Declassified E.O. 12356 Section 3.3/NND No. 785021

ACC

10000/141/769
(1ST)

ELECTIONS,
JUN. - AUG.

Declassified E.O. 12356 Section 3.3/NND No. 785021

10000/141/769
(1ST)

ELECTIONS, SITUATION IN BOLZANO PROVINCE
JUN. - AUG. 1945



Declassified E.O. 12356 Section 3.3/NND No. 785021

Apollo 11 Crew Portrait, Tranquility Base

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45/12

HEADQUARTERS ALLIED COMMISSION
APO 394
LOCAL GOVERNMENT SUB COMMISSION

AG/45/12/12

Tel: 478190

14 August 1945

SUBJECT: Visit of Dr. Giovanni Battista BORRI.

TO : PC Bolzano.

In the course of discussions between this HQ and the Italian Government as to the nationality problem arising in your Province as a result of the Hitler-Mussolini Accords, the Prime Minister suggested he would like to send a representative of the Government to the Province to inquire more closely into the facts of the situation and obtain fuller information. This HQ has agreed to the suggestion: and the Vice President, Civil Affairs Section, has asked me to write this letter in order to introduce to you the bearer of it, the Dr. Giovanni Battista BORRI, who is the representative selected by the Italian Government. He is traveling to Bolzano this week with the Prefect.

R. R. GILES
Colonel
Director
Local Government Sub Commission

cr/gl/pec

Copy to PC Venezia Region
(by post for information)

2227

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MEMORANDUM

On the Minority Question in Bolzano Province--
As Resulting from the Conference with
Sig. BOERI and the Prefect on 10
August 1945

1. At the conference Signor BOERI and the Prefect promised to let the VP CA Section have a memorandum stating the constitution and powers of the proposed Commission--see para 3, at folio 28.

2. The document at folio 38 purports to be this memorandum. Unfortunately, it is not what was required. It contains only 2 allusions to the constitution and powers of the Commission--side-lined in blue pencil. These tell us little more than we knew already.

3. Otherwise, the document is a mere re-hash of the old arguments on the Italian side and repeats the misapprehensions which we have tried on several occasions to remove. I do not think that the Prefect's memorandum carries the problem any further.

4. In these circumstances, it seems better to attempt to formulate a course of action based on (a) the VP's conference with the Prime Minister on 10 August and (b) his conference the same day with Sig. BOERI and the Prefect.

5. The following seem to be the points of departure at the present stage:

6. There is no objection to postponing the preparation of the electoral lists in Bolzano province. The advice hitherto tendered by this S/C has been based on the premise that electoral lists in this province must be prepared "pari passu" with the rest of North Italy. This point was emphasized by Polads in the early stages--see fo. 7A, para 6.

7. AC takes no objection to a Commission to examine doubtful cases of citizenship in the province. If the preparation of the electoral lists is to be postponed, then, of course, the main objection to such a Commission, i.e. that it would delay the preparation of the lists for a long time, disappears.

8. The Commission should be primarily a fact-finding body, i.e. it should ascertain what was in fact done under the Hitler-Mussolini Accords by the individuals composing the various classes of the German-speaking population--apply Italian law as it stands today to the facts so ascertained and declare what citizenship each such individual has in law. To this extent, the Commission would a judicial body.

9. The Commission should have no other functions at the present time. The Italian side continues to press for a "new option" and for the Commission to have power to decide whether or not to grant Italian citizenship to such new optants. The Italian side overlooks the fact that the ultimate solution of the problem can not be determined by isolated action on the part of Italian agencies. It is a matter for the Peace Treaty. Moreover, during the negotiations for the Peace Treaty, other solutions may present themselves to the Allies, e.g. an alteration of the international boundary or a compulsory transfer of population.

10. A second reason for deferring any "new option" is that no man can be fairly asked to opt until he knows what measure of autonomy it is proposed to grant to the Upper Adige. This point has been taker by the VP at the conference

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10. A second reason for deferring any "new option" is that no man can be fairly asked to opt until he knows what measure of autonomy it is proposed to grant to the Upper Adige. This point has been taken by the VP at the conference with Sig. BOERI and the Prefect. This seems also to be a matter on which Allied agreement is required: and it may be required to be dealt with at the Peace Treaty, i.e. not by unilateral Italian action.

11. In view of the foregoing, the preparation of the electoral lists in Bolzano should be stopped entirely. This is strongly urged. The Provincial and Communal administration of Bolzano province (which is charged with the preparation of the lists) is not well organized: and there is already some confusion in the preparation of the lists--see report at fo. 10 . Such confusion increases every

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day. It is strongly felt that either (a) the preparation of the lists should go forward normally as in the rest of North Italy, or (b) it should cease entirely. Any middle course will quickly lead to an inextricable muddle.

12. It is suggested that the preparation of the lists should be stopped by an ordinance of the CCAO published in the Official Gazette, repealing the ordinance directing the preparation of the lists to be commenced on 15 July, insofar as Bolzano province is concerned.

13. This would be sufficient until the province is handed over to Italian control. From that date, according to DLL 12 April 1945, No. 201, Article 5, the preparation of the lists will have to be commenced 10 days after the return. The Italian Government should, therefore, also be invited to make a Decree under which this provision would not be applicable to the province of Bolzano.

C. G. R. WILLIAMS, Major
Executive Officer
Local Government Sub Commission

13 August 1945

Distribution:

AC/45/12/LG
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HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

12 AUG 45

FROM: AC/S/G/12/LG.

SUBJECT: Electoral Lists in Bulgaria.

TO: Executive Commissioner.
Poland (A).
Poland (B).

1 I attach copy of some notes of my meeting with Sir. Noel on the above mentioned subject. Sir. Noel was quite firm in his refusal to accept our suggested method of preparing the electoral lists.

2 Yesterday evening I had a very long talk with Sir. Noel and the Prefect of Bitumo and they have promised to let us have yet further proposals in writing today for the solution of this difficult matter.

3 The Prefect differs entirely from the Legal opinion which has been expressed by the U.K. and says that the latter has not been referred to all the relevant documents. This matter is therefore again under consideration by the U.K. I am proposing to have a meeting on Tuesday at 1100 hrs with the Local Government and Legal Subcommissions to consider this matter further and to make final recommendations for its solution and I shall appreciate it if the Poles would attend. I hope that Brig. Berry can also be persuaded to stay for this meeting.

G.R. Upton, Brig.,
Yr CA Section.

Copy to: Local Government Sub-Commission.
Legal Sub-Commission.

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45/12

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CONFIDENTIAL

HEADQUARTERS ALLIED COMMISSION
MILAN OFFICE
APO 394

Dear Neal,

8 August 1945

I have just arrived in Milan after two useful days in Bolzano where I went direct on arrival here on finding that the A.P.S. meeting had been postponed. During my visit I saw the Provincial Commissioner, Bolzano and his Executive Officer the head of the S.C.I. unit (British) Merano, the head of Counter Intelligence Corps unit Merano (American), the Public Safety Officer, Merano (British) the second-in-command of the British Liaison Unit, Bolzano Division, the chairman of the C.L.N. Merano, the chief of police Merano and finally the Secretary General of the Sudtiroler Volkspartei. I enclose a copy of a record of my conversation with the last-named individual.

From the above conversation and from my own observations I have reached the following conclusions :-

The situation in the province has been deteriorated politically. Although there is at present no risk of armed clashes, the relations between the German and Italian speaking elements of the population have become more strained. This is due to a variety of reasons. One is certainly the presence of the Bolzano Division. The Bolzano, and especially the Nembo Regiment have lived their own pockets in the process of guarding dumps and have committed many aggressive acts to which Allied Officers, South Tyroleans and Italians bear witness.

Another is the complete lack of confidence on the part of the German-speaking population in any promises made by the Italian Government. This feeling is accentuated by the fact that while at the centre, Allied Military Government, the Prefect and Senior Italian Officials are trying to carry out a policy of tolerence and equality of treatment for both races, in the smaller towns and in the country districts Italian carpet-baggers are springing up who indulge in bullying, extortion and minor acts of irritation.

A third reason is the complete absence up to date of epuration of Fascists and particularly of Nazis both South Tyroleans and Reich Germans. The important Nazis, have mostly been pulled in but there are a certain number of bad men still in hiding, while there are thousands of Reich Germans including wives and families of Nazi officials. Army officers and diplomats, living in comfort in villas and chalets who are a constant source of irritation to the Italians and of stimulation to the South Tyrolean separatists. Indeed it can be said that at the moment, Bolzano province is perhaps the only place in central Europe where Nazis remain undisturbed and where Nazi idea and ideals can continue to be propagated. The uncertainty to which this state of affairs has given rise has not been diminished by the fact that certain Allied officers, particularly in the Merano area have entered into and encouraged the most cordial relations with Reich-Germans, including former members of S.S. and Gestapo, some of whom, until recently were actually employed in A.M.G. offices. A further contributing factor, to the general malaise is the presence of numerous german prisoners sick and wounded and apparently quite at liberty and able to fraternize with the local German-speaking population.

The personality of the Prefect of Bolzano, Colonel De Angelis, has been another disturbing factor. He is criticised by both Italians and South Tyroleans alike. In as much as he is seeking to carry out a middle policy, disliked by both Italians and South Tyroleans alike, this is perhaps to his credit. But criticism appears to centre more on his own past record. He is accused of being an opportunist who played with Fascists, Germans and CLNAI in turn. He is undoubtedly very unpopular, but Colonel McBratney has confidence in him

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I did not see the Prefect himself in Bolzano as he was on the point of leaving for Rome. I made careful inquiries however both in Bolzano and Merano into the allegations he had made on Rome on the subject of French activities in Bolzano province. Although it is widely believed both in official circles and among the public that the French are intriguing on behalf of the separatist. I could get no evidence of the existence of the clandestine wireless set, alleged to be broadcasting from the French Zone of Austria or of the posting of notices by the French. There is said to be a Soviet station broadcasting in German to Bolzano and I suggest we should ask whoever is doing the monitoring in place of P.W.B. to investigate both allegations. A small French military mission

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of three officers has arrived in Moreno with an unspecified object. I suggest to Colonel McCartney that this should be investigated. The French have also been sending small parties in over the Brenner to buy food. This has been stopped. In one truck as it drove through this small town there were shouts of "The French have arrived".

My recommendations are as follows :-

(1) - The Folgore Division should be withdrawn and replaced by Friuli or by Carabinieri as has been suggested by Colonel McCartney. I understand that a conference on this subject is being held at 5th Army today.

(2) The Italian Government should be advised to publish and put into effect as soon as possible a decree not only providing for linguistic equality but also establishing some form of local autonomy on the lines of that contemplated for the Val d'Aosta. Particular care to be taken to ensure that it can be made effective on the lower levels as well as at the top e.g. by increasing the number of german-speaking local officials and functionaries in para-statal services. If the Italian Government could be persuaded to agree to the appointment of Allied observers to supervise the carrying out of the decrees so much the better.

(3) The most active steps should be taken to carry out a drastic epuration of Nazis. As far as possible this should be carried out by courts composed of anti-Nazis german-speaking persons. All Reich Germans not actually imprisoned should be removed to Germany or Austria as the case may be as soon as possible. Meanwhile their activities should be carefully watched with a view to stopping propaganda among the local German-speaking inhabitants. Every effort should be made to ensure that Germans working in the province or germans sick and wounded should be treated as that they are - prisoners of war. They should not be allowed to circulate freely and they should not be allowed to mix with the local inhabitants.

(4) Allied Military personnel should be ordered to adopt the same rules of fraternisation as exist in Germany in regard to fraternisation with Reich Germans.

(5) Efforts should be made by the monitoring service to establish the identity of any wireless station broadcasting in German to Bolzano and to collect any material they may be putting out. The C.I.C. or whoever takes their place should be asked to keep a careful watch on all French activities in the province.

(6) It is the intention of the Allied Governments to leave Bolzano province as part of Italy a public announcement either official or unofficial should be made to that effect as soon as possible. If these things are done and if, as I understand is the desire of the G.O.C. 2 District, two battalions of British troops are kept in the province after the withdrawal of the U.S. 349th Regiment on or about August 20th. I believe that the problem of Bolzano is capable of a solution which should be relatively satisfactory to both parties.

S/ H. HOPKINSON

TO : H.E. Sir Noel Charles Bt. K.C.M.G.
British Embassy, Rome.

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Copies to :
Brig. LUSH, Hq. A.C. Rome
Colonel FISHER, A.C. Milan

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Translation of Prefect of Bolzano's Pro-memoire of 11.8.1945.

Original at folio

NOTE: This is the memo. promised at para. 8 of folio 27.

Upon examining the questions remaining to be solved, it appears that there are no serious divergencies between the Allied and the Italian points of view.

The proposals of the present pro-memoire would appear to reconcile the Allied suggestions with Italian interests and those of the German-speaking population.

1. Registration of Aliens.

The proposal of an Allied Order for the registration of aliens has Italian agreement.

2. Electoral Lists.

For the purpose of compiling the electoral lists it is considered necessary to clarify whether all the optants for German who did not emigrate to the Reich have remained Italian citizens or not.

On this question a divergency of views has arisen.

The Allied point of view is that those who did not emigrate to the Reich are all Italian citizens.

The Italian point of view is that, among those who remained in Italy -

(a) those, who, having opted for the Reich, did not become naturalised Germans and were not struck off the registeres of Italian citizenship are Italian citizens;

(b) those who, after opting for the Reich, became naturalised Germans and were struck off the Italian citizenship registers have become German citizens.

There are many cases where it is not possible to decide as to actual citizenship without a particular inquiry into the case. There is moreover a class of persons who have two citizenships, Italian and German.

The Italian point of view is founded on the fact that, by the law of 1939 as to options and according to the Italo-German Accord of 1941 which followed it, emigration to the foreign country is not an essential condition of the loss of Italian citizenship.

On the Italian side, it is considered necessary, for the purpose of the elections, to examine the doubtful cases by means of a special commission - considering as doubtful also those cases where the subject's declaration of having remained Italian or become German is contradictory to the effective juridical situation appearing from the communal acts and registers.

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At the same time, it is considered advisable to offer to those who, although they became Germans, have always remained in Italy, power to apply to re-acquire Italian citizenship.

Finally, it is the opinion on the Italian side that a hurried solution, merely for the purpose of not postponing the elections, would create an even more confused juridical and political situation.

The Allied point of view, as appears from yesterday's conference, would not seem to refuse to accept the Italian proposals, on condition that the exercise of the right to re-acquire Italian citizenship be preceded by a declaration of the Italian Government as to the new organisation to be granted to the Upper Adige.

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The condition is agreeable to the Italian opinion that the re-acquisition of citizenship should have full value, (especially political value) only when the persons concerned can know what the definitive organisation of the Upper Adige will be.

At this point it therefore seems possible to formulate the following concrete proposals:-

3. Proposals.

It is proposed to prepare the following documents :-

(a) by the Allies, to proceed to publish the Order for registration of aliens and of a special Order for the preparation of the electoral lists. For the latter, the following text is suggested :-

" Allied Military Government
Bolzano Province

Provincial Notice No.....

" Preparation of the Electoral Lists.

In view of the preparation of the electoral lists and considering the position as to citizenship by reason of the options of 1939, it is Ordered :

1. Those who, having acquired German citizenship emigrated to Germany (including Austria) have definitely lost Italian citizenship even when they have afterwards returned to Italy. This class is therefore excluded from the electoral lists.

2. Those who, having opted for Germany have remained in Italy and have not received the certificate of German naturalisation, continue to be Italian citizens and will be entered in the electoral lists as a matter of course.

3. Those who, having opted for Germany remained in Italy but have received the certificate of German naturalisation and have been struck off the registers of Italian citizenship have become German citizens. This may be entered on the el- electoral lists only when they have applied to re-acquire Italian citizenship and t the Italian Government have granted the application.

4. All doubtful cases shall be examined by a special commission to be constituted in the province by the Italian Government. The composition and the powers of the Commission will be made known by the Italian Government at a later date."

(b) by the Italians, to provide for:—

1. the commencement of the preparation of the electoral lists in Bolzano province according to the system established for the whole of the State;

2. the institution of a "Commission for the condition of citizenship in the Upper Adige", with seat at Bolzano. The Commission will be composed of 6 members (of whom 3 will be German-speaking) besides the President who will be indicated by the Italian Government. The duties of the Commission will be to

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3. making public a declaration to be approved by the Council of Ministers in which would be summarized the lines of the special organization to be assured to the German-speaking population of the Upper Adige. This publication will be made before or at the time of granting to those concerned the power to re-acquire Italian citizenship. The definitive organization will be elaborated in laws with the collaboration of Italian citizens and those of German-speech who have particular authority and competence.

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4. Restitution of the Province

In connection with the forthcoming restoration of Bolzano province, the Allied Government is requested to interest itself so that:

(a) the "Folgore" Division may be completely replaced before 1 September:

(b) a Commission of Allied observers may remain in the province for so long as the French military occupation of the Tyrol and Vorarlberg lasts. The Commission would have a consultative character also and would have power to suggest to the Italian Government any proposals intended to protect the special interests of the Province.

The reasons for these requests are known.

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Provincia di Bolzano (Alto Adige) 11.8.1945

Dall'esame delle questioni ancora da risolvere, risulta che non ci sono serie divergenze fra il punto di vista alleato e quello italiano.

Le proposte del presente promemoria sembrano conciliare i suggerimenti alleati con gli interessi italiani e della popolazione di lingua tedesca.

1 - Registrazione degli stranieri.

La proposta di bando alleato per la registrazione degli stranieri ha il consenso italiano.

2 - Liste elettorali.

Per la compilazione delle liste elettorali si è riconosciuto necessario chiarire se tutti gli optanti per la Germania che non si sono trasferiti nel Reich siano rimasti cittadini italiani o no.

A questo proposito è sorta una divergenza di vedute.

Il punto di vista alleato è che coloro che non si sono trasferiti nel Reich sono tutti cittadini italiani.

Il punto di vista italiano è che, fra quanti sono rimasti in Italia:

a) sono cittadini italiani tutti coloro che, avendo optato per il Reich, non sono stati naturalizzati germanici nè cancellati dai registri della cittadinanza italiana;
b) sono diventati cittadini germanici coloro che in seguito all'opzione per il Reich sono stati

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naturalizzati germanici e cancellati dai registri della cittadinanza italiana.

Vi sono molti casi in cui non è possibile decidere sullo stato di cittadinanza, senza un esame particolare. Vi è inoltre una categoria di persone che hanno due cittadinanze, quella italiana e quella germanica.

Il punto di vista italiano è fondato sul fatto che per la legge delle opzioni del 1939, e in base al successivo accordo italo-tedesco del 1941, il trasferimento all'estero non è stato più una condizione essenziale per la perdita della cittadinanza italiana.

Da parte italiana si ritiene che in occasione delle elezioni sia necessario esaminare i casi dubbi per mezzo di una speciale Commissione; considerando dubbi anche i casi nei quali la dichiarazione del cittadino di essere rimasto italiano o diventato germanico sia in contrasto con l'effettiva situazione giuridica che risulta dagli atti e dai registri comunali.

Nello stesso tempo, si ritiene opportuno di offrire a coloro che pur essendo diventati germanici sono rimasti sempre in Italia, la facoltà di chiedere il riacquisto della cittadinanza italiana.

E' infine opinione di parte italiana che una soluzione affrettata, al solo scopo di non ritardare le elezioni, creerebbe una situazione giuridica e politica anche più confusa.

Il punto di vista alleato, quale risulta dalla riunione di ieri, non sembra contrario ad accogliere le proposte italiane, alla condizione che l'esercizio della facoltà di riacquistare la cittadinanza italiana sia preceduto da una dichiarazione del Governo italiano sul nuovo ordinamento

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che sarà concesso all'Alto Adige.

Questa condizione è in accordo con l'opinione italiana che il riacquisto della cittadinanza abbia pieno valore anche politico solo quando le persone interessate conoscano quale sarà l'ordinamento definitivo dell'Alto Adige.

A questo punto, sembra dunque possibile formulare le seguenti proposte concrete.

3 - Proposte.

Si propone di compilare i seguenti atti:

a) da parte alleata, di provvedere alla pubblicazione del bando sulla registrazione degli stranieri, e di uno speciale bando per la preparazione delle liste elettorali.
Per quest'ultimo, si propone il seguente testo:

" Governo Militare Alleato
Provincia di Bolzano

Avviso Provinciale n.

Preparazione delle liste elettorali

In occasione della preparazione delle liste elettorali, considerata la situazione degli stati di cittadinanza a causa delle opzioni del1939,si dispone:

1 - Coloro che avendo acquistato la cittadinanza germanica si sono trasferiti in Germania (inclusa l'Austria) hanno definitivamente perduto la cittadinanza italiana, anche quando siano poi ritornati in I

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talia.
Tale categoria è perciò esclusa dalle liste elettorali.

2 - Coloro che avendo optato per la Germania sono rimasti in Italia e non hanno ricevuto l'atto di naturalizzazione germanica, sono rimasti italiani e saranno iscritti d'ufficio nelle liste elettorali.

3 - Coloro che avendo optato per la Germania sono rimasti in Italia, ma hanno ricevuto l'atto di naturalizzazione germanica e sono stati cancellati dai registri della cittadinanza italiana, sono diventati cittadini germanici.
Queste persone potranno essere iscritte nelle liste elettorali soltanto quando abbiano fatto domanda di riacquistare la cittadinanza italiana, e il Governo italiano abbia accolto tale domanda.

4 - Tutti i casi dubbi saranno esaminati da una speciale Commissione costituita nella Provincia dal Governo italiano. La costituzione e il funzionamento della Commissione saranno resi noti in un prossimo tempo dal Governo italiano. "

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b) da parte italiana, di provvedere:

1 - a iniziare intanto la preparazione delle liste elettorali, anche nella provincia di Bolzano, con le modalità stabilite per tutto lo Stato.

2 - a istituire una "Commissione per gli stati di cittadinanza dell'Alto Adige", con sede in Bolzano.
La Commissione sarà costituita da sei membri, dei quali tre di lingua tedesca, oltre il Presidente che sarà indicato dal Governo italiano.
I compiti della Commissione saranno di esaminare gli stati di cittadinanza dubbi e le domande di

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riacquisto della cittadinanza italiana, decidendo in merito.

3 - a rendere pubblica una dichiarazione approvata dal Consiglio dei Ministri, nella quale saranno riassunte le linee dell'ordinamento speciale da assicurare alla popolazione di lingua tedesca dell'Alto Adige. Tale pubblicazione sarà fatta prima o all'atto di concedere alle persone interessate la facoltà di riacquistare la cittadinanza italiana.
L'ordinamento definitivo sarà successivamente elaborato in leggi, con la collaborazione di cittadini italiani e di lingua tedesca che abbiano particolare autorità e competenza.

4 - Restituzione della Provincia.

In occasione della prossima restituzione della provincia di Bolzano, il Governo Alleato è richiesto del suo interessamento affinchè:

a) la sostituzione della divisione "Folgore" avvenga in modo totale prima del 1° settembre.
b) rimanga nella Provincia una Commissione di osservatori alleati, per tutto il tempo in cui durerà l'occupazione militare francese del Tirolo e del Voralberg.
La Commissione avrà anche carattere consultivo, e potrà suggerire al Governo italiano qualsiasi proposta intesa a tutelare i particolari interessi della Provincia.

I motivi di queste richieste sono noti.

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L'ordinamento definitivo sarà successivamente elaborato in leggi, con la collaborazione di cittadini italiani e di lingua tedesca che abbiano particolare autorità e competenza.

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b) rimanga nella Provincia una Commissione di osservatori alleati, per tutto il tempo in cui durerà l'occupazione militare francese del Tirolo e del Voralberg.
La Commissione avrà anche carattere consultivo, e potrà suggerire al Governo italiano qualsiasi proposta intesa a tutelare i particolari interessi della Provincia.

I motivi di queste richieste sono noti.

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COPY

LAW 21 AUGUST 1939/XVII No. 1241 (in the Official Gazette 2 September No. 205)

RULES FOR THE LOSS OF CITIZENSHIP ON THE PART OF PERSONS OF GERMAN ORIGIN AND LANGUAGE DOMICILED IN THE UPPER ADIGE

Art. 1

Persons of German origin and language domiciled in the Communes of the Upper Adige (even though resident elsewhere) who have acquired Italian citizenship as a result of the Treaty of Saint Germain (annexed to the Law 26 September 1920, No. 1322) and of the rules published in execution of the said Treaty and who intend to transfer themselves to Germany and acquire German citizenship must declare that they renounce Italian citizenship before the transfer.

The present enactment applies moreover to the descendants (being Italian citizens) of the persons indicated in the preceding paragraph.

Art. 2

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The declaration of renunciation is presented to the Prefect of the Province in which is comprised the Commune in which list of Italian citizens whereof the person concerned or his descendant has been inscribed, in accordance with Article 1 of RD 30 December 1920, No. 1890, and of Article 14 of Presidential Decree 1 February 1922, published in the Official Gazette 14 February 1922, No. 37.

The Prefect, having ascertained the existence of the requirements prescribed by Article 1, delivers to the person concerned the declaration of receipt of the renunciation and upon receipt of notice of the grant of German citizenship, provides for the cancellation of the person concerned from the laws and registers of Italian citizenship.

Art. 3

Whenever Italian citizenship has been obtained by Royal Decree in accordance with Article 2 of 20 January 1922, No. 43 converted into the Law 17 April 1925/III No. 473, the declaration of renunciation is presented to the Minister of the Interior who takes similar action to that provided for in the 2nd paragraph of Article 2.

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Art. 4

Those who have lost Italian citizenship in accordance with the present Law are exempted from the obligations of military service. The provisions of Article 9 of the Law 13 June 1912, No. 555, are not, moreover, applicable to them.

Art. 5

The loss of Italian citizenship in accordance with the present law extends to the wife and to children under age.

The provisions of Articles 3 and 9 of Law 13 June 1912, No. 555, are not applicable to those who have lost Italian citizenship as a consequence of the loss on the part of the parent exercising the "patria potesta" of the same citizenship in accordance with the present law.

Art. 6

Declarations of renunciation of Italian citizenship presented in accordance with Articles 2 and 3 are exempt from any kind of tax.

Art. 7

The present law enters into force on the day of its publication in the Official Gazette of the Kingdom.

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Translation

THE CONSUL GENERAL FOR GERMANY

D Kult 5 S Bozen - 2975 Bolzano, 20.8.1941

Subject: Agreements with regard to the acquisition of German citizenship and the loss of Italian citizenship.

Your Excellency,

I confirm our agreements made at Rome in the presence of H. E. Buffarini and General Greifelt with regard to the acquisition of German citizenship and the loss of Italian citizenship.

German citizenship will be regularly conferred after the delivery of forms 4 and 8 on the part of the Italian authorities. From the moment of the grant of German citizenship, the optant loses Italian citizenship and becomes a German citizen for all legal purposes. 2211

In order to avoid the presence of a disproportionate number of German citizens in the province, German citizenship will be normally conferred a short time before emigration. In this way the number of German citizens resident in the province will not exceed 15,000 persons. This figure, however, does not include those employed in the various German offices and their families.

In order to enable temporary journeys into Germany to be made without increasing the number of German citizens resident in the Territory of the Agreements, it is proposed to create certificates of "laissez passer".

I beg you to accept the expression of my highest consideration.

(Signed) Otto Bene

H. E. the Prefect of Bolzano

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Translation

THE HIGH COMMISSIONER OF THE GERMAN GOVERNMENT
FOR THE EMIGRATION OF "ATESINI" (equals inhabitants
of the Adige Valley)

D Kult 5 S Bozen - 2975/6136

Subject: Rectification of registers of civil status

Your No. 379 Cabinet E.T.

Bolzano 14.11.1941

Your Excellency,

The head office of the A.D.E.u.R.St. informs me:--

"According to Article 60 No. 5 of R.D. 9 July 1939, No. 1258, The Decrees and other provisions whereby a foreign State grants its citizenship to an Italian subject are required to be transcribed into the registers of civil status.

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"According to the Conventions of Rome confirmed by the letters of the Minister Bene of 20 August 1941 (D Kult 5 S Bozen 2975 and of the Prefect of 4 September 1941, Cabinet E.T. 379, the optant obtains German citizenship by the delivery of the document of naturalization; in the same moment he loses Italian citizenship. It has now been ascertained that, to date, the transcription into the registers of civil status of the grants of German citizenship to persons of German origin has been generally omitted and that the employees of the Civil Status Offices have been reluctant to enter the change of citizenship even when the person concerned has requested the said transcription in order to complete the acquisition of German citizenship. Furthermore, the German Offices for Emigration have a well-grounded interest in the appearance in the registers of civil status of the citizenship of their dependents."

With respect to the foregoing statement, I shall be grateful if you would instruct the various Civil Status Offices to proceed to carry out the requisite rectifications. For this purpose, I forward in duplicate the list of those dependents of the A.D.E.u.R.St. to whom German citizenship has been granted.

I hope you will be prepared to dispense with the presentation of the individual acts of naturalization and to accept the usual general notices to the Emigration Office of the grants of citizenship as sufficient proof that such naturalization has taken place.

I remain in expectation of a communication as to the result of your endeavors and I offer you the sentiments of my highest consideration.

(Signed) Dr. Mayr-Falkenberg

H.E. Dr. Agostino Podesta'
High Commissioner for the Execution of
the Italian Government Agreements for the Upper Adige.

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COPIA

LEGGE 21 AGOSTO 1939/XVII-n.1241 (in Gazzetta Ufficiale 2 settembre n.205).

NORME PER LA PERDITA DELLA CITTADINANZA DA PARTE DELLE PERSONE DI ORIGINE E DI LINGUA TEDESCA DOMICILIATE IN ALTO ADIGE.

Art.1 - Le persone di origine e di lingua tedesca, domiciliate nei Comuni dell'Alto Adige, anche se residenti altrove, le quali hanno acquistato la cittadinanza italiana in applicazione del trattato di San Germano, annesso alla legge 26 settembre 1920, n.1322 e delle norme emanate in esecuzione del tratto stesso, che intendono trasferirsi in Germania ed acquistare la cittadinanza germanica, devono dichiarare di rinunciare alla cittadinanza italiana prima del trasferimento.

La presente disposizione si applica, altresì, ai discendenti, cittadini italiani, delle persone indicate nel comma precedente.

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Art.2 - La dichiarazione di rinuncia è presentata al prefetto della provincia alla quale appartiene il comune nel cui elenco dei cittadini italiani l'interessato o il suo ascendente è stato iscritto a norma dell'art. 1 del R.D.30 dicembre 1920, n.1890 e dell'articolo 14 del decreto presidenziale 1° febbraio 1922 pubblicato nella Gazzetta Ufficiale 14 febbraio 1922, n.37.

Il Prefetto, accertata la sussistenza dei requisiti previsti dall'art.1 rilascia all'interessato la dichiarazione di presa d'atto della rinuncia, e, avuta comunicazione della concessione della cittadinanza ger-

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manica, dispone per la cancellazione dell'interessato dagli elenchi e dai registri di cittadinanza italiana.

Art.3 - Qualora la cittadinanza italiana fosse stata conseguita per decreto reale, a norma dell'art.2 del R.D.L.20 gennaio 1922, n.43 convertito nella legge 17 aprile 1925/III N.473, la dichiarazione di rinuncia è presentata al Ministro per l'interno, il quale provvede analogamente a quanto è disposto nel secondo comma dell'art.2.

Art.4 - Coloro che hanno perduto la cittadinanza italiana a norma della presente legge sono esenti dagli obblighi del servizio militare, ad essi inoltre, non sono applicabili le disposizioni dell'art.9 della legge 13 giugno 1912, n.555.

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Art.5 - La perdita della cittadinanza italiana a norma della presente legge si estende alla moglie ed ai figli minori.

Le disposizioni dell'art.3 e 9 della legge 13 giugno 1912, n.555, non sono applicabili a coloro che abbiano perduto la cittadinanza italiana in conseguenza della perdita della cittadinanza medesima, a norma della presente legge, da parte del genitore esercente la patria potestà.

Art.6 - Le dichiarazioni di rinuncia alla cittadinanza italiana presentate a norma degli art.2 e 3, sono esenti da qualsiasi tassa.

Art.7 - La presente legge entra in vigore il giorno della sua pubblicazione nella Gazzetta Ufficiale del Regno.

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Traduzione

IL CONSOLE GENERALE DI GERMANIA

Bolzano, 20.8.1941

D Kult 5 S Bozen - 2975

Oggetto: Accordi riguardo all'acquisto della cittadinanza germanica e alla perdita della cittadinanza italiana.

Eccellenza,

confermo i nostri accordi presi a Roma in presenza di S.E.Buffarini e del Generale Greifelt in riguardo all'acquisto della cittadinanza germanica ed alla perdita della cittadinanza italiana.

La cittadinanza germanica sarà conferita regolarmente dopo il rilascio dei mod. 4 e 8 da parte dell'Autorità italiana. Nel momento del conferimento della cittadinanza germanica l'optante perde la cittadinanza italiana e diventa cittadino germanico a tutti gli effetti di legge.

Per evitare la presenza di un numero sproporzionato di cittadini germanici nella Provincia, generalmente la cittadinanza germanica sarà conferita breve tempo prima dell'emigrazione. In tal modo i cittadini germanici residenti nella Provincia non sorpasseranno il numero di 15.000 persone. In questa cifra però non sono compresi i collaboratori dei vari uffici germanici e le loro famiglie.

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Per rendere possibili viaggi temporanei in Germania senza aumento dei cittadini germanici residenti nel Territorio degli Accordi è progettato di creare certificati di "lasciapassare".

Vi prego di gradire l'espressione della mia più alta considerazione.

F.to Otto Bene

Sua Ecc.il
Signor Prefetto di
Bolzano

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Traduzione

L'ALTO COMMISSARIO DEL GOVERNO GERMANICO PER
L'EMIGRAZIONE DEGLI ATESINI

- D Kult 5 S Bozen - 2975/6136
- Oggetto: rettifica dei registri di Stato Civile
- Vostro Nr.379 Gab.E.T.

Bolzano, 14.11.1941

Eccellenza,

l'ufficio principale dell'A.D.E.u.R.St. mi partecipa:

"Giusta art.60 Nr.5 del R.D.9.7.1939 n.1258 devono essere trascritti nei registri di Stato Civile i decreti e gli altri provvedimenti, coi quali uno Stato straniero concede la sua cittadinanza a un suddito italiano.

Secondo le convenzioni di Rome, confermate con le lettere del Signor Ministro Bene del 20.8.1941 D Kult 5 S Bozen 2975 e del Signor Prefetto del 4.9.1941 Gab. E.T. 379, l'optante ottiene la cittadinanza germanica con la consegna del documento di naturalizzazione; nello stesso momento perde la cittadinanza italiana.

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E' stato ora constatato che fino ad oggi tale trascrizione nei registri di Stato civile della concessione della cittadinanza germanica ed allogeni tedeschi è stata generalmente omessa e che gli impiegati di Stato Civile non erano disposti ad iscrivere il cambiamento della cittadinanza neppure quando l'interessato, per comprovare l'acquisto della cittadinanza germanica, aveva chiesto detta trascrizione. D'altra parte gli Uffici Germanici per l'Emigrazione hanno un fondato interesse che dai registri di Stato Civile appa-

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risca la cittadinanza dei propri dipendenti".

Con riguardo alle esposizioni di cui sopra, Vi sarò grato se vorrete istruire i singoli Uffici di Stato Civile, affinchè procedano alla esecuzione delle relative rettifiche. Vi rimetto a tale scopo, in doppio, l'elenco di quei dipendenti dell'A.D.E.u.R.St., ai quali è stata concessa la cittadinanza germanica.

Posso sperare che vorreto rinunciare alla presentazione dei singoli atti di naturalizzazione, riconoscendo quale prova sufficiente per l'avvenuta naturalizzazione stessa le regolari comunicazioni generiche all'Ufficio Emigrazione delle concessioni di cittadinanza avvenute.

Rimango in attesa di una comunicazione sul risultato delle Vostre premure e Vi porgo i sentimenti della mia più alta considerazione.

2265

F.to Dr.Mayr-Falkenberg

Eccellenza
Dr.AGOSTINO PODESTA'
Alto Commissario per l'Esecuzione degli
Accordi Italo Tedeschi per l'Alto Adige.
Bolzano
Palazzo del Turismo.

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Bolzano, August 3rd 1945

Confidential
DA/cg

Lt.Col.
WILLIAM E.McBRATNEY, Provincial Commissioner,
A.M.G.,
Bolzano.

Re: Electoral lists.

Dear Colonel,

I have received your letter of the 2nd inst. and have examined your proposed Provincial order Nr.4, which should clarify in a simple and definitive way all matters regarding the options of 1939 and of the citizenship status in the Alto Adige.

Most certainly everybody desires a simple and definitive solution; and this also with the view to hasten the preparation of electoral lists, as desired by A.C. and by the italian Government too.

I think that this desire is the cause of the proposed Provincial Order Nr.4, but I am afraid that this, apparently so brilliant, solution does not take into account the real juridical and effective situation, created by the option laws.

The proposal of Provincial Order Nr.4 is due to article 12 of the regulations dated 21.10.1939 for emigration of german-speaking people, namely: "Transfer of residence

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38 D

into Germany of the german-speaking citizen, who acquires german citizenship, is essential".

From the next of art.12 and particularly from the last part thereof, to the effect that "also german-speaking citizens residing in other provinces of the kingdom have to transfer their residence into Germany, in order to acquire german citizenship, one would, as a matter of fact, like to infer that the situation of optants, who have not transferred themselves to Germany, has simply remained that of italian citizens.

The reality is quite different. German citizenship has become practically a fact for many optants independently from transfer to Germany. Already in the "Chiarimenti alle norme" (Clarifications to the regulations) it is stated in Para. 4 that bestowal of german citizenship does not depend from transfer to Germany. In that paragraph (page 35 of the publication of the Ministry for Foreigh Affairs of the italo-german agreements) it is said: "A person is a german citizen when he has received the german naturalisation act". And it is permitted, as has been effectively the case of about 45.000 optants who have remained here, that the german naturalisation act be granted independently from the transfer to Germany.

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Even the text of the "Chiarimenti alle norme" specifies in point 4 (page 35) that "also after bestowal of german citizenship, pending transfer to Germany, italian laws have to be strictly complied with". This is of course an explicit confirmation of acqui

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rement of german citizenship before transfer.

The "Chiarimenti alle norme" have full juridical value, also if same are signed by the then Prefect of Bolzano and by the German Consul, because the successive letters exchanged between the Foreign Ministers of Italy and Germany (see pages 46 and 47 of the booklet) recognize their quality of "Official delegates" of the two governments.

Besides, article 20 of the regulations themselves (pag.18) specifies in a paragraph: "Also the german-speaking citizens of minor age who acquire german citizenship have to transfer themselves to Germany", which constitutes another further clear confirmation that acquirement of german citizenship is a prior "juridically independent" fact, whereas emigration is the consequence deriving "politically" therefrom.

So much so that the examination of the material on the italo-german agreements, which has been made in the last months in the archives of the late High Commissariats for the execution of the agreements by officers of ours and particularly by Dr. de Strobel has confirmed, as I have said, that about 45.000 optants for Germany have been naturalized German citizens without leaving this Province.

It is on the basis of such naturalisation that this category, after having acquired german citizenship, has received german passports, as established by article 10 of the regulations (page 16): "German-speaking citizens who emigrate into Germany will receive free a passport, valid two months, or,

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33C

immediately after acquirement of german citizenship, a german passport". This establishes once more acquirement of german citizenship as a juridically valid fact, before emigration.

In order to consider the importance of the prior acquirement of german citizenship, one has also to observe article 11 of the regulations according to which "the german-speaking citizen, who acquires german citizenship, becomes for Italy for every effect an "alien".

The famous article 12, which A.M.G. would now like to consider as the basis for resolving the options, is thus contradicted by the text itself of the agreements; but it is furthermore and above all contradicted by the facts. The successive agreements between the two countries, contained in the letters exchanged between the two High Commissariats and particularly the special agreement signed on August 11th, 1941 by the Italian Minister of the Interior and the German Ambassador, confirm most explicitly the full acquirement of german citizenship due only to naturalisation, also without ensuing emigration; so much that the Italian Government preoccupied themselves for the presence in the Province of so many naturalized germans without ensuing emigration, and obtained to limit the rythm of naturalisations.

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We have thus obtained, as subcategories, naturalized german optants, who have been regularly cancelled from the registers of italian citizenship and who have therefore

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become "aliens"; and others who have been naturalized germans without being cancelled from the italian registers and who could therefore sustain having two citizenships and who could use one or the other according to convenience.

Now that all this matter, besides being very complex and often also confused, has very often raised juridical, economic, contractual consequences of great importance, it is unfortunately juridically impossible to have it regulated simply by your Provincial Order Nr.4.

To understand well the problem of options it is, first of all, necessary:

1 - To have studied all the texts of the agreements, the regulations of the clarifications, and the successive complemental agreements;
2 - To have, above all, considered these texts in connection with the effective situations which have materialized, i.e. with the practical application.

2300

After having completed this study (which the Prefettura has done most thoroughly) A.M.G. will only be able to agree with my thesis; namely that to recur to a new individual declaration for the definition of citizenship status is not only the mostequitable solution for all persons concerned, but also the most practical.

Now, indeed, could the Provincial Order proposed by you, by which one would declare that the naturalized germans, who have remained in the Province have never been germans, resolve the juridical acts made by them as german citizens, as for instance divorces,a-

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38E

doptions, inheritance questions?

On the other hand I insist on the idea that it would not be democratic to enforce, with a very doubtful juridical interpreta - tion, the return to italian citizenship of all those persons who, having shown with a free juridical act their intention of becoming german citizens, who have been conse - quently naturalized germans and have not been able to emigrate only due to an act of God, determined by the declaration of war.

The situation of the Province is in fact the following. Same results without possibility of errors from the archives of the late High Commissariats for the agreements of 1939, documents of which are available in Merano.

In the year 1939 the Province had 304.000 inhabitants, of whom 230.000 german-speaking and 74.000 italians. After the options, bearing in mind what I have explained in this letter, it results that:

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1 - For Italy have voted, remaining thus italians, 43.000 german-speaking people.
2 - For Germany have voted 187.000 german-spea - king people. Of these:
a) 70.000 have transferred themselves to Germany and are now considered for the purpose of registration of aliens, "enemy a - liens" if they have returned abusively in to the Province;
b) 45.000 have not transferred themselves to Germany but have been naturalized german

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33F

citizens, with the approval of the italian Government, and cannot be at once declared italian citizens;

c) the remaining 72.000 have not transferred themselves to Germany, have not, although they have voted for Germany, been naturalized germans and can be at once declared italian citizens.

Summing up:

1 - Notwithstanding text of article 12 of the regulations of 1939, 45.000 optants for Germany, although they have remained in the Province, have received, with the explicit agreement of italian government, the german naturalisation act and are therefore "de jure" german citizens.

2 - A pure and simple nullification of the options of 1939 cannot resolve the juridical situations ensuing to the actual state as outlined in point 1.

3 - It is not possible to enroll optants as per point 1 in the italian electoral lists, without a previous clarification of their citizenship status. This clarification can be made only through an individual declaration, much more so because they have acquired german citizenship in a free individual form.

4 - This matter has to be regulated when preparing electoral lists, by means of an Allied Order or by an italian decree authorized by the Allies. In my opinion an allied order would be advisable, with the previous accord of Italian Government, who - for questions of citizenship - cannot be overlooked.

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3B G

I propose that the order be prepared by the local A.M.G., in accordance with the text sketched up yesterday with Major Williams. I would take the order with me to Rome to submit it to A.C. and to the Italian Government.

Please allow me to submit to you the following text, which considers precisely the indications of Major Williams:

Allied Military Government
Province of Bolzano

Provincial Order N.

Preparation of electoral lists

In the occasion of preparation of electoral lists, considering the confused situation regarding status of citizenship of the Province due to the options of 1939, I dispose:

1 - Persons having opted for Germany who have transferred themselves to Germany (inclusive Austria) have definitively lost italian citizenship, also if they have later on returned into Italy. This category is therefore excluded from the electoral lists.

2 - Persons having voted for Germany who have remained in Italy and who have not received the german naturalisation act, are considered italian citizens and will be enrolled ex officio in the electoral lists.

3 - Persons having voted for Germany who have remained in Italy but have received the german naturalisation act, will have to declare whether they intend to reacquire italian citizenship. In that case they will be con-

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3BH

sidered as italian citizens and enrolled ex officio in the electoral lists.

4 - Modalities for the declarations will be fixed and applied by the Italian Government of the Province, in occasion of the preparation of electoral lists.

In enclose at last copies of three documents being a part of the archives of the late High Commissariat for the execution of the agreements, and which confirm in incontestable manner the truth of what I have outlined. The first document is the "Fundamental italian law of 1939 on the loss of italian citizenship by persons of german origin and language domiciled in Alto Adige". The second and the third are official letters regarding application of the agreements, exchanged in 1941. I have underligned in red pencil the parts which confirm that the loss of italian citizenship and the acquirement of german citizenship have been "de jure"and "de facto" indipendent from transfer into Germany.

2.1.6

I remain, dear Colonel,

Yours truly

(Bruno de Angelis)

Enclosures

29
32

IM NAMEN DES GESETZES !

N° 9/44 Urt.Reg

Das Tribunal Bozen, Abt.IV, hat durch den O.L.G. Rat Dr.Penz als Vorsitzer, den L.G.Dir.Dr. Erlacher und den Tribunalrichter Dr.Janka als Richter in der Rechtssache der Klaegerin Elsa Z u e g g , geborene Pichler in Bozen,Vicolo della Fossa 5, derzeit in Meran, Galileistrasse , vertreten durch R.A.Dr. Pasquali in Bozen,

gegen

den Beklagten Robert Z u e g g , Dentisten in Bozen, Vicolo della Fossa 5 ,vertreten durch R.A. Dr.Herbert Lutz in Bozen, wegen Ehescheidung ,Unterhaltsleistung und Vermoegensauseinandersetzung

2195

zu R e c h t

erkannt:

1) Das Klagebegehren auf a) Scheidung der Ehe der Streitteile von Tisch und Bett aus dem Alleinverschulden des Mannes;

b) Verurteilung des Beklagten zur Leistung eines monatlichen UnterHaltsbeitrages von 2000 L an die Klaegerin und von 1200 Lire an die Tochter Edith Zuegg;

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c) Verurteilung des Beklagten zur Herausgabe der im Antrag vom 30.August 1943 verzeichneten Fahrnisse;

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d) Feststellung , dass der Klägerin das alleinige Verfügungsrecht ueber die Liegenschaft in Einl.Zl. 1360 II; G.B.Gries zusteht,

wird abgewiesen .

2) Die Klaegerin wird verurteilt, dem Beklagten die Kosten dieses Rechtsstreits zu ersetzen. Diese Kosten werden mit 5400 Lire bestimmt .

ENTSCHEIDUNGSGRUENDE :

Die Streitteile haben am 21.Feber 1922 vor dem katholischen Pfarramt Bozen die Ehe geschlossen. Beide Teile sind katholisch und waren bis zur Umsiedlung italienische Staatsbürger .Der Ehe ist am 27.4. 1923 eine Tochter Edith entsprossen.

Die Klaegerin fuehrt aus, ihr Mann breche seit Jahren die Ehe, er habe ihrs durch eigenmaechtiges Verbringen von Einrichtungsgegenstaenden ,Wertsachen, Kleidern und Waesche das Bewohnen der ehelichen Wohnung in dem der Klaegerin gehoerenden Hause unmoeglich gemacht und sie so gezwungen,den gemeinsamen Haushalt zu verlassen.

Sie verlangt daher die Scheidung von Tisch und

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Sie verlangt daher die Scheidung von Tisch und Bett aus dem alleinigen Verschulden des Mannes und die uebrigen im Spruche angefuehrten Entscheidungen.

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II

Nach fruchtlosem Versoehnungsversuche hat der Präsident des Tribunals nach Art. 708 ZPO. mit einstweiliger Verfügung dem Beklagten die Zahlung eines monatlichen Unterhaltsbeitrages von 1.400 Lire vom 1.Oktober 1943 an die Frau und eines Erziehungsbeitrages von monatlich L 900 für die Tochter vom 1.Oktober an bis zu dem Zeitpunkt, wo sie sich durch eigene Arbeit den Unterhalt verdienen wird, aufgetragen und die Rückstellung der Kleider und Waesche an Frau und Tochter verfügt.

Der Beklagte hat zunaechst die Abweisung der Klage, schlimmstenfalls aber Scheidung aus dem Verschulden der Frau beantragt und ausgeführt, daß nicht er, sondern die Klaegerin durch ihre ungegruendete Eifersucht und dadurch, dass sie im Herbst 1938 eigenmaechtig den gemeinsamen Haushalt verlassen habe, an der Zerrüttung der Ehe schuld sei.

Er hat weiter vorgebracht, dass er und mit ihm seine Frau und seine Tochter im Zuge der Umsiedlung die deutsche Reichsangehoerigkeit erworben haben und dass er beim Landgericht Berlin eine Klage auf Scheidung seiner Ehe dem Bande nach ein-

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weiliger Verfügung dem Beklagten die Zahlung ei-
nes monatlichen Unterhaltsbeitrages von 1.400 Li-
re vom 1.Oktober 1943 an die Frau und eines Er-
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lung die deutsche Reichsangehoerigkeit erworben
haben und dass er beim Landgericht Berlin eine
Klage auf Scheidung seiner Ehe dem Bande nach ein-
gebracht habe.

Er beantrage daher kostenpflichtige Abweisung
der vorliegenden Klage, andernfalls aber Zulassung

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der angebotenen Beweise für sein Vorbringen und Zurueckverweisung der Sache an den beauftragten Richter zur Vorsetzung des Beweisverfahrens.

Der Staatsanwalt hat sich den Antraegen der Klaegerin angeschlossen.

Das Gericht hat zunaechst das Verfahren auf die Frage eingeschraenkt, welches Recht auf die Ehe der Streitteile anzuwenden ist, weil die Entscheidung dieser Frage unter Umstaenden das weitere Verfahren entberlich macht (Art.187,Abs. 2 Z.P.O.).

Nach Art.17 der Allgemeinen Bestimmungen ueber das Gesetz werden der Personenstand, die Rechts- und Handlungsfähigkeit und die familienrechtlichen Beziehungen vom Rechte des Heimatsstaats geregelt. Nur wenn die Eheleute verschiedener Staatsangehoerigkeit sind, gilt fuer ihre persoenlichen Rechtsbeziehungen Art.18.

Es ist also zunaechst zu untersuchen, welche Staatsangehoerigkeit die Streiteile besitzen. Der Beklagte hat seine Einbuergerungsurkunde vorgelegt. Diese ist ausgestellt in Innsbruck am 11.Dezember

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Zurueckverweisung der Sache an den zustaendigen Richter zur Vorsetzung des Beweisverfahrens.

Der Staatsanwalt hat sich den Antraegen der Klaegerin angeschlossen.

Das Gericht hat zunaechst das Verfahren auf die Frage eingeschraenkt, welches Recht auf die Ehe der Streitteile anzuwenden ist, weil die Entscheidung dieser Frage unter Umstaenden das weitere Verfahren entberlich macht (Art.187,Abs. 2 Z.P.O.).

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32B

die deutsche Staatsangehoerigkeit (Reichsangehoerigkeit) erworben haben. Die Urkunde wurde dem Beklagten am 17.Dezember 1940 ausgehaendigt, wie auf ihr bestaetigt ist. Darum ergibt sich also, dass beide Streitteile deutsche Reichsangehoerige sind. Die Klaegerin behauptet dagegen, dass beide Streitteile noch immer italienische Staatsbürger seien, und hat dafür Bestaetigungen des Meldeamts Bozen vom 21.Maerz 1944 beigebracht, wonach sie noch als italienische Staatsbürger in den Bozner Einwohnerlisten eingetragen sind.

Ueber die Verleihung der deutschen Reichsangehoerigkeit hat die dafür zustaendige Behörde, der Reichsstatthalter in Tirol und Vorarlberg, entschieden und daruber die Urkunde Ziffer 119.591. (Anschlussziff. 592.593) ausgestellt, von der eine amtlich beglaubigte Abschrift vorliegt. Diese Entscheidung ist fuer die Gerichte bindend.

2193

Es ist also nur noch zu untersuchen, ob die Streitteile neben der deutschen auch die italienische Staatsangehoerigkeit besitzen, was an sich durchaus moeglich waere. Entscheidend dafuer ist, wann und

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Es ist also nur noch zu untersuchen,ob die Streitteile neben der deutschen auch die italienische Staatsangehoerigkeit besitzen, was an sich durchaus moeglich waere. Entscheidend dafuer ist, wann und wie die italienische Staatsbuergerschaft verloren geht.

Nach Art. 8 Zl. 1 des Ges. Nr.55 /1912 ver-

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liert die italienische Staatsbürgerschaft ,wer eine auslaendische freiwillig erwirbt und sei= nen Wohnsitz ins Ausland verlegt oder verlegt hat

Es ist unbestritten, dass beide Streitteile noch nicht abgewandert sind. Nach den fuer die Um= siedlung der Südtiroler geltenden Bestimmungen ist jedoch die Abwanderung keine notwendige Vor= aussetzung fuer den Verlust der italienischen Staatsbürgerschaft ? Schon nach Art.8 des Gesetzes 55/1912 ist die Regierung ermaechtigt, vom Erfor= dernis der Verlegung des Wohnsitzes ins Ausland abzusehen. Eine solche Befreiung von der Pflicht zur Abwanderung durch das Innerministerium bei Vorliegen besonderer Umstaende war auch noch im Punkt 12 der Richtlinien vorgesehen, die am 21. Oktober 1939 in Rom unterzeichnet worden sind.

Dagegen wird nach Punkt 11 dieser Richtlinien, der Volksdeutsche, der die deutsche Reichsange= hoerigkeit erwirbt, für Italien in jeder Hin= sicht ein " Auslaender" und im Punkt 4 der Erlaeu terungen zu diesen Richtlinien , die am 17.No= vember 1939 in Bozen unterzeichnet worden sind,

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Dagegen wird nach Punkt 11 dieser Richtlinien, der Volksdeutsche, der die deutsche Reichsangehoerigkeit erwirbt, für Italien in jeder Hinsicht ein " Auslaender" und im Punkt 4 der Erlaeuterungen zu diesen Richtlinien , die am 17.November 1939 in Bozen unterzeichnet worden sind, heisst es:" Deutscher Staatsbürger ist man erst, wenn man die deutsche Einbuergerungsurkunde besitzt. Bis dahin sind die Volksdeutschen , die

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fuer die deutsche optiert haben, noch italieni-
sche Staatsbuerger und unterstehen als solche den
italienischen Gesetzen." Aus Punkt II der Richtli-
nien und Punkt 4 der Erlaeuterungen ergibt sich
also, dass mit dem Erwerb der deutschen Reichs-
angehoerigkeit, d.i. mit dem Zeitpunt der Ausfol-
gang der deutschen Einbuergerungsurkunde ,die ita-
lienische Staatsangehoerigkeit erlischt. Dasselbe
ergibt sich aus den Abmachungen vom August 1941
zwischen den deutschen Gesandten Bene und dem
Praefekten von Bozen Podestà, worueber folgen-
der Schriftwechsel vorliegt: " Der deutsche General
konsul,Bozen, den 20. August 1941 D.Kult 5 S Bo-
zen Nr.2975/5227 Betr. Abkommen ueber den Erwerb
der deutschen und Verlust der italienischen Staats- 2192
buergerschaft.

Ich bestaetige unsere in Rom in Gegenwart S.E.
Buffarini und des Gruppenführers Greifelt getrof-
fenen Abmachungen ueber den Erwerb der deutschen
und Verlust der italienischen Staatsbuergerschaft.

Die deutsche Staatsbuergerschaft wird ordnungs-
gemaess nach Ausstellung der Mod.4 und 8 von seiten

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sche Staatsbuerger und unterstehen als solche den italienischen Gesetzen." Aus Punkt 11 der Richtlinien und Punkt 4 der Erlaeuterungen ergibt sich also, dass mit dem Erwerb der deutschen Reichsangehoerigkeit, d.i. mit dem Zeitpunt der Ausfolgung der deutschen Einbuergerungsurkunde, die italienische Staatsangehoerigkeit erlischt. Dasselbe ergibt sich aus den Abmachungen von August 1941 zwischen den deutschen Gesandten Bene und dem Praefekten von Bozen Podestà, worueber folgender Schriftwechsel vorliegt: " Der deutsche Generalkonsul, Bozen, den 20. August 1941 D.Kult 5 S Bozen Nr.2975/5227 Betr. Abkommen ueber den Erwerb der deutschen und Verlust der italienischen Staatsbuergerschaft. 2192

Ich bestaetige unsere in Rom in Gegenwart S.E. Buffarini und des Gruppenführers Greifelt getroffenen Abmachungen ueber den Erwerb der deutschen und Verlust der italienischen Staatsbuergerschaft.

Die deutsche Staatsbuergerschaft wird ordnungsgemaess nach Ausstellung der Mod.4 und 8 von seiten der italienischen Behoerde erteilt. Im Augenblich der Erteilung der deutschen Staatsbuergerschaft verliert der Abwanderer die italienische Staats-

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bürgerschaft. und wird mit allen Rechtsfolgen deutscher Staatsbürger.

Um die Anwesenheit einer unverhaeltnissmaessigen Anzahl deutscher Staatsbürger in der Provinz zu vermeiden, wird die deutsche Staatsbürgerschaft im allgemeinen kurze Zeit vor der Abwanderung erteilt."..... ".

Der Praefekt von Bozen, Besonderer Amt für die Durchfuehrung der italienisch- deutschen Abkommen ueber Suedtirol (Gabinetto E.T.) hat mit Schreiben vom 4. September 1941 N° 379 Gab.E.T. den Inhalt des vorstehenden Briefes bestaetigt.

Nach der vorgelegten Bescheinigung der Zweigstelle Bozen der Amtlichen Deutschen Ein-und Rückwandererstelle vom 24.Maerz 1944 liegen fuer die Streitteile sowohl das Mod. 4 als auch das Mod.8 Prot.Nr.183213 vom 27.11.1940 vor, so dass auch die im vorstehenden Abkommen erwaehnten Voraussetzungen erfuellt sind.

Danach haben also die Streitteile ihre italienische Staatsangehoerigkeit am 17.Dezember 1940 verloren. Dass sie noch in den Einwohnerlisten als

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Danach haben also die Streitteile ihre italienische Staatsangehoerigkeit am 17.Dezember 1940 verloren. Dass sie noch in den Einwohnerlisten als italienische Staatsbuerger gefuehrt werden, ist nicht entscheidend, denn die Aufnahme in diese Listen ist nicht rechtsbegründend , ebensowenig kann

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es die Streichung aus ihnen sein.

Der Gegenbeweis gegen die Richtigkeit einer solchen Eintragung muss zulaessig sein, er ist nach den vorstehenden Ausfuehrungen erbracht.

Die Streitteile sind also nur deutsche Staatsangehoerige und ihre gegenseitigen persoenlichen Rechtsbeziehungen (nicht die vermoegensrechtlichen) aus dem Eheverhaeltnis unterliegen daher nicht dem italienischen, sondern dem deutschen Recht. (Art.17 der Allgemeinen Bestimmungen ueber das Gesetz).

Das deutsche Eherecht kennt keine Scheidung von Tisch und Bett mit Aufrechthaltung des Ehebandes, die Klage enthaelt daher ein rechtlich unmoegliches Begehren, welches abzuweisen ist.

Auf die weiteren Ausführungen der Klaegerin, dass sie zur Zeit der Abstimmung von ihrem Manne getrennt gelebt habe und daher fuer sich allein optionsberechtigt gewesen sei, so dass sich die Optionserklaerung ihres Mannes nicht auf sie erstrecke, und dass sie fuer ihre Person die von ihrem Manne abgegebene Optionserklaerung wider-

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gebunden ist.

Ebensowenig ist die Einwendung der Klaegerin zu beachten, dass der Beklagte die Unzustaendigkeit verspaetet geltend gemacht habe; denn die Klage wird nicht wegen Unzustaendigkeit zurueckgewiesen, sondern aus materiellrechtlichen Gruenden abgewiesen.

Die uebrigen in der Klage begehrten Verurteilungen und Feststellungen hatten die begehrte Ehescheidung zur Voraussetzung, koennen daher nicht ausgesprochen werden.

Die Kostenentscheidung stuetzt sich auf Art. 91 Z.P.O.

Tribunal Bozen, Abt.IV

am 22. Juni 1944

gez. Dr.Penz

gez. Dr.Erlacher Urteilsverfasser

" Dr. Janka

Der Urkundsbeamte: Gez. Ladinser

Heute den 20.Juli 1944 in der Geschaefts-stelle des Tribunals hinterlegt.

Der Urkundsbeamte: gez.Ladinser Just.Insp.

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zu beachten, dass der Beklagte die Unzustaendigkeit verspaetet geltend gemacht habe; denn die Klage wird nicht wegen Unzustaendigkeit zurueckgewiesen, sondern aus materiellrechtlichen Gruenden abgewiesen.

Die uebrigen in der Klage begehrten Verurteilungen und Feststellungen haetten die begehrte Eheschaidung zur Voraussetzung, koennen daher nicht ausgesprochen werden.

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Tribunal Bozen, Abt.IV

am 22. Juni 1944

gez. Dr.Penz

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" Dr. Janka

Der Urkundsbeamte: Gez. Ladinser

Heute den 20.Juli 1944 in der Geschaefts-stelle des Tribunals hinterlegt.

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Registrato a Bolzano addi 8.8. 1944 al N°115 vol.3B mod.III. Esatte Lire quarantuno e 05/100

Il Procuratore f.to: Forest

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32 E

Per copia conforme. Per uso amministrativo

Bolzano, 16 LUG. 1945

IL Cancelliere:

2130

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Minutes of Conference as to

the Minority Problem in Bolzano Province

28
31

PLACE and DATE: ACIO — 10 August 1945 — 1745 hours

PRESENT: VI GA Section (Brig. G. R. Upjohn)
Director, Local Govt. S/C (Lt. R. R. Griggs)
D/Director " " " (Major Ralph R. Temple)
Exec. Officer " " " (Major C.G.R. Williams)
Cn. BONOMI
C. R. DE ANGELIS, Prefect of Bolzano
Sig. Arrigo MIES, interpreting

1. Brigadier Upjohn stated he had seen the Prime Minister that morning, together with the Chief Legal Adviser and the Director, Local Government S/C. He had referred to the Prime Minister's proposals in his letter of 25 July 1945. Instead of these he had urged the immediate registration in the electoral lists of every Bolzano inhabitant who, according to Italian law, was an Italian citizen.

2. After some thought, the Prime Minister said he could not agree. Among other things, he said those who opted and did not emigrate (and who might well, therefore, be Italian citizens according to Italian law as it stood at present) should not, in his view, be allowed to continue in possession of Italian citizenship.

3. Brigadier Upjohn said that in these circumstances he was prepared to consider stopping the preparation of the electoral lists so as to consider the problem at more leisure.

4. DE ANGELIS urged (a) that a Commission was necessary, and (b) that doubtful cases should be given a new opportunity to opt. He drew attention to the following classes of doubtful cases:—

(i) those who opted, did not emigrate but accepted employment in German offices with the consent of the Italian authorities. Questioned as to this, he agreed that in law these had become German citizens;

(ii) those who opted, did not emigrate but received from the Italian authorities, a dispensation from the obligation to emigrate. Questioned as to this, he agreed that these had also become German citizens;

2139

(iii) those who opted and did not emigrate, but were granted German certificates of naturalisation. He said the Italian authorities were supposed to strike these off the Italian registers. He did not say what the position was if the Italian authorities had omitted to strike the names from their registers; and the point was not carried further.

5. As to the Commission, DE ANGELIS was questioned by the officers present as to its exact purpose and powers. DE ANGELIS said that the Commission would have two functions:—

(a) It would be a fact-finding body of a judicial nature. Its duty would be to establish exactly what had been done by those German-

Declassified E.O. 12356 Section 3.3/NND No. 778021

Sig. Arrigo KIKE, interpreting

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5. As to the Commission, DE ANGELIS was questioned by the officers present as to its exact purpose and powers. DE ANGELIS said that the Commission would have two functions:—

(a) It would be a fact-finding body of a judicial nature. Its duty would be to establish exactly what had been done by those German-speaking persons who had taken some action under the Hitler-Mussolini Accord—to apply the law to the facts as ascertained—to declare whether, according to the present law and the ascertained facts, an individual was an Italian or a German citizen;

(b) To receive (under the proposal for a new option) applications to become Italian citizens and to exercise on behalf of the Italian Government the discretion vested in that Government under existing Italian law to grant or refuse such applications.

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6. As to the new option, Brigadier Upjohn said this should not take place until the Italian Government have declared their policy with regard to the Alto Adige. Otherwise, the optant, when considering anew whether to choose Italian citizenship, would have no clear idea as to what the conditions of such citizenship would be. BONNI and DE ANGELIS agreed.

7. As to the fact-finding task of the proposed Commission, DE ANGELIS urged that many people had an interest in misrepresenting the facts and some authority must be empowered to "control" the situation, i.e. to ascertain the truth. Brigadier Upjohn saw no objection to this, providing (a) preparation of the electoral lists was stopped so as to give the Commission time to perform its task; and (b) its powers were clearly defined in the document constituting it and agreed by AC.

8. BONNI agreed that the Decree constituting the Commission should contain clear directives as to its constitution and powers. BONNI and DE ANGELIS agreed to prepare a short memorandum as to the constitution and the powers they thought the Commission should have, and to let the PB have it within the next 3 days.

CWS

C. C. E. WILLIAMS
Major
Executive Officer
Local Government Sub Commission

CCEW/pes

11 August 1945

Distribution:

AG/45/12/10
CA Section
Col. Cripps
Major Temple
Major Williams
Plan5

2188

Declassified E.O. 12356 Section 3.3/NND No. 778021

CONFIDENTIAL

30

NOTES OF A MEETING
with the
PRESIDENT OF THE COUNCIL OF MINISTERS
at 1230 hrs on 10 Aug 45

PRESENT: Professor PARRI,
Sig. DE GASPERI,
Brig. UNDERHILL,
Col. CHILDS.

Brig. UNDERHILL referred to the proposal of the Italian Government with regard to the preparation of electoral lists. He said that this proposal had been discussed by the Chief Commissioner with the British and American Ambassadors and they had reached the conclusion that the proposals were slightly cumbersome and might give rise to great delays and possibly to political unrest. Brig. UNDERHILL said that he was instructed to suggest to the Government that a better way would be to prepare electoral lists on the footing that everyone would be on the list except those who had actually opted for Germany and had departed but who had subsequently returned. He pointed out that this would enable the compilation of the lists to proceed apace and that it would be without prejudice as to the final composition of the list when a decision in principle on nationality had been reached. Those who were not Italian citizens would simply be struck off the lists under the provisions of the existing law. Therefore, under the suggested method there would be no prejudgement of any doubtful cases while, on the other hand, the lists would be rapidly compiled and there would be no ground for any political discontent.

Sig. PARRI said that he did not see how the Italian Government could put on the list those who had opted for Germany even though they had not actually left Bolzano, because they had thereby shown their desire to become German nationals. He did not, therefore, think that the proposed solution of the problem was practical.

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Brig. UNDERHILL pointed out that it would, in any event, be necessary for the Italian Government to amend the Epuration Law so as to disqualify from voting not merely Fascists but also Nazis, and this would prevent most of the evident Nazis from being put on the list.

Sig. PARRI said that he still did not think that it would be right to put those who had opted for Germany on the list. He had proposed a Commission as a solution but he quite saw that the operation of the Commission might give rise to some discontent.

Brig. UNDERHILL pointed out that the Commission proposed to ask people if they desired to opt for Italian nationality but it would be quite impossible for most people to [illegible]

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PRESENT: Professor PAIRI,
Sig. HOFFMANN,
Brig. UPJOHN,
Col. GILLIS.

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Brig. UPJOHN pointed out that it would, in any event, be necessary for the Italian Government to amend the Expulsion Laws so as to disqualify from voting not merely Fascists but also Nazis, and this would prevent most of the ardent Nazis from being put on the list.

Sig. PAIRI said that he still did not think that it would be right to put those who had opted for Germany on the list. He had proposed a Commission as a solution but he quite saw that the operation of the Commission might give rise to some discontent.

Brig. UPJOHN pointed out that the Commission proposed to ask people if they desired to opt for Italian Nationality but it would be quite impossible for most people to answer that question until they knew clearly what was going to be the future policy of the Italian Government towards the German-speaking minority. Furthermore, he pointed out, this Commission would almost of necessity ensure not merely the functions of a Commission to determine the make-up of an electoral list but something much more and much higher level, namely the complicated question of nationality which might affect the future status of 200,000 inhabitants of Bolzano. It would not be right that such a Commission should have such powers.

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Sig. PANU said that he fully appreciated these points and he would like to consider this difficult matter further with other members of the Government. He thought it might be better to postpone compilation of the lists until the policy of the Government had been announced and until these complicated questions had been solved.

The inhabitants of the Province should not be permanently disenfranchised because their seats in the Constituante would remain vacant until a proper election had been held in Bolsano.

Sig. DEGASPERI said that he would like to consider this suggestion and he would in any event have to refer the matter to higher authority. Regrettable though any delay in the preparation of the electoral lists might be, he appreciated that the lesser evil might be to postpone their preparation until matters of principle had been determined.

Declassified E.O. 12356 Section 3.3/NND No. 788021

3 August 1945 12oo hrs.

Ref. Message R-4574 from AMG BOLZANO through AMG VENEZIA asking for dispatch of BOLVI to Bolzano toadvise on electoral matters.

On instructions of Major Temple I called up dr. Cosattini, Secretary to President Parri to incuiry who is BOLVI and as to his whereabouts, Dr. Cosattini promised to ring back as soon as he secured the desired information.

4 August 1945 1000 hrs.

Reference above. I rang up Dr.Cosattini. He told me that BOLVI is unknown to them and that the man in question should be BOERI. Dr. Cosattini said he spoke with the President, Prof.Parri referring to his conversation with Brig.Gen. Upjohn and the President confirmed that he suggested to send On. BOERI to Bolzano to help in straightening out the difficulties for the compiliation of the electoral list.

Dr. Cosattino gave me the following brief information on Boeri. He is well known political figure. Former member of Parliament before the fascist regime. Until recnently he was High Commissioner for Epuration. Belongs to the Action Party.

Dr. Costantino is not sure as to the present whereabout of On. Boeri. He believes in Rome and will try to contact him in order to inform him of his possible departure for Bolzano.

Nice

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Lt/Col McGarthy

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Left 1 Section to H/Cd McSpadden

Mark 11

I. I.

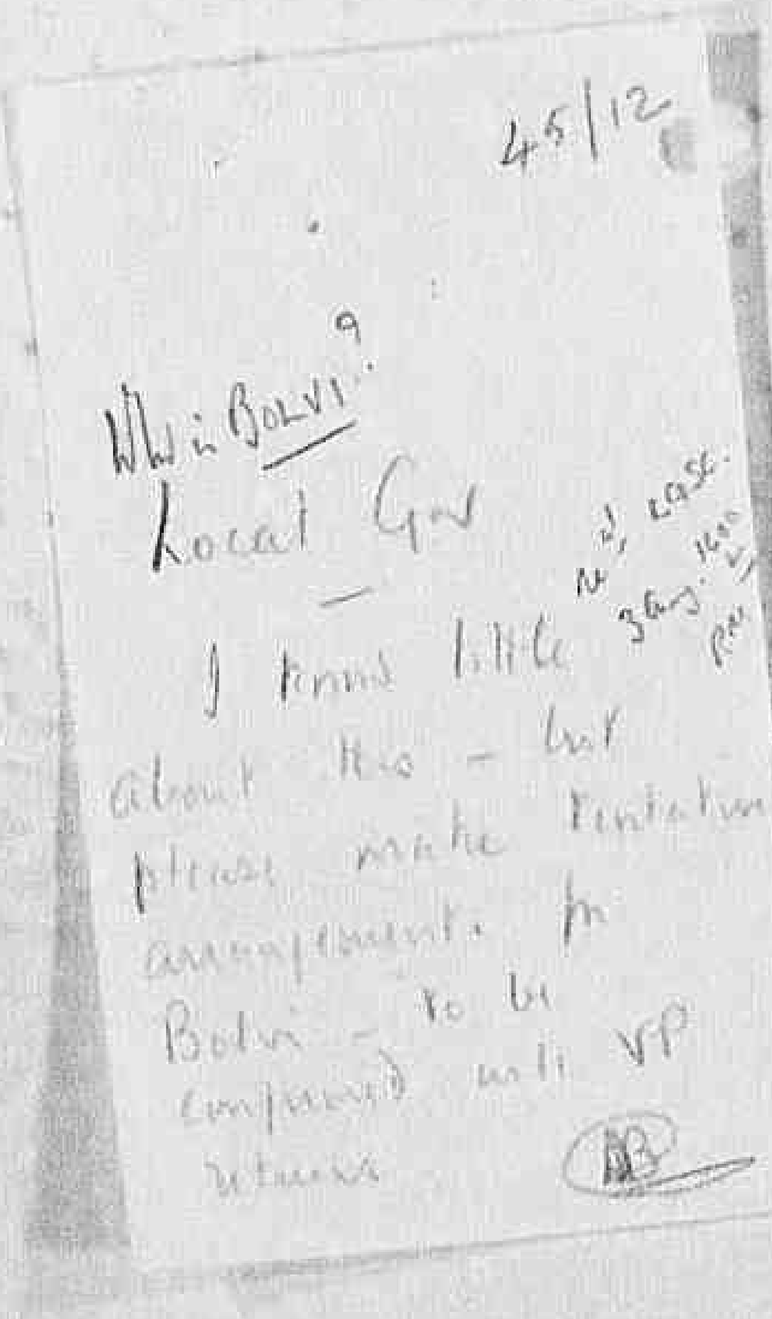
Fr. File - appropriate Lit.

Sig. BOERI in R proceed to BOLZANO on

or about Monday 13 AUG. My Temporo Orders to go

Declassified E.O. 12356 Section 3.3/NND No. 788021

Declassified E.O. 12356 Section 3.3/NND No. 785021


45/12

WH in Bolvi.

Locat Gen

I found little
about Rio - but
please make
arrangements to
Bolivia - to be
confirmed with VP
Wilson

Declassified E.O. 12356 Section 3.3/NND No. 785021

INCOMING MESSAGE

HEADQUARTERS ALLIED COMMISSION

Originator's Reference: RXII/025.111

Date/Time of Origin: JULY 301950

31 LUG 1945

Message Centre No: F/1991

Date Time Rec'd: JULY 302120B

Precedence: ROUTINE

FROM: VENEZIE REGION

TO : AICOM

UNCLASSIFIED.

Reference R 4574 dated 28 July from BOLZANO Province copy to your Headquarters. Agree that BOLVI be sent immediately to report Provincial Commissioner BOLZANO.

DIST

ACTION CA SEC

INFO CHIEF COMMISSIONER
EX COMMISSIONER 2
LOCAL GOVT
FILE 2
FLOAT

HEADQUARTERS 31 JUL 1945 2165

1221

15/1601

Declassified E.O. 12356 Section 3.3/NND No. 785021

INCOMING MESSAGE

HEADQUARTERS ALLIED COMMISSION

Originator's Reference: R-4574

Date/Time of Origin: JUL 281045B

Message Centre No: F/1641

Date Time Rec'd: JUL 2911258

Precedence: ROUTINE

FROM: AMG BOLZANO

TO : AMG VENEZIA INFO ALCOM

28 LUG 1945

IN CLEAR.

R12/12Z/123/1. PARRI suggested to URJOHN on Monday last (23 July) that BOLVI should be sent to BOLZANO to advise on function of the proposed commission to settle difficulties of compilation of electoral list. MCCARTHEY and Prefect welcome this proposal and would like BOLVI to come up as soon as possible. If you are agreeable will you signal ALCOM to send him up forthwith to report to PROVINCIAL Commissioner. Signed URJOHN.

INFO - ACTION

DIST

INFO-ACTION: CA Sec
INFO: Chief Commissioner
Ex Commissioner 2
Local Govt
File 2
Flout

King Bartlett and Wint
this about
Pols (A) has reference

REGISTERED
29 JUL 1945

1014

REPORT NO. 193

26

SUBJECT: Report of visit to Bolzano Province--1 and 2 August 1945

TO : Director, Local Government Sub Commission

FROM : Major C.G.R. Williams, Executive Officer, Local Government S/C

1. I saw the PC (Lt. Col. W. E. McBratney (A)), the PLO (Major P. Backhouse (B)) and the Prefect DE ANGELIS Bruno. Most of my time was taken up in discussion of the relationship of the minority problem to the preparation of electoral lists so that I could only make superficial inquiries as to the organisation of local government and the actual progress that is being made with the lists.

2. Out of 92 Communes, the German-appointed "Burgomeister" still exists in 70. Inquiries about these are in progress and the Prefect said he would be able to confirm them or otherwise in a week or about 10 days. Even though appointed by the Germans, some of them may be satisfactory and capable of confirmation under the title of Sindaco. I did not gather clearly what is the position as to Giunte Comunali, but it seems that action unto these has been suspended or at least slowed down pending a decision from Rome as to increasing their size. I reminded the Prefect that we had advised the PC that the size of the Giunte as laid down by MDL 111 should be strictly observed.

3. Career Segretari Comunali appear to be in office in all Communes.

4. The Deputazione Provinciale has not yet been appointed. The Prefect raised the same question on this as he had done with respect to the Giunte; i.e. he wants the size of the Deputazione increased on the ground that only thus can he give representation to the South Tyrolese. I told him that the view of AC HQ on this would be the same as with respect to the Giunte; i.e. that the representation of the German-speaking minority was only one of several factors to be borne in mind in constituting local authorities, and that the numbers laid down by law must be observed. I urged him to proceed immediately with the appointment of the Deputation: he said he would do so during the week. I pointed out that until the Deputation has been appointed, a Giunte Provinciale Amministrativa could not be legally constituted, which slows down the whole of the Communal administration; and neither can Electoral Commissions or Sub-Commissions be appointed.

5. The Tribunale of Bolzano and its Cancellario are in order and so are the population registers of the communes--in the sense that they have not suffered war damage. There is a certain shortage of Pretori, who are having to do double duty in most of the 9 Mandamenti.

6. PC told me he had returned the Provincial Report Form to Regional HQ on 23 July, for onward transmission to the S/C, rather than keeping it at his office until I arrived. It has, however, not reached this S/C yet.

2183

7. The PC told me, however, that he was not satisfied with the functioning of the Prefecture. There are insufficient trained officials and it is not well organised: one section does not know what another is doing and there is no co-ordination. The Prefect does too much detail himself and does not understand delegation. Of the 2 Vice Prefects, the political one, Walter AMMON, is of no use to the administration and is merely in the office as a sop to the South Tyrolese: the career Vice Prefect [illegible]

Declassified E.O. 12356 Section 3.3/NND No. 778231

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8. The Prefect himself is a Milanese. His father was a doctor and the PC believes the son intended to follow his father's profession but some change in the family fortune sent him into business. He took up the production of producer gas-driven heavy trucks, out of which he made a considerable fortune. During the clandestine period he was sent to Bolzano as representative of the CLNAI: and he managed to get such full control of the underground movement that he actually negotiated the local details of the surrender with the German High Command. The PC found him in office as Acting Prefect and President of the CLN: but he agreed to give up the latter office.

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26A

9. The material for the electoral lists arrived and was distributed to all Communes in good time. It is not clear what line is actually being taken about the preparation of the lists. The Prefect told me the Communes are entering on the lists:--

(a) "Normal Italians", i.e. those of Italian origin who have always been Italian citizens since the annexation of the province, and who are, therefore, not affected by the Hitler-Mussolini Accord;

(b) Optants for Italy, i.e. those of German origin who opted for Italy under the Accord.

The Prefect added that a separate list is being made of other cases, but exactly what classes of people are being put on this same list and what classes are being left off I could not discover.

10. My general impression is that both the organization of local government and the preparation of electoral lists in this province are in a state of some confusion, owing to the minority problem. This problem looms over every branch of the administration and slows down its action.

11. I had a full and lengthy discussion with the Prefect on the proposals contained in the Prime Minister's letter of 25 July. I proceeded by taking the under-mentioned 4 classes arising under the Accord and examining the application to them of the procedure proposed by the Prime Minister, i.e.

(a) those who opted and emigrated but have come back "abusively";

(b) those who opted, but did not emigrate:

(c) those who do not appear on Italian registers of population, but have no evidence of German citizenship:

(d) those whose names appear on both the Italian and the German registers.

This classification is not complete, however: for instance, the Prefect drew my attention to another class which consists of:--

(e) those who opted and then moved at irregular intervals between Germany and Italy, so that it is a question of fact whether they really emigrated or not.

12. Class (a) presents no difficulty. They have lost Italian citizenship and cannot be registered as voters and nobody suggests their status should be changed. As to the other classes, the Prefect is all in favour of a Commission; but he showed signs of wanting to have the power to determine the question himself.

13. I asked him why this special procedure was necessary and why we could not proceed on the basis of the Italian law as it stood, under which it would be the duty of the authorities already constituted (e.g. the Sindaci and the Electoral Commissions) to determine whether a person was or was not an Italian citizen, according to the facts in each case. After a great deal of talk, the upshot was that the Prefect could not answer this. He said that the facts would be difficult to ascertain; but admitted the doubtful cases did

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21 82

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14. He also said that to proceed in the way I suggested would admit a number of Nazis to the election registers. On the PC pointing out that this was a matter of epuration, he agreed at once.

15. I do not feel we can place much reliance on the Prefect. My impression is that of a muddled thinker with no experience in administration or grasp of administrative principle. For instance, he actually suggested that he, as Prefect, should have power to strike anyone off the electoral rolls on the ground that he considered them Nazis, without waiting for any epuration judgment. I had only to ask him whether he thought it just to deprive a person of his fundamental civic rights by administrative action and before judgment of the competent Court for him to withdraw the proposal immediately.

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16. I feel too that he is not too reliable on his facts. He gave me a new set of figures which I give below for what they are worth. He says that at the time of the Accord there were in the province:

(a) 6,000 "Normal Italians";
(b) 30,000 optants for Italy:
(c) 166,000 optants for Germany, of whom
(i) 80,000 emigrated, leaving
(ii) 86,000 who opted but stayed in Bolzano.

These are the ultimate figures we arrived at after a good deal of discussion of others and I don't feel that they should be regarded as authoritative.

As another instance, the Prefect maintained most explicitly in his discussion that the Accord contained a provision dispensing entirely with emigration as a condition precedent to the losing of Italian citizenship. Later in the day I was able to consult a copy of the Accord and found, of course, that this is not so.

17. The Prefect is, I feel, devoting too much of his attention to this minority problem and seems to be endeavoring to reach a quick settlement of it by his own efforts--not realizing that the final solution can only be reached at the highest level, and that it is not a matter of mere local or even Italian administration, but international. The result of this is that he has, I feel, insufficient time and attention for those duties of his office which lie nearer at home, such as creating an efficient Prefecture and reorganising local administration throughout the province.

18. My visit to Bolzano has served to confirm the view that the preparation of electoral lists in this province should not be made dependent on a solution of the minority problem. The lists in this province should be prepared upon the basis of the law of Italy as it stands at this day. The fact of Italian citizenship or not should be ascertained in the light of that law and by the authorities charged with determining such facts under the electoral law, i.e. the Sindaci, the Electoral Commissions and the Courts to whom the individual is entitled to appeal against his exclusion from the lists.

19. I see no practical difficulty in this. I do not feel that the number of doubtful cases will be large and do not see why the ordinary Italian administrative and judicial structure should be incapable of solving them.

20. On the other hand, any attempt to pre-judge the position of those German-speaking minorities of Bolzano, who according to law are still Italian citizens, is liable:--

(a) to prejudice the ultimate solution of the minority problem;

(b) to work an injustice by depriving people of their fundamental civil rights on inadequate grounds, and

(c) introduce politics into what should be a matter of the administration of justice.

21. On this last point, it should be borne in mind that the Prefect is a Milanese and is in Bolzano as a representative of the CLNAI. I believe he does wish to be fair and just to the

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These are the ultimate figures we arrived at after a good deal of discussion of others and I don't feel that they should be regarded as authoritative.

As another instance, the Prefect maintained most explicitly in his discussion that the Accord contained a provision dispensing entirely with emigration as a condition precedent to the losing of Italian citizenship. Later in the day I was able to consult a copy of the Accord and found, of course, that this is not so.

17. The Prefect is, I feel, devoting too much of his attention to this minority problem and seems to be endeavoring to reach a quick settlement of it by his own efforts--not realising that the final solution can only be reached at the highest level, and that it is not a matter of mere local or even Italian administration, but international. The result of this is that he has, I feel, insufficient time and attention for those duties of his office which lie nearer at home, such as creating an efficient Prefecture and reorganizing local administration throughout the province.

18. My visit to Bolzano has served to confirm the view that the preparation of electoral lists in this province should not be made dependent on a solution of the minority problem. The lists in this province should be prepared upon the basis of the law of Italy as it stands at this day. The fact of Italian citizenship or not should be ascertained in the light of that law and by the authorities charged with determining such facts under the electoral law, i.e. the Sindaci, the Electoral Commissions and the Courts to whom the individual is entitled to appeal against his exclusion from the lists.

19. I see no practical difficulty in this. I do not feel that the number of doubtful cases will be large and do not see why the ordinary Italian administrative and judicial structure should be incapable of solving them.

20. On the other hand, any attempt to pre-judge the position of these German-speaking minorities of Bolzano, who according to law are still Italian citizens, is liable:--

(a) to prejudice the ultimate solution of the minority problem;

(b) to work an injustice by depriving people of their fundamental civil rights on inadequate grounds, and 2181

(c) introduce politics into what should be a matter of the administration of justice.

21. On this last point, it should be borne in mind that the Prefect is a Milanese and is in Bolzano as a representative of the CLNAI. I believe he does wish to be fair and just to the South Tyrolese, but his ideas of what is just and fair can hardly be described as objective. I feel that a precise instruction on the lines of the above is more and more needed in Bolzano, or the incipient confusion is liable to become inextricable.

C. G. R. WILLIAMS, Major
Executive Officer
Local Government Sub Commission

CGRW/pec
10 August 1945

Distribution:
VF CA Section
MG Venezia (2) ✓

AG/27/15/LG
AG/1/12/3/LG
AG/1/3/148/LG

Declassified E.O. 12356 Section 3.3/NND No. 788021

Declassified E.O. 12356 Section 3.3/NND No. 78502/

25

HEADQUARTERS ALLIED COMMISSION
Office of Political Adviser (A)

August 2, 1945

TO: Civil Affairs Section

SUBJECT: Situation in Bolzano Province.

The American Ambassador has reported the substance of the Prime Minister's letter of July 23 to the Chief Commissioner concerning the compiling of electoral lists in Bolzano Province and has asked for the State Department's comments.

In reference to the doubts expressed by the Local Government Sub-Commission in paragraphs 3, 4 and 5 of its memorandum of July 27 concerning the Italian Government's proposal to extend fresh option of nationality to certain classes of residents of Bolzano who have never transferred their residence, it should be borne in mind that the final disposition of this Province is itself in doubt. Hence it may be premature to talk about the creation of minorities within Italian frontiers.

J. Wesley Jones
J. Wesley Jones
Political Adviser (A)

Copy to Political Adviser (E)

2180

HEADQUARTERS ALLIED COMMISSION
APO 394
LOCAL GOVERNMENT SUB COMMISSION

MEMORANDUM

upon the Italian Government's proposals as to German-speaking citizens in Bolzano, etc. and preparation of the electoral lists

1. This Memorandum contains an analysis of and observations upon the proposals contained in the Prime Minister's letter of 23 July (fo. 23), insofar as they relate to questions of nationality and the right to vote. Education and epuration are within others' province.

2. The proposals may be summarized as follows:

(a) all who, under the Hitler-Mussolini Agreement, opted for German citizenship and emigrated have ceased to be Italian citizens. Such of them as have returned to Italy should be expelled. None of them may vote at Italian elections:

(b) the other classes in question (see Aide Memoire at fo. 9, para 2, sub-paras b, c and d) should be offered an opportunity to make a fresh decision by means of individual written statements:

(c) A Commission should be appointed which should include some German-speaking representatives. This Commission would have to "examine" applications of those referred to in (b) above:

(d) the work of the Commission should proceed contemporaneously with the preparation of the electoral lists:

(e) the electoral lists should in the first place contain only those who are clearly Italian citizens, i.e. the 3 doubtful classes referred to in (b) above should be excluded. Subsequently, the names of those whose applications have been "accepted" by the Commission should be added.

3. The first question that arises is one of policy. It is considered that these proposals will result in the perpetuation of a German minority in Northeast Italy.

4. According to the figures (admittedly not authoritative) supplied by RC Venezie, some 150,000 people are in question. It is difficult to conceive that any of these (except the most extreme, fanatical Nazis) would voluntarily choose at the present time to become Germans and to go and live in Germany; it may be assumed that the great majority of these 150,000 will exercise their fresh option in favor of Italy. Among these 150,000 there must be large numbers who are in fact German in thought, feeling and outlook. The new "free choice" is thus not really free and the proposals will not solve the minority problem, which is primarily one of race and not citizenship.

Declassified E.O. 12356 Section 3.3/NND No. 760021

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5. The Italian Government may wish to have it so: but is this consonant with Allied policy? Do not the Allies wish to have a final settlement of such problems by means of transfers of either territory or population?

6. Two other questions arise, which, though matters of procedure, have policy implications. In the first place, the powers of the Italian Government's proposed Commission are not clear. Is it to have discretionary power and to be free to decide whether to grant or refuse Italian citizenship? Or is it to be confined merely to deciding whether those who apply are qualified so to do by reason of belonging to one of the 3 classes referred to in para 2(b) above?

Declassified E.O. 12356 Section 3.3/NND No. 770021

7. It is submitted that to vest any discretionary power not strictly controlled by law in a Commission such as this and in the matter of the personal civil liberties of individuals is undesirable. The conditions under which these people can become Italian citizens ought to be clearly and publicly laid down by law. In that case, it is difficult to see what need there is of a Commission at all.

8. Finally, it is considered that the advice as to registration of voters which this Sub Commission has previously in the matter should be again tendered, i.e. that all these doubtful cases should first be registered as electors and afterwards those should be struck off who become German citizens. The Italian Government propose the reverse, i.e. to register none of them and subsequently to bring onto the lists only those who become Italian citizens.

9. It is necessary to consider how long it is going to be before the Commission completes its work. It will clearly be a long time. The nature of the Alpine country, the means of bringing clearly to the notice of all concerned their right to make a fresh option and of persuading them to take action in good time all indicate this. Moreover, our past experience of such bodies in Italy should not encourage us to expect speed.

10. Even if elections are not held until the spring of 1946, it is reasonable to suppose that the Italian or German citizenship of considerable numbers of these 150,000 people will not have been decided. If an election is held in the autumn of this year, the number of undecided cases would be even larger. Thus, appreciable numbers of people who should have the franchise will be deprived of it for this most critical occasion.

11. The adoption of the reverse procedure, i.e. registration of all and subsequent deletion of those found to be German nationals would also constitute an inducement to ensure that the Commission acted quickly.

12. The immediate concern is the preparation of the electoral lists. This was begun in Bolzano 12 days ago. By 9 August, lists of those prima facie qualified must be sent to the Judicial Records Office for the ascertainment of disqualifying convictions for crime. As things stand and under the Government's proposals, none of these lists will contain any of the 150,000 doubtful nationality cases. The situation is thus becoming progressively more difficult to correct at a later date.

13. A decision on this point is therefore urgently required. The remaining questions can be discussed with the Italian Government at more leisure.

C. G. R. WILLIAMS
Major
Executive Officer
Local Government Sub Commission

CGRW/pec

27 July 1945

Declassified E.O. 12356 Section 3.3/NND No. 788021

Declassified E.O. 12356 Section 3.3/NND No. 780821

Translation

24 LUG 1945

24 LUG 1945

The President of the Council of Ministers

Rome, 23 July 1945

CONFIDENTIAL

To Admiral Ellery W. Stone
Chief of the Allied Commission
R o m e

I answer your memorandum concerning the criterions to be followed towards the German population of the Alto Adige for what concerns the preparation of the electoral lists.

1) I observe generally speaking that the exercise of the electoral right implies for everyone the juridical status of Italian citizen. A considerable part of the German speaking population in the Bolzano province has lost the Italian citizenship because of the 1939 option and according to the regulations of the fundamental law of 1912 on citizenship in the Italian State.

2) The Italian Government therefore considers the people who have spontaneously acquired German citizenship through option, and then settled down in Germany to have definitively lost Italian citizenship. This category cannot be allowed to return to Italy, and those who abusively returned to Italy during or after the period of German occupation must be sent back to Germany. It must be remembered that this category had been allowed to sell its property in the province in conditions which were particularly favourable, with a special rate of exchange fixed at L. 4,50 for each R.M., and that the sales are legally perfect.

3) We consider that the other categories mentioned in b,c,d, of your memorandum should be offered the possibility of freely changing their decision. A law cancelling the options and reestablishing the former situation isn't sufficient to have a really free decision; it is necessary that the wish to re-acquire Italian citizenship, or to give it up to leave the Italian State, be expressed in an individual written statement.

4) The Italian Government therefore thinks that it would be advisable to appoint in Bolzano a special commission to examine the requests of those who are included in the categories mentioned in n. 3). The works of this commission might be carried out parallelly with the preparation of the electoral lists.

5) If you, my dear Admiral, share the opinion of the Italian Government, the latter might send the Allied Commission the name of the President and members of the Commission, chosen among people that give all possible guarantees. Among the members there should be some citizens of German origin, that would give guarantees of loyalty and correction. The Allied Authorities could closely follow the works of the Commission.

6) Meanwhile, the preparation of the electoral lists can begin at once. First of all, they will include all the Italian citizens of the province, including

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Declassified E.O. 12356 Section 3.3/NND No. 785021

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the German speaking population which formerly choose Italy, then they will little by little be extended to those whose requests to re-acquire Italian citizenship have been accepted by the Commission.

Public Education

The Italian Government has already indicated the liberal criterions it means to adopt, when it will be possible, for what concerns language, culture, form of worship, customs, for the population which do not speak Italian and are not of Italian origin; these criterions have been fixed in a solemn statement of the Council of Ministers.

For what particularly concerns the Bolzano province, the Minister for Public Education is drafting a regulation which will have to be approved by the Allied Commission, to settle the use of the German language in the schools of the province for the next school year. We foresee the teaching of the mother tongue in the pre-elementary school and in the lower forms of the elementary schools.

Epuration

The new decree mentioned in the memorandum given to me on this matter and which has been issued by the Civil Commissioner of the province on the 11th, fully answers the requirements of the Bolzano province, and considers all the categories of people that have to be epurated.

The local Government will be able to clear up a few points if necessary and to make particular modifications, based on the observations and proposals of the local Italian authorities.

I remain, my dear Admiral,

Yours truly,

s. Ferruccio Parri

trans. e/c

E.C. DIST - 24 July 45.

ACTION:- C.A. SECTION (Local Govt.)
INFO:- CHIEF COMM.
EX COMM. 2 A 6
POLAD A
POLAD B

6520

Declassified E.O. 12356 Section 3.3/NND No. 785021

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Potsdam
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Il Presidente
del Consiglio dei Ministri

Roma, 23 luglio 1945

CONFIDENZIALE

All'Ammiraglio Ellery W. STONE
Capo della Commissione Alleata

R O M A

Rispondo al Suo promemoria relativo ai criteri da seguire nei riguardi della popolazione tedesca dell'Alto Adige in ordine alla compilazione delle liste elettorali.

1°) Osservo in generale che l'esercizio del diritto elettorale presuppone per ciascuno lo stato giuridico di cittadino italiano. Considerevole parte della popolazione di lingua tedesca della provincia di Bolzano ha perduto la cittadinanza italiana, in conseguenza delle opzioni del 1939 ed in base alle disposizioni della legge fondamentale del 1912 sulla cittadinanza nello Stato italiano.

2°) Il Governo italiano é pertanto del parere che abbiano perduto definitivamente la cittadinanza italiana coloro che avendo acquistato spontaneamente la cittadinanza germanica per effetto dell'opzione hanno poi stabilito la propria residenza in Ger-

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Declassified E.O. 12356 Section 3.3/NND No. 785021

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Il Presidente
del Consiglio dei Ministri

mania. Non solo a questa categoria non può essere consentito di ritornare in Italia, ma dovranno essere rinviati in Germania quanti hanno fatto abusivamente ritorno durante o dopo il periodo dell'occupazione tedesca. E' utile ricordare che questa categoria ha ottenuto a suo tempo di vendere i propri beni nella provincia a condizioni di particolare favore, con uno speciale cambio fissato in £. 4,50 per R.M., e che le vendite sono giudiricamente perfette.

3°) Alle altre categorie indicate nelle lettere b, c, d. del Suo pro-memoria crediamo debba essere offerta la possibilità di ritornare liberamente sulla propria decisione. Affinché la decisione sia veramente libera, non é sufficiente una legge che annulli le opzioni e ripristini la situazione precedente, ma é necessario che la volontà di riacquistare la cittadinanza italiana, o di rinunciarvi per lasciare lo Stato italiano, si manifesti con una dichiarazione individuale scritta.

4°) E' parere pertanto del Governo italiano che sarebbe opportuno provvedere alla nomina in Bolzano di una speciale Commissione incaricata di esaminare le domande di coloro che

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Declassified E.O. 12356 Section 3.3/NND No. 788021

BD

Il Presidente
del Consiglio dei Ministri

sono compresi nelle categorie indicate al punto 3°). I lavori di questa Commissione potrebbero svolgersi parallelamente alla preparazione delle liste elettorali.

5°) Qualora Ella, signor Ammiraglio, condividesse il parere del Governo italiano, questo procederebbe a designare alla Commissione Alleata il Presidente della Commissione ed i componenti, scelti tra persone che dovrebbero fornire tutte le garanzie al riguardo. Tra i componenti dovrebbero essere scelti alcuni cittadini di origine tedesca che dessero garanzia di lealtà e correttezza. Le Autorità Alleate avrebbero il modo di seguire da vicino i lavori della Commissione.

6°) La preparazione delle liste elettorali può essere frattanto iniziata senz'altro. E se comprenderanno innanzi tutto i cittadini italiani della provincia, inclusa la popolazione di lingua tedesca che ha a suo tempo optato per l'Italia, e saranno poi via via estese a coloro dei quali la Commissione avrà accolto le domande per il riacquisto della cittadinanza italiana.

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Declassified E.O. 12356 Section 3.3/NND No. 785021

23E

Il Presidente
del Consiglio dei Ministri

Istruzione pubblica

Il Governo italiano ha già indicato quali sono i criteri liberali che esso intende di adottare, quando ne avrà la possibilità, in materia di rispetto della lingua, della cultura, delle forme del culto, dei costumi verso le popolazioni di lingua e origine diversa dall'italiana: questi criteri sono stati fissati in una solenne dichiarazione del Consiglio dei Ministri.

Per quanto riguarda in particolare la provincia di Bolzano il Ministro per la pubblica istruzione sta predisponendo un provvedimento, che sarà sottoposto all'approvazione della Commissione Alleata, che dovrà regolare l'uso della lingua tedesca nelle scuole della provincia per il prossimo anno scolastico. Si prevede in generale l'insegnamento nelle lingua materna nella scuola/e nelle classi inferiori delle scuole elementari.
pre-elementare

Epurazione

Il nuovo bando al quale accenna il promemoria presentatomi sulla questione e che é stato pubblicato dal Civil Commissioner della Provincia l'11 u.s. risponde pienamente alle esigenze della situazione della provincia di Bolzano, considerando tutte le categorie delle persone che devono esser sottoposte ad epurazione.

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Declassified E.O. 12356 Section 3.3/NND No. 780021

23F

Il Presidente
del Consiglio dei Ministri

Eventuali chiarimenti e modifiche particolari potranno essere apportate dal Governo locale in base alle osservazioni e proposte delle autorità locali italiane.

Colgo l'occasione, Signor Ammiraglio, di esprimerle i sensi della mia alta considerazione

Ferruccio Parri

2171

Declassified E.O. 12356 Section 3.3/NND No. 780021

45/12

HEADQUARTERS ALLIED COMMISSION
APO 394
Office of the Executive Commissioner

To Local Gov: 22
PRO Has been informed
AM.

20 July 45.

20 JUG 1945

Ref:9258/103/EC.

Subject: Press Release.

To: VP, CA Section (For PRO).

Reference inter-office memorandum of 17 July attaching press notice in draft. This is returned herewith for realease as amended.

2170

For Chief Commissioner:

E. Thrasher
Brigadier,
Executive Commissioner.

6485 d.g.

Encl - 1.

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Declassified E.O. 12356 Section 3.3/NND No. 785021

(92)

No foundation whatsoever exists in recently published reports that the Allied authorities have given permission for the former prefect and the former mayor of Bolzano to proceed to Paris, London and Washington for political purposes, the Allied Commission announced today.

The Allied Commission reiterated that the aforesaid reports are entirely baseless. No authority has been granted by Allied authorities for such travel.

The Allied Commission further deplored the circulation of such statements which can only lead to the detriment of law and order in Bolzano Province.

OK
Except last 91
words is not
factual
EWS

SEE F-91

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Declassified E.O. 12356 Section 3.3/NND No. 785021

21

HEAD QUARTERS ALLIED COMMISSION
AFO 394
LEGAL SUB-COMMISSION

AC/4187/3/L

17 July 1945

17 LUG. 1945

SUBJECT : Reacquisition of Italian Citizenship.

TO : VF CA Sec

Reference this sub-commission's letter, AC/4187/3/L of 15 July 1945, subject as above, herewith enclosed a fuller and more accurate translation of the various provisions in respect of the above.

G. G. Hannaford

G. G. HANNAFORD,
Lt. Col.,
Officer i/c Italian Branch.
for Chief Legal Advisor.

Copy to :

Political Advisor (American)
Political Advisor (British)
Local Government Sub-Commission.

To local Govt s/c.

Please keep CAB has no appropriate file

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258

Declassified E.O. 12356 Section 3.3/NND No. 785221

21A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

GGH/lc.
15 July 1945

AC/4187/3/L.

SUBJECT : Reacquisition of Italian Citizenship.

TO : VP CA Sec.

16 LUG 1945

At Colonel Cripps's request I enclose a translation of the various provisions in respect of the above.

G. G. HANNAFORD, 2167
Lt. Col.,
Officer i/c Italian Branch,
for Chief Legal Advisor.

Copy to : Political Adviser
Local Gvt S/C.

EXTRACT OF LAW NO 555 OF 13 JUNE 1912, ON ITALIAN CITIZENSHIP

218

(A). Art.8 - Loss of citizenship.

Citizenship shall be lost by those persons :-

1) who spontaneously acquire a foreign citizenship and establish or have established their own residence abroad;

2) who, having acquired foreign citizenship independently from their own will, make a declaration foregoing their Italian citizenship, and establish or have established their own residence abroad. The Government may, in the cases contemplated in Nos 1 and 2, dispense with the condition of the transfer of residence abroad;

3) who, having accepted employment by a foreign Government or having entered the military service of a foreign power, continue to serve the foreign government notwithstanding the warning from the Italian Government to leave the employment or service within a fixed time limit.
The loss of citizenship in the cases contemplated by the present article shall not exempt a person from military service, save the facilities granted by special laws.

Art.9 - Reacquisition of citizenship.

Persons who lose their citizenship under Articles 7 and 8 shall reacquire it :

1) if they serve in the armed forces in the Kingdom or accept state employment;

2) if they make a declaration foregoing the citizenship of the state to which they belong or prove that they have foregone the employment or military service abroad which they continued notwithstanding prohibition by the Italian Government, and if in both cases they have established or establish within the year their residence in the Kingdom;

3) after two years residence in the Kingdom, if the loss of citizenship was the result of acquiring foreign citizenship.

However, in the cases contemplated in Nos 2 and 3, a person shall lose the right to reacquire citizenship if the Government should so order. The Government may exercise this power when serious conditions call for it and upon the recommendation of the State Council, within the time limit of three months from the fulfilment of the conditions set out in Nos 2 and 3 if the last foreign citizenship is of a European state, otherwise within the time limit of six months.

2166

The right of reacquiring citizenship without obligation to take up residence in the Kingdom shall be granted to persons who have for more than two years forsaken their residence in the state to which they belonged and have removed it to another foreign state of which they

Declassified E.O. 12356 Section 3.3/NND No. 788021

dispense with the condition of the transfer of residence abroad;

3) Who, having accepted employment by a foreign Government or having entered the military service of a foreign power, continue to serve the foreign government notwithstanding the warning from the Italian Government to leave the employment or service within a fixed time limit.

The loss of citizenship in the cases contemplated by the present article shall not exempt a person from military service, save the facilities granted by special laws.

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2166

The right of reacquiring citizenship without obligation to take up residence in the Kingdom shall be granted to persons who have for more than two years forsaken their residence in the state to which they belonged and have removed it to another foreign state of which they have not taken the citizenship. In such case, however, a permit to reacquire citizenship must be granted by the Government beforehand.

Art.16 - Procedure for declaration.

The declarations contemplated by the present decree may be made to the civil status official of the Commune in which the person concerned has established or intends to establish his residence, or to a Royal diplomatic or consular agent abroad.

The power to receive such declarations may be extended by the King's Government to other public officials.

(9)

Declassified E.O. 12356 Section 3.3/NND No. 799021

21C

(B) Articles 7, 8 and 9 of RD No 949 of 2 August 1912 sets out the procedure to be followed whenever it is desired to reacquire Italian nationality under Law No 555 of 13 June 1912.

(C) Para 2 of Art 9 of Law 555 has been partly abrogated by the fascist legislation of 16 June 1927, No 1170, which makes it a criminal offence for any Italian citizen to accept public functions in a foreign state without the authorization of the Foreign Office or refuses to resign his post when ordered to do so by the Italian Government.

Whoever is sentenced for such offence loses automatically his (her) Italian citizenship and cannot reacquire it under art 9 of the law in point.

(D) Decisions of the Supreme Court of Cassation have established a constant jurisprudence on the interpretation of Para 3 of Art 9 of law 555. It is held that two years residence in the Kingdom of Italy is sufficient in itself to establish the right of a person to reacquire Italian nationality. Evidence as to the intention of reacquiring Italian citizenship is not necessary. It has even been held that citizenship may be thus reacquired against the express will of the person concerned.
(C.C. 29.5.1931 from C.A. Napoli - C.C. 13.12.1935 from C.A.Trento).

This is, however, contested by independent jurists. (See Digests).

Legal Sub-Commission.
17 July 1945.

7 copies:

C.A.Section - 2
Polad (A) - 1
Polad (B) - 1
RLO Venezia Region - 1
Legal - 1
Local Gmt'k - 1

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Declassified E.O. 12356 Section 3.3/NND No. 788121

Declassified E.O. 12356 Section 3.3/NND No. 785021

Copy.

Confidential.

21D

July 15, 1945.

To the Prime Minister
R O M E.

Revision of citizenship status of in the Alto Adige.

General Dunlop, General Upjohn, Mr. Robinson and myself have had yesterday at the Headquarters of Allied Comission the second meeting for definition of formalities for revision of the status of citizenship of the optants for Germany, when preparing the electoral lists.

After having with full approval taken note of the point of view of the Italian Government, pending receipt of your written reply to the note of Admiral Stone, it has been agreed that the President and the members of the Bolzano Comission, which will have to decide on the requests to reacquire italian citizenship, will be proposed by Italian Government. It has not been deemed necessary to have on this comission a representative of Allied Comission, which will have to be informed of the proceeding of work.

It is of utmost importance that the Comission be appointed by the Allies and that it operates during allied occupation and under their control, as soon as possible.

As a matter of fact, allied agreement and control for the revision of citizenship-status may be extremely useful in the event that at the peace conference Austria should advance a request for the Alto Adige.

In such an eventuality, the declarations, which by form and contents are an internal regulation of an Italian Province, may acquire force of plebiscite and international value, eliminating any trial to have further calls for the auto-decision of the German-speaking population.

But in order that the requests and declarations of re-acquirement of italian citizenship may have a thorough justification and conserve an indisputable value also before an international congress, it seems necessary that, before the Bolzano comission begins its work, the italian government should announce in its principal lines the new definite order of the province and that this order satisfies the just aspirations of the German-speaking population.

-2

Declassified E.O. 12356 Section 3.3/NND No. 780021

For the end of the month I shall be able to present to you in Rome a scheme of above order, to be submitted to a meeting of the cabinet.

I call meanwhile your attention on the necessity that the constitution of the commission, the text of the powers granted to same, the text of the declarations which will have to be signed by the optants, even the text of allied authorization for the functioning of the commission, the proceeding of work and that of allied control, will have to be most carefully studied by the italian government, in order that the results may be formally and juridically impeccable.

I shall appreciate to your appointing shortly the President of the Commission, a judge or a lawyer, in order that he may as soon as possible arrive at Bolzano for organising his work. At least two members of the Commission should be exponent of the german-speaking population, who having voted for Italy, have remained italian citizens. I am already now in the position to propose the names of Avv. Walter de Walther, the president of the Chamber of Commerce of Bolzano and of Avv. Raffeiner, the general secretary of the Südtiroler Volkspartei. Both are men esteemed for honesty, competence and political correctness.

THE PREFECT
(F. De Angelis)

Declassified E.O. 12356 Section 3.3/NND No. 785021

Copy.

Confidential.

21F

To the
Chief Commissioner of Allied Commission

from the Italian Prime Minister.

I state the point of view of the italian government regarding the questions outlined in your note of .....

1) Electoral Lists.

Exercise of electoral right presupposes for everyone the juridical status of italian citizens. A great part of the german-speaking population of the province of Bolzano has lost the italian citizenship, due to the options of 1939 and in accordance with dispositions of the 1912 law on the citizenship in the italian state.

The italian government is of the opinion that :

1) those persons have lost definitively italian citizenship, who, having spontaneously acquired german citizenship, have taken up residence in Germany. These persons cannot be entitled to return to Italy and even will have to be sent back to Germany those who shall have voluntarily returned during or after the period of german occupation. It has to be remembered that this category of people has at that time obtained to sell their properties at particularly favourable conditions with the special rate of exchange of L. 4.50 per RM and that the sales have been perfectioned.

2) To the other categories named in para's b,c,d of your note should be offered the possibility to reverse freely their decision. In order that the decision may be really a free one, it is not sufficient to issue a law rendering options void and reinstating the previous situation, but it is necessary that the will to reacquire the italian citizenship or to renounce to same for abandoning the italian state be expressed with an individual written declaration.

3) It seems therefore advisable to appoint in Bolzano a special commission to be charged with examining the requests of people named under point 2) The work of this commission can be carried out in a parallel line with the preparation of electoral lists; in order that as soon as a request is granted,

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Declassified E.O. 12356 Section 3.3/NND No. 780021

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the new citizen is inscribed in the electoral lists.

4) One can begin direct with the preparation of electoral lists. These will comprise first of all the Italian citizens of the Province, inclusive of the German-speaking population who has originally opted for Italy, and will be then extended to the new citizens. The electoral lists can be prepared per communes. At the moment of political elections, if same will be held during the current year, the lists will not be completed for the whole Province, in view of the great and detailed amount of work. Results of the elections may be integrated and corrected by means of additional votings.

Administrative elections will take place when in each commune reexamination of citizenship will have been completed.

II. Schools.

The Italian government is studying a new scolastic order in the province. Same foresees the parithetic teaching of the Italian and German languages. Generally it has been agreed that in the kindergarden and in the first class only the mother language shall be taught and that in the upper classes the other language will be gradually taught. The scolastic order foresees an Italian Provveditore degli Studi and two Vice-Provveditori, one Italian and one German speaking, who will be in charge of the respective group of Italian and German schools and classes. The scheme is being prepared in cooperation among expert Italian and German teachers of the Province.

III. Epuration.

The Italian government is aware of the fact that the new order prepared by the Provincial Commissioner and issued on July 11th corresponds fully with the special requirements of epuration in the Alto Adige.

Maybe some slight changes and explanations are advisable which may be arranged for by the local Government.

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Declassified E.O. 12356 Section 3.3/NND No. 785021

Copy.

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IL PREFETTO DI BOLZANO

Rome, July 17th 1945.

Dear Mr. Jones,

I venture to enclose for your information an outline of the contribution of italian labour and investments to the development of the Alto Adige region.

The province of Bolzano-which, after the first world war had a 90% German-speaking population and an economy almost exclusively based on agriculture-is now endowed with large road system, important constructions and public works, modern and powerful hydro-electric plants as well as with a number of heavy and other industries. All of this represents the contribution of Italian labour and capitals to the economic advancement of the Alto Adige. The Italian speaking population has meanwhile greatly increased, exceeding now 1/3 of the total, while the use of the Italian language is widespread in the whole region.

The province has thus has undergone a radical change and, on account of the present industrial and agricultural possibilities it can be considered one of the most flourishing of Italy's regions.

The hydroelectric plants of the Alto Adige hold a position of importance essential to the economic system of Northern Italy. The electric production was, in 1913, only 90 million kWh per year, against one milliard 700 hundred millions representing the production of 1939.

When however the plants which are now under construction and those designed and provided for will be completed, the province will produce a total of more than 3 and a half milliard kWh, approximately 2 milliards 700 millions of which could, by means of the existing lines, supply the industries of Northern Italy.

The electric power of the Alto Adige, which may in the near future reach one third part of the total produced in Northern Italy, will be of great value for the reorganization of the new industrial economy of Italy within the framework of the European system.

It can safely be stated that at the Brenner Pass Italy defends not only the limit created by nature, impartial judge of national boundaries, but also the peaceful labour and welfare of the industrial workers of Northern Italy.

Italian labour and capital have brought to German-speaking population of Alto Adige to a high standard of economic welfare. The Italian democratic government is determined to grant to the region a new legislation by which the German-speaking population will be allowed to enjoy their freedoms and, in an approximate manner measure, their autonomy based on equal rights and equal duties for both Italian and German speaking citizens. While all the German speaking people are carrying the burden of defeat and Czechoslovakia exercises her sovereign right in expelling from her territory

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Declassified E.O. 12356 Section 3.3/NND No. 785021

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three millions Germans, democratic Italy shows her respect of minorities by giving to the Alto Adige German inhabitants a position of privilege unequalled in Europe, although South Tyrol's contribution to Fascism was by no means inferior to that of the Austrian.

It is undoubtedly a proof of a great generosity the fact that, while the Italian population still carries a vivid and living recollection of the thousand victims put into concentration camps and prisons in the Alto Adige by Tyrolese judges, agents, informers, those who had previously chosen German citizenship will not be prevented from reconsidering their choice.

The results of the revised status of citizenship will in due time establish Italy's right to the undisputed possession of the Alto Adige.

Believe me, dear Mr. Jones,

Yours faithfully

signed S. de Agostini

To D. H. Jones Esq.
American Political Adviser,
Allied Commission,
R O M E.

2133

Declassified E.O. 12356 Section 3.3/NND No. 785021

21K

Copy.

République Française
Délégation Française

Bolzano, le 12 Mai 1945.

Le Capitaine Henri C l a i r v a l
Commandant la Délégation Française
à Bolzano

à Monsieur le Préfet de Angelis
Préfecture de Bolzano.

J'ai été présenté à vous le Jeudi 3 Mai 1945, à la Préfecture par l'Amiral Préfet, Monsieur Tiezi. Je suis ici en Mission secrète envoyé, avec mon lieutenant, par le Gouvernement Français. Nous sommes tous les deux en contact journalier avec notre Gouvernement et le S.C.C. allié.

En conséquence, notre position ici en ce pays est très nette : nous venons en vainqueurs et en occupants.

Tous les jours un personnel et mal-aise, nous nous heurtons à des difficultés, souvent ridicules, de la part de vos services. Je tiens à vous prévenir que si cet état de choses devait se prolonger, je serais obligé de recourir, par l'intermédiaire de mon Gouvernement qui je présente ici aux sanctions les plus sévères.

Si vous devez avoir à faire quelques observations en réponse à la présente lettre, vous pourrez me trouver sur rendez-vous à mon C.C., Villa Ravanelli, 2 Via di Lana. Téléphone Nr.36-15.

L'Officier Commandant la
Délégation Française à Bolzano

Signed: Clairval.

2138

Declassified E.O. 12356 Section 3.3/NND No. 785021

Copy.
Confidential.

July 15, 1945.

To the Prime Minister
R o m e.

Revision of citizenship status in the Alto Adige.

General Dunlop, General Upjohn, Mr. Robinson and myself have had yesterday at the Headquarters of Allied Commission the second meeting for definition of formalities for revision of the status of citizenship of the optants for Germany, when preparing the electoral lists.

After having with full approval taken note of the point of view of the Italian Government, pending receipt of your written reply to the note of Admiral Stone, it has been agreed that the President and the members of the Italian Commission, which will have to decide on the requests to recognize Italian citizenship, will be proposed by Italian Government. It has not been deemed necessary to have on this commission a representative of Allied Commission, which will have to be informed of the proceeding of work.

It is of utmost importance that the Commission be appointed by the Allies and that it operates during allied occupation and under their control, as soon as possible.

As a matter of fact, allied agreement and control for the revision of citizenship-status may be extremely useful in the event that at the peace conference Austria should advance a request for the Alto Adige.

In such an eventuality, the declarations, which by form and contents are an internal regulation of an Italian Province, may acquire force of plebiscite and international value, eliminating any trial to have further calls for the auto-decision of the German-speaking population.

But in order that the requests and declarations of reinvestment of Italian citizenship may have a thorough justification and conserve an indisputable value also before an International congress, it seems necessary that, before the Italian commission begins its work, the Italian government should announce in its principal lines the new definite order of the province and that this order satisfies the just aspirations of the German-speaking population.

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Declassified E.O. 12356 Section 3.3/NND No. 788021

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For the end of the month I shall be able to present to you in Rome a scheme of above order, to be submitted to a meeting of the cabinet.

I call meanwhile your attention on the necessity that the constitution of the commission, the text of the powers granted to same, the text of the declarations which will have to be signed by the agents, even the text of allied authorization for the functioning of the commission, the proceeding of work and that of allied control, will have to be most carefully studied by the italian governments, in order that the results may be formally and juridically impeccable.

I shall appreciate your appointing shortly the president of the commission, a judge or a lawyer, in order that he may be soon as possible arrive at Rome for organizing his work. At least two members of the commission should be appointed of the german-speaking population, who having voted for Italy, have remained italian citizens. I am already now in the position to propose the names of Avv. Walter de Walther, the President of the Chamber of Commerce of Bolzano and of Avv. Raffeiner, the general secretary of the Cattolica Volkspartei. Both are well considered for honesty, competence and political correctness.

THE PREFECT
(P. De Angelis)

Declassified E.O. 12356 Section 3.3/NND No. 785021

Copy.

Confidential.

21 N

To the
Chief Commissioner of Allied Commission

From the Italian Prime Minister.

I state the point of view of the Italian government regarding the questions outlined in your note of .....

1) Electoral lists

Exercise of electoral right presupposes for everyone the juridical status of Italian citizens. A great part of the german-speaking population of the province of Bolzano has lost the Italian citizenship, due to the options of 1939 and in accordance with dispositions of the 1912 law on the citizenship in the Italian state.
The Italian government is of the opinion that :

1) these persons have lost definitively Italian citizenship, who, having spontaneously acquired German citizenship, have taken up residence in Germany. These persons cannot be entitled to return to Italy and even will have to be sent back to Germany those who who have abusively returned during or after the period of German occupation. It has to be remembered that this category of people has at that time obtained to sell their properties at particularly favourable conditions with the special rate of exchange of L.1.50 per RM and that the sales have been perfectioned.

2) To the other categories named in para's b,c,d of your note should be offered the possibility to reverse freely their decision. In order that the decision may be really a free one, it is not sufficient to issue a law rendering options void and reinstating the previous situation, but it is necessary that the will to reacquire the Italian citizenship or to renounce to same for abandoning the Italian state be expressed with an individual written declaration.

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Declassified E.O. 12356 Section 3.3/NND No. 788221

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4) One can begin direct with the preparation of electoral lists. Same will comprise first of all the Italian citizens of the Province, inclusive of the German-speaking population who has originally opted for Italy, and will be then extended to the new citizens. The electoral lists can be prepared per communes. At the moment of political elections, if same will be held during the current year, the lists will not be completed for the whole Province, in view of the great and detailed amount of work. Results of the elections may be integrated and corrected by means of additional votings.

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III. Operation.

The italian government is aware of the fact that the new order prepared by the Provincial Commissioner and issued on July 12th corresponds fully with the special requirments of operation in the Alto Adige.

Maybe some slight changes and explanations are advisable which may be arranged for by the local Government.

Declassified E.O. 12356 Section 3.3/NND No. 785021

Ro , July 17th 1945. 21Q

Dear Mr. Jones,

I venture to enclose for your information an outline of the contribution of italian labour and investments to the development of the Alto Adige region.

The province of Bolzano-which, after the first world war had a 90% German-speaking population and an economy almost exclusively based on agriculture-is now endowed with large road system, important constructions and public works, modern and powerful hydroelectric plants as well as with a number of heavy and other industrie All of this represents the contribution of Italian labour and capitals to the economic advancement of the Alto Adige. The italian speaking population has meanwhile greatly increased, exceeding now 1/3 of the total, while the use of the Italian language is widespread in the whole region.

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Italian labour and capital have brought to German-speaking population of Alto Adige to a high standard of economic welfare. The Italian democratic government is determined to grant to the region a new legislation by which the German-speaking population will be allowed to enjoy their freedoms and, in an approximate measure, their authonomy based on equal rights and equal duties for both Italian and German speaking citizens. While all the German speaking people are carrying the burden of defeat and Cechoslovakia exercises her sovereign right in expelling from her territory

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Declassified E.O. 12356 Section 3.3/NND No. 788021

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It is undoubtedly a proof of a great generosity the fact that, while the Italian population still carries a vivid and living recollection of the thousand victims put into concentration camps and prisons in the Alto Adige by Tyroles judges, agents, informers, those who had previously chosen German citizship will not be prevented from reconsidering their choice.

The results of the revised status of citizenship will in due time establish Italy's right to the undisputed possession of the Alto Adige.

Believe me, dear Mr.Jones.

Yours faithfully

signed B.De Angelis

To J.W.Jones Esq.
American Political Advisor,
Allied Commission,
R o m e.

2152

Declassified E.O. 12356 Section 3.3/NND No. 785021

45/12

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

16 JUL 1945

GGH/lc.
15 July 1945

AC/4187/3/L.

SUBJECT : Reacquisition of Italian Citizenship.

TO : VP CA Sec.

At Colonel Cripps's request I enclose a translation of the various provisions in respect of the above.

G. G. HANNAFORD,
Lt. Col.,
Officer i/c Italian Branch
for Chief Legal Adviser

Copy to : Political Adviser
Local Gvt S/C.

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Declassified E.O. 12356 Section 3.3/NND No. 785021

PROVISIONS AS TO REACQUISITION OF ITALIAN CITIZENSHIP

Article IX of Law No. 555 of 13 June 1912 reads as follows:

a) "Whoever has lost his citizenship under Articles 7 and 8 of the present law may reacquire it

1. If the person concerned serves in the Armed Forces of the Kingdom or becomes a State Official.

2. Declares to renounce to the citizenship of the State to which (he or she) belongs or proves to have renounced to fulfil official or military duties abroad taken up in spite of the objection of the Italian Government and in each case have established, within a year of the renunciation, their proper residence in the Kingdom.

3. Resides two years in the Kingdom of the loss of citizenship was due to the acquisition of a foreign nationality.

However, the Government has the faculty to forbid such reacquisition of citizenship under sub-paras 2 and 3. Such faculty may be exercised by the Government for serious reasons, in conformity with the opinion of the Council of State, within three months of the fulfilment of the conditions set out under paras 2 and 3, if the foreign citizenship is that of an European State and of six months if not.

Reacquisition of citizenship may also be obtained without the obligation to establish a residence in the Kingdom for those who have transferred their residence for over two years from the foreign State the nationality of which they had acquired to another foreign State, but without acquiring a new nationality. In such cases however the sanction of the Government must be obtained beforehand.

b) Articles 7 and 8 and 9 of RD No. 949 of 2 Aug 1912 sets out the procedure to be followed whenever it is desired to reacquire Italian nationality under Law 555 of 13 June 1912.

c) Para 2 of art. 9 of Law 555 has been partly abrogated by the fascist legislation of 16 June 1927, No. 1170, which makes it a criminal offence for any Italian citizen to accept public functions in a foreign state without the authorisation of the Foreign Office or refuses to resign his post when ordered to do so by the Italian Government. 250

Whoever is sentenced for such offence loses automatically its Italian citizenship and cannot reacquire it under art. 9 of the Law in point.

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Declassified E.O. 12356 Section 3.3/NND No. 98021

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d) Decisions of the Supreme Court of Cassation have established a constant jurisprudence on the interpretation of Paras 3 of art. 9 of Law 555. It is held that the residence of two years in the Kingdom of Italy which is requisite to reacquire Italian Nationality is sufficient in itself to establish the right of the person to such reacquisition.

Evidence as to the intention of reacquiring Italian citizenship is not necessary. It has ever been held that citizenship may be reacquired through to the sole residence and against the express will of the person concerned.

Residence being considered as implying formal "animus manendi". (C.C. 29.5.1931 from C.A. Napoli - C.C. 13.12.1935 from C.A. Trento).

This is however contested by indipendent jurists.

554

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Declassified E.O. 12356 Section 3.3/NND No. 785021

To Head Government S/C.

45/12

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No foundation whatsoever exists in recently published reports that the Allied authorities have given permission for the former prefect and the former mayor of Bolzano to proceed to Paris, London and Washington for political purposes, the Allied Commission announced today.

The Allied Commission reiterated that the aforesaid reports are entirely baseless. No authority has been granted by Allied authorities for such travel.

The Allied Commission further deplores the circulation of such statements which can only lead to the detriment of law and order in Bolzano Province.

Telephoned Paper Lemnos 1245hrs 17/July/45. says that UP approved above. 2148

Lieut Harvey Int. CBSC.

Declassified E.O. 12356 Section 3.3/NND No. 785821

19

Il Prefetto di Bolzano

15 luglio 1945

Al generale UPJOHN
Sezione Affari Civili
Commissione Alleata

R O M A

Liste elettorali e opzioni in Provincia di Bolzano.

Le unisco un estratto della legge italiana del 1912 sulla cittadinanza. Sono riportati gli articoli che trovano applicazione sia per la perdita che per il riacquisto della cittadinanza.

IL PREFETTO
(Bruno de Angelis)

2347

(158)

Declassified E.O. 12356 Section 3.3/NND No. 785021

ESTRATTO DELLA LEGGE 13 GIUGNO 1912, N°555, SULLA CITTADINANZA ITALIANA

Art.8 - Perdita della cittadinanza:

Perde la cittadinanza:

1°- chi, spontaneamente acquista una cittadinanza straniera e stabilisce o ha stabilito all'estero la propria residenza;

2°- chi, avendo acquistata senza concorso di volontà propria una cittadinanza straniera, dichiari di rinunciare alla cittadinanza italiana, e stabilisca o abbia stabilito all'estero la propria residenza.

Può il Governo nei casi indicati ai numeri 1 e 2 dispensare dalla condizione del trasferimento della residenza all'estero;

3°- chi, avendo accettato impiego da un Governo estero od essendo entrato al servizio militare di potenza estera, vi persista nonostante l'intimazione del Governo italiano di abbandonare entro un termine fissato l'impiego o il servizio.

La perdita della cittadinanza nei casi preveduti da questo articolo non esime dagli obblighi del servizio militare, salve le facilitazioni concesse dalle leggi speciali.

Art.9 - Riacquisto della cittadinanza:

Chi ha perduta la cittadinanza a norma degli articoli 7 e 8 la riacquista: 2146

1°- se presti servizio militare nel Regno o accetti un impiego dello Stato;

2°- se dichiari di rinunciare alla cittadinanza dello Stato a cui appartiene o provi di avere rinunciato all'impiego o al servizio militare all'estero esercitati nonostante divieto del Governo italiano, ed in entrambi i casi abbia

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Declassified E.O. 12356 Section 3.3/NND No. 785021

stabilito o stabilisca entro l'anno la propria residenza nel Regno;

3° - dopo due anni di residenza nel Regno se la perdita della cittadinanza era derivata da acquisto di cittadinanza straniera.

Tuttavia nei casi indicati ai numeri 2 e 3 sarà inefficace il riacquisto della cittadinanza se il Governo lo inibisca. Tale facoltà potrà esercitarsi dal Governo per ragioni gravi e su conforme parere del Consiglio di Stato entro il termine di tre mesi dal compimento delle condizioni stabilite nei numeri 2 e 3 se l'ultima cittadinanza straniera sia di uno Stato europeo, od altrimenti entro il termine di sei mesi.

E' ammesso il riacquisto della cittadinanza senz'obbligo di stabilire la residenza nel Regno, in favore di chi abbia da oltre due anni abbandonata la residenza nello Stato a cui apparteneva, per trasferirla in altro Stato estero di cui non assuma la cittadinanza. In tale caso però é necessaria la preventiva permissione del riacquisto da parte del Governo.

Art. 16 - Modalità per le dichiarazioni:

Le dichiarazioni prevedute nella presente legge possono esser fatte all'ufficiale di stato civile del Comune, dove il dichiarante ha stabilito o intende stabilire la propria residenza, o ad un Regio agente diplomatico o consolare all'estero.

La facoltà di ricevere le dichiarazioni potrà essere estesa dal Governo del Re ad altri pubblici ufficiali.

Declassified E.O. 12356 Section 3.3/NND No. 785021

From the newspaper "AVANTI!" of 19 of July 1945.

ALLIED DENIAL ON THE QUESTION OF ALTO ADIGE.

With reference to what has been published on some newspapers, the Allied Commission announces that the news according to which the Allied Authorities would have granted permission to the former prefect and former mayor of Bolzano to proceed to Paris, London and Washington on political grounds is lacks any foundation.

The Allied Commission has underlined that the aforesaid news is completely unfounded. No authority has received permission by the Allies for journeys of this nature.

****

The above is a translation of the following text:

UNA SMENTITA ALLEATA SULLA QUESTIONE DELL'ALTO ADIGE

In merito a quanto e' stato pubblicato da alcuni giornali, la Commissione Alleata annuncia che e' destituita di ogni fondamento la notizia secondo cui le Autorita' Alleate avrebbero rilasciato il permesso all'ex-prefetto e all'ex sindaco di Bolzano di andare a Parigi, Londra e Washington per ragioni politiche.

La Commissione Alleata ha sottolineato che la notizia soprindicata e' completamente infondata. A nessuna autorita' e' stato rilasciato il permesso degli Alleati per viaggi di tale natura.

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Declassified E.O. 12356 Section 3.3/NND No. 785021

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17

HEAD QUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

18 JUL 1945

17 July 1945

AG/4187/3/L

SUBJECT : Reacquisition of Italian Citizenship.

TO : VP CA Sec

Reference this sub-commission's letter, AG/4187/3/L of 15 July 1945, subject as above, herewith enclosed a fuller and more accurate translation of the various provisions in respect of the above.

G. G. Hammaford

G. G. HAMMAFORD,
Lt. Col.,
Officer i/c Italian Branch.
for Chief Legal Adviser.

Copy to :

Political Adviser (American)
Political Adviser (British)
Local Government Sub-Commission. ←

2143

(17D)

EXTRACT OF LAW NO 555 OF 13 JUNE 1912, ON ITALIAN CITIZENSHIP

(A). Art.8 - Loss of citizenship.

Citizenship shall be lost by those persons :-

1) Who spontaneously acquire a foreign citizenship and establish or have established their own residence abroad;

2) Who, having acquired foreign citizenship independently from their own will, make a declaration foregoing their Italian citizenship, and establish or have established their own residence abroad. The Government may, in the cases contemplated in Nos 1 and 2, dispense with the condition of the transfer of residence abroad;

3) Who, having accepted employment by a foreign Government or having entered the military service of a foreign power, continue to serve the foreign government notwithstanding the warning from the Italian Government to leave the employment or service within a fixed time limit.
The loss of citizenship in the cases contemplated by the present article shall not exempt a person from military service, save the facilities granted by special laws.

Art.9 - Reacquisition of citizenship.

Persons who lose their citizenship under Articles 7 and 8 shall reacquire it :

1) if they serve in the armed forces in the Kingdom or accept state employment;

2) if they make a declaration foregoing the citizenship of the state to which they belong or prove that they have foregone the employment or military service abroad which they continued notwithstanding prohibition by the Italian Government, and if in both cases they have established or establish within the year their residence in the Kingdom;

3) after two years residence in the Kingdom, if the loss of citizenship was the result of acquiring foreign citizenship.

However, in the cases contemplated in Nos 2 and 3, a person shall lose the right to reacquire citizenship if the Government should so order. The Government may exercise this power when serious conditions call for it and upon the recommendation of the State Council, within the time limit of three months from the fulfilment of the conditions set out in Nos 2 and 3 if the last foreign citizenship is of a European state, otherwise within the time limit of six months.

The right of reacquiring citizenship without obligation to take up residence in the Kingdom shall be granted to persons who have for more than two years forsaken their residence in the state to which they belonged and have removed it to another foreign state of which they have not taken the citizenship. In such case, however, a permit to

Declassified E.O. 12356 Section 3.3/NND No. 775021

The Government may, in the cases contemplated in Nos 1 and 2, dispense with the condition of the transfer of residence abroad;

3) who, having accepted employment by a foreign Government or having entered the military service of a foreign power, continue to serve the foreign government notwithstanding the warning from the Italian Government to leave the employment or service within a fixed time limit.

The loss of citizenship in the cases contemplated by the present article shall not exempt a person from military service, save the facilities granted by special laws.

Art.9 - Reacquisition of citizenship.

Persons who lose their citizenship under Articles 7 and 8 shall reacquire it :

1) if they serve in the armed forces in the Kingdom or accept state employment;

2) if they make a declaration foregoing the citizenship of the state to which they belong or prove that they have foregone the employment or military service abroad which they continued notwithstanding prohibition by the Italian Government, and if in both cases they have established or establish within the year their residence in the Kingdom;

3) after two years residence in the Kingdom, if the loss of citizenship was the result of acquiring foreign citizenship.

However, in the cases contemplated in Nos 2 and 3, a person shall lose the right to reacquire citizenship if the Government should so order. The Government may exercise this power when serious conditions call for it and upon the recommendation of the State Council, within the time limit of three months from the fulfilment of the conditions set out in Nos 2 and 3 if the last foreign citizenship is of a European state, otherwise within the time limit of six months.

The right of reacquiring citizenship without obligation to take up residence in the Kingdom shall be granted to persons who have for more than two years forsaken their residence in the state to which they belonged and have removed it to another foreign state of which they have not taken the citizenship. In such case, however, a permit to reacquire citizenship must be granted by the Government beforehand.

Art.36 - Procedure for declaration.

The declarations contemplated by the present decree may be made to the civil status official of the Commune in which the person concerned has established or intends to establish his residence, or to a Royal diplomatic or consular agent abroad.

The power to receive such declarations may be extended by the King's Government to other public officials.

Declassified E.O. 12356 Section 3.3/NND No. 778237

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(B) Articles 7, 8 and 9 of RD No 949 of 2 August 1912 sets out the procedure to be followed whenever it is desired to reacquire Italian nationality under Law No 555 of 13 June 1912.

(C) Para 2 of Art 9 of Law 555 has been partly abrogated by the fascist legislation of 16 June 1927, No 1170, which makes it a criminal offence for any Italian citizen to accept public functions in a foreign state without the authorization of the Foreign Office or refuses to resign his post when ordered to do so by the Italian Government.

Whoever is sentenced for such offence loses automatically his (her) Italian citizenship and cannot reacquire it under Art 9 of the law in point.

(D) Decisions of the Supreme Court of Cassation have established a constant jurisprudence on the interpretation of Para 3 of Art 9 of law 555. It is held that two years residence in the Kingdom of Italy is sufficient in itself to establish the right of a person to reacquire Italian nationality. Evidence as to the intention of reacquiring Italian citizenship is not necessary. It has even been held that citizenship may be thus reacquired against the express will of the person concerned.
(C.C. 29.5.1931 from C.A. Napoli - C.C. 13.12.1935 from C.A.Trento).

This is, however, contested by independent jurists. (See Digests).

Legal Sub-Commission.
17 July 1945.

2141

5 copies:

C.A.Section - 2
Polad (A) - 1
Polad (B) - 1
RLO Venezia Giulia Region - 1
Legal - 1
Local Govt S/C - 1

Declassified E.O. 12356 Section 3.3/NND No. 788121

Whoever is sentenced for such offence loses automatically his (her) Italian citizenship and cannot reacquire it under Art 9 of the law in point.

(B) Decisions of the Supreme Court of Cassation have established a constant jurisprudence on the interpretation of Para 3 of Art 9 of law 555. It is held that two years residence in the Kingdom of Italy is sufficient in itself to establish the right of a person to reacquire Italian nationality. Evidence as to the intention of reacquiring Italian citizenship is not necessary. It has even been held that citizenship may be thus reacquired against the express will of the person concerned.
(C.C. 29.5.1931 from C.A. Napoli - C.C. 13.12.1935 from C.A.Trento).

This is, however, contested by independent jurists. (See Digests).

Legal Sub-Commission.
17 July 1945.

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Declassified E.O. 12356 Section 3.3/NND No. 788021

Declassified E.O. 12356 Section 3.3/NND No. 780221

16

HEADQUARTERS ALLIED COMMISSION
AEO 394
LOCAL GOVERNMENT SUB COMMISSION

AG/45/12/16

16 July 1945

SUBJECT : Conditions in Bolzano Province

TO : Chief Commissioner

1. Reference the attached notes of meeting held on 14 July 45.

2. The attached draft communique, to be issued by the Public Relations Officer, is submitted for your approval.

G. R. UPJOHN, Brigadier
Vice President
Civil Affairs Section

Copies to : Executive Commissioner
Civil Affairs Section
Political Adviser (A)
Political Adviser (B)
RC VENETIA REGION
Local Government S/C.

1140

Declassified E.O. 12356 Section 3.3/NND No. 788021

16D

CONFIDENTIAL.

The Italian Press has recently given wide publicity to reports that the Allied authorities have authorised the former Prefect and Mayor of BOLZANO to proceed to Paris, London and Washington, in their capacity as leaders of the movement for the freedom of the South Tyrol, to defend the cause of the restitution of the Alto Adige to Austria.

The Allied Commission announces that such reports are without foundation. No authority has been given. The Allied Commission regret that such reports, which can only lead to the detriment of law and order in BOLZANO province, could ever have been circulated.

Legal Government Sub-Commission
16 July 1945.

Declassified E.O. 12356 Section 3.3/NND No. MR 92-121

165

Not Complete

HEADQUARTERS ALLIED COMMISSION
AND
LEGAL CONFERENCE ZONE OCCUPATION

AC/AS/32/LC

MINUTES OF A MEETING HELD IN THE OFFICE OF VICE PRESIDENT
CIVIL AFFAIRS SECTION
ON 14 JULY 45

Present: Vice President, Civil Affairs Section
Regional Commissioner, VENETIA
Political Adviser (British)
" " (American)
Director, Local Government Sub-Commission

The Prefect of Belmare

Mr. Arthur Rice, Interpreter

---

1. VP Civil Affairs Section gave a short recapitulation of the position and outlined the discussion which had taken place on the morning of 13 July 45.

PREFECT

2. The Prefect of Belmare stated that he knew that the ex-Prefect of Belmare (Signor Rinaldi) and the ex-Mayor of Belmare City were still in the province. It therefore appeared that a statement on the lines of the attached Appendix "A" could be issued forthwith.

3. Political Advisers seem in agreement, subject to approval of AMG.

4. VP Civil Affairs Region observed the importance of immediate action and also requested an amendment in the last sentence of the communication as follows:

After the word "prefect" substitute the words 2139
"Municipality of the province".

PROVINCIAL COUNCIL

5. The Prefect of Belmare stated that he had discussed the matter of Provincial Links with Professor Parri. He produced an advance copy of the letter (Appendix "B" attached) to the Commission's chief concern handed to the President of the Council of Ministers recently. (Appendix "C")

A first reading of this appeared to give a sensible solution

Regional Commissioner, VIIIth
Political Adviser (British)
" " (American)
Director, Local Government Sub-Commission
The Prefect of Palmaire
Mr. Arthur Wise, Interpreter

---

1. VI Civil Affairs Section — gave a short recapitulation of the position and outlined the discussion which had taken place on the morning of 13 July 45.

PRESENT

2. The Prefect of Palmaire — stated that he knew that the ex-Gauleiter of Palmaire (Sigmar Kundt) and the ex-Mayor of Palmaire City were still in the province. It therefore appeared that, a statement on the lines of the attached appendix "A" would be issued forthwith.

3. Political Advisers — were in agreement, subject to approval of AFHQ.

4. HQ VIIIth Region — stressed the importance of immediate action and also suggested an amendment in the last sentence of the memorandum as follows:

After the word "prejudice" substitute the words "tranquility of the province".

2138

PERSONAL LEAVE

5. The Prefect of Palmaire — stated that he had discussed the matter of Personal Leave with Professor Kurt. He produced an advance copy of the memoir (Appendix "B" attached) to this Commission's also memoire handed to the President of the Council of Ministers recently. (Appendix "C")

6. — A first reading of this appeared to give a sensible solution of the problem.

7. The Prefect of Palmaire — drew attention to the fact that the position of those residents of Palmaire province who had opted for German nationality could be resolved under the law of 1912 contained in the civil code and no further legislation was necessary.

8. VI Civil Affairs Section — undertook to send copies of aide-memoire handed by CC to Pref. Kurt and also to have a study made of the legal position.

15 July, 1945.

R. R. CRUMP, Colonel.

Distribution:
VI Civil Affairs Section — Executive Commissioner
Political Adviser (B) — HQ VIIIth Region
Political Adviser (A) — Local Government S/C

Declassified E.O. 12356 Section 3.3/NND No. 788021

Declassified E.O. 12356 Section 3.3/NND No. 785021

APPENDIX "A"

COMMUNIQUE

With reference to a recent Reuter Communique saying that AMG had authorised German speaking citizens of Bolzano Province to go abroad for political propaganda purposes, the Chief of the Allied Commission in Italy has informed the Italian Government that this news is without foundation.

AMG is opposed to any political propaganda that would compromise Italian interests in Alto Adige.

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APPENDIX "E"

CONFIDENTIAL

TO : The Chief Commissioner of the Allied Commission

From : The President of the Council of Ministers.

Subject: Status of the German speaking population in the Province of Bolzano.

I wish to make clear the point of view of the Italian Government on the questions outlined by you in the mid-summer of .....

1) ELECTORAL RIGHT

The exercise of the electoral right presupposes for anyone the possession of the juridical status of an Italian citizen. A large part of the German-speaking population of the province of Bolzano have lost their Italian citizenship as a result of the options of 1939 and of the provisions of the Mussolini Law of 1912 on citizenship in the Italian State.

2156

The Italian Government is of the opinion that:

1) - all those who spontaneously acquired German citizenship and subsequently established their residence in Germany, have definitely lost Italian citizenship

Persons falling within this category cannot be allowed to return to Italy, and all those who come back abusively during or after the period of German occupation will have to be sent back to

Declassified E.O. 12356 Section 3.3/NND No. 788021

Subject: Status of the German speaking population in the Province of Bolzano.

I wish to make clear the point of view of the Italian Government on the questions outlined by you in the aide-memoire of .....

I) ELECTORAL RIGHT

The exercise of the electoral right presupposes for anyone the possession of the juridical status of an Italian citizen. A large part of the German-speaking population of the province of Bolzano have lost their Italian citizenship as a result of the options of 1939 and of the provisions of the basic Law of 1912 on citizenship in the Italian State.

2356

The Italian Government is of the opinion that:

1) - all those who spontaneously acquired German citizenship and subsequently established their residence in Germany, have definitely lost Italian citizenship

Persons falling within this category cannot be allowed to return to Italy, and all those who came back abusively during or after the period of German occupation will have to be sent back to Germany. It will be worthwhile to recall that persons of this category obtained in the past the privilege of selling their property in the Province at quite favorable conditions, on the basis of a special rate of exchange fixed at L.4.50 to the RM., and that the sales in question are settled.

Declassified E.O. 12356 Section 3.3/NND No. 788021

16E

2) - The persons pertaining to the other categories indicated under the letters b, c, d, of your side-memoire, should be offered the possibility freely to re-examine their own decisions. In order that a decision should be really free, it is not sufficient to have a law enabling the options and restoring the preceding situation, but it is necessary that the will to regain Italian citizenship or renounce it in order to leave the Italian State, be manifested through an individual written declaration.

3) - It would seem therefore opportune to provide for the appointment in Bolzano of a special Commission to be charged with the task of examining the petitions of those persons included in the categories indicated under point 2). The centre of this Commission may be carried out in a parallel way to the preparation of the electoral lists; it follows that as the petitions are approved the registration of the new citizens in the electoral lists will be effected.

4) - The preparation of the electoral lists may begin forthwith. These electoral lists will first of all comprise all the Italian citizens of the Province, including the German-speaking population who came into age after the Italy, and will subsequently be extended to include the new citizens. The electoral lists may be compiled per Communes,being to the big and detailed work to be done, the lists will not be completed for the whole 2135
Province at the time of the political elections if they take place within the year. The results of the elections may be integrated and corrected through supplementary voting.

Legislative elections will be held as soon as preparation of

Declassified E.O. 12356 Section 3.3/NND No. 788021

regain Italian citizenship or renounce it in order to leave the Italian State, be established through an individual written declaration.

3) - It would seem therefore opportune to provide for the appointment in Bolzano of a special Commission to be charged with the task of examining the petitions of those persons included in the categories indicated under point 2). The works of this Commission may be carried out in a parallel way to the preparation of the electoral lists; it follows that as the petitions are approved the registration of the new citizens in the electoral lists will be effected.

4) - The preparation of the electoral lists may begin forthwith. These electoral lists will first of all comprise all the Italian citizens of the Province, including the German-speaking population who come the age apted for Italy, and will subsequently be extended to include the new citizens. The electoral lists may be compiled per Communes. Owing to the big and detailed work to be done, the lists will not be completed for the whole Province at the time of the political elections if they take place within the year. The results of the elections may be integrated and corrected through supplementary votings.

2135

Administrative elections will be held as soon as re-examination of citizenship in each Commune is completed.

XI Public Schooling.

The Italian Government have under study a new schooling set-up for the Province. Provisions will be made for the peritehic teaching of the Italian and German languages. As a general rule, it was agreed that in kindergartens and in a first elementary class only the teaching of the mother tongue should be imparted, while starting with the higher

Declassified E.O. 12356 Section 3.3/NND No. 788021

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classes the other language should be taught. Under this new school system there will be an Italian "Provveditore degli studi" and two Vice Provveditori, one Italian and the other a German speaking one, placed at the head of their respective groups of schools and Italian and German classes. The scheme in question is being prepared with the collaboration of experienced Italian and German teachers of the Province.

III Education

It is to the Italian Government's knowledge that the new proclamation prepared by the Civil Commissioner of the Province and published on the 11th instant, fully meets with the particular necessities of the question of Alto Adige. Some slight modifications and clarifications which may be provided by the Local Government are perhaps opportune.

2134

Declassified E.O. 12356 Section 3.3/NND No. 788207

APPENDIX "B"

SECRET

COPY (16/7/45).

A I D E - M E M O R I E S

On conditions in Bolzano Province from the Chief Commissioner of the Allied Commission to the President of the Council of Ministers.

1. A number of problems have arisen in connection with the german speaking proportion of the population of BOLZANO and of certain other small areas - EGNA in Trento Province - CORTINA D'AMPEZZO in Belluno Province and TARVISIO in Udine Province - and I should be glad to receive the views of the Italian Government thereon at the earliest possible moment.

Election Registers

2. As you are no doubt aware, the Hitler-Mussolini Agreement of 1939 made provision for Italian subject of german descent, resident or originating in those parts, to opt for german nationality and to emigrate to the Reich.

Broadly speaking there are four classes to be considered :

a) - Those who exercised their option and emigrated, but have now returned to Italy;
b) - Those who exercised their option but did not emigrate;
c) - Those who exercised their option and have been struck off the Italian registers, but can produce no evidence of acquisition of german nationality;
d) - Those whose names appear in both the Italian and german registers.

The views of the Italian Government are requested as to which of these classes should be included in the electoral rolls about to be compiled in BOLZANO.

Education policy

3. Inasmuch as well over 50% of the population in BOLZANO are german speaking, it is a matter for determination as to what educational policy should be followed with regard to them. The schools are at present closed for the summer vacation but the views of the Italian Government are urgently requested.

Epuration

4. It has been pointed out that Allied Military Government Generale Order No.35 (which adopts the principles of DLL 159) is not entirely appropriate to meet the situation in BOLZANO as many persons are Nazis rather than Fascists and accordingly an amendment is being made to this Order to cover this point. The Government may also consider it desirable to amend DLL.159 so as to ensure that in this area no loophole exists which may prevent Nazis from being epurated.

The Commission's amendment to GO.35 will be handed to the Italian Government for its guidance as soon as completed.

Declassified E.O. 12356 Section 3.3/NND No. 788027

1. A number of problems have arisen in connection with the German speaking proportion of the population of BOLZANO and of certain other small areas - BEGA in Trento Province - CORTINA D'AMPEZZO in Belluno Province and TARVISIO in Udine Province - and I should be glad to receive the views of the Italian Government thereon at the earliest possible moment.

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c) - Those who exercised their option and have been struck off the Italian registers, but can produce no evidence of acquisition of german nationality;
d) - Those whose names appear in both the Italian and german registers.

The views of the Italian Government are requested as to which of these classes should be included in the electoral rolls about to be compiled in BOLZANO.

Education policy

3. Inasmuch as well over 50% of the population in BOLZANO are german speaking, it is a matter for determination as to what educational policy should be followed with regard to them. The schools are at present closed for the summer vacation but the views of the Italian Government are urgently requested.

Epuration

4. It has been pointed out that Allied Military Government Generale Order No.35 (which adopts the principles of DLL 159) is not entirely appropriate to meet the situation in BOLZANO as many persons are Nazis rather than Fascists and accordingly an amendment is being made to this Order to cover this point. The Government may also consider it desirable to amend DLL.159 so as to ensure that in this area no loophole exists which may prevent Nazis from being epurated.

The Commission's amendment to GO.35 will be handed to the Italian Government for its guidance as soon as completed.

CA Section
5 July 1945

Declassified E.O. 12356 Section 3.3/NND No. 788121

Declassified E.O. 12356 Section 3.3/NND No. 785021

"A" 164

C O N U N I C A T O

In relazione a un recente comunicato Reuter, secondo il quale l'A.M.G. avrebbe autorizzato cittadini di lingua tedesca della Provincia di Bolzano a recarsi all'estero a scopo di propaganda politica, il Capo della Commissione Alleata in Italia ha informato il Governo italiano che tale notizia è destituita di fondamento.

L'A.M.G. rimane contrario a qualsiasi manifestazione di propaganda politica che possa pregiudicare gli interessi italiani nell'Alto Adige.

2303

Declassified E.O. 12356 Section 3.3/NND No. 785021

Confidenziale

AL COMMISSARIO CAPO DELLA COMMISSIONE ALLEATA
dal Presidente del Consiglio dei Ministri

ORDINAMENTO DELLA POPOLAZIONE DI LINGUA TEDESCA
NELLA PROVINCIA DI BOLZANO

Preciso il punto di vista del Governo italiano sulle questioni da Lei prospettate nel pro-memoria del ...

I) LISTE ELETTORALI

L'esercizio del diritto elettorale presuppone per ciascuno lo stato giuridico di cittadino italiano. Una grande parte della popolazione di lingua tedesca della Provincia di Bolzano ha perduto la cittadinanza italiana, in conseguenza delle opzioni del 1939 e per le disposizioni della legge fondamentale del 1912 sulla cittadinanza nello Stato italiano.

Il Governo italiano è del parere che:

1°) - abbiano perduto definitivamente la cittadinanza italiana coloro che avendo acquistato spontaneamente la cittadinanza germanica hanno poi stabilito la propria residenza in Germania.

A questa categoria non può essere consentito di ritornare in Italia, e dovranno anzi essere rinviati in Germania quanti hanno fatto abusivamente ritorno durante o dopo il periodo dell'occupazione tedesca. E' utile ricordare che questa categoria ha ottenuto a suo tempo di vendere i propri beni nella Provincia a condizioni di par-

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2131

Declassified E.O. 12356 Section 3.3/NND No. 785021

15D

ticolare favore, con uno speciale cambio fissato in L. 4,50 per RM., e che le vendite sono perfette.

2°) - Alle altre categorie indicate nelle lettere b, c, d. del Suo pro-memoria, debba essere offerta la possibilità di ritornare liberamente sulla propria decisione. Affinchè la decisione sia veramente libera, non è sufficiente una legge che annulli le opzioni e ripristini la situazione precedente, ma è necessario che la volontà di riacquistare la cittadinanza italiana o di rinunciarvi per lasciare lo Stato italiano, si manifesti con una dichiarazione individuale scritta.

3°) - Sembra perciò opportuno provvedere alla nomina in Bolzano di una speciale Commissione incaricata di esaminare le domande di coloro che sono compresi nelle categorie indicate al punto 2°) . I lavori di questa Commissione possono svolgersi parallelamente alla preparazione delle liste elettorali; così che alle domande approvate segua via via l'iscrizione dei nuovi cittadini nelle liste elettorali.

4°) - La preparazione delle liste elettorali può essere iniziata senz'altro. Esse comprenderanno innanzi tutto i cittadini italiani della Provincia, inclusa la popolazione di lingua tedesca che ha a suo tempo optato per l'Italia, e saranno poi estese ai nuovi cittadini. 2130

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Declassified E.O. 12356 Section 3.3/NND No. 785021

15B

Le liste elettorali possono essere compilate per Comuni. Al momento delle elezioni politiche,(1) le liste non saranno complete per tutta la Provincia, dato il grande e minuzioso lavoro da compiere. I risultati delle elezioni potranno essere integrati e corretti per mezzo di votazioni supplementari.

Per le elezioni amministrative, si procederà quando sia stato completato in ciascun Comune il riesame delle cittadinanze.

II) ISTRUZIONE PUBBLICA

Il Governo italiano ha in studio un nuovo ordinamento scolastico per la Provincia. Esso prevede l'insegnamento paritetico delle lingue italiana e tedesca. In linea generale, si è convenuto che nell'asilo infantile e nella prima classe elementare sia impartito il solo insegnamento della lingua materna, e che dalle classi successive sia gradualmente insegnata l'altra lingua. Lo ordinamento scolastico prevede un Provveditore degli studi di italiano con due Vice Provveditori, uno italiano e l'altro di lingua tedesca, preposti al rispettivo gruppo di scuole e classi italiane e tedesche. Il progetto è preparato in collaborazione, fra esperti insegnanti italiani e tedeschi della Provincia.

2123

III) EPURAZIONE

E' a conoscenza del Governo italiano che il nuovo bando preparato dal Civil Commissioner della Provincia e pubblicato l'11 scorso, risponde pienamente alle

(1) sempre che ciò abbiano luogo entro l'anno -

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Declassified E.O. 12356 Section 3.3/NND No. 785021

15C

speciali necessità dell'epurazione nell'Alto Adige. Sono forse opportuni alcune lievi modifiche e chiarimenti che potranno essere disposti dal Governo locale.

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2128

Declassified E.O. 12356 Section 3.3/NND No. 785021

CE 17057/4

INCOMING MESSAGE

S.O.S. C.C.

HEADQUARTERS ALLIED COMMISSION

Originator's Reference: 3225
Date / Time of Origin: JULY 141151B

Message Centre No: E/9619
Date Time Rec'd: JULY 141215
Precedence: PRIORITY

FROM: G5 5 ARMY FOR HELM SITE OUT E 285
TO : HQ AFHQ.

CONFIDENTIAL.

Reference is made to telegram number 1449 dated 9 July 45 to Regional Commissioner VENETIA Region and information to 5TH ARMY. Report just received from Provincial Commissioner the story of the request of American authorities that the Prefect and SYNDIC of BOLZANO go to "SHAPEVENTOR, PARIS and LONDON for conference is wholly unfounded. BOLZANO is in 5TH ARMY Area. Telegram would have had earlier attention if it had been sent to 5TH ARMY rather than to CMH ARMY and thence to US.

DTG"

ACTION - SO TO CHIEF COMMISSION
INFO - CHIEF COMMISSION
FILE

HEADQUARTERS
14 JUL 1945
A. C.

CONFIDENTIAL

2127

6424

Declassified E.O. 12356 Section 3.3/NND No. 785021

CONFIDENTIAL

14D

ACTION REGIONAL COMMISSIONER VENEZIA REGION: HQFC AMG 8TH ARMY

1449 9JULY 1945 TRIGETY

CONFIDENTIAL PD

RECEIVED IN ROME PATHS FROM LONDON DISPATCH DATED SIX JULY THAT AMERICAN AUTHORITIES HAVE REQUESTED THE SINDACO OF BOLZANO AND THE PREFECT OF THE PROVINCE TO PROCEED TO WASHINGTON PARIS AND LONDON FOR DISCUSSIONS HAVING TO DO WITH THE RETURN OF ALTO ADIGE TO AUSTRIA PD PARA

PATCH ACTION TO VENEZIA REGION FOR REGIONAL COMMISSIONER INFO TO AMG EIGHTH ARMY FROM HQ ALCOM FROM ADMIRAL STONE CITE ..SCAC PARA

NO SUCH MOVEMENT SHOULD BE AUTHORIZED WITHOUT APPROVAL FROM HQ ALCOM

cc: Chief Commissioner
Exec. "
CA Sec.

Chief Commissioner

222

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

87

2126

CONFIDENTIAL

6424

Declassified E.O. 12356 Section 3.3/NND No. 785021

UB

Libera Stampa, July 7th, 1945

London, 6

It has been announced that the American Authorities authorized the sindaco of Bolzano and the ex-prefect of the province to proceed to Paris, London and Washington, as leaders of the movement for the freedom of Southern Tyrol. They will make propagenda for the restituion of Alto Adige to Austria.

The military government and the troops of occupation of the United States are leaving the territory of Tyrol. This territory, including the Vorarlberg zone will pass under French military control.

Some French units have already reached Innsbruck. American forces will remain in the provinces of Salzburg and of High Austria.

Ever since this morning the Union Jack has been flying over some Berlin districts. The town of Vienna will also be reached by the Allies in a few days.

L'AUSTRIA VUOLE LA SUA PARTE

Personalità dell'Alto Adige invitate nelle capitali alleate

Esse chiederanno la restituzione del Tirolo

LONDRA, 6.

Si annuncia che le autorità americane hanno autorizzato il sindaco di Bolzano e l'ex prefetto della provincia a recarsi a Parigi, Londra e Washington, nella loro qualità di «capi del movimento per la libertà del Tirolo meridionale». Essi propugneranno la causa della restituzione dell'Alto Adige all'Austria.

Il governo militare e le truppe di occupazione degli Stati Uniti stanno lasciando il territorio del Tirolo. Tale territorio, compresa la zona del Voralberg, passerà sotto il controllo militare francese.

Alcuni reparti francesi sono già giunti ad Insbruck. Forze americane continueranno a rimanere nelle provincie di Salisburgo e nell'Alta Austria.

La bandiera inglese sventola da stamane su certi quartieri di Berlino. La città di Vienna sarà a sua volta raggiunta dagli Alleati fra pochi giorni.

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e/c

(86)

See (87)

2125

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HEADQUARTERS ALLIED COMMISSION
APO 394
LOCAL GOVERNMENT SUB-COMMISSION

/3

AC/45/12/LG.

13 July 1945.

NOTES OF A MEETING HELD IN THE OFFICE OF THE VICE PRESIDENT, CIVIL AFFAIRS SECTION, ON 12 JULY, AT 1130 HOURS.

Present: Vice President, Civil Affairs Section
Political Adviser (British)
Director, Local Government Sub-Commission

The Prefect of Bolzano

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1. The Prefect of Bolzano opened the discussion with a description of the international situation in his province. He first stated that the presence of French troops across the border of Austria and their activities within Bolzano were giving rise to difficulties. He had given to the Provincial Commissioner copies of some notices posted by the French within his province. (VP Civil Affairs Section to obtain copies from Lt.Col.McBratney). The Prefect stated that he was of the opinion that the French were interested in a plan for the setting up of an autonomous State, including Bavaria, the Tyrol, and parts of Italy which would include Bolzano.

He pointed out that there had recently appeared in the press a statement that the ex-Prefect of Bolzano and the ex-Sindaco of Bolzano City were to proceed to Paris, London and Washington to discuss the future of Bolzano. This statement had added to the tenseness of the situation in the province. He felt that there was no foundation for this statement and could not understand how Reuters had come to publish it, if in fact they had. He suspected that the statement had been put about by French interests and that it originally came from a clandestine wireless working in Southern Austria and was repeated on Radios Paris and London. 2124

2. IT WAS AGREED that the matter be further investigated as to the source of the statement, and Allied Commission would explore the possibility of issuing a dementi.

3. The Prefect of Bolzano then discussed some matters connected with elections. He

Declassified E.O. 12356 Section 3.3/NND No. 788121

Present: Vice President, Civil Affairs Section
Political Adviser (British)
Director, Local Government Sub-Commission

The Prefect of Bolzano

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2. IT WAS AGREED that the matter be further investigated as to the source of the statement, and Allied Commission would explore the possibility of issuing a dementi.

3. The Prefect of Bolzano then discussed some matters connected with elections. He pointed out that not only was there the question of those who had opted to become German citizens, but there was also this point to be considered: under the law of 1912 any person who takes up an occupation in the government office of a foreign nation or serves in a foreign army is automatically disqualified. A considerable number of persons would be affected by this.

4. The Prefect went on to give the figures concerning the population which had opted for German citizenship. He stated that 70,000 persons opted and moved into Germany. They had made advantageous sales of their property and were obviously glad to move. It was his view that these persons whether they returned in the future or had returned should not be included on the Electoral List.

5. He stated further that over 130,000 persons had opted for German citizenship and held German passports, but had

/not moved to ....

Declassified E.O. 12356 Section 3.3/NND No. 788021

13A

not moved to Germany. 10,000 of those who had gone to Germany had returned to Italy during the German occupation and there was still a flow of these persons back to Bolzano. Since the Allied occupation, 500 persons had arrived, and he requested that this immigration be stopped.

6. VP Civil Affairs Section stated that SHAEF Headquarters had already given instructions to prevent this repatriation.

7. The Prefect of Bolzano here suggested that in the formation of the Lists only those persons in Bolzano province who actually at present hold Italian citizenship and who have not taken any option of German citizenship should be included on the Electoral List and he suggested that a Commission, possibly with Allied representation, be set up to investigate the status of the remainder of the population and make recommendations as to those to be included in the Electoral Lists.

8. A GENERAL DISCUSSION took place between those present, the outcome of which was that there appeared to be 2 methods of dealing with the Electoral ListsP

"A" To compile a list containing all those persons with Italian citizenship and, at the same time, to have supplementary lists prepared with the names of all those who appeared to have German citizenship or were of dual-nationality. The right to vote of these people to be decided by the Commission referred to in para. 7 above.

"B" To compile a list of Italian citizens, and to give an option to those who had previously opted for German citizenship, but had not gone to Germany, to regain Italian citizenship - these latter to be included on the List.

9. It was considered that it would be possible for the Commission mentioned in para.7 above to start its investigations during the time when lists were being formed so that by the time they were completed a decision with regard to the treatment of various categories might already have been arrived at and would not hold up an election.

10. IT WAS CONSIDERED that suggestion "B" above was the less attractive proposition in that :

i) it would involve setting up arrangements whereby citizens would have to opt for Italian citizenship or German and would take the form of a small plebescite;
ii) the fact that Italian citizenship was being offered might be taken as an indication of the future of Bolzano.

11. The Prefect of Bolzano stated, in the course of further general discussion, that he found the presence of the Folgore Division was leading to a certain amount of trouble and discontent. He did not consider them as satisfactory soldiers - they were ill-disciplined and

Declassified E.O. 12356 Section 3.3/NND No. 788221

of the remainder of the population [illegible]
as to those to be included in the Electoral Lists.

8. A GENERAL DISCUSSION took place between those present, the outcome of which was that there appeared to be 2 methods of dealing with the Electoral Lists:-

"A" To compile a list containing all those persons with Italian citizenship and, at the same time, to have supplementary lists prepared with the names of all those who appeared to have German citizenship or were of dual-nationality. The right to vote of these people to be decided by the Commission referred to in para. 7 above.

"B" To compile a list of Italian citizens, and to give an option to those who had previously opted for German citizenship, but had not gone to Germany, to regain Italian citizenship - these latter to be included on the List.

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i) it would involve setting up arrangements whereby citizens would have to opt for Italian citizenship or German and would take the form of a small plebescite;
ii) the fact that Italian citizenship was being offered might be taken as an indication of the future of Bolzano.

11. The Prefect of Bolzano stated, in the course of further general discussion, that he found the presence of the Folgore Division was leading to a certain amount of trouble and discontent. He did not consider them as satisfactory soldiers - they were ill-disciplined and a nuisance. He had evidence that they were playing politics and were not above employing intimidation. He asked whether it would be possible to have the Division exchanged for the Friule Division.

12. VP Civil Affairs Section said he would consider this.

NOTE: See page 3 attached.

Declassified E.O. 12356 Section 3.3/NND No. 780021

13B

Note by Local Government Sub-Commission : 13th July 1945.

Since the above meeting was held, investigation has revealed that the following statement appeared in "IL MOMENTO", "IL TEMPO", "LIBERA STAMPA" and "IL GLOBO" on 7 July 1945

> "It is reported that the American authorities have authorised the Mayor of Bolzano and the former Prefect of Bolzano to proceed to Paris, London and Washington, in their capacity as leaders of the movement for the freedom of the South Tyrol. They will defend the cause of the restitution of Alto Adige to Austria."

These newspapers state the source of the statement to be "London, 6", with the exception of "IL MOMENTO", in which the source is stated to be "London, 6 - (Reuter) -".

However, "IL TEMPO" makes the following comment :

> "We would not believe this amazing report if it were not forthcoming from the official newsagency "Reuter". We are at a loss to explain to ourselves how in the world the United States, whose attitude was so clear as regards the Sicilian secession movement, would now be inclined to have Alto Adige "restituted" to Austria. And then, who is the Mayor of Bolzano, the alleged leader of the separatist movement? It may be that he is a sort of shipwreck from the German occupation who strangely remained afloat after the tempest, and moreover revives in a territory which is still under Allied jurisdiction. At any rate, we do hope that the same "Reuter" will furnish us with other more accurate details in order that we may express our thoughts on a more reliable basis."

Distribution:

VP Civil Affairs Section
Political Adviser (A)
Political Adviser (B)
Executive Commissioner
RC Venezia Region
Local Government Sub-Commission

2122

Declassified E.O. 12356 Section 3.3/NND No. 778021

DRAFT

HEADQUARTERS ALLIED COMMISSION
APO 394
LOCAL GOVERNMENT SUB-COMMISSION

Ref: AC/45/12/LG

13 July 1945

NOTES OF A MEETING HELD IN THE OFFICE OF THE VICE PRESIDENT, CIVIL AFFAIRS SECTION, ON 12 JULY 1945, AT 1130 HOURS.

Present: Vice President, Civil Affairs Section
Political Adviser, (British),
Director, Local Government Sub-Commission

Prefect of Bolzano.

The Prefect of Bolzano opened the discussion with a description of the international situation in his province. He first stated that the presence of French troops across the border of Austria and their activities within Bolzano were giving rise to difficulties. He had given to the Provincial Commissioner copies of some notices posted by the French within his province. (VP CA Section to obtain copies from Lt. Col. McBratney). The Prefect stated that he was of the opinion that the French were interested in a plan for the setting up of an autonomous State, including Bavaria, the Tyrol, and parts of Italy which will include Bolzano. He pointed out that there had recently appeared in the press a statement that the ex-Prefect of Bolzano and the ex-Sindaco of Bolzano City were to proceed to Paris, London and Washington to discuss the future of Bolzano. This statement had added to the tenseness of the situation in the province. He felt that there was no foundation for this statement and could not

2121

Declassified E.O. 12356 Section 3.3/NND No. 778037

Present: Vice President, Civil Affairs Section
Political Adviser, (British)
Director, Local Government Sub-Commission

Prefect of Bolzano.

The Prefect of Bolzano opened the discussion with a description of the international situation in his province. He first stated that the presence of French troops across the border of Austria and their activities within Bolzano were giving rise to difficulties. He had given to the Provincial Commissioner copies of some notices posted by the French within his province. (V.P. CA Section to obtain copies from Lt. Col. McBratney). The Prefect stated that he was of the opinion that the French were interested in a plan for the setting up of an autonomous State, including Bavaria, the Tyrol, and parts of Italy which will include Bolzano. He pointed out that there had recently appeared in the press a statement that the ex-Prefect of Bolzano and the ex-Sindaco of Bolzano City were to proceed to Paris, London and Washington to discuss the future of Bolzano. This statement had added to the tenseness of the situation in the province. He felt that there was no foundation for this statement and could not understand how Reuters had come to publish it, if in fact they had. He suspected that the statement had been put about for French interests and that it originally came from a clandestine wireless working in Southern Austria and was repeated on Radios Paris and London. It was agreed that the matter be further investigated as to the source of the statement.

The Prefect then discussed some matters connected with elections. He pointed out that not only was there the

/question of ....

Declassified E.O. 12356 Section 3.3/NND No. 760021

question of those who had opted to become German citizens, but there was also this point to be considered: under the law of 1912 any person who takes up an occupation in the government office of a foreign nation or serves in a foreign army is automatically disqualified.

The Prefect went on to give the figures concerning the population which had opted for German citizenship. He stated that 70,000 persons opted and moved into Germany. They had made advantageous sales of their property and were obviously glad to move. It was his view that these persons whether they returned in the future or had returned should not be included on the Electoral List.

He stated that over 130,000 persons had opted for German citizenship and held German passports, but had not moved to Germany. 10,000 of those who had gone to Germany had returned to Italy during the German occupation and there was still a flow of these persons back to Bolzano since the Allied occupation 1500 persons had arrived, and he requested that this immigration be stopped.

VP Civil Affairs Section stated that SHAEF Headquarters had given instructions ~~to the French to halt this move. The Prefect here suggested that in the formation of the lists only~~

The Prefect of Bolzano here suggested that in the formation of the lists only those persons in Bolzano province who actually at present hold Italian citizenship and who have not taken any option for German citizenship should be included on the Electoral list and he suggested that ~~the Allied authorities set up a Commission~~ to investigate the status of the remainder of the

Declassified E.O. 12356 Section 3.3/NND No. 788021

They had made advantageous sales of their property and were obviously glad to move. It was his view that these persons whether they returned in the future or had returned should not be included on the Electoral List.

5 He stated that over 130,000 persons had opted for German citizenship and held German passports, but had not moved to Germany. 10,000 of those who had gone to Germany had returned to Italy during the German occupation and there was still a flow of these persons back to Bolzano since the Allied occupation (500 persons had arrived) and he requested that this immigration be stopped.

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8 A GENERAL DISCUSSION TOOK PLACE BETWEEN THOSE PRESENT, the outcome of which was that there appeared to be 2 methods of dealing with the Electoral Lists.

"A" To compile a list containing all those persons with Italian citizenship and to have supplementary lists prepared with the names of all those who appeared to have German citizenship or were of dual nationality.

/ "B" .....

2120

Declassified E.O. 12356 Section 3.3/NND No. 778031

"g" To compile a list of Italian citizens ~~plus those who now opt to return to Italian citizenship. The option to be given only to those who had not moved into Germany.~~

It was considered that it would be possible for the Commission to start its investigations during the time when lists were being formed so that by the time they were completed a decision with regard to the treatment of various categories might already have been arrived at and would not hold up an election.

With regard to suggestion "g" above it was considered that this was the less attractive proposition in that :

i) it would involve setting up arrangements whereby ~~optants~~ citizens would have to opt for Italian citizenship or German and would take the form of a small plebescite and would have the disadvantage that

ii) the fact that Italian citizenship was being offered might be taken as an indication of the future of Bolzano.

The Prefect of Bolzano stated, in the course of further general discussion, that he found the presence of the Folgore Division was leading to a certain amount of trouble and discontent. He did not consider them as satisfactory soldiers - they were ill-disciplined and a nuisance. He had evidence that they were playing politics and were not above employing intimidation. He asked whether it would be possible to have the Division exchanged for the Friule Division.

2119

VP Civil Affairs Section concluded the meeting and stated that he would endeavour to investigate the source of the Reuter report concerning the ex-Prefect of Bolzano.

Declassified E.O. 12356 Section 3.3/NND No. 760121

might already have been arrived at and xxxx would not hold up an election.

With regard to suggestion "3" above it was considered that this was the less attractive proposition in that :

i) it would involve setting up arrangements whereby xxxxxx citizens would have to opt for Italian citizenship or German and would take the form of a small plebescite and would have the disadvantage that

ii) the fact that Italian citizenship was being offered might be taken as an indication of the future of Bolzano.

The Prefect of Bolzano stated, in the course of further general discussion, that he found the presence of the Folgore Division was leading to a certain amount of trouble and discontent. He did not consider them as satisfactory soldiers - they were ill-disciplined and a nuisance. He had evidence that they were playing politics and were not above employing intimidation. He asked whether it would be possible to have the Division exchanged for the Friule Division.

VP Civil Affairs Section concluded the meeting and stated that he would endeavour to investigate the source of the Reuter report concerning the ex-Prefect of Bolzano.

NOTE by Lt. Col.

Since the above meeting, investigation has revealed that the following statement appeared "Il Momento", "Il Tempo", "Libera Stampa" and "Il Globo", on 7 July 1945 :

> "It is reported that the American authorities have authorized the Mayor of Bolzano and the former Prefect of Bolzano to proceed to Paris, London and Washington, in their capacity as leaders of the movement for the freedom of the South Tyrol. They will defend the cause of the restitution of Alto Adige to Austria".

All these newspapers state the source to be "London, 6", with the exception of "Il Momento", where the source is stated to be "London, 6 - (Reuter) -". However, "Il Tempo" makes the following comment:

Declassified E.O. 12356 Section 3.3/NND No. 788021

"Il Tempo" 7 July 1945.

"We would not believe this amazing report if it were not forthcoming from the official newsagency "Reuter". We are at a loss to explain to ourselves how in the world the United States, whose attitude was so clear as regards the Sicilian secession movement, would now be inclined to have Alto Adige "restituted" to Austria. And then, who is the Mayor of Bolzano, the alleged leader of the separatist movement? It may be that he is a sort of shipwreck from the German occupation who strangely remained afloat after the tempest, and moreover revives in a territory which is still under Allied jurisdiction. At any rate, we do hope that the same "Reuter" will furnish us with other more accurate details in order that we may express our thought on a more reliable basis."

D of I
V.P. CAS.
Pol-d A
Pl-d G
E of C
L.G Sub.

Declassified E.O. 12356 Section 3.3/NND No. 788021

Declassified E.O. 12356 Section 3.3/NND No. 785021

C 45/12 1/4 13C

AMG VENEZIA REGION 9 JUL 1945

1436 8 Jul 45 OPERATIONAL PRIORITY

IN CLEAR FD

PARA ONE FD PRIME MINISTER HAS REQUESTED PERMISSION TO SEE PREFECT OF BOLZANO FD CHIEF COMMISSIONER HAS AGREED FD

PARTY TO AMG VENEZIA REGION FROM ALGOM CTTK ACCAS PARES

PARA TWO FD PLEASE ARRANGE TO SEND PREFECT AND PROVINCIAL COMMISSIONER TO ROME IMMEDIATELY CMA YOU TAKING FULL RESPONSIBILITY FOR PROVIDING TRANSPORT BY FASTEST POSSIBLE MEANS FD

PARA THREE FD SUBJECT OF INTERVIEWS WILL BE ELECTIONS IN BOLZANO FD PERSONAL PRESENCE OF REGIONAL COMMISSIONER IS PURELY OPTIONAL

Internal Distribution: Executive Commissioner,
Chief Commissioner,
Local Government Sub-Commission,
Polad (A),
Polad (B)

2117

Civil Affairs Section,

437

NICHOLAS PIOMBINO,
CWO USA
Asst. Adjutant.

6330

Declassified E.O. 12356 Section 3.3/NND No. 785021

45/12 13D

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4187/3/L. /mt. 7 July 1945.

SUBJECT : Italo-German Agreement on Alto Adige.

TO : VP CA Sec.

1. Herewith the answers to the questions raised by you.

2. According to the general law of citizenship, Italian nationals who have acquired foreign citizenship lose Italian citizenship only if and when they fix their residence abroad (vide, Art. 4, Law n. 555 of June 13, 1912). As a matter of exception the Government may permit them to surrender their Italian citizenship even if they remain in Italy.

The Mussolini-Hitler Agreement of 1939 has introduced no change in this general position (vide: sec. 12 and 13 of the Agreement).

Therefore a declarant who has opted for Germany but not left Italy shall be deemed not to have lost Italian citizenship, irrespective of whether or not he has acquired German citizenship, unless he has been authorized to remain in Italy under sec. 12 and 13 of the Agreement. (Sections 12 and 13 a/m provide:

a) that the Ministry of Interior may in special circumstances waive the obligation to transfer the residence abroad;

b) that the Prefect of Bolzano, in accordance with the German Consul General at Milan, may authorize persons over the age of 65 and sick persons to reside in Italy.)

3. Any declarant who (a) has been naturalized as a German citizen and (b) has fixed his residence in Germany, is deemed to have lost Italian citizenship.

If he returns to Italy he does not acquire Italian citizenship until and unless all the conditions set out in Art. 9 of above-mentioned Law n. 555 have been fulfilled (vide also Art. 4, Law n. 1241 of August 21, 1939).

Art. 9 prescribes that a person who has lost Italian citizenship resumes it automatically if any of the following conditions is fulfilled:

a) if he serves in the Italian armed forces or is employed by the Italian State;

b) if he formally renounces the citizenship of the State of which he is a subject and fixes his residence in Italy;

c) if he has resided in Italy for 2 years.

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(9598)

//.

Declassified E.O. 12356 Section 3.3/NND No. 785021

13E

The Government may, within three months from the date on which the conditions set out in (b) and (c) have been fulfilled, decree that the person concerned cannot acquire Italian citizenship; alternatively it may, authorize a person in class (b) to reside abroad.

Under Sec. 11 of the Mussolini-Hitler Agreement no declarant can fix his residence in Italy without a formal authorization from the Ministry of Interior, "Ufficio per l'Alto Adige" (vide: RDL n. 1888, of December 13, 1939); thus Italian citizenship cannot be resumed according to the provisions of Art. 9, (b) and (c), above mentioned, if the declarant has not been authorized to reside in Italy.

4. It should be added that if hereafter either Italy or Germany renounces the agreement such renunciation would not affect status acquired prior to the date thereof.

W. E. BEMERS,
Colonel,
Chief Legal Advisor.

Declassified E.O. 12356 Section 3.3/NND No. 780021

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4187/3/L.

ES/mt.
2 July 1945.

SUBJECT : Italo-German Agreement on Alto Adige.

TO : VP CA Sec.

1. The following is the requested interpretation of the above treaty.

2. On the eve of the Italo-German Agreement of 1939 there were in Alto Adige the following groups of residents besides Italian citizens of Italian extraction:

(a) German "allogeni" (Italian citizens of German extraction)

(b) German citizens.

3. According to the agreement agreed upon on 21 October 1939

(a) the German citizens had to leave Alto Adige for Germany within three months from the publication of the agreement without any right of choice (sec.3 and 7);

(b) German "allogeni" had a choice to declare that they wish

(i) either to retain their Italian citizenship and remain in Alto Adige;

(ii) or to acquire German citizenship with the obligation to leave Alto Adige for Germany not later than 31 Dec 1942 (sec.4, 8, 12 and 13).

Subject to dispensation by the Italian Min. of Interior,

Failure to make a formal declaration within the fixed time limits (31 Dec 1939) shall be interpreted as "formal expression of the desire to retain Italian citizenship" (sec.8.).

4. The copy of the agreement is returned herewith.

5. This opinion is based on the advice of Prof Minozzi who states that no other section of the agreement is relevant.

Legal
1. What is the position where no declaration was made by the declarant did not leave Alto Adige
b(ii) a declaration was made by the declarant did not leave Alto Adige

W. E. BEHRENS,
Colonel,
Chief Legal Advisor. 2.7.45

2. Where after having the declarant has returned

(9/85)

Declassified E.O. 12356 Section 3.3/NND No. 785021

12

HEADQUARTERS ALLIED COMMISSION
AFO 394
LOCAL GOVERNMENT SUB COMMISSION

5 July 1945

Dear Brigadier Durlop:

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3. Electoral Lists in Bolzano: Following the meeting which we held last week at which you were present with Political Advisers, a Memorandum was put before the Chief Commissioner. The decisions taken upon the memorandum are contained in some brief minutes, a copy of which I attach. I believe, however, that a copy of this has already been forwarded to you. The aide memoire referred to in paragraph (a) thereof has been prepared and is now before the Chief Commissioner in order to take up the matter with the Italian Government. It requests the views of the Italian Government on:

a) register of various classes of persons whose nationality is problematical;

b) matters concerning education policy;

c) the necessity for revision of DLL 159 so as to include Nazis as well as Fascists.

In the meantime it is considered that your form of revised GO. 27 and the regional order, of which you gave me a copy, should not be put into effect until such time as Political Advisers have had an opportunity of getting our Government's views and the matter has been submitted to the Italian Government for its views. CA Section signalled you to this effect last evening. It is appreciated that this may cause some delay in the formation of the lists, but the matter is being urged along.

2113

R. R. CRIPPS

(original on file 45/A/LG)

DRAFT

ALLIED MILITARY GOVERNMENT

GENERAL ORDER N°. 27 - A

DEFINITION OF ALIENS

WHEREAS by General Order N° 27 issued by the Allied Military Government provision is made for the registration of aliens resident within territory occupied by the Allied Forces:

AND WHEREAS by Article VI of the said General Order N°. 27 the expression " alien " is defined to mean a person who is a national of any State other than Italy:

AND WHEREAS it is desirable to resolve any doubts as to what persons are nationals of a State other than Italy:

NOW THEREFORE I, ELLERY W. STONE, Rear Admiral, U.S.N.R., for and on behalf of the Supreme Allied Commander and Military Governor, do hereby order as follows:-

ARTICLE I

The fact that a person may have elected to become a German citizen under any right of election accorded by any agreement between the Italian and German Governments shall not by itself be deemed sufficient reason for regarding such person as a national of Germany, and any such person, if prior to such election he was an Italian citizen, shall not until further order of the Allied Military Government be required to register as an alien, nor shall he be subject to any of the other provisions of the said General Order N°. 27.

ARTICLE II

This Order shall become effective in each Province or part of a Province on the date of its first publication therein.

Dated ... July 1945

Declassified E.O. 12356 Section 3.3/NND No. 788121

WHEREAS by General Order N° 24 issued by the Allied Military Government provision is made for the registration of aliens resident within territory occupied by the Allied Forces:

AND WHEREAS by Article VI of the said General Order N°. 27 the expression " alien " is defined to mean a person who is a national of any State other than Italy:

AND WHEREAS it is desirable to resolve any doubts as to what persons are nationals of a State other than Italy:

NOW THEREFORE I, ELLERY W. STONE, Rear Admiral, U.S.N.R., for and on behalf of the Supreme Allied Commander and Military Governor, do hereby order as follows:-

ARTICLE I

The fact that a person may have elected to become a German citizen under any right of election accorded by any agreement between the Italian and German Governments shall not by itself be deemed sufficient reason for regarding such person as a national of Germany, and any such person, if prior to such election he was an Italian citizen, shall not until further order of the Allied Military Government be required to register as an alien, nor shall he be subject to any of the other provisions of the said General Order N°. 27.

ARTICLE II

This Order shall become effective in each Province or part of a Province on the date of its first publication therein.

Dated July 1945.

FOR THE SUPREME ALLIED COMMANDER AND MILITARY GOVERNOR:

ELLERY W. STONE
Rear Admiral, U.S.N.R.,
Chief Civil Affairs Officer.

First published in the Province of _____

on the _____ day of _____ 1945.

Declassified E.O. 12356 Section 3.3/NND No. 765021

ALLIED MILITARY GOVERNMENT

VENEZIE REGION

REGIONAL ORDER No. 8

INSCRIPTION OF PERSONS ON ELECTORAL LISTS

WHEREAS in pursuance of Article 5 of the Legislative Decree of the Lieutenant-General of 12 April 1945 No. 201 it has been ordered by the Chief Commissioner of the Allied Commission that the period for compilation of electoral lists within Venezie Region shall commence on 15 July 1945:

AND WHEREAS the procedure for preparation of electoral lists is set out in a Ministerial Decree signed by the President of the Council of Ministers on 24 October 1944, as amended by the said Legislative Decree of the Lieutenant-General of 12 April 1945 No. 201:

AND WHEREAS the said Decrees have been implemented throughout Venezie Region by order of the Allied Military Government:

AND WHEREAS it is desirable to resolve certain doubts as to the qualifications of certain persons to be inscribed on the electoral lists:

NOW THEREFORE I, J.K. DUNLOP, O.B.E., M.C., T.D., Brigadier, Regional Commissioner, Venezie Region, Allied Military Government, by virtue of the powers vested in me both in my own behalf and for and on behalf of the Senior Civil Affairs Officer, Allied Military Government, Fifth Army, do hereby order as follows:-

2111

ARTICLE 1

The fact that a person may have elected to become a German citizen under any right of election accorded [illegible] between the It[illegible]

Declassified E.O. 12356 Section 3.3/NND No. 788127

WHEREAS in pursuance of Article 5 of the Legislative Decree of the Lieutenant-General of 12 April 1945 No. 201 it has been ordered by the Chief Commissioner of the Allied Commission that the period for compilation of electoral lists within Venezie Region shall commence on 15 July 1945:

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AND WHEREAS the said Decrees have been implemented throughout Venezie Region by order of the Allied Military Government:

AND WHEREAS it is desirable to resolve certain doubts as to the qualifications of certain persons to be inscribed on the electoral lists:

NOW THEREFORE I, J.K. DUNLOP, O.B.E., M.C., T.D., Brigadier, Regional Commissioner, Venezie Region, Allied Military Government, by virtue of the powers vested in me both in my own behalf and for and on behalf of the Senior Civil Affairs Officer, Allied Military Government, Fifth Army, do hereby order as follows:-

2111

ARTICLE 1

The fact that a person may have elected to become a German citizen under any right of election accorded by any agreement between the Italian and German Governments shall not by itself be a ground for disqualifying such person from inscription on the electoral rolls, and such election shall for the purposes of preparation of electoral rolls be deemed to be null and void and of no legal effect, provided always that such person was prior to such election an Italian citizen.

Declassified E.O. 12356 Section 3.3/NND No. NR 1121

11B

ARTICLE 2

Nothing in this Order shall be deemed to abrogate any of the provisions of the said Ministerial Decree of 24 October 1945 with regard to grounds for disqualification from inscription on the electoral rolls, but all such provisions shall remain of full force and effect.

ARTICLE 3

This Order shall take effect in every Commune in which it is published as from 15 July 1945.

J. K. DUNLOP
Brigadier,
Regional Commissioner,
Venezie Region,
Allied Military Government,
and for
Senior Civil Affairs Officer,
A.M.G., Fifth Army.

Published in the Commune of _____, Province of _____, on the _____ day of _____ 1945.

2110

Declassified E.O. 12356 Section 3.3/NND No. 775021

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File

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JUL 1945

RC VENEZIE REGION

956 30 June 45 PRIORITY

IN CLEAR PD RX111/LEJBDL1/01 of 2nd June.

PARA ONE PD YOUR LETTER ROGER XRAY ONE ONE SLANT LOVE EASY SLANT BAKER OBOE LOVE SLANT CHARLIE SLANT ZERO ONE OF TWO ZERO JUNE PD

PARA TWO PD YOU ARE AUTHORISED TO IRAW UP AND PUBLISH SUITABLE ORDER TO REPLACE GENERAL ORDER THREE FIVE IN BOLZANO PD

PAREN TO RC VENEZIE REGION FROM ALCOM CITE ACCASPPAREN

PARA THREE PD PARAGRAPH ELEVEN OF THAT LETTER DOES NOT AGREE WITH PARAGRAPH FOUR OF YOUR MONTHLY REPORT FOR MAY IN SAYING THAT NO ITALIAN LEGISLATION HAS BEEN IMPLEMENTED PD LEGAL SUBCOMMISSION HAVE RECEIVED NO RECEIPTS FOR OFFICIAL GAZETTES FROM TRENTO CMA BELLUNO CMA BOLZANO PD PLEASE CLARIFY POSITION AND STATE REASONS FOR NON IMPLEMENTMTION

CIVIL AFFAIRS SECTION

437

A.D. Bonham-Carter Lt Col.

NICOLAS PIOMBINO
CWO USA
Ass Adjutant.

2109

1814

DRAFT

SECRET

9

AIDE MEMOIRE

On conditions in Bolzano Province from the Chief Commissioner of the Allied Commission to the President of the Council of Ministers

1 A number of problems have arisen in connection with the German-speaking proportion of the population of BOLZANO and of certain other small areas - EGNA in Trento Province, CORTINA D'AMPEZZO in Belluno Province and TARVISO in Udine Province and I should be glad to receive the views of the Italian Government thereon at the earliest possible moment.

Election Registers.

2 As you are no doubt aware the Hitler-Mussolini agreement of 1939 made provision for Italian subjects of German descent, resident or originating in those parts, to opt for German nationality and to emigrate to the Reich.

Broadly speaking there are four classes to be considered:

(a) Those who exercised their option and emigrated, but have now returned to Italy;

(b) Those who exercised their option but did not emigrate;

(c) Those who exercised their option and have been struck off the Italian registers, but can produce no evidence of acquisition of German nationality;

(d) Those whose names appear in both the Italian and German registers.

The views of the Italian Government are requested as to which of these classes should be included in the electoral rolls about to be compiled in BOLZANO.

2108

Declassified E.O. 12356 Section 3.3/NND No. 770021

1 A number of problems have arisen in connection with the German-speaking proportion of the population of BOLZANO and of certain other small areas - EGNA in Trento Province, CORTINA D'AMPEZZO in Belluno Province and TARVISO in Udine Province and I should be glad to receive the views of the Italian Government thereon at the earliest possible moment.

Election Registers.

2 As you are no doubt aware the Hitler-Mussolini agreement of 1939 made provision for Italian subjects of German descent, resident or originating in those parts, to opt for German nationality and to emigrate to the Reich.

Broadly speaking there are four classes to be considered:

(a) Those who exercised their option and emigrated, but have now returned to Italy;

(b) Those who exercised their option but did not emigrate;

(c) Those who exercised their option and have been struck off the Italian registers, but can produce no evidence of acquisition of German nationality;

(d) Those whose names appear in both the Italian and German registers.

The views of the Italian Government are requested as to which of these classes should be included in the electoral rolls about to be compiled in BOLZANO.

2108

Educational Policy.

3 Inasmuch as well over 50% of the population in BOLZANO are German-speaking it is a matter for determination as to what educational policy should be followed with regard to them. The schools are at present closed for the summer vacation but the views of the Italian Government are urgently requested.

Declassified E.O. 12356 Section 3.3/NND No. 778021

9A

Epuration

It has been pointed out that Allied Military Government General Order No. 35 (which adopts the principles of D.L.L. 159) is not entirely appropriate to meet the situation in BOLZANO as many persons are Nazis rather than Fascists and accordingly an amendment is being made to this Order to cover this point. The Government may also consider it desireble to amend D.L.L. 159 so as to ensure that in this area no loophole exists which may prevent Nazis being epurated.

Declassified E.O. 12356 Section 3.3/NND No. 775021

Coat
9B

DRAFT

AIDE MEMOIRE

On Conditions in Bolzano Province from the Chief Commissioner of the Allied Commission to the President of the Council of Ministers

Election Registers

1. The Hitler-Mussolini agreement of 1939 was intended to eliminate the German-speaking minority south of the Italo-Austrian border. It therefore made provision for Italian subjects of German descent, resident or originating in these parts, to opt for German nationality and to emigrate to the Reich. It appears that in order to lose Italian nationality and to acquire German nationality, it was necessary not only to exercise the option for German nationality, but to transfer physically to Germany (Articles 8 and 12 of the Accordo). The foregoing also applies to the provinces of Trento, Belluno and Udine, where there are small areas (MENA in Trento province, CORTINA D'AMPEZZO in Belluno province and TARVISO in Udine province) to which the Hitler-Mussolini agreement also applies and where the same problems may arise to some extent.

2. Instructions have been issued by HQ AC that the preparation of electoral lists will commence on 15 July in the provinces of Bolzano, Trento, Belluno and Udine. It is desired that the views of the Italian Government be indicated as to which of the following classes of people affected by the Hitler-Mussolini agreement should be included on the electoral lists:

(a) those who exercised their option and emigrated, but have now returned to Italy;

(b) those who exercised their option but did not emigrate;

(c) those who exercised their option and have been struck off the Italian registers, but can produce no evidence of acquisition of German nationality;

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Declassified E.O. 12356 Section 3.3/NND No. 788021

made provision for Italian subjects of German descent, resident or originating in those parts, to opt for German nationality and to emigrate to the Reich. It appears that in order to lose Italian nationality and to acquire German nationality, it was necessary not only to exercise the option for German nationality, but to transfer physically to Germany (Articles 8 and 12 of the Accords). The foregoing also applies to the provinces of Trento, Belluno and Udine, where there are small areas (MENA in Trento province, CORTINA D'AMPEZZO in Belluno province and TARVISO in Udine province) to which the Hitler-Mussolini agreement also applies and where the same problems may arise to some extent.

2. Instructions have been issued by HQ AC that the preparation of electoral lists will commence on 15 July in the provinces of Bolzano, Trento, Belluno and Udine. It is desired that the views of the Italian Government be indicated as to which of the following classes of people affected by the Hitler-Mussolini agreement should be included on the electoral lists:

(a) those who exercised their option and emigrated, but have now returned to Italy;

(b) those who exercised their option but did not emigrate;

(c) those who exercised their option and have been struck off the Italian registers, but can produce no evidence of acquisition of German nationality;

2106

(d) those whose names appear in both the Italian and German registers.

3. Authoritative sources indicate that 220,000 persons exercised the option, but only 75,000 actually emigrated to Germany, many of whom have since returned to Italy. Large numbers are daily returning, claiming to be Italian citizens.

Declassified E.O. 12356 Section 3.3/NND No. 788021

9C

Educational Policy

4. Inasmuch as well over 50% of the population in Bolzano are German-speaking, the Italian Government will have to determine what educational policy should be followed with regard to them. A liberal policy of tolerance toward German-speaking inhabitants is being adopted by AMG. German is permitted in those schools where the portion of German speakers justifies it.

Epuration

5. Special Courts of Assize have not as yet been constituted, since it was felt that someone who had collaborated with the enemy might claim to be a German citizen and under the Hitler-Mussolini pact this question might come up for debate before the Court of Cassation. This has held up epuration. However, instructions are being given for the issuance of a revised G.O. No. 35, so as to include Nazis. Special Assize Courts have been ordered to be set up in Bolzano as soon as possible. To provide a continuity in policy, it is recommended that the Italian Government amend DLL 159 so as to include Nazis as well as Fascists.

Declassified E.O. 12356 Section 3.3/NND No. 770021

84

M I N U T E S

CONDITIONS IN BOLZANO PROVINCE - DECISIONS

ACTION

I refer to my Memorandum dated 1 July 45 on Conditions in BOLZANO Province.

This Memorandum was considered by the Chief Commissioner at his Political Advisers' Conference on Monday 2 Jul 45 and the following decisions on para 4 of the Memorandum are recorded:

L.C. S/C: Dispatch Exec. Memo No. 5 dated 1 Jul 45 forthwith.

(a) R.C., VENEZIE Region will be instructed to prepare Electoral Lists in BOLZANO, commencing 15 Jul 45 but supplementary instructions will be issued to him when the views of the Italian Government, mentioned below, have been ascertained.

L.C. S/C: to prepare Aide Memoire for presentation to the Prime Minister.

The Chief Commissioner will ask for the view of the Prime Minister as to what classes, set out in para 2 of the Memorandum should be included on the Electoral Lists.

(b) and (c) On paras (b) and (c) the British and American Political Advisers have agreed to send forthwith for instructions from their Governments on this point.

(d) The Chief Commissioner decided that no steps should be taken at the moment with regard to the transfer to Germany of any of the classes mentioned in para 2 of the Memo but the Political Advisers will include this problem in the instructions they propose to obtain from their Governments.

D.P. & R. S/C : to prepare a signal to AFHQ for my approval.

With regard to the class set out in para 3 of the Memorandum the Chief Commissioner decided that the matter should be taken up through AFHQ with SHAEF with a view to the return to Germany of this class.

L.C. S/C.:

(e) The policy as to Education in BOLZANO is one for the Italian Government and this question should be raised in the Aide Memoire to be prepared under (a) above.

D.P. & R. S/C: to prepare a draft signal for my approval.

(f) SHAEF is to be asked to stop the flow of those returning from Germany, through AFHQ.

L.C. S/C. :

(g) The Italian Government to be advised to amend D.L.L. 159 so as to include Nazis as well as Fascists. This is to be included in the Aide Memoire under (a) above.

Legal S/C.: CLA to prepare letter for my approval.

R.C., VENEZIE Region to be instructed to set up Special Assize Courts in BOLZANO as soon as possible.

2104

GPR

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the following decisions on para 4 of the Memorandum are recorded:

L.C. S/C: Dispatch Exec. Memo No. 5 dated 1 Jul 45 forthwith.

(a) R.C., VENEZIE Region will be instructed to prepare Electoral Lists in BOLZANO, commencing 15 Jul 45 but supplementary instructions will be issued to him when the views of the Italian Government, mentioned below, have been ascertained.

L.G. S/C: to prepare Aide Memoire for presentation to the Prime Minister.

The Chief Commissioner will ask for the view of the Prime Minister as to what classes, set out in para 2 of the Memorandum should be included on the Electoral Lists.

(b) and (c) On paras (b) and (c) the British and American Political Advisers have agreed to send forthwith for instructions from their Governments on this point.

(d) The Chief Commissioner decided that no steps should be taken at the moment with regard to the transfer to Germany of any of the classes mentioned in para 2 of the Memo but the Political Advisers will include this problem in the instructions they propose to obtain from their Governments.

D.P. & R. S/C: to prepare a signal to AFHQ for my approval.

With regard to the class set out in para 3 of the Memorandum the Chief Commissioner decided that the matter should be taken up through AFHQ with SHAEF with a view to the return to Germany of this class.

L.G. S/C.:

(e) The policy as to Education in BOLZANO is one for the Italian Government and this question should be raised in the Aide Memoire to be prepared under (a) above.

D.P. & R. S/C: to prepare a draft signal for my approval.

(f) SHAEF is to be asked to stop the flow of those returning from Germany, through AFHQ.

L.G. S/C.:

(g) The Italian Government to be advised to amend R.L.C. 159 so as to include Nazis as well as Fascists. This is to be included in the Aide Memoire under (a) above.

Legal S/C.: CLA to prepare letter for my approval.

R.C., VENEZIE Region to be instructed to set up Special Assize Courts in BOLZANO as soon as possible.

2104

G.P. [illegible], Brig.,
VP,C/ Section.

DISTRIBUTION: Chief Commissioner,
Executive Commissioner,
Poland (A)
Poland (B)
Chief Legal Adviser,
Legal Government Sub-Commission,
Displaced Persons & Repatriation S/C.
Brig Dunlop.

Declassified E.O. 12356 Section 3.3/NND No. 788021

SECRET

7

MEMORANDUM ON CONDITIONS IN BOLZANO PROVINCE

1 The Hitler-Mussolini Agreement of 1939 was intended to eliminate the German-speaking minority south of the Italo-Austrian border. It therefore made provision for Italian subjects of German descent, resident or originating in those parts, to opt for German nationality and to emigrate to the Reich. Although the text of this Agreement has not yet been studied by the Chief Legal Adviser it would appear likely that in order to lose Italian Nationality and to acquire German Nationality it was necessary not only to exercise the option for German nationality but to transfer physically to Germany (See Arts. 8 and 12 of the Accords). The foregoing also applies to the Provinces of TRENTO, BELLUNO and UDINE where there are small areas (SOME in Trento Province, CORTINA D'AMPEZZO in Belluno Province and TARVISO in Udine Province) to which the Hitler-Mussolini Agreement also applies and where the same problems may arise to some extent.

2 Numbers, however, exercised their option but did not emigrate; others emigrated but have now returned to their former homes. There appear to be four main classes of people to be considered:

(a) Those who exercised their option and emigrated but have now returned; (The Provincial Commissioner also complains that large numbers are daily returning and claiming to be Italian citizens.)

(b) Those who exercised their option but did not emigrate;

(c) Those who exercised their option and have been struck off the Italian Registers but can produce no evidence of acquisition of German nationality;

(d) Those whose names appear in both the Italian and the German registers.

It has been said that about 220,000 persons exercised the option but only 75,000 actually emigrated to Germany, many of whom have since returned. These figures are not, however, authoritative but are given merely to indicate the size of the problem.

3 In addition about 4,000 German civilian administrators are in BOLZANO Province, many of them living in the houses of Italians who are now returning.

4 In these circumstances the following problems arise:

(a) Are electoral lists to be prepared in BOLZANO and if so, what instructions are to be given with regard to the inclusion of the various classes included in para 2 above? 2103

(b) Ought the Italian Government to be advised to denounce the Hitler-

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therefore made provision for Italian subjects of German descent, resident or originating in those parts, to opt for German nationality and to emigrate to the Reich. Although the text of this Agreement has not yet been studied by the Chief Legal Adviser it would appear likely that in order to lose Italian Nationality and to acquire German Nationality it was necessary not only to exercise the option for German nationality but to transfer physically to Germany (See Arts. 8 and 12 of the Accords). The foregoing also applies to the Provinces of TRENTO, BELLUNO and UDINE where there are small areas (ZONA in Trento Province, CORTINA D'AMPEZZO in Belluno Province and TARVISO in Udine Province) to which the Hitler-Mussolini Agreement also applies and where the same problems may arise to some extent.

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(d) Those whose names appear in both the Italian and the German registers.

It has been said that about 220,000 persons exercised the option but only 75,000 actually emigrated to Germany, many of whom have since returned. These figures are not, however, authoritative but are given merely to indicate the size of the problem.

3 In addition about 4,000 German civilian administrators are in BOLZANO Province, many of them living in the houses of Italians who are now returning.

4 In these circumstances the following problems arise:

(a) Are electoral lists to be prepared in BOLZANO and if so, what instructions are to be given with regard to the inclusion of the various classes included in para 2 above? 2103

(b) Ought the Italian Government to be advised to denounce the Hitler-Mussolini pact?

(c) Ought any fresh offer to permit inhabitants to emigrate to Germany or Austria be made?

(d) Ought any immediate steps to be taken to transfer to Germany any of the classes in paras 2 and 3 above?

(e) What policy should be laid down as to the treatment of these persons pending solution of these problems and particularly what educational policy should be followed, as well over 50% of the population in BOLZANO are German speaking.

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(f) Should any attempt be made to stop the return from Germany of those in para 2 above?

(g) Epuration has not commenced, Special Assize Courts have not been introduced and it is believed that Italian legislation has not been implemented - should this state of affairs continue?

5 Many of these problems have been considered at a number of conferences during the past week which have been attended by some or all of the following: Executive Commissioner, Poles (A), Poles (B), PC CA Section, C.L.A., and R.C. VENEZIE Region and Local Government Sub-Commission, and it is considered that the Chief Commissioner should preside over a meeting as soon as possible to lay down policy in these matters. The matter is urgent because the preperation of electoral lists is due to start on 15 July 45.

6 The following recommendations are made:

As to (a) - It is felt especially by Poles that electoral lists should be prepared in BOLZANO and other effected communes as in all the rest of the North of Italy. Any differentiation would give rise to alarm and unrest as to the eventual fate of this province. The question as to who should be included on the electoral list is a matter of Italian municipal law but in view of the urgency and delicacy of the matter it is recommended that AMG instruct the Prefect to order Sindaci to include all those in para 2 who were of Italian nationality immediately prior to the Hitler-Mussolini pact; they can always be subsequently struck off the list but they cannot, under Italian law, subsequently be put on. The Poles propose that they should signal their respective Governments stating what is being done and asking for urgent instructions as to the advice which should be given to the Italian Government in this matter.

As to (b) and (c) - These are matters on which the advice of the U.K. and U.S. Governments should be sought. The R.C. VENEZIE Region believes that denunciation of the pact is most advisable but obviously many considerations arise which can only be determined by the U.K. and U.S. Governments.

If you agree, the Poles propose to send a signal to their respective Governments, asking for an urgent decision on these matters.

As to (d) - It is felt that no steps should be taken at the present except with regard to those mentioned in para 5. There seems no reason why, after consultation with SHAEF they should not be treated as displaced persons and returned to Italy under the existing scheme. If so, immediate instructions for the registration of this class must be given.

As to (e) - Trouble may be expected but a liberal policy of tolerance to German speaking inhabitants is being adopted by A.M.G. and the Prefect and this policy should be continued. Teaching in schools

2102

Declassified E.O. 12356 Section 3.3/NND No. 760021

5 Many of these problems have been considered at a number of conferences during the past week which have been attended by some or all of the following: Executive Commissioner, Poled (A), Poled (S), VP CA Section, C.L.A., and R.C. VENEZIA Region and Local Government Sub-Commission, and it is considered that the Chief Commissioner should preside over a meeting as soon as possible to lay down policy in these matters. The matter is urgent because the preparation of electoral lists is due to start on 15 July 45.

6 The following recommendations are made:

As to (a) - It is felt especially by Poleds that electoral lists should be prepared in BOLZANO and other affected communes as in all the rest of the North of Italy. Any differentiation would give rise to alarm and unrest as to the eventual fate of this province. The question as to who should be included on the electoral list is a matter of Italian municipal law but in view of the urgency and delicacy of the matter it is recommended that AMG instruct the Prefect to order Sindaci to include all those in para 2 who were of Italian nationality immediately prior to the Hitler-Mussolini pact; they can always be subsequently struck off the list but they cannot, under Italian law, subsequently be put on. The Poleds propose that they should signal their respective Governments stating what is being done and asking for urgent instructions as to the advice which should be given to the Italian Government in this matter.

As to (b) and (c) - These are matters on which the advice of the U.K. and U.S. Governments should be sought. The R.C. VENEZIE Region believes that denunciation of the pact is most advisable but obviously many considerations arise which can only be determined by the U.K. and U.S. Governments.

If you agree, the Poleds propose to send a signal to their respective Governments, asking for an urgent decision on these matters.

As to (d) - It is felt that no steps should be taken at the present except with regard to those mentioned in para 2. There seems no reason why, after consultation with SHAEF they should not be treated as displaced persons and returned to Italy under the existing scheme. If so, immediate instructions for the registration of this class must be given.

As to (e) - Trouble may be expected but a liberal policy of 2102
tolerance to German speaking inhabitants is being adopted by A.M.G. and the Prefect and this policy should be continued. Teaching in schools should be as in other provinces but German should be permitted in those schools where the proportion of German speakers justifies it.

As to (f) - It is recommended that SHAEF be asked to stop the return of this class pending clarification of policy. It is a matter on which the Governments should be consulted.

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As to (g) - Instructions for the issue of a revised G.O. 35 so as to include Nazis have been given. The reason given for the failure to constitute Special Courts of Assize is that accusers who had collaborated with the enemy might claim to be a German citizen under the Hitler-Mussolini pact and this question might come up for debate before the Court of Cessation. Until the Governments have decided their policy on nationality it may be better to leave the matter in abeyance though there is much to be said for the setting up of these Courts. No reason is given by R.C. VENEZIE for the non-implementation of Italian legislation and I do not see any reason why such legislation should be excluded.

1 Jul 45

for G.R. HEJOHN, Brig.,
VP CA Section.

Distribution : Chief Commissioner,
Executive Commissioner,
Poled (A)
Poled (B)
Chief Legal Adviser,
Local Government Sub-Commission.
Displaced Persons & Repatriation Sub-Commission.

Declassified E.O. 12356 Section 3.3/NND No. 788021

SECRET

MEMORANDUM ON CONDITIONS IN BOLZANO PROVINCE

1 The Hitler-Mussolini Agreement of 1939 was intended to eliminate the German-speaking minority south of the Italo-Austrian border. It therefore made provision for Italian subjects of German descent, resident or originating in those parts, to opt for German nationality and to emigrate to the Reich. Although the text of this Agreement has not yet been studied by the Chief Legal Adviser it would appear likely that in order to lose Italian Nationality and acquire German Nationality it was necessary not only to exercise the option for German nationality but to transfer physically to Germany (See Arts. 8 and 12 of the Accords.). The foregoing also applies to the Provinces of TRENTO, BELLUNO and UDINE where there are small areas (ZONA in Trento Province, CONTINA D'AMPEZZO in Belluno Province and TARVISO in Udine Province) to which the Hitler-Mussolini Agreement also applies and where the same problems may arise to some extent.

2 Numbers, however, exercised their option but did not emigrate; others emigrated but have now returned to their former homes. There appear to be four main classes of people to be considered:

(a) Those who exercised their option and emigrated but have now returned; (The Provincial Commissioner also complains that large numbers are daily returning and claiming to be Italian citizens.)

(b) Those who exercised their option but did not emigrate;

(c) Those who exercised their option and have been struck off the Italian Registers but can produce no evidence of acquisition of German nationality;

(d) Those whose names appear in both the Italian and the German registers.

It has been said that about 220,000 persons exercised the option but only 75,000 actually emigrated to Germany, many of whom have since returned. These figures are not, however, authoritative but are given merely to indicate the size of the problem.

3 In addition about 4,000 German civilian administrators are in BOLZANO Province, many of them living in the houses of Italians who are now returning.

4 In these circumstances the following problems arise: 2100

(a) Are electoral lists to be prepared in BOLZANO, and if so what instructions are to be given with regard to the inclusion of the various classes included in para 2 above?

(b) Ought the Italian Government to be advised to denounce the Hitler-Mussolini pact?

Declassified E.O. 12356 Section 3.3/NND No. 759021

necessary not only to exercise the option for German nationality but to transfer physically to Germany (See Arts. 8 and 12 of the Accords.). The foregoing also applies to the Provinces of TRENTO, BELLUNO and UDINE where there are small areas (SCHNA in Trento Province, CORTINA D'AMPEZZO in Belluno Province and TARVISO in Udine Province) to which the Hitler-Mussolini Agreement also applies and where the same problems may arise to some extent.

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It has been said that about 220,000 persons exercised the option but only 75,000 actually emigrated to Germany, many of whom have since returned. These figures are not, however, authoritative but are given merely to indicate the size of the problem.

3 In addition about 4,000 German civilian administrators are in BOLZANO Province, many of them living in the houses of Italians who are now returning.

4 In these circumstances the following problems arise: 2106

(a) Are electoral lists to be prepared in BOLZANO, and if so what instructions are to be given with regard to the inclusion of the various classes included in para 2 above?

(b) Ought the Italian Government to be advised to denounce the Hitler-Mussolini pact?

(c) Ought any fresh offer to permit inhabitants to emigrate to Germany or Austria be made?

(d) Ought any immediate steps be taken to transfer to Germany any of the classes in paras 2 and 3 above?

(e) What policy should be laid down as to the treatment of these persons pending solution of these problems and particularly what educational policy should be followed, as well over 50% of the population in BOLZANO are German speaking.

Declassified E.O. 12356 Section 3.3/NND No. 760121

6A

(f) Should any attempt be made to stop the return from Germany of those in para 2 above?

(g) Epuration has not commenced, Special Assize Courts have not been introduced and it is believed that Italian legislation has not been implemented - should this state of affairs continue?

5 Many of these problems have been considered at a number of conferences during the past week which have been attended by some or all of the following: Executive Commissioner, Polad (A), Polad (B), VB CA Section, C.A and R.C. VENEZIE Region and Local Government Sub-Commission, and it is considered that the Chief Commissioner should preside over a meeting as soon as possible to lay down policy in these matters. The matter is urgent because the preparation of electoral lists is due to start on 15 Jul 45.

6 The following recommendations are made:

As to (a) - It is felt especially by Polads that electoral lists should be prepared in BOLZANO and other affected communes as in all the rest of the North of Italy. Any differentiation would give rise to alarm and unrest as to the eventual fate of this province. The question as to who should be included on the electoral list is a matter of Italian municipal law but in view of the urgency and delicacy of the matter it is recommended that AMG instruct the Prefect to order Sindaci to include all those in para 2 who were of Italian nationality immediately prior to the Hitler-Mussolini pact; they can always be subsequently struck off the list but they cannot, under Italian law, subsequently be put on. The Polads propose that they should signal their respective Governments stating what is being done and asking for urgent instructions as to the advice which should be given to the Italian Government in this matter.

As to (b) and (c) - These are matters on which the advice of the U.K. and U.S. Governments should be sought. The R.C. VENEZIE Region believes that denunciation of the pact is most advisable but obviously many considerations arise which can only be determined by the U.K. and U.S. Governments.

If you agree, the Polads propose to send a signal to their respective Governments asking for an urgent decision on these matters.

As to (d) - It is felt that no steps should be taken at the present except with regard to those mentioned in para 3. There seems no reason why, after consultation with SHAEF they should not be treated as displaced persons and returned to Italy under the existing scheme. If so, immediate instructions for the registration of this class must be given.

As to (e) - Trouble may be expected but a liberal policy of tolerance to German speaking inhabitants is being adopted by A.M.G. and the Prefect and this policy should be continued. Teaching in schools

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5 Many of these problems have been considered at a number of conferences during the past week which have been attended by some or all of the following: Executive Commissioner, Poled (A), Poled (B), VP CA Section, CA and R.C. VENEZIE Region and Local Government Sub-Commission, and it is considered that the Chief Commissioner should preside over a meeting as soon as possible to lay down policy in these matters. The matter is urgent because the preparation of electoral lists is due to start on 1st Jul 45.

6 The following recommendations are made:

As to (a) - It is felt especially by Polads that electoral lists should be prepared in BOLZANO and other affected communes as in all the rest of the North of Italy. Any differentiation would give rise to alarm and unrest as to the eventual fate of this province. The question as to who should be included on the electoral list is a matter of Italian municipal law but in view of the urgency and delicacy of the matter it is recommended that AMG instruct the Prefect to order Sindaci to include all those in para 2 who were of Italian nationality immediately prior to the Hitler-Mussolini pact; they can always be subsequently struck off the list but they cannot, under Italian law, subsequently be put on. The Polads propose that they should signal their respective Governments stating what is being done and asking for urgent instructions as to the advice which should be given to the Italian Government in this matter.

As to (b) and (c) - These are matters on which the advice of the U.K. and U.S. Governments should be sought. The R.C. VENEZIE Region believes that denunciation of the pact is most advisable but obviously many considerations arise which can only be determined by the U.K. and U.S. Governments.

If you agree, the Polads propose to send a signal to their respective Governments asking for an urgent decision on these matters.

As to (d) - It is felt that no steps should be taken at the present except with regard to those mentioned in para 3. There seems no reason why, after consultation with SHAEF they should not be treated as displaced persons and returned to Italy under the existing scheme. If so, immediate instructions for the registration of this class must be given.

As to (e) - Trouble may be expected but a liberal policy of tolerance to German speaking inhabitants is being adopted by A.M.G. and the Prefect and this policy should be continued. Teaching in schools should be as in other provinces but German should be permitted in those schools where the proportion of German speakers justifies it.

As to (f) - It is recommended that SHAEF be asked to stop the return of this class pending clarification of policy. It is a matter on which the Governments should be consulted.

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6B

As to (g) - Instructions for the issue of a revised G.O. 35 so as to include Nazis have been given. The reason given for the failure to constitute Special Courts of Assize is that someone who had collaborated with the enemy might claim to be a German citizen under the Hitler-Mussolini pact and this question might come up for debate before the Court of Cassation. Until the Governments have decided their policy on nationality it may be better to leave the matter in abeyance though there is much to be said for the setting up of these Courts. No reason is given by N.C. VENEZIS for the non-implementation of Italian legislation and I do not see any reason why such legislation should be excluded.

1 Jul 45

G.R. UPJOHN, Brig.,
VP CA Section

DISTRIBUTION:
Chief Commissioner,
Executive Commissioner,
Poled (A),
Poled (B),
Chief Legal Adviser,
Local Government Sub-Commission,
Displaced Persons & Repatriation Sub-Commission.

Declassified E.O. 12356 Section 3.3/NND No. 788021

Memorandum on the ~~Preparation of Electoral Lists~~ in Bolzano Province.

1. The Hitler-Mussolini Agreement of 1939 was intended to eliminate the German-speaking minority south of the Italo-Austrian border. It therefore made provision for Italian subjects of German descent, resident or originating in those parts, to opt for German nationality and to emigrate to the Reich. It would appear that both ~~optation~~ (by declaration registered with the Commune) and emigration were conditions precedent to the acquisition of German nationality.

2. Numbers, however, exercised their option but did not emigrate; others emigrated but have now returned to their former homes. There appear to be four main classes of people to be considered:

a) those who exercised their option and emigrated but have now returned.
b) those who exercised their option but did not emigrate;
c) those who exercised their option and have been struck off the Italian registers but can produce no evidence of acquisition of German nationality;
d) those whose names appear in both the Italian and the German registers.

3. In relation to these 4 classes the following problems arise:-

A. What is their nationality to be?
B. Repatriation of those determined to be Germans.
C. Whether they are to be registered as voters.

4. As to Problem "A" : The Political Advisers intend to consult Washington and London immediately as to the policy of their respective governments. When they have received instructions, then the Italian Government will be approached so that, after agreement between the Allies and the Italian Government, the latter may take ~~the~~ any requisite legislative and executive action to rectify the question of nationality.

5. As to Problem "B" : It will be seen from the signal at Folio 4 that the RC presses this. Repatriation cannot, however, take place until settlement of the nationality question as in para. 4 above.

6. As to Problem "C" : The Political Advisers consider it most undesirable to postpone the compilation of the Electoral Lists in BOLZANO as to do so would only focus excessive attention on the question before it is capable of settlement.

7. There is no practical objection to ~~the~~ register as voters of any of the 4 classes in para. 2 above as they can be struck off (on the ground of loss of Italian citizenship) at any time after compilation of the lists and before the elections. As elections are not likely before the early spring of 1946 there should be time for the settlement of the nationality problem and the striking out of those thereby determined not to be Italian citizens.

8. The foregoing also applies to the Provinces of TRENTO, BELLUNO and UDINE where there are small areas (EGNA in Trento Province, CORTINA D'AMPEZZO in Belluno Province and TARVISIO in Udine Province) to which the Hitler-Mussolini Agreement also applies and where the same problems may arise to some extent.

9. After a conference this morning with VP C.A. Section and the two Political Advisers, RC VENEZIE agrees that the preparation of Electoral Lists should not be postponed in BOLZANO or in UDINE .

10. It is accordingly RECOMMENDED that the date fixed by the COAO - 15 July -

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10. It is accordingly RECOMMENDED that the date fixed by the CCAO - 15 July - be adhered to for BOLZANO and UDINE and that special instructions be issued for the registration of the German-speaking element.

29/6/45

X. The Provincial Commissioner also explains that legislation as to duty voting relating to Italian citizens

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PROVINCE OF BOLZANO

POINTS FOR CONSIDERATION

1. The enforcement of AMG proclamation "Registration of Aliens," and also the compilation of electoral lists, present many difficulties in Bolzano because the legal nationality of many of the inhabitants is uncertain.

2. As a result of the Hitler-Mussolini Pact of 1939 a plebiscite was taken. 73% of the entire population opted for German citizenship, though by the terms of the plebiscite this did mean leaving the South Tyrol for a new home in the Reich. The number involved was about 220,000. In this connection it is to be noted that the German-speaking population was about 92% of the whole, i.e., 19%, though German-speaking opted to stay in their homes and become Italian citizens.

3. In fact only about 75,000 mostly of the poorer classes, left the Province of Bolzano for the Reich and many of them have since returned to Bolzano.

4. There are therefore at least four categories of people to be considered who are now resident in the Province of Bolzano.

a. Those who opted for German nationality, went into Germany but have since returned to Bolzano.

b. Those who opted for German nationality, received German passports, but in fact never moved from Bolzano.

c. Those who opted for German nationality, can produce no certificates but have been struck off the Italian rolls.

d. Those whose names appear on both the Italian and German rolls.

5. It is clear that the whole situation of Germany and Austria has changed since the Hitler-Mussolini Pact. It is by no means certain that either of these countries could or would be willing to absorb further immigrants. It therefore appears desirable to study anew the whole problem.

6. It is suggested that as a first step the Italian Government should denounce the Hitler-Mussolini Pact. It is understood that the result would be to make null and void any option previously expressed except where the option has been physically implemented by a move into and residence in the Reich.

7. It may be considered desirable to make a new offer of option to become Austrian or German citizens, it being clearly understood that such an option would have to be followed by a physical emigration from Italy.

8. There may be occasions where a plea of German citizenship may be adduced as a defense in court, e.g., a defense against a charge of collaboration. It is clear that the onus of proof of German citizenship will lie on the accused.

2056

9. It is clear that any statement by the Italian Government denouncing the Hitler-Mussolini Pact ought to be accompanied by a declaration expressing

Declassified E.O. 12356 Section 3.3/NND No. 788021

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2056

9. It is clear that any statement by the Italian Government denouncing the Hitler-Mussolini Pact ought to be accompanied by a declaration expressing the intention of the Italian Government to adopt a liberal attitude towards the German-speaking inhabitants of Bolzano, including the grant of the maximus practicable degree of local administrative autonomy.

10. As a slightly different problem it is clear that a special form of General Order No. 35 will have to be produced for Bolzano, wherein reference is made to Nazi organizations and affiliations as well as Fascist ones.

Declassified E.O. 12356 Section 3.3/NND No. 780021

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3

HEADQUARTERS ALLIED COMMISSION
APO 394.
LOCAL GOVERNMENT SUB COMMISSION

Memorandum to VP CA Section

28 June 1945

I feel we must have a conference with Brig. Dunlop some time today on:—

(a) Bolzano—where he does not want to prepare electoral lists until the question of the nationality of the German-speaking population is settled. He has in fact written the PC Bolzano (copy to us) that he is not going to send the PC the electoral material until this question is settled.

(b) Udine—where he mentioned to Major Williams yesterday evening that he did not think electoral lists ought to be prepared in this province either.

Could you arrange an appointment with Brig. Dunlop some time at your convenience and let me know.

R. R. CRIPPS
Colonel
Director
Local Government Sub Commission

CCRC/pec

2095

Declassified E.O. 12356 Section 3.3/NND No. 785031

RESTRICTED

CAS. 2

E/6961
JUNE 2710AOB
PRIORITY

JUNE NFT

27 GIU. 1945

5 ARMY CITE OUR 598

ALCOK FOR DISPER INFO: FREEDOM FOR G5

RESTRICTED

1. Approx 4000 German civilians in BOLZANO area many in houses of Italians who are coming back.

2. Please give policy regarding disposal of German civilians as Provincial Commissioner BOLZANO wishes to have them removed.

3. Presume this is question for higher authorities.

Dist

Action - Diaper SC
Info - Chief Commissioner
CA Sec
File 2
Float

27 JUN 1945

8794 2034

RESTRICTED

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RESTRICTED

CAS I

2949
JUN 261708B

HEADQUARTERS
27 JUN 1945
A. C.

E/6985
JUN 271555B
PRIORITY

AMG 5 ARMY CITE 597
ACTION ALCOM FOR DISPER RPTD AMG BOIZANO INFO

RESTRICTED.

1. Provincial Commissioner ZANON advises that numerous Italians who took option of German nationality in 1939 are now returning to ALTO ADIGE area stating to Allied authorities that they are Italian.

2. Provincial Commissioner reports this causing unfavourable repercussions and requests SHAEF asked to prohibit.

DIST

ACTION: Disper & Rep S/C
INFO: Chief Commissioner
CA Sec
File 2
Float

RESTRICTED

2023
(882)

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