

ACC

10000/141/771

BOLZANO, PROPOSED
LISTS
NOV. 1945 - MAY 1946

10000/141/771

BOLZANO, PROPOSED DECREE AS TO NATIONALITY & ELECTORAL
LISTS
NOV. 1945 - MAY 1946

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
---	---	---	---	---	---	---	---	---	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	-----

1041

UNITED STATES GOVERNMENT

100

23 April

Diacetin

39

Enclosure
Ref. nos. 100 + 101 - + pos 98 598E + 99 - after
several attempts, I got into touch with Poland at
the afternoon (15.45 hours). He says the US Embassy
did not receive these communications direct, as
the British Embassy did - see p. 100. Nevertheless
a receipt of the copies from us under cover of
fo. 99, the US Embassy informed the State Dept. *W*

98-107

691

29

~~of D. G. G. G. G.~~

~~He can't be a sign of~~

CLAS

40

2469 102.

1034

Please see, for info, for 102 & 103. The Special Commissioner is still not appointed. T,

21 May

Ch. L. Sch
for Direct to GSP Pay:

FILE	MINUTE SHEET NO. 12	PAGE
DATE		

(36)

HEADQUARTERS ALLIED COMMISSION

APO 394

Office of the Executive Commissioner

13. March. 1946

Ref: 2806/EC.

14 MAR 1946

For memorie-

V.P. C.A.S.

I should be grateful for the draft to P.M.
 in the necessity for holding elections in B.D. zone
 - We can relate our argument to previous 2468
 letters which I think have passed in the subject



-178/1013

(37)

C.A. Section

15 March

At 10.30 is the report as to elections in
 Bolzano, as directed by V.P. pursuant to
 minute (36) above. Spare copies for distribution
 herewith. *Cliff in [unclear] Day*

30

For memo. 14 MAR 1946

V.P. C.A.S.

I should be gratified for the draft to P.M.
in the necessity for holding elections in B.D. zone
- We can relate our argument to previous 2203
letters since I think have passed in this subject



11/1/13/13

(37)

C.A. Section

15 March

30

At 10.30 is the report as to election in
Bolzano, as directed by V.P. pursuant to
minute (36) above. Show copies for distribution
herewith. *CLT - W. H. Mayo*

Thank you. I am giving Director 10 G.S.C.
C.S. copy to E.C. M.C. 15/3.

(38)

Note - I saw Dr. Viani, Chief of Cabinet, Minister
of Interior, and raised the point about participation
of Bolzano in the referendum to be held soon -
of Bolzano in the political elections. He'll
be in touch with the political elections. He'll
refer matter to ROMITA who will consult De Gasperi.
Dr. Viani will then see me. R. K. Temple, May
21 March 46 Div. for Govt S/C

DATE	MEMO AGENT NO.	PAGE
------	----------------	------

Ex. Comm. 286
 31 may be attached
 letter by signed by the Chief Commissioner.
 Polads have agreed.
 M. L. B. V. P.
 C. Section.
 H. 312. 2/2

W. G. C. C.
 C. Section

Letter signed & returned for despatch.
 Copies have been withdrawn for CC &
 CC files.

6 July 46.

C. A. Section

- 9 March.
1. Note of interview at p. 29 for your information.
 2. Para. 5 is important. Bolzano will NOT participate in any elections - local or national - this spring. Just what we feared from the beginning.
 3. Imbrevis spoke very sharply of the poor participation & decision of this & previous Ital. Govts. in the whole business.
 4. As to para. 8, I have sent a copy of the note of interview to Diaper S/C. In view of the reference to evidence with the C-C last August, you

26

27

29

who by request
 Polads have agreed.
 H. 3/2. 10
 2/2

McLan. Bay. V.P.
 Co. Section

Edith
 2. J. P. R.
 Co. Section

Letter signed & returned for dispatch.
 Copies have been withdrawn for CC &
 CC files.

6 Feb 46.

McLan. Bay.
 Co. Section.

CA Section (34)

9 March.

1. Note of interview at p. 29 for your information

2. Para. 5 is important. Bolzano will NOT participate in any election - local or national - this spring. Just what we feared from the beginning.

3. Innocenti spoke very sharply of the pro-Portuguese + inclination of this + previous Ital-Govts. in the whole business.

4. As to para. 8, I have sent a copy of the note of interview to Diaper S/C. In view of the reference to correspondence with the C.C. last August, you may wish to minute this upwards.

Tel - 495

Edith
 for Director, 6 G 9C
 May 10

35.

Local Govt. S/C.

NOTED. To regard para 8. This matter has already been taken up with AT-49. I am sorry the correspondence turned up. McLan Bay
 12/5/45. V.R.C.S.

26

2/26/46

29

FILE

DATE

MINUTE SHEET NO.

12 APR 1946

PAGE

15 Feb 46

TO: The Executive Commissioner

1. Reference Minutes 299 and 300.

2. The ^{information} reference that is contained in Col Miller's letter is known by this S/C, the Civil Affairs Section, Polads, and presumably by you. Col Miller's reference in his para. 2 to the Commission's letter of 20 August 1945 and 19 October 1945 are not quite accurate as indicating the basis for the setting up of certain commissions.

3. You may recall that the Italian Government had submitted a proposed decree dealing with citizenship for the Alto Adige Region in which provision was made for the creation of commissions to settle problems of citizenship and also provide for the reacquisition of Italian citizenship by those who had lost it. The Chief Commissioner's letter in connection with this decree indicated that the Allied Commission took an unfavorable view since it deprived a group of persons of Italian citizenship contrary to existing law. Subsequently, after the passage of the territory to the control of the Italian Government, representatives of the Office of the Presidency of the Council of Ministers requested an interview with me, following which they submitted a pro memoria on the legal aspects of the proposed decree. Pursuant to a conversation I had with Polad I informed these representatives that the whole matter was one for the Italian Government to decide. However, since they solicited our opinion, a re-examination of the decree was made. Polads A and B, Legal S/C, VP Civil Affairs Section, and myself agreed that from the legal standpoint the arguments presented in the pro memoria had merit but that as a matter of policy the enactment of the decree was inadvisable. A letter to this effect was accordingly sent to the Italian Government under the signature of the Chief Commissioner.

4. I have ascertained that the proposed decree is at the present time being considered by a commission in the Consulta from which it will probably emerge to be considered by the Council of Ministers within the next fortnight. Therefore, the commission referred to by Col Miller in the first paragraph of his letter can not be any which have been formally established as yet, since the decree has not passed. The Prefect may be anticipating the passage of the decree and is laying the foundation for the accommodation of these commissions when they do arrive. It is more likely, however, that they may be commissions which are to study the problem of autonomy for the region. Col Miller himself makes a vague reference to that aspect in the 4th paragraph of his letter.

5. To recapitulate: there is nothing in Col Miller's letter that is new and that we have not been aware of. The position of the Allied Governments is to inform you the Italian Government

100

presumably by you. Col Miller's reference in his Para. 2 to the Commission's letter of 20 August 1945 and 19 October 1945 are not quite accurate as indicating the basis for the setting up of certain commissions.

3. You may recall that the Italian Government had submitted a proposed decree dealing with citizenship for the Alto Adige Region in which provision was made for the creation of commissions to settle problems of citizenship and also provide for the reacquisition of Italian citizenship by those who had lost it. The Chief Commissioner's letter in connection with this decree indicated that the Allied Commission took an unfavorable view since it deprived a group of persons of Italian citizenship contrary to existing law. Subsequently, after the passage of the territory to the control of the Italian Government, representatives of the Office of the Presidency of the Council of Ministers requested an interview with me, following which they submitted a pro memoria on the legal aspects of the proposed decree. Pursuant to a conversation I had with Polad I informed these representatives that the whole matter was one for the Italian Government to decide. However, since they solicited our opinion, a re-examination of the decree was made. Polads A and B, Legal S/C, VP Civil Affairs Section, and myself agreed that from the legal standpoint the arguments presented in the pro memoria had merit but that as a matter of policy the enactment of the decree was inadvisable. A letter to this effect was accordingly sent to the Italian Government under the signature of the Chief Commissioner.

4. I have ascertained that the proposed decree is at the present time being considered by a commission in the Consulta from which it will probably emerge to be considered by the Council of Ministers within the next fortnight. Therefore, the commissions referred to by Col Miller in the first paragraph of his letter can not be any which have been formally established as yet, since the decree has not passed. The Prefect may be anticipating the passage of the decree and is laying the foundation for the accommodation of these commissions when they do arrive. It is more likely, however, that they may be commissions which are to study the problem of autonomy for the region. Col Miller himself makes a vague reference to that aspect in the 4th paragraph of his letter.

5. To recapitulate: there is nothing in Col Miller's letter that is new and that we have not been aware of. The position of the Allied Governments is to impress upon the Italian Government that this is a matter for them to deal with and that we do not intend to interfere.

*Capit. L. Temple, Major
Director Int. Gov. Sec.*

FILE

DATE

MINUTES SHEET NO. 10

PAGE

TO: Civil Affairs Section

(28)

1. Please refer to minutes 18 to 27 inclusive and folios referred to in minute 18.

2. I spoke to Polad A on the telephone and pointed out to him that the first sentence of his minute No. 25 was the key to the whole discussion I had had with Dr. Sorrentino. It was to the judicial aspect of the problem that Col Hannaford of Legal Sub Commission and I, as well as Dr. Sorrentino, had directed our attention. ^(Mr. Jones) Dr. Sorrentino, in fact, had indicated that he was not competent to discuss ~~the~~ aspect, as it was a matter for the Prime Minister to handle.

3. Mr. Jones then agreed that his criticism was really directed at the political wisdom of the proposed decree. He did not think it was good, although the Italian Government was legally competent to enact such a decree. He agreed with me, however, that even though our observations on the legal aspects only were sought, any statement of ours which confined itself to observing that the Italian Government was sound on that score would be construed as approving of the proposed decree in principle. Accordingly, I suggested and he agreed that we send the Italian Government a short statement indicating that we had considered the memorandum that had been submitted by Dr. Strano and that although we conceded its legal merit we still believe that the proposed decree was unwise.

4. Folio 25 is a proposed draft of such a letter. It should be submitted to Polads A and B for their observations. *Handwritten: suggested amendments*

R. R. Temple
RALPH R. TEMPLE
Major

Director

Local Government Sub Commission

RRR/rbe

PSad (A)

PSad (B)

29

Have you any comment on proposed letter please?

M. L. B. B.

first sentence of his minute No. 25 was the key to the whole discussion I had had with Dr. Sorrentino. It was to the judicial aspect of the problem that Col Hannaford of Legal Sub Commission and I, as well as Dr. Sorrentino, had directed our attention. Dr. Sorrentino, in fact, had indicated that he was not competent to discuss ~~the~~ aspect, as it was a matter for the Prime Minister to handle.

3. Mr. Jones then agreed that his criticism was really directed at the political wisdom of the proposed decree. He did not think it was good, although the Italian Government was legally competent to enact such a decree. He agreed with me, however, that even though our observations on the legal aspects only were sought, any statement of ours which confined itself to observing that the Italian Government was sound on that score would be construed as approving of the proposed decree in principle. Accordingly, I suggested and he agreed that we send the Italian Government a short statement indicating that we had considered the memorandum that had been submitted by Dr. Strano and that although we conceded its legal merit we still believe that the proposed decree was unwise.

4. Folio 25 is a proposed draft of such a letter. It should be submitted to Polads A and B for their observations. ~~Handwritten note: This is a copy of the letter.~~

R. R. Temple
RALPH R. TEMPLE
Major

Director
Local Government Sub Commission

RRT/rbe

PSad (A)
PSad (B)

29

Have you any comment on proposed letter please?

29/1/46

30.

M. L. R. B. J.
U.S.C.A.J.

I believe letter is satisfactory as it stands unless it is desired to indicate further that AC comments on decree only because of IG's request.
Jan 30

31.

Handwritten note: This is a copy of the letter.

I agree with the draft

25 Jan 31

25.

Local Govt. Spc:

I am not familiar with the terms of the Mussolini-Hitler Accord of 1939 nor their legal effect upon existing Italian nationality laws. Aside from this consideration, however, I am not impressed with Doctor Sorrentino's arguments at folio 23. It has not been my experience that the Italian Government "repudiates the system of dual citizenship" nor that "voluntary acquisition of foreign citizenship entails the loss of national citizenship".

Under ordinary circumstances the acquisition of foreign citizenship was not sufficient to cause the loss of Italian nationality; transfer of residence to the country of newly acquired citizenship had to accompany it. My experience before the war was that the Italian Government on many occasions refused to recognize the acquisition of American citizenship by a native Italian because his wife, children and property had remained in Italy, and therefore while he had fulfilled one part of the law (acquisition of foreign citizenship) he had not fulfilled the second part (transfer of residence). Consequently he did not achieve expatriation under Italian law.

Another point is the reacquisition of citizenship. Under the law of 1912 (which I believe is still in force) a native of Italy who lost his citizenship (Italian) by acquisition of foreign citizenship, could reacquire his original nationality while residing two years consecutively again in Italy. This apparently does not apply to the Lyroleans who opted for German citizenship. (*See folio 23B*)

I feel that the Italian Government will be open to considerable criticism if they establish two standards of requirements for Italian citizens, or ex-Italian citizens, depending upon their racial or linguistic characteristics and for that reason feel that the Allied Commission should not give its concurrence to the new draft law for which we apparently have been asked.

2404

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

Jan. 22, 1946.

26

I agree with the above views, except I have no instructions from London on this subject. Italian front would be much worse

citizenship".

Under ordinary circumstances the acquisition of foreign citizenship was not sufficient to cause the loss of Italian nationality; transfer of residence to the country of newly acquired citizenship had to accompany it. My experience before the war was that the Italian Government on many occasions refused to recognize the acquisition of American citizenship by a native Italian because his wife, children and property had remained in Italy, and therefore while he had fulfilled one part of the law (acquisition of foreign citizenship) he had not fulfilled the second part (transfer of residence). Consequently he did not achieve expatriation under Italian law.

Another point is the reacquisition of citizenship. Under the law of 1912 (which I believe is still in force) a native of Italy who lost his citizenship (Italian) by acquisition of foreign citizenship, could reacquire his original nationality while residing two years consecutively again in Italy. This apparently does not apply to the Tyroleans who opted for German citizenship. (See page 23B)

I feel that the Italian Government will be open to considerable criticism if they establish two standards of requirements for Italian citizens, or ex-Italian citizens, depending upon their racial or linguistic characteristics and for that reason feel that the Allied Commission should not give its concurrence to the new draft law for which we apparently have been asked.

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

2404

Jan. 22, 1946.

26

I agree with the above views, in part, I have no instructions from London on the subject. I wish the Italian point. would be much wiser to deal with the Allegani optants on the same basis as other Italians.

J. Wesley Jones

(27)

Pa. Adv. (3)

Jan 24

b7c, b7d

I would agree with Polenta that there won't be 'dual' points, dual measures, in winning Italian nationality, but once this principle is established it is still up to the Italian government alone to decide who is a who by the ^{existing} Italian criteria. 1-4. Humphrey BSA

FILE

1946

HUNTER GUNNET NO. 8

PAGE

21 Jan.

Polad (A) +
Polad (B) -

(20)

1. Please refer to minutes 18 and 19 and the Police referred to in mins. 18.

2. Dr. Solventino is anxious to have our views before presenting the decree to the pertinent Commission in the Consulta sometime this week. Would you therefore let me have your observations as quickly as possible.

3. I am inclined to agree with legal S/C on examining Solventino's arguments and citations. If you agree also, then in fairness to the Italian Govt. which has sought our advice and opinion we ought to say so.

R.R. Temple, Mayor
Director for Govt. S/C

2463

FILE	ADJUDICATED SHEET NO. 7	PAGE
18 Jan.		

Legal S/C -

(18)

1. I would appreciate your observations on the validity of the legal arguments in the memorandum on pgs. 23, 23 A, B.

2. Pertinent folios are: 8 c-8F,

9, 10-10 c, 13, 14, 15, 23-23 B, 24, Minute 17.

3. Please treat this as urgent.

R. R. Temple, Maj.
Director Sec. Govt. S/C

(19)

Howe you S/C -

On the whole I think that

Gov. Sorenson's views are sound & will avoid considerable difficulties in the future handling of Acts. It is especially if the whole of this territory is returned to Italy or, should I say, remains Italian. There is no doubt that after the Peace Treaty and is interesting practice was, it must be left to the Italian Government to decide who is an Italian national & who is not, who was because a national & who was not. Foreign interpretation of this type of case - the Italian State is certainly

2462

observations on the validity of the legal arguments of the memorandum on Doc. 23, 23 A, B.

2. Pertinent folios are: 8 c-8F,

9, 10-10 c. 13; 14, 15. 23-23 B. 24, Minute 17.

3. Please trust this is sufficient.

R. R. Temple, May.
Director for Govt. S/C

(19)

Love you S/C.

On the whole I think that

Can. Sometime's views are sound & will avoid considerable difficulties in the future handling of Aets. Uterine.

especially if the whole of this territory is returned to Italy or, should I say, remain Italian. There is no doubt that after the Peace Treaty and in international practice was, it must be left to the Italian Government to decide who is an Italian national & who is not, who can become a national & who cannot.

Foreign interpretation of this type of obligation of the Italian State is certainly undesirable and as a matter of fact, I believe "ultra vires".

Love S/C

21 Jan 46

J. F. Hammer
Hlad

P.S. This is not in contradiction with minute 7.

2462

Ex Com. Sec

13

10

(12)

for [unclear] by CC if approved. The draft has been approved by PLADS.

The letter informs the Prime Minister of the instructions issued by AMG with regard to the compilation of the electoral list in the above steps.

The Director affecting nationality is still under discussion. To give further plan was anticipated but there is no need to delay the compilation of the registers for it.

for it

13/12

(13)

CHS

1 DEC 1945

X 525

Issue as amended.

NW/13/40

H. H. H. H. H.

13A

Chief Commissioner.

13A

Approval
Attached is submitted for your signature
information

PLADS enew.

17/19/40

DEC 20 1945

b.A. section

Letter signed & returned for dispatch. copies 2 & 43A
have been withdrawn for CC & CC files

Local Govt. H.

Please despatch.

12/12

21/12

To: Maj. Temple, Director L.G. S/C

CA-5
1 DEC 1945
X 520.

(13) CB 13/12

Issue as cancelled.

18/13/45

13A

Chief Commissioner.

Attached is submitted for your ~~approval~~ signature information

Polads encv.

17/19/45

13A

DEC 20 1945

b.A. section

Letter signed & returned for despatch. copies 2 & 13A
have been withdrawn for cc sec files

Local Govt H.

Kleas despatch.

21/12/45

To: Maj. Temple, Director L.G. S/C

Advised our Liaison office with Min. for Affairs (Dr. Fabricotti) that letter 21/12/45 of C.C. - Leli 13 was despatched on 21/12/45 and to please inform Dr. Calabardi who inquired about it accordingly.

Note - Liaison officer ~~asked~~ ^{asked} a pointment between me and Calabardi of Foreign Affairs Ministry to discuss letter (fo. 13) on nationality decree. Polad (A) Jones said it was O.K. to see him as long as we made it clear that it was their matter now but that it would be wise to keep in mind world public opinion when arriving at a decision.

RPT

FILED 45/12/19

DATE

TEMPORARY JACKET

REPUTED SECRET INC.

PAGE

CAS

1 Herewith are the observations of this SIC on the proposed draft decree on citizenship in Det. Bridge. P. 3 et seq. The memo and summary of the decree, P. 2 is note of interview with representative of the Ital. Govt. clarifying the provisions of the decree, p. 8 is a note of interview with De Angelis in which he indicates his objections; p. 8 et seq. contain the English translation and pp. 89 et seq. the Italian of the decree. 2. Copies of the memo for Block A & B if desired.

R. K. Temple, Major
Dir. hoc. Govt. SIC

11

Noted. Thank you a copy of the memo to the
P.M. will be sent to you for your file

2460

CAS

17 OCT 1946

10988c

89

FILE

DATE

GENERAL SECRETARY

PAGE

CA Sec.

7.

1. If the intention is to convey to the Prime Minister that although the Allies have no objections to the procedure employed to ascertain the Italian nationality of residents of Bolzano being altered, they are adverse to any new decree which would modify the existing "criteria" for determining such nationality, then I am of opinion that the last paragraph of the Chief Commissioner's draft letter at 3 A should remain unaltered. The amendment proposed by Local Government Sub-Commission does not cover the point.

3A since removed

2. Para 3 of the draft letter is in accordance with the previous opinions of this Sub-Commission.

S. S. Hannaford

G. G. HANNAFORD,
Lt. Col.,
Deputy Chief Legal Adv.

20 Nov. 45 Legal S/C

Polad 4
Polad 13

8

in succession (through L.S. Sec.)

In view of the fact that the draft decree has been received the original draft at 3A has been written and the present draft has been drawn in consultation with L.S. Sec. It is desired to get this draft off to the dealing with the actual wording of the decree.

The PM's letter of 18 Nov. is at 7B and the decree is at 4A. The new draft is at 8B.

Will you please say whether the draft is approved. Comments on the decree will be circulated to you ad-

3A since removed

8

7

4A. B

nationality of residents of Bolzano being altered, they are adverse to any new decree which would modify the existing "criteria" for determining such nationality, then I am of opinion that the last paragraph of the Chief Commissioner's draft letter at 3 A should remain unaltered. The amendment proposed by Local Government Sub-Commission does not cover the point.

3A since
revised.

2. Para 3 of the draft letter is in accordance with the previous opinions of this Sub-Commission.

20 Nov. 45 Legal S/C

S. S. Hannaford

G.G. HANNAFORD,
Lt. Col.,
Deputy Chief Legal Adv.

Polad A
Preliminary

8

in succession (through 16.50.)

24 Nov 45

In view of the fact that the Draft Decree has arrived the original draft at 3A has been re-written with the present draft. It is desired to get this draft off to the H.Q. SC. It is desired to get this draft off to the H.Q. SC. It is desired to get this draft off to the H.Q. SC.

8

7

4A. B

Will you please say whether the draft is approved. Comments on the decree will be circulated to you at a later date. Spare copies of the decree are for your retention.

CA. S
20 NOV 1945
X 525

9.

Since writing we have a telephone message that the decree has been re-written - the draft number is of letter use to you.

A.

FILE

DATE

MINUTE SHEET NO. 3

PAGE

20 Nov. 45

CAS:

b.

1. My comments regarding your draft at fo. 5A are as follows:

(i) I believe there is a possibility that some of my comments would vary if I were advised as to the legal implications of some of the paragraphs.

(ii) I suggest the omission of para 4 beginning with the words "It seems to be quite clear..." to the end of said paragraph. This is a bit argumentative and should be part of a minute sent to the Chief Commissioner supplying him with the reasons for para 3. I do not believe it desirable in a letter to the Prime Minister. It will only invite new argument from the Italian Government. The essential purpose of the letter is to notify the Italian Government of the Allied Commission's intention to register a third category, which you describe in your para 3.

(iii) Para 5 does not take cognizance of the information given to us by the Italian Government in PARPI's letter of 9 November (fo. 1A) as well as the statement of the official from the Legislative Office of the Presidency of the Council as recorded in fo. 2A. The paragraph can very well be omitted in the light of the aforementioned statements of the Italian Government. If you think something should be mentioned about the Special Commission, some statement could be made which could combine your paras 5 and 6 such as follows:

"I note that you agree to the immediate preparation of the lists and to the provisional inclusion therein of names which may be subsequently struck out by the Special Commission if it is found by the latter that such names have been erroneously included. I trust that the Decree referred to by you setting up the Special Commission will be prepared without undue delay, in order that the doubtful cases be disposed of as quickly as possible before the date for elections is set."

(iv) I suggest the omission of your observations beginning with "but, I am not clear what the phrase 'cancelled after the ascertainment of citizenship...'". Let us see what the Decree actually says before we comment upon its anticipated contents.

R. R. Temple, Maj.

RALPH R. TEMPLE, Major
Director, Local Government S/C

RRR/pec

2458

3A since removed

TIME

DATE

INTERNAL SECURITY NO. 2

PAGE

Bolzano. Pertinents folios have been duly tagged.

2. Parri's letter is fo. 1 on this file and answers the CC's letter of 20 Aug. (fo. 441 on file 45/12/48).

3. Phase refer to fo. 2 and minute hereon. The note of interview with Dr. Strano of the Electoral Service of the Min. of Interior that took place Saturday, 17 Nov., is being dictated. Suffice it to say now that another letter is to be written by Parri clarifying the Govt's position. Strano did not think that Parri knew of the 3rd category of persons to be registered as contained in the V.P.'s D.O. to Brig. Dandolo. That must be notified to the Ital. Govt.

R. R. Temple, Major
Director I.G. SIC

2507

Noted thank you

Jag/10. 5.

Local Govt. ✓

file and answer the cc's letter of 20 Aug. (fo. 44 A on file 45/12/16).

3. Please refer to fo. 2 and minute 3 hereon. The note of interview with Dr. Strano of the Electoral Service of the Min. of Interior that took place Saturday, 17 Nov., is being dictated. Suffice it to say now that another letter is to be written by Parri clarifying the Govt's position. Strano did not think that Parri knew of the 3rd category of persons to be registered as contained in the V.P.'s D.O. to Bary. Dunlop. That must be notified to the Ital. Govt.

R. R. Temple, Major
Director I.G. S/C

2407

Noted thank you

Graph. 5.

1. Local Govt. ✓

2. Legal ✓

3. ~~Polad A~~

4. ~~Polad B~~

in summary

Draft at 3A. is partly a follow up. of our letter of 20 Aug. (at 44 A of AC 25/12/16) to put the PM in the picture but also deals with his letter of 9 Nov. (at 44 A of AC 25/12/16) which is an interim reply to our letter of 20 Aug.

3A since removed.

For your comments on 3A please

CAS
15 NOV 1956
X 525

APR.

FILE	44-111
DATE	
INDEX SHEET NO. 1	
PAGE	

LG: 141A

One letter to Parri: envisioned the
 Commission applying the existing standard
 law. This letter envisioned new "detached rules"
 It was subject to new rules are compromise freedom
 of discussion at the Parri discussions. It will be
 necessary to step very carefully here. Please obtain
 the Draft of the proposals

[Signature]

10 NOV 1945

15 Nov. (2)

Note: Informed Col. White that I intended
 to confer with the appropriate official
 of the Govt. to ascertain (a) the scope of
 the proposed decree and (b) clarification
 of the last para. of Parri's letter (Hond).
 He agreed.

R. R. Temple, Hg.
 Dir. LG SC

16 Nov. 45 (3) 2456

To Director:

With reference to his morning interview, Dr. Solubino
 stated over the telephone that the last paragraph of the
 President's letter 9/10/45 (folio 1) is to be construed as a
 declaration of intention on the part of the President. No
 concrete instructions have been given. The whole question
 about the temporary institution has to be studied also
 in the light of the provision of draft decree now being
 prepared. Proposals as to instructions to be given

Commissioners applying the existing structure
law. This letter contains new "decided rules"
It is agreed to new rules on emergency freedom
of access to the press discussions. It will be
necessary to keep very carefully here. Please discuss
the scope of proposals

1 + 1/2

13 NOV 1945

W. H. H. H.

15 Nov.

Note: Informed Col. White that I intend
to confer with the appropriate official
of the Govt. to ascertain (a) the scope of
the proposed decree, and (b) clarification
of the last para. of Davis's letter (Ford).
He agreed.

16 Nov. 45

To Director: (3)
With reference to this morning interview, Dr. Corbin
stated over the telephone that the last paragraph of the
President's letter 9/14/45 (folio 1) is to be construed as a
declaration of intention on the part of the President. No
concrete instructions have been given. The whole question
about the temporary institution has to be studied also
in the light of the provisions of that decree now being
prepared. Proposals as to instructions to be given
in this matter will be submitted in due course
to A.C.

2456

19 Nov.

CAS - 1. Reference our conversation this
morning (Col. White - Maj. Tample), herewith
the pertinent files (45/12/1/29; 45/12/1/29) dealing
with the matter of making an initial
compilation of electoral lists in
Vice

HEADQUARTERS ALLIED COMMISSION
APO 794
LOCAL GOVERNMENT SUB COMMISSION

Tel: 314

28 May 1946

AC/45/12/1/1G

SUBJECT: Bolzano Province--Option and
Autonomy

TO : Executive Commissioner (through
(Civil Affairs Section)

1. Reference is made to GIO Bolzano's monthly report for April 1946, paragraph 1 (c) and (d) and to conversation (J/Cdr. McMaster--Major Williams) of this afternoon.

2. I made inquiry of the Ministry upon having sight of the GIO's report. The "Option Commission" and the "Autonomy Commission" referred to in Col Miller's report are not official bodies established by the Italian Government but are thought by the Ministry of Interior to be unofficial local committees set up by the Acting prefect, Dott. IMMOGENTI to advise him and to work out proposals that would be locally acceptable. The Ministry state that the prefect is expected to visit Rome at the end of this month and lay all these proposals before the Italian Government, who will then take a decision.

3. In the meantime the Italian Government have passed no decree either on the citizenship question or on autonomy and will not, I understand, take any action until receiving the prefect's full report. It seems improbable that anything will happen until after the elections.


RALPH R. TITTLE
Major
Director
Local Government Sub Commission

CERN/foe

*Handed J/Cdr. Holla. to @ 1000 hrs
today*

2455

27/5/46

45/211

V.P. For info JPK 1/5.

Ref: 135/31/100.

L.G. 5/c 1/5
MA

25 May 1946.

SUBJECT: BOLZANO.

27 MAR 1946

TO : Field (A)
Field (B)
CA Section

The attached extract from a DE letter received from AC CLO BOLZANO is forwarded for your information:

"2. At a recent meeting with the Prefect the following points of interest were discussed:

(a) Citizenship. The Commission has practically finished its work and a decree defining this complex question is expected early in June. I am told by the President of the South Tyrol Party that the conditions satisfy the German speaking people.

(b) Autonomy. Proposals are practically complete for autonomy embracing BOLZANO/TERZO. In view of the Paris decision not to discuss the return of South Tyrol to Austria, I believe the South Tyrol Party will now send representatives to discuss autonomy within the frame work of Italy. Nothing could be more stupid if they don't.

(c) For a time the unruly elements in the South Tyrol Party were getting the upper hand but this has subsided and Mr. AULIS and Dr. RAVENHILL, together with the moderates, have the situation in hand. There might be sporadic outbreaks of violence but I do not foresee anything on an organized scale at present.

(d) It is interesting to note that a group of South Tyrolians holding moderate views are trying to create a political front in opposition to the South Tyrol Party. Their object is to cooperate with the Italian Government and they will grow in power unless the South Tyrol Party take the initiative and collaborate with the Italian authorities. The group is composed of influential men and I hear a delegation is likely to leave for Rome shortly.

2454

5. Since my letter to you I have seen the President of the South Tyrol Party who accepts the present situation as a final decision regarding the South Tyrol. He is therefore planning to change the policy of the South Tyrol Party regarding annexation to Austria, and assumes the future policy will be one of friendly collaboration with Italy. I am still waiting to see what steps he is taking to this end.



-2-

7. Lastly, and this is important, the leaders of the South Tyrol party believe that both the Prime Minister and Mr. MASSEI are sincere in their good intentions regarding the future of the South Tyrol. Realizing that these men might not always be in power and the fluctuating policy of the various parties in this country, they are worried about guarantees for the promises now made to them. As you know, so many promises have been broken in the past that their fear is natural.

I do not know if the Allied Commission can do anything to have these promises guaranteed eventually by some of the Great Powers or by the United Nations."

L. B. Hand Smith
May 2. 9.
1st Brigadier,
Executive Commission.

36.

22 May 1946

103

To Major Williams:

I asked Dott. Sorrentino, Legal Office of the Presidency of the Council of Ministers, whether the law on the citizenship of the "Alto Atesini" had been passed. He said the law had not been passed, but the Prefect of Bolzano was expected to come to Rome by the end of this month to submit his report on the views and wishes of the local inhabitants. A decision will then be taken on this matter. Since the law has not been passed, obviously no Commissions to investigate doubtful cases of citizenship have been set up yet. He knew of no "option commissions" in that region, perhaps they are local committees approached by the Prefect to get their views.

Nice

2453

CONFIDENTIAL

ACLO/EZ/36.

5 May 1946
SWM/gq.

SUBJECT : Monthly Report -April 1946.

TO : HQ, ALLIED COMMISSION, CMF.

1. GENERAL.

.....
.....
c) The Option Commission has submitted its recommendation to the Prefect to-day. The members agree that Italian citizenship should be granted to those optants who

- (I) remained in the Province and did not receive emigration papers
- (II) remained in the country but did receive emigration papers

(certain categories, still under discussion, to be excluded from Italian citizenship)

The Commission has recommended that certain optants now in Germany should be allowed to return to the Province.

d) The Autonomy Commission has submitted its recommendations to the Prefect who hopes shortly to forward his draft proposals to Rome with the object of publishing a decree if possible during the month of May.

e) A Commission under the Judge Dell'AIRA appointed to draw up judiciary procedure in German, has submitted a report to the Prefect.

.....
S.W. MILLER, Colonel,
Chief Liaison Officer
BOLZANO.

45/12/1 101
ALLIED COMMISSION
OFFICE OF CHIEF LIAISON OFFICER
BOLZANO

CONFIDENTIAL

REF: ACLO/BZ/16.

DATE: 18 April 1946.
SWM/gq.

SUBJECT : Provision for Autonomy in Bolzano Province.

23 APR 1946

TO : HQ, Allied Commission,
Local Government Sub-Commission,
for Maj Ralph R. TEMPLE.

1. Reference you letter AC/45/12/1 of 12 April 1946 calling for observations on a letter addressed to the Chief Commissioner by the Ministry of Foreign Affairs. I have observed on these points many times before.
2. Please, see para.1,f) of my report for January 1946 and para.1 g) of my report for March 1946 referring to propaganda by the South Tyrolian Volkspartei.
3. Please, see para.1 c) of my February report and para 1 c) of my March report which states the South Tyrolian Volkspartei has detailed representatives to study the laws of citizenship, but has refused to furnish representatives on a Commission to study Autonomy embracing BOLZANO and TRENTO. The declared policy of the powerful South Tyrolian Volkspartei is ~~the~~ complete annexation to Austria which is the reason for their non-provision of members to discuss any other solution.
4. Regarding the unsolved problem of citizenship please see para.5 of my letter to you Ref.ACLO/BZ/45 of 22 March 46. Until this question of citizenship is settled on the broadest possible lines, elections cannot take place. As you know recommendation has been forwarded for the annulation of the Hitler-Mussolini-agreement and some such broad sweep is essential if elections are to take place within the a reasonable period.
5. Regarding the bilingual question please see para 1 g) of my February report and para. 1 e) of my March report.
6. A comprehensive programme for training German speaking Communal Secretaries has just been drawn up by the Prefect 1 and a training course for the these future Communal Secretaries will soon start.

S.W. Miller
S.W. MILLER, Colonel,
Chief Liaison Officer
BOLZANO.

To the Executive Commissioner,
Brig M.S. LUSH, CB, MC,

8257

286/9/46

Office of the British Political
Adviser,
H.Q. Allied Commission.

100

17th April, 1946.

18 APR 1946/1432

To: Director, Local Government Sub-Commission,
H.Q. Allied Commission.

Subject: Autonomy in Bolzano Province.

Ref: Your memorandum AC/45/12/1 of April 12th.

Copy: Pol.Ad. (A)
Brit. Embassy
A.C. C.I.O. Bolzano.

Copies of the two communications in question have already been forwarded to the British Ambassador under cover of a letter in much the same strain as that addressed to Admiral Stone.

2. Sir Noel Charles has forwarded translations of these documents to the Foreign Office without comment.

Shelford
Pol. Adviser (Br.)

2456

8250

HEADQUARTERS ALLIED COMMISSION
AGC 394
LOCAL GOVERNMENT SUB COMMISSION

Ref: 31/

10/45/12/1

12 April 1946

SUBJECT: Provisions for Autonomy in Bolzano Province.

TO: 1. Field A
Field B
AG CIO Bolzano.

Herewith copy with English translation of a letter addressed to the Chief Commissioner by the Ministry of Foreign Affairs on 25 March, together with copies in both languages of the 2 communiques therein referred to - for your information and observations. The attention of the Political Advisers is drawn to the Ministry's request in the third paragraph of their letter, which appears rather to be a matter for the Embassy than for this Headquarters.

R. R. Temple
RALPH R. TEMPLE
Major
Director
Local Government Sub Commission

CG/CS/WW

Encl: 5 copies

24-3

858

4 APR 1946



Ministero degli Affari Esteri
IL SEGRETARIO GENERALE

For Action

V82

Local Govt S/C

1/11
2/4/46

Rough translation

CA Section 88

5/438

Rome, March 25th, 1946

2 APR 1946

Dear Admiral Stone,

I beg to enclose herewith copies of two communiques issued respectively on the 5th and 8th of March, concerning the policy adopted by the Italian Government in order to give a fair and advantageous solution to cultural and executive problems in the Alto Adige zone.

May I call your attention to the meaning of these communiques, which are, I believe, a further example of the Italian Government's thoroughly democratic attitude in dealing with all matters concerning this zone.

As far as self-government problems are concerned in particular, it should be underlined that the policy followed by the Italian Government has been hampered by the attitude of local political milieux, evidently affected by Austrian propaganda. While the Italian Government are determined to carry out their settled plans and are willing to cooperate with local well-meaning people in order to promote better conditions in this border zone, I wish you would kindly draw the attention of the Allied Authorities to the unfavourable consequences brought about by the Austrian attitude and by the failure on the part of the Government of Vienna in taking an international standing as to their claims, thus delaying the wished-for provisions in favour of German-speaking minorities.

Believe me, dear Admiral Stone,

2 encl.

Very sincerely yours

24-8

(sgd) R. PRUNAS

Admiral Ellery W. Stone
Chief Commissioner
Allied Commission
ROME

Seen by V.P.
who agreed
on action to
send on to Polada
of AC CLO Bologna
1308
12 Apr 46



RC DIST-10p

ACTION - CA Sec

INFO - CC

- EC

8/88

POLAD A

POLAD B

29815
TranslationAUTONOMY OF THE ALTO ADIGE

A few days ago the President of the Council had a discussion with the Prefect of Bolzano, Dr. Innocenti, regarding the more important problems of this province.

As may be remembered, as far back as last July the Government decided that the exigencies of this bilingual area should come under the protection of a suitable regime of local self government, and more recently the Hon. De Gasperi charged the Prefect of Bolzano with the forming of a Commission composed of representatives of the various linguistic groups, to decide on a scheme of self government. The representatives of the German group, however, organized by the "Wolfsartei", refused to join the Commission. Notwithstanding this impediment, the Hon. De Gasperi, determined to fulfill the task entrusted to him by the Government, sent the Prefect of Bolzano to elaborate a scheme of self government availing himself of local discussions which always let transpire the aspirations of the region.

The President of the Council then discussed with the Prefect of Bolzano the work preceding the elections. It appears however that the drawing up of the lists is hindered by the unsolved problem of the citizenship of a large number of the inhabitants of the Alto Adige.

The Hon. De Gasperi, in agreement with the Ministry of the Interior, has therefore promised to come to a decision in the matter.

2447

8188



983
Translation

FOR THE PROVINCE OF BOLZANO

The President of the Council of Ministers in the presence of the Minister of the Interior, received Counsellor of State Dr. Innocenti, Prefect of Bolzano who made a report on the political and administrative situation of the province, with special emphasis on certain delicate local problems. The President of the Council paid special attention to the advisability of putting into practice as soon as possible the law already in force regarding the two languages. With this object in view he gave instructions for the forming of the Commission which must prepare the rules for the application of the said law.

Furthermore to meet the exigencies of the civic administration in a practical way and with the intention of guaranteeing the use of their language to German speaking citizens in the orbit of administrative intercourse as well, the President gave orders that the Prefect of Bolzano should immediately appoint for Italian citizens speaking German, a special course for the conferring of the temporary licence for communal secretary. Legislative measures will be issued concerning this which, while waiting for the result of the above-mentioned course, will permit the sindaci of the bilingual communes in that province to obtain the collaboration of secretaries possessing the requisite knowledge of the two languages. 2446

8188





MINISTERO DEGLI AFFARI ESTERI
IL SEGRETARIO GENERALE

5/438

Roma, 11 25 Marzo 1946

Caro Ammiraglio,

desidero trasmetterLe copie di due comunicati diramati rispettivamente in data 5 e 8 marzo, relativi all'azione che viene svolta dal Governo Italiano al fine di dare al più presto una soluzione proficua e giusta ai problemi amministrativi e culturali della Regione alto-atesina.

La prego di volere rivolgere tutta la Sua cortese attenzione al contenuto di tali comunicati, che costituiscono una nuova prova dei sinceri sentimenti democratici cui si ispira il Governo italiano nel trattare i problemi dell'Alto Adige.

Per quanto riguarda in particolare il problema dell'autonomia va messo in rilievo che l'azione del Governo Italiano ha trovato ostacoli nell'atteggiamento ostruzionistico di certi ambienti politici locali, ispirati dalla propaganda proveniente d'oltre Alpi. Mentre il Governo Italiano ha deciso fermamente di condurre comunque a compimento il programma che si è tracciato, e rimane pronto a collaborare con tutti gli elementi locali di buona volontà per assicurare un migliore avvenire a quella regione di confine, vorrei pregarLa di richiamare l'attenzione del

Ammiraglio Ellery W. STONE
Capo Commissione Alleata

ROMA

8188



le Autorità Alleate sulle conseguenze del tutto negative che proprio l'atteggiamento austriaco e la perenne mancata presa di posizione nel campo internazionale circa le pretese del Governo di Vienna, vengono ad avere ai fini della tanto desiderata rapida realizzazione dei provvedimenti a favore delle minoranze di lingua tedesca.

Mi crede, molto cordiale

IL SEGRETARIO GENERALE

R. K.

98D

L'AUTONOMIA DELL'ALTO ADIGE

Nei giorni scorsi il Presidente del Consiglio ha conferito con il Prefetto di Bolzano, dott. Innocenti, in merito ai più importanti problemi di quella provincia.

Come si ricorderà fin dallo scorso luglio il Governo aveva deciso che le esigenze di questa zona bilingue trovassero la loro tutela in un apposito regime di autonomia locali, e più recentemente l'On.le De Gasperi aveva incaricato il Prefetto di Bolzano di costituire una Commissione con gli esponenti dei vari gruppi linguistici per concretare un progetto di autonomia. I rappresentanti del gruppo tedesco, però, organizzati nel "Volksrat" si sono rifiutati di entrare a far parte della Commissione, per cui l'On.le De Gasperi, fermamente deciso di adempiere all'impegno assunto dal Governo, ha inviato ugualmente il Prefetto di Bolzano a procedere alla elaborazione dello schema di autonomia valutando di quelle consultazioni locali che consentono sempre di tener conto delle aspirazioni della regione.

Il Presidente del Consiglio si è infine trattenuto con il Prefetto di Bolzano sul lavoro preparatorio delle elezioni. E' risultato però che la compilazione delle liste è ostacolata dall'assoluta mancanza dello stato di civiltà finanziaria di un notevole numero di alto-tedesini.

L'On.le De Gasperi si è perciò riservato, d'accordo con il Ministro dell'Interno di prendere una decisione in proposito.

2444

6182



98E

PER LA PROVINCIA DI BOLZANO

Il Presidente del Consiglio dei Ministri, presente il ministro per l'Interno, ha ricevuto il Prefetto di Bolzano, Consigliere di Stato dott. Innocenti, il quale gli ha riferito sulla situazione politica e amministrativa della provincia ed in particolare su alcuni delicati problemi locali. Il Presidente del Consiglio si è soffermato soprattutto sulla opportunità di attuare nel modo più rapido e possibile l'applicazione della legge già in vigore sulla bilinguità. A tale scopo ha impartito istruzioni per la costituzione della commissione che dovrà predisporre le norme relative all'applicazione di detta legge.

Inoltre, per venire praticamente incontro alle esigenze delle civiche amministrazioni, e nell'intento di garantire ai cittadini di lingua tedesca l'uso della loro lingua anche nell'ambito dei rapporti amministrativi, il Presidente ha dato disposizioni perché, a cura del Prefetto di Bolzano, sia subito indetto, per i cittadini italiani di lingua tedesca, un corso speciale per il conferimento della patente provvisoria di segretario comunale. Verrà emanato al riguardo apposito provvedimento legislativo che, anche in attesa dell'espletamento del corso suddetto, assicurerà la sistemazione delle segreterie comunali di quella provincia in modo di offrire ai sindaci dei Comuni mistilingui la collaborazione di segretari in possesso del requisito della bilinguità.

8188



457211

44

ALLIED COMMISSION
OFFICE OF CHIEF LIAISON OFFICER
BOLZANO



REF: Dear Major Temple.

DATE: 19 April 46
23 APR 1946 *RMB*

These files were handed to me
this morning by the President of
the South Tyrol Volkspartei. He
wished a copy to be given to
the Ambassadors of Britain &
America. I send them to you as
received in case Poland A & B are
interested. The statistics are
monumental.

Yours sincerely,
S. Miller

(I've a new pen which accounts for my shaky
writing. When not come and see us?)

file 45/12/1

31

C O P Y

HEADQUARTERS ALLIED COMMISSION
OFFICE OF THE CHIEF COMMISSIONER
APO 394

Ref: 2806/349/EC.

26 March 1946

My dear Mr. Prime Minister:

I understand from information received from the Press and other sources, that it will not be possible to hold National Elections in the Province of Bolzano on June 2nd owing to the fact that the compilation of the electoral rolls will not be completed in time.

I feel sure that you will agree that this is very much to be regretted. All that remains would appear to be to hold the National elections in the Province at the earliest possible date so that its agencies can take part in the work of the Constituent Assembly to as great an extent as possible. I am confident that you are fully alive to the desirability of this and will take all the necessary measures to that end.

WILFRY S. STONE
Rear Admiral, USNR
Chief Commissioner

Dott. Alcide De Gasperi
President of the Council of Ministers
Italian Government
Rome.

Copy to : Local Government S/C
Polad (A)
Polad (B).

2441

RECEIVED
100
100

Report on the holding of National Elections in Bolzano Province

1. The last fortnightly report of the acting prefect of Bolzano states that:
 - a) all the 91 members of the province have compiled their male and female lists;
 - b) in no cases have any lists, male or female, been approved by the Electoral Commissions;
 - c) the Electoral Commissions are proceeding by:
 - (i) first examining the regularity of the Bolzano's proceedings;
 - (ii) then making the cases of those registered electors who are Italian speaking and whose citizenship is not in doubt; and
 - (iii) considering cases of all German-speaking registered electors until after the special consultation on citizenship has given a decision.

In a recent interview the acting prefect stated categorically that as result of this no part of Bolzano Province will participate in the elections for the Constituent Assembly to be held on 2 June.

2. It is true that the work of the special consultation and the work of the Electoral Commissions could proceed substantially to some extent, but this does not take the matter very far. Registrations have to be lodged with the Court of Appeal 40 days before the elections, i.e. by 13 April. The lists of candidates as lodged have to be subscribed by not less than 500 and not more than 1,000 registered electors. The deposited lists have to be accompanied by certification that the subscribers are in fact registered electors. Therefore the electoral lists must be approved, ready and returned at the latest a day or two before 13 April.

3. It follows therefore that the special consultation would have to complete its labours by the first few days of April to allow time for entries to be made in the lists in consequence of their decisions. This is obviously quite impossible. No special Commission has not yet been appointed.

4. It may therefore be taken as certain that the revision of Bolzano cannot in any circumstances participate in the elections to be held on 2 June.

5. This does not mean that representatives of Bolzano will never participate in the labours of the Constituent Assembly. The law governing the elections for the Constituent Assembly contains a provision to meet the case.

6. Article 13 of the law says that the order fixing the date of the elections may provide for supplementary elections in cases where exceptional circumstances inherent in the present situation in certain frontier areas make it impossible to hold elections in them at present. Bolzano and Trento provinces form constitutionally one unit, returning 9 deputies. Article 13 makes it possible for the Italian Government to provide that in this constituency only the revision of Trento shall vote on 2 June and only for (say) 3 deputies and that the remainder of the constituency, i.e. Bolzano province shall vote for the remaining 6 deputies at a later date.

7. It is calculated that the law on the revision of the Constituent Assembly provides for it to meet 22 days after the elections, i.e. on 24 June and for it to have a minimum life of eight months, i.e. until 24 February 1947.

in the election of the President, Vice President, and members of the Electoral

Commission;

e) the Electoral Commission are proceeding by -

(1) First examining the regularity of the President's proceedings;

(2) then, according to the cases of those registered electors who are Italian

speaking and those citizenship is not in doubt; and

(3) pending cases of all foreign-speaking registered electors until after

the special Commission on citizenship has given a decision.
In a recent interview the acting President stated categorically that as a result of this no part of Bolzano province will participate in the elections for the Constituent Assembly to be held on 2 June.

2. It is true that the work of the special Commission and the work of the Electoral Commission could proceed simultaneously to some extent, but this does not take into account very far. Considerations have to be lodged with the Court of Appeal 45 days before the elections, i.e., by 10 April. The lists of candidates deposited have to be subscribed by not less than 500 and not more than 1000 registered electors. The deposited lists have to be accompanied by certification that the subscribers are in fact registered electors. Therefore the electoral lists must be approved, ready and printed at the latest on May or before 10 April.

3. It follows therefore that the special Commission would have to complete its labours by the first few days of April to allow time for entries to be made in the lists in consequence of their decisions. This is obviously quite impossible. **No special Commission has not yet been appointed.**

4. It may therefore be seen that the provision of Bolzano cannot in any circumstances participate in the elections to be held on 2 June.

5. This does not mean that representatives of Bolzano will never participate in the labours of the Constituent Assembly. The law governing the elections for the Constituent Assembly contains a provision to meet the case.

6. Article 13 of the law says that the order fixing the date of the elections may provide for supplementary elections in cases where exceptional circumstances inherent in the present situation in certain frontier zones makes it impossible to hold elections in them at present. Bolzano and Trento provinces form constituency VIII, returning 9 deputies. Article 13 makes it possible for the Italian Government to provide that in this constituency only the province of Trento shall vote on 2 June and only for (say) 5 deputies and that the remainder of the constituency, i.e., Bolzano province shall vote for the remaining 4 deputies at a later date.

7. It is understood that the law on the powers of the Constituent Assembly provides for it to meet 22 days after the elections, i.e., on 24 June and for it to have maximum life of eight months, i.e., until 16 February 1947.

8. The acting President of Bolzano expressed no opinion as to when it may be possible to hold elections in Bolzano. This must depend on how long it takes the special Commission to complete its work, and I do not think anyone could estimate a reliable estimate on this. I would say this with myself, that I do not think we shall have any elections in Bolzano before the end of August and probably later. It therefore seems reasonable to assume that the deputies from Bolzano will take part in the work of the Assembly in its later and possibly adjourned sessions.

5. The question arises as to what attitude this should take upon the facts stated above and in particular whether any action should be taken or not. The Commission has considered this question in its report and has reached the conclusion that it has been arrived at in the following manner: The Commission of the UN has taken into account all the provisions of the Charter and the principles of the Charter and has found that the Commission has no authority to take any action in the present case.

[illegible]

a) In so far as the Italian Government, in the
 its (i.e. the Italian Government) Commission (i.e. the Italian Government) (quoted from the Italian
 "to interfere. It was only because the Italian Government...."
 "opinion that we advised the Italian Government."
 to the release of 25 February 1946.
 to the preparation of elections for the Italian Government to settle" (quoted
 b) as to the preparation of elections is strictly a matter for the Italian Government to take as to their conduct in
 conduct of the election of 20 February 1946 to take as to their conduct in
 from the action directive of 20 February 1946 to take as to their conduct in
 observing elections.)

11. It is submitted therefore that this should not volunteer any advice to the Special Section Director (see the section director's covering circulation.) If any however be considered desirable to consider the claims hope that the claimants will be held in the light of the matter. If the observation that the claims are probably an unlikely as possible.

R. R. Templeton

Richard D. Stephens
Investigator, Local Government S/O.

34. October 1942

Classification: Student Classification
Subjective Confidential
 Subject A
 Field B
 10/25/12/10
 10/25/12/10
 10/25/12/10

243

SECRET

Summary of previous correspondence.

1. About 3 July 1946 CG left an Aide-Memoire with Prime Minister Mussolini. This drew attention to the nationality problem in Italy and asked for the views of the Italian Government.

2. Letter CG to CG - 23 July. This refers to the Aide-Memoire and states the views of the Italian Government, i.e. that there should be a Special Commission with power to conduct a fresh option. In the meantime they agreed that the preparation of electoral lists should proceed by registering only Italian and those of German blood who applied for Italy.

3. Letter CG to CG - 26 August. CG agreed with the CG's proposals as to the electoral lists, as in para 2 above, but stated that:-

- a) the Special Commission should apply the existing law.
- b) a fresh option and considered highly undesirable would the Italian Government advanced their future policy as to the Alps.

4. Letter CG to CG - 23 September - urging the early setting up of the Special Commission on observing the embargo out of all concerned in the preparation of the lists (renewed from day to day).

5. Letter CG to CG - 19 October - asking for an early reply and pointing out the danger of not being ready in time for the elections. This letter also referred to the possibility of the Special Commission being appointed by CG as the Italian Government was not able to establish it in the immediate future.

6. Letter CG to CG - 9 November - stating that the Italian Government was studying a decree for establishing a Special Commission "to decide doubtful cases". Meanwhile the preparation of the electoral lists could proceed and the possibility could be considered of temporarily registering the German-speaking population and of subsequently cancelling registrations in those cases found not to have Italian citizenship.

7. Letter CG to CG - 15 November - enclosing a draft decree and request 2438 setting up of the Special Commission. In this letter the CG asked that the preparation of the electoral lists should be suspended.

8. Letter CG to CG (in context) - 21 November - pointing out the discrepancy in the letter of 9 and 15 November and stating that instructions had already been given to CG for the preparation of the electoral lists to proceed if otherwise the lists may not be ready by the time of the elections.

9. Letter CG to CG - 21 November - pointing to the draft decree for the

5. Letter CC to MI - 24 August. CC agreed with MI's proposals as to the electoral listing as in para 2 above, but stated that it was the Special Commission's duty to apply the existing law.
 6. A French edition was considered highly undesirable until the Italian Government advised their future policy as to the issue.

4. Letter CC to MI - 22 September - ending the early setting up of the Special Commission as otherwise the announcement of all concerned in the preparation of the lists increases from day to day.

5. Letter CC to MI - 19 October - asking for an early reply and pointing out the danger of not being ready in time for the elections. This letter also referred to the possibility of the Special Commission being appointed by MI if the Italian Government was not able to establish it in the immediate future.

6. Letter MI to CC - 9 November - stating that the Italian Government was studying a decree for establishing a Special Commission "to decide doubtful cases". Meanwhile the preparation of the electoral lists could proceed and the possibility would be considered of temporarily registering the counter-propaganda population and of subsequently cancelling registrations in those cases found not to have Italian citizenship.

7. Letter MI to CC - 16 November - enclosing a draft decree and report 2438 setting up of the Special Commission. In this letter the MI asked that the preparation of the electoral lists should be suspended.

8. Letter CC to MI (in German) - 21 November - pointing out the discrepancy in the letter of 9 and 16 November and stating that instructions had already been given to MI for the preparation of the electoral lists to proceed; otherwise the lists may not be ready by the time of the elections.

9. Further letter CC to MI - 21 November - relating to the draft decree for the Special Commission. The letter referred that the Commission should ascertain the facts and apply the existing law and emphasize the view that proposals which would deprive of their citizenship a number of persons who under existing Italian law are Italian citizens were inappropriate.

10. Letter CC to MI - 20 January 1946 - which refers to a lengthy memorandum submitted from the MI's offices upon the judicial aspects of the Italian Government's proposals as to the Special Commission and states that while the memorandum has merit from a judicial point of view, the proposals are still considered useless as a matter of policy.

43/45/12/13.

SUBJECT: Note of Interview AS HQ

DATE: 3 March 1946

PRESENTE: Dott. DRUDENTI Silvio, temporarily Prefect of Bolzano
 Major C.G.R. Williams, Executive Officer Local Government S/O.

1. Special Commission Dr. I. said the Government were going ahead with this and a Decree constituting a Special Commission would be published, he thought, before the end of March. His idea was a Commission of 15 of whom at least 5 would be German-speaking representatives such as a Minister of Religion, two Sindaci, a Judge and so on.

2. Autonomy Dr. I. himself is working on a project of administrative autonomy. His great difficulty, he said, was to ^{provide} guarantees for a minority. Whatever were the boundaries of the new autonomy region there would be a minority. If the new region were Bolzano Province only there would be an Italian minority; if it were Bolzano and Trento Provinces combined there would be a German minority. (Note: I rather think, from I's attitude, that the autonomous region will be Bolzano and Trento). In either case the problem is not so much one of writing guarantees into a Decree as of providing appropriate administrative institutions or procedures to ensure that the guarantees are observed.

3. Dr. I. reminded me of D.L.L. 22 December No. 324 (S/G.U. 16 January 1946 No. 13) providing for the use of German in Bolzano Province. One of his main jobs at present was working out details of this. ^{He} intended to see, for instance, that there was one at least bilingual official in every public office.

4. Preparation of Electoral Lists Dr. I. confirmed the position as disclosed in his report to the Ministry of the Interior of 5 February 1946 (for period 16 - 31 January 1946) i.e.

- a) All Communes in Bolzano (91) have compiled their male and female lists;
- b) None of the lists have been approved by Electoral Commissions;
- c) Electoral Commissions are dealing with the lists by: -
 - i) Examining the validity of the Sindaco's proceedings; then
 - ii) Examining the entitlement to be registered of those whose Italian citizenship is clear;
 - iii) Leaving cases of doubtful citizenship on one side at present.

5. Dr. I. said the Electoral Commissions would not proceed any further until the Special Commission had settled cases of doubtful citizenship. He confirmed therefore that there would be no communal elections in Bolzano Province this spring, neither would any of the electoral lists be ready in time for the anticipated date of the elections to the Constituent Assembly at the end of May.

6. He did not think that these facts would produce any unfavourable reaction among the population. Among the German-speaking inhabitants, the pro-Austrian was more interested in the possibility of participating in an Austrian Parliament than in an Italian Constituent Assembly. As to the remaining allogeni, ^{by 24 June 1946} the date of the Constituent Assembly elections the scheme of autonomy would have been published and the allogeni would be more interested in electing their own regional assembly than in sending delegates (deputati) to the Costituente. This, he thought,

- 2 -

29A

would also be the attitude of the Italian-speaking population.

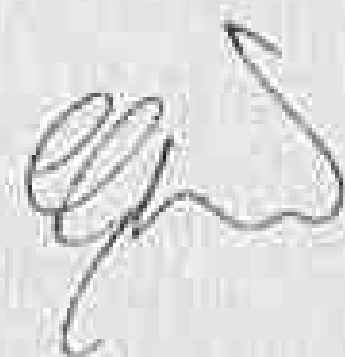
7. Dr. I. said he did not think it would be possible to publish the scheme of autonomy before the Special Commission got to work on the citizenship problem. He did not think the absence of an autonomy scheme would have any great influence upon those who may be called upon to exercise a fresh option for Austrian or Italian citizenship. He thought the D.L.L. (quoted above) as to the use of the German language had gone a good way to meet this point and indicated the intentions of the Italian Government.

8. Alto Adige among German POWs Dr. I. referred to the number of natives of the Alto Adige who had served in the German Army, had been taken prisoner and were now held in POW camps in various parts of Italy. Many of these had written to the Prefecture and elsewhere to ask if they could be released and go home to their native places and the Italian Government were rather anxious about this. The problem is, of course, bound up with that of citizenship, but I gathered that the Italian Government did not object in principle to the release and return to their native places even of those who had opted under the German 1939 records, providing the Italian Government were sure after enquiries made by them that:-

- a) the prisoners did in fact have a home and family in the Alto Adige;
- b) they had a reasonable prospect of supporting themselves there.

The question of their citizenship would be dealt with by the Special Commission in any event.

I pointed out that this problem was not within the competence of this S/C and all I could do was to bring Dr. I.'s observations to the notice of my superior Officers. Dr. I. said that on this matter there had been some correspondence between the Ministry of Foreign Affairs and the Chief Commissioner last August. He thought it would be well if he mentioned the subject to Col. Miller. I said I thought there could be no objection to this and that Col. Miller as CIO Bolzano would no doubt communicate on the matter with this HQ.



2456

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

CGR/m

Distribution : 45/12/1
45/29
File
Post

Local Gov. A/C. For info & attention of division 28
1/3
HEADQUARTERS ALLIED COMMISSION

APG 394

Office of the Executive Commissioner
6/18/46

45/12/1.
1/3/46
24 February 1946

Ref: 623/47/100

SUBJECT: Bolzano Petitions.

TO : Secretariat of the Council of Ministers
c/o Foreign Office
London S.W.1.

1. I refer to my letter 585/46/83 of 11 February 1946.
2. Attached please find a list of the Italian, German and Latin-speaking population in the Province of Bolzano, which has been compiled after much study by an ~~officer~~ ^{officer} of this Commission, who has been Provincial Commissioner in Bolzano for several months.
3. Although these figures must of course be considered as approximate, it is thought they may be of assistance to you when you study the petitions forwarded in my 585/83 of 22 January 1946.

For the Chief Commissioner,

M. B. LUSH

2435

Brigadier
Executive Commissioner

Copy to: G-5 AFHQ
Polad 'A'
Polad 'B'
G.A. Section ✓
A.C. LO Bolzano.



28B

ITALIAN, GERMAN and LADINIAN SPEAKING POPULATION

IN THE PROVINCE OF BOLZANO

<u>COMMUNES</u>	<u>ITALIANS</u>	<u>LADINS</u>	<u>GERMANS</u>
Appiano	1709		4742
Badia	21	1668	4
Barbiano	196	15	1016
Bolzano	57339	112	13514
Braies	13	5	570
Brennero	980	3	1025
Bressanone	4184	75	5119
Brunico	2020	90	3821
Canazei	4		191
Caldero	1200		3170
Campo Trens	243	3	1926
Campo Tures	174	3	2322
Castelbello Giarole	67		1712
Castelrotto	483	602	2627
Cermas	153		513
Chienes	142	24	1184
Chiusa	760	19	3139
Cornedo Isarco	485		1666
Corvara Badia	7	473	4
Curon Venosta	238	1	2067
Dobbiaco	528	2	1776
Fales	4		1121
Fis	343	18	1327
Fortezza	899	40	238
Funes	153		1730
Gais	49		1475
Gargassone	241		312
Glaruna	126		635
Laces	400		2544
Lagundo	690		1832
Laien	120	20	1630
Laiues	4209	4	1372
Lana	1176	24	3312
Lasa	200		2098
Luson	20		1110
Malles Venosta	531	12	3603
Marobbe	55	1997	16
Marlengo	888		1351
Martello	12		918
Meltina	1		1119
Merano	18485		7320
Mongelfo	495		1574
Moos	320		1711
Nalles	133		962
Naturno	304	1	1799
Naz Sclaves	141		915
Nova Ponente	151		2341

2434

		2044	975
Nova Levante	112		125
Ortisei	178		1254
Paradise	244		798
Perce	19		180
Plan	16		257
Plan	465		3424
Postal	289		2503
Prato Stelvio	130	1	132
Racines	111	4	3260
Rento Cardena	597	10	4552
Rosen Valdaora	703	17	650
Rosen	37	2	2214
Rifiano	210	18	1729
Rio Passiria	703	5	1919
S. Cavillo	49	2	3402
S. Genesio	257		1892
S. Leonardo in Passiria	135	156	6
S. Lorenzo in Sebato	20	2006	32
S. Martino Badia	84	932	4520
S. Cristina	230	34	1739
Sarentino	79		7
Soana	253	1015	1421
Salva Cardena	2		1097
Salva Malini	26		998
Senales	30		2135
Sesto	368		942
Silandro	102		1048
Siuderno	49		868
Toronto	1150	12	1676
Torino	66		612
Torino	87	4	1166
Tiro	133	16	770
Tirol	243		3926
Tirol	36		54
Ultimo	646		1352
Vadana	229		1353
Val di Vise	50		1333
Valle Aurina	66		1231
Valle di Gardena	173		1286
Vandice	634	39	991
Varna	9	30	896
Vernone	202	7	1330
Villabassa	2		2347
Villandro	1090	15	
Vipiteno			
TOTAL	111,640	11,693	164,037

The figures of Italian citizens German speaking includes a certain number of south Tyrolese who, in accordance with the present law must be considered aliens and should not be included in the total figure. They are about 15,000 and are to be struck off the Population Census.

AC/45/12/1

SUBJECT : Note of interview.

DATE : 23 January 1946 - 10,00 hrs.

PRESENT : Dott. Silvio INNOCENTI, Consigliere di Stato
Major R.R. Temple, Director Local Government S/C.

1. Dott. INNOCENTI said that he had come to present his compliments and stated that he had been designated by the Italian Government to draw up a report on the Bolzano situation and also to act as Prefect there. He said that he expected to be back in Rome in 3 weeks when he would again visit me and present a copy of the report. He hoped also to be able to meet Brig. Carr then.

2. At his request I have given him a card of introduction to Col. Miller, Chief Liaison Officer in Bolzano.

3. Dott. Innocenti said that it was extremely important that the decree dealing with the citizenship problem be enacted as quickly as possible, also because it served as the basis for much action in dealing with other phases of civil government. He said he had participated in the formulation of the decree. He pointed out that the creation of a special means of dealing with the re-acquisition of Italian citizenship was consistent with the adoption of a special means of losing Italian citizenship, i.e. with the 1939 Law. He pointed out also that the 1912 Law on citizenship which might be applicable in cases of loss of citizenship by people in other parts of Italy, for example in the case of all those who went to the States and then returned, was not applicable here because the people in the Upper Adige region denounced their Italian citizenship on political and racial grounds, in order to acquire German citizenship. In the case of people going to the States and elsewhere the purpose was, for the most part, that of economic betterment. Besides there was no special law created to govern their derunciation of the Italian citizenship and the acquisition of another nationality. I told Dott. Innocenti that very likely our observations would be forthcoming very shortly.

R. R. Temple 2433
RALPH R. TEMPLE
Major
Director
Local Government Sub Commission

RRT/ww

26

Ref : 6/18.2/GA

5 February 1946

My dear Mr. Prime Minister:

This Commission has carefully reviewed the memorandum submitted by Dr. Sorrentino of the Office of Studies and Legislation in the Presidency of the Council of Ministers dealing with the draft law as to citizenship in the Alto Adige which was sent to the Director of the Local Government Sub-Commission under cover of Dr. Sorrentino's letter of 16 January 1946.

It considers the arguments presented in the memorandum to be with merit from a juridical point of view but still believes that the enactment of such a law would be unwise as a matter of policy.

Yours very truly

Very truly,
Harry W. Stone

HARRY W. STONE
Rear Admiral, USNR
Chief Commissioner

2432

Dr. Alcide DE GASPERI
The President of the Council of Ministers
Italian Government
E O R E

8041

7
DRAFT 25

6/18.2/CA

28 January 1946

My dear Mr. Prime Minister:

This Commission has carefully reviewed the memorandum submitted by Dr. Sorrentino of the Office of Studies and Legislation in the Presidency of the Council of Ministers dealing with the draft law as to citizenship in the Alto Adige which was sent to the Director of the Local Government Sub Commission under cover of Dr. Sorrentino's letter of 16 January 1946.

It considers the arguments presented in the memorandum to be with merit from a juridical point of view but still believes that the enactment of such a law would be unwise as a matter of policy.

Yours very truly,

127 Elery W. Stone
ELERY W. STONE
Rear Admiral, USNR
Chief Commissioner

2431

80 80
(Translation) 24

Rome, 16 January 1946

Presidency of the Council of Ministers
Office of Legislative Studies

My dear Major,

As verbally agreed I transmit to you a Memorandum
on the known question of the decree on the citizenship of the Alto
Atesini.

I shall be grateful to you, if you will let me promptly
know what you think about it.

Respectfully yours,

Sorrentino

2430

To : Major R.R. TEMPLE
A.C.
Via Veneto Room 50
R o m e

33 A
SORENTINO'S
PROMEMORIA

MEMORANDUM

on project DII containing provisions concerning ALTO ADICE

Under Art. 1 of the above law project there are listed three categories to which Italian citizenship should not be recognized: the first two categories constitute a mere application of the existing laws. While no doubt has arisen regarding para 1, the category mentioned under para 2 has on the other hand been considered as bringing about an innovation with respect to the present order.

Such an observation is not correct. As a matter of fact, the law of 21 Aug 1939, n. 1941 leaves no doubt that Italian citizens of German origin lose the Italian citizenship upon acquisition of the German citizenship.

Under art. 2, para 2 of said law, provision for the cancellation from citizenship records of those who obtained the certificate of German citizenship is expressly established.

This provision fits perfectly in a legal set-up which like the Italian one repudiates the system of double citizenship: the governing rule in a legal set-up of this kind is that voluntary acquisition of foreign citizenship entails the loss of national citizenship.

Conversely, it must be recognized that the category indicated under para 3 of art. 1 of the project does not reflect, strictly speaking, the principles of the existing law. Indeed on the basis of the fundamental law on citizenship, the loss of the latter as a result of collaboration with a foreign government, is dependent on the non-compliance with the warning by the Italian Government that foreign service should be abandoned.

Nevertheless the provision in question has been proposed in the draft for various reasons.

I - Above all it has been considered that the persons involved have in an

regarding para 1, the category mentioned under para 2 has on the other hand been considered as bringing about an innovation with respect to the present order.

Such an observation is not correct. As a matter of fact, the law of 21 Aug 1939, n. 1941 leaves no doubt that Italian citizens of German origin lose the Italian citizenship upon acquisition of the German citizenship.

Under art. 2, para 2 of said law, provision for the cancellation from citizenship records of those who obtained the certificate of German citizenship is expressly established.

This provision fits perfectly in a legal set-up which like the Italian one repudiates the system of double citizenship: the governing rule in a legal set-up of this kind is that voluntary acquisition of foreign citizenship entails the loss of national citizenship.

Conversely, it must be recognized that the category indicated under para 3 of art. 1 of the project does not reflect, strictly speaking, the principles of the existing law. Indeed on the basis of the fundamental law on citizenship, the loss of the latter as a result of collaboration with a foreign government, is dependent on the non-compliance with the warning by the Italian Government that foreign service should be abandoned.

Nevertheless the provision in question has been proposed in the draft for various reasons.

I - Above all it has been considered that the persons involved have in an unequivocal manner manifested their will not to be any longer Italian citizens and that such determination was confirmed by their placing themselves at the disposal of the German State.

On the other hand, the state of war existing between Italy and Germany and the special situation of our country as result of war operations rendered any notice of warning prescribed by the 1912 law impossible, both on account of

communication difficulties and because the Government was not in a position to ascertain which of its citizens placed themselves at the service of Germany.

It has been remarked that para 3 of art. 1 is undefined as to time; it may therefore be opportune to make clear that the collaboration referred to therein concerns the period subsequent to 8 september 1943.

It has moreover been remarked that the Italian Government might have issued a warning in a general way to all its citizens. Against this the following may be argued:

- a) that the notice of warning was superfluous since the banning by the Italian Government of any collaboration with Germany was implicit in the state of war existing between the two countries;
- b) this procedure is not the one prescribed by the law which refers to an individual communication which causes the loss of citizenship only if the party concerned does not comply with its contents.

II - From information received by the Italian Government, it appears that in the category foreseen under n.3 of art.1 of the project there are included the worst individuals, i.e. persons who on premeditated purpose remained in Italy to carry out anti-Italian propaganda; besides it was this category of people which constituted a remarkable source of recruits for the S.S.

III. - The provision in question, though from a point of view apparently detrimental to the individuals concerned by depriving them of their Italian citizenship, constitutes at the same time a way out since it relieves them from penal liability. As a matter of fact these persons, should they be considered Italian citizens, they would be charged with the offence of aid to and collaboration with the enemy, an offence which carries with it heavy penal ties.

concerns the period subsequent to 8 September 1943.

It has moreover been remarked that the Italian Government might have issued a warning in a general way to all its citizens. Against this the following may be argued:

- a) that the notice of warning was superfluous since the banning by the Italian Government of any collaboration with Germany was implicit in the state of war existing between the two countries;
- b) this procedure is not the one prescribed by the law which refers to an individual communication which causes the loss of citizenship only if the party concerned does not comply with its contents.

II - From information received by the Italian Government, it appears that in the category foreseen under n.3 of art.1 of the project there are included the worst individuals, i.e. persons who on premeditated purpose remained in Italy to carry out anti-Italian propaganda; besides it was this category of people which constituted a remarkable source of recruits for the S.S.

III. - The provision in question, though from a point of view apparently detrimental to the individuals concerned by depriving them of their Italian citizenship, constitutes at the same time a way out since it relieves them from penal liability. As a matter of fact these persons, should they be considered Italian citizens, they would be charged with the offence of aid to and collaboration with the enemy, an offence which carries with it heavy penal ties.

IV - Consideration should then be given (and this consideration is very important) to the whole economy of the project. Though according to art. 1 the project might seem to be restrictive of rights, on the other hand in its substantial part it grants considerable facilities to the Alto Atesini who lost their Italian citizenship for re-acquiring same.

23/13

On the basis of the 1939 agreements and of the afore-mentioned law of the same year, both preceding the option, the loss of the Italian citizenship cannot be revoked. The provisions governing the re-acquisition of the Italian citizenship on the part of those who lost it, cannot be applied in this case; but they must be considered as if they always had been foreigners and therefore the re-acquisition of the Italian citizenship would constitute an exceptional measure depending on the discretion of the Italian Government. On the other hand the project allows for the easy re-acquisition of the Italian citizenship whenever the residence has not been transferred to Germany and excepting cases of special unworthiness. This part of the project, which as already pointed out is the most important, should be valued in a comprehensive judgement which should be passed upon it.

Trans. AN
17/1/46



Roma, 16 gennaio 1946 ²²

Presidenza del Consiglio dei Ministri

UFFICIO STUDI E LEGISLAZIONE

Mio caro Maggiore,

come di intesa Le trasmetto un pro-
memoria sulla nota questione del decreto
sulla cittadinanza degli Alto Atesini.

Le sarò grato se, con cortese urgen-
za, vorrà farmi conoscere il Suo pensiero
al riguardo.

Con distinta considerazione.

— fms
G. / 6000 + ing

Maggiore R.R. TEMPLE
A.C.,
V piano - stanza 50
Via Veneto

R O M A

2426

PRO - MEMORIA

sullo schema di D.L.L. contenente disposizioni
sull'Alto Adige

L'art. 1 dello schema elenca tre categorie alle quali non si dovrebbe riconoscere la cittadinanza italiana: le prime due costituiscono una mera applicazione delle leggi attualmente in vigore. Mentre sul n. 1 non è sorto alcun dubbio, è stato viceversa prospettato che la categoria compresa al n. 2 sia innovativa rispetto all'ordinamento vigente.

L'osservazione non sembra esatta. Ed invero la legge 21 agosto 1939, n. 1941, non lascia dubbi che i cittadini italiani di origine germanica perdano la cittadinanza italiana all'atto dell'acquisto della cittadinanza germanica.

Nell'art. 2, secondo comma, di detta legge è stabilito espressamente che è disposta la cancellazione dai registri di cittadinanza di coloro che hanno ottenuto il certificato di cittadinanza germanica.

La norma si inquadra perfettamente in un ordinamento, come quello italiano, che respinge il sistema della doppia cittadinanza: è norma direttiva infatti degli ordinamenti del genere che l'acquisto volontario della cittadinanza straniera faccia perdere la cittadinanza nazionale.

Viceversa si deve riconoscere che la categoria indicata nel n. 3 dell'art. 1 dello schema non rispecchia, a stretto rigore, i principi della legge vigente. Per vero in base alla legge fondamentale sulla cittadinanza, la perdita di questa per effetto

L'art. 1 dello schema elenca tre categorie alle quali non si dovrebbe riconoscere la cittadinanza italiana: le prime due costituiscono una vera applicazione delle leggi attualmente in vigore. Mentre sul n. 1 non è sorto alcun dubbio, è stato viceversa prospettato che la categoria compresa al n. 2 sia innovativa rispetto all'ordinamento vigente.

L'osservazione non sembra esatta. In invero la legge 21 agosto 1930, n. 1941, non lascia dubbi che i cittadini italiani di origine germanica perdano la cittadinanza italiana all'atto dell'acquisto della cittadinanza germanica.

Nell'art. 2, secondo comma, di detta legge è stabilito espressamente che è disposta la cancellazione dei registri di cittadinanza di coloro che hanno ottenuto il certificato di cittadinanza germanica.

La norma si inquadra perfettamente in un ordinamento, come quello italiano, che respinge il sistema della doppia cittadinanza: è norma direttiva infatti degli ordinamenti del genere che l'acquisto volontario della cittadinanza straniera faccia perdere la cittadinanza nazionale.

Viceversa si deve riconoscere che la categoria indicata nel n. 3 dell'art. 1 dello schema non rispecchia, a stretto 2425 re, i principi della legge vigente. Per vero in base alla legge fondamentale sulla cittadinanza, la perdita di questa per effetto della collaborazione ad un governo straniero, è fatta derivare dalla inosservanza della diffida del Governo italiano ad abbandonare il servizio.

Ciononostante la norma è stata proposta nello schema per un complesso di motivi.

I - Si è considerato innanzitutto che si tratta di persone che hanno in maniera non equivoca manifestato la volontà di non esse-

re più cittadini italiani e tale volontà hanno confermato con il mettersi a disposizione dello Stato tedesco.

D'altra parte lo stato di guerra esistente fra l'Italia e la Germania e la particolare situazione del nostro Paese in dipendenza delle operazioni belliche rendeva impossibile la comunicazione della diffida prescritta dalla legge del 1912, sia per le difficoltà di comunicazioni sia perchè il Governo non era in grado di accertare quali dei suoi cittadini si fossero posti al servizio della Germania.

L'è stato osservato che il numero 3 dell'art. 1 è indeterminato nel tempo; potrebbe quindi essere opportuno precisare che la collaborazione di cui ivi si tratta deve riferirsi al periodo successivo all'8 settembre 1943.

L'è stato altresì osservato che il Governo italiano avrebbe potuto fare una diffida in via generale a tutti i suoi cittadini. Si può obiettare in contrario:

a) - che la diffida era superflua in quanto il divieto del Governo italiano di collaborare con la Germania era implicito nello stesso stato di guerra esistente fra i due Paesi;

b) - questo procedimento non è quello prescritto dalla legge che si riferisce ad una comunicazione individuale, e solo della inosservanza della diffida in essa contenuta fa derivare, come si è detto, la perdita della cittadinanza italiana.

II - Dalle informazioni avute dal Governo italiano risulta che nella categoria prevista nel n. 3 dell'art. 1 dello schema sono compresi i peggiori elementi, vale a dire coloro che, per un malinteso dissenso, sono rimasti in Italia per svolgerci propaganda antitaliana; inoltre detta categoria ha costituito una cospicua fonte di arruolamenti per lo S.S.

cazione della diffida prescritta dalla legge del 1912, sia per le difficoltà di comunicazioni sia perché il Governo non era in grado di accertare quelli dei suoi cittadini si fossero posti al servizio della Germania.

E' stato osservato che il numero 3 dell'art. 1 è indeterminato nel tempo; potrebbe quindi essere opportuno precisare che la collaborazione di cui ivi si tratta deve riferirsi al periodo successivo all'8 settembre 1943.

E' stato altresì osservato che il Governo italiano avrebbe potuto fare una diffida in via generale a tutti i suoi cittadini. Si può obiettare in contrario:

a) - che la diffida era superflua in quanto il divieto del Governo italiano di collaborare con la Germania era implicito nello stesso stato di guerra esistente fra i due Paesi;

b) - questo procedimento non è quello prescritto dalla legge che si riferisce ad una comunicazione individuale, e solo dalla inosservanza della diffida in essa contenuta fa derivare, come si è detto, la perdita della cittadinanza italiana.

II - Dalle informazioni avute dal Governo italiano risulta che nella categoria prevista nel n. 3 dell'art. 1 dello schema sono compresi i peggiori elementi, vale a dire coloro che, per un meditato disegno, sono rimasti in Italia per svolgere propaganda antitaliana; inoltre detta categoria ha costituito una cospicua fonte di arruolamenti per la S.S.

2424

III - la disposizione in parola, se da un punto di vista sensu danneggiare le persone cui si riferisce col privarle della cittadinanza italiana, costituisce nello stesso tempo una agevolazione in quanto le esonera dalla responsabilità penale. Infatti esse, se si considerano cittadini italiani, debbono rispondere del reato di aiuto e collaborazione col nemico, reato che importa pene gravissime.

- 3 -

21/8

IV - Si consideri inoltre (e questa considerazione è assai importante) tutta la economia dello schema. Il quale, se nell'art. 1 sembra limitativo di diritti, viceversa, nella sua parte sostanziale, accorda delle sensibili agevolazioni agli Alto Atesini, che hanno perduto la cittadinanza italiana, per il riacquisto di questa.

In base agli accordi del 1939 ed alla legge già citata dello stesso anno, anteriori entrambe all'opzione, la perdita della cittadinanza italiana è irrevocabile. Al caso non sono applicabili le disposizioni che regolano il riacquisto della cittadinanza italiana da parte di coloro che l'hanno perduta, ma essi debbono essere considerati come se fossero stati sempre stranieri e perciò il riacquisto della cittadinanza italiana costituisce un provvedimento eccezionale e discrezionale del Governo italiano. Viceversa lo schema consente facilmente il riacquisto della cittadinanza italiana, sempre quando non sia stata già trasferita in Germania la residenza e salvi casi di particolare indegnità. Questa parte del provvedimento, che come si è detto è la più importante, deve essere apprezzata nel giudizio d'insieme che su di esso deve darsi.

2492

che hanno perduto la cittadinanza italiana, per il riacquisto di questa.

In base agli accordi del 1939 ed alla legge già citata dello stesso anno, anteriori entrambe all'opzione, la perdita della cittadinanza italiana è irrevocabile. Al caso non sono applicabili le disposizioni che regolano il riacquisto della cittadinanza italiana da parte di coloro che l'hanno perduta, ma essi debbono essere considerati come se fossero stati sempre stranieri e perciò il riacquisto della cittadinanza italiana costituisce un provvedimento eccezionale e discrezionale del Governo italiano. Viceversa lo schema consente facilmente il riacquisto della cittadinanza italiana, sempre quando non sia stata già trasferita in Germania la residenza e salvi casi di particolare indegnità. Questa parte del provvedimento, che come si è detto è la più importante, deve essere apprezzata nel giudizio d'insieme che su di esso deve darsi.



PRESIDENZA DEL CONSIGLIO DEI MINISTRI

L. Sciommer e Figli - Roma

22
22

Thangione R.R. Temple

A. C.

V. Lian - stanza 50

Via Torino

Roma

TO : CAS

1. Reference your minute 326 and minute 324.

2. The suggestion in minute 324 by Brigadier DUNLOP appears to be an excellent one and will undoubtedly allay the feelings of the Sud-Tyrolean born in Bolzano. A specific declaration by the Italian Government that the German speaking people in this area will not be made subject to a general emigration movement would go a long way towards the peaceful settlement of the problem.

3. The only statement by the Italian Government on the Alto Adige problem that I am familiar with is one contained in the speech of Prime Minister DE GASPERI on 20 December, an extract of which taken from the newspaper "Il Tempo" of 21 December 1945 follows:

"Unification of Italy places ourselves in direct contact with Alto Adige. It is not necessary for me here to repeat declarations of program already made by me; but since elsewhere there have been made public solemn and formal request, I must state with equal explicitly that we cannot admit that the question of the frontier of a State of 45 million Italians should be decided by a small fraction living in a border province, so much so when a small minority distinguished itself both before and after the unification of Italy."

327

*Copy of minute 326
Rec. Government file*

Del 43/44 20

327TO : CAS

1. Reference your minute 326 and minute 324.

2. The suggestion in minute 324 by Brigadier DUNLOP appears to be an excellent one and will undoubtedly allay the feelings of the Sud-Tyrolean born in Bolzano. A specific declaration by the Italian Government that the German speaking people in this area will not be made subject to a general emigration movement would go a long way towards the peaceful settlement of the problem.

3. The only statement by the Italian Government on the Alto Adige problem that I am familiar with is one contained in the speech of Prime Minister DE GASPERI on 20 December, an extract of which taken from the newspaper "Il Tempo" of 21 December 1945 follows:

"Unification of Italy places ourselves in direct contact with Alto Adige, It is not necessary for me here to repeat declarations of program already made by me; but since elsewhere there have been made public solemn and formal request, I must state with equal explicitly that we cannot admit that the question of the frontier of a State of 45 million Italians should be decided by a small fraction living in a border province, so much so when a good portion of this small minority distinguished itself both before and during the war for its cordial acceptance of Nazism and for its participation to the war on the side of Hitler until the last moment; so that as a result of past options the citizenship itself of many who are still given hospitality on this side of the Brenner is being questioned.

We are ready to make all the concessions which can be done by a democratic State based on the principles of equality, but we expect that our hand stretched out in all loyalty be accepted with the same loyalty, and we trust may we know that in this way thinks the majority of the population of the province of Bolzano.

With new Austria which is marching towards an autonomous and democratic life we shall be glad to resume diplomatic contacts; however in order that such relations be proficuous, it is necessary that no unacceptable claims of territorial character be made."

29A

4. On folio 298 of this file is a letter of the Italian Prime Minister to the Chief Commissioner which accompanied a decree for the creation of a High Delegate in Bolzano. In it the Prime Ministers mentions that "the government has already taken important resolutions in favor of the german-speaking population", without specifying anything definitely which would clarify the position. However he does go on to state that "the government proposes to endow the Alto Adige, within a short time, with a special legislation, corresponding fully to the interests of the people, protecting with opportune dispositions the traditional values and finally instituting in the region a pattern of administration." The accompanying decree creating the High Delegate is apparently the means considered to achieve that end.

5. While this decree was considered by the Commission, including the Polads, we decided to indicate verbally to the Italian Government that it viewed the proposals ~~as~~ favorably and that it was a matter for the Italian Government to consider after the turn-over.

6. With regard to the matter of the special commission in connection with the preparation of the electoral laws in Bolzano province, the situation is as follows:

A draft decree was submitted for the consideration of Allied Commission setting up four commissions in each of the provinces of Alto Adige area with powers to determine disputes as to what steps were actually taken under the Hitler Mussolini agreements and to decide on applications to re-acquire Italian citizenship. Rules determining citizenship were set forth in the decree.

The Allied Commission in a letter 6/18.2/CA dated 21 December 1945 informed the Italian Government that the draft law as to citizenship had not been carefully considered and that the Allied Commission "considers the present proposal to deprive a number of those who under existing Italian law are Italian citizens of that citizenship as inopportune. It would not view the enactment of such law with favore nor be prepared to implement it in the Alto Adige."

No reply has been received to this letter and nothing further has been done about the proposed decree; however, Dott. CASARDI of the Italian Foreign Ministry requested an appointment for tomorrow 12 January to discuss the decree.

I informed POLAD A to this effect and the latter said there was no objection to seeing Casardi as long as it was made clear that the Allied Commission had written the letter when the territory was under its jurisdiction and that now the matter is one for the Italian Government to decide. This decision, continued Polad, should be considered in the light of world public opinion.

7. The ~~sub~~ Commission obviously has not been established yet. Pursuant to our policy that electorals lists should be compiled in the meantime, this registration is going on. In this respect the last report from the Prefect of Bolzano, dated 11 December 1945, indicates that:

- (a) out of 92 Communes in Bolzano, 8 Communes have completed the ²⁵20 pilation of the general masculine and general feminine lists;
- (b) no lists have so far been approved by the electoral commission;
- (c) all other electoral operations are proceeding normally.

with opportune dispositions the traditional values and finally instituting in the region a pattern of administration." The accompanying decree creating the High Delegate is apparently the means considered to achieve that end.

5. While this decree was considered by the Commission, including the Polads, we decided to indicate verbally to the Italian Government that it viewed the proposals ~~the~~ favorably and that it was a matter for the Italian Government to consider after the turn-over.

6. With regard to the matter of the special commission in connection with the preparation of the electoral laws in Bolzano province, the situation is as follows:

A draft decree was submitted for the consideration of Allied Commission setting up four commissions in each of the provinces of Alto Adige area with powers to determine disputes as to what steps were actually taken under the Hitler Mussolini agreements and to decide on application to re-acquire Italian citizenship. Rules determining citizenship were set forth in the decree.

The Allied Commission in a letter 6/18.2/CA dated 21 December 1945 informed the Italian Government that the draft law as to citizenship had not been carefully considered and that the Allied Commission "considers the present proposal to deprive a number of those who under existing Italian law are Italian citizens of that citizenship as inopportune. It would not view the enactment of such law with favor nor be prepared to implement it in the Alto Adige."

No reply has been received to this letter and nothing further has been done about the proposed decree; however, Dott. CASARDI of the Italian Foreign Ministry requested an appointment for tomorrow 12 January to discuss the decree.

I informed POLAD A to this effect and the latter said there was no objections to seeing Casardi as long as it was made clear that the Allied Commission had written the letter when the territory was under its jurisdiction and that now the matter is one for the Italian Government to decide. This decision, continued Polad, should be considered in the light of world public opinion.

Special

7. The ~~the~~ Commission obviously has not been established yet. Pursuant to our policy that electorals lists should be compiled in the meantime, this registration is going on. In this respect the last report from the Prefect of Bolzano, dated 11 December 1945, indicates that:

- (a) out of 92 Communes in Bolzano, 8 Communes have completed the ²⁰ ~~the~~ compilation of the general masculine and general feminine lists;
- (b) no lists have so far been approved by the electoral commission;
- (c) all other electoral operations are proceeding normally.

Tel. Ext. 495
11 Jan 46.

R.L. Temple
R.R. TEMPLE, Major
Director Local Govt. S/G

ALLIED [REDACTED] COMMISSION
INTER-OFFICE MEMORANDUM
CIVIL AFFAIRS SECTION

SUBJECT:

FILE No.

TO

Local Government Sub-Commission.

11 Jan 1946

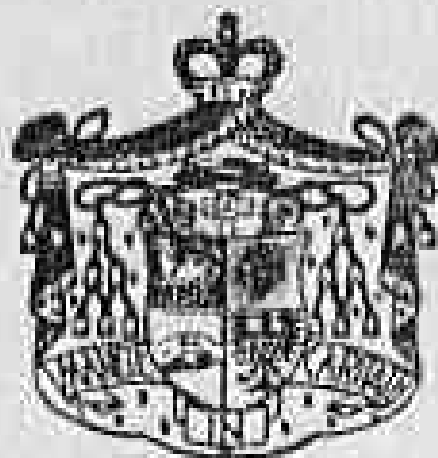
1. Will you take over attached papers please. I think I have seen most of them before and in any case there does not appear to be any action to be taken.
2. On instructions from the Chief Commissioner a letter is being sent to the Chief Liaison Officer, Bolzano Province instructing him that in future he is to confine any discussions he may have with the Bishop of Bressanone to matters concerning the church.

Tel. Ext. 525.
11 Jan 46


M. CARR, Brigadier,
VP Civil Affairs Section.

2419

Bressanone, 4 January 1946. 19



JOANNES XI
Episcopus Brixinensis et Princeps

To the Allied Commission
Civil Affairs Section
R O M E .

Major W.M. HARRISON, acting Provincial Commissioner of Bolzano, has informed me of the answer by the Allied Commission Rome to my letter to Colonel MILLER concerning the Citizenship Decree.

Permit me to express my sincere gratitude to the Allied Commission for the interest shown in this matter; I have hastened to follow their advice and have submitted my point of view to the Prime Minister of Italy. Enclosed you will find a copy of this petition together with an English translation.

At the same time I beseech the Allied Commission to use all their influence in frustrating this legislative project, as I have learned in the meantime that the Italian Government intends to submit the project to the Consulta for consideration as early as 9 or 10 January. In the report about the motives of the proposed law (report which I enclose) it is considered a matter of course that the Hitler-Mussolini-pact about the transmigration of the South Thyroloese is to be regarded as valid and that the Italian Government aims really at the execution

of it as completely as possible. At the same time the Government seeks to materialize as many consequences of the pact as possible although this has become impossible by the events that have occurred since. Yet this pact is the downright expression of that Nazi-Fascist despotism which has been condemned by the whole civilized world. Indeed this pact formed the real supposition for the Hitler-Mussolini alliance and thereby the real supposition for the beginning of the war. And now the new Italian Government prepares to carry out this pact!! And that in a manner more cruel than planned originally; because in the proposed law nothing is said about the transfer of property and accommodations in Germany and it cannot say anything because both things are impossible. Permit me to call the attention of the Allied Commission especially to this circumstance since the South Tyrolese who are still to be expelled will not be adopted by any country. For that reason the Allied Governments up to now had ordered that returned South Tyrolese are to be considered at home in South Tyrol and that they are to be registered as voters.

I confidently hope that the objection of the Allied Commission to this legislative project which irre-

14/12

fitably speaks of Fascist spirit will cause its ultimate frustration.

Yours most respectfully



+ Johannes Geisler

Bishop

2417

Translated copy. 18

Bressanone-Brixen, 4 January 1946.

JOANNES XI
Episcopus Brixinensis et Princeps

To His Excellency
Dr. Alcide de Gasperi
Prime Minister of Italy.

Excellency,

The legislative project by the former ministry concerning the examination of citizenship in South Tyrol, which shall serve to make amends for the evil consequences of the Hitler-Mussolini pact of 23 June 1939, has been brought to my knowledge. I must frankly admit that this legislative project has caused me some amazement. For instead to right the wrong that was inflicted upon the South Tyrolese people by the Hitler-Mussolini pact and the consequences thereof, this legislative project seeks to maintain as many consequences of these agreements as possible and gives the impression that the Democratic Government of Italy ultimately keeps the same goal in view as the Fascist Government, i.e. the Italianization of South Tyrol in the shortest time possible.

As Catholic bishop of this ^{much} ~~such~~ persecuted South Tyrolese people I feel obliged, true to the traditions of the Catholic Church which has always stood up for the ~~weak~~ ^{persecuted} and ~~persecuted~~ ^{persecuted}, to call your Excellency's attention to the injustice of this legislative project and to beg you to use your now

18/A

authoritative influence in the frustration of this project. Furthermore have the South Tyrolese also asked me, to exert my influence in this intention.

Particularly must I refer to the following provisions of the legislative project:

1.) The "Option" is maintained in the case of all such "Optanten" (it is said they come to about 70.000 - 80.000) who already emigrated, and they cannot return to their homes, although most of them are in greatest distress and misery and are not recognized as citizens by any nation. But for all that they are with very few exceptions such people who did not emigrate voluntarily but were forced to do so by unemployment and need that were caused by the Fascist system of suppressing everything South Tyrolese, or who were deported because they had rebelled against the Fascist suppression. This provision of the legislative project is the more inhuman because it concerns also those who have returned home, since it forces them again to go into foreign parts where no nation will accept them.

2.) But the "Option" is also maintained for those who did not emigrate but who had already acquired German citizenship; and even for those who did not acquire German citizenship but who had entered German service prior to 8 September 1943 is the "Option" maintained and they are forced to emigrate although no nation will accept them as citizens.

2415

It is however true that the above-mentioned may again apply for Italian citizenship but the granting of it is



JOANNES XI
Episcopus Brixinensis et Princeps

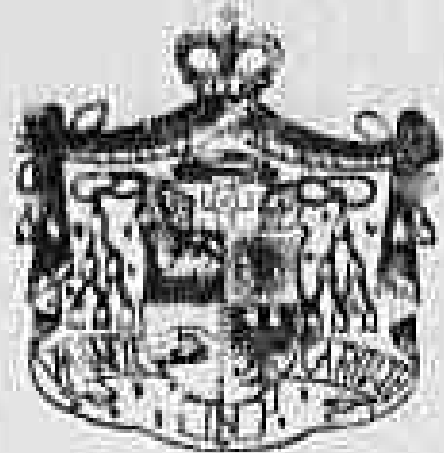
conditional upon the arbitrary decision by a commission. But on the other hand most of the men cannot regain their citizenship, according to the wording of the proposed law, since all men from 16 to 60 years of age - with the exception of the clergy and some very few officials and employees - were called to the "Standeschützen", and even still younger and older men respectively had to serve in the S.O.D. If these men must emigrate, then their wives and children cannot remain here.

Furthermore, it has been officially stated that South Tyrol's political fate, as it were, is a matter of dispute and shall only be settled at the peace-conference. Since nearly all South Tyrolese desire their incorporation with the rest of Tyrol, nobody can make use of the right to apply for Italian citizenship, before the question of the national citizenship of South Tyrol has been decided upon, without acting prejudicially as regards the outcome of said decision. These measures appear even more unjust and cruel than the Hitler-Mussolini pact, because the latter provided for the transfer of property and for accommodations in Germany for the transmigrators. The new legislative project does not and cannot provide for this in view of the present international situation; such people who must yet emigrate on the strength

18/P

of these specifications would therefore get into the greatest distress, just like the tens of thousands of South Tyrolese who already did emigrate and were again driven away from their abodes. In the opinion of the South Tyrolese the Fascist spirit becomes manifest in these regulations, a spirit that still seems to be prevailing in certain Italian Government circles and that is trying to maintain Fascist measures if only they are of advantage for Italy although they are a challenge to any sound and christian democracy.

3.) The altogether undemocratic tendency of this legislative project becomes especially evident in article 8 which provides a separate law for the South Tyrolese, (and what is more) a law that does not make allowance for the "Option" because it also strikes at the Optants for Italy. By means of this article the right to vote may be denied to nearly all South Tyrolese for a period of ten years because as already mentioned, all men (including the Optants for Italy) from 16 to 60 years, with the exception of the clergy and those unfit for service, were called to the police and to the "Standschützen", and some still younger or older respectively to the S.O.D. The above mentioned article concerns all of them. If some South Tyrolese have perpetrated a crime, they should be punished in accordance with the general statutes like the rest of the citizens. To create a special law for them is neither just nor democratic but smacks very much of Fascism by which the South Tyrolese, true enough, were continuously oppressed.



JOANNES XI
Episcopus Brixinensis et Princeps

18/E

I have found a reference in a reputable newspaper that this law shall be leniently applied if the South Tyrolese behave loyally (that probably means if they are ready to renounce their right for self-determination). Since this reference resembles an exaction, I cannot very well assume that Government circles have concerned themselves with such thoughts because such a manner of proceeding would not only be unjust and undemocratic, but also immoral.

The legislative project pretends as if it wanted to right the wrong that was inflicted upon the South Tyrolese people by the former Fascist Government. But there is only one expedient by which this injustice can be mended, that is to completely annul the Hitler-Mussolini pact with all its consequences. Only by doing that would the Italian Government show that it really means to stamp out the spirit of Fascism.

It would be the easier to annul the Hitler-Mussolini-pact as it is already null and void by legal maxims and that for two reasons:

1. The Hitler-Mussolini-pact as well as the successive arrangements about the transmigration were not submitted to the parliament and were not ratified by the King as set down in § 5 of the political constitution. Therefore ^{therefore} this pact was never valid from the beginning.

By the collapse of the two dictatory governments ^{18/F}
who have made this pact, the ^{basic} suppositions for it have ceased
to exist. The German partner of the pact does not exist any
more and is therefore not able to warrant the transfer of the
property as promised in the pact to the emigrated South Tyrolese;
not even German citizenship is granted them. Where then shall
the emigrated South Tyrolese and those who, according to the le-
gislative project are yet to be deported, go to? The principle
of the "robis sic stantibus et in eodem statu permanentibus"
should also hold good for this pact and since all suppositions
are lacking, the pact should be declared null and void.

Since the ministry has undergone a change and the lea-
der of the Christian Democratic Party has assumed the lead and
therefore has sufficient influence to apply the christian and
democratic principles, I beg to implore Your Excellency to
cancel this legislative project which is in contrast to the
christian and democratic spirit and to the hitherto shown at-
titude of the Allies in the South Tyrolese question, and to
replace it by the complete and unconditional nullification of
the Hitler-Mussolini-pact with all its consequences. Should this
not be feasible, the legislative project should at least be post-
poned, because the present situation is still less unjust than
the one that would be brought forth by it.

With the expression of my highest esteem I beg
Your Excellency to excuse my frankness in submitting the above
facts and sign

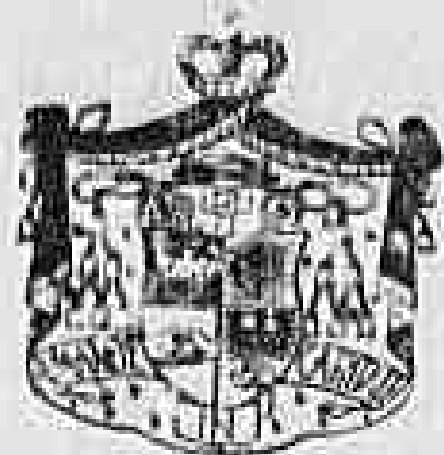


Most respectfully Yours

2411

Johannes Seisler
Bishop

Bressanone, li 4 gerio 1946.

JOANNES XI
Episcopus Brixinensis et Princeps

A Sua Eccellenza
Dott. Alcide de Gasperi
Primo Ministro d'Italia.

Eccellenza,

Mi fu reso noto il progetto legge del cessato governo sulla revisione della cittadinanza in Alto Adige che ha lo scopo di rimediare alle tristi conseguenze dei patti Hitler-Mussolini del 23 giugno 1939. Devo confessare che questo progetto legge mi fece stupire. Infatti invece di rimediare al torto arrecato alla popolazione sudtirolese dal patto Hitler-Mussolini e dalle sue conseguenze, detto progetto legge cerca di mantenere in vigore ed attuare in quanto ciò è possibile le disposizioni di tale patto e dà l'impressione che i Governi democratici d'Italia alla fin dei conti abbiano di mira la stessa meta del governo fascista cioè la più rapida italianizzazione possibile del Tirolo meridionale.

Quale Vescovo cattolico della tanto perseguitata popolazione sudtirolese, fedele alle tradizioni della Chiesa Cattolica che sempre si è impegnata a favore dei deboli e dei perseguitati, mi sento in dovere di richiamare l'attenzione dell'Eccellenza Vostra sull'ingiustizia di detto progetto legge e di pregarla di voler far valere la Sua competente autorità per abolire il progetto. Anche il mio popolo mi ha pregato di far

17/13

valere la mia autorità in questo senso.

Devo richiamare l'attenzione di V.E. specialmente sulle seguenti disposizioni:

1.) Per tutti gli optanti ormai emigrati (si dice che sieno 70.000 - 80.000), l'opzione resta in vigore ed essi sono esclusi del ritorno in patria, benchè la maggior parte di loro si trovi nelle più grandi strettezze e nella miseria e da nessuno stato siano riconosciuti come propri cittadini. Tutti questi però, fatte pochissime eccezioni, non partirono volontariamente, ma vi furono costretti dalla disoccupazione e della miseria, causate dalla repressione di tutto ciò che era sudtirolese da parte del sistema fascista, oppure furono espulsi con la forza, perchè si erano ribellati contro la oppressione fascista. Questa disposizione della legge progettata è tanto più crudele, perchè coinvolge anche coloro che sono ritornati in patria e per la virtù della medesima vengono di nuovo costretti ad andare per il mondo, dove nessuno stato li accoglie.

2.) Ma anche per coloro che non sono emigrati, ma hanno conseguito la cittadinanza germanica l'opzione rimane in vigore. E persino per coloro che non hanno ottenuto la cittadinanza germanica ma che sono entrati in servizio germanico prima dell'8 settembre 1948 l'opzione rimane in vigore, essi vengono costretti ad emigrare anche se nessuno stato li accoglierà quali cittadini.

E' bensì vero che questi possono chiedere la ^{cittadinanza} italiana, ma il recupero di tale cittadinanza dipende



JOANNES XI
Episcopus Brixinensis et Princeps

17/c

dal libero parere di una commissione. La maggior parte della popolazione è ormai esclusa dallo stesso tenore della legge progettata, poichè, ad eccezione dei sacerdoti e di pochissimi impiegati, tutti gli uomini dai 16 ai 60 anni furono arruolati tra gli "Standeschützen", ed altri uomini ancor più giovani o più anziani ancora dovettero prestare servizio presso la S.O.D. Ora, se gli uomini dovranno partire, le donne ed i bambini non possono rimanere sul posto.

Inoltre è stato dichiarato ufficialmente che il destino politico del Sudtirolo è controverso e che tale questione verrà decisa solo alla Conferenza della Pace. Poichè quasi tutti i sudtirolesi desiderano l'unione col resto del Tirolo, nessuno potrà fare uso del diritto di chiedere la cittadinanza italiana prima che sia decisa la questione della pertinenza politica del Sudtirolo, senza pregiudicare tale importantissima questione del destino politico del Tirolo meridionale.

Queste disposizioni della legge appaiono ancora più ingiuste e più crudeli dello stesso patto Hitler-Mussolini. Nel patto era almeno previsto il trasferimento dei bejmi degli emigrati in Germania e la loro sistemazione in Germania. Il presente progetto legge non provvede a ciò e non può provvedervi, data l'odierna situazione internazionale, cosicchè coloro che in vigore delle dette disposizioni sono costretti ad emigrare,

2408

17/10
Cadrebbero nella più squalida miseria, come appunto le molte
diecine di migliaia di sudtirolesi ormai emigrati ed espulsi
dalle loro sedi.

Secondo il parere dei sudtirolesi in queste dispo-
sizioni si manifesta lo spirito fascista che sembra tuttora
dominare in certi ambienti governativi italiani e che cerca
di mantenere in vigore misure fasciste, purchè sembrino utili
all'Italia, anche se tornano a scherno di ogni democrazia
sana e cristiana.

3.) Lo spirito completamente antidemocratico di
questo progetto legge lo manifesta specialmente l'articolo 8
del medesimo che costituisce una legge speciale per la popola-
zione del Tirolo meridionale e che, senza tener conto del-
l'opzione, colpisce anche gli optanti per l'Italia. In base
a tale articolo quasi tutti gli uomini del Sudtirolo possono
essere esclusi per dieci anni dal diritto elettorale, perchè,
come si è già detto, tutti gli uomini (anche gli optanti
per l'Italia) tra i 16 ed i 60 anni, ad eccezione solo dei
sacerdoti e degli inabili al servizio, furono arruolati nelle
file della polizia e degli "Standeschützen", ed altri, ancora
più giovani o più anziani, vennero addetti al servizio della
S.O.D., e tutti questi sono compresi da tale articolo. Quei
Sudtirolesi che si siano resi colpevoli di qualche crimine,
vengano puniti secondo le leggi generali e comuni come tutti
gli altri cittadini. Ma creare per loro leggi punitive d'eccezio-
ne non è nè giusto, nè democratico, ma sa di quel clima ^{erano} ~~fa~~ ²⁴⁰³
scista in cui i sudtirolesi ^{erano} continuamente oppressi mediante
disposizioni e misure d'eccezione.

17/E

JOANNES XI
Episcopus Brixinensis et Princeps

Ebbi a leggere in un giornale autorevole l'accenno che la detta legge sarebbe applicata con clemenza, se i sud-tirolesi si comportano lealmente (ciò vorrà dire se essi saranno disposti a rinunciare al loro diritto di autodeterminazione). Giacchè questo accenno somiglia ad un tentativo di estorsione, non posso ragionevolmente credere che ambienti governativi abbiano nutrito tali pensieri, poichè un tale modo di agire non sarebbe soltanto ingiusto ed antidemocratico, ma sarebbe anche immorale.

Il progetto legge fa vista di voler rimediare al torto fatto alla popolazione sudtirolese dal cessato regime fascista. Però non vi è che un mezzo solo per rimediare a tale torto, cioè il completo annullamento del patto Hitler-Mussolini del 23 giugno 1939 con tutte le ^{sue} conseguenze. Soltanto così il Governo Italiano dimostrerà di prendere sul serio la promessa di estirpare lo spirito del fascismo.

L'annullamento dei patti Hitler-Mussolini è tanto più facile ad eseguirsi per il fatto che secondo i principi vigenti di diritto sono già di per sè irriti e nulli per due motivi:

1. Perchè il patto Hitler-Mussolini e gli accordi consecutivi riguardanti l'emigrazione non furono presentati al Parlamento, nè ratificati dal Re, come prescrivono le ²⁴⁰⁶ leggi costituzionali dello Stato Italiano all'art. 5, e per tale ragione il detto patto non ha mai avuto alcuna validità fin

da principio.

2. Perchè col crollo dei due Governi dittatoriali che avevano stipulato tale patto, sono cadute anche le premesse del medesimo. La parte contraente germanica non esiste più e perciò non è più in grado di garantire ai sudtirolesi emigranti il trasferimento dei beni previsto dal patto; nemmeno la cittadinanza germanica è loro concessa. Dove dovrebbero andare i sudtirolesi ormai emigrati e quelli che secondo il progetto legge sarebbero da espellere? La clausola "rebus sic stantibus et in eodem statu permanentibus" deve valere anche per questo patto, ed essendo venute meno tutte le premesse, esso deve essere dichiarato irritato e nullo.

Poichè in questi ultimi tempi nel rimaneggiamento del Governo Italiano il capo della Democrazia Cristiana divenne Primo Ministro ed ha perciò l'autorità necessaria per far valere i principi cristiani e democratici, mi permetto di pregare Vostra Eccellenza di voler far ritirare il detto progetto legge che dimostra sì poco spirito cristiano e democratico ed è per giunta anche contrario all'atteggiamento finora assunto dagli Alleati nella questione del Tirolo meridionale, e di sostituirlo con il completo annullamento senza condizioni del patto Hitler-Mussolini e delle sue conseguenze, oppure, se ciò non fosse possibile, almeno di metterlo da parte, perchè la presente situazione è meno ingiusta di quella che vorrebbe creare dal progetto legge.

Mi perdoni, Eccellenza, la mia franchezza nell'esposizione delle surriferite considerazioni e mi creda con l'espressione della mia più alta stima

Suo dev.mo

+ Giovanni Geisler
Vescovo



(T R A N S L A T I O N)

No.97 (urgent) 16

N A T I O N A L C O U N C I L

SCHEME FOR A LEGISLATIVE MEASURE
proposed by the President of the Council of Ministers
(DE GASPERI)

and transmitted by the Minister without Portfolio
delegated for the relations with the National Council
(LUSSU)

January 1946

for the opinion of the Commission for Political and Administrative Affairs.

Measures concerning South Tyrol (Alto Adige)

The problem of the citizenship of the people of South Tyrol (Alto Adige) has been attentively considered by the Government, because of the complexity of the questions connected with it and the delicate nature of its political aspects.

The difficulty of the problem itself has been aggravated by the impossibility of foreseeing the fate of the well-known Italo-German Agreement of 1939 and, in particular, on the point as to whether it will be permitted to us to ask for its ulterior execution, claiming the transference into Germany of those who on the basis of this Agreement have made such an intention manifest.

It is first of all necessary to ascertain, on the basis of the laws passed up to the present, what is the actual situation of the inhabitants of South Tyrol (Alto Adige) as regards citizenship and for this reason it is necessary to take as starting point the Agreement of 1939.

The execution of the treaty took place normally in three stages: - the option, which had for its object both the acquirement of German citizenship and the transference of residence into Germany; the issue of naturalisation certificates by the German authorities; emigration into Germany with the consequent liquidation of the property, if any, held in Italy.

There is no doubt that those who at some time emigrated into Germany (about 70.000, calculated up to 1st Sept.1943) and those who, although they did not emigrate, obtained German citizenship (about 50.000 up to the same date) must no longer be considered Italian citizens. The former, even if they later once more took up their residence in Italy, have not been able to re-acquire the right of Italian citizenship in the sense of Art.9 of the General Law on citizenship of 1912, seeing that a clause of the law of the 21st August 1939, No.1241, which the enclosed scheme explicitly reconfirms, excluded the application of said Art.9 with regard to inhabitants of South Tyrol (Alto Adige), who had lost their Italian citizenship on the basis of the agreement.

There appears to be equally no doubt that the mere option is sufficient to cause the loss of Italian citizenship. On the 1st September 1939, the optants who had not yet completed the requirement of German citizenship were calculated at about 50.000.

Moreover, one category of these persons must be specially considered: those optants who voluntarily placed themselves in the service of the German authorities before and during the German occupation. Among them are to be found the most deadly enemies of Italy, who remained in the South Tyrol (Alto Adige) in order to continue pan-German propaganda, and who have collaborated actively with the occupation authorities, even in

- 2 -

their most blameworthy activities. Strictly speaking, these persons have not lost their Italian citizenship: they have not lost it on the basis of the Agreement of 1939 which did not foresee this case; they have not lost it on the basis of the general law of 1912 because the said law, whilst disposing for the loss of Italian citizenship in consequence of the acceptance of a post under a foreign government or the assumption of military service under a foreign power requires nevertheless, for the loss of this citizenship, the previous intimation on the part of the Italian Government (to the persons concerned) that they must abandon the employment or service within a fixed period of time. It is however a fact that those persons by a series of acts with one meaning, have attested their intention of obtaining the citizenship of another State, and moreover of a State which was at war with Italy. On the other hand, for the ends of the possibilities foreseen in the law of 1912, exactly the existence of this state of war prevented the Italian Government from proceeding to the above-mentioned intimation, whilst the contrary will of the Italian Government, that one of its citizens should not place himself in the service of an enemy State, must be considered to have been implicit.

It has seemed therefore preferable to include among those inhabitants of South Tyrol (Alto Adige) who have lost their Italian citizenship, also the category of those who, having opted for German citizenship, have later placed themselves in the service of Germany, summing up in this way, in one single hypothesis the principles extracted from the convention of 1939 and from the fundamental law on Italian citizenship.

Having identified those who must no longer be considered Italian citizens, the problem has presented itself of the limits and cases in which the re-acquirement of Italian citizenship can be permitted. It has seemed above all necessary to exclude from such re-acquisition those who have already transferred their residence into Germany, that is to say, who have completed the stages foreseen by the Agreement of 1939 and who have presumably also liquidated their property left in Italy.

As regards the two categories foreseen in Art.1, a rather elastic system has been adopted which, except for some cases of manifest unworthiness, leaves the decision concerning the demand for the re-acquirement of citizenship to the judgment of the appropriate commissions.

Each commission is composed of one magistrate, who presides, one functionary of the Prefecture and three citizens, of whom one of Italian language and two of German language non-optants for Germany; one of these two must be chosen possibly from the mayors of the region.

The inquiry, case by case will make it possible to estimate on a basis of specific and concrete facts, the suitability of a fresh concession of citizenship.

The motives for absolute exclusion are listed as follows: -

- (a) having held posts in the Nazi Party or having belonged to Nazi military organisations;
- (b) having, after the 8th Sept. 1943, cooperated with the German authorities to encourage enrolment in the army and German formations, or having voluntarily collaborated with the German forces in the fight against Italy and the United Nations;
- (c) having been guilty, during the German occupation of acts of cruelty, rapine or looting to the injury of Italians or populations resident in Italy, or members of the armed forces of the United Nations.

Art.6 calls on the above commission to fulfil another task, quite different from that of a discretionary decision on the demands for re-acquirement of citizenship, namely the task of deciding the protests

- 3 -

eventually arising - it is to be presumed they will be numerous - on the existence of the causes laid down for the loss of Italian citizenship. The completed transference into Germany, the issue of naturalisation certificates, voluntary acts committed in the service of Germany, cannot be always quietly accepted; the intervention of the commission has seemed to us preferable as it will often prevent recourse to the Law Courts. These cases will be pleaded before the Public Ministry.

The last two articles of the scheme tend to solve the problem of the South Tyrolese (Alto ATESEINI) who have remained Italian citizens and who have fought in the Nazi Party or are guilty of grave crimes of a public character. They will be liable to the same measures as are laid down in general law against politically dangerous Fascists; it is therefore superfluous to provide expressly for the suspension of electoral rights of Nazi leaders in the same way as for Fascist leaders, seeing that measures of this kind derive from the mere fact of membership in the Nazi Party.

UMBERTO DI SAVOIA
Prince of Piedmont
Lieutenant-General of the Kingdom.

(Translation)

LAW 21 august 1939-XVII

PROVISIONS CONCERNING THE LOSS OF CITIZENSHIP ON THE PART OF PERSON
OF GERMAN ORIGIN AND SPEAKING THE GERMAN LANGUAGE DOMICILED IN ALTO ADIGE.

(published in the Gazzetta Ufficiale of 2 september 1939, n. 205)

Art. 1

Persons of German origin and language, domiciled in the communes of Alto Adige, even if residing elsewhere, who have acquired Italian citizenship as a result of the application of the Treaty of San Germain, annexed to the law of 26 september 1920, n. 1322, and of the provisions issued for the execution of the Treaty itself, who intend to move to Germany and acquire the German citizenship, must declare to renounce to the Italian citizenship before their transfer.

The present provisions apply, moreover, to off-spings, who are Italian citizens of the persons indicated in preceding paragraph.

Art. 2

The declaration of renunciation shall be presented to the prefect of the Province, to which belongs the Comune in whose records of Italian citizenship the interested party or forebear has been registered in accordance with art. 1 of RD 30 dec, 1920, n. 1890, and of art. 14 of Presidential Decree 1 February 1922, published in the Gazzetta Ufficiale 14 february 1922, n. 37.

The prefect, having ascertained the existence of the requisites foreseen by art. 1, shall issue to the interested party a certificate declaring that note has been taken of his renunciation and, having been notified of the granting of the German citizenship, orders that the name of the interested party be cancelled from the lists and records of Italian citizenship.

Art. 3

Should the Italian citizenship have been acquired through a Royal Decree, in accordance with art. 2 of RDL 29 January 1922, n. 43, converted in the law of 17 april 1926-II, n. 473, the declaration of renunciation shall be submitted to the Minister for the Interior, who shall provide in a similar way as has been directed in second para of art. 2.

Art. 4

Those persons who have lost the Italian citizenship in accordance with the present law are free from military service duties; furthermore the provisions of art. 9 of the law 13 June 1912, n. 555 are not applicable to them.

Art. 5

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

The provisions of articles 3 and 9 of the law 13 June 1912, n. 555, are not applicable to those who have lost the Italian citizenship as a result of the loss of the same citizenship, in accordance to the present law, by the parent exercising the paternal authority.

Adige, even if residing elsewhere, who have acquired Italian citizenship as a result of the application of the Treaty of San Germain, annexed to the law of 26 September 1920, n. 1322, and of the provisions issued for the execution of the Treaty itself, who intend to move to Germany and acquire the German citizenship, must declare to renounce to the Italian citizenship before their transfer.

The present provisions apply, moreover, to off-spings who are Italian citizens of the persons indicated in preceding paragraph.

Art. 2

The declaration of renunciation shall be presented to the prefect of the Province, to which belongs the Comune in whose records of Italian citizenship the interested party or forebear has been registered in accordance with art. 1 of RD 30 Dec, 1920, n. 1890, and of art. 14 of Presidential Decree 1 February 1922, published in the Gazzetta Ufficiale 14 February 1922, n. 37.

The prefect, having ascertained the existence of the requisites foreseen by art. 1, shall issue to the interested party a certificate declaring that note has been taken of his renunciation and, having been notified of the granting of the German citizenship, orders that the name of the interested party be cancelled from the lists and records of Italian citizenship.

Art. 3

Should the Italian citizenship have been acquired through a Royal Decree, in accordance with art. 2 of RIL 29 January 1922, n. 43, converted in the law of 17 April 1925-II, n. 473, the declaration of renunciation shall be submitted to the Minister for the Interior, who shall provide in a similar way as has been directed in second para of art. 2.

Art. 4

Those persons who have lost the Italian citizenship in accordance with the present law are free from military service duties; furthermore the provisions of art. 9 of the law 13 June 1912, n. 555 are not applicable to them.

Art. 5

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

The provisions of articles 3 and 9 of the law 13 June 1912, n. 555, are not applicable to those who have lost the Italian citizenship as a result of the loss of the same citizenship, in accordance to the present law, by the parent exercising the paternal authority.

Art. 6

The declarations of renunciation of the Italian citizenship submitted in accordance with articles 2 and 3, are free from any taxation.

Art. 7

The present law becomes effective on the day of its publication, etc.

Trans. AN

2402

n. 1541

LEGGI 21 agosto 1939 XVII

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

(pubblicato nella Gazzetta Ufficiale del 2 settembre 1939, n. 205)

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. 1332, e delle norme emanate in esecuzione del Trattato stesso, che intendano trasferirsi in Germania ed acquistare la cittadinanza germanica, devono di hiarare di rinunciare alla cittadinanza italiana prima del trasferimento.

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

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.decreto 30 dicembre 1920, n. 1890, e dell'art. 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 germanica, dispone per la cancellazione dell'interessato dagli elenchi e dai registri di cittadinanza italiana.

Art. 3

Cualora la cittadinanza italiana fosse stata conseguita per decreto Reale, a norma dell'art. 2 del R.decreto-legge 29 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.

Art. 5

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

Le disposizioni degli articoli 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 articoli 2 e 3, sono esenti da qualsiasi tassa.

Art. 7

La presente legge entra in vigore il giorno della sua pubblicazione ecc.ecc.

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.

Art. 5

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

Le disposizioni degli articoli 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 mecesima, 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 articoli 2 e 3, sono esenti da qualsiasi tassa.

Art. 7

La presente legge entra in vigore il giorno della sua pubblicazione ecc.ecc.

seguito del Fotogramma N. 2

HEADQUARTERS ALLIED COMMISSION
APO 394
LOCAL GOVERNMENT SUB COMMISSION

AC/45/12/1/LG

14
INTERVIEWS

SUBJECT : Note of Interview - AC HQ

DATE : 12 January 1946 - 1030 hours

PRESENT : Dott. CASARDI of the General Secretariat, Ministry of For. Affairs
Cens. Dott. SORRENTINO, Legislative Office, Presidency of the Council
Major Ralph R. Temple, Director, Local Government S/C
Sig. Arrigo Nice, interpreting

1. I informed Dott. CASARDI and Dott. COSENTINO at the opening of the conference that I wanted to make perfectly clear that the letter written by the Chief Commissioner on 21 December 1945 concerning the citizenship decree had been written while the territory was under the jurisdiction of the Allied Commission and that it was now a matter to be handled by the Italian Government entirely. Dott. SORRENTINO said he realized that, but would appreciate knowing the basis for Allied Commission's disagreement with the decree in order that they might possibly make the necessary changes if they thought it desirable.

2. Dott. SORRENTINO was particularly anxious to know the objections to Article 1 of the proposed Decree which set forth who were considered citizens in the Alto Adige region.

3. I thereupon informed him that we had been advised that the proposed decree altered the existing law. For example, paragraph 3 of Art. 1 declared not to be Italian citizens those optants who went into German service. Under the Nationality Law of 1912, it appears that such persons would remain Italians until the Italian Government gave them notice to abandon foreign service within a fixed time and they continued in such service after the expiration of the time so limited. I also pointed out that para 2 of Art. 1, as we have been advised, also changes the existing law, by declaring not to be Italian citizens those optants who did not emigrate but had obtained the German citizenship.

4. Dott. SORRENTINO said that he agreed with the Allied Commission as to para 3 of Art. 1 not being strictly in accordance with the 1912 law, but it was necessary to remember that it included those who opted for Germany and placed themselves in the German service. He said it was impossible to give notice to these persons since Italy was at war with Germany. However he considered that inasmuch as official Italy did not go to war with Germany until October 1943 that there might have been ample time to have given such notice. Such notice, incidentally, he stated did not have to be brought personally to the attention of the optant but simply through a public notice. He thought that perhaps a distinction might be drawn between those who entered German service before and those after the declaration of war against Germany by Italy. Dott. SORRENTINO wished to point out that on moral grounds it was desirable to exclude these people from the Italian citizenship, since (a) they included the worst elements such as SS men, (b) sometimes after 1943 they were really not Italian because they were working for the German ~~Army~~ ^{Army}.

5. Dott. SORRENTINO said he disagreed with Allied Commission's interpretation

1. I informed Dtt. CASARDI and Dott. COSENTINO at the opening of the conference that I wanted to make perfectly clear that the letter written by the Chief Commissioner on 21 December 1945 concerning the citizenship decree had been written while the territory was under the jurisdiction of the Allied Commission and that it was now a matter to be handled by the Italian Government entirely. Dott. SCORRENTINO said he realized that, but would appreciate knowing the basis for Allied Commission's disagreement with the decree in order that they might possibly make the necessary changes if they thought it desirable.
2. Dott. SCORRENTINO was particularly anxious to know the objections to Article 1 of the proposed Decree which set forth who were considered citizens in the Alto Adige region.
3. I thereupon informed him that we had been advised that the proposed decree altered the existing law. For example, paragraph 3 of Art. 1 declared not to be Italian citizens those optants who went into German service. Under the Nationality Law of 1912, it appears that such persons would remain Italians until the Italian Government gave them notice to abandon foreign service within a fixed time and they continued in such service after the expiration of the time so limited. I also pointed out that para 2 of Art. 1, as we have been advised, also changes the existing law, by declaring not to be Italian citizens those optants who did not emigrate but had obtained the German citizenship.
4. Dott. SCORRENTINO said that he agreed with the Allied Commission as to para 3 of Art. 1 not being strictly in accordance with the 1912 law, but it was necessary to remember that it included those who opted for Germany and placed themselves in the German service. He said it was impossible to give notice to these persons since Italy was at war with Germany. However he considered that inasmuch as official Italy did not go to war with Germany until October 1943 that there might have been ample time to have given such notice. Such notice, incidentally, he stated did not have to be brought personally to the attention of the optant but simply through a public notice. He thought that perhaps a distinction might be drawn between those who entered German service before and those after the declaration of war against Germany by Italy. Dott. SCORRENTINO wished to point out that on moral grounds it was desirable to exclude these people from the Italian citizenship, since (a) they included the worst elements such as SS men, (b) sometimes after 1943 they were really not Italian because they were working for the German ~~by~~ *army*.
5. Dott. SCORRENTINO said he disagreed with Allied Commission's interpretation of para 2 Art. 1. He submitted copy of the Decree 31 aug 39 and pointed out that Art. 2 hereof states that the acquisition of German nationality is sufficient for a person to lose Italian citizenship.
6. Dott. SCORRENTINO further pointed out that Art. 1 should be considered in connection with the rest of the decree which gave an opportunity to all to reacquire Italian citizenship, the renunciation of which according to the Hitler Mussolini accords was irrevocable. He cited article 4 of the 21 aug 1939 law to that effect. He added that this was the spirit of the proposed decree, namely a regularization of the position.

-2-

14/1

7. Dott. SORRENTINO stated that the discussion by the Consulta on the proposed decree has been postponed for 10 or 15 days. Although the official position of the Allied Commission was reiterated by me, as indicated in para 1 of this note, he insisted on his sending us a pro-memoria setting forth the position as the Italian Government interpreted it for any observations which we cared to give. I consented in a spirit of cooperation and collaboration to receive such pro-memoria, but pointing out again that no comment was really necessary as the Allied Commission wished not to hold up any official act on the part of the Italian Government.

R. R. Temple
Major

RALPH R. TEMPLE

Major

Director

Local Government Sub Commission

PRT/an

Distribution:

AC/45/12/1/1G

AC/14/1/1G

Floet.

11/15/29

21 Decem. 1945

G/18.2/CA

My dear Mr. Prime Minister:

This Commission has carefully considered the draft law as to citizenship in the Alto Adige sent to me under cover of your letter 3/2058 of the 18 Nov 45. It would remind you that the original proposal of this Commission in its letter 45/12/12 of 20 Aug was that Local Commissions should be appointed to ascertain the facts and apply the existing law.

It considers the present proposals to deprive a number of those who under existing Italian law are Italian citizens of that citizenship as inappropriate. It would not view the enactment of such a law with favour nor be prepared to implement it in the Alto Adige.

Holding this view this Commission sees no reason to take objection to Art 6 Sec 2 of Regional Order No 17 to which The Minister of Interior's letter 47675/12431 of 20 Nov refers. The Article merely states the effect of the existing Italian law which in the view of this Commission should rightly apply.

Yours very truly,

B/ELLERAY, W. STONE

ELMER W. STONE
Rear Admiral, USNR,
Chief Commissioner

~~Det. Guido DE CASPERI~~
The President of the Council of Ministers,
Italian Government,
Rome.

2393

Copy to: Polad A and B
Local Govt S/C

Dispatched on 24/12/45

7896

13

21 December 1945

Ref : AG/45/12/1/10

My dear Mr. Prime Minister:

My letter of the 20 Aug expressed the views that the electoral registers should be compiled according to the existing Italian Law and that the functions of the Special Commission should be confined to ascertaining facts.

In the absence of an earlier reply from your Government to my letter than your predecessor's letter of the 9 Nov which I have recently received, the Regional Commissioner has been instructed that the lists must be compiled in accordance with the existing Italian Law. He has also been informed that according to the advice which the AG has received as to the existing law, he should include therein not only the two classes of electors referred to in Para 2 (b) of my letter but also German speaking Italians who had opted for German nationality but had taken no other step to acquire that nationality. It is noted that this instruction is in general accord with the provisions contained in the draft decree forwarded in your letter of the 18 November.

Your predecessor's letter of 9 Nov agreed in principle to the immediate preparation of the lists and to the provisional inclusion therein of names which might be subsequently struck out if it was found that they had been erroneously included; but, your letter of the 18 Nov suggests that the preparation of the lists should be suspended until agreement as to the draft law has been reached. The preparation of the lists is what is going to take most time. As the difference between the draft decree and the present instructions are only of relatively minor degree it is felt that the compilation of the lists should continue and if names are included therein which should according to later agreement come out it will be far more expeditious to strike those out later than to delay the work of compilation now. It is proposed therefore to continue with the compilation; otherwise the lists may not be ready by the time of the elections.

The draft decree is being studied and will be the subject of a separate communication.

Yours very truly,

/s/ Henry W. Stone

HENRY W. STONE
Rear Admiral, USN
Chief Commissioner

2398

Sig. Aloise DE GASPERI
The President of the Council of Ministers
Italian Government
A. C. F. B.

7856

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION14 - DEC 1945
17

G/18.3/CA

13 Dec 45

SUBJECT : Prefectural Decree - Bolzano

TO : PG Venetia Region - (Copy to PG Bolzano)

- 1 The Prefectural Decree of the use of German in Bolzano seems to go beyond the prefects or even AMG powers. Under the Hague convention and all international precedents an occupying power is not entitled to alter the fundamental institutions of the occupied state and use of the native language is one of these fundamental institutions.
- 2 So far as the Prefect is concerned there are several matters which appear to deal with legislative sphere preserved to the central government. (e.g. the State Administration Arts 3, 4, 6, and 8. Education Art 9).
- 3 However desirable the legislation on these subject may be, the local Authority has no power to deal with them.
- 4 You will therefore caution the Prefect against taking any action under the Decree on matters which are beyond the powers. The Italian Govt is proposing legislation on this subject and a copy of their proposals is enclosed.

BY COMMAND OF THE CHIEF COMMISSIONER:

S. H. WHITE Lt Col,
A/VP CA Section.Copy to: Legal S/C
Local Govt S/C

2397

7800

COPY

5/A

TRANSLATION

We, Eustach of Savoy,
 Prince of Piedmont,
 Lieutenant General of the Realm

By virtue of the authority delegated to us;
 In view of Article 4 of the Decree Law of the Lieutenant of the
 Realm No 151 of June 25th 1944;
 In view of the Decree Law of the Lieutenant of the Realm No 58
 of February 1st, 1945;
 In view of the Deliberation of the Council of Ministers;
 On the proposal of the President of the Council of Ministers;
 the Minister of the Interior, in concert with the Minister of
 Justice;

Have sanctioned and do hereby promulgate the following:

ART. 1

The use of the German language is permitted in Bolzano province
 in relations with the political, administrative and judicial
 authorities.

In the courses of the aforesaid province, public acts may be
 drawn up in German, excepting the sentences of the judicial
 authority and the decisions of the administrative jurisdictions.

The registers of the Public Record Office must be kept in Italian
 with translations in German.

ART. 2

Rules for the implementation of the present decree shall be
 issued, as necessary, by decree of the Lieutenant of the Realm,
 on the proposal of the Minister of the Interior and the Minister
 of Justice, according to their respective competences, and after
 consulting the Council of Ministers.

ART. 3

The present decree comes into force three months after the
 transfer of Bolzano province to Italian administration.

We therefore order that the present decree, bearing the seal of
 State, shall be included in the official collection of laws and
 decrees of the Kingdom of Italy, charging whosoever it may
 concern to observe it and to enforce its observance as a law of
 the State. 2396

JED/za

Important & Confidential

HEADQUARTERS
VENEZIE REGION
Allied Military Government
APO 394

TO : HQ. A.C.
Attn: Vice President Civil Affairs Section

6 Nov 45

SUBJECT : Bolzano - Proposals of Prefect

FILE NO : RAIL/850.12

1. Further to my reports on the subject of my recent visit to Bolzano, I attach herewith a promemoria of a recent discussion between Colonel Miller and the Prefect De Angelis.
2. The promemoria, which I attach in its exact original wording, represents the proposals which De Angelis considers should be forward to the Italian Government. As you see, he recommends that such proposals should be incorporated in the constitutional law of Italy.
3. It is clear that the various suggestions made by him are of fundamental importance. They go far beyond the scope of prefatorial action though there are certain matters upon which preliminary steps can be taken at once.
4. I have, for example, told the Prefect that I should like to have action taken at once, in a discreet way, for the use of both languages on streets, public offices, etc.
5. The bulk of the proposals are however for discussion on your level with the Italian Government.
6. I should be glad to have your further instructions and comments as soon as possible.

N.E. - Top copy of this is on
AC/45/29/66. Action
taken on that file. *ccms*
1/16/46

[Signature]
Regional Commissioner

Copy to : P.O. Bolzano

Encl.

230/16

7632/16

Appendix Rx 1850.12 dated 11/11
6th Nov.

COPY

Visit of the Prefect to Col. MILLER
October 29th, 1945 - 1600 hrs.DOUBLE LANGUAGE

By decree of the Prefect all streets and shops will have signs in two languages, as established by a mixed communal commission. Also all public offices will have signs in the two languages.

Authenticated copies of Italian laws are absolutely necessary, according to the Prefect and will be asked for.

Sentences of Tribunale will be written in Italian with an authenticated German translation.

Hearings in Tribunale will be in Italian if both prosecutor and defendant are Italian-speaking, in German if they are both South Tyrolians. In the event of one of them being of the other ethnical group, hearings will be in both languages. Therefore it will be necessary to have a special law, allowing German speaking lawyers to become judges and creating the posts of German speaking chancellor and official interpreter. A commission will be set up by the Prefect to decide upon these legal matters before making the proposal to the Rome Government.

IMMIGRATION

A decree is being prepared by the Prefect, sending away all Italians without a job arrived after September 8th, 1945. reading in part as follows: "whereas Allied authorities, in agreement with the Italian Government have taken the necessary steps to turn out, as early as possible, all enemy aliens still in this Province".

OPTIONS

According to the Prefect there should be set up a mixed commission to judge on doubtful cases, with an Italian president and a South Tyrolian vice-president, to be interchangeable every week.

COMMUNAL SECRETARIES

For a proportional representation in communal present there is no South Tyrolian secretary, although there are many Italian secretaries who speak German. A course of instruction should be set up for South Tyrolians in order that they may pass the necessary examinations, specially organized for this Province.

GUARANTEES

According to the Prefect the special ethnical laws and decrees should be guaranteed by embodiment in the constitutional laws of Italy. Besides a possible treaty for the minorities between Italy and Austria could be guaranteed by a great power or by the U.N.

5640 7638

MEMORANDUM on the Italian Government's Draft Decree as
to the Nationality Problem in the Upper Adige and neighbouring areas

1. This memorandum refers to the Draft Decree as revised by the Council of Ministers, at fo. 86; an English translation is at fo. 8C. A summary of its provisions is at the Appendix to this memorandum.
2. In the CC's letter to the PM of 20 August (fo. 44 on file AC/45/12/LG) the view was expressed that the proposed Commissions should be confined to examining and establishing the facts of citizenship based on the existing law and that it was highly undesirable for the Commissions to be charged with the further duties of having fresh options until the Italian Government has determined its future policy as to those provinces. The Draft Decree does not conform to these views.
3. Firstly, appears from the Appendix, paras (7) and (9), the Commissions will be charged with determining the facts of citizenship based however, not on the existing Italian law but upon the provisions of the new Decree itself. The new Decree does alter the existing law. For instance it declares (Art. 1 (3)) not to be Italian citizens those optants who entered German service. Under the nationality law of 1912 it appears that such persons would remain Italians until the Italian Government gave them notice to abandon foreign service within a fixed time and they continued in such service after the expiration of the time so limited. Similarly the Decree also declares not to be Italian citizens those optants who did not emigrate but obtained German citizenship (Art. 1 (2)); this would not appear to deprive them of their nationality under the existing law.
4. Secondly, it is proposed to charge the Commissions with the duty of having fresh options i.e. they will decide applications to re-acquire Italian citizenship - see the Appendix, paras (7) and (8).
5. Thirdly, the Italian Government have not indicated that they intend to issue this decree together with a declaration of their policy as to autonomy.
6. This Sub Commission is concerned with the Draft Decree as it affects the preparation of the electoral lists. As is known, the compilation of the lists is virtually at a standstill because of uncertainty as to the nationality of the optants. Divergent instructions are being given by the Prefects. Temporary instructions have been given to AMG for the registration of the more obvious classes. These instructions are however far from being an adequate solution. In these circumstances, the possibility increases that delay in the Upper Adige may affect the date for national elections. This point was taken in the CC's further letter to the PM of 19 October (fo. 59 on file AC/45/12/LG).
7. This Sub Commission is therefore concerned to have some decision of the nationality problem quickly and to have machinery established for carrying out that decision with reasonable speed. It is not directly concerned in what the decision should be. From this point of view, the Draft Decree does furnish a decision and does provide adequate machinery for its implementation.
8. Obviously much broader questions of policy than this are involved. Though not within the competence of this S/C (unless otherwise stated).

existing law and that it was highly undesirable for the Commissions to be charged with the further duties of having fresh options until the Italian Government has determined its future policy as to those provinces. The Draft Decree does not conform to these views.

3. Firstly, appears from the Appendix, paras (7) and (9), the Commissions will be charged with determining the facts of citizenship based however, not on the existing Italian law but upon the provisions of the new Decree itself. The new Decree does alter the existing law. For instance it declares (Art. 1 (3)) not to be Italian citizens those optants who entered German service. Under the nationality law of 1912 it appears that such persons would remain Italians until the Italian Government gave them notice to abandon foreign service within a fixed time and they continued in such service after the expiration of the time so limited. Similarly the Decree also declares not to be Italian citizens those optants who did not emigrate but obtained German citizenship (Art. 1 (2)): this would not appear to deprive them of their nationality under the existing law.

4. Secondly, it is proposed to charge the Commissions with the duty of having fresh options i.e. they will decide applications to re-acquire Italian citizenship - see the Appendix, paras (7) and (8).

5. Thirdly, the Italian Government have not indicated that they intend to issue this decree together with a declaration of their policy as to autonomy.

6. This Sub Commission is concerned with the Draft Decree as it affects the preparation of the electoral lists. As is known, the compilation of the lists is virtually at a standstill because of uncertainty as to the nationality of the optants. Divergent instructions are being given by the Prefects. Temporary instructions have been given to AMG for the registration of the more obvious classes. These instructions are however far from being an adequate solution. In these circumstances, the possibility increases that delay in the Upper Adige may affect the date for national elections. This point was taken in the CC's further letter to the FM of 19 October (fo. 59 on file AG/45/12/LG).

7. This Sub Commission is therefore concerned to have some decision of the nationality problem quickly and to have machinery established for carrying out that decision with reasonable speed. It is not directly concerned in what the decision should be. From this point of view, the Draft Decree does furnish a decision and does provide adequate machinery for its implementation.

8. Obviously much broader questions of policy than this are involved. Though not within the competence of this S/C (unless otherwise instructed) it may be desirable to note the points on which a ruling seems necessary.

(a) Is account to be taken of possible alterations in the present frontier and/or transfers of population?

(b) Is there any objection to the Italian Government legislating on the matter now or should such legislation be postponed until after international agreement?

(c) What is the Allied attitude to the South Tyrolese? Are they viewed as entitled to the rights of Italian citizenship/spite of having opted, or are the consequences of the Hitler-Mussolini Accords to be followed out.

(d) In particular, should the South Tyrolese be entitled as a class

- 2 -

choice

to participate in the ~~selection~~ of their national and local governments - individual disloyal elements to be eliminated of course by powers of epuration adapted to the circumstances of the neighbourhood.

✓ CCRW/mm

Distribution:

R. R. Temple

RALPH R. TEMPLE

Major

Director

Local Government Sub Commission

2352

APPENDIXSummary of Provisions of Draft DecreeI - Rules Determining Citizenship

1. All the optants are declared to be Italian citizens with the exception of 3 classes.
2. The 3 excepted classes are:
 - (i) those who emigrated to Germany (whether they have come back or not);
 - (ii) those who did not emigrate but obtained German citizenship;
 - (iii) those who entered the German service (whether before or after the Armistice).
3. Those who emigrated can NOT apply to re-acquire Italian citizenship.
4. Those in the other 2 excepted classes may so apply within 30 days of the Decree coming into force.
5. But even those in these other 2 excepted classes are excluded from re-acquiring Italian citizenship if they have
 - (i) held office in the Nazi Party;
 - (ii) belonged to a Nazi military organization;
 - (iii) co-operated (after the Armistice) in recruiting for the German army or formations
 - (iv) voluntarily collaborated in any way with German forces or authorities
 - (v) committed (during German occupation) acts of cruelty, rapine or plunder against Italians, people resident in Italy or members of the forces of the united nations.

II - Machinery for Applying These Rules

6. Four Commissions are to be appointed - one for each of the Provinces of Bolzano, Trento, Belluno, and Udine. They will consist of
 - 1 Judge of Tribunal (or higher) as Chairman
 - 1 Vice-Prefect
 - 1 Italian citizen of Italian speech
 - 2 Non-opting Italian citizens of German speech, to be selected preferably from the Sindaci.
7. The Commissions have 2 tasks:
 - (i) to decide applications to re-acquire Italian citizenship, as at (4.) above
 - (ii) to determine disputes as to what steps were actually taken under the Hitler-Mussolini Agreements by particular individuals.
8. In deciding applications to re-acquire Italian citizenship...

2391

(ii) those who did not emigrate but obtained German citizenship;
 (iii) those who entered the German service (whether before or after the Armistice).

3. Those who emigrated can NOT apply to re-acquire Italian citizenship.
4. Those in the other 2 excepted classes may so apply within 30 days of the Decree coming into force.
5. But even those in these other 2 excepted classes are excluded from re-acquiring Italian citizenship if they have
 - (i) held office in the Nazi Party;
 - (ii) belonged to a Nazi military organization;
 - (iii) co-operated (after the Armistice) in recruiting for the German army or formations
 - (iv) voluntarily collaborated in any way with German forces or authorities committed (during German occupation) acts of cruelty, rapine or plunder against Italians, people resident in Italy or members of the forces of the united nations.
 - (v)

II - Machinery for Applying These Rules

6. Four Commissions are to be appointed - are for each of the Provinces of Bolzano, Trento, Belluno, and Udine. They will consist of

- 1 Judge of Tribunal (or higher) as Chairman
- 1 Vice-Prefect
- 1 Italian citizen of Italian speech
- 2 Non-opting Italian citizens of German speech, to be selected preferably from the Sindaci.

2391

7. The Commissions have 2 tasks:

- (i) to decide applications to re-acquire Italian citizenship, as at (4) above
- (ii) to determine disputes as to what steps were actually taken under the Hitler-Mussolini Agreements by particular individuals.

8. In deciding applications to re-acquire Italian citizenship, the Commissions are given a wide discretion. The first para of Art. 5 of the Draft Decree (English version) at fo. should be read. Appeals lie to the Council of State and only on question of jurisdiction, law or improper motives.

9. In deciding disputes as to steps taken under the Hitler-Mussolini Agreement, the Commissions act in the same way as an examining magistrate. Either the person concerned or the public prosecutor can invoke its jurisdiction. Appeals from these decisions lie to the ordinary courts.

III - Epuration

10. Persons may have been guilty of the acts specified in (5) above, yet not

- 2 -

lose their Italian citizenship because eq. they didn't take any steps at all under the Hitler-Mussolini Agreements or else being of Italian blood, those Agreements didn't apply to them. Such persons may nevertheless be sentenced to loss of civil rights (including the right to vote) by the Provincial Commissions for the Disfranchisement of Fascists. (DLL NO. 149 which was not implemented in AMG territory is referred to in the decree).

11. Under the existing law, such Provincial Commissions may deprive of their voting rights for 10/10 years those who have held certain high offices in the Fascist Party. Those who accepted certain offices in the Nazi Party are likewise to be deprived. The offices in the Fascist Party have been specified in a Decree of the President of the Council: the offices in the Nazi Party will be similarly specified.

2300

SUBJECT: Note of Interview - AC HQ

DATE : 1 December 1945 - 0930 hours.

PRESENT: Signor CASARDI, General Secretariat, Ministry of Foreign Affairs
Dott. SORRENTINO, Legislative Office, Presidency of the Council
Major C.G.R. Williams, Executive Officer, Local Government S/C
Sig. Arrigo NICE, interpreting.

1. The purpose of the interview was to clarify certain obscurities in the Draft Decree at folios
2. Art. 1 - The word 'originarie' is not a term of art and has no precise legal meaning. It is used here simply because it is also used in the Hitler - Mussolini Accords and in the Law of 1939 which implements them so that persons within the ambit of those documents will also be within the ambit of the new Decree.
3. The meaning of 'anche prima' in para (3) of Art. 1 is that those who entered German service before the Armistice are covered by this para, as well as those who entered that service after the Armistice.
4. Art. 3 - the time limit of 30 days is is peremptory, i.e. applications made later can NOT be considered.
5. Art. 4 - the phrase "nominate nelle provincie etc." has been inserted because otherwise the earlier words "Commissioni provinciali" would require the appointment of Commissions in every province throughout Italy in which an optant happened now to be living. Instead, there will be one separate Commission for each of the provinces of Bolzano, Trento, Belluno and Udine.
6. The penultimate para of Art. 3 means dividing a Commission into sections when necessary (and it will only be necessary for the Bolzano Commission) by appointing additional members. Thus if 2 sections are deemed necessary then an additional 5 members then sit and act separately with all the powers of the Commission. If a third section is thought necessary then another five additional members have to be appointed. The thing works in the same way as the Sections of the Council of State or the Court of Cassation.
7. Art. 5 - "presumibilmente" in the first para does not imply that the Commission can dispense with all evidence, but only that it may dispense with strict proof. There will usually be indications only of what the optants may have been: the Commission may draw an inference from such indications. 2383
8. The last para of Art. 5 is necessary because the Hitler - Mussolini Agreements require optants to emigrate. Although this requirement is not being enforced, technically it remains in existence as a legal obligation. The object of this para is to suspend that legal obligation temporarily. It does not imply any intention of the Italian Government actually to expel anyone.
9. Art. 7 - There is a mistake in the first para of this which should read "nel prima e seconda comma dell'art. 1".

- 2 -

10. The "competent judicial authority" referred to in the 5th para of Art.7 is the Tribunal and thence to the Court of Appeal and Court of Cassation. The disputes referred to in this Art. are questions of fact, e.g. did or did not a particular individual emigrate - did or did not another individual enter German service. It is therefore considered proper to allow appeal to the ordinary courts of law. Decisions granting or refusing citizenship under Art.5 however involve considerations of policy. Appeal from these decisions is therefore made to lie to the administrative court, i.e. the Council of State.

11. Arts.8 and 10. The legislative office appreciates that DLL 149 is not in force in the Upper Adige. Dott. SORRENTINO said the CC had written to the PM that DLL. 149 could be put into force with certain amendments. If this is done before the new Decree on citizenship is enacted, then the reference to DLL.149 would be appropriate. If not, then an alternative will be made so as to refer instead to DLL.159.

Alghisi

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

CGRW/frs

DISTRIBUTION.

AC/45/12/1/LG
AC/14/1/LG
Float

2388

AG/45/29/LG

SUBJECT: Note of interview - Office of Vice President, Civil Affairs Section

DATE : 30 November 1945 - 1145 hours.

PRESENT: Lt. Col. S. H. White, Acting Vice President, CA Section
Major Ralph R. Temple, Director, Local Government S/C
Dott. DE ANGELIS Bruno, Prefect of Bolzano

(Notes transcribed by Cpl. Paul E. Carr)

1. Lt. Col. White explained that the conference had been arranged in order to discuss in general terms the Draft DLL as to citizenship in the Upper Adige. The Allied Commission was not yet in a position to make observations because the Draft DLL was still being studied. However, it had been thought desirable to obtain the views of the Prefect.

2. In the course of the discussion that followed, Dott. DE ANGELIS indicated agreement on the various points of the Draft Decree, with the following exceptions.

3. Article 1. Dott. DE ANGELIS stressed the point that he felt that the law of 1912 should be made applicable in its entirety as the basis for determining citizenship. He considered that:--

- (1) those are citizens of Italy who have documents of German citizenship but who have not transferred to Germany;
- (2) those have lost their citizenship who have transferred to Germany;
- (3) those have lost their citizenship who have remained and who have acquired German citizenship and have taken a German office.

As outlined in the Draft Decree, Dott. DE ANGELIS said he felt that the first category was stated correctly; the second was too indefinite, and the third was too indefinite and too wide.

4. Article 3. It was felt that the period of 30 days should be altered to 3 months.

5. Article 4. Dott. DE ANGELIS indicated that, instead of having a separate Commission for each province, he preferred to have established one Central Commission with functional Sub-Commissions in order to insure uniformity.

6. Article 5. Objection was taken to sub para (1) of this Article. It was thought preferable to proceed under the epuration laws with necessary modifications.

7. Article 8. Lt. Col. White stated that the only difficulty in connection with this Article was that Decree 149 has not been implemented in AMG Territory. Dott. DE ANGELIS stated that this did not matter because the epuration laws would apply in any event.

R. R. Temple, Major
RALPH R. TEMPLE, Major
Director, Local Government S/C



Ministero degli Affari Esteri

ROUGH TRANSLATION *after*

3/2123 *LG*

Rome, November 27th, 1945

29 NOV 1945

NOV 28 1945

Dear Admiral Stone,

With reference to my letter n.3/2107, dated November 23rd, please find enclosed the draft of a provision in its final text as worked out by the Presidency of the Council of Ministers.

The alterations from the former draft, which was forwarded to you by President Parri in his letter n.3/2063, have been underlined in the enclosed text so as to facilitate comparison.

I wish to confirm that this Ministry is at the disposal of the Allied Commission's competent offices for any possible further joint discussion of the provision in question. Signor Casardi, an official of this Ministry, has been named to this purpose.

Believe me, dear Admiral Stone,

Very sincerely yours

(Signed) R. PRUNAS

Admiral Ellery W. STONE
Chief Commissioner
Allied Commission
= R O M E =



28 Nov 45
ELC DIST - CA Sec (2)
ACTION - CA Sec
INFO - CC
- EX Com
- POLAD 'A'
POLAD 'B'

(COPY 10)



MINISTERO DEGLI AFFARI ESTERI
IL SEGRETARIO GENERALE

Roma, 27 NOV 1945

Caro Ammiraglio,

facendo seguito alla mia lettera M. 3/2107 del 23 corrente, accludo una copia del progetto di provvedimento nel testo definitivo elaborato dall'Ufficio Legislativo della Presidenza del Consiglio. Le varianti al testo precedente, trasmesse in allegato alla lettera del Presidente Parri M. 3/2068, sono state sottolineate per facilitare il raffronto.

Le confermo con l'occasione che questo Ministero resta a disposizione dei competenti organi della Commissione Alleata per l'ulteriore eventuale discussione del provvedimento in questione. Il funzionario incaricato è il Signor Casardi.

Mi creda, caro Ammiraglio, con i migliori saluti

Ammiraglio Ellery W. Stone
Capo della Commissione Alleata

ROMA



2305

Draft Bill on to Citizenship in the Upper Adige

ART 1

Italian citizens are considered persons native of the provinces of Belluno, Bolzano, Trento and Udine who, according to the 1939 Italian-German agreements, opted for the German citizenship, and their transfer to Germany;

The provisions of this paragraph do not apply to persons who

(1) have transferred their residence to Germany, even if later they returned to Italy;

(2) or, have obtained the German citizenship without being transferred to Germany;

(3) or likewise not having been transferred to Germany, placed themselves at the service of Germany even prior to 3 September 1943.

The provisions set out in Nos. 2 and 3 of Art 9 of Law No. 555 of 13 June 1912 are not applied to persons who, in accordance with the preceding para., have lost the Italian citizenship.

ART 2

The persons referred to in Nos. 2 and 3 of the first para of the preceding article may apply to recover Italian citizenship according to the regulations of the following dispositions.

ART 3

Application for the recover of Italian citizenship can be submitted within 30 days from the effective date of the present decree to the prefecture of the province in which the person concerned has his residence.

ART 4

The provincial authorities appointed in the provinces indicated in

The provisions of this paragraph do not apply to persons who

(1) have transferred their residence to Germany, even if later they returned to Italy;

(2) or, have obtained the German citizenship without being transferred to Germany;

(3) or likewise not having been transferred to Germany, placed themselves at the service of Germany even prior to 8 September 1943.

The provisions set out in Nos. 2 and 3 of Art. 3 of Law No. 585 of 13 June 1912 are not applied to persons who, in accordance with the preceding para, have lost the Italian citizenship.

ART 2

The persons referred to in Nos. 2 and 3 of the first para of the preceding article may apply to recover Italian citizenship according to the regulations of the following dispositions.

ART 3

Application for the recover of Italian citizenship can be ²³submitted within 30 days from the effective date of the present decree to the prefecture of the province in which the person concerned has his residence.

ART 4

Special Provincial Commissions appointed in the provinces indicated in Art. 1 by the Minister of the Interior shall decide on the applications for the recovery of Italian citizenship submitted in accordance with the preceding article. Said commissions shall be composed of a magistrate of grade not lower than the 5th, acting as president, appointed by the President of the Court of Appeal having jurisdiction, of an official of the Ministry of the Interior not inferior to grade VI, of an Italian speaking citizen appointed by the prefect and of two Italian

- 2 -

citizens, German speaking, who have not requested German citizenship, appointed by the Prefect, one of whom shall be chosen among the Sindaco of the province.

The same procedure set out in the preceding paragraph shall be followed in appointing substitute members of the same composition and the same may be divided in sections having each the same structure of the commission.

The secretariat of the commission shall be composed of prefectural secretaries.

ART 5

The Commission shall examine the advisability of granting Italian citizenship after having carefully considered the penal records of the person concerned, the grounds which determined the choice in favour of Germany, the conduct held before the choice by the person making the request and also the family connections with persons of Italian nationality.

In all cases the following persons will be excluded from the right of recovering Italian citizenship:

- (1) Those persons who held offices in the Nazi party or belonged to military Nazi organizations;
- (2) Those persons who after 8 Sept. 1943 collaborated with the German authorities to promote the enlistment in the German army and units or have in any way voluntarily collaborated with the German Authorities and German forces in the fight against Italians and the United Nations;
- (3) Those persons who during the German occupation have been guilty of cruel acts, robberies or plundering against Italians or the population in Italy or members of the United Nations Armies.

The persons concerned have the right to reside temporarily in Italy until the Commission has decided on the applications for the recovery of the

Italian citizenship.

ART 5

The Commission shall examine the advisability of granting Italian citizenship after having carefully considered the penal records of the person concerned, the grounds which determined the choice in favour of Germany, the conduct held before the choice by the person making the request and also the family connections with persons of Italian nationality.

In all cases the following persons will be excluded from the right of recovering Italian citizenship:

(1) Those persons who held offices in the Nazi party or belonged to military Nazi organisations;

(2) Those persons who after 8 Sept. 1943 collaborated with the German authorities to promote the enlistment in the German army and units or have in any way voluntarily collaborated with the German authorities and German forces in the fight against Italians and the United Nations;

(3) Those persons who during the German occupation have been guilty of
crimes, robberies or plunder against Italians or the populations ^{23 Aug}
in Italy or members of the United Nations armies.

The persons concerned have the right to reside temporarily in Italy until the Commission has decided on the applications for the recovery of the Italian citizenship.

ART 6

Against the provisions issued by the Provincial Commission according to Art. 5, an appeal can be lodged only to the State Council for incapacity, violation of law or abuse of power.

- 3 -

ART 7

The objections which may arise on the conditions set out in the first para of Art. 1 shall be decided on upon request of the person concerned or of the public prosecutor by the provincial commission referred to in Art. 3.

For the purposes of said decision the Commission shall have the same investigating power as the judicial authority in penal questions.

The pre-trial investigation may be entrusted by the Commission to one of its members.

The documents concerning the pre-trial investigation shall be deposited in the secretariat of the Commission; the public prosecutor and the person concerned shall be notified of the said filing and within ten days from said notification can submit their deductions.

Against the provisions of the Commission contemplated in the first para of an appeal may be lodged to the competent judicial authority within thirty days from the notification made by the Secretariat of the Commission. The appeal will be notified to the Prefect and the Prosecutor.

ART 8

The provisions of Art. 1 of D.L. No. 149 of 26 April 1945 shall apply also to Italian citizens speaking German language in the following cases:

- (1) If they held offices in the Nazi party or belonged to military Nazi organizations;
- (2) if after 8 Sept. 1943 have collaborated with the German authorities to promote the enlistment in the German army and units or have in any way ²³⁶² collaboratively collaborated with the German authorities and German forces against Italy or the United Nations;

investigating power as the judicial authority in penal questions.

The pre-trial investigation may be entrusted by the Commission to one of its members.

The documents concerning the pre-trial investigation shall be deposited in the secretariat of the Commission; the public prosecutor and the person concerned shall be notified of the said filing and within ten days from said notification can submit their objections.

Against the provisions of the Commission contemplated in the first para of an appeal may be lodged to the competent judicial authority within thirty days from the notification made by the Secretariat of the Commission. The appeal will be notified to the Prefect and the Prosecutor.

ART 8

The provisions of Art. 1 of D.L. No. 249 of 26 April 1949 shall apply also to Italian citizens speaking German language in the following cases;

(1) If they held offices in the Nazi party or belonged to military

Nazi organizations;

(2) if after 8 Sept. 1945 have collaborated with the German authorities to promote the enlistment in the German army and write or have in any way ²⁵⁶² voluntarily collaborated with the German Authorities and German forces against Italy or the United Nations;

(3) during the German occupation have been guilty of acts of cruelty, or robberies or plunder against Italians or the populations residing in Italy or members of the United Nations armies.

ART 9

Italian citizens of German origin and speaking German language who have held in the Nazi Party positions which shall be indicated in the decree of the

President of the Council of Ministers shall be in all cases liable to suspension from the electoral right for a period of time not exceeding ten years.

ART 10

The provisions set out in the two preceding articles shall be made executive by the commissions referred to in Art. 2 of No. 145 of 26 April 1945 saving any penal action for crimes.

2361

ART. I

Si considerano cittadini italiani le persone originarie delle provincie di Belluno, Bolzano, Trento ed Udine che, in base agli accordi italo-germanici del 1939, hanno optato per l'acquisto della cittadinanza germanica ed il trasferimento in Germania.

La disposizione del comma non si applica a coloro che:

- 1)- abbiano trasferito la loro residenza in Germania, ancorché successivamente si siano di nuovo trasferiti in Italia;
- 2)- o non essendosi trasferiti in Germania, abbiano già ottenuto la cittadinanza germanica;
- 3)- o, parimenti non essendosi trasferiti in Germania, si siano messi anche prima dell'8 settembre 1943, al servizio della Germania stessa.

Alle persone che ai sensi del comma precedente hanno perduto la cittadinanza italiana non si applicano le disposizioni dei numeri 2 e 3 dell'art. 9 della legge 13 giugno 1912, n. 555.

ART. 2

Le persone indicate nei numeri 2 e 3 del primo comma dell'articolo precedente sono ammesse a chiedere il riacquisto della cittadinanza italiana a nome delle disposizioni seguenti.

ART. 3

La domanda per il riacquisto della cittadinanza italiana deve essere presentata, a pena di decadenza, entro trenta giorni dall'entrata in vigore del presente decreto, alla prefettura della provincia nella quale l'interessato ha la sua residenza.

ART. 4

Sulle domande per il riacquisto della cittadinanza italiana, presentate a norma del comma precedente, deliberano appo-



site Commissioni provinciali nominate nelle provincie indicate nell'art. 1 dal Ministro dell'Interno e composte di un magistrato di grado non inferiore al V, con funzioni di presidente, designato dal Presidente della Corte d'Appello competente, un funzionario dell'Amministrazione dell'Interno di grado non inferiore al VI°, di un cittadino di lingua italiana designato dal prefetto e di due cittadini italiani di lingua germanica, che non abbiano optato per la cittadinanza germanica, pure essi designati dal prefetto, di cui uno scelto possibilmente fra i sindaci della provincia.

Nelle stesse forme stabilite nel comma precedente possono essere nominati membri supplenti della Commissione stessa e questa può essere divisa in sezioni, aventi ciascuna la composizione della Commissione.

La segreteria della Commissione è costituita da segretari di prefettura.

ART. 5

La commissione valuta l'opportunità della concessione della cittadinanza italiana tenendo in particolare considerazione i precedenti penali del richiedente, i motivi che presumibilmente hanno determinato l'opzione a favore della Germania, il comportamento tenuto dall'optante prima dell'opzione e successivamente, gli eventuali legami familiari con persone di nazionalità italiana.

In ogni caso sono esclusi dal riacquisto della ²³⁷⁹cittadinanza italiana:

1) coloro che hanno ricoperto cariche al partito nazista od hanno appartenuto ad organizzazioni militari naziste;

2) coloro che successivamente all'8 settembre 1943 hanno cooperato con le autorità germaniche per favorire gli arruolamenti nell'esercito e nelle formazioni tedesche o hanno comunque volontariamente collaborato con le autorità e le forze germaniche nella lotta contro l'Italia e le Nazioni Unite;

3) coloro che, durante l'occupazione tedesca si sono resi colpevoli di atti di crudeltà o di rapina o di saccheggio in danno di italiani o delle popolazioni residenti in Italia o di appartenenti agli eserciti delle Nazioni Unite.

Fino a quando la Commissione non abbia deciso sulle domande di riacquisto della cittadinanza italiana gli interessati possono conservare provvisoriamente la residenza in Italia.

ART.6

Contro i provvedimenti emanati dalla Commissione provinciale ai sensi dell'art.3 è ammesso soltanto il ricorso al Consiglio di Stato per incompetenza, violazione di legge ed eccesso di potere.

ART.7

Le contestazioni che eventualmente sorgano sulla sussistenza delle condizioni indicate nel primo comma dell'art. 1, sono decise ad istanza dell'interessato o del pubblico ministero dalla Commissione provinciale di cui all'art.3.

Ai fini di tali decisioni alla Commissione spettano gli stessi poteri istruttori che competano all'Autorità giudiziaria in materia penale.

Le istruttorie possono dalla Commissione essere delegate ad uno dei suoi componenti.

Gli atti relativi alle istruttorie espletate sono depositate nella segreteria della Commissione; dell'avvenuto deposito è data notizia al pubblico ministero e all'interessato, i quali entro i dieci giorni dalla comunicazione, possono presentare le loro deduzioni.

Contro i provvedimenti della Commissione, preveduti nel primo comma, è ammesso ricorso all'Autorità giudiziaria competente nel termine di trenta giorni dalla notifica, effettuata a cura

della segreteria della Commissione. Il ricorso è notificato al Prefetto ed al Pubblico Ministero.

ART.8

Le disposizioni dell'art. 1 del D.L.L. 26 aprile 1945, n. 149, sono applicabili anche ai cittadini italiani di origine e lingua tedesca quando:

1)- Abbiano ricoperto cariche al partito nazista o abbiano appartenuto ad organizzazioni militari naziste;

2)- Successivamente all'8 settembre 1943 abbiano cooperato con le autorità germaniche per favorire gli arruolamenti nell'esercito e nelle formazioni tedesche o hanno comunque volontariamente collaborato con le Autorità o con le forze germaniche nella lotta contro l'Italia e le Nazioni Unite;

3)- durante l'occupazione tedesca si siano resi colpevoli di atti di crudeltà o di rapina o di saccheggio in danno di italiani o delle popolazioni residenti in Italia o di appartenenti agli eserciti delle Nazioni Unite.

ART.9

Incorrono in ogni caso nella sospensione del diritto elettorale per una durata non superiore a dieci anni, i cittadini italiani di origine e lingua tedesca che hanno rivestito ²³⁸⁷cariche direttive nel partito nazista, che saranno indicate con decreto del Presidente del Consiglio dei Ministri.

ART.10

I provvedimenti previsti nei due articoli precedenti sono applicati dalle Commissioni di cui all'art. 2 del D.L.L. 26 aprile 1945, n.149, salva l'azione penale per i fatti costituenti reato.

Transla tion

20 NOV. 1945

315

C. A. Sec.

The president of the Council of Ministers
5/2068

Rome, 18 November 1945.

20 NOV. 1945

My dear Admiral,

I have just now been informed by the prefect of Bolzano that the Allied Commission ordered the electoral lists to be prepared in Alto Adige, indistinctly including all the people who voted for Italy and remained there.

About this matter, I should like to refer to your letter dated October 19th, (AG/45/12/10) in which you spoke about the necessity of forming without delay a commission to examine and decide about the citizenship of a large part of the population in the Alto Adige region.

Obviously, such a matter could only be examined after fixing the criterions which were to inspire it. And my delaying in answering your letter is due to the fact that I first wanted to have the matter examined in its complex juridical and political aspects, as I already wrote to you on November 5th.

The offices in charge drafted a plan which will be examined in the meeting of the Council of Ministers of the Dist. inst.

I had issued instructions to these offices to contact the organs of the Allied Commission to know beforehand their opinion on the said draft.

Unofficially, I hereby forward a copy to you so that you may at once take cognizance of it.

Considering what I said in this letter, and believing that this matter is shortly to be solved, I shall greatly appreciate it if you give the necessary instructions to the authorities in charge to suspend the drafting of electoral lists in Alto Adige, to avoid the possibility of their being later on in opposition with the results of the enforcing of the planned law decrees.

s. Ferruccio Parri

Admiral Elmer J. Stone
Chief Commissioner
Allied Commission
Rome

trans. 5/0



EC DIST. 20 Nov 2376

ACTION: C. A. Sec (2)

INFO: CHIEF COMMR.

EX COMMR.

POLAD 'A'

POLAD 'B'

3/2068 NOV 13 1945

NOV 13 1945

7A



*Il Presidente
del Consiglio dei Ministri*

Roma, 7 8 NOV 1945

Caro Ammiraglio,

mi è stato teste riferito dal Prefetto di Bolzano che la Commissione Alleata ha disposto la compilazione delle liste elettorali in Alto Adige includendovi indistintamente tutti gli optanti rimasti in Italia.

Vorrei riferirle, a questo riguardo, alla Sua lettera in data 19 ottobre (AC/45/12/L9) in cui Ella mi parlò della necessità che si costituisse d'urgenza una apposita Commissione per esaminare e decidere circa lo stato di cittadinanza di una notevole parte della popolazione nella regione alto-atesina.

E' evidente che un esame di tal sorta non avrebbe potuto venir compiuto fin quando non fossero stati stabiliti i criteri ai quali esso avrebbe dovuto ispirarsi. Ed il ritardo nel rispondere alla Sua lettera è dovuto appunto al fatto che si è voluto dapprima esaminare la questione nei suoi complessi aspetti giuridici e politici, *20/11/45*
avuto già scritto in data 9 novembre.

Ammiraglio Henry W. STONE U.S.N.R.

Capo della Commissione Alleata

R o m a

Gli uffici competenti hanno ora elaborato un progetto che verrà preso in esame nella riunione del Consiglio dei ministri di mercoledì 21 corrente.

Gli uffici stessi erano stati da me incaricati di prendere contatto con i competenti organi della Commissione Alleata per conoscerne preventivamente l'opinione sul progetto in parola.

A titolo personale gliene trasmetto qui unita una copia affinché Ella possa sin d'ora prenderne visione.

In vista di quanto sopra, e poichè ritengo che la questione sia ormai prossima ad essere organicamente risolta, Le sarei vivamente grato se volesse impartire disposizioni alle autorità competenti affinché sospendano la compilazione delle liste elettorali in Alto Adige, onde evitare che esse possano successivamente risultare in contrasto con i risultati dell'applicazione del progettato provvedimento legislativo.

Ferruccio Lami

ALES

TranslationReport for the Council of Ministers

6A

The problem of the citizenship of the inhabitants of Alto Adige has been carefully studied in several meetings attended by the Hon. G.B. Boeri and the representatives of the Presidency of the Council and of the Ministries of Foreign Affairs, of the Interior and of Justice.

The solution has been made more difficult by the fact that it is impossible to make any provision about the fate of the well known Italo-German agreements of 1939; that is to say whether we shall be allowed to ask for their being further carried on, asking for the transfer to Germany of those who expressed such a purpose in accordance with the agreements.

First of all, we must ascertain what is, in relation with the laws issued up to now, the present position of the inhabitants of the Alto Adige for what concerns citizenship, and on this subject, start from the 1939 agreements.

The carrying out of such agreements took place in three phases: the option, the purpose of which was either to obtain German citizenship, or to transfer the residence to Germany; the issuing of naturalization certificates by the German authorities; the transfer to Germany, with the ensuing liquidation of such property as may have been existing in Italy.

It is obvious that those who at that time removed themselves to Germany (about 70,000, as was ascertained on 1.9.43) and those who, without moving to Germany, obtained German citizenship (about 50,000 at the same date), must no longer be considered as Italian citizens. The former, even if they again transferred their residence to Italy at a later date, haven't been able legally to regain Italian citizenship, according to art. 9 of the general law on citizenship of 1912, for a regulation of the law of August 21st, 1939, art. 1241, explicitly re-confirmed by the enclosed draft, precluded the enforcement of the said article n. 9 in the case of the inhabitants of Alto Adige who lost Italian citizenship in accordance with the agreements.

It is also obvious that a simple option cannot bring about the loss of Italian citizenship. On September 1st 1939, the number of the people who had chosen to become Germans and were not yet through with the procedure became German citizens amounted to about 50,000.

However, among these people, one category must be taken in particular consideration: such people as chose to become Germans and spontaneously put themselves at the disposition of the German authorities during German occupation. This group includes Italy's worst enemies, who remained in Alto Adige to carry on pro-German propaganda, and who, during German occupation after the armistice, actively co-operated with the authorities of occupation, even in their most hateful activities. Strictly speaking, such people

2374

- 2 -

6B

haven't lost Italian citizenship, they haven't lost it in accordance with the 1939 agreements which didn't foresee such an hypothesis; they haven't lost it in accordance with the general law of 1912, for the said law, though deciding the loss of Italian citizenship for those who assumed a position with a foreign government, or did military service for a foreign power, requires nevertheless for the loss of citizenship, an injunction by the Italian Government to give up within a certain lapse of time the said position or service. However, it is a fact that such people, by a series of actions, asserted their purpose to become citizens of another state, and what is more, a state that was at war with Italy. On the other hand, for what concerned the hypothesis foreseen in the 1912 law, the very existence of a state of war prevented the Italian Government from issuing the above mentioned injunction, while the wish of the Italian state that none of its citizens should put himself at the service of the enemy state was to be considered as implicit.

It therefore seemed preferable to include among such inhabitants of Alto Adige as lost Italian citizenship the category of those who, having chosen German citizenship, then put themselves at the service of Germany, thus summing up in one hypothesis principles drawn from the 1939 Convention and from the fundamental law on Italian citizenship.

It is because of the existence of such a category that art. 1 has been drafted under its present form; for, in case it was considered advisable to suppress it, art. 1 might also be suppressed, and the draft would begin with the present n. 2, but for the ensuing modifications in formal order.

After identifying those who must no longer be considered as Italian citizens, we were faced with the problem of the cases and limits within which Italian citizenship may be granted again.

It seemed before all that such people as have already transferred their residence to Germany, thus fulfilling the clauses foreseen by the 1939 agreements, and have, most probably, liquidated what property they had in Italy, should not be able to recover Italian citizenship.

However, a few contrary opinions were expressed, objecting that the inhabitants of the Alto Adige, that had moved to Germany have been the least enthusiastic supporters of Nazism; besides, having made the experience of Germany, they might again become excellent Italian citizens.

A rather elastic system has been adopted for the two other categories mentioned in art. 1: but for a few cases of obvious unworthiness, decisions about requests for regaining Italian citizenship are to be made by special commissions.

Every Commission is formed by a magistrate, presiding over it, a Deputy Prefect, a representative of the A.I.A., and two Italian citizens of Alto Adige who didn't choose to become German, one of whom is chosen, if possible, 23.23

- 3 -

6C

'sindaci' of the region.

The investigation of each case will enable to decide on a basis of specific and concrete elements, whether it is advisable to grant the citizenship anew.

Motives of definite exclusion are as follow:

- a) - to have been a member of the Nazi party or of Nazi organizations;
- b) - to have cooperated, after September 8th, 1943, with the German authorities, to promote enlistment in the army or in German formations, or to have spontaneously cooperated with the German forces in the fight against Italy and the United Nations;
- c) - to have been guilty, during German occupation, of acts of cruelty, robbery or looting to the prejudice of Italians, or of the population residing in Italy, or of people belonging to the armies of the United Nations.

A few doubts were expressed about the first category of exclusion, for it was objected that it would be exaggerated to have people excluded only because they were members of the Nazi party. Against that, it was pointed out that such people spontaneously became members of the party and that their action had a political meaning, considering the state of war which was then existing between Italy and Germany.

Art. 6 gives another function to the above mentioned commission, and it is quite different from that of making discretionary decisions about requests for recovering the citizenship; this function consists in solving such contests as may arise - and it seems likely that there will be many - about the subsistence of the elements foreseen for the losing of Italian citizenship. The ascertaining that transfer to Germany really took place, the issuing of the naturalization certificate, spontaneous acts for the service of Germany, are not always peacefully acceptable; we thought that the intervention of the commissions would be preferable, for in many cases, this may prevent legal appeal. Cross-examination will be held by the prosecutor.

The three last articles of the draft intend to solve the problem of such inhabitants of the Alto Adige as have remained Italian citizens, and are guilty of the most serious offences in favour of the Nazis, or, serving the Nazi party, fulfilled leading positions. It has been foreseen that they would be submitted to the same proceedings as have been established by the general law for politically dangerous fascists; the electoral rights of Nazi gerarchi are to be suspended as those of fascist gerarchi.

trans. e/c

2372

NOV 1 1943

5A

RELAZIONE PER IL CONSIGLIO DEI MINISTRI

Il problema della cittadinanza degli Alto Atesini è stato attentamente studiato in alcune riunioni alle quali hanno partecipato l'On. G.B. Boeri e i rappresentanti della Presidenza del Consiglio e dei ministeri degli Esteri, dell'Interno e della Giustizia.

La difficoltà delle soluzioni è stata aggravata dalla impossibilità di far previsioni sulla sorte dei nati accordi italo-tedeschi del 1939; vale a dire sul punto se ci sarà consentito di chiedere la ulteriore attuazione pretendendo il trasferimento in Germania di coloro che, in base agli accordi stessi, hanno manifestato tale intendimento.

Occorre anzitutto accertare quale, in base alle leggi finora emanate, è la situazione attuale degli Alto Atesini in materia di cittadinanza e a tal riguardo occorre prendere le mosse dagli accordi del 1939.

L'attuazione di essi avveniva normalmente in tre tempi: l'opzione, che aveva per oggetto sia l'acquisto della cittadinanza germanica sia il trasferimento della residenza in Germania; il rilascio dei certificati di naturalizzazione da parte delle autorità tedesche; il trasferimento in Germania con la conseguente liquidazione dei beni eventualmente posseduti in Italia.

Non è dubbio che coloro che a suo tempo si trasferirono in Germania (circa 70.000, calcolati al 1.9.43), e coloro che, pur senza essersi trasferiti, conseguirono la cittadinanza germanica (circa 50.000 alla medesima data), non debbano considerarsi più cittadini italiani. I primi, anche se successivamente abbiano di nuovo ri-



- 2 -

SB

portato la loro residenza in Italia, non hanno potuto riacquistare di diritto la cittadinanza italiana, ai sensi dell'art. 9 della legge generale sulla cittadinanza del 1912, in quanto una disposizione della legge 21 agosto 1939, n. 1241, che l'unito schema esplicitamente riconferma, escludeva l'applicazione del detto art. 9 nei confronti degli Alto Atesini, che avevano perso la cittadinanza italiana in base agli accordi.

Eguale non par dubito che la semplice opzione non sia idonea a far perdere la cittadinanza italiana. Al 1° settembre 1939 gli optanti che non avevano perfezionato l'acquisto della cittadinanza tedesca si calcolavano in circa 50.000.

Peraltro, una categoria di costoro deve essere particolarmente considerata: gli optanti postisi volontariamente al servizio delle autorità germaniche durante l'occupazione tedesca. Fra essi si annoverano i più accaniti nemici dell'Italia, rimasti in Alto Adige allo scopo di continuare la propaganda pangermanista e che, avvenuta l'occupazione tedesca dopo l'armistizio, hanno coadiuvato attivamente le autorità di occupazione anche nelle attività più odiose. A rigore costoro non hanno perduto la cittadinanza italiana: non l'hanno perduta in base agli accordi del 1939 che questa ipotesi non prevedevano; non l'hanno perduta in base alla legge generale del 1912 peronè detta legge, pur disponendo la perdita della cittadinanza italiana in conseguenza dell'accettazione di un impiego presso un governo estero o dell'assunzione del servizio militare presso una potenza estera, richiede tuttavia per la perdita, l'intimazione del Governo italiano di abbandonare entro un termine fissato l'impiego o il servizio. Tuttavia sta di fatto che costoro, con una serie di atti di contenuto univoco, hanno attestato il loro intendimento di conseguire la cittadinanza di un altro Stato e per giunta di uno Stato che si trovava in guerra con l'Italia. D'altra parte, ai fini della ipotesi preveduta nella legge nel 1912, proprio la esistenza di uno stato di guerra impediva al Governo ita-

..

- 3 -

liano di procedere all'intiliazione sopra ricordata, mentre la volontà contraria del Governo italiano che un suo cittadino non si ponesse al servizio dello Stato nemico doveva ritenersi implicita.

E' sembrato che ciò preferibile comprendere fra gli Alto Atesini che hanno perduto la cittadinanza italiana, anche la categoria di coloro che, avendo optato per la cittadinanza tedesca, si sono messi successivamente al servizio della Germania, riassumendo così, in un'unica ipotesi, principi ricavati dalla Convenzione del 1939 e dalla legge fondamentale sulla cittadinanza italiana.

E' appunto l'esistenza di questa categoria che ha consigliato l'attuale redazione dell'art. 1; che, se si dovesse ritenere che essa debba essere stralciata, l'art. 1 potrebbe essere soppresso e lo schema cominciare con l'attuale art. 2, salvi i conseguenti adattamenti di ordine formale.

Identificati coloro che devono considerarsi non più cittadini italiani si è presentato il problema dei limiti e dei casi in cui può essere consentito il riacquisto della cittadinanza italiana.

E' sembrato anzitutto doversi escludere da tale riacquisto coloro che hanno già trasferito la loro residenza in Germania, vale a dire che abbiano perfezionato l'iter previsto dagli accordi del 1939 e che presumibilmente hanno anche liquidato il patrimonio lasciato in Italia.

Qualche voto però è stato espresso in senso contrario per obiettare che gli Alto Atesini trasferitisi in Germania sono stati i meno accesi sostenitori del nazionismo; essi poi, avendo avuto l'esperienza della Germania, potrebbero essere in grado di ridivenire degli ottimi cittadini italiani.

Per le altre due categorie previste nell'art. 1 si è adottato un sistema abbastanza elastico, che, tranne alcuni casi di pa-

- 4 -

tente indegnità, rimette al giudizio di apposite commissioni la decisione sulle domande di riacquisto della cittadinanza.

Ciascuna Commissione è composta di un magistrato, che la presiede, di un Vice Prefetto, di un rappresentante del C.L.N. e di due cittadini italiani altoatesini non optanti per la Germania, di cui uno scelto, possibilmente, fra i sindaci della regione.

L'indagine caso per caso consentirà di apprezzare in base ad elementi specifici e concreti la convenienza di una concessione ex novo della cittadinanza.

I motivi di esclusione assoluta sono stati così elencati:

a)- essere stati iscritti al partito nazista o alle organizzazioni naziste;

b)- avere, successivamente all'8 settembre '43, cooperato con le autorità germaniche per favorire gli arruolamenti nell'esercito e nelle formazioni tedesche o avere comunque volontariamente collaborato con le forze germaniche nella lotta contro l'Italia e le Nazioni Unite;

c)- essersi, durante l'occupazione tedesca, resi colpevoli di atti di crudeltà, di rapina o di saccheggio in danno di italiani o delle popolazioni residenti in Italia o di appartenenti agli eserciti delle Nazioni Unite.

Sulla prima categoria di esclusione qualche perplessità si è manifestata, essendo stato obiettato che sarebbe eccessivo far derivare la esclusione dalla sola iscrizione al partito nazista. In senso contrario sono stati rilevati la volontarietà della iscrizione ed il significato politico di essa, dato lo stato di guerra allora esistente fra l'Italia e la Germania.

2368

SE

- 5 -

L'art. 6 demanda alla Commissione sopra richiamata un'altra attribuzione, del tutto diversa da quella di decidere discrezionalmente sulle domande di riacquisto della cittadinanza; l'attribuzione cioè di risolvere le contestazioni eventualmente sorte - ed è a presumere che saranno numerose - sulla sussistenza degli elementi previsti per la perdita della cittadinanza italiana. L'avvenuto trasferimento in Germania, il rilascio del certificato di naturalizzazione, gli atti volontari compiuti al servizio della Germania, non sempre sono pacificamente accettabili; si è pensato che sia preferibile l'intervento delle Commissioni, il quale eviterà molte volte il ricorso alla sede giudiziaria. Il contraddittorio sarà sostenuto dal pubblico ministero.

Gli ultimi tre articoli dello schema tendono a risolvere il problema degli Alto Atesini, rimasti cittadini italiani, che si sono macchiati delle più gravi colpe a favore dei nazisti, o che, militando nel partito nazista, ne hanno ricoperto le cariche direttive. Si è prevista la soggezione a quei medesimi provvedimenti che sono dalla legge generale stabiliti per i fascisti politicamente pericolosi nonché la sospensione dai diritti elettorali dei gerarchi nazisti al pari dei gerarchi fascisti.

2363

ART 1

persons native of the provinces of Belluno, Bolzano, Trento and Udine who, according to the 1939 Italian-German agreements, applied to adopt the German citizenship, are still considered Italian citizens unless:

1) - they have transferred their residence to Germany, even if later they returned to Italy;

2) - or, have obtained the German citizenship without being transferred to Germany;

3) - or they voluntarily served Germany without being transferred to Germany.

The provisions set out in No 2 and 3 of art 9 of Law No 555 of 13 Jun 1912 are not applied to ~~the~~ persons who, in accordance with the preceding para, have lost the Italian citizenship.

ART 2

The persons referred to in Nos 2 and 3 of the first para of the preceding article may apply to recover Italian citizenship.

Application for the recovery of Italian citizenship can be submitted within 30 days from the effective date of the present decree to the prefecture of the province in which the person concerned has his residence.

ART 3

Special Provincial Commissions appointed by the Minister of the Interior shall decide on the applications for the recovery of Italian citizenship submitted in accordance with the preceding article. Said commissions shall be composed of a magistrate of grade not lower than the 5, acting as president, appointed by the president of the Court of Appeal having jurisdiction, of a representative of the

2363

returned to Italy;

2) - or, have obtained the German citizenship without being transferred to Germany;

3) - or they voluntarily served Germany without being transferred to Germany.

The provisions set out in No 2 and 3 of art 9 of Law No 555 of 13 Jun 1912 are not applied to ~~the~~ persons who, in accordance with the preceding para, have lost the Italian citizenship.

ART 2

The persons referred to in Nos 2 and 3 of the first para of the preceding article may apply to recover Italian citizenship.

Application for the recovery of Italian citizenship can be submitted within 30 days from the effective date of the present decree to the prefecture of the province in which the person concerned has his residence.

ART 3

Special Provincial Commissions appointed by the Minister of the Interior shall decide on the applications for the recovery of Italian citizenship submitted in accordance with the preceding article. Said commissions shall be composed of a magistrate of grade not lower than the 5. acting as president, appointed by the President of the Court of Appeal having jurisdiction, of a representative of the Provincial CLN, a regular vice prefect appointed by the prefect and of two Italian citizens, German speaking who have not requested German citizenship, appointed by the prefect, one of whom shall be chosen among the sindaci of the province.

The same procedure set out in the preceding paragraph shall be followed in the appointment of substitute members of the same commission and the same may be

4B

divided in sections having each the same structure of the commission.
The secretariat of the commission shall be composed of prefectural secretaries.

ART IV

The Commission shall examine the advisability of granting Italian citizenship after having carefully considered the penal records of the person concerned, the grounds which determined the choice in favour of Germany, the conduct held by the person making the request before the choice and also the family connections with persons of Italian nationality.

In all cases the following persons will be excluded from the right of recovering Italian citizenship:

- 1) - Those persons registered in the Nazi party or in the Nazi organizations;
- 2) - Those persons who after 8 Sep 1943 collaborated with the German authorities to promote the enlistment in the German army and units and have in any way voluntarily collaborated with the German forces in the fight against Italian and the United Nations;
- 3) - Those persons who during the German occupation have been guilty of cruel acts, robberies or plunders against Italians or the populations residing in Italy or in members of the United Nations Armies.

The persons concerned have the right to reside temporarily in Italy until the Commission has decided on the applications for the recovery of the Italian citizenship.

ART V

2365

Against the provisions issued by the Provincial Commissions according to art 3, an appeal can be lodged only to the State Council for incapacity, violation of law or abuse of power.

grounds which determined the choice in favour of Germany, the conduct held by the person making the request before the choice and also the family connections with persons of Italian nationality.

In all cases the following persons will be excluded from the right of recovering Italian citizenship:

- 1) - Those persons registered in the Nazi party or in the Nazi organisations;
- 2) - Those persons who after 8 Sep 1943 collaborated with the German authorities to promote the enlistment in the German army and units and have in any way voluntarily collaborated with the German forces in the fight against Italian and the

United Nations;

- 3) - Those persons who during the German occupation have been guilty of cruel acts, robberies or plundering against Italians or the populations residing in Italy or the members of the United Nations Armies.

The persons concerned have the right to reside temporarily in Italy until the Commission has decided on the applications for the recovery of the Italian citizenship.

ART V

Against the provisions issued by the Provincial Commission according to art 3, an appeal can be lodged only to the State Council for incapacity, violation of law or abuse of power.

ART VI

The objections which may arise on the conditions set out in the first paragraph of art 1 shall be decided on upon request of the person concerned or of the public prosecutor by the provincial commission referred to in art 3.

4C

For the purposes of said decision the Commission shall have the same investigating powers of the judicial authority on penal questions.

The pre-trial investigation may be entrusted by the Commission to one of its members.

The documents concerning the pre-trial investigation shall be deposited in the secretariat of the Commission; the public prosecutor and the person concerned shall be notified of the said filing and within ten days from said notification they can submit their deductions.

Against the provisions of the Commission contemplated in the first paragraph an appeal may be lodged to the competent judicial authority within thirty days from the notification made by the Secretariat of the Commission.

ART 7

The provisions of Art 1 of D.L. No 1... of 26 Apr 1945 shall apply also to Italian citizens speaking German language in the following cases:

- 1) - if they have been registered in the Nazi party or in Nazi organizations;
- 2) - if after 8 Sep 1943 have collaborated with the German authorities to promote the enlistment in the German army ~~or~~ ^{and} units or have in ~~any~~ ^{any} way voluntarily collaborated with the German forces against Italy or the United Nations..
- 3) - during the German occupation have been guilty of acts of cruelty, or robberies or plundering against Italians or the populations residing in Italy or members of the United Nations armies.

ART 8

Italian citizens of German origin and speaking German/who have held ^{language} ~~positions~~ in the Nazi party ~~in~~ positions which shall be indicated in the decree of the President of the Council of Ministers shall be in all cases liable to suspension from the electoral right for a period of time not exceeding five years.

2384

they can submit their deductions.

Against the provisions of the Commission contemplated in the first para of an appeal may be lodged to the competent judicial authority within thirty days from the notification made by the Secretariat of the Commission.

ART 7

The provisions of Art 1 of DIL No 1... of 26 Apr 1945 shall apply also to Italian citizens speaking German language in the following cases:

- 1) - if the have been registered in the Nazi party or in Nazi organizations;
- 2) - if after 8 Sep 1943 have collaborated with the German authorities to promote the enlistment in the German army ~~in~~ units or have in ~~any~~ any way voluntarily collaborated with the German forces against Italy or the United Nations..
- 3) - during the German occupation have been guilty of acts of cruelty, or robberies or plunders against Italians or the populations residing in Italy or members of the United Nations armies.

ART 8

2384

Italian citizens of German origin and speaking German/^{language} who have held ~~high~~ positions in the Nazi party ~~and~~ positions which shall be indicated in the decree of the President of the Council of Ministers shall be in all cases liable to suspensions from the electoral right for a period of time not exceeding ten years.

ART 9

The provisions set out in the two preceding articles shall be made executive by the commissions ~~referred~~ to in art 2 of DIL 149 of 26 Apr 1945 ~~and in any~~ penal action for

3B

1. Indirizzo italiano a nome delle disposizioni seguenti

La domanda per il riacquisto della cittadinanza italiana deve essere presentata, a pena di decadenza, entro trenta giorni dall'entrata in vigore del presente decreto, alla prefettura della provincia nella quale l'interessato ha la sua residenza.

Art. 34

Sulle domande per il riacquisto della cittadinanza italiana, presentate a norma dell'articolo precedente, delibero apposite Commissioni provinciali, ^{nelle provincie indicate nell'art. 1} nominate dal Ministro dell'Interno e composte di un magistrato di grado non inferiore al 4, con funzioni di presidente, designato dal presidente della Corte d'Appello competente, ^{di un funzionario dell'Amministrazione dell'Interno non inferiore di grado non inferiore all'8, di un} ~~un rappresentante del C. L. N. della provincia, di un vice prefetto di carriera,~~ di un ^{cittadino di lingua italiana} designato dal prefetto] e di due cittadini italiani di lingua germanica, che non abbiano optato per la cittadinanza germanica, pure essi designati dal prefetto, di cui uno scelto possibilmente fra i sindaci della provincia.

Nelle stesse forme stabilite nel comma precedente possono essere nominati membri supplenti della Commissione stessa e questa può essere divisa in sezioni, aventi ciascuna la composizione della Commissione.

La segreteria della Commissione è costituita da segretari di prefettura.

Art. 45
Opportunità

La Commissione valuta ^{l'opportunità} ~~la convenienza~~ della concessione dell' cittadinanza italiana tenendo in particolare considerazione i precedenti penali del richiedente, i motivi che presumibilmente hanno determinato l'opzione a favore della Germania, il comportamento tenuto dall'optante prima dell'opzione e successivamente, gli eventuali legami familiari con persone di nazionalità italiana.

In ogni caso sono esclusi dal riacquisto della cittadinanza italiana:

italiana: ^{hanno ricoperte cariche} ~~sono stati iscritti~~ al partito nazista & ad organizzazioni ^{militari} naziste; od hanno affarmentato

2a) - coloro che successivamente all'8 settembre 1943 hanno cooperato con le autorità germaniche per favorire gli arruolamenti nell'esercito e nelle formazioni tedesche o hanno comunque volontariamente collaborato con le forze germaniche nella lotta contro l'Italia e le Nazioni Unite;

3°)- coloro che, durante l'occupazione tedesca si sono resi colpevoli di atti di crudeltà o di rapina o di saccheggi in danno di italiani o delle popolazioni residenti in Italia o di appartenenti agli eserciti delle Nazioni Unite.

3C

Fino a quando la Commissione non abbia deciso sulle domande di riacquisto della cittadinanza italiana gli interessati possono conservare provvisoriamente la residenza in Italia.

Art. 56

Contro i provvedimenti emanati dalla Commissione provinciale ai sensi dell'art. 3 è ammesso soltanto il ricorso al Consiglio di Stato per incompetenza, violazione di legge ed eccesso di potere.

Art. 57

Le contestazioni che eventualmente sorgano sulla sussistenza delle condizioni indicate nel primo comma dell'art. 1, sono decise ad istanza dell'interessato o del pubblico ministero dalla Commissione provinciale di cui all'art. 3.

Ai fini di tali decisioni alla Commissione spettano gli stessi poteri istruttori che competono all'autorità giudiziaria in materia penale.

Le istruttorie possono dalla Commissione essere delegate a uno dei suoi componenti.

Gli atti relativi alle istruttorie espiesate sono depositati nella segreteria della Commissione; dell'avvenuto deposito è data notizia al pubblico ministero e all'interessato, i quali, entro dieci giorni dalla comunicazione, possono presentare le loro deduzioni.

Contro i provvedimenti della Commissione, preveduti nel primo comma, è ammesso ricorso all'autorità giudiziaria competente nel termine di trenta giorni dalla notifica, effettuata a cura della segreteria della Commissione. Il ricorso è notificato al Prefetto ed al Pubblico Ministero.

Art. 58

Le disposizioni dell'art. 1 del D.L.L. 26 aprile 1945, n. 149 sono applicabili anche ai cittadini italiani di origine e lingua tedesca quando:

1°) - ^{abbiano ricoperto cariche} ~~siano stati iscritti~~ al partito nazista o ^{abbiano appartenuto} ad organizzazioni naziste;

2°) - successivamente all'8 settembre 1943 abbiano cooperato con le autorità germaniche per favorire gli arruolamenti nell'esercito e nelle formazioni tedesche o hanno comunque volontariamente collaborato con le forze germaniche nella lotta contro l'Italia e le Nazioni Unite;

3°) - durante l'occupazione tedesca si siano resi colpevoli di atti di crudeltà o di rapina o di saccheggio in danno di italiani o delle popolazioni residenti in Italia o di appartenenti agli esiliati delle Nazioni Unite.

3D

Art. 8

Incorrono in ogni caso nella sospensione del diritto elettorale per una durata non superiore a dieci anni, i cittadini italiani di origine e lingua tedesca che hanno ricoperto cariche direttive nel partito nazista, che saranno indicate con decreto del Presidente del Consiglio dei Ministri.

Art. 9

I provvedimenti previsti nei due articoli precedenti sono applicati dalle Commissioni di cui all'art. 2 del D.L.L. 26 aprile 1945, n. 149, salva l'azione penale per i fatti costituenti reato.

2360

HEADQUARTERS ALLIED COMMISSION
APO 394
LOCAL GOVERNMENT SUB COMMISSION

AC/45/12/1/LG

SUBJECT: Note of Interview - AC HQ

DATE : 16 November 1945 - 1100 hours

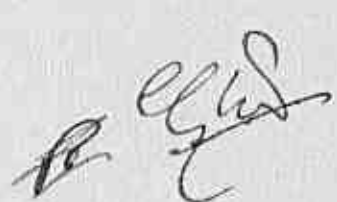
PRESENT: Cons. Dott. SORENTINO, Legislative Office, Presidency of the Council
Major Ralph R. Temple, Director, Local Government S/C
Major C. G. R. Williams, Executive Officer, Local Government S/C
Sig. Arrigo NICE, interpreting.

1. Major Temple referred to the Prime Minister's letter to the Chief Commissioner on 9 November (folio 1) and said there were one or two passages in it which were not quite clear. He had accordingly asked the Presidency if he could see an official who could clarify these points.
 2. Dott. SORENTINO said in a few days they would be sending AC a copy of the Draft of the Decree referred to in the PM's letter. It was ready except for one or two minor details.
 3. In reply to Major Temple, Dott. SORENTINO said that the Decree would deal with citizenship only and not with other matters, such as the structure of local government or the question of autonomy. It would also include provisions dealing with those guilty of criminal responsibilities of a political nature. He explained this by saying that for example the Decree would probably deprive of the right to vote those who had collaborated with the Nazis, just as Fascist collaborators are deprived by the existing legislation.
 4. Dott. SORENTINO added ^{that} the autonomy question was much more complex in Bolzano than Aosta and they were dealing with it by stages. Two Decrees had already been passed by the Council of Ministers:--
 - (a) one providing for the use of German as well as Italian in public acts, etc. and
 - (b) another dealing with the question of education.
- The Decree on language, he said, had been published in the Gazette in the last few days; that on education was not yet published.
- 2359
5. In reply to Major Temple, Dott. SORENTINO said he did not know if there had been any discussion with AC on the drafting of these two Decrees. He thought not, as they were of limited scope. It certainly was the intention, however, to send AC a draft of the Decree on citizenship referred to in the PM's letter.

- 2 -

2A

6. Major Temple asked if the Decree on citizenship would deal with the question merely as affecting the franchise or whether it would deal with citizenship as a whole and for all purposes. Dott. SORENTINO said the latter.
7. Major Temple then referred to the last paragraph of the PM's letter and asked if this meant that the Government agreed to a temporary registration of certain classes now and pending the making of the Decree on citizenship, the establishment of the Special Commission and the ~~establishment~~ ^{completion} of its labours.
8. Dott. SORENTINO began to speak about the provisions of the Draft Decree but we explained that we were not speaking of that at the moment but of the meaning of this paragraph of the PM's letter. Dott. SORENTINO then said he was from the legislative office and was only concerned with the drawing up of the Decree. He did not know anything about what the Government might intend to do in the meantime as to the compilation of electoral lists.
9. Major Temple said in that case he was very sorry that Dott. SORENTINO had had the trouble to come here as he had specifically asked Dott. VARINO (of the Council of the Presidency) that he would like to speak to an official who knew the Government's intentions and could explain the letter. (The interpreter who conveyed the message to Dott. VARINO--Mr. Chevalier--was called in accordingly and Major Temple ascertained that the message had been correctly given). Dott. SORENTINO said he did not think anyone at the Presidency would be able to answer. The PM's letter was a personal one and would be handled by his private secretary only. He thought, however, that the Ministry of the Interior would have been consulted and suggested we see someone from them.
10. Dott. SORENTINO telephoned from this office to Dott. CATENACCI, Chief of Cabinet for the Ministry of the Interior, who agreed that Dott. STRANO, Head of the Electoral Service, might be able to help us. Major Temple said as he was seeing Dott. STRANO at 1100 hours tomorrow on the subject, he would mention this matter to him as well at the time.
11. Dott. SORENTINO said that when he got back to the office he would mention the point to Dott. STRANO so as to prepare him. He would also speak to the PM and explain our point about the last paragraph of the letter and let us know what the PM said. (NOTE: For the result of this conversation between SORENTINO and the PM, see Minute 3.)


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

2358

CGRM/pec
Distribution:
AC/45/12/1/LG
AC/14/1/LG
Float.

Translation

13 NOV 1945

C. P. Scott

289

The President of the Council of Ministers
12/10.9/1.6.1.

13 NOV 1945

Rome, 9 November 1945

My dear Admiral,

Knowing that this matter is of great interest to you, and referring to your previous letters, I inform you that the Italian Government has been studying a decree regulating the matters regarding the citizenship of the population of the islands and near-by provinces.

The problems to be solved are complex from the legal as well as from the political point of view, and the people consulted expressed different opinions. This is why the study and preparation have been delayed. However, I gave orders to have the procedure hastened, so as to be able to issue the decree as soon as possible - after obtaining the agreement of the Allied Commission.

As you suggested, the said decree foresees the formation of special commissions which will have to decide about doubtful cases, according to detailed rules.

The Italian Government agrees about the advisability of carrying on the work for the preparation of electoral lists, considering the possibility for citizens speaking a foreign language to be temporarily registered, with the reservation that they might be cancelled after the ascertainment and acknowledgment of citizenship to be made according to the law which is being prepared and will give to such a matter the organic regulation which is necessary, considering its importance and delicate character.

Yours very truly,

Luigi Einaudi

Admiral Henry M. Spence
Chief Commissioner
Allied Commission
R.O.M.

E.C. Dist - 13 Nov

Action - Ex Com

Info - cc 2367

Polad (4)

(5)

5403

RAF SEC

o/e

In file 47

12410.9/1.6.1



*Il Presidente
del Consiglio dei Ministri*

Roma, 9 novembre 1945

A
785021

Caro Ammiraglio,

poiché so che la questione la interessa molto e con riferimento alle Sue precedenti lettere in argomento Le faccio noto che presso il Governo Italiano è in corso di studio da tempo un provvedimento legislativo regolante tutta la materia relativa alla cittadinanza delle popolazioni dell'Alto Adige e delle provincie limitrofe.

I problemi da risolvere sono complessi sia dal punto di vista giuridico che politico e disparati i punti di vista espressi dai competenti consultati. Questo dà ragione del ritardo dei lavori di studio e preparazione. Ho tuttavia disposto perché siano accelerati al fine di poter emanare nel più breve tempo possibile - previa intesa con la Commissione Alleata - il decreto legislativo.

Tale provvedimento prevede, appunto come Lei suggeriva, la costituzione di Commissioni speciali che dovranno decidere i casi dubbi in base a norme particolareggiate.

Il Governo Italiano conviene quindi circa l'opportunità che venga avviato il lavoro per la preparazione delle liste

.//.

All'Ammiraglio
Elmery W. STONE
Capo della Commissione Alleata

RCMA

2556

elettorali considerando la possibilità per i cittadini alloggiati di iscrizioni a titolo provvisorio, salvo cancellazione dopo gli accertamenti ed il riconoscimento della cittadinanza da farsi in base alla legge in corso di preparazione che avrà a tutta la materia quella organica regolamentazione, necessaria data la sua importanza e la sua delicatezza.

Con viva cordialità

— *Enrico Lami*

1219