

ACC

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DEFASCISTIZATION
MAY 1937 - DEC. 1938;
JAN. - AUG. 1945

2610/CC

Office of the
Chief Commissioner

LIST OF PAPERS

ALLIED COMMISSION

File under No. 2610 DEFASCISTIZATION, GENERAL

PART II

Page 1

~~TOP SECRET~~

SERIAL NUMBER	FROM—	DATE	TO—	SYNOPSIS
94a	Cbl Foreign Office	7 Jan 45	Halifax	Br Foreign Office views Roatta trial and requests State Dept views
95	Cbl AFHQ F-85963	16 Jan 45	AC for Stone	Pls approach Bonomi to make sure no evidence is introduced into ROATTA trial affecting Allied military operations in Armistice period
96	Cbl Stone S-415	18 Jan 45	AFHQ for Harding	Bonomi already issued instructions on ROATTA trial.
97	News Article	18 Jan 45		Berlinguer's interview with ANSA on Suvich-Roatta Trial.
98	Cbl Stone S-417	19 Jan 45	AFHQ for Harding	Berlinguer present to Roatta trial to avoid detrimental evidence.
98a	Memo Kirk	20 Jan 45		Jacconi case. My name forbidden
99	Ltr Alexander	22 Jan 45	Macmillan	Evidence of Roatta's aid to Poles.
100	Ltr Macmillan	24 Jan 45	Alexander	Evidence of Roatta's aid to Poles.
101	Ltr DF/4/13.1/CA Stone	27 Jan 45	Bonomi	Proceedings against REMONDINO, Ital Air Force, must be dropped immediately. He is essential.
102	DF/5.13/pA, Stone	29 Jan 45	Bonomi	Decrees governed by Armistice Terms must be passed on by AC - specifically on epuration, etc.
103	CC-9251, Stone	1 Feb 45	Macmillan	Bonomi asked drop proceedings against Col Remondino, IAF.
104	Ltr Bonomi 26341/10124.62	2 Feb 45	Stone	Proceedings against Remondino suspended and silence will be kept.
105	Cbl, SECSTATE (US)	3 Feb 45	Kirk	US State Dept views possible evidence in Roatta trial, agreed UK, FO.
106	Aide-Memoire, Stone	6 Feb 45	(Bonomi)	US/UK views on bringing up of evidence in Roatta trial.
107	CC-9251, Stone	6 Feb 45	Macmillan	Bonomi drops proceedings against Remondino.
107a	Macmillan's PA	13 Feb 45	CC	Roatta's aid to Poles.
108	1005/64/COS Lush	14 Feb 45	Air Forces S/C	Proposed abolishment of Discrimination Tribunal in Air Ministry not agreed.

~~TOP SECRET~~

2610/CC

Office of the
Chief Commissioner

ALLIED COMMISSION

LIST OF PAPERSFile under No. 2610 DEFASCISTIZATION, GENERAL
(ROATTA Case, etc)

PART II

Page 2

From: 1 Jan 45
To: 24 Mar 45~~TOP SECRET~~

SERIAL NUMBER	FROM-	DATE	TO-	SYNOPSIS
109	Ltr Bonomi 766	15 Feb 45	Stone	Speech by Bonomi to Epuration Commission
109a	Ltr Bonomi 27117...	16 Feb 45	Stone	Proceedings vs REMONDINO dropped.
110	Ltr Quayle	17 Feb 45	Bocconi	Thanks for Bonomi's speech
111	Ltr Bonomi 26519. 13803.9/1.1.26	16 Feb 45	Stone	Apologia for not presenting Decree No. 2(45) for screening. Answer to 102.
111a	Ltr de Gasperi 3/268	19 Feb 45	Stone	Evidence for ROATTA trial, if OK.
112	DF/4/13.1/CA, Stone	21 Feb 45	Bonomi	Tnx for ltr re REMONDINO.
113	Ltr, Stone	24 Feb 45	de Gasperi	Evidence OK'd for ROATTA Trial.
114	Ltr, Signora Roatta	1 Mar 45	Stone, Macmilan	Plea to save Gen ROATTA.
115	CC-2610, Quayle	2 Mar 45	Signora Roatta	AC cannot intervene in ROATTA trial.
116	Cbl AC PS 2935	5 Mar 45	AFHQ	ROATTA takes it on the lam.
117	PRES/45802/G, Macmilan	10 Mar 45	CC	FO to release for papers AC Report on Defascistization given to ACI.
118	Draft Decree	15 Mar 45		New Draft Decree by IG Minister of Finance further to DLL No. 159, 1944.
119	Ltr, Stone	15 Mar 45	Kirk & Charles	New Draft Decree by IG Minister of Finance further to DLL 159 of 1944.
120	CC 2610, Quayle	18 Mar 45	Talbot	CC directs draft decree be sent AFHQ
120a	567/12/EC, Stone	19 Mar 45	G-5 AFHQ	New Draft Decree - for instructions.
121	Ltr, Stone	19 Mar 45	Bonomi	Request draft decree be held up pending decision by SACMED.
121a	132/7/45, Noel Charles	19 Mar 45	Stone	Comments on New Draft Decree.
122	Memo, Quayle	23 Mar 45	Pol Advisers	CC told Pesenti w/drew all ref to "corporations" in new draft decree.
123	CC 2610, Stone	23 Mar 45	Noel Charles	Re new draft decree; PM informs all ref to corporations deleted.

~~TOP SECRET~~

HEADQUARTERS ALLIED COMMISSION
Office of the Chief Commissioner
APO 394

CC 2610

23 March 1945.

My dear Mr. Ambassador:

121a

Thank you for your letter of 19 March in reply to mine of the 15th enclosing a copy of the Rosenti Decree.

In a call which I had from the Prime Minister at my house two days ago, he informed me that Minister Rosenti had agreed to the deletion from his proposed decree of all references to corporations. The Prime Minister added that many other changes would be made before the Council would favorably consider the proposed decree.

I think you will agree that if the decree is amended to exclude all references to corporations, cause for Allied objections for military and economic reasons is substantially removed.

I shall keep you informed of any further developments.

Sd/ 124

/s/ Ellery W. Stone 27/3

ELLERY W. STONE
Rear Admiral, USN
Chief Commissioner

2610/c

Mr Noel Dunlop, B., A.C.B.S.,
British Ambassador,
84 Via Venezia, Genoa,
Italy.

123

INTERNAL DISTRIBUTION:
Exec. Commissioner,
Economic Section,
U.S. Political Advisor,
Br. Political Advisor
Vice President,
Civil Affairs Ec.

Copy to: American Ambassador
G-5 AFM (our letter of 19 March refers)

CC FILES
120K

Dispatched 1030, 24 MAR 45.

HEADQUARTERS ALLIED COMMISSION
Office of the Chief Commissioner
APO 394

JAQ/hjp

23 March 1945

TO: Mr. Hobkinson and Mr. Dowling
(Political Advisers)

The Chief Commissioner wished me to inform you that he had been told that all reference to "Corporations" had been withdrawn by PERSHILL from his draft decree, thereby removing the major grounds for possible Allied objections.

This information should not be treated as official, the Admiral feels, until confirmation is obtained.

J.A. Quayle

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

R-12

cc: A/Exec Comm

May we have
confirmation as soon as
possible please as we should
like to telegraph to F.O.?

Att March 24

122

567

MAR 20 REC'D 34
CC 740
MAR 20 1945

British Embassy,

Rome.

132/7/45

19th March, 1945.

My dear Admiral,

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B

I am writing to thank you for your letter of the 15th March, enclosing a copy of a draft decree presented by the Minister of Finance to the Council of Ministers on the 16th March and now under discussion in the Council.

2. Clearly the effect of the decree as it stands on the economic and industrial structure of Italy would be radical and might raise a political question whether a non-elected, interim Cabinet would not be acting essentially ultra vires in passing it. It might furthermore be asked whether an attempt to do so might not endanger the Coalition, with possible effects on the Italian war effort and thus on the conduct of operations, and whether therefore legislation of this nature is not better postponed until the country is wholly liberated. Yet, I feel that, however carefully any advice offered by the Allied Commission may be confined to these aspects while avoiding the slightest expression of opinion on the merits of the decree itself, it is highly likely that any attempt at discussion would be misrepresented on the left. The Commission might be placed in the light of attempting to protect Fascist big business from the people's justice.

20/10/45

3. I do not myself believe it to be the policy of the Communist party to break the Coalition. The Roatta incident gave them an opportunity, but they confined themselves to demonstrating their strength by imposing conditions for their continued collaboration.

121a

Rear Admiral Ellery W. Stone,
USNR,
Chief Commissioner,
Allied Commission,
Rome.

See 123

R741

/This

This decree is pursuant to one of their conditions, and it is a fair guess that in its present form it represents a maximum, on which they are prepared to compromise rather than leave the Government. There is however, the danger of immediate reaction, arising in particular from Article 17, on the financial interests of other countries. To take an illustration: Courtaulds hold an important interest in the Snia-Viscosa. Under Article 17, it would be sufficient for 20% of the shares to be found to belong globally to persons of the proscribed categories to have the whole Company brought under the control of the new Ente dominated by a single Minister who, it is safe to presume, will be a Communist. He might well order the nationalisation of the Company; and, what is more, the proceeds of such an operation on the Company would pass not to the National Treasury but to the funds of this new autonomous Ente. They would be subject to no direct budgetary control.

4. I am of course unable to say how real the danger is. I have no exhaustive list even of British investments in Italian industry. But I do not think we can doubt the existence of a risk. The Americans and the French, not to speak of the Swiss and the Swedes, have invested capital in Italian industry. I feel that the Allied Commission have a responsibility to put in a formal reminder to the Government of this international interest in Article 17. If the Italian Government ignore such a warning they will have only themselves to blame if claims for damages are brought against them at the Peace Conference.

5. Mr. Noworthy tried to see Doctor Peacetti or Dr. Gabrielli at the Ministry of Finance yesterday, but the former is ill and the latter is away from Rome. In their absence he saw Doctor Caracciolo, the Minister's private secretary. He reminded him that it had always been a feature of Italian economic policy to encourage the investment of foreign capital in this country, and he remarked that at this moment when, more than ever, Italy had need of fresh capital from abroad, he could imagine nothing more likely to discourage foreign investment than legislation of this nature. Dr. Caracciolo appeared to be impressed, and he remarked that this Article was in fact a storm-centre in the Cabinet.

Believe me

Yrs sincerely
Noel Charles

Noel Charles.

cc. Am Pol del
Econ Sec
LA Sec

HEADQUARTERS ALLIED COMMISSION
Office of the Chief Commissioner

AFU 396

19 March 1945.

My dear Mr. Prime Minister:

Because of its possible effect on enter-
prises engaged or to be engaged in production or
services for the Allied military effort, the draft
decree submitted by M. S. Minister Facenti at the
last meeting of the Council of Ministers has been
referred to the Supreme Allied Commander, Field
Marshal Sir Harold Alexander, for his views.

It is therefore requested that the Coun-
cil defer the adoption of this decree, either in
its present or modified form, until approval to
its adoption has been given.

Yours very truly,

/s/ Elzey W. Stone

ELZEY W. STONE
Rear Admiral, USN
Chief Commissioner

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

Copy to: U.S. Ambassador
British Ambassador
AFHQ

U.S. Political Advisor
British Political Advisor
Executive Commissioner
CC Files

CA Section
Finance Sub-Commission - for notation and return.

In accord. J. J. Towler

TO DIRECTOR	<input checked="" type="checkbox"/>
CH. ASST.	<input type="checkbox"/>
RO. C. P. A.	<input type="checkbox"/>
C. R. O.	<input type="checkbox"/>
INSURANCE	<input type="checkbox"/>
RECORDS	<input type="checkbox"/>
P. C. O.	<input type="checkbox"/>
HEADQUARTERS	<input type="checkbox"/>

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HEADQUARTERS ALLIED COMMISSION
Office of the Chief Commissioner
AFG 394

Ref: 567/12/2G

19 March 1945

Subject: Italian Draft Decree.

To: G-5 Section, AFHQ.

1. The Italian Council of Ministers at their last meeting considered a Draft Decree proposed by Minister PESENTI. It is understood that at their next meeting further consideration will be given to this Draft Decree.

2. Attached are:

- (a) Copy of the full Decree in Italian.
- (b) A brief synopsis of the Articles.
- (c) Full translation of the more important of these Articles, namely Nos. 1, 2, 3, 4, 10, 17, 30, 31, 32 and 40.
- (d) Copy of letter to the Prime Minister requesting him to defer adoption of the Decree pending approval.

3. The possibility of socialization of big industries such as FIRELLI and FIAT may well hamper the Allied war effort. The Council of Ministers has appointed a Committee of Ministers to consider the draft. Instructions are requested as to whether the AC should take any position in this matter from the military point of view.

4. May this matter please be treated as urgent.

/s/ Ellery W. Stone
ELLERY W. STONE 729
Rear Admiral, USNR
Chief Commissioner

Copy to: Economic Section
American Ambassador
British Ambassador
CC Files
CA Section

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2610/ce

JAQ/ha

00510

18 March 1945

MEMORANDUM TO: Major Talbot

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1. The Admiral says that he spoke to the Brigadier two days ago and told him that this draft decree should be sent to AFHQ.

2. It should go with the synopsis and translation of the operative articles, and the letter should be along the following lines:

"The possibility of socialization of big industries such as IRIELLI and FIAT may well hamper the Allied war effort. The Council of Ministers has appointed a Committee of Ministers to consider the draft. Instructions are requested as to whether the AG should take any position in this matter from the military point of view."

JS/ J.A. Quayle

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

cc Com Sec.

See 120a

2610/CC

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ES/hjp

15 March 1945

My dear Mr. Ambassador:

It will be recalled that at the first meeting of the Council of Ministers during the recent governmental crisis the Council decided to take vigorous action against Fascists. Enclosed is a draft decree which will be presented by H.E. Antonio Pezanti, Minister of Finance, to the meeting of the Council of Ministers on Friday, 16 March 1945.

It appears to me that certain features of this proposed decree may present grave political problems. The provision concerning corporate organizations could bring under the control of the Government the principal industrial organizations of Italy. Furthermore, placing this property in the control of an Ente dominated by a single Minister might have undesirable political and economic consequences. I shall therefore be grateful for your opinion as to what advice if any should be given by the Allied Commission to the Government in connection with the proposed decree.

Very truly yours,

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Encl.

The British Ambassador
31, Via XX Settembre
Rome

cc: Acting President
Exec Comm
Finance 3/C
cc files —

See 1216

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'B'

Vertical handwritten text on the right margin, possibly a file number or reference.

DHS/hjp

15 March 1945

My dear Mr. Ambassador:

It will be recalled that at the first meeting of the Council of Ministers during the recent governmental crisis the Council decided to take vigorous action against Fascists. Enclosed is a draft decree which will be presented by H.E. Antonio Pesenti, Minister of Finance, to the meeting of the Council of Ministers on Friday, 16 March 1945.

It appears to me that certain features of this proposed decree may present grave political problems. The provision concerning corporate organizations could bring under the control of the Government the principal industrial organizations of Italy. Furthermore, placing this property in the control of an Ente dominated by a single Minister might have undesirable political and economic consequences. I shall therefore be grateful for your opinion as to what advice if any should be given by the Allied Commission to the Government in connection with the proposed decree.

Very truly yours,

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Encl.

The Honorable Alexander Kirk
The American Ambassador
119 Via Vittorio Veneto
Rome

cc: Acting President
Exec Comm
Finance S/C

cc files —

(119)

A

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SYNOPSIS OF DRAFT DECREE
SUBMITTED TO THE COUNCIL OF MINISTERS BY

H.E. PESENTI

- ✓ Art. 1 - Property of all persons sentenced by High Court and Assizes shall be confiscated (DIL 159).
- ✓ Art. 2 - All officials of Fascist Government, persons who have received titles of nobility, etc. after 3 Jan 25 have all their property confiscated, except if retired voluntarily or acted without political bias.
- ✓ Art. 3 - Are deemed to be profits under fascist regime any abnormal increase of the estates of persons having held any public office and of non-members of the fascist party who have taken advantage of it (Rules for ascertaining increases).
- ✓ Art. 4 - Are deemed to be profits under fascist regime and are confiscated all increases in the assets of the parents, descendants, etc. of such persons under Art. 3.
- Art. 5 - Rules for ascertaining the existing assets before 1922 and 1925.
- Art. 6 - Powers for State officials enable them to obtain required return under previous articles.
- Art. 7 - Penalties for false returns (fines).
- Art. 8 - List of persons who are compelled to make returns (Senators and State Officials).
- Art. 9 - Value of lira to be considered in assessing increases.
- ✓ Art. 10 - Extension of above provisions to all companies, individuals, etc., even if not members of fascist party, who have had dealings with the State, Enti, administration and Para-Statal institutions exceeding 10,000,000 lire in all.
- Art. 11 - Power to Provincial Commissions to assess increases and order confiscation.
- Art. 12 - Rules of procedure for assessment.
- Art. 13 - Exclusion from above provisions estate acquired through ~~inheritance~~ ²⁶¹⁰ inheritance.
- Art. 14 - Powers to Provincial Commissions to issue provisional orders of confiscation.

- 1461
- Art. 5 - Rules for ascertaining the existing assets before 1922 and 1925.
- Art. 6 - Powers for State officials enable them to obtain required return under previous articles.
- Art. 7 - Penalties for false returns (fines).
- Art. 8 - List of persons who are compelled to make returns (Senators and State Officials).
- Art. 9 - Value of lire to be considered in assessing increases.
- Art. 10 - Extension of above provisions to all companies, individuals, etc., even if not members of fascist party, who have had dealings with the State, Enti, administration and Para-Statal institutions exceeding 10,000,000 lire in all.
- Art. 11 - Power to Provincial Commissions to assess increases and order confiscation.
- Art. 12 - Rules of procedure for assessment.
- Art. 13 - Exclusion from above provisions estate acquired through ~~inheritance~~ ^{2010/100}.
- Art. 14 - Powers to Provincial Commissions to issue provisional orders of confiscation.
- Art. 15 - Powers to Provincial Commission to confiscate specific property among existing assets.
- Art. 16 - All persons under this Decree are considered traders and subject to existing bankruptcy laws.
- Art. 17 - Are declared Fascist Companies, any company where the majority of the directors come under this present decree or where 1/5 of shares are held by such persons.

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- Art. 18 - Procedure for functioning of Provincial Commissions and Central Commissions.
- Art. 19 - Territorial jurisdiction of such Commissions.
- Art. 20 - Legal jurisdiction of such Commissions.
- Art. 21 - Powers of investigations for "Intendente delle Finanze."
- Art. 22 - to Art. 29 - Rules of procedure (-riels, appeals, sentences, etc.)
- ✓ Art. 30 - Setting up a special Ente to act as receivers of impounded property.
- ✓ Art. 31 and 32 - Rules governing the functioning of such Ente.
- Art. 33 - Setting out procedure for relation between Ente and third parties.
- Art. 34 and 35 - Procedure as to sequestration of property under this decree.
- Art. 36 - Powers to appoint controllers instead of receivers in exceptional cases.
- Art. 37 and 38 - Function and power of controllers.
- Art. 39 - Special mortgage on assets granted to the Ente.
- ✓ Art. 40 - Power to set aside acts of disposal made previously by the persons or companies under this decree.
- Art. 41 - Appointments to Provincial Commissions.
- Art. 42 - All expenses incurred by Public Administration in dealing with investigations, trials, appeals under this decree to be borne by the interested party.
- Art. 43 - Provisions for the payment of illegal profits to the State.
- Art. 44 - Forced sale of property to recover illegal profits when assessed.
- Art. 45 - All property confiscated or acquired under previous article to be property of the State.
- Art. 46 - Reference to existing laws.

R-21

Art. 47 - Abrogation of any existing legislation contrary to the provisions

Art. 37, Art. 38 - Procedure as to sequestration of property under this decree.

Art. 36 - Powers to appoint controllers instead of receivers in exceptional cases.

Art. 37 and 38 - Function and power of controllers.

Art. 39 - Special mortgage on assets granted to the Ente.

✓ Art. 40 - Power to set aside acts of disposal made previously by the persons or companies under this decree.

Art. 41 - Appointments to Provincial Commissions.

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Art. 44 - Forced sale of property to recover illegal profits when assessed.

Art. 45 - All property confiscated or acquired under previous article to be property of the State.

Art. 46 - Reference to existing laws.

RT-21

Art. 47 - Abrogation of any existing legislation contrary to the provisions of this decree.

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Symposium

TO : Chief Commissioner.

TRANSLATION OF DRAFT DECREES

ARTICLE I

In the event of a conviction for any of the crimes mentioned in PDL 159, Art. 2, Art. 3 (Paras. 1 and 2) and Art. 5, the court shall order confiscation of the property of the person convicted. The court may grant a subsistence allowance to the members of the family maintained by the person convicted.

If, by reason of lapse of time, no penal proceedings can be brought, confiscation shall nevertheless be ordered at the request of the High Commissioner by the judicial authority having jurisdiction over the area concerned.

ARTICLE II

All increases in assets acquired since 3rd of January 1925 by any persons who have held any of the offices mentioned below shall be confiscated by the State:-

- 1) Members of the Grand Council of Fascists;
- 2) Members of the Fascist Government;
- 3) Secretary and Vice Secretary of the Fascist Party and member of the Fascist Directorate;
- 4) President and Public Prosecutor and member of the special tribunal for the defense of the State;
- 5) Commanding General of the Voluntary Militia for National Security;
- 6) Lieutenant General, Consul General and Consul of the Militia for National Security; in permanent duty;
- 7) Head of the mission appointed for fascist merits;
- 8) Governor appointed for fascist merits;
- 9) Prefect and questore appointed for fascist merits;

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ARTICLE II

All increases in assets acquired since 3rd of January 1925 by any persons who have held any of the offices mentioned below shall be confiscated by the State:-

- 1) Members of the Grand Council of Fascists;
- 2) Members of the Fascist Government;
- 3) Secretary and Vice Secretary of the Fascist Party and member of the Fascist Directorate;
- 4) President and Public Prosecutor and member of the special tribunal for the defense of the State;
- 5) Commanding General of the Voluntary Militia for National Security;
- 6) Lieutenant General, Consul General and Consul of the Militia for National Security; in permanent duty;
- 7) Head of the mission appointed for fascist merits;
- 8) Governor appointed for fascist merits; **8799**
- 9) Prefect and questore appointed for fascist merits;
- 10) Party Secretary;
- 11) Persons who have for the first time been granted Italian title to nobility since the 3rd January 1925.

The Special Section of the Central Commission for direct taxation in any particular case in which it is proved that a person belonging to one of the classes above defined as either voluntarily retired from his office or has behaved in his office with strict rectitude may exclude such person from the operation of Art. 2 and may hold him subject to the provisions of Art. 3.

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ENGLISH TRANSLATION

A.

ARTICLE III

All increases of property--considerably exceeding the normal rate-- which have been acquired by persons holding public offices or engaged in political activity or by any person, who even if not a member of the fascist party, has in any way directly or indirectly taken advantage of the bad practices introduced by fascism, shall be presumed to be profits derived from the regime and shall be forfeited to the State.

The forfeitable increase shall be the difference between the estate as on the date of October 28, 1922 or on the date on which the inspected person became a member of the fascist party and engaged himself in political activity or on which he, even if not a member of the fascist party, began to take advantage of the bad practices introduced by fascism, and the estate as on the date of the ascertainment (of illegal profits).

For the assessment of the said increase the Commission instituted by DLL 159 may deduct from the difference mentioned in the preceding paragraph an amount which shall not exceed by 40% the total income of the inspected person as registered in the rolls of direct taxation during the period of time between the two dates set out in the preceding paragraph.

The actual deduction shall be fixed in each particular case by the special section of the Provincial Commission for taxation, which shall take into consideration the nature and the importance of the business carried out by the inspected person and the extent to which the particular situation created by fascism may have contributed to obtain the increase of property.

The value of the assets to be compared (in accordance with paragraph 2 of this Article) shall be calculated on the basis of values prevailing at the time of the assessment, saving always the provisions of DLL 159 concerning any variation in the estate after July 25, 1943.

No forfeiture shall be ordered if the increase of property, after the deductions mentioned in paragraph 3 have been made, does not exceed Lire 200,000.

ARTICLE IV

Shall be presumed to be profits derived from the regime and shall be forfeited to the State--in accordance with the provisions of the preceding article--all increases of property acquired by the ascendants, the descendants, the consort and by those who, even if not a member of the fascist party, maintained relations as associates, partners, or agents with the fascist party.

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of time between the two dates set out in the preceding paragraph.

The actual deduction shall be fixed in each particular case by the special section of the Provincial Commission for taxation, which shall take into consideration the nature and the importance of the business carried out by the inspected person and the extent to which the particular situation created by fascism may have contributed to obtain the increase of property.

The value of the assets to be compared (in accordance with paragraph 2 of this Article) shall be calculated on the basis of values prevailing at the time of the assessment, saving always the provisions of DLL 159 concerning any variation in the estate after July 25, 1943.

No forfeiture shall be ordered if the increase of property, after the deductions mentioned in paragraph 3 have been made, does not exceed Lire 200,000.

ARTICLE IV

Shall be presumed to be profits derived from the regime and shall be forfeited to the State--in accordance with the provisions of the preceding article--all increases of property acquired by the ascendants, the descendants, the consort and by those who, even if not a member of the fascist party, maintained relations as associate, partner or concubine with the persons indicated in Articles 2 and 3.

ARTICLE X

Shall be subjected to the declaration set out in preceding articles all contractors of public works, State suppliers, even if not members of the party, who either directly or by means of a company in which they had an interest, have entered into contracts with the State, public administrations or para-statal institutions exceeding in all the amount of ten millions. Representatives, agents, intermediaries who have taken part in such contracts or supplies or have had an interest in them and also importers and exporters of controlled goods and those who were responsible for the storage of such goods shall be subject to the same provisions.

ARTICLE XI

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ARTICLE XVII

Shall be declared Fascist Companies and as such shall pass under the control of the "Ente" entrusted with receivership created under Article 6, all companies and institutions in which the Board of Directors on the date specified in Arts. 1, 2, and 3 or in which 1/5 of the shares were on that date in the undivided possession of a person as specified in Arts. 1, 2 and 3.

The Ente entrusted with receivership shall guaranty the interests of the small shareholders.

Action in this connection shall be taken upon the decision of the Special Section of the Provincial Commissions.

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ARTICLE 30

An institution called "Ente per amministrazioni e gestioni sequestrarie" shall be instituted with its main office in Rome, with the task of assuming the custody and providing for the administration and management of properties which may be attached under Article 35 of the D.L. 159.

The Ente shall be a public institution and shall be furnished with a fund of 3,000,000 to be included, by order of the Minister for Finance, in the Budget of his Ministry.

In the execution of all its functions the Ente shall comply with the general directives and the particular instructions given to it by the High Commissioner, to whom the Ente shall make the necessary proposals for the exercise of the powers conferred under Art. 27 of D.L. 159 to the authorities charged with investigating and assessing profits derived from the regime.

The Ente shall avail itself of the Avvocatura dello Stato for assistance in any proceedings.

Whenever the Ente decides to make use of the "Istituti di Credito Fondiario" for the administration of immovable property, these institutes may establish special sections even deviating from provisions of law at present in effect and from their own by-laws.

The Ente shall avail itself of the "Istituti di Credito Fondiario" for the administration of immovable property, these institutes may establish special sections even deviating from provisions of law at present in effect and from their own by-laws.

Whenever the Ente decides to make use of the "Istituti di Credito Fondiario" for the administration of immovable property, these institutes may establish special sections even deviating from provisions of law at present in effect and from their own by-laws.

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ARTICLE 31

The Ente shall be administered by a Board composed of a President, Vice President, and 5 members to be appointed by decree of the Minister of Finance and proposed by the Assistant High Commissioner for the Forfeiture of Profits derived from the regime."

A Control Board shall be formed in the Ente, composed of 3 permanent controllers and 2 substitutes to be appointed by decree of the Minister for Finance and proposed by the Assistant High Commissioner for the Forfeiture of Profits Derived from the Regime."

One of the 3 permanent controllers must be chosen from among the magistrates of the Court of Accounts with a grade not lower than the 4th.

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ARTICLE 32

The Ente shall be ruled by a statute to be approved by a legislative decree prepared by the Minister for Finance. The budget shall be submitted for the approval of the same Minister of Finance at the end of every fiscal year.

The amounts which shall be advanced by the Ente for the administration of each estate shall have preference over any mortgage even if privileged that may exist on any such estate.

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ARTICLE XL

Among the transfers made without valuable consideration, which are contemplated by N. 1 of Art. 29 (of DIL N. 159) shall not be included those made in fulfilling a moral obligation or for public advantage, inasmuch as they are not out of proportion of the legally acquired property of the donor.

Among the transfers contemplated by N. 2 of the said Article shall not be included those effected in payment of a certain and liquidated debt, which is shown not to have been contracted with the purpose of increasing artificially the liabilities of the debtor.

The other non-gratuitous transfers shall be null and void in accordance with the provisions of the first part of the said articles, unless the present owner of property formerly owned by the profiteer shows that at the time when the transfer took place he did not, and could not, know that among his predecessors in right was included the person declared as profiteer or that the same had derived profits from the regime.

The action for the declaration of nullity (of such transfers) shall be brought by the Treasury before the ordinary courts against the debtor and the person in whose favor the transfer has been effected.

The summons shall be entered in the public registers.

No such action can be initiated after two years have elapsed since the order of forfeiture has become definitive.

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The summons shall be entered in the public registers.

No such action can be initiated after two years have elapsed since the order of forfeiture has become definitive.

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Art. 1

Nel caso di condanna per i delitti previsti dagli art. 2,3 (I e II capoverso) e 5 del R.D.L. 27 luglio 1944, n.159, l'Autorità giudiziaria pronuncia la confisca dei beni del condannato. L'autorità giudiziaria può concedere gli alimenti ai familiari a carico del condannato.

Nel caso di estinzione dell'azione penale la confisca è pronunciata dall'autorità giudiziaria competente per territorio, su richiesta dell'Alto Commissario.

Art. 2

Sono avvocati allo Stato gli incrementi patrimoniali conseguiti da chi sia stato dopo il 3 gennaio 1925:

- 1) Membro del Gran Consiglio del Fascismo;
- 2) Membro del Governo Fascista;
- 3) Segretario o vice segretario del partito fascista o membro del Direttorio Nazionale;
- 4) Presidente e pubblico accusatore o membro del tribunale speciale per la difesa dello Stato;
- 5) Comandante generale della milizia volontaria per la sicurezza nazionale;
- 6) Luogotenente generale, console generale o console della milizia per la sicurezza nazionale, in servizio permanente;
- 7) Capo di missione nominato per titoli fascisti;
- 8) Governatore di colonia nominato per titoli fascisti;
- 9) Prefetto o questore nominato per titoli fascisti; *25*
- 10) Segretario federale;
- 11) Insignito ex novo di titoli nobiliari italiani dopo il 3 gennaio 1925.

per le imposte Di-

Sono avvocati allo stato gli incrementi patrimoniali e nobiliari

- da chi sia stato dopo il 3 gennaio 1925:
- 1) Membro del Gran Consiglio del Fascismo;
 - 2) Membro del Governo Fascista;
 - 3) Segretario o vice segretario del partito fascista o membro del Direttorio Nazionale;
 - 4) Presidente e pubblico accusatore o membro del tribunale speciale per la difesa dello Stato;
 - 5) Comandante generale della milizia volontaria per la sicurezza nazionale;
 - 6) Luogotenente generale, console generale o console della milizia per la sicurezza nazionale, in servizio permanente;
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 - 8) Governatore di colonia nominato per titoli fascisti;
 - 9) Prefetto o questore nominato per titoli fascisti; *ES*
 - 10) Segretario federale;
 - 11) Insignito ex novo di titoli nobiliari italiani dopo il 3 gennaio 1925.

La Sezione Speciale della Commissione Centrale per le imposte Diritte può nei casi particolari in cui sia dimostrato che l'inquisito appartenente ad una delle categorie sopra elencate si sia ritirato spontaneamente dalla carica o abbia agito con particolare dirittura, escludere il singolo caso dalle norme stabilite per l'art. 2 e rinviarlo a quelle stabilite per l'art. 3.

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Art. 3

Seu aumento del patrimonio

~~Si presume profitti di regime e sono avocati allo Stato~~ gli incrementi patrimoniali che escedono in misura notevole il normale, conseguiti dopo che abbiano rivestito una qualsiasi carica pubblica o svolto attività politica o da chi, anche se non iscritto, si sia comunque avvelso del mal costume politico creato dal fascismo sia direttamente che indirettamente.

L'incremento avocabile è rappresentato dalla differenza tra il patrimonio alla data del 28 ottobre 1922 o della data successiva in cui l'indiziato si sia iscritto al partito nazionale fascista e svolto attività politica o anche non iscritto al partito abbia cominciato ad avvalersi del mal costume politico creato dal fascismo ed il patrimonio da lui posseduto alla data dell'accertamento.

Per determinare l'incremento patrimoniale che ecceda in misura notevole il normale, la Commissione istituita dal D.L.L. 27.7.1944 n.159, può diminuire tale differenza di una quota che non superi il 40% della somma dei redditi iscritti nei ruoli delle imposte dirette accertate a carico dell'indiziato nel periodo di tempo compreso tra le suddette due date di accertamento.

La misura della deduzione sarà determinata di volta in volta dalla Sezione Speciale della Commissione Provinciale delle imposte in relazione alla natura dell'indole ed all'entità dell'attività esercitata dall'indiziato nonché alla misura in cui la particolare situazione determinata dal fascismo può avere influito, a suo giudizio, sul conseguimento dell'incremento patrimoniale.

Il valore dei patrimoni da affrontare è ragguagliato a quello

to attività politica o anche non iscritto al partito abbia cominciato ad avvalersi del mal costume politico creato dal fascismo ed il patrimonio da lui posseduto alla data dell'accertamento.

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Il valore dei patrimoni da affrontare è raggugliato a quello corrente al momento dell'accertamento salvo le disposizioni del D.L.L. 27 luglio 1944, n.159 riguardanti le variazioni avvenute dopo il 25 luglio 1943.

Nessuna avocazione avverrà, per gli incrementi patrimoniali che, fatte le deduzioni di cui al comma terzo non superano le lire duecentomila.

Art. 4

Si presono profitti del regime, salvo prova del contrario, e sono avocati allo Stato di cui al precedente articolo, gli incrementi

patrimoniali degli ascendenti, dei discendenti, del coniuge e di chi, anche se non iscritto al partito fascista, aveva relazioni di associazioni, coinquilinaggio o concubinato con le persone indicate nell'art. 2, 3.

Art. 5

Il patrimonio iniziale è quello risultante dall'accertamento, ai fini dell'imposta straordinaria sul patrimonio di cui alla legge 5 febbraio 1922, n.78, con l'aggiunta degli incrementi verificatisi fino alla data del 28 ottobre 1922 e con la detrazione delle diminuzioni verificatesi fino a tale data, quando esse rappresentino perdita di cespiti e non trasformazione di esse.

La prova dell'ammontare del patrimonio iniziale come sopra determinato spetta al soggetto.

Dopo il 28 ottobre 1922 il patrimonio iniziale è determinato salvo prova contraria, aggiungendo al patrimonio accertato in base alla legge del 5 febbraio 1922 n. 78, e successive modificazioni fino al 28 ottobre 1922 il 40% dei redditi accertati ai fini delle imposte dirette a carico dell'inquisito.

Qualora il 28 ottobre l'inquisito non possedesse alcun patrimonio, il patrimonio iniziale sarà calcolato sommando una cifra non superiore al 40% dei redditi iscritti ai fini delle imposte dirette dei vari anni fino al momento in cui l'inquisito si è iscritto al partito nazionale fascista e svolta attività fascista o ha approfittato del mal costume politico instaurato del fascismo.

Art. 6

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Art. 6

Agli effetti di determinare l'ammontare dei profitti di regime, il Presidente della Sezione Speciale della Commissione Provinciale potrà, sia d'ufficio sia su richiesta dell'Alto Commissario o dello Intendente di Finanza, ingiungere a chiunque sia indiziato di trovarsi nelle condizioni previste dagli art. 1, 2, e 3, di dichiarare, entro un termine da precisarsi di volta in volta, ma non inferiore in qualsiasi caso ai dieci giorni, la propria consistenza patrimoniale alla data di liberazione del territorio in cui possiede la massima parte del patrimonio, nonché alla data della ingiunzione, descrivendo per titolo e precisamente i singoli cespiti del patrimonio e indicando per ciascuno di essi il valore attuale.

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L'ingiunzione conterrà l'invito allo intimato di indicare inoltre la consistenza patrimoniale alla data del 28.10.1922: nel caso di iscritti al partito successivamente al 28.10.1922 o di persone rivestite di cariche pubbliche o di gradi gerarchici nel partito successivamente a tale data e che solo successivamente a tale data abbiano cominciato a fare foraiture allo Stato o agli altri enti di cui si parla nell'art. 7, il Presidente potrà invitarli a precisare anche la consistenza patrimoniale alla data in cui avvenne l'iscrizione al partito o furono conseguite le cariche o il grado o ebbero inizio le forniture.

Art. 7

Chi ometta di presentare o presenti tardivamente dichiarazioni di cui all'art. 6 incorre in una penalità uguale alla metà dell'importo definitivamente accertato.

Chi dichiarì una consistenza patrimoniale inferiore di oltre un terzo a quella definitivamente accertata, incorrerà in una penale pari alla differenza tra quanto sarebbe stato dovuto in base alla dichiarazione e quanto è dovuto in base all'accertamento. Quando, però, l'accertamento venga accettato senza impugnativa, la penalità tardiva o infedele dichiarazione viene condonata.

Il singolo bene patrimoniale non dichiarato rimane avocato allo Stato, indipendentemente dal disposto dei precedenti articoli.

Art. 8

Saranno soggette all'obbligo della dichiarazione, sia relativamente alla loro consistenza patrimoniale alla data del 28 ottobre 1922 e al momento della ingiunzione, sia al momento in cui vennero rivesti-

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Il singolo bene patrimoniale non dichiarato risale avvocato allo Stato, indipendentemente dal disposto dei precedenti articoli.

Art. 8

Saranno soggette all'obbligo della dichiarazione, ~~se~~ ^{secondo} relative- mente alla loro consistenza patrimoniale alla data del 28 ottobre 1922 e al momento della ingiunzione, sia al momento in cui vennero rivestiti della carica di cui al successivo elenco, le persone che siano state in qualsiasi tempo iscritte al partito fascista e che abbiano rivestito una ~~o~~ ^o più delle seguenti cariche:

- a) membro del governo fascista sia come ministro che come sottosegretario;
- b) membro del gran consiglio del fascismo;
- c) membro del direttorio del partito fascista;
- d) ispettore nazionale del partito fascista;
- e) segretario dei fasci all'estero;
- f) segretario e vice segretario federale;
- g) ufficiale in servizio permanente della S.V.C.B. di grado non inferiore a quello di console;

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- h) presidente o componente del tribunale speciale per la difesa dello Stato;
- i) senatore nominato dopo il 28.10.1922 per la categoria terza XX o XXI dell'articolo 33 dello Statuto è dichiarato decaduto a norma dall'art. 8 del D.L.L. 27.7.1944, n.159;
- l) deputato che abbia mantenuto l'iscrizione al partito anche dopo il 3 gennaio 1925 o che si sia iscritto al partito dopo tale data o consigliere nazionale;
- m) governatore di colonia nominato dopo il 3 gennaio 1925;
- n) ambasciatore o ministro plenipotenziario, prefetto o questore scelto all'infuori dei ruoli successivamente a tale data;
- o) insignito di titolo nobiliare dopo la stessa data.

Art. 9

Nella determinazione del valore dei beni reali costituenti il patrimonio iniziale si tiene conto del potere di acquisto della lira alla data di accertamento dell'incremento avocabile.

Art. 10

Sono inoltre soggetti alla dichiarazione di cui agli articoli precedenti tutti gli appaltatori di lavori pubblici e fornitori dello Stato anche se non iscritti al partito che, sia direttamente che per mezzo di società o ditte in cui abbiano una partecipazione, abbiano stipulato contratti con lo Stato, con gli enti pubblici o con enti parastatali per un importo complessivamente superiore ai dieci milioni, nonché tutti gli agenti, rappresentanti o procuratori di affari intervenuti in tali appalti e forniture o interessati comunque negli stessi, nonché gli esportatori e gli importatori di merci contingen-

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Art. 11

La Sezione Speciale della Commissione Provinciale, ricevuta la dichiarazione resa dal soggetto, determina provvisoriamente l'importo dell'incremento evocabile risultante dai dati nella dichiarazione stessa esposti e rimette all'Amministrazione finanziaria per la riscossione, la liquidazione relative che ha valore di titolo esecutivo.

La decisione definitiva dichiara, secondo i casi, congrua la somma come sopra percepita ovvero inferiore a quella dovuta ordinando

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in questa ultima ipotesi, il pagamento della differenza da parte del debitore.

Art. 12

Le Commissioni debbono possibilmente procedere all'esame ed alla risoluzione dei ricorsi per gruppi e specie di contribuenti e, quando ad tratti di ricorsi per l'esame dei quali sono richieste speciali commissioni, possono chiedere l'intervento di funzionari o di altre persone pratiche nella materia. Queste avranno soltanto voto consultivo.

Gli Intendenti di Finanza e loro delegati possono intervenire con voto consultivo alle sedute delle Commissioni.

Art. 13

Nella determinazione del profitto avocabile a norma degli articoli precedenti, non si tiene conto dei beni pervenuti per successione né di quelli pervenuti per donazione da parenti o affini, quando siano documentate.

Art. 14

La Commissione nella sua prima riunione dopo la presentazione del reclamo, ha facoltà di stabilire, in via provvisoria e salvo la decisione definitiva da rendersi alla fine del giudizio, una somma da corrispondersi dal debitore in acconto del debito che sarà più tardi accertato.

Tale somma non potrà essere fissata in una misura maggiore del 25% dell'incremento patrimoniale risultante dall'accertamento provvisorio, a meno che dalle ammissioni del reclamante non risulti che quell'incremento abbia superato tale percentuale.

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Questa fissazione è obbligatoria per le persone di cui agli articoli 6 e 10 ove l'importo degli incrementi patrimoniali avocabili risultanti dall'accertamento provvisorio superi il milione.

Art. 15

Sarà in facoltà della Commissione di ordinare che beni determinati esistenti nel patrimonio del debitore, l'acquisto dei quali sia particolarmente dovuto al profitto del regime, siano avvocati allo Stato a secondo dell'importo accertato a carico del debitore.

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Sarà, inoltre, in sua facoltà di disporre che tale importo sia in tutto o in parte corrisposto in determinati beni esistenti nel patrimonio del debitore calcolato al valore indicato dalle

Art. 16

Chiunque sia soggetto all'avvocazione per sopraprofiti di regime è considerato commerciante o mediatore quando anche non eserciti o non abbia mai esercitato virtualmente la professione.

Ove egli si rende moroso al pagamento, il tribunale, su ricorso dell'Intendente di Finanze, pronuncerà la dichiarazione di fallimento, ritenendosi in forza il presente Decreto legislativo che egli sia in stato di cessazione dei pagamenti.

Art. 17

Sono dichiarate società fasciste e come tali passano sotto il controllo dell'Ante sequestratorio di cui all'art. 6 le società ed enti il cui consiglio di amministrazione alla data del.....
risulti composto in maggioranza di persone indicate negli articoli 1, 2 e 3, o nelle quali un quinto delle azioni a tale data risultino possedute in blocco da persona indicata negli articoli 1, 2 e 3. L'Ante sequestratorio garantirà gli interessi dei minori azionisti.

Il provvedimento è preso su decisione delle Sezioni Speciali delle Commissioni Provinciali.

Art. 18

Accanto alla Sezione speciale della Commissione provinciale possiede il Decreto del Ministro delle Finanze, essere costituite una o più

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to, ritenendosi in forze il presente decreto legislativo che egli sia in stato di cessazione dei pagamenti.

Art. 17

Sono dichiarate società fasciste e come tali passano sotto il controllo dell'Ente sequestratorio di cui all'art. 6 le società ed enti il cui consiglio di amministrazione alla data del.....
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Il provvedimento è preso su decisione delle Sezioni Speciali delle Commissioni Provinciali.

Art. 18

Accanto alla Sezione speciale della Commissione provinciale possono con Decreto del Ministro delle Finanze, essere costituite una o più Sottosezioni, ciascuna presieduta dal Presidente del Tribunale o da altro Magistrato di pari grado o di grado immediatamente inferiore, e con poste di quattro commissari, da nominarsi a norma dell'art. 30 della legge. Con lo stesso decreto il Ministro nomina i Presidenti delle Sottosezioni, su designazione del Presidente della Sezione.

Con decreto del Ministro delle Finanze, una o più Sottocommissioni possono essere costituite accanto alla Sezione speciale della Commissione Centrale delle Imposte, i cui presidenti e membri sono nominati a norma dell'art. 32 della legge.

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L'attribuzione della cognizione dei singoli procedimenti alla Sezione o alle Sottosezioni spetta al Presidente della Sezione speciale che può anche, in caso di impedimento di uno o più commissari della Sezione o delle Sottosezioni, provvedere a sostituirli, rispettivamente con un commissario delle Sottosezioni o della Sezione.

Art. 19

La competenza per l'accertamento o per il giudizio di liquidazione in primo grado spetta alla Sezione speciale provinciale nella cui circoscrizione il debitore ha il domicilio e, nel caso che questo sia sconosciuto, a quello della provincia nella cui circoscrizione il debitore risulta avere avuto l'ultimo domicilio.

Art. 20

Spetta alla competenza della Sezione speciale provinciale la decisione di tutte le questioni pregiudiziali e incidentali, di diritto sostanziale o processuale, comunque pertinenti o connesse all'accertamento, alla liquidazione ed alla avocazione dei profitti di regime, tranne che ai tratti di questioni di stato e di falso. Sorgendo una di tali questioni, la Commissione ordina la sospensione del procedimento fino a quando non sia intervenuta la decisione del giudice competente sulle questioni stesse, salva la facoltà dell'amministrazione finanziaria di promuovere o di proseguire il relativo giudizio.

Art. 21

I poteri indicati nel primo comma dell'art. 31 della legge composta ^{ca} no, ai fini del reperimento dei beni dei presunti profittatori, oltre a quelle Intendenze di Finanza, le quali possono esercitarli pure pres

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debitore risulta avere avuto l'ultimo domicilio.

Art. 20

Spetta alla competenza della Sezione speciale provinciale la decisione di tutte le questioni pregiudiziali e incidentali, di diritto sostanziale o processuale, comunque pertinenti o connesse all'accertamento, alla liquidazione ed alla avocazione dei profitti di regime, tranne che ai tratti di questioni di stato e di falso. Sorgendo una di tali questioni, la Commissione ordina la sospensione del procedimento fino a quando non sia intervenuta la decisione del giudice competente sulle questioni stesse, salva la facoltà dell'amministrazione finanziaria di promuovere o di proseguire il relativo giudizio.

Art. 21

I poteri indicati nel primo comma dell'art. 31 ^{ca} della legge competono, ai fini del reperimento dei beni dei presunti profittatori, altresì alle Intendenze di Finanza, le quali possono esercitarli pure presso terzi anche in deroga alle norme relative al segreto bancario.

Oltre ai poteri indicati nel primo comma dell'art. 31 sopracitato Le Sezioni speciali provinciali hanno anche quello di procedere direttamente o a mezzo della Polizia Giudiziaria, a perquisizione domiciliare, nelle forme prescritte dal Codice di Procedura Penale.

Gli stessi poteri spettano, prima che siano costituite le Commissioni, al Presidente del Tribunale ai fini del sequestro.

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Art. 22

La proposta di accertamento è dalla Sezione speciale della Commissione provinciale notificata in via amministrativa al debitore e comunicata, mediante raccomandata con avviso di ricevimento, all'Alto Commissario nonché all'Intendente di Finanza del luogo in cui ha sede la Sezione stessa.

Il reclamo avverso la proposta di accertamento deve essere, così dal debitore che dall'Amministrazione delle Finanze, interposto nel termine perentorio di trenta giorni dalla notifica, per il primo, e per la seconda, dal ricevimento della comunicazione della proposta.

Il reclamo si propone mediante deposito nella Segreteria della Sezione speciale dell'originale e di quattro copie, queste in carta semiplice. La Segreteria ne rilascia ricevuta, che costituisce l'unica prova del deposito e della data in cui è seguito.

Il reclamo deve enunciare tutte le eccezioni e difese contro la proposta, indicare specificatamente i mezzi di prova e, quando si tratti di documenti, offrirne la comunicazione mediante deposito nella Segreteria, da effettuarsi entro trenta giorni da quello del reclamo.

Scadato quest'ultimo termine, il Presidente fissa, con proprio decreto, l'udienza per la discussione e nomina il relatore.

Art. 23

Qualora a determinare gli incrementi patrimoniali preveduti dall'art. 26 della legge concorrono anche i beni in qualunque modo acquistati o posseduti per interposte persone, la proposta di accertamento è diretta e notificata anche a tali persone, che vengono così costituite parti nel processo, con la medesima posizione e con gli stessi diritti e lo stesso servizio della persona contro cui la proposta è

zione speciale dell'originale e di quattro copie, questo in oltre
plice. La Segreteria ne rilascia ricevuta, che costituisce l'unica pro
va del deposito e della data in cui è seguito.

Il reclamo deve enunciare tutte le eccezioni e difese contro la
proposta, indicare specificatamente i mezzi di prova e, quando si trat
ti di documenti, offrirne la comunicazione mediante deposito nella Se-
greteria, da effettuarsi entro trenta giorni da quello del reclamo.

Scaduto quest'ultimo termine, il presidente fissa, con proprio
decreto, l'udienza per la discussione e nomina il relatore.

Art. 23

Quelora a determinare gli incrementi patrimoniali preveduti dal-
l'art. 26 della legge concorrono anche i beni in qualunque modo acqui-
stati o posseduti per interposte persone, la proposta di accertamento
è diretta e notificata anche a tali persone, che vengono così costi-
tuite parti nel processo, con la medesima posizione e con gli stessi
diritti e le stesse garanzie della persona contro cui la proposta è
direttamente formulata, e la decisione fa stato anche contro tali
persone.

Art. 24

Il decreto di fissazione dell'udienza di discussione è, almeno
venti giorni prima della stessa, notificato in via amministrativa al
debitore e comunicato, mediante raccomandata con avviso di ricevimen-
to all'Intendente di Finanze del luogo in cui ha sede la Sezione spe-
ciale, all'Alto Commissario, nonchè, quando in rappresentanza dell'Am-
ministrazione si sia costituita l'avvocatura dello Stato, anche a que-

sta.

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Così il debitore che l'Amministrazione e, per essa, l'Avvocatura dello Stato, possono, non oltre il decimo giorno precedente la discussione, depositare nella Segreteria della Sezione speciale memorie aggiuntive corredate di cinque copie, queste in carta semplice.

All'udienza, dopo la relazione del Presidente o del Commissario da lui delegato e dopo l'assunzione degli eventuali mezzi di prova, sono immessi alla discussione prima il rappresentante dell'Amministrazione o dell'Avvocatura dello Stato, quando questa abbia dell'Amministrazione assunto la rappresentanza in giudizio, e successivamente il debitore, ovvero il suo avvocato o procuratore legale.

La sezione speciale delibera in segreto ed a maggioranza di voti subito dopo la discussione pronunciando anche sulle spese.

Art. 25

La attivazione, in forma sommaria, della decisione è estesa dal Presidente o da un commissario da lui delegato. L'originale decisione, sottoscritta dal Presidente e dal Segretario, è depositata nella Segreteria della Sezione speciale che provvede a disporre, entro i ventiquattro giorni dalla comunicazione, mediante raccomandata con avviso di ricevimento, all'Alto Commissario, allo Intendente di Finanza e, quando sia intervenuta nel giudizio, all'Avvocatura dello Stato.

Art. 26

I termini entro i quali il debitore, l'Amministrazione e l'Alto Commissario possono, ex norma dell'art. 32 della legge, ricorrere alla Sezione speciale della Commissione Centrale delle Imposte, decorrono per il debitore, dalla notifica della decisione, per l'Amministrazione

La motivazione, in forma sommaria, della decisione è estesa dal Presidente o da un commissario da lui delegato. L'originale decisione, sottoscritta dal Presidente e dal Segretario, è depositata nella Segreteria della Sezione Speciale che provvede a disporre, entro i venti giorni dalla comunicazione, mediante raccomandata con avviso di ricevimento, all'Alto Commissario, allo Intendente di Finanza e, quando sia intervenuta nel giudizio, all'Avvocatura dello Stato.

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Art. 27

Si applicano quanto alla competenza della Sezione speciale della Commissione centrale, alla proposizione del ricorso della Commissione centrale, alla proposizione del ricorso della stessa al giudizio, in genere, al grado di appello, le norme dei precedenti artt.....

La discussione innanzi la Sezione Speciale della Commissione Centrale è, al pari di quella innanzi la Sezione Speciale della Commissione Provinciale, pubblica.

Art. 28

La competenza a disporre, a norma dell'art. 35 della legge, il sequestro conservativo, prima che siano costituite le sezioni speciali delle Commissioni provinciali, spetta, ovunque i beni da sequestrare si trovino, al Presidente del Tribunale del luogo in cui ha sede la Sezione speciale competente, a norma del precedente art. 5, ovvero al Presidente del Tribunale nella cui circoscrizione i beni stessi si trovano.

Costituite le sezioni speciali delle Commissioni provinciali, la competenza a disporre il sequestro spetta al Presidente della Sezione Speciale competente a norma del precedente art. 5 ed anche ai Presidenti delle Sezioni speciali delle provincie nelle cui circoscrizioni i beni si trovano.

Art. 29

Sequestrario dei beni sottoposti a sequestro ai sensi dello

art. 35 della legge è di diritto l'Ente indicato negli articoli seguenti.

Nel disporre il sequestro il Presidente del Tribunale o il Presidente della Sezione Speciale dichiara decaduti i commissari ai quali fosse stata in precedenza affidata la gestione di determinati beni sottoposti al sequestro stesso e stabilisce i termini e le modalità per il trasferimento di tale gestione all'Ente sequestrario.

Per i sequestri già eseguiti la decadenza dei commissari è pronunciata dallo stesso Presidente entro i quindici giorni dall'entrata in vigore del presente decreto.

Art. 30

E' istituito, con sede in Roma, un Ente denominato "Ente per am-

Art. 29

sequestrario dei beni sottoposti a sequestro ai sensi dello art. 35 della legge è di diritto l'Ente indicato negli articoli seguenti.

Nel disporre il sequestro il Presidente del Tribunale o il Presidente della Sezione speciale dichiara decaduti i commissari ai quali fosse stata in precedenza affidata la gestione di determinati beni sottoposti al sequestro stesso e stabilisce i termini e le modalità per il trasferimento di tale gestione all'Ente sequestrario.

Per i sequestri già eseguiti la decadenza dei commissari è pronunciata dallo stesso Presidente entro i quindici giorni dall'entrata in vigore del presente decreto.

Art. 30

È istituito, con sede in Roma, un Ente denominato "Ente per amministrazioni e gestioni sequestrarie" col compito di assumere la custodia, e provvedere all'amministrazione e gestione dei beni che vengono sottoposti a sequestro ai sensi dell'art. 35 della legge.

L'Ente ha personalità giuridica di diritto pubblico ed è provvisto di un fondo di dotazione di tre milioni da stanziare, con provvedimenti del Ministro delle Finanze, nel bilancio del proprio Ministero.

Nell'esplicamento di tutte le sue attribuzioni l'Ente osserva le direttive di massima e le disposizioni particolari che gli vengono

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impartite dall'Alto Commissario al quale fa le opportune proposte per l'esercizio della facoltà conferita agli organi di accertamento e liquidazione dei profitti dell'art. 27 della legge.

Per l'assistenza, la rappresentanza e la difesa in giudizio, l'Ente si avvale dell'avvocatura dello Stato.

Qualora l'Ente determini di avvalersi per l'amministrazione degli immobili degli Istituti di Credito Fondiario, questi potranno istituire, anche in deroga alle vigenti disposizioni di legge e del proprio statuto, sezioni speciali.

Art. 31

L'Ente è amministrato da un Consiglio composto del Presidente, del Vice presidente e di cinque membri da nominarsi con decreto del Ministro per le Finanze su proposta dell'Alto Commissario Aggiunto per l'avvocazione dei profitti di regime.

Presso l'Ente è costituito un collegio sindacale composto di tre sindaci effettivi e di due supplenti da nominarsi con decreto del Ministro per le Finanze su proposta dell'Alto Commissario Aggiunto per l'avvocazione dei profitti di regime.

Uno dei tre sindaci effettivi deve essere scelto tra i magistrati della Corte dei Conti di grado non inferiore al 4°.

Art. 32

L'Ente è retto da uno statuto da approvarsi con decreto legislativo sulla proposta del Ministro per le Finanze.

Il bilancio è alla fine di ciascun esercizio annuale sottoposto all'approvazione dello stesso Ministro per le Finanze.

I crediti dell'Ente per le somme da esso anticipate alle singole

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Il bilancio è alla fine di ciascun esercizio annuale sottoposto all'approvazione dello stesso Ministro per le Finanze.

I crediti dell'Ente per le somme da esso anticipate alle singole gestioni hanno privilegio sui beni che alle gestioni stesse appartengono con preferenza su ogni credito

Art. 33

Il sequestro presso terzi si esegue con le norme del sequestro diretto presso il debitore, previa semplice intimazione al terzo del precepto di rilascio e senza la osservanza delle altre norme prescritte dagli articoli 345 e seguenti dal codice di procedura civile.

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Il terzo sequestrato può spiegare, anche per la prima volta in secondo grado, intervento nel giudizio di avocazione ed esercitarvi tutte le proprie ragioni rispetto ai beni sequestrati, con gli stessi diritti e con le stesse garanzie del debitore. All'uopo, se trattasi di sequestro precedente la formulazione della proposta di accertamento, questa va anche al terzo notificata, al pari, in ogni caso, di tutti i provvedimenti di cui è prescritta la notifica al debitore garante il process, nonché delle decisioni relative.

Ove il terzo sequestrato non intervenga nel giudizio di avocazione, la decisione della Sezione speciale di primo grado e di quella di appello ha efficacia anche contro di lui.

Art. 34

Al provvedimento che autorizza il sequestro conservativo a norma dell'art. 35 della legge non si applica la disposizione dell'art. 675 del codice di procedura civile.

Qualora, entro un anno dall'esecuzione del sequestro, non sia stata notificata a norma del precedente art. 8 la proposta di accertamento, il debitore o il terzo sequestrato possono chiedere al Presidente del Tribunale o della Sezione speciale la revoca del sequestro mediante ricorso da notificarsi all'autorità sulla cui istanza il sequestro fu autorizzato.

Il Presidente decide previa audizione delle parti e può, quando concorrono ^{una} ~~due~~ ingiustificati motivi, concedere ^{una} ~~due~~ proroga non eccedente i sei mesi.

Art. 35

La risoluzione di tutti gli incidenti che sorgono durante l'esecu

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Al provvedimento che autorizza il sequestro conservativo a norma dell'art. 35 della legge non si applica la dia osizione dell'art. 675 del codice di procedura civile.

Qualora, entro un anno dall'esecuzione del sequestro, non sia stata notificata a norma del precedente art. 3 la proposta di accertamento, il debitore o il terzo sequestrato possono chiedere al Presidente del Tribunale o della Sezione speciale la revoca del sequestro mediante ricorso da notificarsi all'autorità sulla cui istanza il sequestro fu autorizzato.

Il Presidente decide previa audizione delle parti e può, quando concorrono ~~grs~~, ingiustificati motivi, concedere ~~una~~ proroga non eccedente i sei mesi.

Art. 35

La risoluzione di tutti gli incidenti che sorgono durante l'esecuzione del sequestro spetta al Presidente del Tribunale o della Sezione Speciale che lo ha autorizzato.

Art. 36

Quando concorrano particolari esigenze della pubblica economia o ragioni che rendano non conveniente la gestione sequestratoria diretta e non siavi in entrambi i casi, pericolo di sottrazione o comunque di svalutazione dei beni aziendali il Presidente dell'Ente indicato nell'art. 17 può, sentito il Consiglio di Amministrazione, disporre, che, invece che a sequestro, l'azienda rimanga sottoposta a sindacato.

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Art. 37

Il sindacatore è nominato dal Presidente dell'Ente di cui all'art. 17 tra persone fisiche o giuridiche particolarmente qualificate per le gestioni di aziende congeneri a quella da sottoporri a sindacato.

Il sindacatore controlla l'attività dell'azienda riferendone almeno ogni tre mesi all'Ente.

All'uopo egli può prendere, in ogni tempo, visione dei libri, degli atti e della corrispondenza dell'azienda e può vietare al titolare la esecuzione di determinate operazioni informandone senza indugio l'Ente, la cui decisione sulla opportunità o meno delle operazioni stesse è definitiva ed inoppugnabile così in via amministrativa che giurisdizionale.

Art. 38

Il compenso ed il rimborso delle spese al sindacatore sono liquidati dal Presidente dell'Ente e norma dell'art. 18 e sono a carico dell'azienda sottoposta a sindacato.

Art. 39

Ferma la preferenza per le spese di giudizio a norma dell'art. 2777 del Codice Civile, la prelazione, in dipendenza dei privilegi generali e speciali stabiliti per l'imposta sui maggiori utili relativi allo stato di guerra, privilegi che si estendono ai crediti dello stato per i profitti di regime, si esercita, quando concorrono altri crediti privilegiati, nell'ordine prescritto dagli artt. 2778 e 2779 del Codice Civile.

Art. 40

Tra gli atti a titolo gratuito contemplati sotto il numero 1 del-

Art. 38

Il compenso ed il rimborso delle spese al sindacatore sono liqui-
dati dal Presidente dell'ente a norma dell'art. 18 e sono a carico
dell'azienda sottoposta a sindacato.

Art. 39

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del Codice Civile, la prelazione, in dipendenza dei privilegi generali
e speciali stabiliti per l'imposta sui maggiori utili relativi allo sta-
to di guerra, privilegi che si estendono ai crediti dello stato per i
profitti di regime, si esercita, quando concorrono altri crediti privi-
leggiati, nell'ordine prescritto dagli artt. 2778 e 2779 del Codice Ci-
vile.

Art. 40

Tra gli atti a titolo gratuito contemplati sotto il numero 1 del-
l'art. 29 della legge non sono compresi quelli compiuti in adempimento
di un dovere morale o a scopo di pubblico vantaggio, in quanto gli uni
e gli altri siano proporzionati al patrimonio di lecita provenienza
del donante.

Tra gli atti di disposizione contemplati sotto il numero 2 del-
l'articolo stesso non sono compresi quelli aventi per oggetto il paga-
mento di un debito certo e liquido che risulti costituito non allo
scopo di oberare artificiosamente di passività il patrimonio del debi-
tore.

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Gli altri atti di disposizione non a titolo gratuito intanto sono privi di effetto, ai sensi della prima parte di detto articolo, in quanto la persona che risulta proprietaria dei beni già posseduti dal profittatore non dimostri che all'atto della conclusione del negozio non aveva e non poteva avere notizia che tra i suoi danti causa esistesse il dichiarato profittatore e che lo stesso avesse realizzato profitti di registe.

L'azione per la dichiarazione d'inefficacia è proposta dalla Amministrazione finanziaria, innanzi il giudice competente secondo le norme ordinarie, contro il debitore e la persona a favore della quale sia stato dallo stesso compiuto l'atto di disposizione.

La domanda giudiziale è soggetta a trascrizione.

L'azione si prescrive nel termine di due anni dal giorno in cui la decisione di avocazione sia divenuta irrevocabile.

Art. 41

Presso ogni Sezione speciale della Commissione provinciale o presso la Sezione speciale della Commissione centrale funziona un Ufficio di Segreteria composto di uno o più segretari nonché di un congruo numero di impiegati per i servizi d'ordine, di copia e di notificazione degli atti.

I segretari intervengono alle pubbliche udienze, assistono il Presidente ed i commissari nell'assunzione delle prove, nonché negli accessi, per udizioni ed ispezioni, redigendo i relativi verbali, sottoscrivono coi decidenti le decisioni, rilasciano di queste copia, certificandone al pari di ogni altro atto, la conformità all'originale ed

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I segretari intervengono alle pubbliche udienze, assistono il Presidente od i commissari nell'assunzione delle prove, nonché negli accessi, perquisizioni ed ispezioni, redigendo i relativi verbali, sottoscrivono coi decidenti le decisioni, rilasciano di queste copia, certificandone al pari di ogni altro atto, la conformità all'originale ed assolvono in genere tutte le attribuzioni che la legge demanda ai cancellieri presso i giudizi ordinari.

Presso ogni Sezione speciale della Commissione provinciale e presso la Sezione speciale della Commissione centrale possono essere altresì addetti uno o più ufficiali o sottufficiali di Polizia Giudiziaria nonché uno o più esperti tecnici e contabili.

Il personale indicato nel comma precedenti, se già appartenenti ai ruoli dell'Amministrazione dello Stato, dalle provincie o dei comuni, deve essere assunto in servizio presso le Commissioni in qualità di consodato.

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Il Ministro per le Finanze è altresì autorizzato ad assumere per-
sonale avventizio col numero passivo da determinarsi con suo decreto.

Art. 42

Le spese e le tasse giudiziarie relative all'opposizione, alla proposta di accertamento ed al successivo giudizio sono a carico delle parti private contro cui è diretta la proposta di accertamento e che comunque intervengono nel processo.

Esse parti, quando su loro richiesta la Commissione disponga inda-
gini, perizie o altri mezzi di prova che importino notevole spesa, deb-
bono qualora la Sessione le prescriva, anticiparne l'importo, da deter-
minarsi, in via presuntiva e salvo conguagli, eseguendo il deposito
nel termine che sarà, di volta in volta, loro prefisso.

Di ogni altra spesa o tassa per atti della Commissione nonché per
la difesa dell'amministrazione, sarà, al pari dei diritti del terzo
per notifiche, rilascio di copie e simili, fatta prenotazione a debito
in apposito campione da tenersi dalla Segreteria della Commissione che
provvederà, a giudizio esaurito, a curarne il recupero, col procedimen-
to della liquidazione e riscossione delle spese e tasse giudiziarie a
debito contro la persona nei cui confronti sia stata pronunciata l'avo-
cazione, e, in solido, contro ogni altra persona intervenuta nel giu-
dizio e le cui istanze siano state respinte.

Art. 43

Il pagamento dei profitti di regime può essere eseguito mediante
versamento diretto in Tesoreria, per disposizione dello Intendente di
Finanza, sia di ufficio che su domanda del debitore.

Per la riscossione dei profitti di regime, a mezzo dell'esattore,

nel termine che sarà, di volta in volta, loro prefisso.

Di ogni altra spesa o tassa per atti della Commissione nonché per la difesa dell'amministrazione, sarà, al pari dei diritti del terzo per notifiche, rilascio di copie e simili, fatta prenotazione a debito in apposito campione da tenersi dalla Segreteria della Commissione che provvederà, a giudizio esaurito, a curarne il recupero, col procedimen-to della liquidazione e riscossione delle spese e tasse giudiziarie a debito contro la persona nei cui confronti sia stata pronunciata l'avo-cazione, e, in solido, contro ogni altra persona intervenuta nel giu-dizio e le cui istanze siano state respinte.

Art. 43

Il pagamento dei profitti di regime può essere es^oerito mediante versamento diretto in Tesoreria, per disposizione dello Intendente di Finanza, sia di ufficio che su domanda del debitore.

Per la riscossione dei profitti di regime, a mezzo dell'esattore, valgono le norme ed i privilegi stabiliti per la riscossione dell'im-posta straordinaria sui maggiori utili relativi allo stato di guer-ra, senza l'obbligo del non riscosso per riscosso.

Con decreto del Ministro per le Finanze saranno emanate norme circa la misura dell'aggio da attribuire agli agenti della riscossione

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Art. 44

Per l'esecuzione sui beni immobili ai fini della riscossione costativa dei profitti di regime, l'esperimento d'asta è unico ed il prezzo minimo relativo è fissato nella somma pari al valore attribuito ai singoli cespiti nella decisione definitiva della Commissione. Qualora tale determinazione non risulti dalla decisione predetta, il valore dei singoli cespiti è fissato dall'Aste di cui al precedente art. 17 sentito l'Ufficio Tecnico Erariale.

Riuscito infruttuoso l'unico esperimento d'asta, i beni sono di diritto devoluti allo Stato.

Per l'esecuzione sui beni mobili, ferma restando la norma del primo comma relativa al prezzo minimo, il nuovo incanto, ai sensi dell'art. 39 del T.U. delle leggi sulla riscossione delle imposte dirette e successive modificazioni, deve essere autorizzato dall'Intendente di Finanza, il quale ha la facoltà di disporre l'avvocazione allo Stato dei beni invenduti.

Spetta in ogni caso allo Stato il diritto di prelazione dei beni subastati in base al prezzo raggiunto nell'esperimento definitivo, da esercitarsi nel termine perentorio di giorni trenta dalla aggiudicazione mediante dichiarazione depositata presso la competente cancelleria giudiziaria.

Per i titoli azionari, per le obbligazioni e per gli altri simili titoli di credito il diritto di prelazione non può essere esercitato, anche prima dell'inizio della procedura esecutiva, in base al valore di borsa, o, in mancanza, a quello da determinarsi dal Comitato degli agenti di cambio.

no comma relativo al prezzo
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Art. 45

I beni confiscati avvocati allo Stato a norma degli articoli e 27 della legge e quelli acquistati a norma dell'articolo precedente entrano a far parte del patrimonio dello Stato.

Art. 46

Per tutto quanto non sia diversamente disposto dal decreto legislativo luotenenenziale 27 luglio 1944, n.159, e dal presente decreto, valgono le norme contenute nel R.D.L. 7 agosto 1936, n.1639 convertito nella legge 7 giugno 1937, n.1016, e nel R.D. 8 luglio 1937, n.1518 e successive modificazioni.

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Art. 47

È srogata ogni disposizione contraria a quella del presente decreto o comunque incompatibile con la stessa.

Ordiniamo, a chiunque spetti, di osservare il presente decreto e di farlo osservare come legge dello stato.

Dato a.....

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6-20-9

DATE

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HEADQUARTERS ALLIED COMMISSION
Office of the President
A P O 394

cc 659

10th 10 RECD

PRES/45802/G.

10th March 1945.

TO:- Chief Commissioner.
(Copy to Executive Commissioner)

FROM:- Acting President.

I have been informed in my capacity as Resident Minister that the Foreign Office is considering the desirability of releasing for publication such allied material regarding the purge of fascists as the report of the Allied Commission, the text of which was embodied in the minutes of the 22nd meeting of the Advisory Council for Italy.

9
file 802/100

The War Office have no objection in principle, subject to appropriate examination of each item before release. But it has been agreed that the consent of A.F.H.Q. and the Allied Commission would be essential before any material furnished by them could be published.

2610/100

I propose to inform A.F.H.Q. that the Allied Commission has no objection to the project being carried out on the basis stipulated by the War Office.

HM
10/3

Seen by CC on
Ex Com. file.
Q
10/3

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AFHQ

2935

5 March 1945

PRIORITY

CONFIDENTIAL PD

SUBJECT IS GENERAL ROSETA

PAREN TO AFHQ FROM ALGOM CITE ACPOF PAREN PD

ON THE NIGHT OF FOUR MARCH ONE NINE FOUR FIVE GENERAL MARIO ROSETTA WHO IS BEING TRIED BY THE ITALIAN HIGH COMMISSION FOR THE PUNISHMENT OF FASCIST CRIMES ESCAPED FROM AN ITALIAN MILITARY HOSPITAL IN ROME PD STEPS ARE BEING TAKEN TO RECAPTURE HIM PD FULL PARTICULARS ARE BEING CIRCULATED TO ALL ALLIED PAREN INCLUDING ARMY PAREN AND ITALIAN POLICE AGENCIES PD

FOR SUBSEQUENT DETAILS ON ROSETTA SEE 225-6/12

2610/CC
(copy in 225-6)

Copy to:

- ~~No. 15 Army Group~~
- Chief Commissioner ✓
- ~~Executive Commissioner~~

Handwritten signature and initials 'A' with a checkmark.

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Public Safety 3/6

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A.F. Wilcox Lt Col.

NICHOLAS PIOMBINO
CFC, USA
Asst. Adjutant.

JAQ/hjp

3 March 1945

My dear Marchese Cittadini:

The Chief Commissioner would be grateful if you would transmit to the President of the Council of Ministers for his consideration the enclosed copy of a letter which General Anders recently wrote to Field Marshal Alexander, and a copy of a letter from one of General Anders' officers which the Polish GOC forwarded to the Field Marshal. They are both on the subject of General Roatta.

Yours sincerely,

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

Marchese Cittadini-Cese
Political Section
Hq A.C.

*cc- af Pres
cc Files*

2610/02
2708

~~SECRET~~

PARAPHRASE

SECRET

ROUTINE

FROM: AGWAR from CCS cite CCAC.

TO : Alexander, cite FHEEG.

INFO TO: AMSSO for BCS and BJSM Washington.

REF. NO.: W-50320, 16 August 1945.

This is TAM 665.

Subject is Trieste Insurance Companies.

1. Reference in MAT 821 that the Riunione Adriatica and Assicurazioni Generali of Trieste were closely tied with German interests is substantiated by available information. These are the two principal Italian insurance companies with important foreign interests and holdings. Both of them should be subjected to control and to thorough epuration whenever such action under Italian official jurisdiction becomes possible. On 26 July the State Department was informed by the American Embassy in Rome that Michele Sulfina had been suspended as Director General of the Assicurazioni Generali. Sulfina, according to the embassy, had apparently not been informed of this suspension, since prior to the time suspension became effective he left Trieste and has not yet been found. You should take steps at once, if not already done, to insure cancellation and public retraction of any powers held by Sulfina.

2. You should make every possible effort to obtain competent and satisfactory controller for each company, until complete control and epuration are possible by the Italian authorities. If competent local personnel are not available, we suggest that Italian personnel be obtained from outside Trieste on Italian Government recommendation. Meantime efforts to eliminate personnel who aided the Axis or Fascist-minded managerial personnel should be continued by you, the Italian Government being informed by you of the steps you take, its assistance being enlisted. When controllers are appointed to each company, they should be at once directed to determine the extent of any German shareholding and participation in the business of each company.

Lamp
26/8/45

Jm/dfg

CC 2610

2 March 1945

Dear Signora Roatta:

I wish to inform you that your letter to the President and to the Chief Commissioner of the Allied Commission has been received and has been read by both of them personally.

I am directed by the Chief Commissioner to tell you that, while both he and Mr. Macmillan have every sympathy with you personally in your distress, as the trial is entirely an Italian affair, they are not prepared to intervene in any way which would influence the findings of the court.

Very sincerely,

/s/ J. A. Quayle

J. A. QUAYLE
Major, R. A.
Staff Officer to the
Chief Commissioner

Signora Ines Roatta
Via Aureliana 63
Rome

Copies to: A/President
U.S. Embassy
British Embassy
Ex. Comm'r.
CC FILES ✓

113

2610/192

2610/192

Puma - 1 March 45.

MAR 1 RECD

To his Excellency

Admiral Henry Stone -

Excellency,

I beg you to forgive a desperate wife, if in this tragic moment of her life, she takes her courage in hands and writes to you personally.

After all the persecutions I went through during the German occupation, because I was the wife of Gen. Roatta, one of the participants in the overthrowing of the Fascist Government, and also in the signing of the Armistice and cooperating with the Allies, for which he was condemned to death by the Republican Fascist Government, and having my relations imprisoned, I cannot hold out any more under this new blow, that is to conduct him at any price!

In the hope that the extremists would be silenced by the results of the trial, I have not said anything before, but as on the contrary the increasing violence of their attacks goes hand in hand with the revelation of my husband's innocence, I must now speak.

It appears that for political reasons which have nothing to do with the accusations made against him, my husband must be found guilty. I beg you to come to my help.

The hearing of the witnesses has just ended at the High Court of Justice, and from the statements that were made, it is evident that my husband is perfectly innocent of the accusations made against him. I pray you to excuse me if I remind you of some of the things my husband did and which he told me about during the months we were together:

2610/CC

My husband and I lived at Avenue St. Louis (Paris) from 1938 to 1945.

1 5 2 2

I beg you to forgive a desperate wife, if in this tragic moment of her life, she takes her courage in hands and writes to you personally.

After all the persecutions I went through during the German occupation, because I was the wife of Gen. Roatta, one of the participants in the overthrowing of the Fascist Government, and also in the signing of the Armistice and cooperating with the Allies, for which he was condemned to death by the Republican Fascist Government, and having my relations imprisoned, I cannot hold out any more under this new blow, that is to conduct him at any price!

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My husband, Chief of Army Staff (Capo di Stato Maggiore dell'Esercito), even before the 25th of July had taken every precaution to prevent a return to Fascism, and keep the army loyal and obedient to Badoglio's Government. Furthermore he collaborated actively with the latter in overthrowing the Fascist Regime.

He had given all necessary orders for resisting the Germans. This is evident by the result of the recent trial of two generals who were found guilty, because they did not carry out those orders. Two others are awaiting trial for the same motive.

As a result of these orders Marshal Rommel was unable to take "La Spezia", and so the Italian fleet could leave the port without opposition, and pass intact over to the Allies, so keeping the agreement made between them and the Italian Government.

On hearing of the intention to ask for an Armistice from the Allies declared that it was not sufficient, but suggested the immediate armed collaboration with them.

After the Armistice, he went with the Government to Brindisi, and there did all in his power to enable the Italian troops that were in Southern Italy, Sardinia, and Corsica, to cooperate in every possible way with the Allies.

This statement can be controlled by asking either General MacFarlane, General Taylor, Minister MacMillan, or Mr. Murphy.

These facts clearly show that, if my husband up to shortly before July the 25th 1943, obeyed (as every soldier should) the orders of the then legal government, he was neither an upholder nor a sustainer of Fascism.

To find him guilty now, only for a political necessity, after his innocence has been clearly revealed by the statements made during his trial would be real injustice, especially when many real upholders of Fascism are a large.

Allow me also to state another fact:

At the last moment, just when his innocence was evident, an old accusation was dug up, that of "war criminal". What can be the object of dragging up this old accusation, that was the object of being relieved of his post as Chief of Army Staff, and being

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

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At the last moment, just when his innocence was evident, an old accusation was dug up, that of "war criminal". ^{What} can be the object of dragging up this old accusation, that was the cause of his being relieved of his post as Chief of Army Staff, if not that of swaying the public opinion and indirectly influencing the judgment of the Court, which was kindly disposed towards him after the revelations made at the trial.

I can also show that this accusation is quite unfounded.

(11)

- 3 -

It is a well known fact that the Italian troops, who are known for their humanity, did nothing in Yugoslavia that is not in conformity with established rules of war, inspite of the fact that hundreds and hundreds of Italian officers and men were treacherously murdered, maltreated, impaled, mutilated, and cut in pieces, and also that many Italian soldiers had their eyes torn out.

Nor should one forget that:

The Italian troops of the 2nd army, under the command of my husband, saved hundreds of thousands of orthodox Serbians from the cruel persecutions of the Croat "Ustacha".

The "Cetniks" out of gratitude for this, spontaneously offered their help in keeping order in that region. My husband though knowing they were under the orders of General Draga Mihailowich (Minister of war for the London Yugoslavian Government), and aided by allied officers, carried the Yugoslavian flag and under the colours of King Peter supplied them with food and arms.

He saved hundreds of Poles and thousands of Jews from German and Croat persecutions by refusing to hand them over to these authorities.

For this reason the Berlin and Zagabria governments asked for his removal, which the Fascists granted; the Fascist press also dubbed him a traitor for his behaviour in these circumstances.

Please, forgive this appeal that is, I am afraid, rather long, but in my desperation and unhappiness, and in the knowledge that I can hope for nothing, so long as party violence which under the cover of law and that the parties are allowed to make ill use of their liberty, trying to influence public opinion; and ever going to the length of veiled threats to members of the High Court, seeking only their own ends, ends that are very evident e.g. the elimination of the only element of order left in the country, the Army, by striking it its leadingmen.

In such a state of affairs, my husband can have no hope of

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

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In such a state of affairs, my husband can have no hope of securing justice and it is for this reason that I entreat you to do your utmost to save my husband.

I beg to remain,

yours very respectfully and gratefully

114

Via Buchiana 63

Lues Foster

FEB.
24 January 1945

116

Your Excellency:

This is to acknowledge receipt of your letter No. 3/268 dated 19 February 1945 in which were enclosed a certain number of excerpts from reports sent from Washington by the former Italian Ambassador, Sig. Suvich. At the request of both the defending and prosecuting counsels, these excerpts are to be sent to the President of the High Court of Justice as evidence in the Roatta trial, should the Commission agree to this procedure.

I am pleased to inform you that after consulting the British and the U.S. Embassies, the Commission approves the indicated employment of this testimony and the excerpts found suitable for use are returned herewith.

Very truly yours,

/s/ Ellery W. Stone
ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

His Excellency Alcide De Gasperi
Minister for Foreign Affairs
Italian Government
Rome

cc: Pol. Sec.
CC FILES ✓

2600/CC

8500

2610/CC

2200

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I am pleased to inform you that after consulting the British and the U.S. Embassies, the Commission approves the indicated employment of this testimony and the excerpts found suitable for use are returned herewith.

Very truly yours,

/s/ Ellery W. Stone
ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

His Excellency Alcide De Gasperi
Minister for Foreign Affairs
Italian Government
Rome

cc: POL. SEC. ✓
CC FILES ✓

113

3/268

Translation

MINISTRY OF STATE

Rome, 19 February 1945

Most Urgent

Dear Admiral,

106?

I have your note n. 3021 concerning the documents to be produced as evidence in the Roatta trial.

At the request both of the defending and of the prosecuting counsels, this Ministry have collected a certain number of excerpts from reports sent from Washington by the former Italian Ambassador, Signor Suvich. These excerpts, copy of which I herewith enclose, could be forwarded, if you agree, to the President of the High Court of Justice.

It is needless for me to add that this Ministry have already pointed out to the Italian authorities concerned the impossibility of furnishing informations or documents which might directly affect the United States or any other United Nation, or members of their respective Governments.

I will be very grateful if you will kindly let me know, at your earliest convenience, if the enclosed passages can be quoted in the trial.

Believe me, dear Admiral, cordially

yours

(Signed) DE GASPERI

2610/cc

See P. 133

11/a

TRANSLATION

Excerpt from a report dated 4 February 1957 forwarded by Ambassador SUVICH from Washington

* * * * *

The Italian "propaganda" in the U.S. cannot be considered simply as a technical problem -- that is, of means to adopt and plans to be carried out. It has to be considered as an essentially political problem and as such formed against the broader background of the Italian foreign policy.

This political part is to be considered from two sides. From one side the possibility to establish an atmosphere of sympathy for Italy which might form a background apt to favor the development of the political, cultural, economical and financial relations, from the other side the possibility of an attitude favourable to us in an international crisis which may come up tomorrow.

Surely it would be better to succeed in attaining both aims; but this is not the problem. The problem is: is it worth the while to make the efforts needed to attain these aims? And, on the other hand, may these aims be attained even making every possible effort?

For what refers to an atmosphere of good feeling, according my opinion, the answer is the following: it is possible to obtain some results, but lets not nurse the illusion they could be easily obtained. It is a matter proportions; more or less results according the general policy we will adopt, according to the details of our relations with the U.S. in all fields, according to the means of our disposal. It is true that fascist Italy has had until 4 years ago a favourable consideration by a part of this people, but the situation is now fundamentally changed. What has set American public opinion against fascist Italy, has been the rise of national-socialism with its manifestations in America, and the Abyssinian war.

The Abyssinian crisis has been overcome, and the work of civilization and peace that Italy is developing in Africa, if conveniently brought to the American public's understanding, cannot fail to meet with its sympathies. The question of pacifism concerns the general lines

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The Abyssinian crisis has been overcome, and the work of civilization and peace that Italy is developing in Africa, if conveniently brought to the American public's understanding, cannot fail to meet with its sympathies. The question of nazism concerns the general lines of our foreign policy. Nazism has caused us harm especially for the fact that the two movements have been identified up to a certain point by American public opinion, and fascism has been blamed for certain typical nazi manifestations that meet here with general disapproval. However, one thing is certain: it is convenient that whatever we intend to display of fascist action in this country should remain independent from nazi action, because otherwise the thing would be interpreted over there as an alliance among fascist nations as opposed to American democracy, and it would look like an interference with the sovereignty of this country (America). This does not affect whatsoever the relations between the two embassies, that are and must be very friendly.

The second question, i.e. America's attitude in case of an international crisis, concerns fully all our foreign policy directives. It is therefore difficult to make any forecasts now, without knowing by which elements such a crisis might be determined, and what shape it should be likely to take. There are however some definite points that can be stated even at this stage.

1/16

TRANSLATION: (cont'd)

As things stand today, i.e. with a division between fascist powers on one side and democratic powers on the other, there is no doubt that America's sympathies are in favour of the latter group, even if Russia should join this group, and above all if Japan should join the former group. The present sympathy might develop into assistance in the case of a conflict, in spite of all neutrality acts the Congress might vote. Also before her intervention in the world war, USA had an attitude of neutrality and this attitude changed completely within a few months.

Another certain point is that America will always tend to help Great Britain when this nation is in danger, and this she will do for two motives. First the common blood and tradition that unites the two nations, second America's conviction that England is an indispensable element of world equilibrium, and a necessary one in order to maintain peace.

There is no doubt that if America should help a group of powers engaged in a war against us, even should she do so without directly joining the war, the Italian minorities, and eventually the German ones if they found themselves in a similar position, would cause serious troubles. However, their efficiency must not be over-estimated. During the world war, America intervened at the side of the Allies in spite of the fact that the German minorities in USA were much stronger than they are today.

On this subject I think it is difficult to go any further.

There is only this to be said, that what we shall obtain in clearing the atmosphere between the two countries may have a certain influence also on America's attitude in case of a crisis.

* * *

RC-07

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* * *

2007

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Translation

EXCERPT FROM A REPORT FORWARDED BY THE ITALIAN AMBASSADOR IN WASHINGTON,
DATED 7 MAY 1937

I have already summarised to Your Excellencies the principles which constitute the basis of the new American law on neutrality in its form definitely amended and approved by the two Chambers in their meetings of 29 April last.

The importance of the question induces me to go back over it again in order to furnish Your Excellencies more details. In fact, it is a question of the law that should automatically regulate the non-participation, or to be more exact, the manner of participation of the United States in future world conflicts.

I herewith enclose the text of the above law, taken from the New York Times, but, for a better understanding of it, I think it advisable to go back briefly to the precedents.

The first issue of the present law is of 31 August 1935. The second one is of 29 February 1936. The first was approved during the preparation of the Ethiopian war; the second during the war itself.

Although, in the intention of the lawmakers and in the wishes of the public opinion, they were both aiming to settle automatically the American neutrality in all theoretically possible cases, such laws, as a matter of fact, were deeply affected by the influence of the particular case for which they should have been put into effect, so that they turned out to be actually conceived and brought into being above all in view of the Ethiopian conflict.

In other words, such laws, in the first as well as in the second issue, were the expression of the U.S. Government's policy toward the Italo-Ethiopian conflict, to the extent to which such policy could be brought into effect as a compromise between the opposite tendencies into which the American public opinion was then divided.

The three main tendencies were:

- (a) that of "collaborationists"; i.e., the mass of pacifists and those favoring the Geneva policy, who wanted the action of U.S. Government to be put at the service of peace. They were sponsoring an "embargo" on all raw materials, aiming to impair the aggressor.

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(b) that of "isolationists", who, on the grounds that the participation of the U.S. in the last World War had been a consequence of the commerce with the belligerents, were supporting the suspension of any trade relations with the nations at war. Although their point of view was different from that of the collaborationists, they aimed as a matter of fact at the same result.

(c) that of "neutralists"; i.e., the most sensible part of the country who wished the U.S. to be faithful of the old principle of freedom of the seas (commerce of the neutrals with the belligerent countries), limiting themselves to sponsoring the "embargo" on arms and ammunition, so as to relieve the U.S. only from the responsibility of contraband of war (classical conception of neutrality).

Amongst these opposite tendencies, all of which aimed to have their point of view translated into instructions to the executive power, Roosevelt's Government stubbornly maintained, until the futility of such efforts was realized, that the Administration should be given by the Chambers "discretionary powers" to settle the neutrality policy in the best way, in the interest of

the country and peace, on account of the complexity and difficulty of the matter and the theoretical variety of cases which might occur.

Considering the moral and material pressure exerted on the American exporters with the purpose of opposing Italy, accused of aggression, and then the efforts to bring about the "embargo" on raw materials, there were no doubts left that the Roosevelt Administration, in the Ethiopian question as well as in other probable cases, should have made use of the powers entrusted to it by the Senate.

(..... Were follows a detailed analysis on the new Neutrality Bill and a summary of the press attitude.....)

The whole article by Lippman deals with the anti-German and anti-Italian spirit of the Neutrality Bill, which should be intended to hamper the Fascist powers in waging war against the democratic ones.

It contains periods as the following

"Theoretically, insofar as applied to any possible war, it is possible to show that the bill may turn out to work in many undesirable ways. But, of course, although he does not say that, the bill is intended to serve only for the important war that might break out in the next two years; i.e., a war in which Germany and Italy would face Great Britain and France. Now the act helps to make this war slightly less probable.

"In fact, it enables the peace-loving countries to reinforce their defences against aggressions, using their ships and their gold to get raw materials from America. Any observer of the situation realizes that the more powerful England and France become, the less probable shall be the war."

For anyone who has followed the debates on neutrality since the Abyssinian war, this satisfied attitude of the American press - that is traditionally so jealous of its country's isolationism and so touchy whenever there is a chance of its becoming entangled with Europe in one way or the other - is the most typical side of the evolution in American public opinion in the last year, and has therefore to be carefully studied and examined.

The reasons are known to Your Excellencies.

I am continually stressing them in my wires and in my reports. The main ones are: the consequences of the Abyssinian war, the readjustment of Germany, the Spanish question.

To these reasons must be added the

"Theoretically, insofar as applied to any possible war, it is possible to show that the bill may turn out to work in many undesirable ways. But, of course, although he does not say that, the bill is intended to serve only for the important war that might break out in the next two years; i.e., a war in which Germany and Italy would face Great Britain and France. Now the act helps to make this war slightly less probable.

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The reasons are known to Your Excellencies.

I am continually stressing them in my wires and in my reports. The main ones are: the consequences of the Abyssinian war, the rearmament of Germany, the Spanish question.

To these reasons must be added the consequences of President Roosevelt's great electoral victory on the internal policy of the U.S.A.; this victory is considered over here as a great victory of world democracy and, as such, it is being exploited by many internal and external forces in order to bring America more and more at the side of the other democratic nations.

After the tripartite monetary agreement of last August, the voting of the present American neutrality act is the most important step taken by America towards what has been called the "Three Democracies' Agreement".

(Signed) SUVICH

Vila

TRANSLATION

Extract from the report from Washington of Ambassador Cuvich, dated
3 December 1937

* * * * *

It must not be thought that because of this the hard feelings have been softened, nor that the antipathy and the hostility for Japan have been diminished.

It must also be recognized that, at Japan's side, the State which is today the greatest target of the aversion and of the criticism of this country (America), is Italy.

Even if it is admitted that the basis on which America left for the Brussels Conference was a mistaken one, because guns cannot be quieted by talking, the blame is nevertheless Italy's for having aggravated the situation by breaking the solidarity between the Powers signatory to the Nine-Power Treaty.

Here, where there is still a residue of faith in the efficacy of declarations of principle and moral condemnations, it is considered that if Japan were found to be against the solidarity of all the great powers she would have been lead more easily to enter into some form of peace negotiations acceptable to China.

There is also much insistence here on the difference in attitude between Italy and Germany, with the observation that while the former has burned all her bridges behind her, placing herself decisively against China, the latter has wished to maintain all her doors open in order to protect her own economic and expansionist interests, thereby bringing forth some malignant deductions on the functioning of the Rome-Berlin Axis.

The recognition of Manchukuo, then, made at the ~~present~~ time, has been considered above all an act of hostility toward America who has been the exponent of a tendency against recognition.

While until now the feud with Italy was limited more than anything else to the ideological field, it is now considered, as I have already said, that after our taking sides with Japan, Italy

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Here, where there is still a residue of faith in the efficacy of declarations of principle and moral condemnations, it is considered that if Japan were found to be against the solidarity of all the great powers she would have been less easily to enter into some form of peace negotiations acceptable to China.

There is also much insistence here on the difference in attitude between Italy and Germany, with the observation that while the former has burned all her bridges behind her, placing herself decisively against China, the latter has wished to maintain all her doors open in order to protect her own economic and expansionist interests, thereby bringing forth some malignant deductions on the functioning of the Rome-Berlin Axis.

The recognition of Manchukuo, then, made at the present time, has been considered above all an act of hostility toward America. It has been the exponent of a tendency against recognition.

While until now the feud with Italy was limited more than anything else to the ideological field, it is now considered, as I have already observed in a previous report, that after our taking sides with Japan, Italy has passed definitely to the side of interests contrary to American political policies.

I consider these particulars necessary to explain the form of rencor against Italy that is today diffused throughout governmental, political, and journalistic circles here, and of which I have a direct and precise intimation.

* * * * *

111a



Translation

EXCERPT FROM A REPORT FORWARDED BY THE ITALIAN AMBASSADOR IN WASHINGTON
DATED 14 JANUARY 1938.

Although the critical period of excitement is over, a deep animosity against Japan has remained, and has even grown stronger. As I have already previously advised you, this animosity affects us also, almost with the same intensity, in the sense that we are accused of having encouraged Japan in her action against China. I will not dwell on all the absurd inferences that have been drawn from our pro-Japanese attitude, such as that of a military alliance of ours with Japan, which would bring about Japan's military help in the Mediterranean against Great Britain, and that of a combined military action of the fascist states against democratic powers, among which is America, etc.; such rumours, even though rather widely spread, find but little belief in more serious and responsible circles, especially at the State Department.

I rather refer to the opinion, widely spread and believed, I dare say, by all Americans, according to which Japan, unless she had been supported by the fascist states, would not have dared to carry through with her action in China, defying the interests of the nations most interested in that country. Even those Americans who are warmly disposed towards Italy - and there are many of them - and who had supported us in the Abyssinian and Spanish affairs, do not approve of our rapprochement with Japan at the present moment and are therefore no longer disposed to raise their voices in our favour against the mounting tide of hostility.

All this has not come unexpectedly and cannot surprise anybody, since our rapprochement with Japan in general, but particularly at the time when Japan started the invasion of China, could not have failed to lead to these consequences.

The Italian Embassy and the consulates subordinate to it are trying to stem this tide of hostility, as far as it affects Italy, but it is obvious that their chances are extremely limited. I have agreed to speak on the 23rd of this month to the members of the Chamber of Representatives, who will meet in the same seat as the Congress, forming a special ~~forum~~ to discuss foreign policy. As I imagine that the main questions I shall be asked, apart from Abyssinia and Spain, will be those related to Japan, I intend to keep to the following lines, apart from changes or additions that may reach me as an answer to my wire No. 5 dated 8th inst.): (1) considering that an anti-Communist pact exists, it is obvious that Italy could not have failed to join it, in view of her ideology and of her policy, which have undergone no alterations; (2) in the Chinese-Japanese question, the Fascist Government fully...

[Handwritten signature]

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Coming back to our situation in America, one more thing must be kept in mind: over here a distinction is being drawn between the position of Italy and that of Germany, a heavier responsibility being charged against us rather than against Germany on the question of Japan's campaign against China. Though Hitlerite Germany meets in this country with a more radical hostility than does Fascist Italy - and a hostility hard to overcome - in the present moment the situation is reversed. Germany, it is thought over here, needs the solidarity of the other fascist countries in order to accomplish

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its own national programme, but has not taken a definite stand of hostility against the democratic powers (particularly Great Britain and America); on the other hand, Italy is considered to have intentions of fighting against these countries. Also in the Japanese question, a certain German reserve is stressed in these circles as confronted with a sharply outlined position on Italy's part..

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

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Extract from Washington report of Ambassador Suvich, 14 January 1938,
Continued:

- 3 -

Evidently, in the interplay of industrial politics the USA represents for Italy a secondary sector or at least a sector not having outstanding actuality. However I believe that the reverberations of the present American policy on Italian interest deserve the following special considerations: the reaction arising in America against what is here denominated the aggression policy of the totalitarian states may press America to drop its strict neutrality and take sides with the democratic nations. This is what is happening here now, however, with limitations in width and time. Saying that today America is ready to wage war at the side of the democratic powers against the Fascist states it would be beyond the truth, but if we say that from many sides and even from official circles a preparation for such a possibility is made, we probably state an actual fact. There is no doubt that the pacifist and anti-intervention inertia of the American people is paramount, but on the other hand it must be considered that in this country a state of excitement such as to overturn with some facility the most cautious forecasts may be created.

The symptom to be considered at present, according to my opinion, are the following: 1) a much slighter reaction to the one foreseen after the warlike excitement originated by the Fany case; 2) the general approval met by the measures taken by the government to boost the national defence. On this point, the effort that can be made by America should not be minimized. Here the billions needed to raise the armaments to an hyperbolic level, may be collected with some facility. Among other things there is a proposal of Walter Lippman to launch a public contribution of one billion dollars with the aim to hasten rearmament; on the current budget a billion dollars is already appropriated for the same purpose.

I do not deny that today in America my prevail this impression, that the effort made by the Fascist states in the field of rearmament has reached almost the limits of the possibilities, whereas the great democratic plutocrats still have some considerable resources, and therefore the intention should be of taking advantage of such an unquestionable superiority in the field of financial possibilities in order to renounce and eventually to start an armament rush of such proportions as to leave far behind those states which now, according to the opinion prevailing here, have already accomplished the maximum effort. However, I repeat, the country will raise no obstacles to the government's armament policy.

Keeping all these elements in mind, I believe that we cannot and must not expect that the situation should undergo any considerable improvement in our favor under the present circumstances; in the American people's views, we have not gained the enemy field. Unless some new element should come to alter the gen-

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Keeping all these elements in mind, I believe that we cannot and must not expect that the situation should undergo any considerable improvement in our favor under the present circumstances; in the American people's views, we have now joined the enemy field. Unless some new element should come to alter in general situation, we should have no illusions that anything we might do here in the field of propaganda and clarification may bring about noteworthy results.

But there is another observation I want to make in concluding this report and that is that our intervention at Japan's side has been like the element which causes a chemical precipitation: all hostilities spread and bred against us on account of the Ethiopian question, the Spanish question and all other attitudes of ours which have not pleased Americans, are now concentrated in the hostility against our action in the Sino-Japanese conflict. Under a certain point of view, this constitutes an advantage for our policy and gives us some possibilities which I think should not be overlooked. Anything we shall be in a condition to do when the favorable occasion will come up of contributing to a balance of powers in the Pacific, relieving Japan's pressure on China, and a clarification of our position in regard to Japan will bring about, on account of the above-said reasons, a general clarification of Italy's position in regard to the United States.

Signed: SUVICH

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 Mr. Tolson, Sir,
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TRANSLATION

Excerpt from a report from Washington by Ambassador Suvich, dated
1 July 1938

Some time ago I accepted an invitation from the National Italian Civic League to be present and speak at the National Convention that this year is taking place between July 1st and 3rd at Kansas City.

This "League" is an association of some importance diffused through the various states of the Middle West that pursues commendable aims such as that of promoting in general our culture, and of awarding scholarships to students of Italian origin to encourage the elevation of our national groups.

In practice, however, the Association is in the hands of some clever Italo-American politicians who use it for electoral ends.

This year, according to what I was assured, several Governors, Senators, and state deputies would have taken part in the Convention, among whom the presence of the Italian ambassador would have had a certain prominence.

I was nevertheless informed some days ago that the Convention at Kansas City was taking on a definite appearance of political and electoral manifestation. The leaders of the convention refused to invite the Governor of Missouri, notwithstanding that he may be considered as the lend-lord, Kansas City being in Missouri. Subsequently the Consul General informed me that it is likely that the same day in the same town a manifestation of the Governor's party may take place.

Confronted by such a situation I had to decline the invitation, although I realized that my refusal, arriving at the last moment, would greatly upset the organization of the Convention. However all efforts made by H.M.'s Vice Consul at St. Louis to have the leaders of the Convention change their partisan attitude, have been in vain and I had to insist on my refusal.

I must add that the majority of the Italian organizers realized that the Convention was showing such a form that the Ambassador could not take any part in it without running the risk of being accused (and with some reason) of meddling with the internal politics of the country to

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

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I must add that the majority of the Italian organizers realized that the Convention was showing such a form that the Ambassador could not take any part in it without running the risk of being accused (and with some reason) of meddling with the internal politics of the country to which he is accredited.

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C.C.

Translation

The President of the Council of Ministers
28/19.1385.9/1.1.26

16 February 1945

(102) 2610/ce

Dear Admiral,

I refer to your letter of January 29th (D/513/C.A.) about the legislative decree of January 4th, 1945, n. 2, bearing the complementary regulations of the epuration law.

I deeply regret that the Allied Commission didn't have the possibility of expressing its opinion on the modifications made to the original text, which was communicated to you. I want to tell you that this is only due to the circumstance that such modifications were made by the Council of Ministers while examining the draft of the regulation.

The decree having been approved - all the ministers gave their assension - we didn't think of consulting the Allied Commission again before ordering its publication. It seemed that the above mentioned modifications were not important enough to be submitted to a particular examination of the Allied organs,

for what concerns art. 1 of the decree, the regulation relative to the exercise of the functions of High Commissioner when the charge is vacant, has been determined by obvious reasons of a contingent character. On the other hand, the solution adopted, while it has a temporary character, doesn't substantially alter the system of the pre-existent law. The regulation in question doesn't create a new organ, for those who are to collaborate with the High Commissioner when he is in charge are to substitute him. The hypothesis of the vacancy of the charge, not unlike that of absence or that of impossibility for the titular to fulfill his post, is therefore regulated by the normal principle by which the inferior organ fulfills the functions of the superior organ in case its titular should be missing. The perfect parity in which are the Deputy Commissioners made it necessary that these functions should be entrusted to them as a body, under the guidance of a president. In propos of this, I want to point out to you that, according to the law, the High Commissioner institutionally depends from the President of the Council of Ministers.

Trusting that you will be satisfied by these explanations, remain, my dear Admiral,

Very yours,

S. I. BONOMI

Admiral Henry W. Stone
Chief Commissioner of the Allied Commission

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JAG/hjp

17 February 1945

Dear Sig. Bocconi:

I am instructed by Admiral Stone to thank you for your letter of February 15th enclosing the text of H.E. Bonomi's speech on the occasion of the inauguration of the Central Commission for Epuration.

Very truly yours,

J. A. Quayle

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

On. Avv. Alessandro Bocconi
Commissione Centrale per l'Epurazione
Piazza SS. Apostoli, 73
ROME

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CC files

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inauguration of the Central Commission for Epuration.

Very truly yours,

J. A. Quayle

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Major, R. A.
Staff Officer to CC

On. Avv. Alessandro Bocconi
Commissione Centrale per l'Epurazione
Piazza SS. Apostoli, 73
ROMA

cc. Ex. Com.
CC files

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Translation

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SO TO CC

Central Commission for epuration

n. 766

Rome, 15 February 1949

To Admiral Henry Stone
Allied Commission

R o m e

I enclose a copy of the speech delivered yesterday by
H. M. Bonomi, on the installation of the Central Commission
for epuration.

I take this opportunity for thanking you for coming to
the ceremony, and I remain,

Truly yours,

THE PRESIDENT
(Gen. Avv. Alessandro Rocsoni)

S. A. Rocsoni

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Speech of H. Dr. Eonomi for the Installation of the
Central Commission for Epuration.

All successors of fallen regimes have a hard task in the way of epuration and renovation; in a new political atmosphere, public administration cannot go on with men who have already been deeply compromised in a recent past. This happened in Italy from 1800 to 1870, when men of the liberal party took the place of the functionaries of Austria, of the Grand-ducs, of the Bourbons. These epurations didn't take place according to a fixed criterion. For the first time, epuration is being done legally and by Commissions which have to judge the personal situations of those who are to be epurated.

Three elements are to constitute these Commissions: magistrates, functionaries of the central administrations, and citizens appointed by the high Commissioner for Epurations against fascism. In your second degree Commission, a President General and four presidents of section have been appointed by the President of the Council of Ministers.

The law you are to enforce hasn't got to locate and strike strictly determined categories; it offers great possibilities for investigation and appreciation. The verdict can therefore be better adapted to concrete situations, and the Commissions are able to act with great severity when severity is required, or to be more indulgent in less serious cases.

The function entrusted to you cannot be solved by a mechanical enforcement of the law, it implies a series of appreciation of a moral order, and therefore a high sense of justice and responsibility.

Epuration must principally strike the high ranking functionaries who were the blind instruments of the regime, and valued their personal interest more than that of the nation. The State needs trustworthy and ^{loyal} servants on whose moral qualities and ability it can rely.

Less high ranking functionaries can be judged with more indulgence. Small employees are far less guilty than their chiefs, besides, their functions haven't the same character of trust as higher administrative situations.

Particular importance must be given to the attitude of the employees after September 8th 1945, when they all had the possibility of showing their unwillingness to collaborate with the so called government supported by enemy bayonets.

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The function entrusted to you cannot be solved by a mechanical enforcement of the law, it implies a series of appreciation of a moral order, and therefore a high sense of justice and responsibility.

Purification must principally strike the high ranking functionaries who were the blind instruments of the regime, and valued their personal interest more than that of the nation. The State needs trustworthy and faithful servants on whose moral qualities and ability it can rely.

Less high ranking functionaries can be judged with more indulgence. Small employees are far less guilty than their chiefs, besides, their functions haven't the same character of trust as higher administrative situations.

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Roma 15 Febbraio 1945 19

*Commissione Centrale
per l'Epurazione*

PIAZZA SS. APOSTOLI 73 - ROMA

Aut. N. 466

OGGETTO

A S.E. l'Ammiraglio Sig. STONE ELLERY
della Commissione Alleata

ROMA

Mi pregio rimetterle copia del discorso pronun-
to ieri da S.E. Bonomi, in occasione dell'insediamento
della Commissione Centrale di Epurazione.
Colgo l'occasione per rinnovarle i ringraziamenti
per il Suo autorevole intervento alla cerimonia, e per
esprimerle i miei sentimenti di ossequio.

IL PRESIDENTE
(On. Avv. Alessandro Bocconi)

A. Bocconi

REC

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della Commissione Alleata

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IL PRESIDENTE
(On. Avv. Alessandro Bocconi)

A. Bocconi

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DISCORSO DI S.E. BONOMI PER L'INSEDIAMENTO DELLA COM-
MISSIONE CENTRALE PER LA EPURAZIONE

Ho desiderato di inaugurare io stesso i vostri lavori per significare l'importanza del vostro compito e la delicatezza della funzione che vi è stata affidata.

Tutti i regimi che cadono lasciano ai successori un duro compito di epurazione e di rinnovazione. Duro ma necessario; giacchè non è consigliabile che l'amministrazione pubblica possa proseguire nel nuovo clima politico con gli stessi uomini già profondamente compromessi in un recente passato ormai superato. Ciò è avvenuto in Italia quando fra il 1860 e il 1870 si sostituirono ai funzionari austriacanti o granducali o pontifici o borbonici, gli uomini del liberalismo unitario. Ciò si verificò, con maggiore frequenza, nella Francia dell'800 quando nei passaggi dal Regno alla repubblica e poi da questa all'Impero e finalmente dall'Impero alla Repubblica gli alti funzionari furono rimossi e sostituiti secondo il colore del tempo. Ma a quelle epurazioni non presie dettero mai criteri fissati nella legge e organi destinati a rendere giustizia. Quelle epurazioni si fecero per volontà incontrollata dei nuovi governi o per lo sfrenarsi di passioni popolari talvolta avventate ed ingiuste. E' per la prima volta (e credo che l'esempio resti ancora unico in Europa) che l'epurazione si fa attraverso a norme di legge e a Commissioni incaricate di giudicare le situazioni personali de-

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gli epurandi. E' questo un fatto che va messo in alto rilievo perchè onora l'Italia, conferma di fronte al mondo lo spirito di equità di questa nostra vecchia patria che fu madre del diritto, assicura tutti gli inquisiti che le loro sorti sono sottratte ai rancori e qualche volta alle vendette e affidate alla libera coscienza di giudici imparziali.

Voi sapete come la legge abbia congegnate queste Commissioni giudicatrici. Tre elementi sono in pari numero chiamati a costituirle: la magistratura, i funzionari delle amministrazioni centrali, e i cittadini designati dall'Alto Commissario per le sanzioni contro il fascismo. Nella vostra Commissione di secondo grado un Presidente generale e quattro presidenti di sezione sono nominati dal Presidente del Consiglio dei Ministri, ed io ho voluto che uomini politici di diversa colorazione, ma tutti noti per la loro equità e per la loro dirittura morale, dirigessero i vostri lavori che auguro diano presto alle amministrazioni dello Stato, degli Enti locali e degli altri Enti sottoposti ad epurazione, con la ponderata eliminazione degli indegni, la tranquillità ed il prestigio di cui hanno urgente bisogno.

La legge che voi siete chiamati ad applicare, lungi dall'individuare e colpire categorie rigorosamente determinate, configura in termini quanto mai ampi le posizioni ed i fatti da perseguire. La partecipazione alla vita politica del fascismo e l'apologia fascista, la faziosità ed il malcostume fascista non sono schemi rigidi e non hanno ristretti confini concettuali. Al contrario, le formule della legge

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offrono agli organi che sono chiamati ad applicarle la maggiore latitudine di indagine e di apprezzamento. Ciò rende possibile di meglio adeguare il giudizio a situazioni concrete, che tanto sono diverse l'una dall'altra, e consente alle Commissioni di agire con inflessibile severità, là dove la gravità del caso lo esiga, di temperare il rigore del giudizio con un umano criterio di equità, allorchè il caso si dimostri meritevole di più indulgente considerazione.

La latitudine che vi è lasciata dalla legge rende più difficile e delicato il vostro compito, ma essa lo rende al tempo stesso, più nobile, poichè richiede il più alto senso di giustizia e di responsabilità. La funzione a voi affidata, non si risolve nella meccanica applicazione della legge ma comporta una serie di valutazioni di ordine morale che trascendono il campo del puro diritto. Ed a maggiormente impegnare le vostre coscienze sia il fatto che voi siete chiamati a pronunciare giudizi che saranno definitivi. Da questi dipendono non solo le sorti di coloro che dovranno essere giudicati ma altresì l'effettivo conseguimento delle finalità che alla epurazione amministrativa sono assegnate.

Nel riesame delle decisioni di primo grado, i più ampi poteri vi sono conferiti. Dovrete correggere, gli errori in cui quelle siano incorse, mitigare, ove occorra, l'eccessivo rigore dei precedenti giudizi ovvero emettere una più severa sentenza ove i primi giudici non abbiano adeguatamente colpito.

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I principi che hanno ispirato la legge e gli scopi stessi della epurazione possono darvi la traccia e la guida più sicura per il vostro lavoro. E voi ben sapete quali sono i tristi frutti che il fascismo ha lasciato nel campo dell'amministrazione. E sapete anche che una grave responsabilità in questa funesta eredità spetta a coloro che, nelle più alte posizioni burocratiche introdussero nell'amministrazione la faziosità, l'arbitrio ed il malcostume propri del fascismo, offuscarono quella nobile tradizione di onestà, di cosciente devozione al Paese, di austerità di vita che fu un tempo - e certo tornerà ad essere domani - legittimo vanto dell'amministrazione Italiana.

L'epurazione deve colpire soprattutto coloro che, nei gradi più elevati, si fecero ciechi strumenti del regime, che anteposero il proprio profitto personale agli interessi del Paese. Non trattasi soltanto di una esigenza di giustizia, che va integralmente soddisfatta, ma anche di rimuovere quegli elementi che, per le colpe commesse, costituirebbero un grave pericolo per l'avvenire e finirebbero certamente con il perpetuare i mali del passato. Lo Stato ha bisogno di servitori integri e fedeli, e deve particolarmente contare sulle qualità morali e sulla effettiva capacità di coloro che, chiamati alle più alte funzioni, hanno maggiori poteri di iniziativa, maggiore libertà di movimenti ed autonomia di decisioni. Alla realizzazione di questo scopo deve tendere principalmente la vostra opera.-

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Le categorie meno elevate della burocrazia possono essere giudicate con più benigni criteri. I medi e piccoli impiegati hanno colpe ben minori di quelle dei loro capi e d'altrondè, nelle mansioni di tali impiegati, ben più modesto è quell'elemento strettamente fiduciario che caratterizza le più elevate funzioni amministrative.

Un particolare rilievo deve attribuirsi al comportamento tenuto dopo l'8 settembre 1943, quando ad ogni impiegato - e particolarmente a quelli dei gradi più elevati - fu data la possibilità di attestare, con un atteggiamento fermo, dignitoso e, se necessario, coraggioso, la repugnanza alla collaborazione con un sedicente governo, poggiante sulle baionette del nemico invasore.

E' questo un elemento che dovrà essere maggiormente apprezzato quanto più la sfera di applicazione della legge si estenderà alle regioni settentrionali d'Italia dove l'occupazione straniera dura da maggior tempo.

Io sono certo che voi assolverete il vostro compito con profondo senso di giustizia, con obiettività e con serenità. La legge vi assicura la più completa indipendenza. Al pari delle commissioni di primo grado la Commissione Centrale - che oggi ho l'onore di insediare - è un organo munito delle più rigorose garanzie di libertà. Sia i componenti nominati dal Governo, sia quelli designati dall'Alto Commissariato per le Sanzioni contro il fascismo, debbono avere - come hanno - la più assoluta libertà di giudizio.

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La vostra funzione richiederà uno sforzo assiduo ed intenso. Voi siete chiamati ad esaminare un gran numero di ricorsi, ed alte ragioni sociali e politiche impongono che il lavoro sia condotto a termine con la dovuta rapidità. Alcune migliaia di famiglie vivono in un doloroso stato di ansia, in attesa delle vostre decisioni. Da queste dipende la certezza delle loro situazioni e dipendono i problemi del loro avvenire. Ma dalle vostre decisioni dipende anche la indispensabile e sempre più urgente riorganizzazione dei quadri delle pubbliche amministrazioni.

Vi lascio ora al vostro lavoro, con la piena certezza che saprete corrispondere alla fiducia che in voi ripone il Paese.-

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SECRET.Ref: 1005/61/GNS.14 February 1945.SUBJECT: Spurition.

TO : Director, Air Forces Sub-Commission.

1. I refer to your AFSC/2/7/5000 IRE of 26 January 1945, on the subject of the removal of Colonel CASAZZONI from office.

2. The Discrimination Tribunal is a Tribunal set up in the Air Ministry for its own purposes to advise the Minister on the conduct of officers since 8 September 1943. It is not a part of the statutory spurition machinery and has no power to acquit.

3. The spurition Commission, however, does take cognizance of the findings of the Discrimination Tribunal just as it does of any other evidence whether for or against the accused. In the case of General CAPPA the spurition Commission has agreed with the views of the Discrimination Tribunal and found General CAPPA not guilty.

4. The "Military Tribunal" referred to in your para 6 and 7 is the spurition "appeal" commission. I do not think it desirable to ask the Italian Government to abolish the only appeal court there is for spurition proceedings. This court has before it more appeals lodged by persons found "guilty" than appeals by the High Commissioner against findings of "not guilty" and abolition would do away with their chance of review.

5. Although there may appear to be a plethora of proceedings in the case of service personnel, this is caused by the superimposition of the purely advisory Discrimination Tribunal on the normal procedure of DEL 159.

6. As Colonel CASAZZONI is the representative of the Air Ministry in the office of the High Commissioner as Liaison Officer and Adviser on Air Force matters, his removal is a matter entirely for the Air Ministry. I think interference on questions of personnel, where the responsibility is Italian, is inadvisable and impolitic.

M. S. LUSH

Brigadier,
Chief of Staff.

Copy to C.A. Sec.

2610/cc

108

1563

C FIDENTIAL:
HEADQUARTERS ALLIED COMMISSION
Office of the President
APO 394

13th February 1945.

99

Chief Commissioner.

You will perhaps recall that last month Field Marshal Alexander sent to Mr Macmillan a letter which he had received from General Anders about the trial of General Roatta.

You and Mr Macmillan both agreed that while ... this letter could not be put in as evidence, the best course would be to await the result of the trial and then to let Signor Bonomi see it, with a view to the Government having it in mind when the question of confirming or reducing sentence (if any) came before them.

General Anders has now sent to the Field Marshal the enclosed further document. Do you agree that it should receive the same treatment as the previous communication?

John Wyndham

Personal Assistant.

yes
JG
CC
14
2

2610/cc

RR27

107a

SEE 100
P

COPY.TRANSLATION.

Centre of Infantry Training for Officers,
Kirkaldie.

25th January 1945.

General Officer Commanding
2 Polish Corps.

Sir,

I wish to make the following report.

On several occasions in the years 1925 to 1927 I was attached, as liaison officer, to the Italian military attache, Colonel Mario ROATTA, in Warsaw.

During that period, I formed an extremely high opinion of Col. ROATTA, as an honest man and one who was most friendly in his attitude towards the Polish Army. I recollect with what enthusiasm he spoke of the fighting qualities of the Polish soldiers during the battles in Warsaw in May, 1926.

When I was taken prisoner by the Germans in 1939 and sent to Oflag 7a, I wrote to Col., now General, ROATTA asking his assistance. The direct result of this was a visit paid to my camp by the Italian military attache in Berlin.

In April, 1940, because of the special intervention of General ROATTA in Berlin, I was taken, under escort and travelling 1st. class, to the Italian frontier and handed over to the Italian authorities who, in turn, passed me on to our Embassy in Rome.

Judging from the exceptionally good treatment I received from the Germans at the time I was freed, I realised how strong must have been the pressure exercised on them by General ROATTA in order that my discomfort might be eased.

Nor was my case unique. I remember how, on numerous other occasions, General ROATTA showed his sympathy for, and gave effective help to, my compatriots.

In the days immediately prior to the outbreak of hostilities between Italy and the Allies, General WITKIAWA-DLUGOSZEWSKI, our Ambassador to Rome, told me that General ROATTA was the only person who was still willing to act as mediator between him and the Italian Government.

As a soldier, I am forced by my conscience to step forward in defence of General ROATTA, convinced that in so doing I am serving the cause of justice.

Sir, may I ask you to use your good offices on behalf of General ROATTA.

(SIGNED) KAZIMIERZ KARSKI
Lieutenant of Cavalry.

107a

CC 9251

6 February 1945.

Dear Mr. Macmillan:

103

file
9251/ce

In my letter CC/9251 of 1 February 1945 I told you that I had delivered to the Prime Minister an aide-memoire on the general subject of attacks on Italian military officers and sent to him a letter relating specifically to the proceedings which were being taken against Colonel Remondino, and I sent you copies of both these documents.

101

104

I am now forwarding to you copies of the replies which I have received from Sig. Bonomi. I am taking steps to tighten the censorship so as to exclude from the press these attacks on serving officers.

Sincerely,

ELERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Mr. Harold Macmillan,
Acting President of the Allied Commission.

2610/ce
copy in 9251/ce

EE75

107

SECRET

COPY

COPY

HEADQUARTERS ALLIED COMMISSION
Office of the Chief Commissioner
APO 394

SECRET

AIDE MEMOIRE

107

It is the understanding of the British and American Governments that the following procedure regarding the introduction of evidence related to Allied policy will be followed in the trial of General Goette and his associates:

If and when it is desired to introduce evidence regarding military operations which might have been taken by the Allies around the period of the armistice, or regarding documents or alleged copies of documents having to do with Allied policy before and during the war, it is understood that such evidence will be referred to the competent Allied Authorities in Rome for decision as to whether it may be introduced into the trial and as to the appropriate action to be taken in the premises.

E. W. S.

DISTRIBUTION:

- Original & 1 Copy - Delivered by hand to Prime Minister 1130 hours 6 February 1945.
- 1 Copy - COS
- 1 Copy - CA
- 1 Copy - Pol. Sect
- 1 Copy - Hon. Alexander Kirk
- 1 Copy - Sir Noel Charles
- 1 Copy - file

See (11/2)

2610/CC

106

SECRET

P A R A P H R A S E

Excerpt from telegram received from SECSTATE

February 3, 5:25 p.m.

For your guidance the following formula is submitted. It is understood that similar instructions will be received by Charles. If an when, in the opinion of your court, evidence is introduced which falls within the prohibited categories, it is understood that such evidence will be referred by the Court to Charles and you. It should then be considered by you and your British colleagues in consultation with Chief Commissioner (if necessary, for reference to SACMED) as to whether it would be prejudicial in fact to Allied military effort or governments to permit its introduction in open court. If you are of the unanimous opinion that no harm would result on political or security grounds from the introduction of the evidence into the trial, Chief Commissioner should so inform the Court. If you are unanimous that its introduction would be prejudicial to the Allies, or if you are unable to reach an agreement on the prejudicial aspects of the evidence which may be referred to you by the Court, if military or security considerations are involved, the question should be referred to SACMED, or if political implications are predominant, to the governments in London and Washington. You should make recommendations in your reference as to whether the evidence might be admitted "in camera", or whether the trial should be postponed in view of the nature of the evidence.

GREW ACTING

mbs

2610/cc

2673

105

106

File
Ruditta trial
communicated to PH 4/2

DF/5.13/CA

29 January 1945.

My dear Mr. Prime Minister:

The removal of fascists from positions of authority is one of the points specifically mentioned on the Armistice Terms and as such is one of the matters of more particular moment to this Commission and one on which this Commission must be kept particularly well informed.

This Commission recently received from the Assistant High Commissioner a draft of the proposed decree which has recently been published as decree No. 2 of 1945. On this subject I have two comments to make: firstly, that the decree was published without waiting to see whether this Commission had any comment to make on the draft; and secondly, that the text of the decree as published was not identical with the draft which was supplied to this Commission. The most important variation was the addition of the paragraph instituting a College to act when the High Commissionership is vacant.

This is a matter on which this Commission would specifically have desired to consider and express an opinion and it is considered that it should have had an opportunity of doing so on a matter with which it is so intimately responsible.

The departure from the draft has also had the unfortunate result of incorrect information as to your proposals being given to those concerned. You will, I am sure, agree that where a matter so concerns this Commission that it is desirable that a draft of a proposed decree should be submitted to it, it is essential that changes therein should also be communicated and that no publication of a decree governed by the Armistice Terms should be made without the consent of this Commission.

Yours very truly,

cc: COS
CA Section
A File

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

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

2610/CC

111

See 2612

102

Original Stone
CC 211
JAN 24 RECD

COPY

CONFIDENTIAL

24th January, 1945

Field Marshal, the Hon. Sir Harold R. L. G. Alexander,
K.C.B., G.B.E., D.S.O., M.C., A.D.C.,
Supreme Allied Commander,
Allied Force Headquarters.

I have received your minute of January 22nd enclosing
a letter from General Anders about the trial of General
Roatta.

I have discussed this with the Chief Commissioner.
We both agree that while this letter could not be put in
as evidence, we should await the result of the trial and
then let Prime Minister Bonomi see it, with a view to the
Government having it in mind when the question of confirming
or reducing sentence (if any) comes before them.

I return General Anders' letter.

Harold Macmillan

See 107a

JAN 24 RECD

CC 211

6671

WITH THE COMPLIMENTS OF MR WYNDHAM.

100

A file
25-1-45

2610/CC

Armed Stove
CC 211
JAN 24 1945

COPY

CONFIDENTIAL

24th January, 1945

Field Marshal, the Hon. Sir Harold R. L. G. Alexander,
K.C.B., C.B.E., D.S.O., M.C., A.D.C.,
Supreme Allied Commander,
Allied Force Headquarters.

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then let Prime Minister Bonomi see it, with a view to the
Government having it in mind when the question of confirming
or reducing sentence (if any) comes before them.

I return General Anders' letter.

Harold Macmillan

2610/CC

Admiral Stone.

JAN 21 1945

COPY.

CONFIDENTIAL.

ALLIED FORCE HEADQUARTERS
Office of the Supreme Allied Commander

22nd January, 1945.

The Rt Hon Harold Macmillan, M.P.,
British Resident Minister,
ALLIED FORCE HEADQUARTERS.

In view of the approaching trial of General Roatta,
I feel it my duty to forward the attached letter I have
received from General Anders, Commander of the 2nd Polish
Corps under my command.

(SIGNED) H. R. ALEXANDER.

Field Marshal,
Supreme Allied Commander.

See (100)

2610/CC

6070

(99)

Winston Churchill
JAN 24 1945

COPY.

20 Jan 45.

From: Commander, 2 Polish Corps.

My dear Field Marshal,

I learnt, while in Rome, that it is proposed to try General Roatta of the Italian Army, and that this trial is to start in the new few days.

I do not know with what he has been charged; and, in any case, that is no affair of mine. But I do feel that, as Commander of the Polish Corps in Italy, I must bring to your notice our gratitude for the goodwill and assistance which this officer has always shown to my countrymen.

He was Italian Military Attache in Warsaw, where he made many friends and was well liked by all of us. Later, during the war, and in spite of his close association with the Germans, he spared no effort, and even took considerable personal risk, to help Polish nationals. Indeed, there are several thousand Poles who today have to thank General Roatta that they are not in a German concentration camp, or worse.

In these circumstances, my dear Field Marshal, I feel that the least I can do is to let you know, on behalf of these Poles he was instrumental in saving, how grateful we are to General Roatta, and to hope that this expression of our gratitude will be given due consideration at his trial.

Yours very sincerely,

(SIGNED) W.Anders.

Lieutenant General.
Commander 2 Polish Corps.

Field Marshal, the Hon.Sir Harold R.L.G.Alexander,
K.C.B., C.B.E., D.S.O., M.C., A.D.C.,

RRR9

99 INC

CONFIDENTIAL

MEMORANDUM

January 20, 1945.

Upon receipt of the letter from Anselmo Crisafulli regarding the Jacomoni case I asked for an appointment to see the Minister of Foreign Affairs which I did this evening.

I showed him the letter which he read carefully and then told him that although I believed it was this man who tried to approach me personally in regard to the Jacomoni case I refused to see him and that I intended to make no reply to this letter. I continued, however, that it was obviously impossible that the Italian Government should allow my name or the name of other American officials to be injected into these proceedings in the capacity of what might be termed character witnesses, and that I expected that all necessary steps would be taken to prevent the mention of our names at the trial or the introduction of any evidence involving us.

De Gasperi said that he had attended a conference this morning with Bonomi and the head of the court, *md.*, Berlinguer, and that they were all in agreement that personages, especially of friendly nations now in Rome or previously established there, would not be involved in these epuration trials and the Prime Minister had

2610/cc
directed

(98) a

-2-

directed that steps be taken to implement that decision.

I asked de Gasperi to communicate at once with the Prime Minister in regard to this case and to refer to my last call on Bonomi which was in the nature of a courtesy visit in the course of which I mentioned that it was conceivable that owing to my long previous residence in Rome attempts would be made to involve my name in the epuration trials, but that I expected that steps would be taken to prevent such occurrences just as measures would be adopted to prevent military evidence involving Allied operations to be introduced in these trials as well as any unauthorized use of evidence or documents effecting a friendly government. De Gasperi said that he would communicate at once with the Prime Minister in the foregoing sense and that I need have no doubt but that effect would be given to my wishes.

A. K.

REC-7

(98) a

COPIA

ANSELMO CRISAFULLI

Roma, 19 - I - 1945
Via Virginio Orsini, 19

Signor Ambasciatore
degli S.U.A.
presso il Quirinale
R o m a.

Mi pregio far presente quanto segue.

Il giorno 22 c.m. avra inizio avanti l'Alta Corte di Giustizia un processo penale a carico del signor Dr. Francesco Jacomoni, Ambasciatore e gia Luogotenente Generale del Re in Albania.

A fine di giustizia pare doveroso siano messe in debita luce talune circostanze, ed almeno le seguenti:

- a)- se non sia vero che il Dr. Jacomoni abbia avuto frequenti contatti ed amichevoli rapporti con il signor Dr. Alexander Kirk, attuale Ambasciatore degli S.U.A. presso il Quirinale;
- b)- se non sia vero che il Dr. Jacomoni sia stato sovente ricevuto con squisita amabilita in casa della Signora Madre dell'attuale Ambasciatore signor Kirk;
- c)- se non sia comunemente noto negli ambienti della Ambasciata americana che il Dr. Jacomoni ha mantenuto del pari rapporti amichevoli con l'Ambasciatore signor Garrett e con l'Incaricato d'Affari signor Tittmann;
- d)- se non sia pure comunemente noto che il Dr. Jacomoni fu largo di appoggi verso il Ministro signor Grant ed il Segretario di Legazione signor Hughes per la salvaguardia e la tutela degli interessi americani in Albania al tempo dello sbarco ivi effettuato dalle truppe italiane;
- e)- se non sia vero che il Dr. Jacomoni nei frequenti rapporti ufficiali ed amichevoli abbia manifestato sempre sentimenti di equanita ed obbiettivita quale cittadino e quale funzionario, antepo-
nendo gli interessi d'Italia ad ogni altro, senza riguardo alcuno agli interessi particolari del partito fascista, e che non ha mai esercitato azione di partito.

Quanto sopra ho rappresentato nella mia qualita di difensore del Dr. Jacomoni, ed avanzo preghiera d'essere messo in condizioni di potere portare siffatti utili elementi al cospetto della giustizia.

Con osservanza.

(Avvocato Anselmo Crisafulli)

(78) Boatta trials

TOP SECRET

AFHQ

AND PRIVATE
AFHQ PERSONAL/ FOR GENERAL HANDING

S-417

19 January 1945

URGENT

TOPSEC PD

5 4 1 5 (96)
FURTHER BY SUGAR FOUR ONE FIVE PD MARIO BERLINGUER DEPUTY HIGH
COMMISSIONER FOR THE PUNISHMENT OF FASCIST CRIMES HAS JUST ASSURED
ME THAT IN ADDITION TO THE INSTRUCTIONS ISSUED BY PRIME MINISTER
TO THE PRESIDENT OF THE COURT HE CMA BERLINGUER CMA WILL BE PRESENT
IN COURT AS ADVISOR TO THE GOVERNMENT PROSECUTOR
AND PRIVATE

PAREN TO AFHQ PERSONAL/ FOR GENERAL HANDING FROM HQ ALCOM SIGNED

ADMIRAL STONE PAREN

TO INSURE THAT THE TYPE OF EVIDENCE DESCRIBED IN YOUR FOX EIGHT FIVE
963 NINE SIX THREE IS NOT INTRODUCED BY THE PROSECUTION

DISTRIBUTION:

- Hon. Alexander Kirk
- Sir Noel Charles
- Chief of Staff
- Political Section
- Adjutant (Skeleton Copy)

FILES A ✓

Chief Commissioner
222

(98)

ELLERY W. STONE
Rear Admiral
Chief Commissioner

TOP SECRET

2610/ccc

RRR

File

Giovedì 18 gennaio 1945

RAI

AMMINISTRAZIONE
ROMA - Via Due Macelli
n. 47, p. 4° - Telef. 64-864

numero L. 1 - Arretrato L. 2 (Spejzione in abbonamento postale).
clusiva: S.C.A.P., Via del Traforo 146 p. p. - Telef. 60-200 - 681-356.

UN'INTERVISTA DI MARIO BERLINGUER SUL PROCESSO SUVICH-ROATTA

**Il dibattito durerà circa un mese - Oltre 100 testimoni
Nessuno degli imputati passibile della pena di morte**

L'Alto Commissario Aggiunto per la punizione dei delitti fascisti Mario Berlinguer, interrogato dall'ANSA se sia stato deciso chi rappresenterà come pubblico ministero l'Alto Commissariato per la punizione dei delitti fascisti al processo Suvich-Roatta, ha dichiarato che probabilmente la funzione sarà assunta dal suo ufficio ove il processo è stato instruito. Ed ha aggiunto le seguenti precisazioni sui limiti nei quali si svolgerà il dibattimento.

« La natura indubbiamente politica della causa non può farla sconfinare in giudizio, per quanto riguarda il compito che ci proponiamo di svolgere, dai limiti fissati con la richiesta del decreto

per la punizione dei delitti fascisti con gli organi terroristici del regime, pare evidente che essa esorbiti dai compiti militari e debba esser punita, come deve esser punita l'attività del Tribunale Speciale e dell'Ovra e qualunque attività di coloro che, per consolidare il fascismo, ricorsero alla rappresaglie personali ».

Interrogato poi sul significato politico del processo contro Suvich, Jacomoni e Benini, l'On. Berlinguer si è limitato a dire che il processo potrà valere anche per dimostrare in Italia e fuori d'Italia, che alle gravi responsabilità della politica estera attuata dal fascismo fu estraneo il popolo italiano la cui volontà fu sovverchiata

26/10/45

R&H

610/ce

R. 611/1

zione sarà assunta dal suo ufficio
cve il processo è stato istruito.
Ed ha aggiunto le seguenti preci-
sazioni sui limiti nei quali si svol-
gerà il dibattimento.

La natura indubbiamente poli-
tica della causa non può farla
sconfinare in giudizio, per quanto
riguarda il compito che ci pro-
poniamo di svolgere, dai limiti fis-
sati con la richiesta del decreto
di citazione, e perciò dal giudica-
bili e dalla loro attività fissata nel
tempo, nei luoghi e nei fatti delle
imputazioni contestate. Così per
esempio, è esatissimo quanto fu
già detto per il generale Roatta
che cioè egli non è oggi chiamato
a rispondere di eventuali respon-
sabilità per il suo contegno nella
guerra in Jugoslavia né dopo l'ar-
resto. Il generale Roatta ed i
suoi compariati sono accusati sol-
tanto di delitti che furono com-
messi nel periodo circoscritto dal-
la citazione in cui organizzarono
una speciale sezione terroristica,
che fu poi sciolta, ed alla quale
si attribuisce dall'accusa una se-
rie di reati comuni di natura ben
diversa da quella che costituisce
la normale attività, necessaria e
spesso utile, dei servizi militari
di informazione e di contro-spio-
naggio che esistono in quasi tutti
i Paesi. Così il fatto che si pos-
sano essere arruolate delle spie
per avere notizie di indole mili-
tare, che si possano esser ottenuti
comunque dei documenti esteri,
ecc. non costituisce motivo di al-
cuna accusa né può quindi for-
mare oggetto di discussione. Sol-
tanto quando l'attività degli im-
putati si è manifestata sotto il
particolare aspetto di rappresaglia
fascista a mezzo di delitti comuni
gravissimi come la strage, la dif-
fusione di germi di malattie epi-
demiche, gli omicidi di avversari

rappresaglie personali»,
interrogato poi sul significato
politico del processo contro Su-
vich, Jacomoni e Benini, l'On.
Berlinguer si è limitato a dire che
il processo potrà valere anche per
dimostrare in Italia e fuori d'Ita-
lia, che alle gravi responsabilità
della politica estera attribuite dal
fascismo fu estraneo il popolo ita-
liano in cui volontà fu sovrachia-
ta dalla dittatura.

Infine, rispondendo alla doman-
da se le imputazioni di oggi com-
portassero per taluno degli accu-
sati la pena capitale, l'On. Ber-
linguer ha spiegato che soltanto
all'Anfuso sarebbe applicabile la
pena di morte perché gli è stata
contestata la collaborazione con i
tedeschi, essendosi accertata la
sua attuale carica di ambascia-
tore in Germania dello pseudo go-
verno mussoliniano, mentre non si
sono avute sicure notizie sulla
attività di altri contumaci che si
sono rifugiati al Nord.

Quanto alle altre imputazioni,
esse non comportano che una pe-
na restrittiva della libertà perso-
nale. La imputazione relativa al-
l'omicidio di Nello Rosselli è con-
figurata con l'aggravante dell'ar-
ticolo 62 n. 2 del Codice penale
che prevede la pena di morte, in
quanto il delitto sarebbe stato
commesso per assicurare l'impeni-
tà dei colpevoli dell'omicidio di
Carlo Rosselli. Ma, come è noto,
un recente decreto-legge, su pro-
poste del Guardasigilli, ha abolito
la pena di morte per tutti i reati
comuni; e quindi ai colpevoli di
questo reato non potrebbe inflig-
gersi che l'ergastolo.

Le voci corse in taluni ambienti
di un possibile rinvio del processo
Roatta Jacomoni, Suvich, Benini,
Anfuso e compagni, fissato per
l'audienza di lunedì prossimo di-
nanzi all'Alta Corte di Giustizia,
sono dichiarate, a tutt'oggi, desti-
tuite di fondamento. Le udienze
saranno tenute nell'aula magna
della Sapienza, dove nuovi banchi
saranno aggiunti per i difensori,
che, per i 15 imputati, dei quali
sette latitanti, saranno una ven-
tina.

Assai rilevante si annuncia an-
che il numero dei testimoni. Oltre
20 sono stati prodotti dalla pub-
blica accusa. Ad essi vanno ag-
giunti quelli per i quali la difesa
dei singoli imputati chiederà l'am-
missione a discarico.

La sola difesa del Generale
Roatta ha presentato nella cancel-
leria dell'Alta Corte una lista di
83 testimoni. Anche la difesa del
lex Luogotenente Jacomoni chie-
derà che siano ammessi oltre 60
testimoni. Naturalmente il Presi-
dente si è riservato di deliberare
sull'ammissione di così cospicuo
numero di testi. Comunque è da
prevedere che i testimoni a disca-
rico supereranno, per tutti gli im-
putati, il centinaio. Tutto quindi
lascia ritenere che il processo oc-
perà circa un mese.

Numerosi incidenti procedurali,
a quanto è dato sapere, saranno
proposti dai difensori nella prima
udienza, alcuni dei quali guar-
deranno la dichiarazione di contu-
macia per gli imputati latitanti

176

Unsent

AFHQ

AFHQ

S-415

18 January 1945

URGENT

95

TOP SECRET

TOPSEC PD

F/85963 16

PARA ONE PD YOUR FOX EIGHT FIVE NINE SIX THREE OF SIXTEEN JAN PD THE
 PRIME MINISTER STATES HE HAD ALREADY ISSUED NECESSARY INSTRUCTIONS TO THE
 PRESIDENT OF THE COURT BUT WILL RENEW THESE INSTRUCTIONS BOTH ORALLY AND
 IN WRITING IMMEDIATELY PRECEDING THE OPENING OF THE TRIAL PD
PAREN TO AFHQ PERSONAL FOR GENERAL HARDING FROM HQ ALCOM SIGNED ADMIRAL
STONE PAREN

PARA TWO PD AM SATISFIED NO FURTHER STEPS NEED BE TAKEN AT THIS TIME

DISTRIBUTION:

- Hon. Alexander Kirk
- Sir Noel Charles
- Chief of Staff
- Political Section
- Adjutant (Skeleton Copy)

26/10/45

See 98 RRR

96

Chief Commissioner

222

ELLERY W. STONE
 REAR ADMIRAL
 Chief Commissioner

TOP SECRET

HEADQUARTERS ALLIED COMMISSION

Incoming Message

/hd

TO: Allied Commission private for Admiral Stone

N 91/16

FROM: AFHQ From General Harding Cite FHCOS

URGENT

REF NO: F-85963

TIME SENT: Jan 161434

TIME RECEIVED: Jan 161817

TOP SECRET

- 94a

1. SACMED has been in discussion with the British Resident Minister and United States Political Adviser regarding the possibility of the introduction into the trial of General Mario Roatta of evidence affecting military operations at the time of the Italian armistice or of documents relating to British or United States policy before or during the war. As a result he wishes you to approach the Italian Prime Minister informally and to request him to take the necessary steps during the trial to forbid the introduction of evidence affecting military operations which might have been undertaken by the Allies around the period of the armistice or of documents which might be produced as actually being or alleged to be copies of Allied documents or records about British or United States policy both before and during the war.

2. If your representations are unsuccessful you should report the fact immediately to me so that SACMED can consider what further steps should be taken.

2610/CC
PART II

DISTRIBUTION (Controlled by Office of CC)

- ACTION: Chief Commissioner
- INFO: Hon. Alexander Kirk
- Chief of Staff
- Political Section
- Adjutant (Skeleton Copy)

Sir Noel Charles
CA Section

9.5

TOP SECRET

TOP SECRET
ALLIED CONTROL COMMISSION
INCOMING MESSAGE

MSG Center No : N91/16
Classification : TopSec
Precedence : URGENT
From : AFHQ
To : PERSONAL
FOR ADMIRAL STONE

URGENT
URGENT

Date Time Rec'd : 161817A
Date Time Sent : 161434A
Reference NR : F-85963
Cite : FHCOS

XXXTOP SECRETXXX PARA ONE PD SAC MED ~~REF SAC~~ HAS BEEN IN
DISCUSSION WITH THE BRITISH RESIDENT MINISTER AND UNITED STATES
POLITICAL ADVISER REGARDING THE POSSIBILITY OF THE INTRODUCTION INTO
THE TRIAL OF GENERAL MARIO ROATTA ~~REF MARIO ROATTA~~ OF EVIDENCE AFFECTING
MILITARY OPERATIONS AT THE TIME OF THE ITALIAN ARMISTICE PAREN ALLIED
COMMISSION PRIVATE FOR ~~ADMIRAL STONE~~ ADMIRAL STONE FROM GENERAL
HARDING REF FOX EIGHT FIVE NINE SIX THREE SIGNED SACMED CITE FHCOS
~~FHCOS~~ UNPAREN OR OF DOCUMENTS RELATING TO BRITISH OR UNITED STATES
POLICY BEFORE OR DURING THE WAR PD AS ~~UNABLE~~ ^{UNFO}ABLE RESULT HE WISHES YOU
TO APPROACH THE ITALIAN PRIME MINISTER INFORMALLY AND TO REQUEST HIM TO
TAKE THE NECESSARY STEPS DURING THE TRIAL ^{REF} TO FORBID THE INTRODUCTION OF
EVIDENCE AFFECTING MILITARY OPERATIONS WHICH MIGHT HAVE BEEN UNDERTAKEN
BY THE ALLIES AROUND THE PERIOD OF THE ARMISTICE OR OF DOCUMENTS WHICH

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MIGHT BE PRODUCED AS ACTUALLY BEING OR ALLEGED TO BE COPIES OF ALLIED
~~DOCUMENTS~~ DOCUMENTS OR RECORDS ABOUT BRITISH OR UNITED STATES POLICY
BOTH BEFORE AND DURING THE WAR PD PARA TWO PD IF YOUR REPRESENTATIONS
ARE UNSUCCESSFUL YOU SHOULD REPORT THE FACT IMMEDIATELY TO ME SO
THAT SAC MED ~~REPRESENTED~~ CAN CONSIDER WHAT FURTHER STEPS SHOULD BE
TAKEN

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TO: HALIFAX

Repeated: BRITISH RESIDENT MINISTER and ROME

Following are our views in the light of telegram received from Caserta and Rome on this subject.

2. On the assumption that production of this evidence would be seriously prejudicial to military security or objectionable on political grounds, we agree that steps should be taken to prevent its production including if necessary a demand to that effect addressed to the Italian authorities.

3. If however (as we infer may be the case), the evidence is such as would tell in favour of accused and might lead to his acquittal or to a mitigation of his sentence, we regard it as essential on elementary grounds of justice that if we make the demand under paragraph 2 above, the trial should also be postponed (not suppressed) until such time as production of evidence becomes possible.

4. We therefore consider that before a decision is taken to act as in paragraph 3 above, the documents (of which we do not know the exact nature) should be very carefully scrutinized from above point of view in order
(a) To establish whether they would materially assist the accused,
(b) To establish whether in fact their production would be prejudicial to military security or objectionable on political grounds, and
(c) To weight the respective advantages and disadvantages from security and political angles of suppression of documents coupled with postponement of the trial on the one hand and production of documents on the other.

5. It is not clear to us in whose hands the documents are. If they are in the hands of the defence we are unable to see how the President of the Court can properly refuse to permit their production without conniving at a possible serious miscarriage of justice unless he also adjourns the trial sine die. If they are in the hands of the Italian Government we do not see how that Government can properly both withhold documents telling in favour of accused and carry on his prosecution.

6. An alternative and prima facie preferable course which would avoid these difficulties would be to hold in camera that part of the trial which relates to this evidence but we understand from Rome telegram no. 119 that this may not suffice from security angle.

7. We must in any case avoid getting ourselves into a position where blame for a miscarriage of justice can subsequently be put on to Allied shoulders by the Italian authorities on the score of a demand by the Allies for the suppression of material evidence. Nor do we wish to have to ask for the postponement of the trial if this can be avoided. Any documents stolen from the British and United States Embassies are presumable in German hands and therefore liable to be published at any moment. Unless therefore documents likely to be produced at the trial are such that their publication now is likely to cause serious prejudice to allied interest, we would deprecate postponement of the trial.

8. Please inform the State Department and ask whether they agree that SACMED should be advised to scrutinize evidence as in paragraph 4 and to decide whether there should be suppression of evidence and postponement or whether the trial should proceed and evidence admitted either in camera or in public. If so they will no doubt send appropriate instructions to Mr. Kirk.

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Caserta
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