

ACC

10000/142/2
(VOL. 1)

10000/142/2
(VOL. 1)

ITALIAN COURTS, RESTORED TERRITORY
OCT. 1943 - AUG. 1944

CLOSED 31 August 1944 -

SEE VOLUME II.

137



PARTITO FASCISTA REPUBBLICANO
FEDERAZIONE DELL'URIBE

IL COMMISSARIO FEDERALE

HEADQUARTER
SOUTHERN REGION, ALLIED CONTROL COMMISSION
LEGAL DIVISION
APO 394, U.S. Army

L-2009

30 August 1944.

Subject : Legal Report Foggia and Campobasso Province

To : C.L.O. Legal Sub-Commission, ACC., HQ.

1. I append hereto for your information and necessary action please two excerpts from a report dated 26 August 1944 submitted to me by the P.L.O. of the newly created Foggia Zone.

For the Regional Commissioner:

LFD/cm

L. F. Dawson
L.F. DAWSON,
Lt. Col., G.L.,
Reg. Legal Officer. 100

Encl -

1. No. 2 excerpts.

LEGAL SUB-COMMISSION	
CLO	☒
DCLO	☐
Chief Counsel	☐
CJO	☐
Italian Section	☐
CL RKS	☐
	☐
	☐

APPENDIX to P.L.O.s. report.

Preture Courts manned only by Vice-Pretori.

FOGGIA PROVINCE

Cerignola
Deliceto
Monte S. Angelo
Orsara di Puglia
Orta Nova
Biccari
Castelnuovo Dauno
Vico Garganico
Volturara Appula

CAMPOBASSO PROVINCE

Boiano
Trivento
Guglionesi
Forlì
Capriati al Volturno

In addition in Foggia the Pretura Court of Apricena is vacant,
and in Campobasso the Pretura of Riccia is vacant.

a) Lucera Section of Court of Appeal, which was set up by R.D.I. of 20th January, has suspended its sittings since 20th July, since R.D.I. above mentioned provided that Court should cease to function on return of Foggia to the Italian Government. No orders have been given for the members of the Court to proceed elsewhere, and these magistrates have remained at Lucera without occupation since 20th July. Communication with Bari - within whose Court of Appeal District both Tribunali in Foggia normally are - remain as difficult as ever. The matter was taken up direct by P.L.O. in Rome on August 1st, with Lieut.Col. Hanneford of Italian Courts Section, Legal Sub-Commission A.C.C. and in subsequent correspondence. No instructions, however, have been received either by this Headquarters from Hqs. A.C.C. or by the President of the Court from the Ministry of Pardon and Justice.

d) In both provinces a number of important Preture Courts are manned only by Vice-Pretori. The unsatisfactory nature of this arrangement is accentuated now that these Courts are responsible for trial of a substantial number of Allied cases. So far as Campobasso is concerned, this matter was emphasized in my report dated 25th July 1944, and it was understood that R.L.O. Region 5 was attempting to arrange for magistrates from newly liberated parts of Italy to be made available for duty in Campobasso Province. Under Executive Memorandum 72 para 15 (c) the matter would appear now to be matter for the Italian Authorities. Appointments of Pretori are within the competence of Procuratore Generale at Court of Appeal of Bari so far as Foggia Province is concerned, and at Court of Appeal of Naples so far as Campobasso Province is concerned. A list of Preture Courts manned only by Vice Pretori is attached as Appendix E to this report in case your Hqs. thinks fit to take ¹³ the matter with the Procuratori Generali concerned.

To ~~File~~
~~cho~~

4001/2.

Amuzes in Catanzaro ~~AB~~ ~~SA~~

It appears from this report that the situation in Catanzaro is better than it has ever been. As President Carlos Maguano has always been considered by our Rho as a very good official, faithful & loyal, his statements may be taken as correct.

S. S. H

F. S. H.

COPIA

CORTE D'APPELLO DI CATANZARO
Ufficio del Primo Presidente

Prot.n. 1329

Risposta al fogl. del 7 agosto 1944
n. 978g/OI423

Catanzaro 22 agosto 1944

OGGETTO: Corte di Assise di Catanzaro.

On.le Ministero di Grazia e Giustizia
Ufficio 2° del Personale

R O M A

In merito al rilievo dell'A.C.C. circa al preteso mancato funzionamento delle Corti di Assise in questo Distretto, ho l'onore di riferire all'E.V. che, nonostante in questa Corte di Catanzaro siano vacanti due posti di Presidenti di Sezioni su cinque stabiliti dalla pianta organica e dieci Consiglieri d'Appello su venti, pure dal principio dell'anno in corso fino al 31 agosto corrente sono state espletate o sono in corso di espletamento nei vari circoli le seguenti Sessioni di Corte d'Assise:

- 1° e 2° CIRCOLO DI CATANZARO
- A CATANZARO: 1) dal 24 al 28 marzo con n.1 processo -
Presidente d'AGOSTINO - rinviata
- 2) dal 18 aprile al 13 maggio con n.11 processi
Presidenti D'Agostino e Mauro
- 3) dall'11 agosto corrente in corso non n.9 pro-

OGGETTO: Corte di Assise di Catanzaro.

On.le Ministero di Grazia e Giustizia
Ufficio 2° del Personale

R O M A

In merito al rilievo dell'A.C.C. circa al preteso mancato funzionamento delle Corti di Assise in questo Distretto, ho l'onore di riferire all'E.V. che, nonostante in questa Corte di Catanzaro siano vacanti due posti di Presidenti di Sezioni su cinque stabiliti dalla pianta organica e dieci Consiglieri d'Appello su venti, pure dal principio dell'anno in corso fino al 31 agosto corrente sono state espletate o sono in corso di espletamento nei vari circoli le seguenti Sessioni di Corte d'Assise:

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Presidente d'AGOSTINO - rinviata

2) dal 18 aprile al 13 maggio con n.11 processi

Presidenti D'Agostino e Mauro

3) dall'11 agosto corrente in corso non n.9 processi -
cessi - Presidente Spandò -

A NICASTRO: 1) dal 24 aprile al 23 maggio con n.9 processi

Presidente Carlomagno

2) dal 26 luglio in corso con n.11 processi.

Presidente D'Agostino.

0 0 9 0

A VIBO VALENTIA: dal 10 al 28 gennaio con n.6 processi.
Presidente D'Agostino.

CIRCOLO DI COSENZA

Ia sessione: dal 14 febbraio al 15 marzo con n.10 processi.
Presidente D'Agostino
2a " dal 28 aprile al 27 maggio con n.10 processi
Presidente D'Agostino
3a " (già fissata) dal 4 settembre in poi con n.11 processi -
cessi - Presidente D'Agostino.

CIRCOLO DI PALMI

Ia sessione: dal 28 febbraio al 9 marzo con n.1 processo.
Presidente Carlomagno
2a " dal 19 giugno al 12 luglio con n.6 processi
Presidente Carlomagno

CIRCOLO DI LOCRI

Ia sessione: dal 24 gennaio al 16 febbraio con n.6 processi
Presidente Carlomagno
2a " dal 3 al 28 luglio con n.11 processi
Presidenti Berlingieri e Spandò

In esito alla predetta mole di lavoro restano ancora
pendenti in questa Corte i seguenti processi d'Assise:
A Catanzaro n:5 processi. A Nicastro n.1 processo. A
Vibo Valentia n.2 processi. A Cosenza n.1 processo.

2a " dal 28 aprile al 27 maggio con n.10 processi
Presidente D'Agostino
3a " (già fissata) dal 4 settembre in poi con n.11 processi -
cessi - Presidente D'Agostino.

CIRCOLO DI PALMI

Ia sessione: dal 28 febbraio al 9 marzo con n.1 processo.

2a " dal 19 giugno al 12 luglio con n.6 processi
Presidente Carlomagno
Presidente Carlomagno

CIRCOLO DI LOCRI

Ia sessione: dal 24 gennaio al 16 febbraio con n.6 processi

2a " dal 3 al 28 luglio con n.11 processi
Presidente Carlomagno
Presidenti Berlingieri e Spadò

In esito alla predetta mole di lavoro restano ancora pendenti in questa Corte i seguenti processi d'Assise:
A Catanzaro n.5 processi. A Nicastro n.1 processo. A Vibo Valentia n.2 processi. A Cosenza n.1 processo.
A Palmi n.12 processi (che sono pervenuti soltanto in questi ultimi giorni) a Locri n.4 processi: in totale n.25 processi. La qual pendenza è di molto inferiore a quella dello scorso anno, nello stesso periodo.

. / .

E tutto questo lavoro di Assise la Corte ha eseguito, oltre al lavoro penale ordinario della Corte d'Appello, che ha espletato n.652 processi (ossia 144 processi in più dell'anno scorso, nell'egual periodo) ed oltre al lavoro civile.

Da quanto ho più sopra esposto, dunque, risulta all'evidenza che il rilievo dell'A.C.C. è quanto mai immutato, perchè del tutto destituito di fondamento. E risulta pure che il maggior lavoro delle Corti di Assise si è potuto espletare, soprattutto, per l'abnegazione del Presidente di Corte d'Assise Comm. GRACCO D'AGOSTINO, la cui volontà di lavoro è soltanto uguagliata dalla sua ben nota capacità: per cui egli merita alta lode e non biasimo da alcuno.

Con perfetta osservanza.

IL PRIMO PRESIDENTE

F.to CARLOMAGNO

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4001/2/L.

/gb.
21 Aug 44.

SUBJECT: COURT OF APPEAL OF LUCERA.

TO: H.E. THE MINISTER OF JUSTICE.

1. It is reported that the Court of Appeal Section of LUCERA has ceased to function since 20th July, date of the restoration of territory to the Italian administration.

2. Pending the promulgation of the decree extending the provisions of R.D.L. of 20 Jan.44. could the Court be instructed to resume its sittings.

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

123

File
HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

149A

ACC/4001/2/L

GGH/ap
21 Aug 44

SUBJECT : Court of Appeal Lucera.

TO : PLO Foggia and Campobasso.

Reference P/P 3040 dated 18 Aug 44.

1. In answer to your request, it is confirmed that the Italian Government will continue the provisions of the R.D.L. of 20th Jan 44 setting up a detached section of Court of Appeal in Lucera until further notice.

2. The relative decree will appear in the next issue of the Gazzetta Ufficiale.

3. In the meantime the Minister of Justice has been requested to instruct the Court of Appeal of Lucera to resume its sittings.

G. G. HANNAFORD,
Lt. Colonel,
Officer i/c Italian Branch,
for Acting Chief Legal Officer.

126

148A

HEADQUARTERS
REGION 3, ALLIED CONTROL COMMISSION
APO 394, U.S. Army

19 August 1944.

SUBJECT: Functioning of Courts.

TO : CLO Legal Sub-Commission, ACC.

1. Pursuant to the instructions contained in paragraph 9b of Executive Memorandum No. 72, dated 28th July 44, will you please note that only one Italian Court in Region 3 remains unopened, namely the Court of Assize at BENEVENTO.
2. The building in which this Court is held has been destroyed by bombing. The First President of the Court of Appeal and the Procuratore Generale at NAPLES, however, anticipate that this Court will be reopened on or about 1 October 44.

For the Regional Commissioner:

Tabanus

G.A. DANIEL,
Major, G.I.,
Actg Reg Legal Officer.

GAE/mo

noted - Col. ~~1211~~ 1211 to see
95H

See app.

4001/2

Ref. F/P 3040
18th Aug. 944

Lega (147A)

1168

SUBJECT: Court of Appeal of Lucera.
TO: Hqs. A.C.C. (Legal Subcommittee).
FROM: P.L.O., Foggia and Campobasso Provinces.

1. Reference conversation on above subject Lieut. Col. Harmaford/ Major Boyd-Carpenter on 31st July and 1st August.
2. By reason of the Provision on Royal Decree of 20th January 1944 under which the Court was set up that it should cease to function on return of Foggia Province to the Italian Government, Court has been suspended since 20th July 1944.
3. No instruction has yet been received by the President or by the Hqs either authorizing it to resume its sittings or ordering its personnel elsewhere.
4. Owing to the fact that communications with Bari are still irregular it is considered by this Hqs. that Court should be authorized to resume its sittings.
5. In any event present position is unsatisfactory, and it is requested that this matter be again taken up ^{with} the Minister of Justice.

CO	
DELO	
Chief Counsel	
CJO	
→ Italian Section	
CL RKS	

J. A. Boyd-Carpenter
Major

Provincial Legal Officer
Foggia and Campobasso Provinces



File

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

146A

GGH/pe.
9 Aug 44.

ACC/4001/2/L.

SUBJECT : Court of Assizes, Viterbo.

TO : RLO (thru RC) Region IV .

1. Please find enclosed a list of assessors for the circuit of Court of Assizes of Viterbo as forwarded to this HQ by the Minister of Justice.

G. G. HANNAFORD,
Lt. Colonel,
Officer i/c Italian Branch,
for Acting Chief Legal Officer.
A. L. S.



Ministero di Grazia e Giustizia

DIREZIONE GENERALE DEGLI AFFARI PENALI
DELLE GRAZIE DELLA STATISTICA E DEL CASELLARIO

Ufficio III

Prot. N° 40423 (Assessori)

LEGAL

Roma J. J. J. J. J.

14683
Mod 40

*No need
letter sent*

II la Commissione
Alleata di Controllo
Sottocommissione legale
ROMA

Registrali del 14.7.44

Dir. Terr. N° ACC/4017

Oggetto: Elenco degli assessori del Circolo
di corte d'assise di Viterbo 2/4

all. 1 SUB: Roster of members of the Court
of assizes

In relazione alla richiesta di cui al
foglio suindicato si comunica l'accluso elen-
co degli attuali assessori del Circolo di
Corte di assise di Viterbo.

In tutto sono venticinque che costitui-
scono il numero degli assessori assegnati al
detto circolo. Pertanto dall'elenco trasmes-
so con la nota suindicata debbono eliminarsi,
perchè non più assessori, Giulietti-Virgulti
Filippo, Innocenti Guido e Caporossi Ezio,
ed aggiungersi, invece, i nomi di Patella
dr. Daniele, Bevagna dr. Aurelio, Camponetti
Carlo, Petrangeli Papini ing. Francesco, Dia-
na Francesco, Gambi Angelo e Reale dott. Fran-

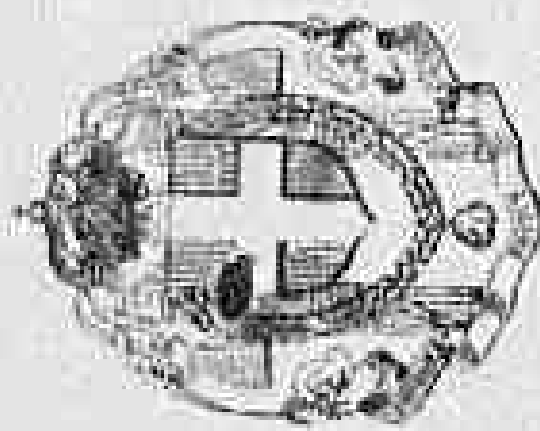
.. / 18 /
12 /

RECEIVED QUARTERS
AUG 1944
A. C. C.

cesco.

PEL MINISTRO

Rubén



Mod 1342 MG

146C

Ministero di Giustizia

Direzione Generale degli Affari Penali, delle Grazie e del Casellario

ELENVO DEGLI ASSESSORI DI CORTE DI ASSISE DEL CIRCOLO DI VITERBO (N.25)

1. EATELLA dr. Daniele di Vincenzo.....	Viterbo.....	20 - 5 +	1899
2. FALLONI dr. Umberto di Luigi.....	Ronciiglione.....	3 - 10 -	1899
3. BASILLI-LUCIANI dr. Delisario di Vincenzo.....	Viterbo.....	19 - 6 -	1883
4. BEVAGNA dr. Aurelio di Annibale.....	Montefiascone.....	14 - 5 -	1898
5. BUTINI ing. Eufrosino di Pietro.....	Castiglione.....	11 - 7 -	1896
6. CAMPONETTI Carlo di Mazzareno.....	Tererina		
7. VINCIGUERRA Luigi fu Domenico.....	Viterbo.....	20 - 8 -	1898
8. CAFOTONDI Pietro di Vincenzo.....	Soriano Cim.....	18 - 12 -	1884
9. DI RUZZA Alberto fu Raffaele.....	Viterbo.....	18 - 2 -	1884
10. GARGANA dr. Augusto di Giuseppe.....	Spotte.....	16 - 3 -	1880
11. CENCELLI dr. Fernando di Alberto.....	Viterbo.....	21 - 4 -	1900
	Patrica di.....	12 - 8 -	1892
	Roma		
12. DIANA Francesco da Raffaele.....	Viterbo.....	16 - 11 -	1880
13. DE ANGELIS dr. Emanuele di Angelo.....	Orte.....	10 - 10 -	1900
14. MARTELLI dr. Consalvo di Giovanni.....	Viterbo.....	22 - 10 -	1881
15. MATURI Antonio di Odoardo.....	Viterbo.....	2 - 4 -	1883
16. MAZZERI prof. Gaetano di Giuseppe.....	Viterbo.....	24 - 8 -	1884
17. MENGHINI dr. Costantino di Giovanni.....	Montefiascone.....	3 - 3 -	1889
18. MERLANI dr. Renato di Vincenzo.....	Viterbo.....	23 - 9 -	1885
19. CAMPI Angelo fu Lucovico.....	Cassino.....	8 - 10 -	1891
20. PESARINI dr. Getulio di Raffaele.....	Viterbo.....	14 - 12 -	1888
21. PETRANGELI-PARINI eng. Francesco di Antonio Bagnoregio.....	Civitacastellana.....	7 - 5 -	1896
22. DI MARIO Roberto di Antonio.....	Viterbo.....	18 - 8 -	1908
23. REALE dr. Francesco di Salvatore.....	Viterbo.....	6 - 2 -	1897
24. MANINI Daniele e fu Giuseppe.....	Calodimonte.....	13 - 6 -	1864
25. TERNIZONI dr. Ferdinando di Ferdinando.....	Vetralla.....	1 - 1 -	1901

1. PATELLA dr. Daniele di Vincenzo.....	Viterbo.....	29 - 5 -	1899
2. BAILLONI dr. Umberto di Luigi.....	Ronciiglione.....	3 - 10 -	1899
3. BASILLI-LUCIANI dr. Delisario di Vincenzo.....	Viterbo.....	19 - 6 -	1883
4. BEVACCA dr. Aurelio di Annibale.....	Montefiascone.....	14 - 5 -	1898
5. BUTINI ing. Eufrosino di Pietro.....	Castiglione.....	11 - 7 -	1896
	Tererina		
6. CAMFONETTI Carlo di Nazzareno.....	Viterbo.....	20 - 8 -	1898
7. VINCIGUERRA Luigi fu Domenico.....	Soriano Cim.....	18 - 12 -	1884
8. CAFOTONDI Pietro di Vincenzo.....	Viterbo.....	18 - 2 -	1884
9. DI RUZZA Alberto fu Raffaele.....	Grotte.....	16 - 3 -	1880
10. GARGANA dr. Augusto di Giuseppe.....	Viterbo.....	21 - 4 -	1900
11. CENCELLI dr. Fernando di Alberto.....	Fabrica di.....	12 - 8 -	1892
	Roma		
12. DIANA Francesco du Raffaele.....	Viterbo.....	16 - 11 -	1880
13. DE ANGELIS dr. Emanuele di Angelo.....	Orte.....	10 - 10 -	1900
14. MARTELLI dr. Consalvo di Giovanni.....	Viterbo.....	22 - 10 -	1881
15. MATURI Antonio di Odoardo.....	Viterbo.....	2 - 4 -	1883
16. MAZZERI prof. Gaetano di Giuseppe.....	Viterbo.....	24 - 8 -	1884
17. MENGHINI dr. Costantino di Giovanni.....	Montefiascone.....	3 - 8 -	1889
18. MERLANI dr. Renato di Vincenzo.....	Viterbo.....	23 - 9 -	1885
19. CARBI Angelo fu Lucovico.....	Cassino.....	8 - 10 -	1891
20. PESARINI dr. Getulio di Raffaele.....	Viterbo.....	14 - 12 -	1888
21. PETRANGELI-PARINI ing. Francesco di Antonio	Bagnoretio.....	7 - 5 -	1895
22. DI MARIO Roberto di Antonio.....	Civitacastellana.....	18 - 8 -	1908
23. REALE dr. Francesco di Salvatore.....	Viterbo.....	6 - 2 -	1897
24. MANINI Deniè e fu Giuseppe.....	Calodimonte.....	13 - 15 -	1864
25. TERENZONI dr. Ferdinando di Ferdinando.....	Vetralla.....	1 - 14 -	1901

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

145A

Tel. No. 478525
ACC/4001/2/L

ART/ap
4 Aug 44

SUBJECT : RDL. No. 27

TO : Regional Legal Officer (thru RO) Region 5

1. Your letter of 3 Aug 44- ref. R5/511/12 clarifying the situation in regard to the cases to go to Bari for trial is received with thanks.

2. At a conference with the Minister of Justice yesterday, the intention was expressed of maintaining the status of the detached Section at Lucera and of effecting prorogation by decree.

Ref
A. R. THACKRAH,
Lt. Colonel,
Italian Branch,
for Acting Chief Legal Officer.

141

TO CLO HQ. ACC. ✓
 FROM HQ. REGION 5 ACC
 SUBJECT Court of Appeal BARI

R5/511/12

3 August 44

1. Ref. your 4001/2/L of 27 July 44 it is thought that you may have inadvertently misunderstood the situation.

2. The cases referred to are those which were for trial in Bari because they did not come within the scope of R.D.L. N. 27. I was endeavouring on behalf of the "Supreme" Procuratore Generale to make arrangements for the personnel concerned to get physically to Bari.

3. I have in fact made all the arrangements necessary in general. I can go no further until I know the names of the people to be transported, their present addresses and the dates involved. This information was not known to either of Procuratori del Regno in Lucera and was thoughtfully withheld by the Procuratore Generale.

4. I gather that the Procuratore Generale has now supplied these details. He has agreed to set aside the necessary days after the end of August for any trials which are outstanding.

5. Negotiations are now being conducted on a direct party and party basis between the LOs of Bari and Foggia respectively without reference to this HQ. but it is believed that a settlement, satisfactory to all parties, is in course of completion.

For the Regional Commissioner

W. E. BEHNS
 Colonel, RLO



LEGAL SUB COMMISSIO	
CLO	
DCLO	
Chief Counsel	
CJO	
Italian Section	
CL RKS	

12

750

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

ES/pa

143A

REFERENCE : 4001/2/L.

27 Jul 44

SUBJECT : Court of Appeal - Bari.

TO : RLO (Thru Regional Commissioner) Region 5.

1. Reference is made to your R5/511/12 of 8 July 44.
2. Enclosed a copy of a letter received from RLO Region 2 in response to this Sub-Commission's note on this subject.
3. Your attention is called to Art.5 of RDL No.27 published in Gazzetta Ufficiale No.5 of 9 Feb.1944 according to which the Court of Appeal Section at Lucera ceases to function upon restoration of the Foggia Province to the Italian Government.
4. In view of the recent restoration of the Foggia Province this matter has become a problem to be solved by the Italian Government. It is suggested, however, that you forward to this Sub-Commission your recommendations together with a statement as to arrangements completed at the present moment. Your report will be transmitted to the Minister who may wish to profit by the considerable amount of work that has already been done to facilitate the disposal of the pending cases.

Ap
A. R. THACKRAH,
Lt.Colonel,
Italian Branch,
for Acting Chief Legal Officer.

Enclos.: 1 letter.

11

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

COPY

143B

Ref. 2201/72/A
Subject Court of Appeal Bari.
To CLO Legal Sub-Commission ACC - Roma-

20 Jul 44

1. Ref.Acc/4001/2/L of 15/7/44, with great respect it is difficult to see why the PLO Foggia or at least his Procuratore del Re could not have made the two hours run to Bari and have arranged the whole matter themselves.
2. However, in view of the long delay in postal communications with Region 5, and in spite of the fact that the Legal Branch of Region II is reduced to 3, I sent an officer by car to Lucera to give the LO the Procuratore Generale's list of the cases and dates assigned for hearing them.
3. Admittedly the Procuratore Generale is supine, but it had not been assumed that the Procura del Re Foggia was so inert as not to know the addresses of appellants from his jurisdiction or who was defending them! As to witnesses, I was informed that none would be required before the Court of Appeal.
4. The Procuratore Generale is indisposed but I have instructed his sostituto to prepare a list containing fullest possible information and providing for any trials not yet heard to be fixed for the end of August.
This will again be taken personally to the LO Foggia, but may it be suggested that if further particulars are still required, he or his Procuratore del Re should make the journey to Bari and see the Procuratore Generale?

D.S.E. COUSINS, Lt.Col.
R.L.O.
Region II.



4001/2

HEADQUARTERS
ALLIED COMMERCE COMMISSION
SECTION II

Legal (142A) 3230

20 July 44

Ref. :- 1201/72/A
 Subject :- Court of Appeal Bari
 To :- CAC Legal Subcommittee AGC - Rome -

141A

1. Ref AGC/4001/2/A of 25.7.44, with great respect it is difficult to see why the IIC Roggia or at least his Procuratore del Re could not have made the two hours journey to Bari and have arranged the whole matter themselves.

2. However, in view of the long delay in postal communications with Region 5, and in spite of the fact that the Legal Branch of Region 5 is reduced to 3, I sent an officer by car to Ferrara to give the IC the Procuratore Generale's list of the cases and dates assigned for hearing them.

3. Admittedly the Procuratore Generale is unhelpful, but it had not been assumed that the Procura del Re Roggia was so inert as not to know the addresses of appellants from his jurisdiction or who was defending them! As to witnesses, I was informed that none would be required before the Court of Appeal.

4. The Procuratore Generale is indisposed but I have instructed his substitute to prepare a list containing fullest possible information and providing for any trials not yet heard to be fixed for the end of August.

This will again be taken personally to the IC Roggia, but may it be suggested that if further particulars are still required, he or his Procuratore del Re should make the journey to Bari and see the Procuratore Generale?

LEG. SUBC. AGC
SIO
PCLO
Chief Counsel
CLIN
Legal Section
CLERKS

BK Morris 1:3
 B.2.2.0000113, 17.042.
 R.L.C.
 Region II

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

ES/SP

15 July 44

AGC/4001/2/L

SUBJECT : Court of Appeal, Bari.

TO : Regional Legal Officer (thru HQ) Region 2

1. Enclosed a copy of a letter no. RS/511/12 dated 6 July 1944 from Regional Legal Officer Region 5.

2. Would you please take this matter up with the Procureure Generale and bring forcefully to his attention the necessity of his forwarding at once to PLO Foggia the addresses of all persons who have to be conveyed to Bari. He should also report immediately to PLO Foggia whether he took the line of action set out in para 4 of the enclosed letters and what other arrangements he made.

3. Kindly check on all actions taken by the Procureure Generale in this matter and communicate if necessary directly with Regional Legal Officer Region 5.

A. B. THACHERAS,
Lt. Colonel,
Italian Branch,
for Acting Chief Legal Officer.

117

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

ART/pa

140A

11 Jul 44.

REFERENCE : ACC/4001/2/L.
SUBJECT : Bari Court of Appeal.
TO : RLO (THRU: Regional Commissioner) Region 5.

1. Attached for information copy of a letter Ref. 2201/74/B dated 5 July 1944 from RLO Region 2 regarding the travel arrangements for appellants.

Cey
A. R. THACKRAH,
Lt. Colonel,
for Acting Chief Legal Officer.

TO, CLO REAR HQ ACC
FROM HQ REGION 5 AMG
SUBJECT Court of Appeal - BARI
REF R5/511/12

8 July 1944

1. With further reference to the cases from Lucera fixed for hearing in the Bari Court of Appeal between 1 and 31 July 1944, the Procuratore Generale delivered to PLO Foggia Province at 1800 hrs on 6 July a list containing only the names of the cases to be tried.
2. The Procuratore Generale appears to have overlooked the fact that all the relevant documents are in Bari, that very few of the persons involved are in prison, and that there is therefore no means for the Procuratore del Re to know the addresses of the persons who have to be conveyed to Bari so as to get the necessary summonses served and the necessary arrangements made.
3. In these circumstances, and particularly in view of the existing state of communications and the time taken to deliver mail to outlying areas, it is extremely unlikely that any arrangements can be made for any of the material parties to arrive in Bari in time for their cases to be heard.
4. The Procuratore del Re feels that the Procuratore Generale has already served his summonses directly on the parties affected and that all persons have on their own account made such arrangements as they could to obtain permits and transport to Bari.
5. The Procuratore del Re has no evidence of this, and all that can be said is that if this procedure has been followed by the Procuratore Generale it should certainly not have been.
6. On the other hand if the Procuratore Generale has not taken this line, it is regretted that the cases fixed in the Bari Court of Appeal between 1 and 31 July are unlikely to be satisfactorily concluded; but it is pointed out that with the best will in the world upon the part of AMG to assist, such assistance is impossible without slightly more intelligent cooperation from the procuratore Generale.

For the Regional Commissioner.

W.E. BEEBES
Colonel
R.L.O.

See files 133A, 132A, 131A, 122A

115

9107

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION 2

(138A)

2681

8289

Copy for
Region 5

REF: 2201/74/B

5 July 1944

SUBJECT : Bari Court of Appeal.

TO : G.L.C., Legal Subcommittee ACC, Salerno.

(133A)

1. Ref ACC/4001/2/L of 25.6.44, lists of the names of appellants and the dates fixed for their trials have been made out and taken by hand to Foggia, owing to the long delay in correspondence with Region 5.
2. It is regretted however that this H.Q. cannot undertake to make any time table for the appellants to travel to or from Bari. This together with all arrangements for its implementation must be left to Region 5.

LEGAL SUBCOMMISSION	
O	
O	
Chief Counsel	
(CJ)	
Union Section	A
CL RKS	

D.E.S. Cousins
D.E.S. COUSINS Lt. Col.
R.I.C.
REGION 2.

173

TO | HQ REGION 3 ACC (for attention Major MOIT, offr 17c Italian Courts)
 FROM | HQ REGION 5 ACC
 SUBJECT | Court of Appeal - CAMPORASSO.
 REF | R5/511/12

7 July 1944

1. With reference to the impending sitting of the Court of Appeal in Campobasso and to your letter to CIG dated 16 June 1944, ref. MCE/10 the following is the number of cases now awaiting trial by this court:-

CAMPORASSO	68
LANIO	27
ISERNIA	38
TOTAL	133

2. There may of course be an additional number of cases ready for hearing before the court concludes its session.
3. Unofficial information has been received that the court intends to open the session on 18 and not 15 July as originally stated. Could this be verified and if necessary confirmed, please?
4. It has also been stated unofficially that the President intends to sit in ISERNIA as well as CAMPORASSO. Any such action would of course simplify the transport problem for the cases concerned, but it is felt that the President should be warned that Isernia has been very considerably damaged and that accommodation there is distinctively primitive.

For the Regional Commissioner

W.D. Morris
 W.D. MORRIS
 Colonel
 R.L.C.

Copy to CIG Rear HQ ACC.

Recommendations of the President of the Court of Appeal Section, Lucera.

1. The jurisdiction of this temporary Section should be extended so as to include also civil cases. The Section should have a full jurisdiction of a Court of Appeal with all administrative attributes.
2. The vacant offices of Councillors and functionaries at the Court of Appeal Section and of judges at the Tribunale of Foggia and Lucera should be filled. If that is done no additional personnel will be necessary despite the broadening of jurisdiction suggested under 1 above.
3. A Royal Decree should temporarily revive the summary proceeding set out in R.D. of 31 March 1901.
4. The vacant offices of pretors should be filled by suitable acting vice-pretors (vice Pretori reggenti) and their salaries duly increased.

Sezione di Corte d'Appello
di LUCERA

N. 104 Prot:

Lucera li 2 giugno 1944

O G G E T T O

FUNZIONAMENTO DELLA GIUSTIZIA NELLA PROVINCIA DI FOGGIA

A S.E. IL MARESCIALLO PIETRO BATOGLIO PRESIDENTE DEL CONSIGLIO

DEI MINISTRI, SALERNO

A S.E. IL MINISTRO DI GRAZIA E GIUSTIZIA SALERNO

A S.E. IL PRIMO PRESIDENTE DELLA CORTE DI APPELLO DI BARI

A S.E. IL PROCURATORE GENERALE BARI

ALL'A.M.C. PROVINCIALE LUCERA

Mi permetto esporre alla E.V. brevi osservazioni in merito al funzionamento della Giustizia in questa Provincia, nella lingua che esse possano contribuire a migliorare le attuali condizioni. Il quanto meno, a richiamare l'attenzione degli organi governativi su-

Lucera li 2 gugno 1944

O G G E T T O

FUNZIONAMENTO DELLA GIUSTIZIA NELLA PROVINCIA DI FOGGIA

A S.E. IL MARESCIALLO PIETRO BADOCCHIO PRESIDENTE DEL CONSIGLIO
DEI MINISTRI, SALERNO

A S.E. IL MINISTRO DI GRAZIA E GIUSTIZIA SALERNO

A S.E. IL PRIMO PRESIDENTE DELLA CORTE DI APPELLO DI BARI

A S.E. IL PROCURATORE GENERALE BARI

ALL'A.M.G. PROVINCIALE LUCERA

Mi permetto esporre alla E.V. brevi osservazioni in merito al funzionamento della Giustizia in questa Provincia, nella speranza che esse possano contribuire a migliorare le attuali condizioni e, in quanto meno, a richiamare l'attenzione degli organi governativi superiori per un esame più approfondito, che determini provvidenze meglio rispondenti allo scopo.

Nella provincia di Foggia, tuttora sottoposta al controllo del Comando delle Truppe di occupazione, l'amministrazione della Giustizia è affidata ai seguenti uffici giudiziari:

1) Una sezione provvisoria di Corte di appello

2) Un Tribunale per la giurisdizione di Foggia.

3) Un Tribunale per la giurisdizione di Lucera.

4) 16 Preture nella circoscrizione del Tribunale di Foggia.

5) 11 Preture nella circoscrizione del Tribunale di Lucera.

6) 62 Uffici di Conciliazione.

SEZIONE DELLA CORTE DI APPELLO

Come è noto, questa Sezione distaccata dalla Corte di Appello di Bari venne istituita con regio Decreto 20 gennaio 1944, reso esecutivo con il bando 20 marzo 1944, dal quale si rileva che essa ha carattere temporaneo e provvisorio.

E la limitazione funzionale nel tempo attiene altresì alla competenza per materia, essendo questa ristretta a quella penale e ad una parte soltanto di essa, e cioè alla trattazione dei soli processi penali decisi in primo grado dai Tribunali di Foggia e di Lucera e compresi i relativi atti non siano stati trasmessi alla Corte d'Appello di Bari per la procedura di appello, prima del 9 febbraio 1944.

Le ragioni per le quali fu distaccata provvisoriamente questa Sezione regionale e qui istituita, furono determinate

5) M. Il Pretore nella circoscrizione del Tribunale di Lucera.

6) M.62 Ufficio di Conciliazione.

SEZIONE DELLA CORTE DI APPELLO

Come è noto, questa Sezione distaccata dalla Corte di Appello di Bari venne istituita con regio Decreto 20 gennaio 1944, reso esecutivo con il bando 20 marzo 1944, dal quale si rileva che essa ha carattere temporaneo e provvisorio.

La limitazione funzionale nel tempo attiene altresì alla competenza per materia, essendo questa ristretta a quella penale e ad una parte soltanto di essa, e cioè alla trattazione dei soli processi penali decisi in primo grado dai Tribunali di Foggia e di Lucera e sempreché i relativi atti non siano stati trasmessi alla Corte d'Appello di Bari per la procedura di appello, prima del 9 febbraio 1944.

Le ragioni per le quali fu distaccata provvisoriamente questa sezione dalla Corte regionale e qui istituita, furono determinate "dalla necessità assoluta ed urgente per causa della guerra", nonché "dalla opportunità che si svolgessero senza ulteriore ritardo i processi, in grado di appello, relativi alle due circoscrizioni territoriali del Tribunale di Lucera e di Foggia".

La cernata necessità ed opportunità sussistono e permangono tuttora evidentemente, e, non solo per la limitata competenza, come so-

era specificata, ma altresì per tutta la restante materia giurisdizio-
nale penale, nonché per quelle civile ed amministrativa.

A questi motivi di natura contingente, altri se ne possono aggiun-
gere di indole generale e particolare.

Infatti, occorre tener presente, che la Provincia di Foggia ha una
popolazione di ben 520.847 abitanti (censimento 21 aprile 1936) sparsa
su un vasto territorio (Km² 1112) con molti centri abitati siti in alti-
tudini le più disparate, con scarse reti stradali e con mezzi di loco-
mazione assolutamente insufficienti. Queste constatazioni da sole po-
trebbero giustificare la istituzione di una sezione autonoma di Cor-
te di Appello.

Ma occorre aggiungere, che le parti, i testimoni, gli avvocati ecc..
incontrano già gravi difficoltà per recarsi dal luogo di loro resi-
denza a questo centro giudiziario, e che ben maggiori e più gravi dif-
ficioltà debbono affrontare le stesse persone per recarsi da questa

Provincia al centro giudiziario di Bari. Non solo difettano i treni e
gli altri mezzi di locomozione; ma per circolare nella provincia e per
uscire dalla medesima e più ancora per rientrare nel territorio di
essa, occorre uno speciale percorso di circolazione da parte dell'Auto-

gere di incide generale e particolare.

Infatti, occorre tener presente, che la Provincia di Foggia ha una popolazione di ben 528.847 abitanti (censimento 21 aprile 1936) sparsa su un vasto territorio (Km² 7.112) con molti centri abitati siti in altitudini le più disparate, con scarse reti stradali e con pezzi di locomozione assolutamente insufficienti. Queste constatazioni da sole potrebbero giustificare la istituzione di una sezione autonoma di Corte di Appello.

Ma occorre aggiungere, che le parti, i testimoni, gli avvocati ecc. incontrano già gravi difficoltà per recarsi dal luogo di loro residenza a questo centro giudiziario, e che ben maggiori e più gravi difficoltà debbono affrontare le stesse persone per recarsi da questa Provincia al centro giudiziario di Bari. Non solo difettano i treni e gli altri mezzi di locomozione; ma per circolare nella provincia e per uscire dalla medesima è più ancora per rientrare nel territorio di essa, occorre uno speciale permesso di circolazione da parte dell'Autorità Militare di occupazione; e manca, poi, del tutto o quasi, un regolare servizio postale e telegrafico.

Già senza eccedere alle attuali difficoltà di soggiorno fuori della propria sede abituale, con tutte le conseguenti spese, non sempre agevolmente sopportabili, tanto che per i meno abbienti può dirsi precluso il ricorso alla Superiore Autorità Giudiziaria sedente in Bari.

Per altro, l'attività questa sezione, non sembra opportuno o, quanto meno, non appare utile che soltanto una parte della competenza debba formare oggetto della sua attività giurisdizionale. Con un po' di buon-volere, anche allo stato attuale, potrebbe funzionare la Sezione Istruttoria, (eliminandosi gli attuali inconvenienti, facilmente rilevabili), quella per i minorenni, la Commissione per il costituto patrimonio e potrebbe essere trattata utilmente tutta la parte amministrativa.

Le sue poste considerazioni valgono evidentemente anche per corroborare la necessità o, almeno, la opportunità, convenienza ed utilità di attribuire a questa sezione tutta la competenza in materia civile. Un complesso di giudici civili, molti dei quali di rilevante importanza economica, anche al fine della produzione agraria (fitti di macchinari, bestiame, obbligazioni per acquisti di terreni, di bestiame e di macchine agricole, divisioni ereditarie di immobili, contratti di lavoro ecc..) attendono di essere risolti e l'attesa non accorcia in alcun modo ad una pronta realizzazione.

Viene infine da notare, che un complesso di ragioni, che trovano fondamento in contingenze attuali e remote e nelle difficoltà di vita

buonvolere, anche allo stato attuale, perenne l'insufficiente
 istruttoria, (eliminando gli attuali inconvenienti, facilmente ri-
 levabili), qualis per i minorenni, la Commissione per il diritto pat-
 trino e potrebbe essere trattata diligentemente tutta la parte amministrativa.

Le suddette considerazioni valgono evidentemente anche per con-
 fermare la necessità o, al contrario, la opportunità, convenienza ed utili-
 tà di attribuire a questa sezione tutta la competenza in materia ef-
 ficace. Un complesso di giudizi civili, molti dei quali di rilevante im-
 portanza economica, anche al fine della produzione propria (fitti di
 case, ecc., ecc.), obblighi per sconti di terreni, di bestiame
 e di macchine agricole, divisioni ereditarie di immobili, contratti di
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Ma infine da notare, che un complesso di ragioni, che trovano fon-
 damento in contingenze attuali e remote e nelle difficoltà di vita
 privata e pubblica, impongono anche per gli uffici giudiziari, per
 tempo ligi alla rigida osservanza del dovere, un maggiore, diretto
 ed oculato controllo per evitare eventuali deviazioni. Ed è evidente
 che un ufficio superiore in loco, avente piena e completa autorità,
 possa con maggior efficacia esercitare un controllo ed un incatan-
 to effettivi e reali sugli organi giudiziari dipendenti.

la estensione della competenza di questa Sezione per tutte le materie giurisdizionale ed amministrative potrebbe riuscire di somma utilità per queste popolazioni e contribuire ad un efficace accrescimento di prestigio e di autorità per la funzione giudiziaria, e, soprattutto, servirebbe a decentrare e snellire questa, si da renderla più aderente alle necessità del momento e meglio sollecita della difesa di tutti i dritti, sia dello Stato che dei cittadini.

La proposta di rendere autonoma questa sezione distaccata è subordinata a due condizioni che potrebbero ostacolarne la realizzazione, e cioè:

1) L'autorizzazione del Comando delle Truppe di occupazione;

2) La deficienza dei Consiglieri di Corte di Appello.

Si ha ragione di credere che il Comando Militare alleato non abbia motivo di negare tale autorizzazione, sia perché, avendo consentito alla istituzione di questa Sezione di Corte di Appello in Macera, è da ritenere che non abbia difficoltà a riconoscere utile il funzionamento totale e completo, che sarebbe autonomo soltanto dal punto di vista amministrativo gerarchico governativo. Inoltre, le ulteriori funzioni di questa Sezione

ne giudiziaria, e, soprattutto, servirebbe a decentrare e snellire questa, si da renderla più aderente alle necessità del momento e meglio sollecita della difesa di tutti i dritti, sia dello Stato che dei cittadini.

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1) L'autorizzazione del Comando delle Truppe di occupazione;

2) La deficienza dei Consiglieri di Corte di Appello.

1) Si ha ragione di credere che il Comando Militare alleato non abbia motivo di negare tale autorizzazione, sia perché, avendo consentito alla istituzione di questa Sezione di Corte di Appello in Lucera, è da ritenere che non abbia difficoltà a riconoscere utile il funzionamento totale e completo, che sarebbe autonomo soltanto dal punto di vista amministrativo gerarchico governativo italiano. Inoltre le ulteriori mansioni di questa Sezione non inciderebbero minimamente sulle attribuzioni e funzioni militari di occupazione, non turberebbero, né potrebbero intralciare in alcun modo il "superiore potere governativo e giuridico" del detto Comando.

Che anzi, se mai, la normalizzazione delle funzioni giudiziarie

in questa Provincia, potrebbe costituire una collaborazione efficace ed utile anche al Governo alleato per una ripresa di tranquillità e disciplinata operosità della popolazione, nell'ambito della osservanza delle leggi vigenti.

2) La seconda condizione ostativa non può avere maggiore rilevanza.

za.

Col decreto legislativo 20 gennaio 1944 la pianta organica di questa Sezione importava, oltre al Presidente, cinque Consigliieri di Corte di Appello. Vi essi sono stati fino ad ora presenti e hanno prestato servizio soltanto tre, un altro Consigliere è stato già trasferito a questa Sede dalla Sezione di Corte di Appello di Lecce. Dal 25 aprile u.s. (prima udienza utile) con piena comprensione delle necessità del momento, sono state espletate due udienze settimanali, chiamando ad integrare il Collegio, per la sola presenza in udienza, il Presidente del Tribunale di Foggia o quello di Lucera, a seconda dei casi.

Sono stati chiamati fino a luglio p.v. ben 159 pro e soci, i quali verranno tutti regolarmente espletati, salvo i rinvii o le sostituzioni che si renderanno obbligatori per legge.

servanza delle leggi vigenti.

2) La seconda condizione sostantiva non può avere maggiore rilevanza.

za.

col decreto istituzionale 20 gennaio 1944 la piena organizzazione di questa Sezione importava, oltre al Presidente, cinque Consiglieri di Corte di Appello. Di essi sono stati fino ad ora presenti e hanno prestato servizio soltanto tre, un altro consigliere è stato già trasferito a questa sede della Sezione di Corte di Appello di Lecce.

Nel 25 aprile u.s. (prima udienza utile) con piena composizione della le necessità del momento, sono state espletate due udienze settimanali, chiamando ad integrare il Collegio, per la sola presenza in udienza, il Presidente del Tribunale di Foggia o quello di Ancona, a seconda dei casi.

Sono stati discussi fino a luglio p.v. ben 199 processi, i quali verranno tutti regolarmente espletati, salvo i rinvii o le sospensioni che si renderanno obbligatori per legge.

Or bene, è facile dedurre che, completando l'organico dei Consiglieri e con qualche lieve aggiunta di personale, si potrebbe affrontare tutto il lavoro della competenza piena della Sezione.

Ad il Consigliere, che ancora occorre, potrebbe essere distaccato da altro ufficio giudiziario meglio fornito, ovvero si potrebbe provvedere applicando alla Corte qualche Giudice anziano già scartina-

to con esito favorevole, ovvero sollecitando, infine, qualche Consigliere in aspettativa, che attende il richiamo od una assegnazione o destinandomi chi riscopre qualche ufficio amministrativo non in dispensabile.

L' superfluo esprimere che, esponendo questi brevi cenni, ho avuto in animo soltanto la obbiettiva serena finalità del migliore funzionamento della giustizia in questa Provincia

PROCEDIMENTI CIVILI

I

FUNZIONAMENTO DEI TRIBUNALI, DELLE PRETURE E DELLE CONCILIAZIONI

In occasione del riferimento sulle statistiche giudiziarie i rispettivi Presidenti del Tribunale di Foggia e di Lucera hanno esposto a S.M. il Primo Presidente della Corte di Appello di Bari le condizioni e il funzionamento dei detti Tribunali.

Senza ripetere quanto è stato già rilevato, si può senz'altro dire che, pur coi migliori lodevoli sforzi dei cari e dei pregiati, il loro funzionamento risente delle attuali anormali contingenze di guerra.

Il Tribunale di Foggia ha gravemente danneggiato dalle incur

disponibile.

E' superfluo aggiungere che, esonendo questi brevi cenni, ho avuto in animo soltanto la obbiettiva serena finalità del migliore funzionamento della giustizia in questa Provincia.

PROCEDIMENTI CIVILI

E

FUNZIONAMENTO DEI TRIBUNALI, DELLE PRATIQUE E DELLE CONCILIAZIONI
In occasione del riferimento sulla statistica giudiziarie i

rispettivi Presidenti dei Tribunale di Foggia e di Lucera hanno espresso a S.E. il Primo Presidente della Corte di Appello di Bari le condizioni e il funzionamento dei detti Tribunale.

Senza rinviare quanto è stato già rilevato, si può senz'altro dire che, pur coi maggiori lodevoli sforzi dei capi e dei gregari, il loro funzionamento risente delle attuali anormali contingenze di guerra.

Il Tribunale di Foggia fu gravemente danneggiato dalle incursioni aerea del luglio ed agosto 1943 con dispersione di fascicoli e di carte di ufficio. Si trasferì a Lucera, adattandosi alla meglio in alcuni locali del Palazzo di Giustizia. Il casellario giudiziario, accompagnato, è rimasto a Foggia e non funziona; i registri dei esecuzioni non sono stati ancora rinvenuti. Il personale, magistrati e funzionari di cancelleria, è mancante di numero. Le udienze penali

sono tenute regolarmente e sono state iniziate le istruttorie in materia civile; ma non è stata ancora espletata alcuna causa civile.

Il Tribunale di Grocers, pur essendo meno gravato di lavoro, ha maneggiato cinque magistrati e due cancellieri.

Normale il funzionamento della competenza penale, difetto o quello civile.

magistrati dettati rilievi attinenti ai servizi di cancelleria e di giurisdizione non sono essere riferiti, anche perché la competenza specifica inesistente manca a questa sezione di corte, i cui limiti di attività furono segnati dal concesso istituzionale.

Comunque non vi ha dubbio che tutte l'ampia materia civile non riceve adeguato trattamento dai due tribunali. Le ragioni sono molte e, a parte la scarsità dei magistrati e funzionari di cancelleria, esse vanno ricercate anche nelle attuali contingenze di guerra. Infatti concorrono a quel servizio le manovre di comunicazioni e dei trasporti che di corrispondenza, le assenze di parte e di avvocati rimasti bloccati in territorio occupato dal nemico, la dispersione di numerosi fascicoli civili (per il Tribunale di Grocers) che ancora non sono stati estratti dalle macerie o che sono andati distrutti.

cantione magistrati e due cancellieri.

Normale il funzionamento della competenza perale, difetto quello civile.

Maggiori dettagliati rilievi attinenti ai servizi di cancelleria e di giurisdizione non possono essere riferiti, anche perché la competenza specifica in materia manca a questa sezione di corte, i cui limiti di attività furono segnati dal conato del suo istituzionale.

Comunque non vi ha dubbio che tutta l'ampia materia civile non riceve adeguato trattamento dai due Tribunali. Le ragioni sono molte. In primo luogo, a parte la scarsità dei magistrati e funzionari di cancelleria, come vanno ricercate anche nelle attuali contingenze di guerra. Infatti concorrono a quel diservizio le mancanze di comunicazioni dei trasporti che di corrispondenza, le assenze di parte e di avvocati rimasti bloccati in territorio occupato dal nemico, la dispersione di numerosi fascicoli civili (per il "rimborso di rogata") che ancora non sono stati estratti dalle macerie o che sono andati distrutti.

Uno degli ostacoli maggiori al normale svolgimento dei procedimenti civili è che, a mio avviso, potrebbe essere eliminato con relativa facilità, è costituito dalla vigente procedura civile.

Lungi da me qualsiasi critica a questo codice che, inderogabilmente, contiene norme di deciso progresso di tecnica procedurale. I principi

pall criteri informativi di caso e cioè: la qualità, la direzione e l'effettiva del registrazione, i termini tassativi e le disposizioni di de cadenza, pur essendo altamente moderabili in concessione dottrina ria, non possono trovare valore pratico nessuno nell'attuale momento in questa provincia o, forse, anche in altre, ancorché vincolato dal controllo delle risorse allate.

Uli è che la vigente procedura civile, oltre tutto, presuppone, per la sua attuazione, un magior adeguato numero funzionari che il normale svolgimento di tutti i servizi pubblici, in un momento di tranquilla amministrazione di tutte le libertà. La necessità dell'ora presente in poniamo quindi di adeguare l'amministrazione della giustizia alla realtà attuale, con provvedimenti che consentano il massimo e prontissimo coefficiente di rendimento.

Si permette ottenere alla illustrata ragione degli uffici superiori il modello avviso di richiamare in vigore, con apporto di un Decreto, quello del 21 marzo 1901 sul procedimento sommario, sia pure con efficacia limitata nel tempo fin quando durano le attuali condizioni di guerra o di occupazione.

...enza, pur essendo altamente affidabili in connessione con la nostra
... non possono trovare pratica applicazione nell'attuale momento in
... questa pratica e, forse, anche in alcune circostanze vincenti dal
... controllo delle "tracce allentate".

Oli è che la vigente procedura civile, oltre tutto, presuppone,
per la sua attuazione, un maggior numero di funzionari e di
~~xxxxxx~~ numero di magistrati e di funzionari ed il normale svolgi-
~~mento~~ mento di tutti i servizi pubblici, in un'un'atmosfera di tranquilla
e illuminazione di tutte le libertà. La necessità della loro presenza in
posizione quindi di addeguare l'amministrazione della giustizia alla
realtà lamentata, con provvedimenti che consentano il massimo e pro-
te efficiente al rendimento.

di decreto sottoporre alla illuminata saggezza degli uffici superiori il modo e l'viso di richiamare in vigore, con apposito ad decreto, quello del 31 marzo 1901 sul procedimento sommario, sia pure con efficacia limitata nel tempo fin quando dureranno le attuali condizioni di guerra o di occupazione.

Al R.D.L. sul procedimento sommario, come è noto, consente più am-
pio respiro alle parti e si giustifica per i termini e per la intrinseco-
rità della causa, rende possibile la esatta delimitazione della contro-
verbia, mediante lo scambio delle comparse, senza obbligatorio di
presenza e senza eccessive dispendiose, e fornisce pure ampie risorse,
sia per scongiurare inutili e dannose, sia per accelerare

il corso del giudizio.

Ciò senza dire che, attualmente, i magistrati sono costretti a ricorrere a ripieghi e finzioni che possono dar luogo a nullità insanabili e che non dovrebbero essere consentiti dalla esatta osservanza della procedura vigente. Oltre tutto, col ripristino del procedimento sommario, il numero dei magistrati delle singole tavole degli uffici giudiziari sarebbe compatibile al normale svolgimento dei giudici civili.

PRETURE

Nella Provincia di Foggia vi sono 27 Preture, delle quali 16 nella giurisdizione del Tribunale di Foggia ed 11 nella giurisdizione del Tribunale di Lucera. Sul complesso delle 27 Preture mancano quattro cancellieri titolari e mancano ben 15 magistrati titolari, e per di più mancano nove Pretori nella giurisdizione di Foggia e sei in quella di Lucera.

Pertanto oltre la metà delle Preture non funziona.

Il disservizio di questi uffici giudiziari è quanto mai dannoso dal punto di vista politico sociale, non meno che da quello stretto agente giudiziario.

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abili e che non dovrebbero essere consentiti dalla esatta osservanza della procedura vigente. Oltre tutto, col ricorrere del procedimento sommario, il numero dei magistrati della singola corte degli uffici giudiziari sarebbe limitato al normale svolgimento dei giudizi civili.

PRETURE

Nella Provincia di Foggia vi sono 27 Preture, delle quali 16 nella giurisdizione del Tribunale di Foggia ed 11 nella giurisdizione del Tribunale di Lucera. Sul complesso delle 27 Preture mancano cioè 10 cancellieri titolari e mancano ben 15 magistrati titolari, e per di più mancano nove Pretori nella giurisdizione di Foggia e sei in quella di Lucera.

Pertanto oltre la metà delle Preture non funziona.

Il servizio di questi uffici giudiziari è quello del momento dal punto di vista politico sociale, non meno che da quello strettamente giudiziario.

Nei piccoli centri amministrativi di questa Provincia, a prevalente popolazione rurale, facile alle parvenze e alle nebulose congetture dei dottrinari e di faccendieri, può trovare credito la voce, diffusa a scopo disfattistico, che, per le attuali contingenze, non esista alcuna remora di legge.

Per altro le funzioni, quanto mai delicate e complesse, dei det

ti uffici sono strumenti notevolmente efficaci per una disciplina stata convivenza civile e per la riaffermazione dell'impero della legge in tutti i campi ed in ogni luogo.

Si pensi che nel campo penale la Pretore, fra l'altro, fornisce un ausilio prezioso ai giudici Istruttori in processi anche di grave importanza, coll'acquisire prove, che altrimenti potrebbero andare perdute; e, nel campo civile, ella compete propria di quegli uffici, specie in materia successoria, contabile ed esecutiva.

Ed allora è facile dedurre che, specie in questa Provincia, per la sua condizione politica e per la sua vasta estensione e per le sue peculiari condizioni ambientali, occorrerebbe rimediare in efficienza tutte le Preture.

Non si nasconde la difficoltà degli Uffici superiori alla risoluzione di tale incombente problema.

No ragione di ritenere che manchi il numero dei magistrati di carriera od urgente per coprire le vacanze attuali. A tale deficienza si potrebbe ovviare, chiamando a coprire tali cariche, nominati vedente su proposta ovvero, meglio, con reclutamento a mezzo di concorso per titoli, dei Pretori vedenti, aventi i necessari requisiti

Si pensi che nel campo delle Preture, tra l'altro, forniscono un servizio prezioso ai Giudici Pretori in processi anche di grave importanza, coll'assumere prove, che altrimenti potrebbero andare perdute; e, nel campo civile, alla competenza propria di quegli uffici, specie in materia successoria, cautelare ed esecutiva.

Ed allora è facile dedurre che, specie in questa Provincia, per la sua condizione politica e per la sua vasta estensione e per le sue speciali condizioni ambientali, occorrerebbe rimettere in efficienza tutte le Preture.

Non mi nasconde la difficoltà degli Uffici Superiori alla realizzazione di tale incombente problema.

Ho ragione di ritenere che anche il numero dei Registrati di carriera occorrente per coprire le vacanze attuali. A tale deficit si potrebbe ovviare, chiamando a coprire tali cariche, nominati vamente ed proposte ovvero, meglio, con reclutamento a mezzo di concorso per titoli, dei Pretori reggenti, aventi i necessari requisiti di capacità e di rettitudine, con incarico a tempo determinato, salvo eventuali conforme e, salvo la eventuale distensione in carriera, previa selezione seria ed oculata.

Ma è evidente che un tale concorso o nomina e scelta dovrebbe avere per presupposto un congruo corrispettivo morale e, soprattutto, economico adeguato alle condizioni attuali.

«un'ingiungibile scerpetta», occorre pur tener presente che le funzioni pubbliche gratuite rappresentano oggi un non senso e che quelle onerarie di altri tempi non sono più oggi possibili, salvo casi eccezionali.

Ritengo che sia necessario che questa realtà sia ignorata, non quanto sgradevole, e che nessuna illusione turbi la visione sincera di quello che rappresenta lo stato vero della situazione attuale.

La difficile citazione di fatto della classe imbecillita in genere e di quella dei registrati nell'attuale momento deve esser nota.

L'aumento pauroso del costo della vita e la impossibilità di procacciarsi altre fonti di reddito costringono gli imbecilli alla rinuncia di beni essenziali ed a sacrifici pressoché insopportabili, per cui non si può pretendere dalle nuove reclute l'impossibile e, pertanto, il provvedimento di reclutamento dei pretori mancanti dovrebbe assicurare ai medesimi adeguati corrispettivi economici, oltre alla eventuale sistemazione in carriera dei meritevoli.

CONCILIATIONI

Questi uffici giudiziari, pur modesti, applicano notevoli ed importanti funzioni giudiziarie, specie coll'aumentata loro competenza

Ritengo che sia necessario che una certa realtà sia ignorata, per quanto sgradevole, e che nessuna illusione turbi la visione sincera di quello che rappresenta lo stato vero della situazione attuale.

La difficile situazione di fatto della classe implettiva in genere e di quella dei registrati nell'attuale momento deve essere nota.

L'aumento pauroso del costo della vita e la impossibilità di procurarsi altre fonti di reddito costringono gli implettati alla rinuncia di beni essenziali ed a sacrifici precoci insopportabili, per cui non si può pretendere dalle nuove reclute l'impossibile e, pertanto, il provvedimento di reclutamento dei pretori mancanti dovrebbe assicurare ai medesimi adeguati compensativi economici, oltre alla eventuale distensione in carriera dei meritevoli.

CONCILIATIONI

Questi uffici giudiziari, per modesti, esplicano notevoli ed importanti funzioni giudiziarie, specie coll'aumentata loro competenza per materia e per il contatto più prossimo alla popolazione.

Gli uffici di conciliazione in questa Provincia sono 52 e propriamente 30 nella circoscrizione del Tribunale di Reggio e 22 in quella del Tribunale di Lucera. Tutti i conciliatori titolari,

quali risultano negli elenchi degli anni precedenti, sono stati ricon-

attribuendo la competenza piena, sia pure a tempo determinato.

2) Integrazione del numero dei Consiglieri e funzionari alla Corte e dei giudici al Tribunale di Foggia e di Lucera con assegnazione di personale conforme alle rispettive tabelle.

3) Un R.E. che, per i procedimenti civili in corso o da iniziare, richiami in vigore, fin dopo un anno dalla cessazione delle operazioni belliche, il R.D. 31 marzo 1901 sul procedimento sommario, dichiarando soppresse tutte le relative disposizioni contrarie o diverse del vigente codice di procedura civile, e dando facoltà alla autorità giudiziaria investita di coordinare i procedimenti in corso alle disposizioni del vigente procedimento sommario.

4) Conferimento per titoli dei vice Pretori residenti, aventi i requisiti richiesti di capacità e di onestà ineccepibili (da accertarsi) previe le più ampie e scrupolose informazioni) al fine di coprire le vacanze ed assicurando ai prescelti un congruo assegno e congedo (entro forma di indennità di guerra od altro) che sia adeguato alle attuali contingenze, salvo e ritenute in carriera, e suo tempo, i di massicci con le selezioni del caso.

Con propria osservanza

De Vito

te e del giudice al tribunale di guerra e di guerra non escludono
ne di personale conforme alle rispettive tabelle.

5) Un R.D. che, per i processi civili in corso o da iniziare, richiami in vigore, sin dopo un anno dalla cessazione delle operazioni belliche, il R.D. 31 marzo 1901 sul procedimento sommario, o in ogni caso tutte le relative disposizioni contrarie o diverse del vigente codice di procedura civile, e dando facoltà alla autorità giudiziaria investita di coordinare i procedimenti in quanto alle disposizioni del concetto procedimento sommario.

4) Esclusivamente per titoli dei vice Pretori residenti, aventi a norma del regolamento di capacità e di onestà ineccepibili (da accertarsi) previe le più ampie e scrupolose informazioni al fine di coprire le vacanze ed assicurando ai prescelti un congruo esiguo e conosciuto (entro forma di indennità di guerra od altro) che sia adeguato alle attuali contingenze, salvo a sistemare in carriera, a suo tempo, i più meritevoli con le selezioni del caso.

Con propria osservanza

Severini

Raffaele Chioffo

Presidente della Sezione 8. 24. 8. 1946

HEADQUARTERS
ARABIC CENTRAL COMMAND
LEGAL SUB-COMMISSION
APO 394.

5 July 1954.

REFERENCE : APO/1001/2/L.

SUBJECT : Session of Court of Appeal at CAIRO/1000.

TO : R.L.O. (thru Regional Commission), Region 5.
(Attn. Officer V/o Italian Courts)

1. Further to your letter of 16 June 1954, copy of which^{was} sent to R.L.O., Region 5 on 17 June, this officer now asks that he be advised as soon as convenient of the number and names of personnel concerned so that arrangements may be made for their accommodation.

2. Will you please communicate the required information direct.

A. R. Thachal 105
A. R. THACHAL,
Lieutenant-Colonel,
SAC of Legal Officer.

AST/vos.

Copy to : R.L.O. (thru R.C.) Region 5.

4001/2

Regal

134A

TO C.L.O. REAR H.Q.A.C.C.
FROM H.Q. REGION 5 A.M.G.
SUBJECT Session of Court of Appeal.
REF R5/511/22.
DATE 30 June 1944.

See files 129A & 130A

16 June 1944 we were advised that Court of Appeals would sit in
CALFORASSO on 15 July 1944.

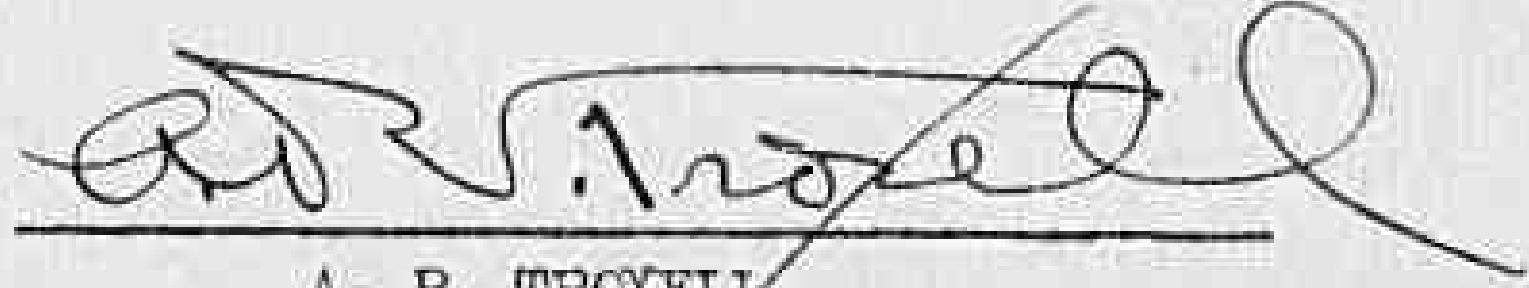
Please advise as soon as convenient number and names of personnel
concerned so that arrangements may be made for their accommodation.

For the Regional Commissioner:

W. E. BEHRENS,
Colonel.
R.L.O.

100

by


A. R. TROXELL,
Lt. Colonel.
D.R.L.O.

ART/EP

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COM I 108
APO 394

ACC/pa

133A

REFERENCE : ACC/4001/2/L.

25 Jun 44

SUBJECT : War Court of Appeal.

TO : RIO (thru RC) Region 3 .

1. Further to our ACC/4001/2/L dated 18 June 1944 (copy to RIO, Region 5) herewith please find copy of a letter from RIO Region 5 (Ref. R5/511/12 dated 20 Jun 44) giving required information in regard to transport.

2. Please advise when arrangements completed.

Op
A. R. THACKERAY,
Lt. Colonel,
for Chief Legal Officer.

Copy to : RIO (thru RC) Region 5 .

TO: C.L.O. per H.Q.A.C.C.
 FROM: H.Q. Region 5 A.M.G.
 SUBJECT: BARI COURT OF APPEAL.
 REF: R5/511/12.

20th June 1944.

1. I have now heard from P.D.O. FOGGIA that accommodation for lawyers and litigants can be arranged on the daily train between FOGGIA and BARI.
2. Names, addresses and numbers must be supplied together with dates of travel and return. This must be provided fundamentally from Bari, although of course details can be filled in locally.
3. Passenger trains leave Foggia at 1550 hrs Sunday, Tuesday and Thursday and take 5 hrs. On other days there is a slow freight train.

For the Regional Commissioner:

Your Acc/4039/3/L 9-30 May ref.

WEB/EP

W. E. BEHRENS
 W. E. BEHRENS,
 Colonel,
 R.L.O.

122A

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ART/PA

131A

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

18 Jun 1944

REFERENCE : AGO/4661/2/L.
SUBJECT : Bari Court of Appeal.
TO : RLO (thru RG) Region 2.

1. The Procuratore Generale at Bari reports that the dates for hearings before the Court of Appeal there have been set down for the period 1 to 31 July for appeals coming from Lucera.

2. In order to ensure the presence at Bari of all the necessary parties from the Lucera district, the legal officer at Lucera has been asked to provide motor transport or make arrangements for passage on the daily freight train.

3. Before this can be done it is necessary to know as accurately as possible the number of persons involved, since it would appear that motor transport is unobtainable, but that it is thought possible that permission may be obtained to convey a limited number of persons by train.

4. Therefore, will you please obtain all possible data at earliest and advise RLO, Region 2 direct, with copy to this office.

ay
A.R. THATCHER,
Lt. Col.,
for Chief Legal Officer.

Copy to : RLO (thru RG) Region 5.

10

REAR HEADQUARTERS
ALLIED CONTROL COM BITION
LEGAL SUB-COMMISSION
APO 394

ART/da

130A

17 Jun 44

REFERENCE : ACC/4001/2/L.
SUBJECT : Session of Court of Appeal at Campobasso.
TO : RLO (thru RC) Region 5.

1. Further to your enquiries on the above subject, the attached copy of letter from Officer i/c Italian Courts, Region 3, gives you the required information.
2. In the event of there being any modification to figures given paras 3 and 4 thereof, kindly advise Region 3 direct.

A. R. THACKERAN,
Lt. Col.,
for Chief Legal Officer.

Encl.: 1 copy .

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MCM:LC

4001/2
CHEADQUARTERS
REGION 3, ALLIED CONTROL COMMISSION
APO 394, U.S. ARMY

(129A)

Naples, Italy
16 June 1944

SUBJECT : Session of Court of Appeal, CAMPOBASSO.
TO : C. L. C., Legal Subcommittee, Rear Headquarters Allied
Control Commission, SALERNO, (Attention Lt. Col. THACKRAH).

1. Reference is made to the telephone conversation of yesterday Lt. - Col. THACKRAH - Major HOLT on the a/m subject.

2. The First President of the Court of Appeal, NAPLES, has advised me that the section of the Court of Appeal assigned to dispose of the pending appeals from the dependant Tribunale of CAMPOBASSO, ISERNIA, and LARINO will open its session in CAMPOBASSO on the 15th July 1944.

3. It is understood that there are 41 appeals from sentences of the Tribunale of CAMPOBASSO in which the records have been sent to Naples. It is not known here whether there are any additional appeals from this Tribunale to be heard.

4. The pending appeals from ISERNIA total 14, and from LARINO 28.



M.C. HOLT Major
Officer i/c. Italian Courts
A. C. C. REGION III

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommisio
APO 334

ART/ap

ACC/4001/2/L

14 June 1944.

SUBJECT : Administration of Justice in Salerno Province.

TO : H. E. Minister of Justice.

1. A preliminary report on the above from the Provincial Legal Officer shows the urgent need for the appointment of at least four additional judges experienced in criminal law to reinforce the judicial personnel of the Tribunale, and to enable three sections to sit daily. Moreover, it is stressed that in regard to the work of the Preture, those of Nocera, Eboli and Laviano have an insufficient number of magistrates to work these courts.

2. The report also refers to the inadequacy of proper accommodation, and to the lack of office supplies and equipment, all of which it is hoped may be remedied in the near future as premises become derequisitioned and supplies of materials released.

3. In view of the fact that recent developments have considerably relieved the situation generally in regard to scarcity of judicial personnel, it is hoped that your Excellency will be able to proceed immediately to the nomination of suitable magistrates to make up the complement of judges necessary for properly carrying out the business of both Tribunale and Preture in this district.

ay
A. R. THACKRAH,
Lt. Colonel,
for Chief Legal Officer.

Copy to : ACC/4039/L

CONFIDENTIAL

ALLIED CONTROL COMMISSION

SALERNO PROVINCE

CCF/TR

9th June 44

Subject :- Preliminary Report on Italian Courts.

To :- C.L.O. Legal Subcommission, H.Q. A.C.C.
(through F.O., Salerno).

1) In accordance with your instructions of 8th May 1944, I investigated the matter of the administration of justice in the Italian Courts of Salerno province, giving particular attention to those cases affecting Allied interests.

2) During this investigation, I had numerous conferences with the Procuratore del Re, the First President of the Tribunale, eleven Pretori of eleven different Mandamenti (juridical divisions) of Salerno Province, the Provincial Police Officer, the DAFM, the CC.R., and many others representing both the Italian and the Allied law enforcement authorities. All of these persons manifested a true understanding of our interests and willingly offered their wholehearted cooperation.

3) Practically all criminal matters are investigated by or tried in either the Tribunale or in the Pretura.

a) The Tribunale. In Salerno Province, at present, there are only two sections functioning. One section, with 7 judges, functions in the Comune of Salerno. The other section, with 4 judges, functions in the Comune of Valle della Lucania. Together, for the year 1944, they have about 8500 matters pending. Of these, about 4000 are complaints in which the defendants are unknown, cases which are to be sent back to the Pretura for investigation or trial, cases to be forwarded to other Provincial jurisdictions, and other matters which will not be tried in the Tribunale. Of the remaining 4500, which eventually are to be tried in the Tribunale, slightly less than 500 are cases affecting Allied interests. The section of the court sitting in Salerno, Comune handles about 80% of all these cases.

Available to the Tribunale in Salerno Comune, is only one courtroom. The court sits daily, except Sunday, from 1000 to 1430 hours. 3 and sometimes 4, days a week are devoted to

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Available to the Tribunale in Salerno Comune, 93
is only one courtroom. The court sits daily, except Sunday, from 1000 to 1430 hours. 3 and sometimes 4 days a week are devoted to the trial of criminal cases; the rest of the week is given to civil case trials or hearings.

It is important to note that, to date for the year 1944, the Tribunale has received, for investigation or trial, more cases than it had for the entire year of 1943. Notwithstanding that fact, it is operating with nearly half the number of judges, and office and courtroom personnel it had in 1943. Courtrooms have diminished from 5 to one, and, office space is less than half what it used to be. With reference to the one courtroom still remaining, it may be noted that, on or about 20th June 1944

ALLIED CONTROL COMMISSION

SALERNO PROVINCE

-2-

the Court of Assize is expected to use same for a period of about one month. In that event, during that period, there will be no Courtroom available for the use of the Tribunale.

b) Preture. There are 23 Preture under the juridical jurisdiction of Salerno Province. Of these, I have visited eleven with the Procuratore del Re. Those eleven have jurisdiction over 53 of the more important Communes of Salerno Province, and comprise about 75% of the civilian population and over 90% of the Allied Military population. At each Preture, every phase of law enforcement and the operation of the courts was carefully studied.

Each Preture has to handle from two to three times the number of cases it had last year. In spite of that each has done remarkably well in keeping the court calendar on a fairly current basis. Together, these eleven Preture have approximately 1200 criminal cases pending. Of this number 432 are pending in the Preture over the mandamento of Salerno. Another 500 are pending because some Preture do not have a Pretore or judge appointed to try those cases.

Of the 1200 criminal cases pending, only about 105 affect Allied interests. At least 100 of that latter number are cases involving prostitution, and, the selling of wine without a license. Moreover, of the 105 cases affecting Allied interests, about 80 are pending in the Preture of the mandamento of Salerno.

As with the Tribunale, the Preture must operate with less than minimum personnel, and even at that, in very inadequate offices and courtrooms. Because of bombings and requisitioning, most Preture operate without a courtroom and in very miserable surroundings. There are few prisons that have not been bombed or otherwise destroyed, and consequently it is most difficult to keep anyone in jail pending trial. In this regard it should be noted that no transportation what-so-ever exists for the transfer of prisoners, service of legal papers, transportation of witnesses, and for other work necessary in the proper operation of a court.

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4) The many conferences, visits and conversations, during the course of my investigation, resulted in the following:

b) Preture. There are 23 Preture under the juridical jurisdiction of Salerno Province. Of these, I have visited eleven with the Procuratore del Re. Those eleven have jurisdiction over 53 of the more important Communes of Salerno Province, and comprise about 75% of the civilian population and over 90% of the Allied Military population. At each Pretura, every phase of law enforcement and the operation of the courts was carefully studied.

Each Pretura has to handle from two to three times the number of cases it had last year. In spite of that each has done remarkably well in keeping the court calendar on a fairly current basis. Together, these eleven Preture have approximately 1200 criminal cases pending. Of this number 432 are pending in the Pretura over the mandamento of Salerno. Another 500 are pending because some Preture do not have a Pretore or judge appointed to try those cases.

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4) The many conferences, visits and conversations, during the course of my investigation, resulted in the following:

a) The Tribunale and the Pretura will give priority of investigation and trial to those cases involving Allied interests. This is now being done.

b) Understanding the seriousness with which we regard such cases and also our desire to deter future crimes, adequate sentences will be imposed in all cases. This is now being done in a satisfactory manner.

c) Provisional liberty will not be given in

ALLIED CONTROL COMMISSION
SALERNO PROVINCIAL OFFICE

- 3 -

prostitution cases, except under the most unusual circumstances. This is now being done and we are receiving fine cooperation by the Courts.

d) The Tribunale and each Pretura will prepare and send every ten days, to the Provincial Legal Office, report containing the following information: to wit, the number of cases received during the period, the number of cases tried or otherwise disposed of, the number of cases pending. In addition, the report will give a complete description of those cases affecting Allied interests, i.e., name of accused, date of arrest, offence charged, action taken, etc. This is now being done, and reports are coming into the Office of the P.L.O.

e) Arrest reports made by the Military, such as D.A.F.M. CAP; etc., will be sent to the Provincial Legal Office every week. These arrest reports will be entered in a register to be kept by the P.L.O., and the case followed through to its final conclusion. This is being done and a register is being kept in the Provincial Legal Office containing the following information: number, name and address of accused, date and place of arrest, date and place of offence, name of arresting Authority, reference number and the date of arrest report, place of custody, section under which charged, particulars of offence, prettrial proceedings, date of trial, name of Court and place of trial, finding and sentence, and remarks.

f) The P.L.O. will visit the Provincial Pretura and the Tribunale in order to check up on the past cases affecting Allied interests and ascertain how they have been disposed of. This has been done and the present status of 150 old cases has been recorded and the arresting authorities notified.

5) Observations made and recommendations.

a) As described in 3a above, the Tribunale handles the bulk of criminal cases and is severely burdened with an enormous backlog of cases awaiting trial. To make matters worse, the court is heavily handicapped by lack of courtrooms, lack of office space, a dearth of paper, ink and other supplies, and a shortage of judges and courtiers.

0752

d) The Tribunale and each Pretura will prepare and send every ten days, to the Provincial Legal Office, report containing the following information: to wit, the number of cases received during the period, the number of cases tried or otherwise disposed of, the number of cases pending. In addition, the report will give a complete description of those cases affecting Allied interests, i.e., name of accused, date of arrest, offence charged, action taken, etc. This is now being done, and reports are coming into the Office of the P.L.O.

e) Arrest reports made by the Military, such as D.A.P.M. OMP, etc., will be sent to the Provincial Legal Office every week. These arrest reports will be entered in a register to be kept by the P.L.O., and the case followed through to its final conclusion. This is being done and a register is being kept in the Provincial Legal Office containing the following information: number, name and address of accused, date and place of arrest, date and place of offence, name of arresting Authority, reference number and the date of arrest report, place of custody, section under which charged, particulars of offence, pretrial proceedings, date of trial, name of Court and place of trial, finding and sentence, and remarks.

2) The P.L.O. will visit the Provincial Preture and the Tribunale in order to check up on the past cases affecting Allied interests and ascertain how they have been disposed of. This has been done and the present status of 150 old cases has been recorded and the arresting authorities notified.

5) Observations made and recommendations.

a) As described in 3a above, the Tribunale handles the bulk of criminal cases and is severely burdened with an enormous backlog of cases awaiting trial. To make matters worse, the court is heavily handicapped by lack of courtrooms, lack of office space, a dearth of paper, ink and other supplies, and a shortage of judges and courtrooms and office personnel. This extremely bad situation is further aggravated by an utter lack of transportation for the purpose of ~~issuing~~ summons and other documents in near or distant Communes, and for transporting prisoners and witnesses.

This situation promises to grow steadily worse, for many more judges and other personnel will soon leave their present positions. Obviously, as in the past, these others

ALLIED CONTROL COMMISSION

SALERNO PROVINCE

- 4 -

are about to join the Ministry of Justice. One can hardly blame them for wanting to be absorbed into the Ministry. The higher pay, the special extra monetary compensations, the food allowance, and the special privileges, given to the members of the Ministry are irresistible. The food allowance alone is worth about 10,000 lire per month, for that is about the price one would have to pay for it if purchased in the Black Market. The Ministry employees pay 300 lire a month for same and, in addition, are permitted to retain their ration cards.

However, inasmuch as it is our intent or desire to reduce the backlog of criminal cases and to particularly dispose of those cases affecting Allied interests; the following suggestions are made.

First, secure the appointment, or loan for a temporary period, of at least 4 more judges, competent to sit in the Tribunale paying particular attention to their experience in criminal law.

Second, provide or return to the use of the Tribunale at least two more courtrooms with suitable chambers, facilities and adequate court personnel. Third, provide supplies such as paper, ink etc, so that the necessary paper work may be done. Fourth, place at the disposal of the court a vehicle which may be used to serve citations and other legal papers, transport prisoners and witnesses, and do the other work necessary when long distances are involved.

If this is done, it will be possible to hold 3 sections of the court daily. One section would deal with civil cases; another will deal with criminal cases; and the third will deal solely with cases affecting Allied interests. Inasmuch as most of the latter cases involve wrongful possession of Allied property, the need for the third section would end after a short period. Then that section would try criminal cases not involving Allied interests. It would therefore not be long before the court calendar be up to date and the court functioning normally.

b) The Preture present several problems that need solving.

1) The Preture in Salerno Comune needs great supplies of paper and ink, and sorely needs office space. At present, the first Pretore and his assistants all work in one room. That room is close, damp and insanitary. This court deals with most of the prostitution cases and has lately dealt with cases to our satisfaction.

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First, secure the appointment, or loan for a temporary period, of at least 4 more judges, competent to sit in the Tribunale paying particular attention to their experience in criminal law. Second, provide or return to the use of the Tribunale at least two more courtrooms with suitable chambers, facilities and adequate court personnel. Third, provide supplies such as paper, ink etc, so that the necessary paper work may be done. Fourth, place at the disposal of the court a vehicle which may be used to serve citations and other legal papers, transport prisoners and witnesses, and do the other work necessary when long distances are involved.

If this is done, it will be possible to hold 3 sections of the court daily. One section would deal with civil cases; another will deal with criminal cases; and the third will deal solely with cases affecting Allied interests. Inasmuch as most of the latter cases involve wrongful possession of Allied property, the need for the third section would end after a short period. Then that section would try criminal cases not involving Allied interests. It would therefore not be long before the court calendar be up to date and the court functioning normally.

b) The Preture present several problems that

need solving.

1) The Preture in Salerno Commune needs great supplies of paper and ink, and sorely needs office space. At present, the first Pretore and his assistants all work in one room. That room is close, damp and insanitary. This court deals with most of the prostitution cases and has lately dealt with cases to our satisfaction. It should be provided with good interpreters and military witnesses should be made readily available to it.

2) The Preture of Sarno, Nocera, Eboli and
3. Severino Rota are sadly in need of adequate offices and courtrooms. The reasons for such miserable quarters are bombing, and, military and Italian Government requisitioning.

ALLIED CONTROL COMMISSION
SALERNO PROVINCE

- 5 -

In each case suitable quarters and facilities are available, but everything depends on the Italian Authorities.

- 3) The Preture of Nocera, Eboli and Laviano either have not any or have an insufficient number of Pretori or judges. Pretori should be appointed to work in those Preture.
- 4) The Preture of Sarno, Nocera, S. Cipriano Picentino, Montecorvino Novella, Eboli and S. Severino Rota have very limited or no prison facilities. Arrangements should be made either to use certain other buildings for prisons or to provide suitable transportation to take prisoners to those prisons that can accommodate them.
- 5) All Preture need transportation. Sometimes it's impossible to try half the cases because of the lack of transportation. It is recommended that a limited number of vehicles be provided for the common use of all Preture. A plan or rotation system may be easily worked out.
- 6) All Preture need and should be supplied with ink, paper, forms and other office supplies.

- 6) The above report is only a preliminary one and supplementary reports will follow to indicate results achieved.

For the Provincial Commissioner
Capl. C. F. R. R. R.
1st Lt. A.C.
P.L.O. Salerno.

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6) The above report is only a preliminary one and supplementary reports will follow to indicate results achieved.

For the Provincial Commissioner
~~CELI C. NANO~~
1st Lt. A.C.
P.L.O. Salerno.

CUB/DA

1 June 44

Subject: Report of Activities of Provincial Legal Office
for the period beginning 8 May 44 and ending
31 May 44.

To : Provincial Commissioner, Salerno Province.

1) Legal matters

a) Prepared and sent out to Region II, 389
case files of cases tried in Salerno Province
AMC Summary Superior and General Courts.

b) Investigated, on behalf of the Legal
Subcommission, and rendered written reports and
opinion in two cases involving thefts of Red
Cross property.

c) Attended Arbitration Hearing and rendered
written report of same.

d) Studied three cases involving the murder
and/or wounding of Allied military personnel, and
forwarded same to H.Q., Region III, with report
and recommendation.

e) Examined, translated and sent out to proper
authorities, 44 petitions for review and/or pardon,
rendering pertinent information or advice in each
case.

173B

0788

1) Legal matters

a) Prepared and sent out to Region II, 389 case files of cases tried in Salerno province and Summary Superior and General Courts.

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c) Attended Arbitration Hearing and rendered written report of same.

d) Studied three cases involving the murder and/or wounding of Allied Military personnel, and forwarded same to H.C., Region III, with report and recommendation.

e) Examined, translated and sent out to proper authorities, 44 petitions for review and/or pardon, rendering pertinent information or advice in each case.

f) Granted 64 office interviews or audiences, rendering advice and information in each matter on Italian and occupation law, citizenship, etc.

g) Conferred, personally and by telephone, with C.L.O., D.C.L.O., P.O., P.P.O., P.F.O., officer i/c of Italian Affairs, Maj. Campbell, Capt.

Subject: Report of activities, etc. - d. 1 June 44

More, R.L.O., President of Tribunale of Salerno, Procuratore del Re, DAPM Town Major and others, in order to fulfill my duties as P.L.O. and to effect the liaison, between the Italian and the Allied law enforcement and judicial agencies, as required by request and order of Col. Upjohn and Chapman.

2) Arranged for bail refunds in the sum of 19500 lire.

1) Obtained payment of outstanding fines in the sum of 66300 lire.

3) Frequently corresponded with the Director of Salerno prison on matters pertaining to the ~~same~~ release or retention of persons imprisoned by AMG courts.

2) Received and recorded 197 arrest reports and great number of reports on prostitution, from the P.P.O. and the DAPM. Information relative to the present status or disposition of each arrest was personally obtained by P.L.O. from the various Preture throughout Salerno province and from the Procuratore del Re and the President of the Tribunale.

2) Visited, with the Procuratore del Re, 9 March

0760

required by request and order of Cols Upjohn and Chapman.

M) Arranged for bail refunds in the sum of 19500 lire.

I) Obtained payment of outstanding fines in the sum of 66300 lire.

J) Frequently corresponded with the Director of Salerno prison on matters pertaining to the release or retention of persons imprisoned by AMG courts.

K) Received and recorded 197 arrest reports and and great number of reports on prostitution, from the P.P.O. and the DAPM. Information relative to the present status or disposition of each arrest was personally obtained by S.L.O. from the various Preture throughout Salerno province and from the Procuratore del RM and the President of the Tribunale.

31

L) Visited, with the Procuratore del Re, 9 mandamenti, (judicial divisions) and the Preture thereof, comprising 43 of the largest and most important comuni in Salerno province, to wit: comuni containing about 70 per cent of the population of the province and practically all the Allied military personnel of the province. The Pretori (judges) provided all information required in re crimes involving Allied interests, and they agreed to do the following: try first those cases

Subject: Report of Activities, etc.- date 1 June 44

affecting Allied interests; mete out sentences consistent with the seriousness of the offence expedite the trial of prostitution cases; and, submit to the P.L.O. every 10 days, a report of all cases received and tried during the period and the disposition made in each case.

m) Censored 152 pieces of R's mail.
n) Miscellaneous matters such as rendering translations; advice, interpreting contracts, and collaborating with other provincial officers.

2) Functioning of Courts:

a) Allied Courts: there have been no Anglo Courts functioning during the period covered by this report. However, petitions of appeal and petitions of appeal and petitions for pardon, with reference to cases heretofore tried by Anglo courts, are still being considered or received for consideration.

b) Italian Courts.

1) Preture- these local courts are operating rather well, in spite of many adverse conditions.

0762

a) Miscellaneous matters such as rendering translations, advice, interpreting contracts, and collaborating with other provincial officers.

2) Functioning of Courts:

a) Allied Courts: there have been no AMG Courts functioning during the period covered by this report. However, petitions of appeal and petitions of ~~appeal~~ and petitions for pardon, with reference to cases heretofore tried by AMG courts, are still being considered or received for consideration.

b) Italian Courts.

1) Preture- these local courts are operating rather well, in spite of many adverse conditions.

On the whole, their calendars of criminal cases are up to date and relatively few cases are pending.

Of these cases, a practically insignificant number affect the Allied Forces; generally, they are cases of prostitution. This can be accounted for by the fact that most cases, in which the ~~al-~~ lies have an interest, are sent to the Salerno Tribunale for trial. However, the following con-

Subject: Report of Activities, etc.- date 1 June 64

ditions, unless corrected, will soon seriously hamper the administration of justice in the Preture: toxic wit, insufficient number of judges, docket clerks, and other court personnel; lack of court rooms, office and record rooms (due to bombing, requisitioning, etc.) almost total lack of paper, ink and office supplies; insufficient prison facilities; no transportation for Carabinieri, witness, transportation of prisoners, etc.

2) Tribunale this court deserves very serious consideration, for it not only handles the bulk of important cases, but it also tries most cases in which the Allies have an interest. At present, there are over 6000 criminal cases pending investigation and trial. Of these, about 500 are cases involving Allied interests. The Tribunale usually had a minimum of 20 judges sitting in at least 4 sections of the court. The number of judges has diminished to half, although the number of cases have increased 3-fold. All court room space and facilities have been taken away from the Tribunale, with the exception

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supplies; insufficient prison facilities; no transportation for Carabinieri, witnesses, transportation of prisoners, etc.

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Respectfully submitted.

CARL C. BARNHO
1st. Lt. A. C.
Provincial Legal
Officer.
SALERNO PROVINCE

400.12 file rpt file conto in ported forty (123C) file.

A.S.E. IL MINISTRO DI GRACIA E GIUSTIZIA

S A E R N O

A seguito dell'invio conferitomi da V.B. mi sono recato il giorno 31. maggio in Bari, dove, nei giorni successivi, ho proceduto, unitamente al Sg. Maggiore Palmieri, dell'Ufficio di Controllo di Salerno, alle indagini del caso in merito allo svolgimento ed espletamento dei processi riguardanti i reati commessi in danno delle Forze Armate del G. V. Alleanza, e devolvi alla cognizione dell'Autorità giudiziaria di Bari.

L'Ufficio legale, con sede in Bari, ha mostrato uno speciale interesse su tre punti: cioè a) prontezza nella definizione dei processi; b) giuste determinazioni delle pene affinché esse risultino adeguate alla gravità dei fatti e al danno che le Forze Armate Alleate ricevono dalle loro perpctraciones; c) sollecita infidazione dei singoli processi affinché l'Ufficio legale possa venire prontamente e conoscenza del caso come la Magistratura Italiana amministrare giustizia in riguardo ai reati anzidetti.

Sul primo punto V.B. Il Procuratore Generale, con la presentazione di un apposito elenco, compilato a seguito degli accertamenti fatti nella re delle Procure Generali di Bari e Lecce e delle Regie Procure e Trib. di Bari, Brindisi, Lecce, Taranto, trani nonché delle Procure presso Tribunali dei Minoreni per Bari e Lecce, ha fornito la documentazione che fino al 28 maggio corrente anno sono stati definiti complessivamente 327 processi.

SALERNO

A seguito dell'invio conferito al V.E. mi sono recato il giorno 24 maggio in Bari, dove, nei giorni successivi, ho proceduto, unitamente al Sig. Maggiore Palmieri, dell'Ufficio di Controllo di Salerno, alle indagini del caso in merito allo svolgimento ed espletamento dei processi riguardanti i reati commessi in danno delle Forze Armate del Regno Unito, e devoluti alla cognizione dell'autorità giudiziaria italiana.

L'Ufficio Legale, con sede in Bari, ha mostrato uno speciale interesse per tre punti: a) pretese nella definizione dei processi; b) durata determinata delle pene affinché esse risultino adeguate alle gravi dei fatti e al danno che le Forze Armate Alleate hanno subito per la loro perpetrazione; c) sollecita individuazione dei "soggetti" processati affinché l'Ufficio Legale possa venire prontamente a conoscenza del come la Magistratura Italiana amministra giustizia in riguardo ai reati suscitati.

Sul primo punto S.E. Il Procuratore Generale, con presentazione di un apposito elenco, compilato a seguito degli accertamenti fatti eseguiti dalle Procure Generali di Bari e Lecce e dalle Reali Procure e Tribunali di Bari, Trinità, Lecce, Taranto, treni nonché delle Procure presso i Tribunali dei Minorenni per Bari e Lecce, ha fornito la documentazione che fino al 28 maggio corrente sono stati definiti complessivamente 603 processi; sono stati portati a dibattimento numero 327 processi che, com'è da prevedersi, saranno definiti al più presto; sono stati rinviati per competenza al Tribunale Militare numero 519 processi. Ne restano pendenti sotto quella data (secondo l'elenco annesso) numero 516 processi, di cui 474 in istruttoria sommaria, e numero 42 in istruttoria

formale.

Questi risultati dimostrano che l'Autorità giudiziaria ha espletato un discreto lavoro per la definizione dei processi riguardanti i reati commessi in danno della Forza Alleata, se si tiene conto di tutto l'altro lavoro che la stessa è stata chiamata a disimpegnare per la definizione delle rimanenti cause penali e di quelle civili. A ciò si aggiunge che l'istruttoria di alcuni processi ha subito ~~alcuni~~ ritardo per il fatto che gli atti furono rimessi in lingua inglese e che i giudici furono costretti, per la mancanza del loro contenuto, a ricorrere alle opere di interpreti, i quali ebbero un certo tempo per la traduzione in lingua italiana.

Ma i risultati indicati nell'elenco del Procuratore Generale sono da ritenersi per ora incompleti, non essendosi avuto il tempo di ricompilare e tutte le Preture della Corte di Bari e della Sezione Distrettuale di Lecce il numero dei processi riguardanti i reati in danno della Forza Alleata già definiti presso ciascuna pretura. Né si è avuto il tempo di conoscere quanti processi del genere sono stati nel detto periodo di tempo definiti dai Tribunali Militari e dei Tribunali per i Reati comuni.

Dal registro fatto compilare dall'Ufficio Legale dei Comandi Alleati con sede in Bari appare vi fosse un numero di denunce per reati in danno della Forza Alleata assai più grande di quello che risulta dall'elenco compilato dall'Ufficio di Procura Generale.

E' una impressione, giustificata da un sommario riscontro da me personalmente eseguito col consenso dell'Ufficio Legale sul registro da esso tenuto, che la ⁹² corrispondenza dei dati statistici trae la sua origine dal fatto che sul registro fatto compilare dall'Ufficio Legale sono state introvate tutte le denunce, anche quelle inviate alle singole Preture, mentre l'elenco formato dall'Ufficio della Procura Generale non dà con-

tro lavoro che la stessa è stata chiesta e all'impegnare per la
zione delle rimanenti cause penali e di quelle civili. A ciò si aggiun-
ga che l'istruttoria di alcuni processi ha subito ~~cessato~~ ritardato per
il fatto che gli atti furono rimessi in lingua inglese e che i giudici
furono costretti, per la conoscenza del loro contenuto, a ricorrere alle
opere di interpreti, i quali ebbero un certo tempo per la traduzione
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Ma i risultati indicati nell'elenco del Procuratore Generale sono
da ritenere per ora incompleti, non essendo avuto il tempo di richie-
dere a tutte le Preture della Corte di Bari e della Sezione Distrettuale
di Lecce il numero dei processi riguardanti i reati in danno delle For-
ze Armate Alleate già definiti presso ciascuna pretura. Né si è avuto il
tempo di conoscere quanti processi del genere sono stati nel detto pe-
riodo di tempo definiti dai Tribunali Militari e dei Tribunali per i Mi-
norenni.

Dal registro fatto compilare dall'Ufficio Legale del Comando Alleato
con sede in Bari appare rimesso un numero di denunce per reati in dan-
no delle Forze Alleate assai più grande di quello che risulta dall'elen-
co compilato dall'Ufficio di Procura Generale.

E' mia impressione, giustificata da un sommario riscontro da me perso-
nalmente eseguito col consenso dell'Ufficio Legale - sul registro da esso
tenuto, che le ^{non} ~~caratteristiche~~ dei dati statistici ~~trave~~ la sua origine
dal fatto che sul registro fatto compilare dall'Ufficio Legale sono sta-
te annotate tutte le denunce, anche quelle inviate alla ^{dal} ~~alla~~ Sezione Pretoria,
mentre l'elenco fornito dall'Ufficio della Procura Generale non dà con-
to di tali denunce.

Di accordo col Procuratore Generale ho disposto che gli uffici di R.

Procuri presso i diversi Tribunali compresi nei Distretti di Bari e Lecce, nonché tutte le Preture trasmettano al più presto ^{all'ufficio} ai ^{di cui} Uffici Legali dei Governi Alleati in Bari ^{di cui} alenso nominativo di tutti i processi di guardanti i reati in danno delle forze armate alleate, loro rimessi dal settembre 1943, con l'indicazione dello svolgimento di ciascun processo. In tal modo potrà essere aggiornato il registro tenuto dall'Ufficio Legale, annotando in esso i processi già definiti, ed avviati nella sua esatta cifra l'entità del lavoro espletato dalla Magistrazione Italiana in rapporto a quei processi dei quali i ~~essi~~ detti uffici si interessano.

Sul secondo punto dichiaro di aver esaminato le sentenze pronunciate nell'indicata materia del Tribunale di Bari (non ho potuto esaminare quella dei rinvenuti Tribunale per mancanza di tempo e più ancora per l'impossibilità di recarmi da un luogo all'altro senza un collaudo mezzo di trasporto a mia disposizione). Dell'esame delle sentenze pronunziate ~~dal Tribunale~~ fino al 28 maggio 1944 ho tratto il convincente dato che il Tribunale, sotto il profilo della completezza della pena, ha quasi sempre giudicato giustamente irrogando una pena adeguata alla gravità dei fatti. Soltanto cinque o sei presunte mi sono apparse ingiustate da una esecutiva mitiga la pena. ~~Occorrono ancora alcune cose da dire.~~ Nota relativa occorre che i giudici siano lasciati liberi di giudicare secondo la loro coscienza nelle cause affidate, anche per quanto al sistema di determinazione della pena, poiché il principio della indipendenza dei giudici forma un punto fondamentale dei nostri ordinamenti politici e deve essere mantenuto fermo, soprattutto ora che la nostra forma di governo si va orientando verso quella democratico - liberale. Non ho mancato però di richiamare l'attenzione di S.M. il Procuratore Generale perché voglia emanare a tutti gli uffici da lui dipendenti particolari istruzioni affinché le sentenze pronunciate in materia di reati commessi in danno delle forze armate siano sottoposte ad un accurato esame per l'eventuale annullamento del gravame, che la legge consente contro le sentenze ritenute non

In tal modo potrà essere aggiornato il registro tenuto dall'Ufficio di
gli, annotandosi in esso i processi già definiti, ed aprirli nelle sue
esatte cifre l'entità del lavoro espletato dalla Magistratura Italiana
in rapporto a quei processi dei quali l'ufficio si interessa.

Sul secondo punto richiederò di quali ~~essi~~ uffici si interessano
nell'anzidetta materia del Tribunale di Bari (non ho potuto escludere
quelle dei rinvii al Tribunale per malversazione di tempo e più ancora per
l'impossibilità di recarsi da un luogo all'altro senza un sollecito mez-
zo di trasporto a mio di disposizione). Dall'esame delle sentenze pronun-
ziate ~~dal Tribunale~~ fino al 28 maggio 1944 ho tratto il convincimen-
to che il Tribunale, sotto il profilo della serietà della pena, ha quasi
sempre giudicato giustamente introducendo una pena adeguata alla gravità
dei fatti. Soltanto cinque o sei pronunce mi sono apparse iniquate da
una eccessiva mitiga-
zione della pena. ~~Ma questa è la mia opinione.~~ Natu-
ralmente occorre che i giudici siano lasciati liberi di giudicare secon-
do la loro coscienza nelle cause affidate, anche per quanto si attiene al-
la determinazione della pena, poiché il principio della indipendenza dei
giudici forma un punto fondamentale dei nostri ordinamenti politici e de-
ve essere mantenuto fermo, soprattutto ora che la nostra forma di governo
si va orientando verso quella democratico-liberale. Non ho momento però
di richiamare l'attenzione di S.E. il Procuratore Generale perché voglia
emendare o tutti gli uffici da lui dipendenti particolari istruzioni affinché
che le sentenze pronunziate in materia di reati commessi in danno della
forza armata alleate siano sottoposte ad un accurato esame per l'asperi-
mento del gravame, che la legge consente contro le sentenze ritenute non
perfettamente giuste.

A tale riguardo credo opportuno rilevare che l'interrogazione sulla pena
è in rapporto alla definizione del reato fatta dal giudice competente,

- 4 -

precisamente sul punto su nella quale si debba applicare l'art. 166 del Codice Penale Militare Italiano per il tempo di pace, di competenza del Tribunale Militare, che prevede l'ipotesi di chiunque acquisti oggetti di vestiario, di equipaggiamento, o altre cose destinate ad uso militare e non munite del timbro o marchio di rifiuto; ovvero si debba applicare l'art. 648 del Codice Penale Ordinario che punisce, con pena assai più grave, il reato di ricettazione di competenza dell'autorità giudiziaria ordinaria. Quali siano i criteri che differenziano l'ipotesi previste dall'art. 166 Codice Penale Militare da quella dell'art. 648 Codice Penale Ordinario dovrà secondo me formare oggetto di un approfondito esame da parte dei capi degli Uffici giudiziari chiamati a sentenziare sui reati in danno delle forze armate alleate. La loro opinione, pur non essendo vincolativa per i giudici che dovranno in definitiva giudicare del caso in esame, servirà pur tuttavia a stabilire una direttiva di massima da tenerci in conto per la autorità e l'alto germe delle persone che in modo sicuro la indicheranno. Ne seguirà il vantaggio di una uniforme interpretazione da parte dei giudici sul contenuto dei due articoli, sui criteri che differenziano i diversi reati da essi contemplati, e tale uniformità d'interpretazione nel forzerà il convincimento che fatti di eguale intensità criminosa verranno puniti con pena della medesima gravità (a parte l'apprezzamento dell'elemento subiettivo) ~~che non può essere diverso~~ *che non può essere diverso*

accanto.

Se ciò sarà fatto e se le direttive di massima saranno portate a conoscenza degli Uffici di Polizia giudiziaria che debbono raccogliere le denunce dei reati commessi in danno delle Forze Alleate, si avrà l'altro vantaggio, anch'esso apprezzabile, che cioè le denunce saranno trasmesse senz'altro ai giudici competenti per il definitivo giudizio, senza lo inconvieniente finora, e spesso volte, verificatosi che i processi iniziati da venti l'autorità giudiziaria militare sono nel corso istruttorio o al che nel corso di giudizio rimessi per ragione di competenza al Tribunale

munite del timbro o marchio di rifiuto; ovvero si debba applicare l'art. 648 del Codice Penale Ordinario che punisce, con pena assai più grave, il reato di ricettazione di competenze dell'autorità giudiziaria ordinaria. Quali siano i criteri che differenziano l'ipotesi prevista dall'art. 156 Codice Penale Militare da quella dell'art. 648 Codice Penale Ordinario dovrà secondo me-formare oggetto di un approfondito esame da parte dei Capi degli Uffici giudiziari chiamati a sentenziare sui reati in danno delle Forze armate alleate. La loro opinione, pur non essendo vincolativa per i giudici che dovranno in definitiva giudicare del caso in esame, servirà pur tuttavia a stabilire una direttiva di massima da tenersi in conto per la autorità e l'alto senso delle persone che in modo chiaro la indicheranno. Ne seguirà il vantaggio di una uniforme interpretazione da parte dei giudici sul contenuto dei due articoli, sui criteri che differenziano i diversi reati da essi contemplati, e tale uniformità d'interpretazione renderà il convincimento che fatti di eguale intensità criminosa varranno puniti con pena della medesima gravità (e parte l'apprezzamento dell'elemento soggettivo) ~~essendo però da considerare~~ *deciso*.

Se ciò sarà fatto e se le direttive di massima saranno portate a conoscenza degli Uffici di Polizia giudiziaria che debbono raccogliere le denunce dei reati commessi in danno delle Forze Alleate, si avrà l'altro vantaggio, anch'esso apprezzabile, che cioè le denunce saranno trasmesse senza altro ai giudici competenti per il definitivo giudizio, senza lo improprio e inopportuno, e spesso volte, verificatosi che i processi iniziati da venti l'autorità giudiziaria militare siano nel corso istruttorio o in che nel corso di giudizio rimessi per ragione di competenza al Tribunale ordinario e viceversa. In tal modo si eviterà la notevole perdita di tempo e di lavoro specie da parte degli organi periferici dei giudici che alla rimessione di quei processi debbono attendere.

Concludo questo capo della mia relazione nominando che nell'ultimo

- 5 -

e rivasiva conferenza tenutasi nel Gabinetto del Procuratore Generale nel giorno 5 corrente, con l'intervento del Colonnello Upjohn e del Maresciallo Palmieri, entrambi della Commissione di Controllo, del Procuratore del Re di Bari Cav. Uff. Barberigo in stabilito che ^{comuni al Tribunale di Bari} i processi per reati in danno delle Forze Armate Alleate saranno d'ora in poi portati a giudizio dinanzi ad una sola Sezione del Tribunale di Bari. La Sezione terrà due udienze al mese e dovrà definire non meno di 60 processi per ogni mese. Ciò è stato stabilito all'effetto di assicurare una maggiore speditezza nella definizione dei processi ed una maggiore uniformità di giudizio.

Sul terzo punto, riconoscendo più che legittimo l'interesse dell'Ufficio Legale ad avere una sollecita cognizione dello svolgimento di ogni processo avente la possibilità di menomare in un qualunque modo l'efficienza delle Forze Armate Alleate che combattono sul suolo italiano contro il comune nemico, ho pregato il Procuratore Generale di voler disporre che gli uffici della Procura Generale della Corte di Bari e della Sezione di Lecce, quelli della Procura dei Tribunali di Bari, Brindisi, Lecce, Taranto e Trani, della Procura dei Tribunali dei Minorani - nonché gli Uffici della Procura facienti parte dei Distretti di Bari e Lecce, trasmettano, a fine di ciascun mese, a cominciare da quello di giugno, all'Ufficio Legale di Bari un elenco nominativo nel quale dovranno essere annotati tutti i processi riguardanti i reati commessi in danno delle Forze Armate Alleate ricevuti nel mese, con la menzione del loro svolgimento, intendendosi per reati in danno delle Forze Armate Alleate tutti quelli che siano suscettibili di menomare la loro efficienza bellica e quindi tutti quei reati relativamente ai quali l'Ufficio Legale di polizia giudiziaria, che ha redatto il verbale o il rapporto di denuncia, ha dichiarato di averne già informato i rispettivi uffici di collegamento di Bari e di Taranto. Resta però ben chiaro che questo adempimento non vincolerà l'Autorità giudiziaria nel punto se il reato debba ritenersi commesso in danno delle Forze Alleate o non, ed ai restanti

è stato stabilito all'effetto di assicurare una maggiore uniformità di giudizio.

Sul terzo punto, riconoscendo più che legittimo l'interesse dell'Ufficio Legale ad avere una sollecita cognizione dello svolgimento di ogni processo eventuale in merito alla memoria in un qualunque modo l'efficienza delle Forze Armate Alleate che combattono nel suolo italiano contro il nemico, ho pregato il Procuratore Generale di voler disporre che gli uffici della Procura Generale della Corte di Bari e della Sezione di Lecce, quelli della Procura del Tribunale di Bari, Brindisi, Lecce, Taranto e Trani, delle Procure del Tribunale del Minorenni - nonché gli Uffici delle Preture fascisti parte dei Distretti di Bari e Lecce, trasmettano, e fine di ciascuno, a cominciare da quello di giugno, all'Ufficio Legale di Bari un elenco nominativo nel quale dovranno essere annotati tutti i processi riguardanti i reati commessi in danno delle Forze Armate Alleate ricevuti nel mese, con la menzione del loro svolgimento, intendendosi per reati in danno delle Forze Armate Alleate tutti quelli che siano suscettibili di menzione la loro efficienza bellica e quindi tutti quei reati relativamente ai quali l'Ufficio di polizia giudiziaria, che ha redatto il verbale o il rapporto di denuncia, ha dichiarato di averne già informato i rispettivi uffici di collegamento di Bari e di Taranto. Resta però ben chiaro che questo adempimento non vincolerà l'Autorità giudiziaria sul punto se il reato debba ritenersi commesso in danno delle Forze Armate Alleate o no, ciò al resto dei fini sostanziali del processo.

Con osservanza.

Salerno, 7 giugno 1944.

83

Enrico Ferrarone

Consiglieri della Corte di Cassazione

4001/2. ✓
 Archivio Notarile Distrettuale - Salerno (231)

N. 19

di Prot.

Salerno, li 6 giugno 1944 A

Risposta al

del

N.

Oggetto: Trasferimento Archivio.

ALLA COMMISSIONE ALLEATA DI CONTROLLO
 sezione Legale e P.C. Al Ministero di Grazia e Giustizia
 ed al Signor Comandante del Palazzo di Giustizia.

- S a l e r n o 32

In ottemperanza alla nota 4001/2/L del 19 maggio mi prego informare codesta Onerevole Commissione che questo Ufficio ha provveduto a trasferire nei locali dell'Archivio di Stato gli atti e le scaffalature esistenti nella parte del palazzo di Giustizia ora in uso da parte degli Alleati, ad eccezione degli scaffali parietali meno due esistenti nella sala "A" e di due scaffali centrali che sono rimasti a disposizione degli Alleati stessi.

Con ossequio

IL CONSERVATORE

File
St.

M. Gallu

1224

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

MTT/gmf

ACC/4039/3/L

30 May 1944

SUBJECT: Appeals from Lucera to Bari.

TO : RLO (thru RC) Region 5.

1. The Procuratore Generale at the Court of Appeal, Bari, reports that the period from 1 to 31 July has been reserved for the hearing of cases from Lucera Tribunale and which were filed prior to 8 Sept. 43.
2. This Subcommittee has been asked to make contact with the LO in charge of Lucera with a view to the provision of the necessary motor transport or alternatively passage on the daily freight train in order to ensure the presence of the necessary parties and their representatives.
3. Will you please confirm when your LO has been able to complete such arrangements.

A. R. Thackrah

A. R. THACKRAH, Major
for Chief Legal Officer.

✓
4001/2

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

51926
121
28 May 44

Ref: 2201/ 1/A

SUBJECT: Tribunale at Vallo

TO : C.L.O., Legal Sub-Commission A.C.C., Salerno.

1. Ref ACC/4001/2/L of 17.5.44 addressed to Region 3 with copy to Region 2, so far as this H.Q. is aware, there has always been a tribunale at Vallo which is in Salerno province.
2. Certainly there is no knowledge of any AMG order re-activating it.

seen by
1st Lt. J. J. J.
1st Lt. J. J. J.

D.E.S. Cousins
D.E.S. COUSINS Lt. Col.
R.L.O.
REGION II

REAR HEADQUARTERS
ALLIED CONTROL COMMISSIONS
Legal Subcommittee
APO 394

ART/ap

119

ACC/4001/2 /L

25 May 1944.

SUBJECT : Section of Tribunale Vallo
della Lucania.

TO : H. E. the Minister of Pardon and Justice.

1. In compliance with your Excellency's wish expressed in letter no. 21446 (without date) this Subcommittee has the honor to transmit herewith the requested copy of the order constituting the above Section of Tribunale.

A. R. Thackrah
A. R. THACKRAH,
Major,
for Chief Legal Officer.

HEADQUARTERS

REGION 3, ALLIED CONTROL COMMISSION
APO 394, U.S. ARMY

4001/2
MCH/LC

(118)
Naples, Italy
22 May 1944

SUBJECT : Tribunale at Vallo della Lucania.
TO : C. L. O., Legal Subcommittee, Rear Headquarters Allied
Control Commission, SALERNO. (Attention officer i/c
Italian Branch).

(113)
1. Reference your letter of 17 May 1944, ACC/4001/2/I I
attach hereto copy of the order referred to which was issued by
Lt. - Col. H.P.P. Robertson S.C.A.C. Salerno.

M. L. Holt
M.C. HOLT Major
Officer i/c. Italian Courts
A. C. C. REGION III

Subject: Premises for Court of Cassation

Major Hannaford
Legal Sub Commission
R.H.Q. A.C.C.

✓ 4001/2 117
51 Town Major
Tel: 128
Ref: 34/53

Ref your ACC/4001/2/L of 19 May 44.

Attached is a copy of letter sent to the Prefettura
of SALERNO. I think that explains the position for you.

21 May 44.

[Signature]
Major,
51 Town Major

*Informal letter
for all
22 May 44*

71

Subject: Requisitioning ^{COPY}

R. Prefettura
di Salerno

116
51 Town Major
Tel: 128
Ref: 34/50

Ref your letter 34/45 of 17 May 44.

Will you please inform the Ministry of Grace & Justice that I appreciate their situation, and agree with their observations. However, I am sorry that the Transit Camp has to be requisitioned as in the early days of our occupation of SALERNO it provided lodging for people temporarily homeless, and for civilians passing through SALERNO and working for the Allied cause. This was at a time when there were no hotels for civilians functioning in SALERNO. However, it is understood that the purpose for which this will now be used by the Ministry of Grace & Justice is of the greatest importance.

18 May 44.

Major,
51 Town Major.

file

NEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

TS/gaf

19 May 1944

ACC/4001/2/L

SUBJECT: Transfer of Notarial Archives.

TO : H.E. The Minister of Pardon and Justice (Attention Direzione Generale Affari Civili del Notariato.).

1. This Subcommittee has repeatedly invited Your Excellency's attention to the urgent necessity of transferring the Notarial Archives from the part of premises of the Palazzo di Giustizia which is in use by the Allied Forces.

2. It is hoped that there is no objection against moving the Archives in the seat of the Archivi di Stato where the Conservatore of the Archivio Notarile has found provisional accommodations.

File per. of personally on 19 May

G. G. HANUFORD, Major
Officer i/c Italian Branch
for Chief Legal Officer.

8200
NEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

114
GCH/umf

19 May 1944

ACC/4001/2/1

SUBJECT: Premises for Court of Cassation.

TO : Town Major, Salerno (thru Provincial Commissioner)-Attn. Lt. Benno.

1. Correspondence exchanged between the Minister of Justice and the Prefect of Salerno is enclosed.

2. The Allied Control Commission is most anxious to see the Court of Cassation reopen in Salerno very soon as it is a matter of great importance to have the Italian Judiciary set up in proper and complete order at the earliest possible date.

3. Any help in achieving this purpose will be greatly appreciated.

G. G. HUNTER, Major
Officer i/c Italian Branch
for Chief Legal Officer.

Correspondence attached.

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

GGH/pa

17 May 1944

AGG/AGGL/2/1.

SUBJECT : Tribunale at Vallo della Lucania.

TO : Regional Legal Officer (thru RG) Region 3.

1. Would you please forward to this Sub-Commission a copy of the A.M.G. order reactivating the above Tribunale

See folder 112

G. G. HATHFORD,
Major,
Officer i/c Italian Branch,
for Chief Legal Officer.

Copy to : RLG (thru RG) Region 2.

MINISTERO DI GRAZIA E GIUSTIZIA

Direzione Generale Affari Civili
Uff. I°
oooooooooooo

File

N°21446

4001/2

All'On.le Commissione Alleata
di Controllo (Sottocommissione
Legale)

P.M. 394

O G G E T T O: Sezione di Tribunale Vallo della
Lucania.

Si prega compiacersi far tenere copia integrale
del provvedimento col quale venne ripristinato
il Tribunale in Vallo della Lucania, dovendosi
provvedere in merito ad istanze formulate dagli
avvocati di tale circoscrizione, circa il funziona-
mento dei servizi inerenti alla sezione di detto
Tribunale.

IL MINISTRO
(f.to Arangio Ruiz)

PC.....C.

Il Direttore Generale

Arangio Ruiz

copy to 2

BEST COPY POSSIBLE

4001/2.

SCHEMA DI R.D.L. CHE AUTORIZZA IL MINISTRO DI GRAZIA E GIUSTIZIA A
MODIFICARE TEMPORANEAMENTE LA COMPETENZA TERRITORIALE DEGLI UFFICI
GIUDIZIARI IN MATERIA PENALE E AMMINISTRATIVA.

VITTORIO EMANUELE III

per grazia di Dio e per volontà della Nazione

RE D'ITALIA

Visto l'ordinamento giudiziario approvato con R.D. 30 gennaio 1941, n. 12;

Visto l'art. 18 della legge 19 gennaio 1939, n. 129;

Ritenuto che si versa in istato di necessità per cause di guerra;

Udito il Consiglio dei Ministri;

Sulla proposta del Ministro Segretario di Stato per la Grazia e Giustizia, di concerto col Ministro delle Finanze;

ABBIAMO DECRETATO E DECRETIAMO:

Art. 1

E' data facoltà al Ministro di Grazia e Giustizia di modificare temporaneamente, con propri decreti da pubblicarsi nella Gazzetta Ufficiale del Regno, la competenza in materia penale e amministrativa delle Corti di appello, dei tribunali, dei relativi uffici del pubblico Ministero, delle corti di assise e delle preture che hanno sede nel territorio liberato del regno, per estenderla a circoscrizioni di altre corti, tribunali e preture contigue o vicine, la cui sede si trovi in territorio non liberato.

La decorrenza degli effetti di tali decreti è determinata con i decreti stessi.

Art. 2

Il presente decreto, che entra in vigore il giorno stesso della sua pubblicazione nella Gazzetta Ufficiale del Regno, sarà presentato alle assemblee legislative per la sua conversione in legge.

Il Ministro di Grazia e Giustizia è autorizzato alla presentazione del relativo disegno di legge.

Ordiniamo, a chiunque spetti, di osservare il presente decreto.

71

Udito il Consiglio dei Ministri;

Sulla proposta del Ministro Segretario di Stato per la Grazia e Giustizia, di concerto col Ministro delle Finanze;

ABBIAMO DECRETATO E DECRETIAMO:

Art. 1

E' data facoltà al Ministro di Grazia e Giustizia di modificare temporaneamente, con propri decreti da pubblicarsi nella Gazzetta Ufficiale del Regno, la competenza in materia penale e amministrativa delle Corti di appello, dei tribunali, dei relativi uffici del pubblico Ministero, delle corti di assise e delle preture che hanno sede nel territorio liberato del regno, per estenderla a circoscrizioni di altre corti, tribunali e preture contigue o vicine, la cui sede si trovi in territorio non liberato.

La decorrenza degli effetti di tali decreti è determinata con i decreti stessi.

Art. 2

Il presente decreto, che entra in vigore il giorno stesso della pubblicazione nella Gazzetta Ufficiale del Regno, sarà presentato alle assemblee legislative per la sua conversione in legge.

Il Ministro di Grazia e Giustizia è autorizzato alla presentazione del relativo disegno di legge.

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

File

Giuliano

0788

76 4001/2 104

HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL, SUB-COMMISSION
APO 394

2 May, 1944.

REFERENCE: ACC/4002/L

SUBJECT: Allied Military Courts.

TO: Regional Legal Officer (thru Regional Commissioner), Region 3.

Confirming telephone conversation of this morning Colonel Upjohn - Colonel Chapman.

1. The Chief Commissioners instructs me to say that it is unnecessary for you to show the contents of your proposed Administrative Instruction L.3076 dated 23 April 1944 containing technical directions in regard to Courts hearing cases dealing with V.D. to anybody outside A.C.C.

2. I also confirm that the Chief Commissioner has fixed Thursday next at 10 a.m. for his inspection of both Allied Military and Italian Courts in Naples.

3. I confirm that you will forthwith transfer to the jurisdiction of the Italian Courts cases of the following classes (unless in any particular case there are circumstances justifying trial before an Allied Military Court):

- (a) Prostitution.
- (b) Curfew.
- (c) Speeding.

and that you will obtain from the Prefect such orders as may be necessary to give jurisdiction to the Italian Courts in the last two classes of case.

4. I also confirm that Lieut. Ramo will be ordered to report as soon as possible as Provincial Legal Officer for Salerno in place of Lieut. Grant and you will instruct Lieut. Ramo to see me at the Palace of Justice as soon as possible.

GEORGE R. UPJOHN.
Colonel,
Chief Legal Officer.

0790

2 May, 1944

REFERENCE: ACC/4002/L

SUBJECT: Allied Military Courts.

TO: Regional Legal Officer (Chief Regional Commissioner), Region 3.

Upjohn -- Colonel Chapman.
Confirming telephone conversation of this morning Colonel

1. The Chief Commissioner instructs me to say that it is unnecessary for you to show the contents of your proposed Administrative Instruction L.3076 dated 23 April 1944 containing technical directions in regard to Courts hearing cases dealing with V.D. to anybody outside A.C.C.

2. I also confirm that the Chief Commissioner has fixed Thursday next at 10 a.m. for his inspection of both Allied Military and Italian Courts in Naples.

3. I confirm that you will forthwith transfer to the jurisdiction of the Italian Courts cases of the following classes (unless in any particular case there are circumstances justifying trial before an Allied Military Court) :-

- (a) Prostitution.
- (b) Curfew.
- (c) Speeding.

and that you will obtain from the Prefect such orders as may be necessary to give jurisdiction to the Italian Courts in the last two classes of case.

4. I also confirm that Lieut. Barnes will be ordered to report as soon as possible as Provincial Legal Officer for Salerno in place of Lieut. Grant and you will instruct Lieut. Barnes to see me at the Palace of Justice as soon as possible.

GERALD R. UPJOHN.
Colonel,
Chief Legal Officer.

GRU/WW.

Copies to File:

ACC/4028/L

ACC/4001/L/L

ACC/4023/L

70

GRAZIA E GIUSTIZIA

4001/2

Ufficio Superiore del Personale e Affari Generali

*Shahin
Corinto;
(Raffio)*

11/15/29-3-114

Primo	Presidente	Corte	Appello	
MESSINA				
<i>Raffio</i>	Seguito	intesa	Commissione	Alleanza
Controllo	resta	fermo	provvedimento	ritorno
completa	giurisdizione	territoriale	coteata	Corte
Appello	punto	MINISTRO	CASATI	

DI
STATO

69

0792

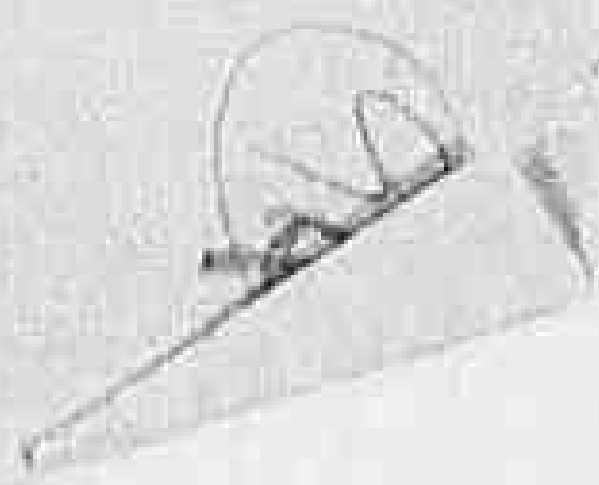
4001/2

GRAZIA E GIUSTIZIA

Ufficio Superiore del Personale e Affari Generali

Primo	Presidente	Corte	Appello	
MESSINA				
Seguito	intesa	Commissione	Alleata	
Controllo	resta	fermo	provvedimento	ritorno
completa	giurisdizione	territoriale	cotesta	Corte
Appello	punto	MINISTRO	CASATI	

63



89

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

25th March, 1944.

REFERENCE : AOC/4001/2/L.

SUBJECT : Courts in Region VI.

TO : R. I.O. (thru Regional Commissioner) Region VI.
(Attention Major Palmieri)

1. Your comprehensive report will be put before the C.I.O. on his return to this office Monday next.

2. At the request of this Sub-Commission the Minister of Justice is sending Proc. Gen. Comm. de Villa to study with R.I.O. and yourself the best means through which the Italian Government can help in relieving the situation.

3. It is hoped that Comm. de Villa will be able to reach his destination by air before the end of the month.

G. G. BATHFORD.
Major,
Officer i/c Italian Courts.

GGEI/vcm.

68

File 88

REOPENING OF THE ITALIAN COURTS IN CAGLIARI

1. The situation with respect to the Courts at Cagliari is substantially as follows :

None of the Italian Civilian Courts has functioned in this City since June, 1943. All attempts to reopen the Courts have so far proved fruitless. The Court of Appeal and the Office of the Procuratore Generale moved to Ozieri, a town difficult of access situated in north central Sardinia. The Tribunale and the Office of the Procuratore del Re moved to Isili, a town situated some 75 kilometers north-east of Cagliari. Practically all of the judges and court personnel moved their families and belongings to these places and established themselves in new homes. One of the difficulties in reopening the Courts of Cagliari is attributable to the considerable expense and inconvenience facing the court personnel in moving back to Cagliari. This City has suffered very extensively as a result of bombings. It has been seriously damaged, and the problems of housing and feeding are very acute. The fear of further bombings, widely entertained by Italians in this part of the Island, may also be a factor. The amount of useful work done by these Courts at Ozieri Isili and Sineu is open to question. The Prefect at Cagliari, Signor MOCCI, was vehement in condemning the Judges at the time of my interview with him on 14 March 44. He attributed to them a number of reasons for their failure to move back from their places of refuge. I am unable to appraise the value of the Prefect's opinion at this time. The Court officials with whom I have spoken are equally vehement in their criticism of the Prefect, and there is no doubt that the Prefect's relations with the judiciary have deteriorated to the point where they cannot deal with each other on a constructive basis. At any rate, difficulties of transportation and communication have rendered these places of refuge inaccessible to many persons having business before the Courts. The result is that there is a considerable backlog of work to be done by the Courts of Cagliari.

2. The situation affecting the administration of criminal justice is extremely grave. On 13 March 44, I visited the Cagliari Prison and conferred with Dr. Celeste Tulus, the Director.

- 2 -

Dr. Tului advised me that his prison population was 652. Of these, only approximately 20 were convicted prisoners and the rest awaiting trial. Those awaiting trial have been in jail for periods ranging from 20 months to shorter periods of time. In many cases of recent arrests, defendants have been given provisional liberty because no custodial facilities have been available. Dr. Tului stated that the Italian Military Authorities were sending him military prisoners to that jail. He made a very earnest request that I discuss the matter at Ozieri with the proper officials with a view to having the military prisoners handled in a separate jail of their own. I requested Dr. Tului to furnish me with a list showing the names of prisoners in his institution, the crime charged against each one, and the length of incarceration. While Cagliari Prison is not of modern construction, it is reasonably well-suited to its purpose, having a hospital and operating room, a library and school room, and separate wings for males and female prisoners. Mattresses are provided for the prisoners, and an attempt is made to provide a better ration for males and sick inmates. The food is reasonably good considering present dietary standards among the civilian population of Italy.

3. There is a very large Palace of Justice in Cagliari, of modern construction and design, which has been in the course of construction for approximately ten years. One wing of this building is still incomplete. The finished section of this building was visited by me on 11, 12 and 13 March 44. On two occasions I went through the building with Messrs. MAROTTA and VALENTE who are respectively, the Chief Engineer and Chief Architect assigned to the construction work at the building. I have also visited the building with Judge CARRIA, a member of the Tribunal, and have gone over the work with the chief carpenter contractor, Mr. PODDA. I have also visited the workshop of Mr. Podda with a view to devising a plan to speed up the work. The finished section of the Palace of Justice suffered damage from the bombings as well as from the subsequent looting. An attempt is being made, however, to reconstruct broken down doors and windowframes and procure the minimum amount of glass necessary to make the two to three floors usable in the near future for court purposes. The shortage of glass here is very critical. All of the Courts, with the exception of the Pretura, as well as the Offices of the Procuratore Generale and the Procuratore del Re, could be housed in these two

- 3 -

floors within the next three weeks. The work of making the lower floors usable would, of course, continue, and the lower floors occupied as soon as they can be made ready.

4. It is planned to house the Pretura in a school building known as the Istituto Pinter. I visited this building on 14 March 44, and conferred with the Capo Pretore LA VELA. It is hoped to have the Pretura resume its work in Cagliari at this building before the end of March, 1944.

5. I have had several conferences with Judge Cardia and one conference with the Prefect, with a view to assisting in the establishment of suitable lodgings and mess facilities for the judges and the court personnel. The Chief Engineer, Pazzotta, has agreed to install cooking facilities in the basement floor of the court building, which is clean, commodious and quite suitable for mess purposes. The Prefect has agreed to make cooking apparatus available and to see that the necessary rations are procured. Several apartments have been inspected by Judge Cardia and have been found suitable for occupancy, and a plan is being worked out to permit the sharing of housing facilities by the various members of the court personnel. The Prefect has agreed to carry out the necessary requisitioning.

6. The Conservatorio is a Convent School for Girls, situated at the top of a hill and difficult of access to persons without transport. According to correspondence which I have examined at the office of the Commission, and statements made to me by Judge Cardia and the Prefect, it appears that President VOLPE of the Court of Appeal at Cagliari has chosen this building as temporary quarters for the Tribunale. I found the building to be completely inadequate, even apart from its inaccessibility. Persons having business before the Court would find it necessary to go through part of the school premises as well as a small waiting room reserved for the Mother Superior. The rooms intended for the use of the Tribunale are small, badly lighted and damp, and joined by long, narrow hallways. The only room that could be used as a courtroom is a small assembly hall or "Teatrino". This room, however, is a means of access to the school premises when it is not used as an assembly hall,

- 4 -

and it is impossible to use it continuously as a courtroom if any part of the Convent is to be permitted to function as a school. At any rate, the glass that would have to be installed in the rooms reserved for the Tribunale is not available. I intend to recommend that the Tribunale be housed temporarily at the Palace of Justice. The Prefect, the Chief Engineer and Judge Cardia have all agreed that the choice of the Conservatorio as temporary quarters for the Tribunale was ill-advised. At any rate, totally apart from the reasons already set forth, it would be impossible to establish a separate mess for the Judges of the Tribunale. Inasmuch as the mess will be installed at the Palace of Justice, it will be expedient for the Tribunale to be there.

7. On 15 March 44, I went to Isili and conferred with President SANNA of the Tribunale and Substitute Procuratore del Re, MANCA. They both appeared ready and willing to return to Cagliari. A full calendar until 30 March 44 has already been posted, but there appears to be no reason why the Tribunale should not be installed at Cagliari by the first week in April. I suggested that one or two employees in the Chief Clerk's Office be sent ahead to Cagliari to make necessary arrangements for the moving and cleaning of furniture and for the installation of the necessary court records.

8. The Court of Assize has not functioned at Cagliari since the Court of Appeal moved to Ozieri. There are at least fifty cases awaiting trial before that Court, in which the instruction has been completed. There are at least as many which are still in the instructional stage and which will ultimately come before the Court of Assize. I was able to confer with the Instructional Judge DESAY at Isili, and to arrange with him a speeding up of the cases still in the instructional stage and which are to come before the Court of Assize. When I go to Ozieri, I hope to make the necessary arrangements to have the Court of Assize open at the earliest possible moment.

9. I intend to leave for Ozieri on 17 March 44 with a view to meeting President VOLPE of the Court of Appeal and Procuratore Generale SPALLANZANI. I expect to examine with them the entire situation regarding the reestablishment of the Courts at Cagliari and particularly (a) the office facilities to be assigned to the Courts (b) the plans for housing and feeding the Judges and the Court personnel and (c) the plans for speeding up the work of the Courts with a view

- 5 -

to eliminating the back-log of work, especially insofar as the Criminal Courts are concerned.

I will take with me a plan of the floor space which will be available at the Palace of Justice by 30 March 44, and I hope to effect an agreement with these gentlemen as to the minimum space which can be used by each of the Courts, and by the necessary agencies which will occupy the two floors at the Palace of Justice building.

(f) Process in Italian Courts.

No member of the Allied Forces may be prosecuted or tried in Italian Courts.

Extract File Ref 121/18/CA dated 23 Mar 41 from RC & MG Sect.

40072

(c) The agreement now reached with the Italian Government makes the rights of the Allied Forces in the Provinces of Ancona identical with their rights in the areas recently transferred from Allied Military Government to Italian Government.

3. The instruction emphasises that except where, in emergency, immediate action is required by the Allied Forces for their own protection and security, all action required from the Italian Administration should invariably be taken through the medium of the Regional or Provincial Commissioners.

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION ON
Legal Subcommittee
APO 394

GRU/gmf

86

ACC/4001/2/L

22 March 1944

SUBJECT: Cable.

TO : Adjutant General Department, ACC.

Request that the following cable be prepared.

RESTRICTED

ROUTINE

TO FARLE FOR CARR

FROM FATIMA FROM UPJOHN

MINISTER OF JUSTICE HAS STILL NOT RECEIVED ANY SIGNAL FROM ITALIAN
HIGH COMMISSIONER (YOUR AC103 ^{*dated 15 March*} REFERS) NOR ANY ANSWER TO SIGNAL FROM HIM
ON 18 March

PLEASE ASK ITALIAN HIGH COMMISSIONER TO FURNISH FORTHWITH FULL REPORT
ON COURTS (CIVIL AND MILITARY) AND PRISON SITUATION TO BE SENT DIRECT TO
MINISTER.

PROCURATORE GENERALE FROM MINISTRY OF JUSTICE PROCEEDING YOUR HQ
SOONEST TO ASCERTAIN STEPS TO BE TAKEN BY ITALIAN GOVERNMENT TO RELIEVE
POSITION.

G. R. UPJOHN, Colonel
Chief Legal Officer.

6

FEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

GGH/gmf

ACC/4001/2/L

20 March 1944.

SUBJECT: Directives requested.

TO : RLO (thru RC) Region 2.

1. Such directives as required by you appear to be exclusively a matter for the Italian Minister of Justice under the present set up, as it is not proposed to interfere directly with the administration of justice in restored territory. If such administration affected seriously Allied interests and the war effort, the fact should be reported at once to Hq ACC and ~~in turn~~ in turn taken up with the Ministry concerned.

2. The Law of 24/2/41, Capo II and specifically Arts. 429 - 434, and 447 of the Italian Code of Civil Procedure deal with suits between employers and employees, determine the jurisdiction and set out the procedure.

3. The Minister of Justice has been requested to forward recommendations to Italian Courts in connection with the procedure to be followed in cases of producers failing to comply with the "ammessi" regulations, with a view to continuing the policy of AMV in this respect.

G. G. HANNAFORD, Major
Officer i/c Italian Section
for Chief Legal Officer.

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

18 MAR 1944

1980

14 March 44

(84)

Ref: 2201/58/2

SUBJECT:-Directives requested

TO :-C.L.O. Legal Subcommittee ACC - SALERNO -

Ref the conversation Major Hannaford - Lt.Col.Cousins 4.3.44, might written instructions now please be received regarding.

1. Trial of suits between employees and employee for arrears wages, in the ordinary Italian Courts.
2. Procedure whereby the Italian Courts can continue the policy of AMG. Courts of compelling the amassing of grain by a fine and suspended sentence, followed by a later conviction for disobeying an order to amass.

D.E.S. Cousins
D.E.S.COUSINS.Lt.Col.
R.L.O.
REGION II

IN CLEAR

NOT GIVEN

SEARS FOR HANCOCK FOR SOSTITUTO SENTI AGRIGENTO
CITE RIT-54

FATIMA FOR REGGIO PRODUZIONE SALERNO

via teletype

Provasi rimettere penale di Mattei Pietro fu Giuseppe nato Santa Maria
constellabate 2 novembre 1 nove 20.

DISTRIBUTION:

1 - AG

1 - Legal Sub-Com - info

1 - Ministry of Justice - action

Please remit record of Mattei Pietro fu Giuseppe born at Santa Maria
Constellabate on 2 Nov 1920.

Letter by Mr. Henningsen 20/11/44

4001/2

79

MINISTERO DI GRAZIA E GIUSTIZIA

Protoc. N. 700

Risp. al foglio N. _____

del _____

P.M. 151-27 Novembre 1943

OGGETTO:
Comunicazione

✓ A S.E. il Primo Presidente della
Corte di Appello di

CATANIA

A S.E. il PROCURATORE GENERALE
presso la Corte di Appello di

CATANIA

Informo l'E.V. che un Consigliere degli Stati Alleati con funzioni consultive visiterà codesta Corte di Appello e risiederà presso di essa, allo scopo di facilitare i rapporti fra le Autorità Italiane e quelle degli Stati Alleati nonché di suggerire le eventuali soluzioni nei casi dubbi.

Sono sicuro che presterete la più cordiale assistenza ai suddetti Consiglieri.

IL SOTTOSEGRETARIO DI STATO

(Giuseppe de Santis)

57

8/10/44

del
OGGETTO:
Comunicazione

/ A S.E. il Primo Presidente della
Corte di Appello di

CATANIA

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IL SOTTOSEGRETARIO DI STATO
(Giuseppe de Santis) 57

de Santis

4001/2

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

1737

16 Feb 44

Ref: 2201/54/B

Subject: Italian Courts

Recd 4/3/44

To : Chief Legal Officer,
Legal Sub-Commission ACC, Brindisi

Ref your ACC/L/111 of 17 Jan. all the Italian Courts in the Province of Catanzaro comprised in the list sent to you on 5 Jan are functioning.

D. B. S. Cousins

D. B. S. COUSINS, Lt. Col.
ACLC
Region II

56

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

2 March 44.

Ref: 2201/60/1

SUBJECT:- Report on Apulia.

TO :- C.I.O. Legal Subcommission ACC. - SALERNO -

The following is a report on the Legal Situation in Apulia, based on a preliminary severity made by Major FRANKLIN, Liaison Officer to the Court of Appeal at Bari.

In the time at his disposal, only a general picture can so far be given.

A) Main features of the situation:

The impression conveyed by certain PC's, of an unlimited number of serious cases affecting Allied interests, which only await trial, is probably much exaggerated.

Theft is rife, and on the increase, is mostly in the Docks of the Sea ports, and in such numbers as to be serious as a whole.

There are also a certain number of more serious cases which are being investigated.

Insofar as the Italian Courts have tried cases, there has been great delay, sentences imposed have been insufficient to be deterrent, and there has been neither notification to ACC of their forthcoming hearing, nor later of the results of the trials.

For instance, at Taranto Major FRANKLIN was shown a list of 250 persons accused of offences involving Allied interests during the period October - March, and at Brindisi a list of 300.

Only ten the former, and four of the latter had been reported to the Military. The Procuratore del Re is now preparing a report on what has happened in these cases.

It is not imagined that much has.

B) Causes underlying the existing situation.

These are not due to the Italian Courts having failed to reopen in general. All the Tribunali in Apulia are open, and most of the Praetors Courts. There are Italian Military Courts at Bari, Taranto and Lecce. There is no deliberate intent to sabotage the war effort.

But the predominating defect lies in the total absence

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These are not due to the Italian Courts having failed to reopen in general. All the Tribunali in Apulia are open, and most of the Praetors Courts. There are Italian Military Courts at Bari, Taranto and Lecce. There is no deliberate intent to sabotage the war effort.

But the predominating defect lies in the total absence hitherto of any effective Liaison between ACC. and the Italian Judicial and Police authorities. And therefore.

- (1) Efforts of the Italian Courts are lukewarm.
- (2) Suspended sentences have been too frequent.
- (3) There has been shortage of judicial Staff.
- (4) The hours spent by judges in adjudicating are otiose in general - these average an elastic 8 am 2pm.
- (5) Many cases have been suspended because the Military did not comply with technical requirements of Italian Law of which they were unaware - eg an autopsy in any case murder -, and in others, did not provide the requisite witnesses and evidence.

- 2 -

- (6) provisional liberty has been lavishly granted to persons charged with offences against the Allied interests.

C) Recommendations.

In default of AMG. Courts, it is requested that the question of trial of cases affecting Allied interests by Italian Military Courts may be examined. Such a procedure would involve a reciprocal agreement with the Italian Government as laid down in Article 15 of the Italian Military Penal Code of War.

It is submitted that such would not be infradig, since it would merely involve trial of eg soldiers, merchant seamen, and camp followers by British or American Courts Martial for any offences against Italian Military interests - eg thefts of Italian equipment.

The great advantages of such a procedure would clearly be, that ipso jure, offences against Allied interests would rank as serious as those against Italian Military interests in time of war, and would receive far heavier sentence and speed of trial.

If adopted, the Admiral Presidente of the Military Court Taranto volunteered to appoint a special officer to investigate such cases and give them priority.

Apart from the above general recommendation, others in particular are:

- (1) The posting temporarily of Legal Liaison Officers in the 4 towns where crime is rife, and where there are SIB personnel, namely Bari, Barattella, Taranto and Brindisi. When matters are in train, these could be reduced in number.
- (2) That ACC. advise the Ministry of Justice as follows:
 - (a) To appoint Staff to fill all vacancies in judicial personnel.
 - (b) To require longer hours for the functioning of the Courts.
 - (c) To require the Procuratore del Re to submit every Saturday to the Liaison officer concerned, a report on all cases involving Allied interests tried in the preceding week, and a list of those dated for trial in the ensuing week.
 - (d) To instruct the Court of Appeal Bari to appoint an examining judge and sostituto procuratore in each of the four circondari, to handle cases against the Allied alone.
 - (e) To ensure that such cases receive priority of trial and that they be tried in the Tribunale and not the Practors Court.
 - (f) To prohibit the granting of libertà condizionale in such cases without reference to the Liaison officer, and the infliction

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 - (e) To ensure that such cases receive priority of trial and that they be tried in the Tribunale and not the Prattori Court.
 - (f) To prohibit the granting of libertà condizionale in such cases without reference to the Liaison officer, and the infliction of suspended sentence except in exceptional circumstances.
 - (g) To ensure that Procuratore del Re avail themselves of the need power contained in Article 244 CP of dispensing with the need for charges to be handed in within 24 hours, where an arrest has been made by the Allied Police.
- (3) That instructions be issued to the effect that:
 - (a) Even though Allied witnesses have been examined by the SIB etc. these will also appear before CC.RR. or other Italian police for such verbal or interrogatori as are required by Italian law. This is necessary since Allied police reports do not always supply what is needed thereunder.

- 3 -

- (b) No civilian prison accomodation be requisitioned. Such has happened at Bari and Taranto, and is in contemplation at Brindisi. Prison accomodation presents a very serious problem.

D) Ruling required.

Under Italian Law, a 'parte lesa' is required to be cited in most prosecutions. Where an individual has been dammified, clearly he is the parte lesa.

But where there is no such party, eg in thefts of mailbags or dismantling of Allied tanks, who is to be cited as the parte lesa? Though academic, the question involves a principle of high policy, since that party submits to the jurisdiction of the King of Italy.



D.E.S. COUSINS. Lt. Col.
R.L.O.
REGION II.

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D.E.S. Cousins

D.E.S. COUSINS. Lt. Col.

R.L.O.

REGION II.

50

C I V I L I A N C O U R T S

B A R I
(Court of Appeal)

L E C C E
(Section of Court of Appeal)

LECCE	<u>TRIBUNALS</u>		LUCERA
	<u>BRINDISI</u>	<u>TRANI</u>	
	<u>PRETORS COURTS</u>	<u>PRETORS COURTS</u>	
Alessiano	! Brindisi	! Andria	! 11 Pretors
Campi Salentina	! Fasano	! Barletta	! Courts
Casaruno	! Francavilla Fon.	! Bisceglie	
Galatina	! Mesagne	! Canosa di	
Gallipoli	! Ostuni	! Puglia	
Lecce	! S. Vito	! Corato	
Maglia		! Minervino	
Nardò		! Murge	
Otranto		! Molgetta	
Tricase		! Ruvo di	
Ugento		! Puglia	
		! Spinazzola	
		! Trani	

M I L I T A R Y C O U R T S

B A R I

T A R A N T O
L E C C E
(Section)

52

63

TRIBUNALE CIVILE E PENALE DI SALERNO

OGGETTO = Sgombrò Archivio Tribunale.

N.45

Salerno, 26 febbraio 1944

A S.E. IL MINISTRO DI GRAZIA E GIUSTIZIA

S A L E R N O

Vi è noto, Eccellenza, che, per la sistemazione dei Ministeri in questo Palazzo di Giustizia e della Commissione di Controllo, l'ufficio fu costretto fin dallo scorso dicembre a sgombrare quasi tutti i locali ed adattarsi in pochi altri, insufficienti al minimo funzionamento dei servizi. In quell'occasione si era consentito di lasciare in una delle stanze del II° piano tutto il materiale dell'Ufficio espropriazioni. Senonchè ieri, senza alcun preavviso, a fine di sgombrare gli scaffali, tutti gli atti e registri di detto ufficio espropriazioni sono stati rimossi e lasciati nel corridoio.

Mentre si stava provvedendo a raccogliere il tutto e trovare altra sistemazione, stamane, è perverso, a mezzo dell'appaltatore dei lavori, un'ordine da parte del Comando Alleato di sgombrare tutto l'archivio esistente nei locali a pianterreno entro le ore 14 di oggi.

Trattasi di un'enorme quantità di registri, tra cui quelli dello Stato Civile dal 1865 ed altri atti che è impossibile poter trasportare nello spazio di tempo assegnato e sistemarli in modo qualsiasi in altro posto; a meno che non si vogliano mettere nei corridoi, esposti al pericolo di sottrazione e manomissione.

Sono costretto, quindi, ad informarVene, Eccellenza, perchè Vogliate interporre la Vostra Autorità per la revoca dell'ordine o almeno procurare l'assegnazione di qualche locale in cui sistemare il materiale archivi-

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Con ossequi.

IL PRESIDENTE
f/to: illeggibile

62

APPUNTO PER LA COMMISSIONE ALLEATA DI CONTROLLO

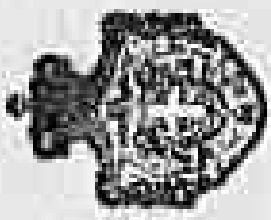
O G G E T T O : Archivio Notarile Distrettuale di Salerno.

Il Conservatore dell'Archivio Notarile di Salerno fa presente che degli atti del suo Archivio circa 3000 volumi, residuo di quelli già trasportati a Cava dei Tirreni e distrutti in parte per saccheggio, sono attualmente, per cortese interessamento delle Autorità Alleate, alloggiati nei locali dell'Archivio di Stato al largo Vecchia Corte d'Assise; oltre 30 mila volumi sono invece, ancora nella sede dell'ufficio al Palazzo di Giustizia.

La situazione attuale di dispersione dei volumi fra i locali suddetti, siti a distanza l'uno dall'altro, intralcia notevolmente il lavoro d'ufficio, ormai ripreso dopo la liberazione.

Il Conservatore proporrebbe, perciò, che i tre ambienti del Palazzo di Giustizia ove già si trovano gli atti ed i relativi scaffali e che, pur essendo a disposizione della Commissione Alleata di Controllo, sono praticamente inutilizzabili per la stessa esistenza degli atti e degli scaffali, fossero restituiti all'Archivio che avrebbe agio di sistemare convenientemente sia gli atti che ora si trovano nell'Archivio di Stato sia il personale. In tal modo si renderebbero liberi i due locali dell'Archivio di Stato attualmente occupati dall'Archivio Notarile.

Il Conservatore fa poi presente che con la sistemazione da lui proposta l'Archivio avrebbe un accesso indipendente (cancello di servizio).



MINISTERO DELLE FINANZE

Dir. Gen. Tasse e II. II. sugli Affari
N. 370

Risposta alla lettera

N. _____ del _____

OGGETTO

Conservatoria dei registri
Immobiliari di Salerno-
Locali.-

Salerno, 14 Settembre 1944

AL COMANDO MILITARE ALLEATO

SALERNO

URGENTISSIMA

Il Signor Intendente di Finanza segnala che oggi alle ore 14 dal portiere del Palazzo di Giustizia è stato comunicato al Sig. Ispettore gerente della locale Conservatoria dei Registri Immobiliari l'ordine verbale di sgombrare nelle 24 ore dei terreni del palazzo stesso di giustizia ove sono custoditi i registri della detta Conservatoria.-

Già il detto Ufficio, per aver dovuto cedere i locali all'ultimo piano dello stesso edificio in cui aveva sede, lasciare i registri negli scantinati dello stesso palazzo e ridurli in un vano dell'Intendenza di Finanza, ha dovuto notevolmente ridurre il proprio funzionamento con gravissimo danno per gli interessi del pubblico; ma ora, se dovesse lasciare gli scantinati, dovrebbe sospendere del tutto un servizio indispensabile per la tutela giuridica della proprietà.-

Poichè non si ha modo di provvedere a sistemare altrove i detti registri e tanto meno di urgenza e trattasi di uno dei più importanti e delicati servizi che l'Amministrazione disimpegna, si prega vivamente di volere revocare la data disposizione circa lo sgombrare dei sotterranei e lasciare liberi i locali occupati all'Intendenza.

Locali.-

Il Signor Intendente di Finanza segnala che oggi alle ore 14 dal portiere del Palazzo di Giustizia è stato comunicato al Sig. Ispettore gerente della locale Conservatoria dei Registri Immobiliari l'ordine verbale di sgombrare nelle 24 ore dei terreni del palazzo stesso di giustizia ove sono custoditi i registri della detta Conservatoria.-

Già il detto Ufficio, per aver dovuto cedere i locali all'ultimo piano dello stesso edificio in cui aveva sede, lasciare i registri negli scantinati dello stesso palazzo e rifarsi in un vano dell'Intendenza di Finanza, ha dovuto notevolmente ridurre il proprio funzionamento con gravissimo danno per gli interessi del pubblico; ma ora, se dovesse lasciare gli scantinati, dovrebbe sospendere del tutto un servizio indispensabile per la tutela giuridica della proprietà.-

Poichè non si ha modo di provvedere a sistemare altrove i detti registri e tanto meno di urgenza e trattasi di uno dei più importanti e delicati servizi che l'Amministrazione disimpegna, si prega vivamente di volere revocare la data disposizione circa lo sgombrare dei sotterranei e lasciare liberi i locali occupati all'ultimo piano in modo che possa essere ripristinato il regolare funzionamento dell'imponente Ufficio.

IL MINISTRO

Guido

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

57
GRU/gmf

21 February 1944.

ACC/4001/2/L

SUBJECT: Committee of Public Safety - Potenza.

TO : RLO Region II.

Ref my signal No. 2300 of 13 Feb 1944 I have received a report from Capt Brown the temporary LO at Potenza on the a/m subject.

I regret that he does not appear to have sent you a copy for which please accept my apologies and I send you one herewith for your use.

G. R. UPJOHN
Colonel
Chief Legal Officer

48

At Upjohn

Thank you. There is
no need to trouble
you personally, but
it would help me at
some time if I might
speak to one of your clerks
in order that I may
clear my own mind as
to the many forms of
epurizations.

28.2.46

S

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ART/gmf

(46)

file

11 February 1944

ACC/14001/2/1

Subject: Judicial Archives

To : H.E. The undersecretary of State
Ministry of Pardon and Justice.

Our attention has been drawn to the presence of judicial archives in the locale at present occupied as a store room by the Military Government Services on the ground floor of this building and it suggested that these be removed to a safer place as soon as possible, as has already been done in the case of the Notarial Archives.

A.R. THACHIRAH
Major
for Chief Legal Officer.

Copy to Lieutenant. ACC

46

BEST COPY POSSIBLE

CONFIDENTIAL
ALLIED MILITARY GOVERNMENT
ITALY SUBCOMMISSION

4-1

24 January 1944.

MEMORANDUM:

SUBJECT: Conference at Potenza on 20-21-22 January 1944.

TO : C.I.G., U.S., A.C.O., British.

1. Pursuant to your instructions, I attended a conference at Potenza on 20 January 1944 at the office of Captain Rety, Legal Officer, Colonel Comandante, and Sig. Rotunno were present. I attended several other conferences on the succeeding two days at Potenza with other persons. I will take up certain matters which you outlined in your letter of instructions of 27 January 1944 addressed to Major Hunsford.

GIACOMO VITA

2. The opposition to Vita is based largely on the statements of Sig. Rotunno, a member of the Bar at Potenza. Captain Rety stated that he had full confidence in this gentleman's opinions. I believe the various statements made by Region 2 officers concerning Vita had been inspired by opinion expressed by Sig. Rotunno.

3. Sig. Rotunno's objection to the appointment of Giacomo Vita was explained in a letter which he handed me for delivery, if possible, to his friend and colleague, Under-Secretary of the Interior Vito Reale, who comes from Potenza. A copy of this letter is attached to this report. It states, in substance, the following:

- (a) That the father of Vita avoided the payment of his just debts and was a man of scant moral rectitude.
- (b) That the brother of Vita was high in Fascist circles, was unscrupulous in business dealings, and was the object of an "assassination" by the Allied Public Security Committee (of which Sig. Rotunno was a member).
- (c) That another brother of Vita employed in a Ministry, was convicted for conversion of State funds and corruption notwithstanding Fascist protection.
- (d) That there are rumors concerning acts of favoritism and corruption on the part of Vita when he was a member (for several years between 1930 and 1935) of the Commissione Ufficiali at the special court having jurisdiction over cases concerning the liquidation of former rights derived from feudal titles and the right to cut wood in forests, and rights of pasture.

4. It will be noted that none of the information offered

GIACOMO VITA

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3. Sig. Rotunno's objection to the appointment of Giacomo Vita was explained in a letter which he handed in for delivery, if possible, to his friend and colleague, Under-Secretary of the Interior, Vito Reale, who came from Potenza. A copy of this letter is attached to this report. It states, in substance, the following:

(a) That the father of Vita avoided the payment of his just debts and was a man of about moral rectitude.

(b) That the brother of Vita was high in Fascist circles, was unscrupulous in business dealings, and was the object of an investigation by the Allied Public Security Committee (of which Sig. Rotunno was a member).

(c) That another brother of Vita employed in a Ministry, was convicted for conversion of State funds and corruption notwithstanding Fascist protection.

(d) That there are rumors concerning acts of favoritism and corruption on the part of Vita when he was a member (for several years between 1930 and 1943) of the Consiglio dei Ufficiali at the special court having jurisdiction over cases concerning the liquidation of former rights derived from feudal institution and the right to cut wood in forests, and rights of pasture.

4. It will be noted that none of the information offered by Rotunno was of a precise nature, and that most of it concerned Vita himself.

43

5. At the time of my second interview with Sig. Rotunno in May 1944, I pointed this out to him. He replied that Vita was rendered untrustworthy by the conduct of his own men about the professional integrity of a man in fact. Sig. Rotunno kept at one point and spoke of the necessity of removing the Fascist element from Italy.

6. Sig. Rotunno informed me at the second interview that an ex-Comissario di Pubblica Sicurezza was in the city and had personal knowledge concerning the correct manner of removing a member of the Court at No. 12.

40

I arranged to see Bruma later that day. Bruma's request, I arranged to have the presence of O'Leary, Gianni, join the meeting. Both these men had heard the rumors that were alluded to by Sig. Romano in his letter, and said that they believed there was a file in the Bureau at the time dealing with the matter. After several telephone calls to the Bureau, Gianni advised me that it would take several hours to make the search and that he would report to me the next day, 22 January 1944. The search proved fruitless, however. The only file that could be found at the Bureau dealt with a brother of Giacomo Vita. It is interesting to note that this man was formerly connected with C.V.R.A. at Naples and was removed from his position as a police official by the Allied Military Government.

8. There was a third conference with Sig. Romano at which Captain Vita was present on the afternoon of 22 January 1944. I presented both parties for specific facts concerning Vita's Fascist activities. I pointed out to Captain Vita that Major Macdonald had referred to Giacomo Vita as one of the most prominent Fascists in Southern Italy. It developed from our discussion that it was fairly certain that Giacomo Vita was an unrolled member of the party. Since Giacomo Vita had spent most of his time in Bari and Naples, Sig. Romano had practically no personal knowledge of Vita's activities. There was nothing to indicate that Vita had occupied any position whatever in the Fascist circles either of an honorary or a proprietary nature. Both Captain Vita and Sig. Romano placed great emphasis on the fact that the brothers of Vita in Rome had been active in the Fascist movement and that one of them had been the last Fascist leader at Rome.

9. In connection of these conferences concerning Giacomo Vita was that his family name was born as closely allied with Fascist activities through the prominence of his brothers, that his appointment by the Ministry of Justice would not be favorably received at either Rome or, probably, elsewhere.

10. With regard to the report of the rumors concerning Vita's alleged corruption in his judicial capacity, an investigation at Bari would have to be undertaken.

REPORT ON THE MATTER

11. Colonel Manning and Captain Vita stated that they had no objection to the transfer of Vita's appointment by the Ministry of Justice in his letter of 15 January 1944. I conferred with the Inspector General, Bruma, and the Justice Department at the Ministry. The former said that investigation had been committed to the Justice Department and the latter had been chosen without regard to the law. The latter, having come to his office very recently, knew nothing about the matter.

REPORT ON THE MATTER

12. Colonel Manning stated that he believed the matter had already been satisfactorily dealt with. He agreed that the Justice Department should be kept advised of the Court of Appeal at Bari.

0826

8. There was a third conference with Sig. Rotundo at Naples on 22 January 1944. I received both parties and was present on the afternoon of 22 January 1944. I pointed out to the specific facts concerning Vita's alleged activities. I pointed out to the fact that Sig. Rotundo had referred to Captain Vita as one of the most prominent fascists in Southern Italy. It developed from our discussion that it was fairly certain that Giacomo Vita was an enrolled member of the party. Since Giacomo Vita had spent most of his time in Bari and Naples, Sig. Rotundo had practically no personal knowledge of Vita's activities. There was nothing to indicate that Vita had committed any violation in connection with either of an honorary or a subsidiary means. Both Captain Vita and Sig. Rotundo placed great emphasis on the fact that the brothers of Vita in Potenza had been active fascists and that one of them had been the last fascist leader at Potenza.

9. In view of the fact that the above concerning Giacomo Vita was that his family name has been so closely allied with fascist activities through the prominence of his brothers, that his appointment by the Ministry of Justice would not be favorably received at either Potenza or, probably, elsewhere.

10. With regard to the report of the rumors concerning Vita's alleged corruption in his judicial capacity, an investigation at Bari could have to be undertaken.

REPORT OF THE BARI INVESTIGATION

11. Colonel Comins and Captain Ruff stated that they had no objection to the transfer of Judge Contarini by the Minister of Justice in his letter of 13 January 1944. I conferred with the Procurator General in Bari and the Institute Procurator del Re in Bari. The former said that irregularities had been committed at the Bari Court and the latter had been chosen without regard to the law. The latter, having come to his office very recently, knew nothing about the matter.

REPORT AND RECOMMENDATION

12. Colonel Comins stated that he believed the matter had already been satisfactorily dealt with. He agreed that the Bari Court should not go to Potenza and that the civil side of the Court of Appeal should stay at Bari.

RECOMMENDATION FOR THE REORGANIZATION OF THE COURT OF APPEALS AT POTENZA

13. This matter, like the Giacomo Vita matter, seems very largely from the view expressed to Captain Ruff by Sig. Rotundo. There are attached hereto the two alternative provisions of the plan submitted by Sig. Rotundo with the approval of a committee of lawyers. The first is to establish the Court of Appeals at Potenza as an autonomous court, entirely independent of the Court of Appeals at Naples. This would entail the court to remove jurisdiction over all appeals which now go to Naples from Potenza and would include the right to deal with all administrative and disciplinary matters.

39

13. In view of the burden of civilian turnover, Italian citizens find themselves unable to resort to the Court of Appeals and they are consequently deprived of their normal rights. While the Committee would prefer the establishment of the Italian Court of Appeals permanently as a separate court, the President of the Court, discussed when I conferred, believes that it should be established as a temporary measure pending the reestablishment of normal lines of communication and travel.

14. The second alternative proposal would give the Court of Appeals at Potenza administrative and disciplinary powers so that the delay and inconveniences attendant upon the necessity of communication with Naples could be obviated.

15. President Mammi pointed out that it may be necessary to revise the statute dealing with appellate procedure so that certain categories of cases, viz., industrial accidents, suits against departments of the government, could be handled on appeal at Potenza.

REPRESENTATIVE CASES

16. The request for the abolition of the Fascist courts was sent for the creation of judicial institutions dealing with civil and criminal cases. The request was sent by the Committee of Investigation for the Italian Republic and the Military Government at Potenza.

17. I conferred with Sig. Rotundo and Sig. Magliocco, who had been members of this Committee. The Committee has been receiving (since 22 Oct. 1943) complaints against officials of the Italian Social Republic and to undertake to arrange for the initiation of proceedings in the Italian courts where they considered that a prima facie case existed.

18. I examined a number of the files which were offered by the Committee as examples of cases to be dealt with and in which the accused persons were favored by amnesty provisions. All of these cases presented very slight hope of successful prosecution as they were from 1935 to 1939 and the declarations of witnesses, mostly perjured, were extremely vague and uncertain. I pointed this out to Sig. Rotundo who replied that the cases had been investigated by the Carabinieri, the were correct, and that on proper investigation the truth would undoubtedly come out.

19. I learned that the Committee had the benefit of the services of Postulate Prosecutors del Re Cassano, and I conferred with him in the evening of 22 January 1944. Sig. Cassano agreed that the cases which I had examined did not offer any hope for effective prosecution. He discussed at some length some more recent cases which represented flagrant instances of unjust discrimination and the other members of postulate prosecutors' persons especially in cases with the Italian Republic. Sig. Cassano had recently viewed the collection of a Dr. Defazio of Rome, who was once a prisoner. I examined the files in the Defazio case and found that the case was

0828

15. President Sargentini pointed out that it may be necessary to revise the statute dealing with appellate procedure so that certain categories of cases, viz., individual offenses, suits against dependents of the government, could be handled on appeal at Rome.

APPOINTMENT OF JUDICIAL FUNCTIONARIES

16. The request for the abrogation of the District Attorney Law and for the creation of 13 additional judges dealing with many petty offenses was suggested by the Committee of Investigation for Lands set up by the Allied Military Government at Rome.

17. I conferred with Mr. Botero and Mr. Magliocco, who had been members of this Committee. The Committee has been receiving (since 22 Oct. 1943) complaints against officials of the Italian rail code and was to undertake to arrange for the initiation of proceedings in the Italian Courts where they considered that a crime had been committed.

18. I reviewed a number of the files which were offered by the Committee as examples of cases to be dealt with and in which the accused persons were favored by security provisions. All of these cases presented very slight hope of successful prosecution as they were from 1938 to 1940, were old and the declarations of witnesses, recently reviewed, were extremely vague and uncertain. I pointed this out to Mr. Botero who replied that the cases had been investigated by the Carabinieri, who were corrupt, and that on proper investigation the truth would undoubtedly come out.

19. I learned that the Committee had the benefit of the services of Instituto Interiores del Rio Casone, and I conferred with him in the evening of 22 January 1944. Mr. Casone agreed that the cases which I had examined did not offer any hope for effective prosecution. He discussed at some length some more recent cases which represented flagrant instances of unjust enrichment and the other disregard of post-1 statutes, persons apparently in favor with the Fascist Regime. Mr. Casone had recently secured the conviction of a Dr. De Lino of Rome, who was said to have examined the files in the Del Rio case and conferred with the President of the Court of Appeals who had reviewed the matter. It seemed quite plain that Del Rio had previously escaped prosecution due to the intervention of Fascist officials. In conversation with this man I made preliminary studies of the ways to be taken and arranged with Captain Botero a method of procedure for investigating the acts of the local judges and local police officers at Rome.

20. In conclusion, the opinion which I formed in regard to the Del Rio case is as follows:

(a) That it is premature to request the abrogation of current Law at this time.

(b) That a few of the most flagrant cases of unjust enrichment and abuse of political power should be investigated and proposed for possible prosecution.

38

(c) That when these cases have been prepared in integrated plan should be submitted, not only for annulment of the amnesty laws and the suspension of the statutes of limitation, but for the trial of these cases.

(d) I suggested to Captain Rety that the Italian Government would undoubtedly take a great interest in this matter and might be prepared to set up a special office for the investigation and the prosecution of these cases, as well as a special tribunal to deal with them speedily. Captain Rety agreed that we should permit the Italian Government to explore the feasibility of setting up this special machinery; and that we would be in a position to deal more constructively with the problem at a later date after having gone into the cases indicated.

E. J. BARNETT, Major

42

ment to explore the feasibility of setting up a
and that we would be in a position to deal more constructively with the
problem at a later date after having gone into the cases indicated.

E. L. RABINOWITZ, Major

27

HEADQUARTERS
ALLIED CONTROL COMMISSION
(SALERNO DETACHMENT)
LEGAL SUB-COMMISSION
APO 394

3 February 1944

ACC/4001/2/L.

SUBJECT : Committee of Security.

TO : CLO, Region II.

1. The question of amnesty was fully discussed between Major Palmieri and the Minister of Justice and it was felt, rightly in my opinion, that the question of repealing various decrees of amnesty involved a very big political, juridical and social issue which could only be handled as part of general legislation dealing with unjust enrichment. Captain Pety who spoke to Colonel Upjohn on this matter when he was last in Naples agreed with this view.

2. As Region II is likely to be restored to the Italian Government within a few days it is not therefore proposed to press the Italian Government immediately to pass any legislation abolishing amnesty.

3. The Committees referred to in your letter of 13 SA will carry on with their investigations until restoration and it will then be a matter for the Italian Government to consider what further steps shall be taken. It will be quite in order for you to suggest to the Prefect that on restoration he should give a full account of the work of these committees to the Italian Government with such recommendations as he may be advised.

4. With regard to para 2 of your letter you will please forward to me as soon as possible all information on which you have the view that Fascist cells are forming, as such information is of vital importance to the work of the Commission.

5. With regard to para 4 (c) of your letter you will of course bear in mind that Proclamation 2, VII, (2) is not applicable to cases that have happened long ago and that detention under this section is only justified if the present acts or intentions of any person render his continuance at large prejudicial to the safety of the Allied Forces.

GEORGE R. UPJOHN,
Colonel,
Chief Legal Officer.

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LEGAL SUB-COMMISSION
A.P.C. 394

AMG/1007/2/1

SUBJECT : Italian Courts

20th January 1944

TO : G.L.G., H.Q., A.C.G., Brindisi.

Major Palmieri left a short note at this office requesting answers to the following questions :-

1. Members of Cassino Court of Appeal detached at Salerno

Major Macchione of Region II saw this section about it. The First President (who acted under the instructions of A.L.G. Messina) is not altogether to blame, as the difficulties of transport, archives, judicial personnel, etc., are great. Region I have been requested to contact Region II direct and endeavour to settle pending difficulties; copy of the correspondence to be sent to this H.Q. where the final decision will be taken, if "status quo" cannot be maintained. Previous correspondence between A.L.G. Messina and Officer i/c Italian Courts dealing with the unfortunate situation of Reggio Court and possible remedies is available at Salerno.

2. Irregularities committed by Judge of Court of Assizes at Salerno

This will be dealt with by Major Palmieri personally.

3. Separate Court of Appeal at Salerno

There exists a "lesione distaccata" from the Court of Naples at Salerno, at least technically. There is no reason whatsoever to create an independent Court at Salerno. It would only disrupt further the already sorely tried Italian judicial machinery.

4. Objection to the appointment of "Istituto Vita" as representative of the Italian Government.

Inquiries are being made at Salerno and it is suggested that H.Q., Region II should be contacted direct by you.

5. Agitation in Region II

Nothing is known in this respect at this H.Q.

HIGHWAY H. 11270,
Lt. Col. G.L.G.
Deputy Chief Legal Officer.

Copy to: AGO, (thru HMO) Region II.

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION II

8 Jan 44

Ref: 2201/14/52

Subject: Italian Military Courts

To : Chief Legal Officer, Legal Sub-Commission, A.C.C.

Ref your ACC/L/304 of 6 Dec there are no Italian Military Courts functioning in the Province of Potenza, any cases arising there being referred to Bari or Taranto.

Backhouse
P. BACKHOUSE
Major, RASC
ACLO

33

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION II

4025
29A
4 Jan 44
Noted by [unclear]
[unclear]

111
Ref: 2201/3/39

Subject: Committee of Investigation.

To : Chief Legal Officer, Legal Sub-Commission, AMG Naples.

1. Ref your AMG/4043/2/L dated 21 Nov., copy is enclosed of a report summarising the cases before the above Committee for Potenza on Dec 9.

2. The work of this Committee is greatly impeded by the amnesties formerly granted by the Fascist Government, and as work progresses it becomes more and more apparent that the great majority of the delinquents will not be able to be prosecuted under Italian law because of these amnesties.

3. Enclosed is copy of a proposal made by Avv. Rotunno, secretary of the Committee of Investigation, to the effect that these amnesties should be annulled by the Military Governor of Italy. Possibly however the Italian Government might give evidence of its good faith by itself annulling them.

P. Backhouse
P. BACKHOUSE
Major, RASC
ARCLO

1st Ind.

GEM/pjh

HQ AMG, Region II, APO 894, 6 Jan 44.

To: Chief Legal Officer, Legal Sub-Commission, AMG, Naples.

1. This committee in Potenza Province has been doing effective and valuable work. The fact that Anti-Fascist demonstrations and disorders have practically ceased in Potenza Province since this committee began its work is, in my opinion, indicative of its value. The people appear to have confidence in our desire to bring Fascist criminals to justice. We should certainly stultify ourselves, as well as lose the confidence of these people if we should permit these criminals to escape being brought to justice by virtue of decrees issued by their own fellow gangsters.

2. I therefore heartily endorse the suggestion that such amnesties be made null and void, by whatever authority may be deemed most desirable.

G. H. McCaffrey
G. H. McCaffrey
Lt. Col., Inf.
S.C.A.O.

663

TRANSLATION

The amnesties granted by the Fascist Government or the lapse of terms established by the Statutes of Limitation, which occurred during the Fascist Domination, (and also, during the subsequent period up until the Declaration of Peace) will be no obstacle for a reopening of penal proceedings on the ground that the Fascist Domination and the State of War must be considered as having impeded the citizen in the exercise of his right to invoke the justice.

A. M. G.
GOVERNO MILITARE ALLEATO
POTENZA PROVINCE

Art. 1 del decreto 1923.

1) E concessa amnistia per tutti i reati comunque determinati da movente politico o commessi in occasione di movimenti politici ovvero in agitazioni, competizioni, tumulti o conflitti dovuti a cause economiche sociali; quando, per essi, sia stabilita una pena restrittiva della libertà personale, sola o congiunta a pena pecuniaria o ad altre pene accessorie non superiore nel minimo a tre anni oppure sia comminata la sola pena pecuniaria.

Art. 1 del decreto 1925.

E concessuta l'amnistia per i reati determinati da movente politico o che abbiano comunque connessione con fini politici, escluso l'omicidio consumato, anche se preterintenzionale.
L'amnistia non si applica quando il reato sia stato determinato da motivi esclusivamente personali.

Art. 4 del decreto 1930.

Sono esclusi dai benefici concessi con le precedenti disposizioni coloro che, a tutto il 4 novembre 1922 - 41, si trovino sottoposti al confino di polizia o all'ammonizione, e coloro che, all'epoca del commesso reato, avessero riportato due condanne per delitti a pene detentive, qualunque sia la misura di esse.

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Art. 1 del decreto 1925.

E concessa l'amnistia per i reati determinati da movente politico o che abbiano comunque connessione con fini politici, escluso l'omicidio commesso, anche se preterintenzionale.

L'amnistia non si applica quando il reato sia stato determinato da motivi esclusivamente personali.

Art. 4 del decreto 1930.

Sono esclusi dai benefici concessi con le precedenti disposizioni coloro che, a tutto il 4 novembre 1932 - XI, si trovino sottoposti al confino di polizia o all'ammonizione, e coloro che, all'epoca del commesso reato, avessero riportato due condanne per delitti a pena detentiva, qualunque sia la misura di esse.

A M N E S T I E S

- 1) R.D. 31 October 1923 no. 2278.
Amnesties for crimes determined by political ideas or committed on occasion of political movements.
- 2) R.D. 31 July 1925 no. 1277.
Amnesties for crimes determined by political ideas or which had any connection with political scope.
- 3) R.D. 1 January 1930 Nr. 1.
Amnesty.
- 4) R.D. 5 November 1932 No. 1403.
Amnesty; on occasion of the decennial of Fascism.
- 5) R.D. 25 September 1934 no. 1511.
Amnesty
- 6) R.D. 19 February 1937 no. 55.77.
Amnesty
- 7) R.D. 24. February 1940 no. 56
- 8) R.D. 17 September 1942 no. 1155
Amnesty; on occasion of the twenty years years of Fascism.

3) R.D. 1 January 1930 Nr. 1.

Amnesty.

4) R.D. 5 November 1932 No. 1403.

Amnesty; on occasion of the decennial of Fascism.

5) R.D. 25 September 1934 no. 1511.

Amnesty

6) R.D. 19 February 1937 no. 56.77.

Amnesty

7) R.D. 24. February 1940 no. 56

8) R.D. 17 September 1942 no. 1155

Amnesty; on occasion of the twenty years years of Fascism.

A. M. G.

GOVERNO MILITARE ALLEATO

QUESTIONARIO

AI FASCISTI COLPITI DA SANZIONI DI POLIZIA

Il Governo Militare Alleato nel lavoro di epurazione politica è animato dal desiderio di evitare ingiustizie nelle sanzioni di polizia. Pertanto si pregano coloro, che credono di reclamare perché non soddisfatti della sanzione ad essi applicata, di rispondere ai seguenti quesiti.

Al Signor _____

1°) - Perché non ritenete adeguato il provvedimento di _____

(arresto, confino, ammonizione, diffida, ecc.)

a Voi applicato.

Risposta: _____

Il Governo Militare Alleato nel lavoro di epurazione politica è animato dal desiderio di evitare ingiustizie nelle sanzioni di polizia. Pertanto si pregano coloro, che credono di reclamare perché non soddisfatti della sanzione ad essi applicata, di rispondere ai seguenti quesiti.

Al Signor _____

1°) - *Perché non ritenete adeguato il provvedimento di* _____

(arresto, confino, ammonizione, diffida, ecc.)

a Voi applicato.

Risposta:

2) - Se non ritenete giusta la sanzione a Voi applicata al confronto con le sanzioni applicate ad altri fascisti, esprimete i motivi, offrendo le prove.

Risposta:

0843

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

60

3) - Se il Vostro giudizio la reazione Vi sembra ingiusta, perché non sono state colpite altre persone aventi collo uguali alle Vostre o maggiori, segnalate i nomi, se lo credete, indicando fatti e prove.

Risposte:

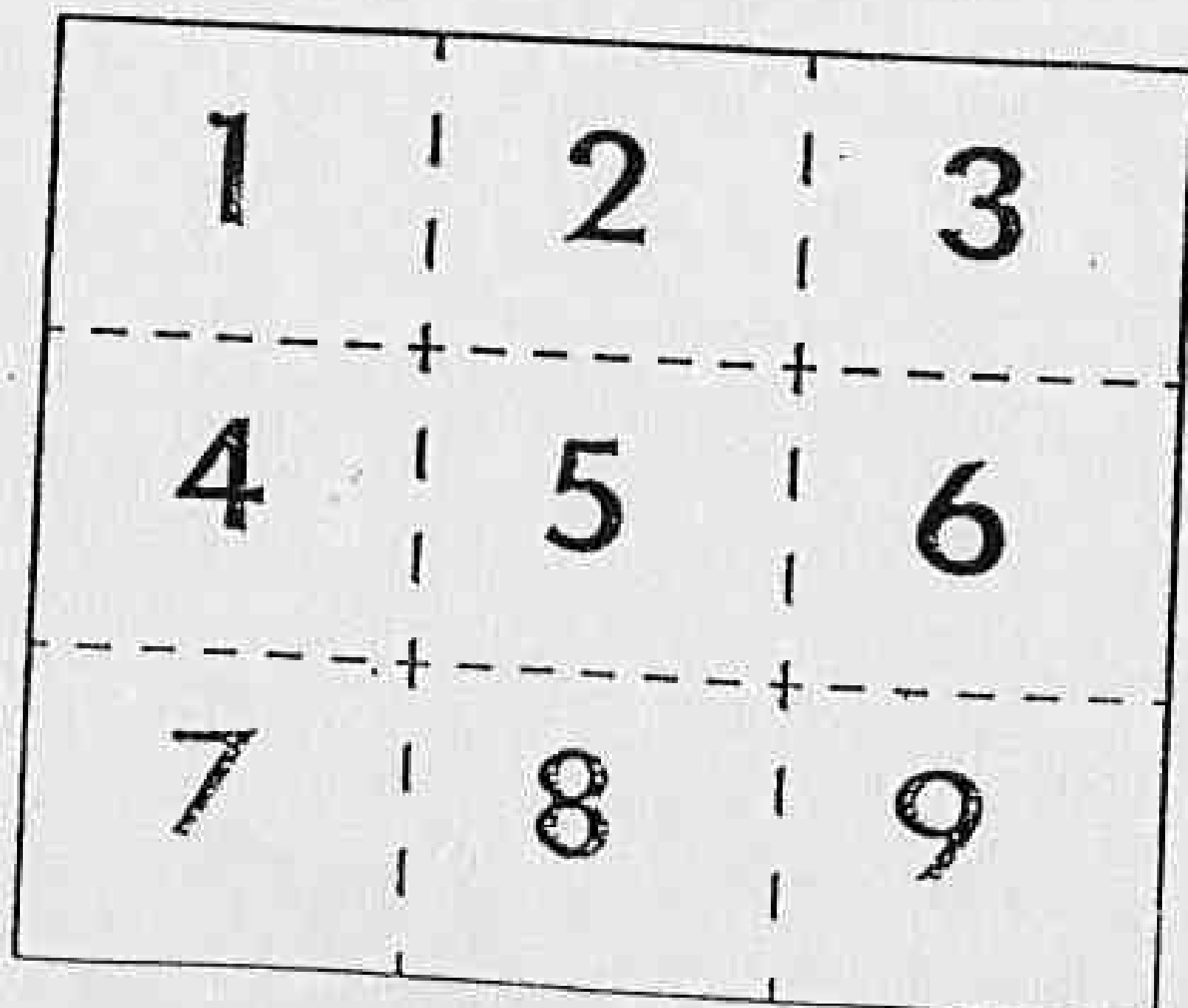
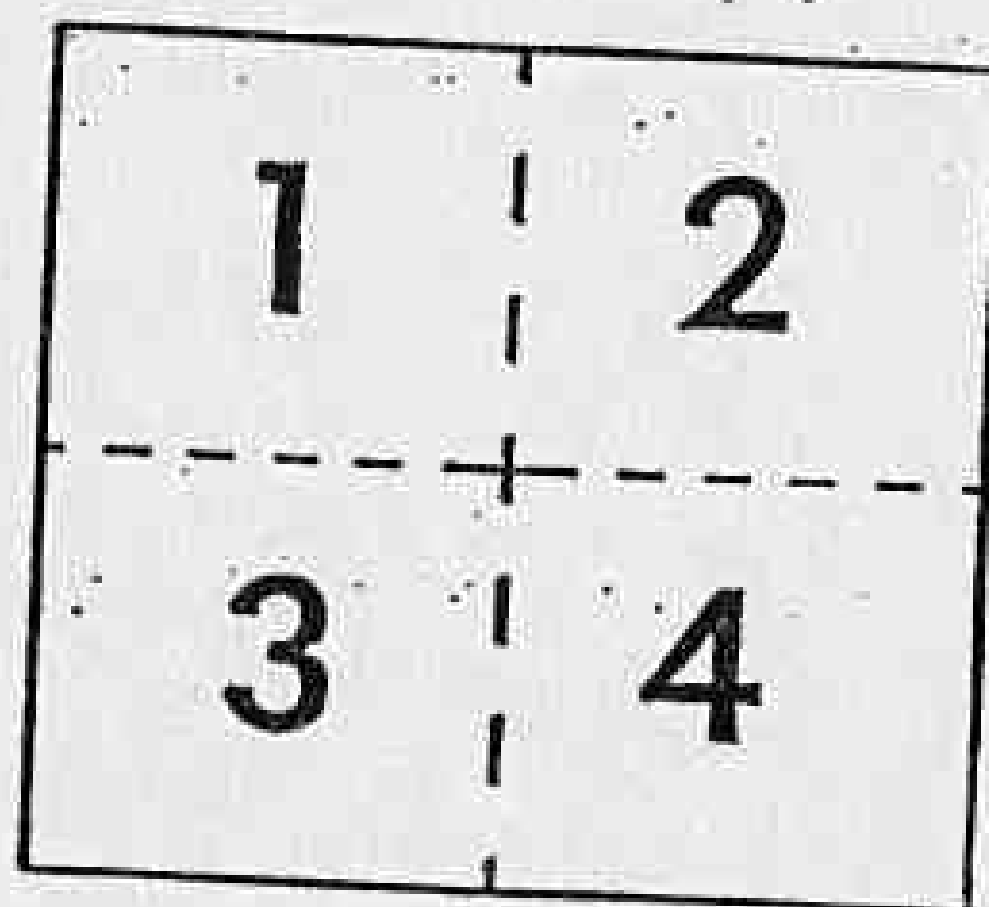
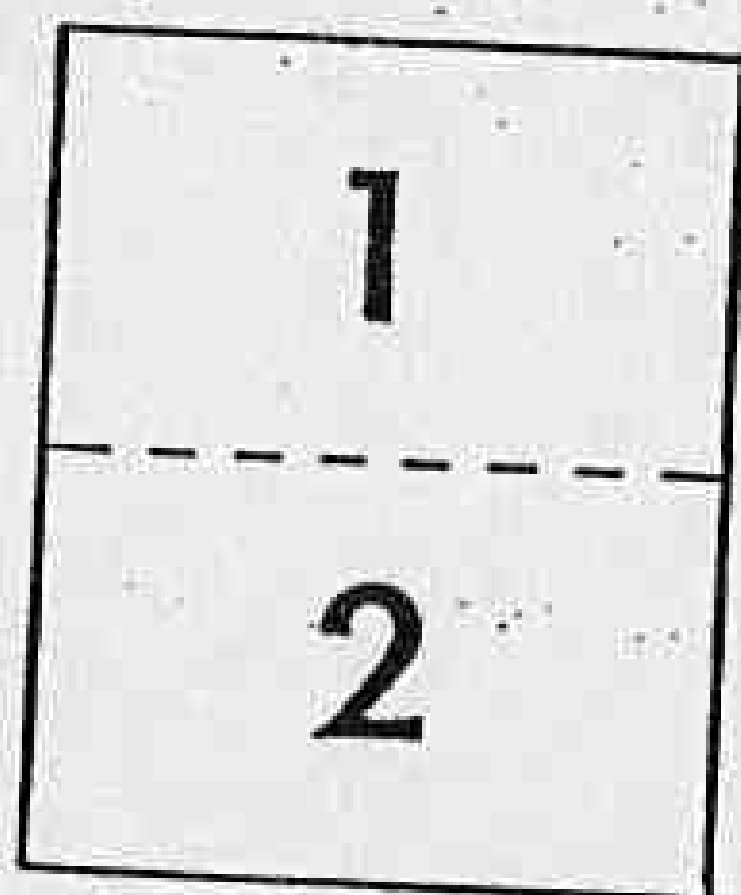
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FIRMA

Tipografia Nucci - Potenza

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ON ONE EXPOSURE ARE FILMED CLOCKWISE
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LEFT TO RIGHT, AND TOP TO BOTTOM.

SEE DIAGRAMS BELOW.



ALLIED MILITARY GOVERNMENT

32

NOTICE

Order Establishing Committee of investigation for Lucania

Whereas, it has come to the attention of the Allied Military Government that many offenders against the Italian Penal Code have escaped the penalties of the law by reason of the protection afforded them on account of their affiliation with the Fascist Party ;

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MILITARE ALLEATO

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AVVISO

(TRADUZIONE)

Ordine che stabilisce un Comitato di investigazione
per la Lucania

Poichè è giunto a conoscenza del Governo Militare Alleato che molti imputati contro il Codice Penale Italiano sono sottratti ai rigori della legge a causa della loro affiliazione al Partito Fascista;

E poichè è il sistema del Governo Militare Alleato di ristabilire la legge in Italia su una base di equa-

GOVERNMENT MILITARE ALLEATO

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(TRADUZIONE)

Ordine che stabilisce un Comitato di investigazione per la Lucania

Poichè è giunto a conoscenza del Governo Militare Alleato che molti imputati contro il Codice Penale Italiano si sono sottratti ai rigori della legge a causa della affiliazione al Partito Fascista:

E poichè è il sistema del Governo Militare Alleato di ristabilire la legge e l'ordine in Italia su una base di eguaglianza.

Order Establishing Committee of investigation for Lucania

Whereas, it has come to the attention of the Allied Military Government that many offenders against the Italian Penal Code have escaped the penalties of the law by reason of the protection afforded them on account of their affiliation with the Fascist Party;

And whereas, it is the policy of the Allied Military Government to reestablish law and order in Italy on a basis of equality and impartiality.

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Therefore, there is hereby established a committee to be known as The Committee of Investigation for Lucania which committee shall be hereafter referred to as The Committee.

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REALE VITO fu Giuseppe, ROTUNNO GIUSEPPE di Antonio, DI NAPOLI ATTILIO fu Nicola are hereby appointed members of The Committee. The Regional Legal Officer of the Allied Military Government shall be, ex officio, a member

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E poichè è il sistema del Govern-
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I.

Perciò, con la presente viene cre-
comitato, denominato Comitato di In-
gazione per la Lucania, il quale co-
sarà chiamato d'ora in avanti Il Com-

II.

Fanno parte di esso i Signori: R-
VITO fu Giuseppe, ROTUNNO GIUS-
fu Antonio, DI NAPOLI ATTILIO
cola, i quali, a mezzo della presente
nominati membri del Comitato. L'Uf-
Legale Regionale del Governo M-
Alleato sarà, ex officio, un membr-
Comitato.

III

Ordine che stabilisce un Comitato di investigazione per la Lucania

Poichè è giunto a conoscenza del Governo Militare Alleato che molti imputati contro il Codice Penale Italiano si sono sottratti ai rigori della legge a causa della affiliazione al Partito Fascista;

E poichè è il sistema del Governo Militare Alleato di ristabilire la legge e l'ordine in Italia su una base di eguaglianza.

I.

Perciò, con la presente viene creato un comitato, denominato Comitato di Investigazione per la Lucania, il quale comitato sarà chiamato d'ora in avanti Il Comitato.

II.

Fanno parte di esso i Signori: REALE VITO fu Giuseppe, ROTUNNO GIUSEPPE fu Antonio, DI NAPOLI ATTILIO fu Nicola, i quali, a mezzo della presente, sono nominati membri del Comitato. L'Ufficiale Legale Regionale del Governo Militare Alleato sarà, ex officio, un membro del Comitato.

Committee shall be hereafter referred to as The Committee.

II

REALE VITO fu Giuseppe, ROTUNNO GIUSEPPE di Antonio, DI NAPOLI ATTILIO fu Nicola are hereby appointed members of The Committee. The Regional Legal Officer of the Allied Military Government shall be, ex officio, a member of The Committee.

III

The principal duty of The Committee shall be to receive, consider and arrange for the initiation of proceedings in the Italian Courts against offenders of the Italian Penal Code, who, on the basis of complaints, filed with, or investigations made by The Committee, are believed to be prima facie guilty.

IV

All Italian judicial officials will continue their normal functions without regard to the activities of The Committee, except that any case referred to the judicial officials by The Committee shall be investigated and tried with the least possible delay.

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Le funzioni principali del Co
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imputati del Codice Penale Italiano.
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a seguito di istruzione fatta dal Co
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Tutti i funzionari giudiziari ital
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III.

Le funzioni principali del Comitato sono le seguenti: ricevere e prendere in esame le denunce, e stabilire l'inizio dei procedimenti nelle Corti Italiane contro gli imputati del Codice Penale Italiano, i quali, sulla base di denunce presentate, oppure a seguito di istruzione fatta dal Comitato, possono essere ritenuti colpevoli a prima vista.

IV.

Tutti i funzionari giudiziari italiani devono continuare le loro funzioni normali senza riguardo alle attività del Comitato, eccetto che qualsiasi causa riferita ai funzionari giudiziari dal Comitato sarà investigata e messa sotto processo con il meno possibile indugio.

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By order of

Maj. MARK Dew. HOWE

Chief Legal Officer, Region 2

BYRD F. PATY

Captain, Legal Officer, Lucania

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Mag. MARK Dew. HC
Capo Ufficiale Legale, Region

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Capitano, Ufficiale Legale, Lu

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Per ordine di

Mag. MARK Dew. HOWE

Capo Ufficiale Legale, Regione 2

BYRD F. PATY

Capitano, Ufficiale Legale, Lucania

22 Apr. 1943

SEZIONE DI CORTE DI APPELLO IN

POTENZA1° PROVVEDIMENTO

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Dal punto di vista dell'interesse generale delle popolazioni della Lucania (Regione vasta e montuosa), è desiderabile che la Sezione di Corte di Appello venga elevata a Corte Autonoma, per poter giudicare le cause di lavoro, le cause di infortuni sul lavoro, le cause erariali ed altre simili, che ora spettano esclusivamente alla Corte Autonoma di Napoli.

Negare la competenza alla Sezione di Potenza in questi tempi per le cause innanzi cennate equivale ad un rifiuto di giustizia al popolo, perchè non è possibile, se non ai ricchi, recarsi più volte a Napoli per curare i processi giudiziari.

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SCHEMA DEL PROVVEDIMENTO

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SCHEMA DEL PROVVEDIMENTO

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10.11.1941. - *McCarthy*

Viste le esigenze pratiche della giustizia in rapporto alle difficoltà materiali create dalla guerra,

Poichè risponde ai principi della democrazia

avvicinare la funzione della giustizia al popolo e specialmente alle classi più disagiate,

o r d i n o

che la Sezione di Corte di Appello attualmente funzionante a Potenza sia elevata al grado di Corte Autonoma della Lucania,

e d e l e g o

all'Ufficiale degli Affari Legali dell'A.M.G. in Potenza i poteri necessari per la completa attuazione del presente ordine, anche in rapporto al per sonale ed al riordinamento delle circoscrizioni territoriali.

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La Commissione per gli affari di giustizia nominata dalla Giunta della Concentrazione antifascista.

Ritenuto essere esigenza fondamentale ed innegabile di ogni vera democrazia avvicinare la giustizia al popolo e renderla facilmente accessibile a chi chiede la restaurazione del diritto violato;

Ritenuto che la legislazione fascista, ispirandosi al principio autoritario e contrapponendo il potere dello stato alla libertà dei singoli componenti l'aggregato sociale, in aperte violazione delle norme dello statuto, pervenne al risultato di distogliere i cittadini dai loro giudici naturali, sia con l'imporre un foro speciale per alcune importanti categorie di controversie, quelle erariali e quelle di lavoro, sia limitando le attribuzioni di talune sezioni di Corte di Appello, tra cui quella di Potenza, ed avocando alle Corti principali la giurisdizione per le materie sudette;

Considerato che in buona parte dei casi è stato così reso praticamente impossibile ai cittadini di questa, come di altre regioni chiedere ed ottenere giustizia, stante la difficoltà di recarsi in centri lontani dal proprio paese e di far fronte alle spese relative;

Considerato che, nell'espletamento di tale programma antidemocratico, alla Corte di Potenza, senza rispetto delle sue gloriose tradizioni, è stato tolta ogni autonomia amministrativa e se ne sono limitate le attribuzioni ad uno scarso gruppo di controversie;

Considerato che, avuto riguardo alla particolare conformazione geografica della Lucania, regione non-

si al principio autoritario e contrapposizione tra i diversi dello stato alla libertà dei singoli componenti l'aggregato sociale, in aperta violazione delle norme dello statuto, pervenne al risultato di distogliere dai cittadini dai loro giudici naturali, sia con l'imporre un foro speciale per alcune importanti categorie di controversie, quelle erariali e quelle di lavoro, sia limitando le attribuzioni di talune sezioni di Corte di Appello, tra cui quella di Potenza, ed avocando alle Corti principali la giurisdizione per le materie sud-

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Considerato che, avuto riguardo alla particolare conformazione geografica della Lucania, regione montuosa ed aspra i cui centri appollaiati sulle montagne distano in maniera rilevante fra di loro e dalle principali vie di comunicazione ed il cui sistema di comunicazioni è tutto orientato verso Potenza, avuto riguardo ancora alla esiguità del reddito medio degli abitanti, appare indispensabile per migliore amministrazione della giustizia assicurare alla sezione di Corte di Potenza pienezza di attribuzioni, trasformandola in

Corte Autonoma;

Rilevato che la necessità di un provvedimento

siffatto riesce tanto più manifesta oggi, in quanto la interruzione delle strade, la difficoltà gravissima delle comunicazioni, la impossibilità della corrispondenza, oltre ad aggravare la condizione dei cittadini che hanno bisogno di ricorrere al magistrato, impediscono lo svolgimento dei rapporti di ufficio tra la Sezione di Potenza e la Prima Presidenza di Napoli, complicando il funzionamento degli organi giudiziari in questa regione;

D E L I B E R A

di far voto perchè l'Autorità competente, venendo incontro alle esigenze della popolazione lucana sempre neglette per quanto prima nei sacrifici, e favorendo l'aspirazione dei cittadini alla attuazione rapida ed economica della giustizia, voglia trasformare la Sezione di Corte di Appello sedente in Potenza in Corte Autonoma

Fulli D. N.
Donato Valentini
A. S. S.

Potenza, dicembre 1943. 2° PROVVEDIMENTO,

pel caso che non

Al Primo Presidente della Corte di Appello di si autorizzi il 1°

N A P O L I

Al Procuratore Generale del Re presso la Corte

di Appello di

N A P O L I

Al Presidente ed all'Avvocato Generale del Re
presso la Sezione di Corte di Appello in

P O T E N Z A

In vista della impossibilità delle comunicazioni fra questa Sezione e gli Uffici della Corte di Appello di Napoli per l'interruzione del servizio postale, telegrafico e telefonico e per le gravissime difficoltà dei trasporti, dispondo che il Presidente della Sezione di Potenza ed il locale Avvocato Generale del Re esercitino, fino a nuovo ordine, tutti i poteri amministrativi e disciplinari della Prima Presidenza di Napoli e del Procuratore Generale di quella Corte, entro la giurisdizione territoriale della Sezione della Corte di Potenza.

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Al Procuratore Generale del Re presso la Corte
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Presidenza di Napoli e del Procuratore Generale di
quella Corte, entro la giurisdizione territoriale
della Sezione della Corte di Potenza.

21

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION II

4 Jan 44

Ref: 2201/12/56

Subject: Corte di Appello, Potenza

To : Chief Legal Officer, Legal Sub-Commission, AMG, Naples

1. The above court is a branch of the Corte Antonoma di Napoli, and all administrative and disciplinary powers are vested in the Naples Court. Further, because of its lack of autonomy the Potenza Court has no jurisdiction in labour, insurance, and other similar cases.

2. A petition (which explains the matter more fully) is enclosed from the Bar at Potenza asking that the Corte di Appello there be given the same dignity as the Corte Antonoma di Napoli.

3. Two drafts of a proposed order prepared by the Potenza Bar are also enclosed, the second only being submitted in the event of the first, which is preferred, being disapproved.

P. Backhouse
P. BACKHOUSE
Major, RASC
AMCLO

TRANSITION

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From the point of view of the general interest of the population of Lucania, (a large and mountainous region), it is desirable that the ~~existing~~ Section of the Court of Appeal be elevated to an autonomous Court, so as to be able to pass upon labor causes, causes of workmen's accidents, causes against the State Treasury and other similar causes which now belong exclusively to the autonomous Court of Appeal of Naples. To deny ~~transfers~~ to the Section of Potenza, the competence for the above mentioned causes equals in these times to a denial of justice to the people, because it is not possible, except for rich people, to travel several times to Naples in order to take care of judicial proceedings.

DRAFT OF A NEW COURT

I ...

Having considered the practical exigencies of justice in their relation to the material difficulties caused by the ~~fact~~ ^{fact}

whereas it corresponds to the principles of economy to bring the Administration of Justice closer to the people and particularly to the more needy classes.

I order

That the Section of the Court of Appeal, which at present is functioning at Potenza, be elevated to the status of an autonomous Court of Lucania, and

I delegate

The Legal Officer of AMG in Potenza to powers necessary for the full execution of the present order, also, in relation to personnel and to the reorganization of the Territorial Districts.

APPENDIX

The Commission for matters of justice nominated by the Assembly of the Anti-Fascist Joint Group.

Having considered it fundamentally necessary to bring the justice closer to the people and to render it easily accessible;

Having considered that the Fascist Legislation contrary to the Constitution withdrew the Citizens from their competent judges both by imposing a Special Court for several important categories of controversies (against the State Treasury, labor causes,) and by limiting the competence of some sections of Courts of Appeal (among which, the section of Potenza) and by transferring to the Principal Courts the jurisdiction over the said causes;

Having considered again that in a great majority of cases, justice has been denied to citizens to proceed to distant places and ~~at~~ ^{at} the high cost; X

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whereas it corresponds to the principles of democracy to bring the Administration of Justice closer to the people and particularly to the more needy classes.

I order

That the Section of the Court of Appeal, which at present is functioning at Potenza, be elevated to the status of an autonomous Court of Lucania, and

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The Commission for matters of Justice submitted by the Assembly of the Anti-Fascist Joint Group.

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Having considered again that in a great majority of cases, justice has been denied to citizens to proceed to distant places and because of the high cost; X

Having considered that in execution of the above the Court of Potenza, has been denied all administrative autonomy and its jurisdiction limited to a small group of contraventions;

Having considered that due to the particular geographic configuration of Lucania and to the low income average of the population it seems irresponsible to assure a full jurisdiction for a section of Potenza;

Having stressed that the necessity of a really deep and even more manifest today in that the interruption of roads, difficulties of communication, impossibility of correspondence not only makes the recourse to the Magistrates more difficult but also impedes the development of Official contacts between the Section of Potenza and the First Presidency of Naples, thus complicating the functioning of the Judicial Organ

Article

To manifest the desire that the competent authority, meeting the exigencies of the population of Lucania which has always been neglected although it was first in sacrifices, and restoring the conditions of their citizens to a rapid and economical functioning of justice, please transform the Section of the Court of Appeal of Potenza into an autonomous Court.

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LEGAL SUB-COMMISSION

(28)

AM/4001/2/L

31 December 43

Subject: Proposed Court at SALA CONSILINA,

To : Col. Gerald H. John, A.C.C. Brindisi

1. Enclosed herewith is letter of Mark Dew, Howe dated
26 Dec. 43.

2. The matter is one which you may desire to discuss
with representatives of the Italian Government, and it is ac-
cordingly submitted to you herewith. Major Howe has been so
advised.

Mark Grossman
Major
Acting Chief Legal Officer

64

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LOCAL SUB-COMMISSION

AMG/2002/2/1

31 December 43

Subject: Proposed Court at SALA CONSILINA.

TO : BULO (through BIAO) Region II

This Headquarters acknowledges and is forwarding to Col. Gerald Uyehm your letter of 26 Dec 1943 for such action as he may desire to take with the officials of the Italian Government.

Marv Grossman
Major
Acting Chief Legal Officer

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ALLIED MILITARY GOVERNMENT REGION 2
Calabria, Lucania, and Province of Salerno

REGIONAL ORDER NO. 9

TEMPORARY ATTENDANTS TO CIVIL AND PENAL PROCEDURE

By virtue of the powers vested in me, I, G.H. McCaffrey, Lieutenant Colonel, Infantry, Regional Civil Affairs Officer for Calabria, Lucania, and the Province of Salerno, order as follows:-

ART. I. The Procuratore della Legge shall have the right to order that an accused whether under arrest or at liberty be brought before the Court without further investigation, as set forth in Articles 502 to 505 of the C.P.P. and he shall not be bound by the provisions specified in Article 502 in connection with legal delays.

ART. II. The course of prescription in regard to the entries to be effected in the mortgage register is suspended from July 10th until further notice.

ART. III. The course of prescription in civil, penal and financial actions already started on July 10th is hereby suspended and legal terms extended until further notice.

All other terms in connection with cases of the competence of the Corte di Cassazione, Council of State, Court of accounts and the High Court of Public Water Supply or any other Court sitting outside Sicily, are hereby suspended until new regulations have been instituted to reorganise such procedure.

ART. IV. Civil actions already on the roll for which a date of hearing has been fixed after 1st October, 1943 or adjourned to a specific date after October 1st by order of the Court will follow their normal course. The judge will determine if one or both parties are not represented or their legal representatives have failed to appear, that the hearing be adjourned and the parties duly notified of the new date of hearing.

ART. V. Civil actions already on the roll for which no date of hearing is fixed or for which a previous adjournment was granted, before October 1st, will be heard in successive sittings starting from October 1st as soon as the Court Register will have been able to notify the parties' legal representatives of the exact date, or, in their absence, the parties personally.

ART. VI. Copies of the original summons will have to be served again at the request of the most diligent party, when the date fixed for the hearing of the case fell due after 15th April, 1943 and the civil action therein referred to was not already on the roll.

ART. VII. In all actions, civil or penal, when service of summons may legally be effected by post, a duplicate service will be made by judicial process server three days after the date of the posting of the first service.

ART. VIII. In civil actions when the absence of one or both parties is due to the fact that no summons can be served on them, or if appearance cannot be entered owing to the present new conditions, a special curator may be appointed to represent the absent party or parties under the provisions of Articles 78, 79, and 80 of the Code of Civil Procedure, whenever such absence would be prejudicial to the party or parties

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ART. VI. Copies of the original summons will have to be served again at the request of the most diligent party, when the date fixed for the hearing of the case fell due after 15th April, 1943 and the civil action therein referred to was not already on the roll.

ART. VII. In all actions, civil or penal, when service of summons may legally be effected by post, a duplicate service will be made by judicial process server three days after the date of the posting of the first service.

ART. VIII. In civil actions when the absence of one or both parties is due to the fact that no summons can be served on them, or if appearance cannot be entered owing to the present new conditions, a special curator may be appointed to represent the absent party or parties under the provisions of Articles 78, 79, and 80 of the Code of Civil Procedure, whenever such absence would be prejudicial to the party or parties concerned.

ART. IX. In all cases where the law provides that judicial decisions or other notices be published in the official Gazette or the official Bulletin of the Province, such publication will be made in the local newspaper two days in succession.

ART. X. All newly appointed officials will take the following oath:-
"I swear to observe the Law and to fulfil my duties with conscience."

By Order of:

G. IL McCaffrey
Lieutenant Colonel, Infantry,
Regional Civil Affairs Officer,
Region 2

22 Dec 1943

GOVERNO MILITARE ADIUTATO DELLA ZONA 2
Calabria, Lucania e Provincia di Salerno

ORDINE REGIONALE N. 9

EMENDAZIONE MODIFICHE AI CODICI ITALIANI DI PROCEDURA

In virtù dei poteri che revesto, io, G.H. McCaffrey, Tenente Colonnello di Panteria, Ufficiale Regionale degli Affari Civili della Calabria, Lucania e Provincia di Salerno,

Ordino quanto appresso:

ART. I. Del giudizio direttissimo, di che agli art. 502 a 505 C.P.P., può il P.M. avvalersi anche se gli imputati e qualcuno fra essi sia libero e senza tener conto dal termine dell' arresto indicato nell' art. 502.

ART. II. Dalla data della dichiarazione dello stato di emergenza e, cioè, dal 10 luglio 1943 deve ritenersi sospeso il corso della prescrizione delle iscrizioni ipotecarie e ciò sino a nuova disposizione.

ART. III. Tutti i termini di prescrizione e di decadenza, comunque stabiliti da qualsiasi legge anche in materia penale o finanziaria, nonché quelli convenzionali e tuttora in corso alla data del 10 luglio 1943 per atti da compiere nel territorio della Sicilia, sono sospesi sino a nuova disposizione. E salvo quanto è disposto agli art. 2, 3, e 4 per i termini di comparizione nelle cause civili.

Tutti i termini relativi alle impugnazioni innanzi la Corte di Cassazione, il Consiglio di Stato, la Corte dei Conti, il Tribunale Superiore delle Acque Pubbliche, ed in genere innanzi qualsiasi autorità sedente fuori della Sicilia rimangono sospesi sino a quando non saranno emanati i provvedimenti per lo svolgimento dei relativi giudizi.

ART. IV. Le cause civili già iscritte a ruolo per le quali sia stata fissata un' udienza di comparizione successiva al 1° ottobre 1943, o rinviata ad un' udienza successiva a tale data, continueranno il loro corso normale.

Il Giudice potrà, ben vero, ed ove del caso, disporre che le parti che non abbiano costituito procuratore od i procuratori costituiti, che non siano presenti all' udienza, vengano nuovamente avvisati, fissando le opportune cautele e rinviando la trattazione della causa.

ART. V. Le cause civili già iscritte a ruolo per le quali non sia stata fissata l' udienza di comparizione, e quelle fissate o rinviate ad udienze istruttorie e collaudali antecedenti al 1° ottobre 1943, verranno assegnate ad udienze successive al 1° ottobre, merco avviso da parte della Cancelleria da notificarsi ai procuratori costituiti, ed in mancanza di costituzione, alle parti personalmente.

ART. VI. Le cause civili in cui i termini di comparizione scadevano dopo il 15 aprile 1943, e che non fossero state iscritte a ruolo, dovranno essere riprodotte con atto di comparizione di avviso a cura della parte più diligente, e con assegnazione di un nuovo termine di comparizione.

ART. VII. In tutti i casi in cui per la validità della notifica o della citazione è prescritto che sia dato un avviso a mezzo posta, si supplirà con una nuova notifica a mezzo di ufficiale giudiziario da farsi in carta libera con un intervallo di almeno tre giorni dalla prima notifica.

ART. VIII. Nei casi urgenti, in cui il ritardo possa produrre pregiudizio potrà essere stabilito negli art. 78, 79, ed 80 del codice di Procedura

ART. II. Dalla data della prescrizione delle iscrizioni ipotecarie 1943 deve ritenersi sospeso il corso della prescrizione delle iscrizioni ipotecarie e ciò sino a nuova disposizione.

ART. III. Tutti i termini di prescrizione e di decadenza, comunque stabiliti da qualsiasi legge anche in materia penale o finanziaria, nonché quelli convenzionali e tuttora in corso alla data del 10 luglio 1943 per atti da compiere nel territorio della Sicilia, sono sospesi sino a nuova disposizione. E salvo quanto è disposto agli art. 2, 3, e 4 per i termini di comparizione nelle cause civili.

Tutti i termini di comparizione innanzi la Corte di Cassazione, il Consiglio di Stato, la Corte dei Conti, il Tribunale Superiore delle Acque Pubbliche, ed in genere innanzi qualsiasi autorità sedente fuori della Sicilia rimangono sospesi sino a quando non saranno emanati i provvedimenti per lo svolgimento dei relativi giudizi.

ART. IV. Le cause civili già iscritte a ruolo per le quali sia stata fissata un'udienza di comparizione successiva al 1 ottobre 1943, o rinviata ad un'udienza successiva a tale data, continueranno il loro corso normale.

Il Giudice potrà, ben vero, ed ove del caso, disporre che le parti che non abbiano costituito procuratore od i procuratori costituiti, che non siano presenti all'udienza, vengano nuovamente avvisati, fissando le opportune cautele e rinviando la trattazione della causa.

ART. V. Le cause civili già iscritte a ruolo per le quali non sia stata fissata l'udienza di comparizione, e quelle fissate o rinviata ad udienze istruttorie e collazionali antecedenti al 1 ottobre 1943, verranno assegnate ad udienze successive al 1 ottobre, merce avviso da parte della Cancelleria da notificarsi ai procuratori costituiti, od in mancanza di costituzione, alle parti personalmente.

ART. VI. Le cause civili in cui i termini di comparizione scadevano dopo il 15 aprile 1943, e che non fossero state iscritte a ruolo, dovranno essere riprodotte con atto di avviso a cura della parte più diligente, e con assegnazione di un nuovo termine di comparizione.

ART. VII. In tutti i casi in cui per la validità della notifica o della citazione o prescritto che sia dato un avviso a mezzo posta, si supplirà con una nuova notifica a mezzo di ufficiale giudiziario da farsi in carta libera con un intervallo di almeno tre giorni dalla prima notifica.

ART. VIII. Nei casi urgenti, in cui il ritardo possa produrre pregiudizio potrà provvedersi con le forme stabilite negli art. 78, 79, ed 80 del codice di Procedura Civile, alla nomina di un curatore speciale, in rappresentanza della parte che non possa essere citata o che non possa provvedere alla sua difesa per ragioni dipendenti dallo stato di guerra.

Il Giudice competente potrà in ogni caso emettere, anche prima di decidere in merito, i provvedimenti non differibili o di carattere conservativo, dando le disposizioni perché siano tutelati nel miglior modo i diritti delle parti.

ART. IX. Nei casi, in cui, per disposizione di qualsiasi legge, si dovessero eseguire delle pubblicazioni nella Gazzetta Ufficiale, o nel bollettino ufficiale della Provincia, sarà invece pubblicato un estratto dell'atto per due giorni nel giornale locale.

ART. X. La formula del giuramento dei nuovi funzionari è stabilita come segue:-
"Giuro di osservare lealmente tutte le leggi e di adempiere coscienziosamente i miei doveri."

PER ORDINE DI:

G. IL McCARTHY

Gonfante Colonnello, Fanteria,
Capo Regionale degli Affari Civili

22 Dec 1943

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission

MMW/gaf

23 December 1943.

In reply
refer to: ACC/1/304.

SUBJECT: Article 650 - Penal Code.

TO : Regional Chief Legal Officer, Region 2.

1. Ref. your letter 2201/13/On dated 11 Dec. 1943.
2. Italian Courts should not be permitted to try offences under Proclamations, General or Regional Orders, except upon the request of an officer of A.C.C. If such request is made, such officer should be advised of outcome of case.
3. In our opinion Art. 650 of the Italian Penal Code does not, of itself, give jurisdiction to Italian Courts to try offences above referred to.

RICHARD H. KIMOR, Lt. Col. OAC
Deputy Chief Legal Officer,
ACC.

23

PENAL CODE Art. 650.

Failure to obey orders issued by the authority (autorita).

Whoever fails to obey an order legally issued by the Authority in the interest of justice or public safety or or public order or sanitation will be punished if the act does not constitute a more serious crime, by imprisonment for a term not exceeding three months or by a fine not exceeding 2,000 Idre.

23

AMG
Headquarters
Region 2

11 December 1943

Ref: 2201/13/8a

Subject: Article 650 of Penal Code

To: Chief Legal Officer
Legal Sub-Commission
HQ AMG

1. A Pretore in the Province of Matera, before whom a charge of violating the published order of a CAC forbidding unlicensed use of motor vehicles had been brought without the prior knowledge of the SLO, has ruled that the Italian courts under Article 650 of the Penal Code have jurisdiction, in appropriate cases, to hear charges that AMG orders have been disobeyed.

2. This same point had been considered and discussed at Regional HQ some time ago, and it was determined that it should not be our policy to encourage Italian courts to adopt that interpretation of Article 650. It is the writer's personal opinion that any such construction of the word Autorità in Article 650 is, as a matter of statutory interpretation, so strained as to be unacceptable. Being somewhat uncertain, however, as to the present HQ policy on this whole question I am anxious to receive instructions on the matter. If, as the directive of 1 December (AMG/4002/L) would seem to indicate it is to be our policy to refer as many cases as possible to the Italian courts, there would, from a practical, if not from a juridical standpoint be something to be said for an acceptance of the Pretore's interpretation of Article 650. On the other hand, if the policy of the directive of 6 December (AMG/4109/L) is to be dominant we should be careful, particularly in black market and price cases involving our own orders, to see that the Italian courts do not, through a liberal interpretation of Article 650, take over matters which it is our responsibility to handle.

Wm. J. W. Howe
Mark DeW. Howe, Major, AUS,
RCLO, Region 2

*Received
20 Dec 1943
PMG*

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
APO 512
LEGAL SUB-COMMISSION

File

21

AMS/4001/2/E

4 DECEMBER 1943

SUBJECT: Committee of Investigation for Lucania

TO: AGO Region II

1. Reference your 2201/3/24 dated 23 November 1943.

2. As matters now stand I approve pursuing the additional case referred to in paragraph 4 of the above letter.

3. Inasmuch as the general situation seems to change from day to day it is necessary to keep this HQ advised of each case as it comes along. In the meantime there appears to be no objection to the continued functioning of the Committee as long as the local representatives of Allied Military Government are advised of all its activities and independently are satisfied that the Committee is not in any way making capital of its position to go beyond the original concepts.

4. In connection with any of these cases the directive of 22 November 1943, on the subject of "War Criminals" must be strictly adhered to.

RICHARD E. WILDER
Lt. Colonel
Acting Deputy Chief Legal Officer.

18

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
A.P.O. 512
INSAE SUB-COMMISSION

1

AMG/4002/L

Subject. Allied Military Courts

To. SCLOs (thru RCAGs) Regions I and II

1 Dec 43

1. It is deemed essential to have the work of Allied Military Courts reduced to the minimum and to have the Italian Courts which now appear to be functioning satisfactorily take over as much trial work as possible. To this end all Allied Military Courts will complete their pending cases as quickly as possible and will not undertake new cases except

- (a) Cases concerning the possession of or damage to Allied Military Property.
- (b) Cases directly involving the interests or personnel of the Allied Forces.
- (c) Exceptional cases which for one reason or another cannot be tried in an Italian Court.

2. The trial of cases referred to the Italian Courts in which the testimony of Allied personnel is necessary should be expedited by these courts. Early arrangements must be made ^{with} the Italian judicial and court officials to this end.

RICHARD H. GILMER
Lt. Col.,
for, Chief Legal Officer.

Copies to.

AMG/4001/L
AMG/4001/2/L
AMG/4083/L

17

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
APO 512
LEGAL SUB-COMMISSION

AMG/4001/2/L

29 NOVEMBER, 1943

SUBJECT : ITALIAN COURTS

TO : MAJOR A.E. THACKERAN,
A.M.C.
BRINDISI

1. The following documents as requested by Colonel Upjohn, are forwarded to you under separate cover:

- (a) An official list of all judicial personnel within the districts of the Courts of Appeal of Palermo, Messina, and Catania.
- (b) The draft decree appointing judges and magistrates to various posts, thus amending the above referred list and bringing it up to date.
- (c) Two complete sets of "Sicilia Liberata" up to 21st November, containing all amendments to procedure, appointment of committees and other provisions made by AMG to ensure the reorganization of judicial life in Sicily.
- (d) Two copies of "Sicily Gazette", numbers, 1, 2, and 3.

2. For your information the present position in Region I is as follows:

- (a) All courts are technically reopened. All civil and criminal Chambers of "Tribunali and Corte d'Appelli" function, though with some irregularity due to war conditions.
- (b) Most remaining vacancies will be filled through the provisions of the decree above referred to.
- (c) Three advisory committees have been formed

at the seat of each Court of Appeal (see "Sicilia Liberata" of 31st August 43) made up of leading judicial officials. These bodies will now be co-ordinated by a Central Committee composed of the three First Presidents (Messina, Pres. - Archi and Gentile) and the two senior "Procuratore Generali", Barone and Coppellani. When dealing with questions of law and procedure the Presidents of the Bar Association (Orlando, Castiglione, Vacchi) shall be consulted.

- (d) Amendments to procedure of which you hold copies, were published in "Sicilia Liberata". They should correspond generally to the provisions of "Pando7 dated 2nd October 1943 No. 28040" promulgated by the Marshal.
- (e) Labour Courts have not been formally abrogated, however by the terms of general order No. 8 regulating labour relations the scope of their activity has been virtually eliminated by the suppression of the Corporations.

3. In regard to the points raised in your letter:

- (a) Experienced legal officers who have already been working in close contact and complete harmony with the First Presidents of the three Courts of Appeal during Allied military Government are being appointed as advisers to assist them after the territory is restored.
- (b) Sig. Cherico, Director of Asolo jail (the largest in Sicily) has been informed of the request of the Italian Government. He is very busy but I hope that it may be possible to release him from his present duties having regard to the request of the Italian Government.

Gerald Upjohn
Colonel
Deputy Chief Legal Officer.

SECRET

Subject: Committee of Investigation
for Lucania

26 November 1943
AMC HQ
Region 2
Ref: 2201/3/24

To: Deputy Chief Legal Officer
HQ. AMG
Legal Sub-Commission

1. Your instructions concerning the a/m contained in your
AMC/404372/L have been noted.

2. The mistake of having the Order establishing the Committee
of Investigation signed by the RCLO had already been called to the
attention of the officer who had the notice printed. It was an
inadvertent error which will not be repeated.

3. It is hoped that the Committee may feel free to push one
type of case to immediate prosecution. A case which was heard
last week in the Tribunale for Potenza, and which was brought
there after Committee investigation and after reference of the
matter to the Procuratore del Re in accordance with the procedure
prescribed for the Committee, illustrates the class of case
to which reference is made. The accused was the Communal medical
officer of a small town. We learned that he was selling Government
medical supplies, intended for free distribution, for his own per-
sonal gain, that he was five times charged in recent years with
similar misconduct, and that on each occasion the Questura
intervened on purely political grounds to stop the prosecution.
The Committee and our Legal Officer investigated the charges, both
of criminal conduct preceding our occupation and of violation
of Italian law since the occupation, and referred all to the
Procuratore del Re for action. In the Tribunale the accused
was found guilty on four of the five counts and was sentenced
to one year and five months imprisonment, a sentence which,
incidentally, the Procuratore feels to be entirely too lenient
and significant, perhaps, of continued political timidity on the
part of the Court, and which he intends to appeal.

4. Such a case as this, and there is another similar case
now under investigation by the Committee, involves not merely past,

17

1. Your instructions concerning AMG/4043/2, I have been noted.

2. The mistake of having the Order establishing the Committee of Investigation signed by the ROLC had already been called to the attention of the officer who had the notice printed. It was an inadvertent error which will not be repeated.

3. It is hoped that the Committee may feel free to push one type of case to immediate prosecution. A case which was heard last week in the Tribunale for Potenza, and which was brought there after Committee investigation and after reference of the matter to the Procuratore del Re in accordance with the procedure prescribed for the Committee, illustrates the class of case to which reference is made. The accused was the Communal medical officer of a small town. We learned that he was selling Government medical supplies, intended for free distribution, for his own personal gain, that he was five times charged in recent years with similar misconduct, and that on each occasion the Questura intervened on purely political grounds to stop the prosecution. The Committee and our Legal Officer investigated the charges, both of criminal conduct preceding our occupation and of violation of Italian law since the occupation, and referred all to the Procuratore del Re for action. In the Tribunale the accused was found guilty on four of the five counts and was sentenced to one year and five months imprisonment, a sentence which, incidentally, the Procuratore feels to be entirely too lenient and significant, perhaps, of continued political timidity on the part of the Court, and which he intends to appeal.

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4. Such a case as this, and there is another similar case now under investigation by the Committee, involves not merely past, pre-occupational crimes, but offenses committed since the occupation. May we not feel free to have any such cases passed on immediately to the Procuratore for action? If the work of the Committee is to matters, there is certainly much to be said for not postponing action until some possibly distant day in the future.

5. It may be of interest to you to know that one of the most useful and enthusiastic members of the Committee has just been appointed to an important post in the Ministry of Interior in the Badoglio Government, and that he is going to do everything in his power to see that the scheme which we have worked out in Lucania is continued hereafter on a National basis. We are hopeful therefore, that though our action in creating the Committee may have been premature it may be of some consequence.

Edward J. W. Howe, Jr.
Major, AUS, ROLC, Potenza

Subject: Italian Courts.

H.Q. AMG.,
15 Army Group,
C. M. F.

Chief Legal Officer,
H.Q. AMG.,
PALERMO.



AMG/206/9.
6. Nov. 43.

Reference your circular AMGOT/4001/2/L dated 27. October. 1943.

1. The following inaccuracies therein are brought to your notice:-

- (a) BENEVENTO and AVELLINO mentioned in para. 2 are in 5th Army area.
- (b) BARI, TRANI, LECCE, BRINDISI and TARANTO, mentioned in para. 4 are in no Region but are in the Province of APULIA, subject only to the Italian Government.

HER/JC.


H. E. ROWE,
Lieut. Colonel,
Chief Legal Officer.

HEADQUARTERS
ALLIED MILITARY GOVERNMENT

AMC/AGG/2/1.

10th November, 1945.

Subject:- Circular re Italian Courts of 27th October, 1945.

Re: C.L.G. 15 Army Group.

1. This Division is very grateful for the information contained in your AMC/AGG/2 dated 6th November. It was not officially available at the date of publication.
2. The fact that the area referred to in the circular is divided into six instead of three would tend to prove that the difficulties foreseen in that document are likely to be increased considerably; the six divisions referred to being:

5th Army,
8th Army,
Region 2,
Region 3,
Region 4, (2)
Italian Government.

WILLIAM C. CHAMBER, Lt. Col. P.A.
Chief Legal Officer

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
APO 512
LEGAL SUB-COMMISSION

AMG/4043/2/L

21st November, 1945.

SUBJECT: Monthly Report.

TO : HQIA, Region II.

1. Thank you for your monthly report for October and for your letters on the status of Italian Soldiers and on Committees of Investigation.
2. A directive containing the rules under which Italian Military Tribunals may function is enclosed. Normally, all members of the Italian armed forces will be tried before such courts unless Allied personnel or property is involved, but any civilian will not be tried before such courts but before an Allied Military Court; you will exercise your discretion in the application of these rules.
3. Your action in appointing a committee of investigation, though admirable in many ways, is somewhat premature as this is a matter to be coordinated with the Italian Government. By all means continue investigations already begun but do not institute prosecutions without further reference to this HQ. It is hoped that this matter will be dealt with on a National basis shortly.
4. Your notice announcing the appointment of the Committee of Investigation should not have been signed by you as Legal Officer. All public notices must as a staff matter be signed by or for the AGO.
5. Your policy outlined in your para. 3 is wholly admirable and is entirely approved.
6. Your Regional Order not determining the expropriation even in respect of transactions in lands has been referred to the Finance Sub-Commission as it does not accord with their policy. This is of course a matter of financial policy and not for you or us as lawyers.
7. Referring to our meeting in Colonel Howe's Office there appears to be some delay over the matter of your future which we then discussed, so you will remain until further order R.O.L.O. Region II.

CECILIA WATSON,
Colonel,
Deputy Chief Legal Officer.

Copies to:

226 AMG/4043/L
226/4001/2/L

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LEGAL SUB-COMMISSION

4001/2/L

10 November 1943

MEMORANDUM TO: Lt. Col. Chanler.

I attach a file with respect to investigation and initiation of action against persons who have escaped punishment for crime because of their fascist connections, etc. I feel there are sufficient political repercussions, internal and external to warrant early action.

There are three important questions arising in connection with the overthrow of Fascism aside from setting aside certain Fascist laws and decrees purging important positions of Fascist personnel and revamping education as conducted under Fascism, namely:

1. Persons charged with crime and kept from process of law through influence.
2. Persons charged or actually sentenced because they were actually anti-fascists.
3. Property taken from anti-fascists and conveyed to others: some to fascists and frequently at inadequate prices.

Apparently those persons listed in "2" above are being taken care of, leaving persons and property in "1" and "3" above to be dealt with.

Taking "1" first, I would propose, if possible, to attach to each provincial legal officer, a trained investigator, as for example (see list attached). Such legal officer should give notice in the manner done by Major Howe and Captain Paty but not in the same form, stating the situation and announcing that complaints may be made to such legal officer and further stating that such complaints will be investigated by a committee to be composed of respected and qualified Italian citizens and members of the Allied Military Government (the Legal officer and his investigator) with power to administer oaths, etc. and that, if in the opinion of the committee, the facts as found warrant it, prosecution will be begun (after direction from higher authority as hereinafter stated). I propose to keep this entirely an affair under the direction of AMG both publicly and privately and the Italian members of the committee are to be deemed to be merely aids in investigation and recommendation. Furthermore, I feel the AMG investigator should make an independent investigation to avoid being influenced too much by the Italian members of the committee. The recommendations of the committee should be sent to the Regional Chief Legal Officer. At that point either the latter should make a final decision or he should transmit the recommendations received together with his own recommendations or comment to the CLO

for final order. This will have to be considered. I prefer the latter. In any event while Major Howe is on the right track, I think if the people feel that the committee appointed for Lucania for instance, being largely Italian have any functions other than advisory, they will have little faith in the inquiry and as a matter of fact some injustice may be done in the absence of independent investigation. For political reasons, internally and externally, some affirmative steps must be taken, but for the same reasons they must be the final acts under the plain direction of AMG.

As to 2, there is a matter of high policy to be determined. However, this matter will probably be left to the Italian government. If affirmative steps by us are directed, I feel that generally the investigation can be made as in "1" above and recommendations forwarded jointly to CIO and Director of Property Control for their joint decision in each case. In case of property, the independent investigation would, when possible, be made by attorneys attached to the HCIO for property control matters, otherwise by the investigator referred to in connection with "1" above.

I would substitute the following for numbered paragraphs in Major Howe's public notice:

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"Therefore, for the purpose of investigation there has been established a Committee composed of respected and qualified citizens of this Province and members of the Allied Military Government to receive, examine and investigate complaints and to recommend the initiation of proceedings in the Italian Courts against offenders of the Italian Penal Code who, on the basis of the complaints, and investigation, are believed to be prima facie guilty. Any recommendation so made will be considered further by the Allied Military Government before proceedings are initiated.

II

Anyone having knowledge of partial or unequal treatment of any offenders as above referred to may file a complaint if supported by substantial facts or sources of references, with the Legal Officer of the Allied Military Government of this Province for the purpose of initiating such examination and investigation.

III

All Italian judicial officials will continue their normal functions without regard to the activities of the committee, except that any case referred to the judicial officials as the result of the above mentioned investigation shall be tried with the least possible delay.

By Order of

SCAG

Legal Officer of the
Province of _____

Richard H. Wilmer
R. H. WILMER,
Lt. Col., CAC,
Chief Counsell.

1st Lt. F. C. Phenoxy	Investigator for OPA	AC Hq, Pub Safety
Maj. K.M. Skirk (A)	Former Dist. Atty, Lancaster, Pa	Reg 3
Capt H D Weaver (A)	Dept of Justice, USA	Reg 4, Prop Control
Maj W.M.Young	Pros Atty, Former Rep in Congress (Ohio)	Reg 4, CAO
2d Lt S.J.Banry	Investigator FBI	Reg 4 CAO
1st Lt Robert A. Collier	Pros Atty, N.C.	Reg 4 CAPO
Capt John Y. Elliott	County Judge, Tenn	Reg 4 CAO
Capt John R. Golden	U.S. Dist Atty Office, San Francisco	Reg 4 CAO
Maj Donald N. Long	Judge Circuit Court	Reg 4 CAO
Capt H. S. Pollard	Asst State (Texas) Atty Gen	Reg 4 CAO
2d Lt C. P. Clark	Assoc Counsel, Truman Committee	Displaced Persons Sub-com Intelligence
Maj J.E. Cantor	Asst Dist Atty, Gracora County N.Y.	Reg 6, CAO
Capt J.B.Mohary	Deputy Dist Atty, Los Angeles	Reg 6, AO
1st Lt W.H. Parker	ILB engaged in police work	Reg 6 CAPO
Maj G E B Paddy	Prosecutor, Texas	Reg 6 CAO
2d Lt Edward N. Amyor	Asst Dist Atty, Saratoga County, N.Y.	Reg 5 CAO
Capt D.A.Rogers	Judge Circuit Court, Indiana	Reg 5 CAO
2d Lt M.R. Fendrick	Criminal Practice, N.Y.	Reg 9 CAO
Capt D.D.Freeze	Clerk to U.S. Dist Judge	Reg 9 Prop Control
2d Lt L. J. McKannay Jr.	Criminal Practice, San Francisco	Reg 9 CLO

Note:

1. No doubt since I left North Africa, other legals of similar experience have arrived and would be available for assignment as investigators, at least temporarily until other Regions are prepared to function.
2. The list I have does not include British officers who may have had similar experience. Such list was made but was not brought over by Col. Upjohn. I believe it was not completed when he left.

2 November 1943

AMC HQ.

Region 2

+201/2

12001/78

My dear Colonel Chandler:

As I anticipated there have already appeared signs of vigorous opposition to the proposal for the establishment of so-called Committees of Investigation in Region 2. In order that you may understand just what the plan contemplates I take this chance of sending a more or less informal communication by Major MacAdams who is on his way to Palermo in the morning.

The sole function of the Committee which has been established by Captain Paty in Potenza, and which seems to me to be a model which might be followed elsewhere, is that of a clearing house which will receive and sift, through careful investigation, charges which the public feels should be examined. No AMC official has suggested that special tribunals, administering a special, ex post facto law should be established to try the political racketeers of the Fascist regime, as planned in Potenza the Committee shall have power only to investigate charges, to make recommendations to the Legal Officer of AMC, and to advise us of what rights Italian law offers to those who have legitimate grievances against the protected criminals of the Fascist regime. It is contemplated that cases deemed by us to be serious shall normally be referred to the Procuratore del Re for prosecution in the Italian courts and that only very exceptionally, if ever, would Allied Military Courts be called upon to hear such charges. In order that a question of very great importance, to be decided only at the highest level, shall not be presented at the present time the Committee in Potenza has been instructed that it is to investigate those charges only which have not been affected by Royal amnesties. This means, in effect, that a statute of limitations of three to five years will presently be enforced by the Committee. It is not expected that more than three or four cases, and each of those important, shall be sent on to the prosecuting officials in the near future. Conversations which I have had with level-headed Italians have convinced me that this machinery can be utilized for the achievement of ends of essential importance without the sacrifice of the standards of decency and justice which the Allied Military Government should always seek to protect.

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Some of those who protest that it is no part of the Allied military responsibility to go back into the pre-occupational past seem to me to be wholly unaware of the dangerously explosive mood of the Italian public. One inevitably has to make a guess in such matters, but after conversation with those who have been in closest touch with public opinion, I am persuaded that for purely military reasons it is essential for us to face the realities of the political situation. It is no answer to the demands of the population for us to quote instructors at Charlottesville that Military Government has nothing to do with political questions; if we are to maintain reasonably tranquil conditions behind the lines we must, I believe, do something to meet the popular demand that the pages of a dis-

careful history be re-examined.

By no means do I insist that the details of the procedure which we have worked out for Lucania should be followed elsewhere. All that I urge is that we be permitted to continue this effort to solve the most difficult problem which we face. If you have any suggestions to make as to alterations or modifications in the plan they will, of course, be followed. It is my earnest hope, however, that we shall be permitted to continue the effort which has begun with such apparent success.

Very sincerely yours,

Lucas H. R.

6

ALLIED MILITARY GOVERNO MIL

NOTICE

Order Establishing Committee of investigation for Lucania

Whereas, it has come to the attention of the Allied Military Government that many offenders against the Italian Penal Code have escaped the penalties of the law by reason of the protection afforded them on account of their affiliation with the Fascist

MILITARY GOVERNMENT O MILITARE ALLEATO

ICE

Committee of investigation
cania

due to the attention of
Government that many
Italian Penal Code
violations of the law by
were afforded them on
connection with the Fascist

AVVISO

(TRADUZIONE)

Ordine che stabilisce un Comitato di in-
per la Lucania

Poichè è giunto a conoscenza
il Governo Militare Alleato che molti
contro il Codice Penale Italiano
sottratti ai rigori della legge a causa
dell'affiliazione al Partito Fascista;
E poichè è il sistema del Go-

RY GOVERNMENT TARE ALLEATO

AVVISO

(TRADUZIONE)

**Ordine che stabilisce un Comitato di investigazione
per la Lucania**

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verno Militare Alleato che molti imputati
contro il Codice Penale Italiano si sono
sottratti ai rigori della legge a causa della
affiliazione al Partito Fascista;**

E poichè è il sistema del Governo Mi-

OF LUCANIA

Whereas, it has come to the attention of the Allied Military Government that many offenders against the Italian Penal Code have escaped the penalties of the law by reason of the protection afforded them on account of their affiliation with the Fascist Party:

And whereas, it is the policy of the Allied Military Government to reestablish law and order in Italy on a basis of equality and impartiality.

I

Therefore, there is hereby established a committee to be known as The Committee of Investigation for Lucania which committee shall be hereafter referred to as The Committee.

II

REALE VITO fu Giuseppe, ROTUNNO GIUSEPPE di Antonio, DI NAPOLI ATTILIO fu Nicola are hereby appointed members of The Committee. The Regional Legal Officer ^{for the Court of Cassation} of the Allied Military Government shall be, ex officio, a member of The Committee.

III

The principal duty of The Committee shall be to receive, consider and arrange

per la Lucania

Poichè è giunto a conoscenza del Governo Militare Alleato che molti imputati sono sottratti ai rigori della legge a causa della loro affiliazione al Partito Fascista:

E poichè è il sistema del Governo Militare Alleato di ristabilire la legge in Italia su una base di eguaglianza

I.

Perciò, con la presente viene creato un comitato, denominato Comitato di Iniziativa per la Lucania, il quale comitato sarà chiamato d'ora in avanti Il Comitato.

II.

Fanno parte di esso i Signori: RAVITTO fu Giuseppe, ROTUNNO GIUSEPPE fu Antonio, DI NAPOLI ATTILIO, i quali, a mezzo della presente sono nominati membri del Comitato. L'Ufficio Legale Regionale del Governo Militare Alleato sarà, ex officio, un membro del Comitato.

III.

Le funzioni principali del Comitato sono le seguenti: ricevere e prendere in esame le denunce, e stabilire l'initiativa dei procedimenti nelle Corti Italiane contro gli imputati del Codice Penale Italiano.

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Government shall be, ex officio, a member of The Committee.

III

The principal duty of The Committee shall be to receive, consider and arrange for the initiation of proceedings in the Italian Courts against offenders of the Italian Penal Code, who, on the basis of complaints, filed with, or investigations made by The Committee, are believed to be prima facie guilty.

IV

All Italian judicial officials will continue their normal functions without regard to the activities of The Committee, except that any case referred to the judicial officials by The Committee shall be investigated and tried with the least possible delay.

By order of

Maj. MARK Dew. HOWE

Chief Legal Officer, Region 2

BYRD F. PATY

Captain, Legal Officer, Lucania

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MARK Dew. HOWE
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IV.

Tutti i funzionari giudiziari
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Pe ordine di

Mag. MARK Dew.
Capo Ufficiale Legale

BYRD F. PATY
Capitano, Ufficiale Legale

Comitato.

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IV.

Tutti i funzionari giudiziari italiani devono continuare le loro funzioni normali senza riguardo alle attività del Comitato, eccetto che qualsiasi causa riferita ai funzionari giudiziari dal Comitato sarà investigata e messa sotto processo con il meno possibile indugio.

Per ordine di

Mag. MARK Dew. HOWE

Capo Ufficiale Legale, Regione 2

BYRD F. PATY

Capitano, Ufficiale Legale, Lucania

Subject: - Italian Court.

To: - H.C.A.Os. Regions II, III and IV for
attention of P.S.L.Os.

ARGOT/4001/2/L.

ARGOT H.Q. SICILY
27 October, 1943.

Your attention is drawn to the following:-

1. There exists a discrepancy between the administrative boundaries of Regions II and III and those of the Court of Appeal Districts of Napoli, Caltanzaro and Bari.
2. The Court of Appeal District of Napoli with its detached Section of Potenza is responsible for the supervision of 16 Tribunale and over 90 preture. These are situated as follows:-

Napoli, Benevento, Avellino, San Angelo di Lombardi,
Larino, Salerno, Ariano, S. Maria Capua Vetere are all
in Region III.

Potenza, Matera, Lagonegro and Melfi are in Region II.

Isernia and Campobasso are in Region IV.

Furthermore Isernia is still in enemy hands.

3. In all probability it will be possible to reopen or maintain open the following courts immediately:-

Potenza, Matera, Melfi and Lagonegro under S.L.O. Region II.

Napoli, Salerno, Avellino and San Angelo under S.L.O.
Region III.

The functioning of the others must depend exclusively on military necessity and local conditions.

Benevento, Santa Maria Capua and Campobasso are reported to be to all intents and purposes destroyed.

4. Steps should be taken at once to co-ordinate the activities of S.L.Os. in Regions II and III, bearing in mind that Region II is also responsible for the seven tribunali under the Court of Appeal of Bari (Bari, Foggia, Lucera and Trani) and the detached section of Lecce (Lecce, Brindisi and Taranto).

5. As S.L.O. in Region II has followed, as far as possible, the directives and general instructions in force in Region I, it is suggested that S.L.Os. of Region III and IV should conform to the set-up already in existence in that Region bearing in mind however that instructions in regard to Procedure and personnel affecting the local courts should always come from the seat of the Court of Appeal of which they depend.

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Temporary arrangements in connection with Tribunali situated in Regions II and IV, but under the Judicial control of the C.A. Napoli (Region III) should be worked out at an early date to prevent considerable difficulties when it will become possible to bring the existing Italian Judicial System back to normality.

G.C. HARRARD, Major,
Legal Division.

P.S. If the Province of Salerno is

also under Region II, difficulties will be increased.

Distribution: Region II - (4); Region III - (4); Region IV - (4);
AMCOT 15 Army Group - (2); File - (1); Float - (1); Spares - (10)

Subject: Committee of Investigation for Lucania

To: Chief Legal Officer

ALC H.Q.

Palermo

27 Oct. 43

ALC H.Q.

Region 2

1. For your information there is enclosed herewith a copy of a notice which has just been posted in the Compartimenti of Lucania. It is being supplemented shortly with a notice giving to the Committee powers to summon witnesses and documents and to receive testimony under oath and giving to these powers the sanction of punishment by Allied Military Court.

2. The three members of the Committee are lawyers, all with excellent professional reputations, and all vigorous opponents of the Fascist regime. One of them is presently Podesta of Potenza, and it is not unlikely that he will soon be named acting Prefect. Captain Faty, who has organized the Committee, is delighted with the seriousness with which they have undertaken this task. He reports that the influence of this notice on the opinion of the public in Potenza has been of the very greatest benefit to the Allied Military Government.

3. Steps for the organization of a so-called sub-committee to work in the Province of Matera along the lines established in this Notice and under the supervision of the central Committee in Lucania, with an ALC Legal Officer on the sub-committee have already been taken. The Legal Officer for the Compartimento of Calabria has been directed to organize a similar group or groups in his area.

4. All of the officers dealing with this matter are fully aware of the dangers which the scheme involves. The Committees, however, are being strictly cautioned that the investigations will not be permitted to become witch hunts or inquisitions; that the rights of the defendants are to be protected, and that the Allied Military Government is not interested in having the personal feuds and jealousies of the population aired through this procedure. It is believed that these dangers can be avoided and that if conscientious efforts are made the plan will succeed. The need for an orderly procedure for the disposition of charges has become increasingly apparent throughout Region 2; already the population in places dissatisfied with the apparent political

to these powers Court.

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One minor error in the Notice as published should be brought to your attention. The AMO representative on the Lucania Committee is not the Regional Legal Officer, but Captain Paty, Legal Officer for Lucania.

Read Rev. Howard, Major
Lt. Col., Inf., I.C.A.O., Region 2

SUBJECT: Italian Courts, Region 2

Chief Legal Officer
ANGOT H.Q., ~~Region 2~~

PALERMO.

10 Oct. 43

1. The following schedule will indicate the dates upon which the principal courts in the Compartimento of Calabria either have begun or will begin to sit for the determination of criminal cases:

- (a) Corte d'Appello, Catanzaro, 6 October.
- (b) Corte di Assise, " , 8 November.
- (c) Tribunali:

Reggio: 21 September

Locri: assembling missing judges

Castrovillari: 12 October

Palmi: 14 October

Cosenza: 14 October

Rossano: 22 October

- (d) Preture: These have either all re-opened during the last two weeks or will re-open in the next ten days.

2. Of the above courts having civil jurisdiction all will begin to hear civil cases at approximately the same time as their hearing of criminal cases, but they have been instructed to give priority to all criminal cases which are ready for trial.

3. We are as yet unable to give you definite dates for the re-opening of the courts in the Compartimento of Lucania and the Province of Foggia. It is expected that these dates will become settled during the coming week.

Ward J. W. Hux

Major, AUS, S.I.O., Region 2

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4601/2
 SUBJECT: Italian Courts, Region 2
 Chief Legal Officer, AMGOT H.Q.
 Palermo

4601 - 8 Oct. '43
 156

1. Being thoroughly satisfied that it was in the public interest to do so orders have been issued for the immediate resumption of civil business in the Italian courts of Region 2. The officials have been advised, however, that priority of hearing and decision must be given to all criminal cases. Experience has shown that the absence of witnesses and parties is unavoidably delaying the conduct of all types of trials, and while the courts are open only for criminal cases the judges and other officials are giving only a small portion of their time to productive work. For these reasons, and for others as well, it was deemed desirable that civil cases should be heard.



Edward H. W. Hark

Major, S.I.O.,
 Region 2

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