHATEVER STEPS YOU CONSIDER APPROPRIATE TO ENSURE THAT KENNARD IS TAKEN INTO IANTAFFIS CONFIDENCE AND PROVIDED WITH INFORMATION REQUIRED.

REPORT ACTION TAKEN TO THIS HEADQUARTERS.

AC DIST

ACTION: PUBLIC SAFETY S/C

INFO: CHIEF COMMISSIONER

EXEC COMMISSIONER

FILE

SKELETON

CONFIDENTIAL

5690

3126

0233

Declassified E.O. 12356 Section 3.3/NND No. 785015

HQ ALCOM 24 MAY 1946

PROVINCIAL COMMISSIONER
UDINE PROVINCE

3252 CONFIDENTIAL

PARA ONE PD CERKOVAZ MERINO SENTENCED TO DEATH UDINE SEVENTH JUNE
ONE NINE FOUR FIVE PD
PARA TWO PD REFERENCE SENIOR LEGAL OFFICER LETTER SIXTEENTH MAY PD
PARA THREE PD MATTER BEING CONSIDERED PD
PARA FOUR PD EXECUTION OF SENTENCE SHOULD BE SUSPENDED UNTIL
AUTHORITY OF CHIEF COMMISSIONER IS RECEIVED PD
PARA FIVE PLEASE CONFIRM

RRCO

PRIORITY

LEGAL SUB COMMISSION

NICHOLAS FIORENZO
CWO USA
ASSISTANT ADJUTANT

302

0234

Declassified E.O. 12356 Section 3.3/NND No. 785015

COPY

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4079/1/L. 18 May 1946. /rmda

SUBJECT: Conditional liberty in cases of sentences imposed by Allied Military Courts.

TO : Ministry of Pardon and Justice.

1. See your letter OC/4238-1 of 16 May 1946.

2. It is desired that the I T A L I A N G O V E R N M E N T excercise the powers of granting conditional liberty in the same manner, to the same degree and on the terms, to prisoners sentenced by AMG Courts as prisoners sentenced by Italian Courts for similar offenses, receive that privilege.

3. It is desired that this privilege be applied AT ONCE in suitable cases to prisoners who have already served a sufficient portion of their sentences to justify consideration for a grant of conditional liberty.

4. What, if anything, will be required of the Legal Sub-Commission by the Ministry of Grace and Justice, in order to carry out this function?

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

5508

COPY

3124

0235

Declassified E.O. 12356 Section 3.3/NND No. 785015

130/AMG/4
171600

H/3061
MAY 180900B

PRIORITY

AMG 13 CORPS
ALCOM FOR LEGAL

CONFIDENTIAL

CONFIDENTIAL

Corps commander has directed trial of 8 Venezia Giulia Police before general court as result of shooting incident involving 2 dead and several wounded.Policy reasons and lack of personnel prevent legal division providing legal member or prosecuter.Suggest sub commission nominates american president and british prosecuter.If agreed prosecuter should report here soonest considerable preliminary work befpre trial. Letter follows.

AC DIST

ACTION: LEGAL SC

INFO: CHIEF COMMISSIONER

FILE

SKELETON

CONFIDENTIAL

S/2

0 2 3 6

Declassified E.O. 12356 Section 3.3/NND No. 785015

MAY 20 RECD

No.3231/46

your No.:CC 2602

Rome the 16th of may 1946

Dear Sir

I have the honour to enclose a copy of the letter of the State Department dated 8 march 1946 to the czechoslovakian Ambassador at Washington concerning the extradition of Mr. Ďurčanský to Czechoslovakia.

Would you kindly inform me if on this ground the Allied Authorities could take any further action.

ATTCHD

Faithfully yours:

Dr. Ján Paulíny Tóth
Minister of Czechoslovakia

H. E.
Ellery W. Stone
Rear Admiral USNR
Chief Commissioner
Allied Commission

Rome.

See 304 305 306

311 c

0 2 3 7

O p i s k č. 53.082/VI-5/46 MZV

March 8, 1946

Excellency:

I have the honor to acknowledge the receipt of Your Excellency's note /1724/46/ of February 19, 1946 regarding the extradition of Dr. Ferdinand Ďurčanský.

The United States Political Advisor at Caserta, Italy, has been informed that the United States Government perceives no objection to the extradition of Ďurčanský to Czechoslovakia.

Accept, Excellency, the renewed assurance of my highest consideration.

2902/2

For the Secretary of State:
DEAN ACHESON

His Excellency
Vladimir Hurban
Ambassador of Czechoslovakia

Declassified E.O. 12356 Section 3.3/NND No. 785015

Excellency's note /1724/46/ of February 19, 1946 regarding the extradition of Dr. Ferdinand Ďurčansky.

The United States Political Advisor at Caserta, Italy, has been informed that the United States Government perceives no objection to the extradition of Ďurčansky to Czechoslovakia.

Accept, Excellency, the renewed assurance of my highest consideration.

For the Secretary of State:

DEAN ACHESON

His Excellency

Vladimir Hurban

Ambassador of Czechoslovakia.

860F.00/2-1946 CS/LF

311c

Declassified E.O. 12356 Section 3.3/NND No. 785015

0239

Declassified E.O. 12356 Section 3.3/NND No. 785015

ALLIED FORCE HEADQUARTERS
APO 512

AG 000.5 GEC-O 14 May 1946

SUBJECT: Reduction of Sentence - Rue Bernacchio

TO : President
Allied Commission
APO 394

Attached for your information is letter, this headquarters, dated 14 May 1946, to The Rev. Monseigneur Carroll, relative to letter, your headquarters, file AG/4129/31, dated 6 May 1946.

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

JOHN R. HAYES
Major, AGD
Asst Adjutant General

JOHN R. HAYES
Major, AGD
Asst Adjutant General

1 Incl
ltr AFHQ, dtd 14 May 46.

5004

3116

0240

Declassified E.O. 12356 Section 3.3/NND No. 785015

HEADQUARTERS ALLIED COMMISSION
APO 594
LEGAL SUB-COMMISSION

/mdn.

AC/4129/3/1. 6 May 1946.

SUBJECT : Reduction of Sentence - RUO BERNUCCHIO.

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

1. See your letter of 25 April 1946 G-5: 014.5, subject: Reduction of sentence - Ruo Bernucchio.

2. The reply of the Ministry of Grace and Justice is enclosed herewith.

For the Chief Commissioner.

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

2 Encls.

311

0241

Declassified E.O. 12356 Section 3.3/NND No. 785015

MAY 9

TRANSLATION

67490/66838.2.4.2.
Fa.

Rome, 3 May 1946.

THE PRESIDENT OF THE COUNCIL OF MINISTERS

Dear Admiral,

Having received several requests from various parts to intervene in favor of seven young partisans who on 6 July 1945 were sentenced by the Allied Military Tribunal in Ferrara to one year of prison for the abusive possession of pistols and of a hand grenade, I take the liberty to draw your attention to this case so that in consideration of the excellent precedents of these men who have fought for the cause of liberty, of their perfect behavior in prison and of the fact that they have already served part of the term, you may - if you wish - intervene with the competent Allied authorities in order to obtain, with an act of clemency, the immediate release of the partisans, allowing them to return as soon as possible to their families.

With kindest regards,

Yours truly,

De Gasperis.

Admiral Ellery W. Stone
Chief Commissioner
Allied Commission
Rome.

5492

E.c. 01st - 6 May

Action : C.A. Lee.
Info : C.C.
E.C.

311

0242

Declassified E.O. 12356 Section 3.3/NND No. 785015

Cable F-65634 dated 2 May 46.
Transferred to CE 3753 Folio 86.

5681

310

0243

Declassified E.O. 12356 Section 3.3/NND No. 785015

17 June 1946

Colonel Weber:

Would you please draft a reply to Mr. Lombardo.

E.W.S.
CC

0244

Declassified E.O. 12356 Section 3.3/NND No. 785015

Col. Wilson ?

80 Underhill Avenue
Brooklyn, New York.
April 29th, 1946.

Hon. Admiral Stone.
Chief of the Allied Commission in Italy,
Rome, Italy.

Honorable Sir:-

My brother, Constantine Lombardo, son of Giovan Battista, born in the United States of America, was on February 16th, 1946 sentenced to 15 years of "solitary confinement" by the "Court of Assisi of Naples". He is innocent of the crime charged and the best proof is the fact that our "Allied Superior Court" presiding in Naples had previously discharged him for the same crimes.

Can it be possible that the Italian Law can overrule the Allied Commission in Italy? This latter commission found my brother innocent while the Italian authorities considered him guilty.

Therefore because of an error on the part of the Italian Judiciary it has resulted in an injustice and damage to my dear brother who, although not a Naturalized citizen, has the right to consider himself a citizen of the United States because of his birth in the United States of America.

I therefore request on his behalf your supreme intercession in his case and beg you to intercede with the proper Italian authority. My brother's case is a deserving one and further he is the father of two children of tender years. He has been made the victim of a chain of circumstances resulting in such a terrible tragedy.

His children, together with their young mother join me in begging and requesting pity for their father, and I ask you by right of your superior authority to immediately arrange a re-examination or review of the proceedings to the end, that in any event, at least a reasonable reduction of the penaly imposed upon him may be made.

Having faith in your immediate interest I beg you to accept in anticipation my profound thanks.

Yours respectfully

Michael Lombardo
Michael Lombardo

Lee 320

323

3096

0245

Declassified E.O. 12356 Section 3.3/NND No. 785015

HEADQUARTERS ALLIED COMMISSION
Office of the Chief Commissioner
APO 394

APR 27 RECD

Ref. : 5605/112/EC

26 April 1946.

My dear Mr. Key,

With further reference to my letter of 16 April, No. 5605/107/EC concerning smuggling and theft in the Port of Genoa.

I now enclose a copy of my Deputy Chief Legal Adviser's views on the matter and trust that this information will be of assistance.

Yours very truly,

M. S. LUGH

Brigadier,
Acting Chief Commissioner.

Mr. David McKey,
Chargé d'Affairs ad interim,
United States Embassy,
Rome.

Copy to: Poland 'A')
Poland 'B' (Minus enclosure.
Deputy Chief Legal Adviser.)

5479

309a

0246

Declassified E.O. 12356 Section 3.3/NND No. 785015

HEADQUARTERS ALLIED COMMISSION
AIO 394
LEGAL SUB-COMMISSION

/Italy.

AC/L042/4. 18 April 1946.

SUBJECT : Status of British Merchant Seamen.

TO : Poland (B).

1. The status of merchant seamen, not only British, but of all nationalities, became, if not in theory, at least in practice more and more indefinite as the war went on.

2. While for instance American merchant seamen were treated by U.S. Naval Authorities as naval personnel falling under the jurisdiction of Courts martial, British seamen still enjoyed peace time privileges. They fell under the jurisdiction of the British Court nearest to the place where the offence was committed. Seamen of other nationalities serving on Allied ships appeared to have escaped all jurisdiction other than that of Allied of neutral Courts, if and when they committed an offence within the jurisdiction of such Courts.

3. In Italy, local Courts lost jurisdiction over British seamen, owing to the state of war and Allied occupation. The situation arising from the numerous crimes committed by them became so acute, that, in agreement with the Royal Navy, it was decided that British merchant seamen would be tried by AMG Courts, and English law applied. This procedure was followed in Sicily and in Southern Italy with fairly satisfactory results.

4. Now that nearly the whole of Italian territory and all the ports have been restored to Italian administration English and Proclamation law cannot be applied any longer and in any case there are no Allied Courts to administer it.

5. The situation is therefore very intricate, and can see two solutions only to the problem:

a) to establish one or more Special Allied Courts in the ports. Such Courts would have to apply Italian law to merchant seamen of all nationalities, as no other is operative in Italian territory;

b) or to extend the jurisdiction of Italian Courts to Allied merchant seamen.

309A

0247

Declassified E.O. 12356 Section 3.3/NND No. 785015

6. Both methods are obviously inadequate. The shortage of legal officers make the first one a practical impossibility at present, Venezia-Giulia being the only reserve of qualified lawers and no one can be spared.

7. The second solution would be technically the most satisfactory and ensure the return to normal peace time practice. Politically it might be considered unadvisable and I feel certain that the French for instance and may be other Governments would not agree to their nationals being tried by Italian Courts and certainly not arrested by Italian Police.

8. The matter therefore is one of expediency, and legal considerations may very well have to be shelved in favour of ad hoc measures of a more practical nature.

9. No doubt you will wish to consult Polad A and other Allied representatives on the subject and let this Sub- Commission have your opinion.

C. G. HANNAFORD,
Lt. Colonel,
Dep. Chief Leg. Adviser.

Copy to Executive Commissioner
" " Polad (A)

5037

309A

0248

Declassified E.O. 12356 Section 3.3/NND No. 785015

APR 4 RECD

Ref: AO/4092/1/L.

4 April, 1946.
~~April, 1946.~~

My dear Mr. Prime Minister:

I reply to your letter of 28th February last, No. 62382, with some delay as considerable time was required for the examination of the delicate point you submitted to me.

229 a

Your request has received my most careful attention and that of both my political and legal advisers. I regret to have to say that it has been found impossible to comply with your wishes. There is no doubt that in accordance with Italian Penal Procedure and AMG Orders now in force in Venezia Giulia the Court of Assize has full power to try the accused. The time limit of the jurisdiction of this Court has been extended in Trieste by General Order No.41 for a further three months as from 8th February 1946.

May I point out, furthermore, that the transfer of this trial to an Italian Military Court sitting in Venezia Giulia is out of the question as Italian Military Courts not only have not been convened but lack jurisdiction in this territory.

Finally, the suggestion that General ESPOSITO, General D'AQUINO and others be tried by a Court sitting in territory already restored to Italian Administration cannot be accepted, considering the fact that all the alleged offences were committed in Venezia Giulia where the geographical jurisdiction lies and therefore this transfer would constitute a breach of Italian rules of Penal Procedure.

I would also like to draw your attention to the fact that there are more than a hundred witnesses in this case, whose transportation, billeting, feeding, etc., would cause a great deal of unnecessary expense.

Yours very truly,

M S. LUSH
Brigadier.
ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Dr. Alcide de Gasperi,
President of the Council of Ministers,
Italian Government,
ROME.

Copy to: E. Gen. ✓
E. Gen.

304

0249

Declassified E.O. 12356 Section 3.3/NND No. 785015

HEADQUARTERS ALLIED COMMISSION
Office of the Chief Commissioner
APO 394

Sir:

In view of your inquiry concerning the SCAO - Venezia Giulia cable sent to Mr Jones for action, Col Hannaford sends the atch'd memo direct to you. Brig Rusk already has a copy.

1 Apr

(Cable - referred to GO's on sanctions against crimes of a fascist nature.)

308

0250

Declassified E.O. 12356 Section 3.3/NND No. 785015

HQ ATACOM 26 March 1946

(1) SCAO (Attn: Legal Division) VENEZIA GIULIA.

PARA ONE FD DRAFT GENERAL ORDER ON ADDITIONAL SANCTIONS AGAINST CRIMES OF A FASCIST NATURE IS APPROVED WITH FOLLOWING INSERTIONS COLON AFTER THE SECOND RECITAL OF THE PREAMBLE QUOTE WHEREAS IN CONFORMITY WITH THE POLICY ADOPTED BY THE ITALIAN GOVERNMENT IN THIS RESPECT UNQUOTE IT IS DESIRABLE TO PUNISH FASCIST CRIMES COMMITTED ETC FD

PARA TWO FD PLEASE CONFIRM

5471

Priority

Legal Sub-Commission

307

302

0251

Declassified E.O. 12356 Section 3.3/NND No. 785015

CC 2602

20 March 1946.

MEMORANDUM FOR THE MINISTRY OF FOREIGN AFFAIRS

SUBJECT: Expulsions from Italy - Dr. Ferdinand DURCANSKY and Dr. Stanislav MERCIAR, Czech subjects.

1. Reference is made to your memorandum on the above subject dated 5 March 1946.

2. The answer to both questions (a) and (b) in paragraph 2 of your memorandum is in the negative.

3. It will be noted from the attached copy of letter from the Czechoslovakian Minister that the subject citizens of Czechoslovakia have not yet been officially recognized as war criminals. This being so, the cases would appear to be covered by your normal extradition procedure and pertinent extradition treaties with Czechoslovakia.

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

0252

Declassified E.O. 12356 Section 3.3/NND No. 785015

CC 2602 20 March 1946.

MEMORANDUM FOR THE MINISTRY OF FOREIGN AFFAIRS

SUBJECT: Expulsions from Italy - Dr. Ferdinand DURCANSKY and Dr. Stanislav MERCIAR, Czech subjects.

1. Reference is made to your memorandum on the above subject dated 5 March 1946.

2. The answer to both questions (a) and (b) in paragraph 2 of your memorandum is in the negative.

3. It will be noted from the attached copy of letter from the Czechoslovakian Minister that the subject citizens of Czechoslovakia have not yet been officially recognized as war criminals. This being so, the cases would appear to be covered by your normal extradition procedure and pertinent extradition treaties with Czechoslovakia.

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

0253

Declassified E.O. 12356 Section 3.3/NND No. 785015

CC 2602

20 March 1946.

Dear Sir:

303

Replying to your letter of 14 March, this is to inform you that I have sent a memorandum to the Italian Foreign Office stating in response to their two questions as to the status of Dr. DURCANSKY and Dr. MERCIAR that (a) their sojourn in Italy has not been authorized by the Allied Commission and that (b) they are not to be considered as under the protection of the Allied authorities.

Since both of the parties in question are not yet officially listed as war criminals, the Allied authorities would appear to be without authority to take the action requested in your letter of 8 February.

Sincerely yours,

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Hon. Jan PAULINY-TOTH,
Minister of Czechoslovakia,
Czechoslovakian Legation,
Rome.

305

0254

Declassified E.O. 12356 Section 3.3/NND No. 785015

HEADQUARTERS ALLIED COMMISSION
Office of the Chief Commissioner
APO 394

CC 2602

19 March 1946.

MEMORANDUM TO: (1) Mr. Jones, U.S. Political Advisor, AC.
(2) Mr. Halford, British Political Advisor, AC.

Would you review this draft please?

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

I agree with Mr. Jones.
20/III/46

Second last sentence to read: "procedure and [illegible] Czechoslovakia."

5471

0255

Declassified E.O. 12356 Section 3.3/NND No. 785015

HEADQUARTERS ALLIED COMMISSION
Office of the Chief Commissioner
APO 394

CC 2602 19 March 1946.

MEMORANDUM FOR THE MINISTRY OF FOREIGN AFFAIRS

SUBJECT: Expulsions from Italy - Dr. Ferdinand DURCANSKY and Dr. Stanislav MYRCIAK, Czech subjects.

1. Reference is made to your memorandum on the above subject dated 5 March 1946.

2. The answer to both questions (a) and (b) in paragraph 2 of your memorandum is in the negative.

3. It will be noted from the attached copy of letter from the Czechoslovakian Minister that the subject citizens of Czechoslovakia have not yet been officially recognized as war criminals. This being so, the cases would appear to be covered by your normal extradition procedure~~(with respect to requests for extradition based on political grounds)~~.

d r a f t

5670

HENRY W. STONE
Rear Admiral, USN
Chief Commissioner

Ref.

304

0256

Declassified E.O. 12356 Section 3.3/NND No. 785015

CC MAR 22 RECD

TRANSLATION

Fo.
63064/40062/1.6.4

THE PRESIDENT OF THE COUNCIL OF MINISTERS

Rome, 18 March, 1946.

Dear Admiral,

I am in receipt of your letter of 23 November 1945, N. 3636/199/RC, 255 and inform you that penal proceedings of those responsible for the disturbances which took place in May and June of last year in the communes of Minervino, Murge, Andria, and Corato, are in course, and the relative enquiry is almost completed.

I wish to assure you that the development of the proceeding is being keenly followed by the Attorney General.

Believe me,

Yours truly,

(s) De Gasperi.

Admiral Ellery W. Stone
Chief Commissioner
Allied Commission
R O M E.

EC. Dist. 21/3/46 FRRG
ACTION. EC. ExComm.
INFO. CC.
CASEC.

(MB)

303a

0257

Declassified E.O. 12356 Section 3.3/NND No. 785015

No.1660/46 Rome, 14th of March 1946.

Your No.CC 2602.

Dear Sir,

I have the honour to inform you that the Ministry of Foreign Affairs at Prague had asked to include Dr.ĎURČANSKÝ and KROFTA on the war criminals' list. This demand until now has not been realised.

Further the American Ambassador at Prague H.E.L. CHRISTIAN declared to the czechoslovak Foreign minister J. Masaryk that the State Department has no objection against the arrest and extradition of Mr. ĎURČANSKÝ.

Faithfully Yours:

Ján PAULINY-TÓTH
Minister of Czechoslovakia.

5668

EMERY W. STONE
Rear Admiral USNR
Chief Commissioner

ALLIED COMMISSION
Rome

303

0258

Declassified E.O. 12356 Section 3.3/NND No. 785015

No.1668/46

Rome, March 9th, 1946.

Re CC 2502

Dear Sir,

I have the honour to receive your letter of 7th March and to inform you that ĎURČANSKÝ and MEČIAR are both considered by the czechoslovak government as war criminals.

I wired to Prague to ask if they are on the London war criminal's list and I shall communicate the answer to you as soon as I shall get it.

Faithfuly Yours

Dr. Ján PAULINY-TÓTH
Minister of Czechoslovakia.

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

ALLIED COMMISSION
Rome

302

CC Mtd 11 Mar 46

VS a/c
Mr Cron
FC

Recd by CC 11 Mar.
No action to be taken at present, until 2nd para of ltr. is received.

0259

Declassified E.O. 12356 Section 3.3/NND No. 785015

CC

CC 2602

7 March 1946

Dear Sir:

Replying to your letter of February 8th with reference to your request that the two Czechoslovakian citizens DURCANSKY and MERCIAR be arrested and extradited, my recollection of our conversation of March 1st on this subject is that you stated that your request was based on the fact that these men are war criminals.

Will you kindly advise me if my understanding is correct.

Very truly yours,

/s/ Ellery W. Stone
ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

5668

The Czechoslovakian Minister,
Czechoslovakian Legation,
Rome.

CC Ltr 8 Mar 46
PS S/C
Eng Corr
CC

See 294 a

301

Ministero degli Affari Esteri

DUPLICATE

6/1052/484

MEMORANDUM FOR THE ALLIED COMMISSION

Subject: Expulsions from Italy - Dr. Ferdinand DURCANSKY and Dr. Stanislav MERCIAR - Czech subjects.

1. The Legation of Czechoslovakia in Rome has requested the Ministry for Foreign Affairs that the u/m Czech subjects, both residing in the neighbourhood of Rome, be arrested and deported from Italy.

a) Dr. Ferdinand DURCANSKY, born at Rajes, Czechoslovakia, in 1907;

b) Dr. Stanislav MERCIAR, born in 1906.

2. In view of the Allied Commission's standing in the matter of expulsions of foreigners from Italy as stated in note AC/14756/5/PS, dated 5 February 1946, addressed by the Chief Commissioner to the President of the Italian Council of Ministers, the Ministry for Foreign Affairs, before undertaking any steps with a view to tracing the two above named individuals, would be very grateful to the Allied Commission if they will let them know whether:

a) Their sojourn in Italy has been authorized by the Allied Commission;

b) They are to be considered under the protection of the Allied Authorities.

Declassified E.O. 12356 Section 3.3/NND No. 785015

Subject: Expulsions from Italy - Dr. Ferdinand DURCANSKY and
Dr. Stanislav MERCIAR - Czech subjects.

1. The Legation of Czechoslovakia in Rome has requested the Ministry for Foreign Affairs that the u/m Czech subjects, both residing in the neighbourhood of Rome, be arrested and deported from Italy.

a) Dr. Ferdinand DURCANSKY, born at Rajes, Czechoslo= vakia, in 1907;

b) Dr. Stanislav MERCIAR, born in 1906.

2. In view of the Allied Commission's standing in the matter of expulsions of foreigners from Italy as stated in note AC/14756/ 5/PS, dated 5 February 1946, addressed by the Chief Commissioner to the President of the Italian Council of Ministers, the Ministry for Foreign Affairs, before undertaking any steps with a view to tracing the two above named individuals, would be very grateful to the Allied Commission if they will let them know whether:

5665

a) Their sojourn in Italy has been authorized by the Allied Commission;

b) They are to be considered under the protection of the Allied Authorities.

3. The Ministry for Foreign Affairs, while thanking the Al= lied Commission for their interest in the case, will greatly ap= preciate the courtesy of an early reply.

Rome, March 5th, 1946

0261

Declassified E.O. 12356 Section 3.3/NND No. 785015

0262

Declassified E.O. 12356 Section 3.3/NND No. 785015

C/C

314/AR/201.
5MAR1215B

H/193
6MAR0845
ROUTINE

NR

314 FSS
GSI DISTHREE INFO: CHIEF COMMISSIONER ALCOM

MAR 6 RECD

CONFIDENTIAL

CONFIDENTIAL.

REF GSI DISTHREE SIGNAL GI 628 DATED MARCH 4th. ENQUIRES REVAL FOLLOWING DETAILS. ESPINOSA ARESTED 14.2.46 BY DET 501 PROVOST COY ANCONA ON INSTRUCTIONS GIVEN BY AHM 54 AREA IN HIS LETTER TO AHM 61 AREA REF PRO/49/35 OF 8 FEB. 54 AREA WERE ACTION ON INSTRUCTIONS FROM DJAG GHQ CMF. REASON FOR ARREST - WANTED FOR WAR CRIMES INVESTIGATION. ON INSTRUCTIONS FROM DJAG GHQ CMF (54 AREA SIGNAL AG 3957 DATED FEB 18 REFERS) ESPINOSA TRANSFERRED TO 209 PW CAMP AS NORIFIED IN 61 AREA SIGNAL TO DISTHREE AG 1506 DATED MARCH 4.

AC DIST

INFO: ACTN: LEGAL
INFO: CHIEF COMMISSIONER
P. SAFETY
FILE 2
FLOAT

CONFIDENTIAL

277

0263

Declassified E.O. 12356 Section 3.3/NND No. 785015

TRANSLATION

Cal S - Send Copy TO CLFE

No. 62382.

MAR 2 RECD

THE PRESIDENT OF THE COUNCIL OF MINISTERS.

Rome, 27 February, 1946.

Dear Admiral,

According to General Alexander's Ban No. 5, published in the A.M.G. Gazette, dated 15 September, 1945, crimes of collaboration, in the Venezia-Giulia territory occupied by the Allies, are judged by a Court of Assize, constituted by a judge and four lay-judges. The Ban which adopts judgment analogous to that in force in the Italian legislation, subjugates military men, as well as civilians, to the Courts of Assizes.

General Giovanni ESPOSITO, (gold medal), and General D'AQUINO, as well as several other officers, are at present pending trial for collaboration in the Court of Assize of Trieste.

Justice must be done, and officers judged severely for actions which may have been to the enemy's advantage, yet the Government feels obliged to point out to the Allied Authorities, the political aspect which the proceeding might assume if it took place in the Court of Assize in Trieste.

According to General Alexander's Ban, the jurisdiction of the special Court of Assize should come to an end on the 15 March, "save further orders from A.M.G.". If this exceptional regulation should be kept in vigor, I beg you to have the competent authorities in A.M.G. examine the possibility of inserting, in above mentioned Ban, a provision analogous to that in ART 3 of the D.L.L. 5/10/45, No. 625 on the Special Sessions of the Court of Assize, according to which the judgment of crimes pertaining to those courts, is transferred to the Military Tribunal when questions of a military character are implicated.

I have submitted this to you owing to its particular gravity, and in order that you may intervene opportunely, with the competent Allied Military Authorities.

With regards.

Yours truly,

De Gasperi.

(s) De Gasperi.

5683

Admiral Ellery W. Stone
Chief Commissioner
Allied Commission
R O M E

LCTOIST - 1 Mar

ACTION - CA Sec (2)
INFO - CC
- EC

(MB)

2980

2980/1 CC

0264

Declassified E.O. 12356 Section 3.3/NND No. 785015

HQ ALCOM 21 FEB 46

(1) "A" BRANCH CMF, AFHQ

1353 RESTRICTED

REFERENCE YOUR SIGNALS NUMBERS FX SIX ZERO EIGHT TWO SEVEN AND FX SIX ONE ONE EIGHT SEVEN OF FIFTEEN AND TWENTY FEBRUARY ONE NINE FOUR SIX PD

PARA ONE PD PROSECUTOR EXTRAORDINARY COURT OF ASSIZE PADOVA HAS BEEN ASKED THROUGH CHIEF LIAISON OFFICER VENEZIE TO COMPLY WITH INSTRUCTIONS CONTAINED IN PARAS TWO AND FOUR OF YOUR LETTER ONE SIX ONE SEVEN ONE SLANT TWENTYONE SLANT A DASH THREE OF SEVEN JANUARY ONE NINE FOUR SIX PD

PARA TWO PD INFORMATION REQUESTED WILL BE SIGNALED AS SOON AS OBTAINED

ROUTINE

LEGAL SUB COMMISSION

302

0265

Declassified E.O. 12356 Section 3.3/NND No. 785015

IPW Division ALCOM 18 1000 Feb 46

N.A.S.C. Casablanca

AMET

1236 PLN502 UNCLASSIFIED

289a

PARA ONE PD REUR PETER LOVE NAN FIVE ZERO TWO OF ONE EIGHT JANUARY REPLY HAS NOW BEEN RECEIVED FROM MTOUSA QUOTE THERE IS NO PROTECTING POWER FOR SUBJECT ITALIAN PERSONNEL PD AS A MATTER OF COURTESY CMA HOWEVER CMA NOTICE OF THE TRIAL WILL BE GIVEN TO THE ITALIAN GOVERNMENT AND THE PARTICULARS FURNISHED TO THEM WHICH ARE NORMALLY REQUIRED TO BE FURNISHED TO THE PROTECTING POWER BY ARTICLE SIX ZERO OF THE GENEVA CONVENTION CMA WITH THE EXCEPTION OF PARTICULARS OF THE COURT WHICH WILL TRY THE CASE PD NOTICES OF TRIAL WILL BE FORWARDED THROUGH THE ALLIED COMMISSION WITH A COPY TO THIS HEADQUARTERS AND WILL REACH THE ITALIAN GOVERNMENT NOT LESS THAN SEVEN DAYS BEFORE THE DATE FIXED FOR THE HEARING PD SIMILARLY CMA AS REQUIRED BY ARTICLE SIX FIVE OF THE GENEVA CONVENTION CMA SENTENCES PRONOUNCED AGAINST SUCH PERSONNEL BY A MILITARY COURT WILL BE COMMUNICATED TO THE ITALIAN GOVERNMENT THROUGH THE ALLIED COMMISSION WITH A COPY TO THIS HEADQUARTERS PD FURTHER CMA AS REQUIRED BY ARTICLE SIX SIX OF THE GENEVA CONVENTION CMA A SENTENCE OF DEATH PRONOUNCED BY A COURT DASH MARTIAL WILL NOT BE EXECUTED UNTIL THREE MONTHS HAVE ELAPSED AFTER SUCH COMMUNICATIONS TO THE ITALIAN GOVERNMENT QUOTE PD

ROUTINE

IPW Division

G.J. [illegible]ONE
CWO, U.S.A.
Asst. Adjutant

511

297

0266

Declassified E.O. 12356 Section 3.3/NND No. 785015

C 22765
FEB 141824 A

G/9310
FEB 150945
ROUTINE

MTOUSA FROM AFHQ

ALCOM

UNCLASSIFIED.

291a

This answers your cable 424 to MTOUSA from IPW division Land Forces S/C MMIA, dated 21 January 1946:

" There is not protecting power for subject Italian Personnel. As a matter of courtesy, however, notice of the trial will be given to the Italian Government and the particulars furnished to them which are normally required to be furnished to the protecting power by article 60 of the GENEVA convention, with the exception of particulars of the court which will try the case. Notices of trial will be forwarded through the Allied Commission with a copy to this HQ and will reach the Italian Government not less than 7 (seven) days before the date fixed for the hearing.

Similarly, as required by article 65 of the GENEVA convention, sentences pronounced against such personnel by a Military court will be communicated to the Italian Gegernment through the Allied Commission with a copy to this HQ. Further, as required by article 66 of the GENEVA convention, a sentence of death pronounced by a Court - Martial will not be executed until 3 months have elapsed after such communications to the Italian Government.

It is desired that you transmit these instructions to NASC, CASABLANCE, with an information copy to AMET ". Complete.

AC DIST

295a ACTION : IPW, INFO: CHIEF COMMISSIONER, FILE 2 , FLOAT

0267

Declassified E.O. 12356 Section 3.3/NND No. 785015

FEB 12 1946

Ref: AG/4188/2/1. 14. February 1946.

SUBJECT: Special Courts of Assize.

TO : SCAO, AMG 13 Corps.

1. Lt.Col. HAMMERTON spoke to me in reference to your letter 130/AMG/12/ of 4 Feb 46 on the question of the powers of the special court of assize in 13 Corps.

2. Whatever may be the opinion expressed in the press by the public in Zone "A" of Venezia Giulia, there can be no question in my mind that it would be quite wrong as well as illegal for the Allied Military Government in that Zone, which is essentially an Allied Military Government to maintain law and order on a short term basis, to assume to itself judicial powers which should and can only be carried out by Italian Courts. The trial of Fascists for offences committed before September 1943 is a domestic, or we may call it national, matter for the Italians and of the Italian Courts.

3. It would be undesirable to set up under AMG authority a procedure which would be different to that now in force in Italy. Furthermore, there is no doubt that the Italian Government would refuse to accept the jurisdiction of such courts and would insist on the alleged Fascists being tried in Italian courts situated in Italian territory.

4. There should be no great difficulty in transferring Fascists who have been denounced for acts done before September 1943 to the Italian Assize Court in UDINE or perhaps in VENICE. The transport of accused and witnesses will present difficulties but these cannot be called insuperable.

5. Therefore, I suggest that the procedure outlined in Lt.Col. HAMMERTON's letter of 5 Nov 45 be put into practice as soon as practicable.

M. S. LUSH

Brigadier,
Acting Chief Commissioner.

Copy to: G(S), 13 Corps.
G-5, AMG.
6 Gen
Ex Gen

5559

296

0268

Declassified E.O. 12356 Section 3.3/NND No. 735015

Ref: AC/4079/1/L. 4 February 1946.

SUBJECT: Clemency for Prisoners.

TO: AFHQ, G-5 Section.

1 With reference to your G-5: 014.5 of 30 Dec 45 on the subject of clemency for prisoners I have the following comments and recommendations to make.

2 As regards Para 2 of your letter under reference and sentences for offences of a minor character, this type of sentence has by mere lapse of time been reduced to vanishing point. It is estimated that short term sentences from 30 to 120 days imprisonment have, generally speaking, been served.

In this connection it is pointed out that when release and redeployment caused a gradual and serious reduction in Legal Officers in AMG territory cases of the type described were transferred to Italian Courts. Only a very few cases of this nature have been tried since 1 Oct 45. The very few sentences which may remain will have expired before any act of clemency could be put into force.

It seems clear therefore, that no act of clemency is required in the case of sentences described in Para 2 of your letter under reference.

3 The sentences remaining unserved are those described in Para 3 of your letter, and fall into two categories:

(a) Those from six (6) months to two (2) years. According to Italian prison records, the persons in jail undergoing sentences from six (6) months to two (2) years number 1,345. These sentences are expiring daily.

(b) Those serving sentences for longer than two years.

These offences fall into two broad classifications:

In the first are those severe deterrent sentences given in the early days of the invasion, notably in Sicily and later in Naples for acts considered dangerous to our security and denounced by the proclamations, such as wire cutting, failure to declare enemy arms and military equipment,

Copy to: G. Com ✓
Ex Com

0269

Declassified E.O. 12356 Section 3.3/NND No. 735015

public demonstrations elevated by the circumstances to "riots" and "insurrections", and acts of sabotage for which the death penalty was not given.

In the second are those sentences for acts which violate the penal codes of Italy, and for that matter, of the United States and Great Britain, such as murder, forgery, robbery with fire arms, counterfeiting, perjury and swindling, etc.

According to Italian prison records, all persons in jail undergoing sentences for more than two (2) years number 546. These sentences are not expiring rapidly.

All records of trial of Allied cases are held by the Allied Commission, and I consider that it would be contrary to accepted policy and most undesirable to pass these records to the Italian authorities with the view to their reviewing Allied cases. Those records are in English, and were prepared under rules unfamiliar to Italians; nor should these records be made available to become possible sources of claims against the Allies upon the conclusion of the sense, for alleged wrongful acts against the person or property of the accused. Further, any clemency action should emanate completely from the authority responsible for the trial, that is, the Allied authorities and not Italian authorities.

5 Under ample existing authority, a review of outstanding sentences is underway by the Legal Sub-Commission. Cases under category 3 (b) above are being examined by one lay and two judicial officers who make recommendations to the Chief Judicial officer. Long term sentences given as a deterrent for anticipated conditions which failed to materialize are being adjusted to actualities. Sentences for criminal law offenses are not being disturbed merely because imposed by an Allied Court. The Italians themselves are not eager to have such criminals released to the general public. It is proposed to make a similar review of unexpired sentences in category 3 (a) above.

5557

6 As a part of the procedure the detention of every prisoner (other than those detained for security reasons) in Italian jails held under colour of Allied authority for penal offences is being questioned in conjunction with the appropriate Allied authorities. The necessity therefor is emphasized by the following examples:

In the VOLTERRA Penitentiary a man was found under detention from March 1945, for Allied (but NOT AMG) proceedings which failed to materialize. He has been placed at the disposition of the Italian judiciary for another (more serious) offense. Seven prisoners from the Island of ELBA similarly detained were turned over to the Italian Special Court of Assize for trial. In another instance a German prisoner of war had been detained in a small prison for several months.

0270

Declassified E.O. 12356 Section 3.3/NND No. 785015

7 There remains the question of any plan or scheme to be applied after the peace to unexpired long-term AMG sentences.

I refer to matters such as remission of sentence for good behaviour or the application to such sentences of any clemency act which might be decreed by the Italian Government after the peace.

Such matters pertain to treaty conventions and I presume that consideration will be given to them in the drafting of the Peace Treaty.

8 I suggest that if it is necessary to consider this whole matter in more detail, a conference of all concerned should be summoned.

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

5556

295

0271

Declassified E.O. 12356 Section 3.3/NND No. 785015

COPY

LEGATION DE TCHECOSLOVAQUIE
ROME

No. 1029/46 Rome, February 8th, 1946.

SUBJECT: Extradition of
Dr. Ferdinand DURCANSKY
and Stanislav MECIAR.

TO: LEGAL DIVISION

ALLIED COMMISSION, ROME.

The Czechoslovak Legation begs the ALLIED COMMISSION to find out the whereabouts of two Czechoslovak citizens Dr. Ferdinand DURCANSKY and Stanislav MECIAR to arrest and extradition the same.

Dr. Ferdinand DURCANSKY born 1907 in Rajec, Czechoslovakia, was formerly Minister of Foreign Affairs under the fascist president of Slovakia Mr. Tuka. Dr. Drucansky fled from Slovakia with the Germans in 1945 and in December 1945 managed to come to Italy and it is believed that he lives in the surroundings of Rome, the precise place is not known.

Dr. Stanislav MECIAR born in 1906 was Secretary of Matice of Slovakia /Slovak Cultural Academy/, is also a Fascist whom the Czechoslovak Government holds responsible for the denunciation of a great number of Slovak patriots and handing them over to the Germans. He also is according informations living near Rome.

Thanking you in advance for your help in the above mentioned matter I remain

Yours very truly

/S/ Dr. Jan PAULINY-TOTH

Envoy Extraordinary and Minister
Plenipotentiary of Czechoslovakia

2946

0272

Declassified E.O. 12356 Section 3.3/NND No. 785015



JÁN PAULINY - TÓTH

ENVOYÉ EXTRAORDINAIRE ET MINISTRE PLÉNIPOTENTIAIRE

DE LA RÉPUBLIQUE TCHÉCOSLOVAQUE

0 2 7 3

Ministero degli Affari Esteri

6/1052/484

MEMORANDUM FOR THE ALLIED COMMISSION

Subject: Expulsions from Italy - Dr. Ferdinand DURCANSKY and Dr. Stanislav MERCIAR - Czech subjects.

1. The Legation of Czechoslovakia in Rome has requested the Ministry for Foreign Affairs that the u/m Czech subjects, both residing in the neighbourhood of Rome, be arrested and deported from Italy.

a) Dr. Ferdinand DURCANSKY, born at Rajes, Czechoslovakia, in 1907;

b) Dr. Stanislav MERCIAR, born in 1906.

2. In view of the Allied Commission's standing in the matter of expulsions of foreigners from Italy as stated in note AC/14756/5/PS, dated 5 February 1946, addressed by the Chief Commissioner to the President of the Italian Council of Ministers, the Ministry for Foreign Affairs, before undertaking any steps with a view to tracing the two above named individuals, would be very grateful to the Allied Commission if they will let them know whether:

(294)

a) Their sojourn in Italy has been authorized by the Allied Commission;

b) They are to be considered under the protection of the

Declassified E.O. 12356 Section 3.3/NND No. 785015

Subject: Expulsions from Italy - Dr. Ferdinand DURCANSKY and Dr. Stanislav MERCIAR - Czech subjects.

1. The Legation of Czechoslovakia in Rome has requested the Ministry for Foreign Affairs that the u/m Czech subjects, both residing in the neighbourhood of Rome, be arrested and deported from Italy.

a) Dr. Ferdinand DURCANSKY, born at Rajes, Czechoslovakia, in 1907;

b) Dr. Stanislav MERCIAR, born in 1906.

2. In view of the Allied Commission's standing in the matter of expulsions of foreigners from Italy as stated in note AC/14756/5/PS, dated 5 February 1946, addressed by the Chief Commissioner to the President of the Italian Council of Ministers, the Ministry for Foreign Affairs, before undertaking any steps with a view to tracing the two above named individuals, would be very grateful to the Allied Commission if they will let them know whether:

a) Their sojourn in Italy has been authorized by the Allied Commission;

b) They are to be considered under the protection of the Allied Authorities.

3. The Ministry for Foreign Affairs, while thanking the Allied Commission for their interest in the case, will greatly appreciate the courtesy of an early reply.

Rome, March 5th, 1946

MINISTERO DEGLI AFFARI ESTERI

0274

Declassified E.O. 12356 Section 3.3/NND No. 785015

0275

Declassified E.O. 12356 Section 3.3/NND No. 735015

Ref: AG/14756/2/10.

5 February 1946.

My dear Mr. Prime Minister:

I have received your letter 18/00368/47 dated 5th January 1946, written from the Ministry of Foreign Affairs, in which you raise the question of the authority of the Italian Government to deport undesirable aliens. Some weeks ago this same question was presented to us by the Ministry of Interior and the matter has been under consideration with higher authority.

It is agreed in principle that the Italian Government has the right to deport undesirable aliens, but the exercise of the right must of necessity be limited at present.

For instance, the Italian Government would obviously be required not to apply deportation laws to persons in the following categories without agreement with the authorities concerned:

(a) aliens in the custody of the Allies;

(b) aliens in the care of Allied Commission or of UNRRA;

(c) aliens whose presence in Italy has already been approved by the Allies and who continue to be so sponsored.

Moreover, the Allies have contracted not to return political refugees by force to their countries of origin. Numbers of these persons are presently at large in Italy. The Italian Government would no doubt wish to adopt the same policy as the Allies to such people.

Subject to the above, my dear Mr. Prime Minister, there is no objection to the Italian Government exercising the right to deport undesirable aliens.

Yours very truly,

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Dott. Alcide de Gasperi,
President of the Council of Ministers,
Italian Government,
R O M E.

Copy to: Chief Commissioner
Ex. Commissioner
Poland (A) & (B)

0276

Declassified E.O. 12356 Section 3.3/NND No. 785015

9001/CC

Q. M. C. Form 353 (Old No. 490)
Revised July 28, 1918

LIST OF PAPERS

OFFICE OF THE
CHIEF COMMISSIONER

File under No. _____

B—0788

SERIAL NUMBER	FROM—	DATE	TO—	SYNOPSIS

5652

INSTRUCTIONS.—When papers on a subject become numerous they will be numbered serially and brief entries made on this form.


0277