

ACC

10000/142/4
(VOL. I)

10000/142/4
(VOL. I)

ITALIAN COURTS, UNRESTORED TERRITORY
FEB. 1944 - FEB. 1945

CLOSED 12 February 1944 -

See VOLUME II

13



PARTITO FASCISTA REPUBBLICANO
FEDERAZIONE DELL'URBE

IL COMMISSARIO FEDERALE

HEADQUARTERS ALLIED COMMISSION
AND 394
LEGAL SUB-COMMISSION

120A

AC/4001/3/L.

/pa.
12 Feb 45.

SUBJECT : Trial of fascists of GROSSETO Province.

TO : Public Relations Branch, HQ, AC.

Further to this Sub-Commission's AC/4001/3/L dated 3 Jan 45 and report, enclosed herewith an additional report from Provincial Legal Officer in connection with the above.

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

129

HEADQUARTERS REGION VIII

ALLIED MILITARY GOVERNMENT.

File Ref:

RV111/19/2013 4001/3

Date: 8 February 1945.

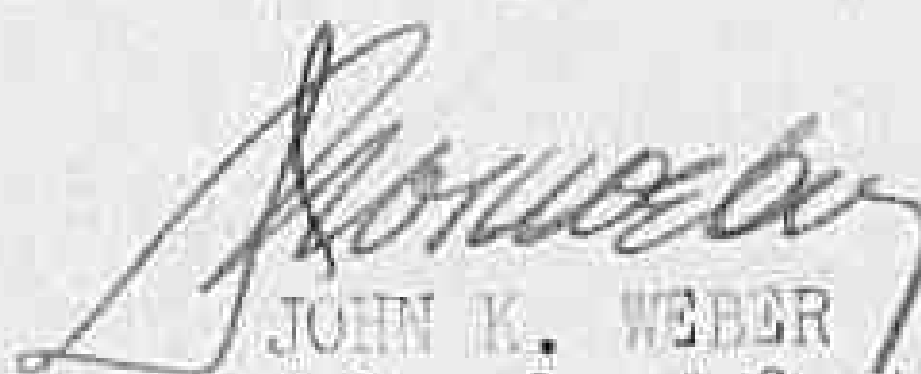
SUBJECT: Defascism, Grosseto Province.

TO: LEGAL SUB-COMMISSION, Headquarters, AC.

1. See your letter 14 December 1944, AC/4001/3/1.

2. There is attached an additional report, which supplements that submitted in our letter RV111/19/2013. It may be that the Public Relations Division will be interested in this bringing down to date of the topic; at any rate, it is sent for whatever value, if any, it may have.

For the Regional Commissioner:



JOHN K. WEBER
Colonel, Infantry
Regional Legal Officer

LEGAL SUB-COMMISSION	
CIO	
DELO	
Consul	
CIO	
Region	
AC	
1 FEB 1945	

10 FEB 1945
A. C.

from to: P. R. O.
please: 128
J. K. Weber

119A

106A

108A

4001/3 ✓

TO : HQ. JUDICIAL COMMISSION
(for attention of Legal Sub-Commission)

FROM : HQ. AMG/AC ABRUZZI MARCHE REGION

SUBJECT : Liaison with Ministry of Justice

REF. : R5/511/12/0

DATE : 26 Jan. '45

Legal
118A

HEADQUARTERS
27 JAN 1945

Ref your AC/4001/3/L dated 24 Jan. '45 I note the two difficulties you mention as regards my proposal. I would however point out :

(a) That the Ministers' own visits to the Provinces in the past appear to have had little connection with the Courts themselves. The main purpose behind them was apparently frankly political. Hence the fact that the Ministry seems sometimes to be ill-informed about local conditions affecting the Courts. It is agreed that nothing could be more objectionable than a repetition of the Minister's performances in this area.

(b) The proposed duties of the liaison official would be quite different. He would be concerned solely with the Courts and very largely with routine matters. His visits would enable such matters eg. appointments and transfers of minor officials, to be greatly speeded up. He would be expected to discuss all relevant matters with the P.L.O.. If any question of policy arose, the latter would take care that information was passed at once to you through this HQ.. I agree, of course, that the terms of reference of the liaison officer would require to be carefully laid down.

For the Regional Commissioner

R. G. S. ALEXANDER, Major
R.L.O.

LEGAL SUB-COMMISSION

TO

TO

Legal Council

TO

Legal Section

RKS

27 JAN 1945

121

6586

117A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/15001/3/L.

CGH/pa.
24 Jan 45.

SUBJECT : Liaison with Minister of Justice.

TO : Regional Commissioner, ARFUKEL-MARCHE Region.
(Attn: Regional Legal Officer)

1. Your suggestion will be discussed with the Minister at the next meeting.

2. There are two prime facie difficulties :

- a) lack of judicial personnel.
- b) the risk that the Minister will feel himself entitled to deal direct with the provinces in AMC territory and leap frog this Headquarters.
Although in routine matters this would have little importance, on question of policy it may bring about unsatisfactory results and awkward situations.
The experience you and your predecessor have had of the Minister's activities in your Region appears to justify a certain amount of caution.

By command of Rear Admiral STONE :

126

NR

G. C. HANFORD,
Lt. Colonel,
Officer i/c Italian Branch,
for Chief Legal Advisor.

40013

(116A)

TO : HQ. ALLIED COMMISSION
(for attention of Legal Sub-Commission)

FROM : HQ. AMG/AC ABRUZZI-MARCHE REGION

SUBJECT : Italian Courts - Liaison

REF. : R5/511/12/0

DATE : 22 Jan. '45

1. A suggestion has been put up to me by one of my P.L.O.'s to the effect that it would be a great advantage if the Ministry would appoint an Inspector to make regular visits to the seats of the various Courts of Appeal, say monthly, for the purpose of consulting with the local judicial officials and Allied Legal Officers about local problems. By this means the Ministry would be kept more closely in touch with AMG/AC and with their own men in the field and it is thought that greater smoothness and general cooperation would result.

2. I do not know whether the suggestion is a practicable one but it seems to me to have considerable merit. At any rate I pass it on for what it is worth.

For the Regional Commissioner

R. G. S. ALEXANDER, Major
R.L.O.

23 JAN 1945

109A

HY QUARTERS ALLIED COMMISSION
PO 394
10041, SUB-COMMISSION

AC/1004/3/L.

ES/ps.
3 Jan 45.

SUBJECT : Trial of fascists of Grosseto Province.

TO : Public Relations Branch, HQ, AC.

With reference to the verbal request of Lt. BRAYDON of your Branch please find enclosed a copy of a detailed report on the above subject.

G. G. HANNAFORD,
Lt. Colonel,
Officer i/c Italian Branch, 121
for Chief Legal Advisor.

HEADQUARTERS
TOSCANA REGION
ALLIED MILITARY GOVERNMENT

108A

4001/3.

File Ref:

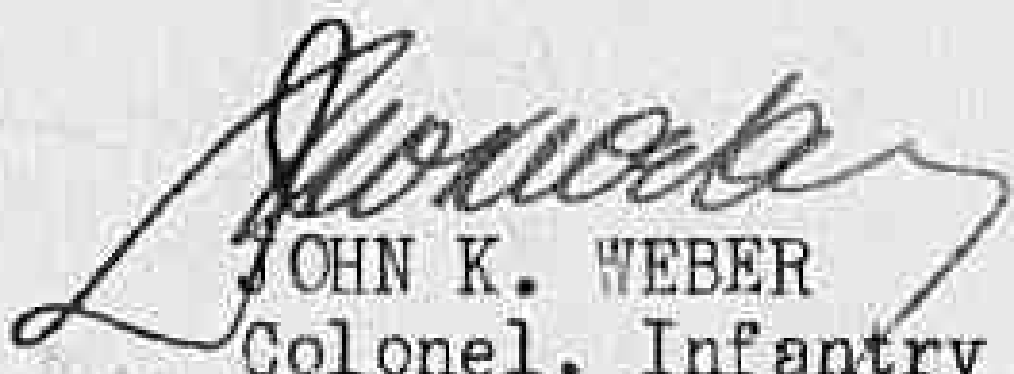
RVIII/19/2013

Date: 27 December 1944

SUBJECT Trial of fascists.

TO : Chief Legal Advisor, Headquarters, AC. ✓

1. See your letter AC/4001/3/L. 14 December 1944.
2. Report requested from Grosseto Province is herewith enclosed.


JOHN K. WEBER
Colonel, Infantry
Regional Legal Officer

31 DEC 1944

121

ALLIED MILITARY GOVERNMENT
GROSSETO PROVINCE

1088

REF.

SUBJECT: Trial of Fascists at Grosseto Province

DATE: 22 Dec. '44

To: Legal Sub-Commission, A.C.

THROUGH: Regional Legal Officer, Tuscan Region -

2nd. Ind.

1. Eleven Italian civilians were tried by the Tribunale Court of Grosseto Province on the 24th. day of November, 1944 under RPL No. 159 (Sentences against Fascists) for violation of Sect. 134 of Italian Penal Code (Zanarulli), the charge being one of personal violence in that the defendants with the use of firearms forced four anti-fascists to drink esseter oil on the 13th. day of February, 1923 in the Comune of Piacola di Scansero. At that time the Fascist party had just been defeated in the elections of the Girasole and Giunco (popular elections) and the order to administer the esseter oil was supposedly given to defendants by the Federale (the chief of the Fascist party for the Province.)

These crimes had already been pardoned by Royal Decree of 31st. October, 1923 Number 2278 but the pardons were revoked on the 9th. of November, 1944 under Article 6 of RPL No. 159.

All eleven of these defendants were found guilty and sentenced as: One, who was Secretary of the local Fascio, to a term of 3 years, 4 months and 25 days of jail imprisonment and to pay 504 lire.

Three others (from 14 to 18 years of age at time of crime) to one year and nine months imprisonment and small fine, - each.

Seven others (two of whom were members of Fascist council) to three years and six months imprisonment and small fine each.

2. On 30th. November 1944 five other civilians were tried for same offense later during 1923 with the same facts substantially except that only one citizen (of Porto Trovato) was made to drink the esseter oil, he being a member of some party other than the Fascist Party. All five defendants were found guilty with sentence of three years imprisonment and 1000 lire fine each, one of the five having been the Political Secretary of the Fascio of Orbetello Comune, Grosseto Province. 142

THROUGH: Regional Legal Officer, Pescara Region -

2nd. Ind.

1. Eleven Italian civilians were tried by the Tribunale Court of Grosseto Province on the 24th. day of November, 1944 under RDI No. 159 (Sanctions against Fascism) for violation of Sect. 154 of Italian Penal Code (Mensurality), the charge being one of personal violence in that the defendants with the use of firearms forced four anti-fascists to drink castor oil on the 13th. day of February, 1921 in the Comune of Fiesole di Senigallia. At that time the Fascist party had just been defeated in the elections of the Sindaco and Giunta (popular elections) and the order to administer the castor oil was supposedly given to defendants by the Federale (the chief of the Fascist party for the Province.)

These crimes had already been pardoned by Royal Decree of 31st. October, 1923 Number 2276 but the pardons were revoked on the 9th. of November, 1944 under Article 6 of RDI No. 159.

All eleven of these defendants were found guilty and sentenced to: One, who was Secretary of the local Fascio, to a term of 3 years, 4 months and 25 days of jail imprisonment and to pay 504 lire.

Three others (from 14 to 18 years of age at time of crime) to one year and nine months imprisonment and small fine, - each.

Seven others (two of whom were members of Fascist council) to three years and six months imprisonment and small fine each.

2. On 10th. November 1944 five other civilians were tried for same offense noted during 1923 with the same facts substantially except that only one witness (of Porto Uccello) was made to drink the castor oil, he being a member of some party other than the Fascist Party. All five defendants were found guilty with sentences of three years imprisonment and 1000 lire fine each, one of the five having been the Political Secretary of the Fascio of Orbetello Comune, Grosseto Province. 142

3. At the re-opening of the Tribunale Court, Grosseto on the 7th. of August, 1944 (moved back from Arezzo) to whence it had fled in September, 1943) three former Fascists were tried as follows:

PROSI, Lorenzo, Secretary of Republican Fascist Party of Boarino, for private violence (Sect. 610) Illegal detention of persons (Sect. 563 Code) Swindling (Sect. 549) and Threatenment (Sect. 512) - Sentences 18 years imprisonment and fine of 145,000.

Run/19/2013/996

ALLIED MILITARY GOVERNMENT

GROSSETO PROVINCE

REF.

SUBJECT: Trial of Fascists

DATE: 22 Dec. '44

To: Legal Sub-Com. (through PLO, Toscana Region)

continued page 2

NOVELLI, Livio - Vice-Sect'y of Republican Fascist Party of Grosseto - sentence of 4 years imprisonment and 100,000 fine for the offense of swindling (Section 649 of Penal Code)

PETRI, Archimede - vice Sect'y of Republican Fascist Party of Grosseto - sentence 13 years imprisonment and 125,000 fine for offenses of embezzlement, swindling and illegal detention of persons.

These three defendants, after the 8th September 1943, collected public subscriptions by force and threats, etc., the money to be used supposedly for purchase of supplies, arms, etc. for the Army -- and, they also misappropriated it.

4. Twenty other cases of "personal violence" are ready for trial and will be tried by the Tribunal at its January session. The crimes are related to those mentioned in paragraphs 1 and 2 and happened in the years 1922 and 1923.

5. Eleven more serious cases under RM 159 triable by the higher court are set for trial for a term of the COURT OF ASSIZES (from Florence), for the week of January 17th, 1945. The records on these cases and the list of "lay judges" were delivered personally by the PLO and the Promotore del Regio to the First President of the Court of Appeal at Florence last week.

Robert H. Hill

Robert H. Hill, Captain, AUS - Spec. Rep.
Provincial Legal Officer - Grosseto

To:

Legal Sub-Com. (through PLO, Toscana region)

continued page 2

NOVELLI, Livorno -Vice-Sect'y of Republican Fascist Party of Scarlino sentenced to 4 years imprisonment and 120,000 fine for the offense of swindling (Section 549 of Penal Code)

PERI, Arezzo - Vice Sect'y of Republican Fascist Party of Scarlino - Sentence 13 years imprisonment and 125,000 fine for offenses of embezzlement, swindling and illegal detention of persons.

These three defendants, after the 8th. September 1943, collected public subscriptions by force and threats, etc., the money to be used supposedly for purchase of supplies, arms, etc. for the Army -- and, they also misappropriated it.

4. Twenty other cases of "personal violence" are ready for trial and will be tried by the Tribunale at its January session. The crimes are similar to those mentioned in paragraphs 1 and 2 and happened in the years 1922 and 1923.

5. Eleven more serious cases under RUL 159 triable by the higher court are set for trial for a term of the COURT OF ASSIZES (from Florence) for the week of January 11th. 1945. The records on these cases and the list of "lay judges" were delivered personally by the PLO and the Procuratore del Regno to the First President of the Court of Appeal at Florence last week.

Robert H. Hill

Robert H. Hill, Captain, AUS -Spec. Res.
Provincial Legal Officer - Grosseto

121

1080

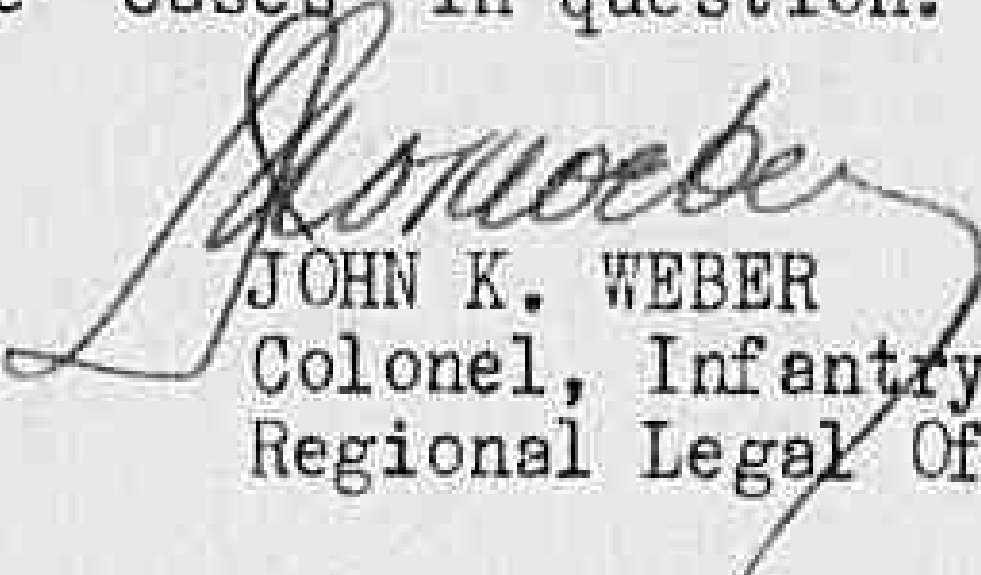
1st Ind. 21 Dec 1944

RM/19/2013

Regional Legal Officer, Toscana Region, 19 December 1944.

TO: PROVINCIAL LEGAL OFFICER, Grosseto Province, (Thru P. C.)

1. Forwarded, inviting attention to the basic communication.
It is hoped that you will render a report hereon that gives
details of the work being done in the cases in question.


JOHN K. WEBER
Colonel, Infantry
Regional Legal Officer

120

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

106A
FD pa.
14 Dec 44.

✓
AC/1001/3/1.

SUBJECT : Trials of Fascists.

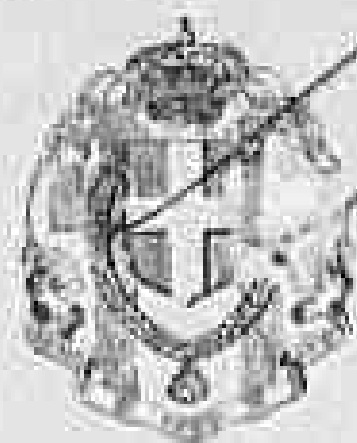
TO : Regional Commissioner, TOSCANA Region.
(Attn : Regional Legal Officer).

1. The Public Relations Branch of this HQ applied to this Sub-Commission for particulars of the recent trials held at Grosseto and involving 19 defendants charged with fascist crimes.

2. Your cooperation in this matter would be appreciated.

By command of Commodore STONE :

113
C. E. HATHAWAY,
Lt. Colonel,
Officer i/c Italian Branch,
for Chief Legal Advisor.



MINISTERO DI GRAZIA E GIUSTIZIA

*Direzione Generale degli Affari Penali
delle Grazie della Statistica e del Casellario*

Ufficio

Prot. 1131.75 Fasc. Gen. 1399

Risposta al f. A. C. / 4001/3/L.

del 14.11.44

Roma, 24 Novembre 1944

LA COMMISSIONE ALLEATA

Sottocommissione Legale

OGGETTO: Autorità Giudiziaria Italiana in R O M A

Toscana.

Nel prendere atto di quanto è contenuto nel foglio sopradistinto, questo Ministero ringrazia per la cortese comunicazione e per l'interessamento spiegati da codesta Commissione allo scopo di ripristinare il funzionamento dell'Autorità giudiziaria italiana in Toscana.

pel MINISTRO
(A. Spallanzani)

[Handwritten signature]

LEGAL SUB COMMISSION	
CLO	
DEPO	
Chief Counsel	
CL	
→ Clerk	☒
CLERKS	
29 NOV 1944	

116

TO : H.Q. A.C. (for attention of Legal Sub-Commission) ✓

FROM : H.Q. AMG/AC ABRUZZI MARCHE REGION

SUBJECT : Court of size

REF. : AMR/511/12/AQ

DATE : 16 Nov. '44

104A

4001/3

103B

1. Further to this office letter of even file dated yesterday I understand that a list of Popular Judges for Aquila Province was forwarded to the Ministry by the Primo Presidente on 23 Oct. '44 in conformity with Ministerial Circular No 2892. Aquila Court of Assize cannot get under way until this list is approved by the Minister. May approval be expedited please ?

2. Lists of Popular Judges are being prepared in respect of the other Provinces and will be submitted to the Ministry as soon as possible.

LEGAL SUB COMMISSO	
CLO	
DCLO	
Chief Counsel	
CJO	
Italian Section	
CL RKS	
17 NOV 1944	

For the Regional Commissioner

R. G. S. Alexander

R. G. S. ALEXANDER, Major
H.L.O.

117

56

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AG/4001/3/1.

23/ra.
16 Nov. 44

SUBJECT : Composition of Courts of Appeals.

TO : Regional Commissioner, Abruzzi-Marche Region.
(Attn for Regional Legal Officer).

1. Reference your 25/941/12 of 14 Nov 44 the endorsement implementing in Military Government Territory the legislative decree No. 290 of 5 October on the above subject has already been signed by the Deputy Chief of Staff "iv Aff Sec AG" and will appear in one of the next issues of the Gazzetta Ufficiale.

BY COMMAND OF COMMISSIONER AGO E :

By
A. R. MARSHALL,
Lt. Colonel,
Italian Branch,
for Chief Legal Advisor.

110

: H.Q. ALLIED COMMISSION
 (for attention of Legal Sub-Commission)
 FROM : H.Q. AMG/ ABRUZZI MARCHE REGION
 SUBJECT : Composition of Courts of Assize
 REF. : ~~AC/LEGAL~~ 42 R3/50/12
 DATE : 14 Nov. '44



1. Your AC/4001/3/L dated 10 Nov. '44 is acknowledged. Immediate action will be taken in terms of the new Decree.
2. May I be informed, please, whether it is intended that this Decree shall be made applicable to AMG territory and if not what policy should be adopted as regards constituting the Courts of Assize in such territory?

For the Regional Commissioner

Signed on 14 Nov

R. G. S. Alexander
 R. G. S. ALEXANDER, Major
 R.L.O.

175

HEAD-QUARTERS ALLIED COMMISSION
APO 504
LEGAL SUB-COMMISSION

E/cap

102A

AC/1004/3/L

14 Nov 44

SUBJECT: Italian Courts in TOSCANIA

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

1. Below for Your Excellency's information an excerpt from a report for the month of October received from the Regional Legal Officer of the TOSCANIA Region.

ITALIAN COURTS(a) AREZZO : not yet functioning

(b) AREZZO : All Italian courts in the Province are functioning. The last to commence was at Sansepolcro, which was delayed somewhat, due to local problems, since cleared up. The records and equipment of the Tribunale and Pretura of Arezzo kept at Poppi during bombings have all been returned. One auto has been provided for Procure del Reale, but more transport is needed to enable Italian courts to function efficiently.

(c) AREZZO : Italian courts are all functioning and the Tribunale tried ten cases involving fourteen defendants. The Pretura Courts have tried 56 cases involving 151 defendants. Two cases involved Allied interests there being 5 defendants, 3 of whom were found guilty. 10 cases involved possession of Allied property. 124 persons are in jail, 1/ being women.

(d) Your Excellency's attention has already been called to the delay in reopening the Court of Assizes).

(e) AREZZO : All Italian courts are now functioning. 100 cases are awaiting trial and the judges have been urged to expedite cases.

(f) AREZZO : Italian courts are operating and there are only two persons in jail awaiting trial, due to the fact that the evidence against them is behind German lines. In general law and order exist in this Province far beyond expectations.

(g) AREZZO : During the month (of October) the Tribunale of Pisa heard its first cases. On the 17th October 4 criminal cases were disposed of and one was adjourned. There was one defendant acquitted and the following sentences were imposed :

1 - 2 years and 2 months imprisonment and 22X lire fine on a charge of aggravated theft.

2 - Ditto

- 3 - 3 years and 3 months imprisonment and 3300 lire fine on two defendants on a charge of aggravated theft.

Several changes are recommended to take care of the replacement of the Pretore of Pontedera Falcidia Giovacchino who was a Republican Fascist. They have been discussed with the Presidente of the Tribunale and Procuratore del Re. They are :

- 1 - the placing of the present Pretore of Cascina Gagliardi Andrea, in the more important Pretura of Pontedera. He is a man of ability and has been of service in the reestablishment of Courts in the Province.
- 2 - The placing of Uditore Petrillo G. Battista at present in the Tribunale of Pisa in the Pretura of Cascina. This official has served the required time and is considered of sufficient ability to qualify as a judge of the Tribunale.

The temporary appointment of a ^{supervising} ~~supervising~~ judge of prisoners now imprisoned by Italian Military Tribunals in Pisa prisons is necessary in the Province. The Presidente of the Tribunale and the Procuratore del Re have investigated a local avvocato with experience in Italian Military Tribunals while serving in the Italian Army. They recommend him both from a standpoint of ability and political background. He appears to be qualified. His name is Cammarolla Emilio.

All the Pretori in the province are functioning. The Pretore of Pontedera has continued to function at Ponsacco because of the condition of the paese of Pontedera.

(g) SIENA : The local Tribunale and Pretura continue to function satisfactorily.

Ref
A. R. THASERAN,
Lt. Colonel,
Italian Branch,
for Chief Legal Advisor,

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4001/S/L.

ART/mt.
10 Nov. 1944.

SUBJECT : Composition of Court of Assize.

TO : Regional Commissioner Abruzzi-Marche Region.
(Attn: Regional Legal Officer).

When Major COHEN was in this office a few days ago he enquired about the imminent publication of L.L.D. No. 290 dated 5 Oct 44 on the above subject. Accordingly a copy of the "Gazette" No. 79 containing said decree is forwarded for early information and so that the sessions of the Court of Assize held in suspense may now proceed.

By command of Commodore STONE:

Copy
A. R. CHACKRAH, 115
Lt. Col.,
Italian Branch,
for Chief Legal Advisor.

Enclosed: 1 copy G.U.

4001/3 HEADQUARTERS REGION VIII (TOSCANA)
ALLIED MILITARY GOVERNMENT (160A)

File Ref: RVIII/19/5005

Date: 6 November 1944.

SUBJECT: Delay in trials of fascists.

TO : Chief Legal Advisor, Headquarters, AOC.

1. For your information, there is enclosed herewith a copy of a letter received from the Provincial Commissioner, Grosseto Province. The letter is self-explanatory.

John K. Weber
John K. Weber
Colonel, Infantry
Regional Legal Officer

See 99A

Note the spelling.
I am glad that decisions
of ACC exist.

I consider it most regrettable that
there should be any distrust
of the occupying powers
Springing from rumors
with France.

LEGAL SUB-COMMISSION	
CLO	
DCLO	✓
Chief Counsel	✓
CIO	✓
Italian Section	✓
CLERKS	
10 NOV 1944	

HEADQUARTERS

GROSSETO PROVINCE- TOSCANA REGION

ALLIED MILITARY GOVERNMENT

File Ref. GO/4.

Grosseto Province

22.10.44.

To: Regional Commissioner

Toscana Region

Delay in trials of Fascists

1. The long and inexplicable delay in the setting up Assize Courts to try offenders under the "Legge Sforza" in having the following effects:-

- (a) Criticism and mistrust of the Bonomi Government. This reflects upon A.C.C. when it is explained that it is a purely Italian Government affair, we are still blamed for not bringing pressure to bear upon that Government to implement the law.
 - (b) An increased desire on the part of irresponsible elements to take the law into their own hands. This in turn throws heavy responsibility upon local police forces.
 - (c) Distrust of the real intentions and effectiveness of the occupying powers, springing from comparisons of the speed of the Fascist purge in France under the French and in Italy under the Allies, which are difficult to answer in the Provinces.
2. This is countered by a genuine desire on all sides to avoid embarrassing A.C.C., which in the Provinces, while criticisms exit, holds the affection and respect of intelligent people of all classes.
3. The principal losers at this time by the delay are the Italian Government. This is most regrettable from every point of view and one is left with the feeling that that Government does not fully appreciate the unfortunate results of the delay of Fascist trials, which is causing a grave loss of public confi-

Delay in trials of Fascists

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William Hamilton
R.A.B. HAMILTON
Lt. Col. P.O.
Grosseto Province
Toscana Region.

Reg. Com. 2.
Reg. I.O. 2.
P.I.O.
P.P.S.O.

Copy to :

99A

HEADQUARTERS ALLIED COMMISSION
AND 324
LEGAL SUB-COMMISSION

4001/3/2
AD/4082/19/4/4

ES/pt.
3 Nov 44

SUBJECT : Court of Assizes and Provincial Operation
Commission, GROSSETO.

TO : Regional Commissioner, TOSCANA Region.
(Attn. Regional Legal Officer)

868

92A

1. Reference is made to the letters of FID Grosseto file No. RVIII/19/302 without date and file No. RVIII/19/2043 of 27 Sept 44 (endorsed by you on 10 Oct 44).

2. Would you please report to this Sub-Commission without delay

a. the present state of the Court of Assizes, Grosseto with special regard to its operation under the law No. 139 of 27 July 1944;

b. the progress in the organization and working of the Provincial Operation Commission set up under same law.

3. If the above bodies are not functioning regularly indicate the reasons and possible remedies.

BY ORDER OF CARLOTTA STONE:

A. R. THORNTON,
Lt. Colonel,
Italian Branch,
for Chief Legal Advisor.

file

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

98A

ES /rm.

AC/4001/3/L.

30 Oct. 44.

SUBJECT : Return of Communes of COLLI, ROCCETTA
and SCAPOLI within the jurisdiction of Pretura
di Castel San Vincenzo.

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

1. Reference is made to letter N°. 17605/0095 (Uff. Sup.
Pers.) of 18 Oct. 1944.

2. This Sub-Commission agrees with Your Excellency that
the status quo ante of the above subject should be reestablished.

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

108

97A

1001/3

HEADQUARTERS
SOUTHERN REGION, ALLIED CONTROL COMMISSION
LEGAL DIVISION
APO 394, U. S. ARMY

L- 2210

26 October 1944

SUBJECT: Communes of Colli al Volturno, Rocchetta al Volturno and
TO : Scapoli.
: Chief Legal Officer, Legal Sub-Commission, A.C.C., Rome.

1. Reference is made to your communication ACC/4001/3/L,
17 Oct. 44, relative to the above subject.

2. I see no objection to a return of Status quo ante of
the above subject as desired by the Ministry of Justice.

L. F. Dawson

L.F. DAWSON,
Lt.Col., G.L.,
Regional Legal Officer.

ETK/pv

LEGAL SUB COMMISSIO	
CLO	
DCLO	
Chief Counsel	
CJO	
Italian Section	
CL RKS	
29 OCT 1944	

107

4001/3

9/2

TABELLA DELLE CORTI DI APPELLO E DEI TRIBUNALI

CORTI D'APPELLO TRIBUNALI E GIUDICATURA

CORTI D'APPELLO TRIBUNALI

ADDIS
ABABAGiudicatura di:ADDIS ABABA
ADDARA
GONDAR
MOGADISCIO
HARAR
GIMMATribunali di:ANCONA
ASCOLI PICENO
CAMERINO
FERRA
MACERATA
PESARO
URBINOANCONAL'AQUILAL'AQUILA
AVERZANO
CHIESI
LANCIANO
PESCARA
SUIMONA
TINIANOBARI
2BARI
FOGGIA
LUCERA
TRANISezione
di LECCE
2BRINDISI
LECCE
TARANTOBOLOGNABOLOGNA
FERRARA
FORLI'
MODENA
PARMA
PIACENZA
RAVENNA
REGGIO EMILIABRUGLIABERGAMO
BRESCIA
CREMONA
MANTOVACAGLIARICAGLIARI
LANUSEI
NUORO
ORISTANO
SASSARI
TEMPIO PAVANIACATANIACALTAGIRONE
CATANIA
MOTICA
RAGUSA
SIRACUSACATANZARO
2CASTROVILLARI
CATANZARO
COSENZA
LORRI
VIBO VALENTIA
NICASTRO
PALMI
ROSSANOFIRENZEAREZZO
FIRENZE
GROSSETO
LIVORNO
LUCCA
MONTECATINI
PIBA
PISTOIA
SIENAGENOVAAPUANIA
GENOVA
IMPERIA
LA SPEZIA
SAN REO
SARONA

.//.

- 2 -

<u>MESSINA</u>	MESSINA :	Sezione di	PERUGIA
	PATTI :	<u>PERUGIA</u>	SPOLETO
	REGGIO CALABRIA :		TERNI
	BUSTO ARSIZIO :		ALBA
	COMO :		ALESSANDRIA
	LODI :		AGOSTA
	MILANO :		ASTI
<u>MILANO</u>	MONZA :		BIELLA
	PAVIA :	<u>TORINO</u>	CASALE MONFERRATO
	SONDRIO :		CUNEO
	VARSE :		IVREA
	VIGEVANO :		NOVARA
	AREATO IMPINO :		TORINO
	AVELLINO :		VIGEVANO
	BENEVENTO :		VERCELLI
<u>NAPOLI</u>	CAMPOTRASSO :		SARONNO
	ISERNIA :		GORIZIA
	LARIANO :	<u>TRISTE</u>	BORDENONE
	NAPOLI :		TOLMEZZO
	SA. RUFO :		TRIESTE
	S. MARIA C.V. :		UDINE
	S. ANGELO DEI :	Sezione di	PIUME
	LOMBARDI :	<u>PIUME</u>	POLA
Sezione di	LAGONISIO :		ZARA
<u>POTENZA</u>	MATERA :		
2	NOCI :	<u>TRIPOLI</u>	BERGASI
	POTENZA :		TRIPOLI
	AGOSTO :		BELLUNO
<u>PALERMO</u>	PALERMO :	<u>VENEZIA</u>	PADOVA
	SCIACCA :		ROVERETO
	TERNI IMMERSE :		TREVISO
	TRAPANI :		VENEZIA
			VERONA
	CALTANISSETTA :		VENEZIA
Sezione di	ENNA :	Sezione di	BOLZANO
<u>CALTANISSETTA</u>	MIGLIA :	<u>TRISTE</u>	ROVERETO
			TRISTE
	CASSINO :		
	PROBINO :		
<u>ROMA</u>	LITTONIA :		
	RIETI :		
	ROMA :		
	VALLISTRI :		
	VITERBO :		

File

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

(95A)

ACC/4001/3/L.

ARE/mt.
17 Oct. 44.

SUBJECT: Communes of Colli al Volturno, Rocchetta al Volturno
and Scapoli.

TO : Regional Commissioner Southern Region.
(Attention Regional Legal Officer)

1. The Minister of Justice has drawn attention to the fact that by an order of AMG, dated 13 Mar 44 the jurisdiction of the above-mentioned communes was temporarily transferred from the Pretura of Castel San Vincenzo to that of Viterbo, because at that time the said communes were in 5th Army Area whereas Castel San Vincenzo was in 8th Army Area.

2. On the restoration of the Province of Campobasso to Italian administration on 20 July 44 the said temporary ordinance would automatically have ceased to have effect.

3. Accordingly if there is no objection to a return to the status quo ante, as desired by the Ministry, please advise this Sub-Commission at soonest.

BY COLIAND OF CORCORAN STONE

Coly.

RICHARD H. WILLER,
Colonel, SAC,
Chief Legal Advisor.

102

4001/3

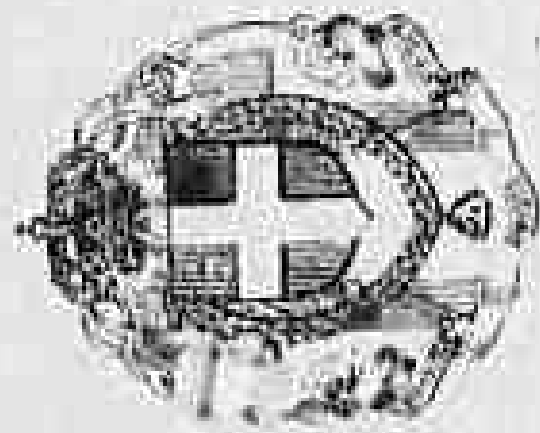
Subject : Communes of Colli al Volturno, Rocchetta al Volturno and Scapoli. (Prov. Campobasso).

By order of AMG dated 13 March 44 jurisdiction of the a/m communes was temporarily transferred from Pretura of Castel San Vincenzo to Venafro Pretura.

Said provision was necessary because the a/m communes were situated in the area occupied by the 5th Army while the Pretura of Castel San Vincenzo was situated in the area occupied by the 8th Army.

Now, that the front line has moved northwards, there is no further reason in ~~maintaining~~ maintaining the above provision, therefore Ministry demands that the a/m three communes return to their former jurisdiction.

105



94A Mod 1348 MG

Ministero di Grazia e Giustizia

UFFICIO SUPERIORE DEL PERSONALE E DEGLI AFFARI GENERALI

UFFICIO III°

Protocollo n. 1760g/9095

Roma, lì 11 ottobre 1944.

ALLA COMMISSIONE ALLEATA

Sotto Commissione Legale

R O M A

OGGETTO: - Comuni di Colli al Voltorno, Rocchetta al Volturno e Scapoli.

Con provvedimento dell'A.M.G., emesso in data 12 marzo ultimo, i Comuni di Colli al Voltorno, Rocchetta al Voltorno e Scapoli, dipendenti dalla pretura di Castel San Vincenzo, passarono a far parte della pretura di Venafro.

Il provvedimento fu determinato dal fatto che i suddetti Comuni rientravano nella zona occupata dalla V Armata Alleata, mentre la pretura di Castel San Vincenzo dipendeva dall'VIII Armata.

Ora, la Procura del Regno di Isernia, dalla quale le dipendono le preture anzidette, considerato che sono venute a cessare, con l'allontanamento del fronte di guerra, le ragioni che determinarono l'aggregazione provvisoria delle tre Comuni suindicati alla pretura di Venafro, prospetta la opportunità di far rientrare nella giurisdizione della pretura di Castel San Vincenzo i detti Comuni, anche perchè il perdurare di tale stato di cose apporta aggravio di lavoro alla pretura di Venafro con la conseguente disorganizzazione

Roma, lì 11 ottobre 1944.

ALLA COMMISSIONE ALLEATA

Sotto Commissione Legale

R O M A

Oggetto: - Comuni di Colli al Volturmo, Rocchetta al Volturmo e Scapoli.

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Ciò premesso - al fine di impartire le disposizioni del caso - si prega codesta Un. Commissione di voler comunicare, con cortese urgenza, il Suo avviso in merito alla richiesta di che trattasi.

IL MINISTRO.

Dei...

L. 001 134

HEAD OFFICE
ARMED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

~~File~~
AOC/4001/3/L.

93A
ES/pa.
4 Oct 44.

SUBJECT : Punishment of fascist crimes.
TO : H.E. The Minister for Pardon and Justice.

1. Enclosed letter No. 360 dated 20 Sept 1944 of the Prefect, Grosseto Province, on the above subject for your Excellency's consideration.
2. The request contained in said letter has the approval of the Provincial Legal Officer.

Reg
A. R. THACKER,
Lt. Colonel,
Italian Branch,
for Chief Legal Advisor.

10

4001/3
ALLIED MILITARY GOVERNMENT

Province of Grosseto

Legal Office

27 September 1944

SUBJECT: Request for Trial of Fascist Offenders

TO: Regional Legal Officer, Region VIII

1. Attached hereto is translation of letter written me by the Prefect of Grosseto Province in which he complains that only three Fascists have been tried to date, and asking that the Italian Government be asked to speed the sending of courts, etc.

2. The three cases he referred to are those tried at the opening of the Tribunale here during the first part of August. These were tried at our insistence by the Tribunale for violations of regular Italian penal code provisions, - and the defendants merely happened to be former Fascists office holders. They were good cases to begin on however.

3. Mr. Scoccimaro, of the Ministry of Justice has already offered to be of help in this matter as shown by the correspondence in ACC file "4001/3/L - Region VIII file RVIII/19/3004.

85A
Robert M. Hill
Robert M. Hill, Capt. (US)
Spec.-Res. - P L O

1st Ind.

RVIII/19/2013
Regional Legal Officer, Region VIII (Tuscano) 1 October 1944
To: Chief Legal Officer, Hqtrs. ACC.

I. Forwarded.

John K. Weber
Colonel, Infantry
Chief Legal Officer

RVIII/19/2013

R. PREFETTURA DI GROSSETO

September 20th, 1944

SUBJECT : Punishment of Fascist Crimes.

TO : The Provincial Commissioner - AMG. - GROSSETO

With the exception of the case against the Secretary of the Fascio of Scarlino, and of his accomplices, with reference to person that are charged with Fascist crimes, any other case has been tried. We know also that a large quantity of important fascist authorities are still free.

For give to the population the idea that in this matter we are doing something, other than with Justice, also with the utmost promptness, I think that will be necessary to solicit the Italian Government to send in this Province the special Court of Assize created with the Decree 27th of July 1944, and that the others cases of competence of the Tribunale and of the Preture will be tried as soon as possible.

A. DE DOMINICIS
Prefect of Grosseto.

From : Lt.Col. G.G. HANNAPORD

LEGAL SUB-COMMISSION
HEADQUARTERS
ALLIED CONTROL COMMISSION

ACC/4001/3/L.

3rd October 1944.

My dear Hugh,

As I have the great privilege to be attached to your outfit for the purpose of helping in the reorganization of local justice in your area, may I say that I should very much like to talk matters over with you at any soonest!

I am just out of hospital and returning there for three days, so that I expect to be fit and well Friday next.

As everybody else, I am very much concerned, with the situation which will be found in Milan and especially with Fascist criminals (members of the special battalion, police personnel, judges of special courts etc).

How are we going to deal with this problem and the congestion of gaols.

Obviously AMG Courts and ordinary courts depleted by a defascistization order will not be adequate.

I have worked lately on the question of Italian Military Tribunals and have requested the "Stato Maggiore" to supply me with a list of military judges ready to set up one or more military Courts in Milan and possibly neighbouring regions.

The advantages of having a regular Court dealing with the political offenders and passing heavy sentences up to death are unquestionable.

However, there exist many difficulties to overcome (both on our side and the Italian's) in getting these Courts organized and I should very much like to discuss all these points with you.

I have also some unofficial information about Milan, which may be of interest.

Yours

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days, so that I expect to be fit and well Friday next.

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and I should very much like to discuss all these points with you.

I have also some unofficial information about Milan, which
may be of interest.

Yours

Copy to : ACC/4075/L

TO :

Wing Comdr. DICKIE
AMG, 5th Army.

HEADQUARTERS
LIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4001/3/L.

ART/ap.
2 October 1944.

SUBJECT : Pretura of Livorno.

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

1. For Your Excellency's information the Pretore of Livorno has now returned to his seat and ready to function.

The Legal Officer of the Province is also arranging for the magistrates of the Tribunale to be brought back to the city from San Miniato.

Copy
A. R. THACKRAH,
Lt. Colonel,
Italian Branch,
for Chief Legal Advisor.

HEADQUARTERS REGION VIII (TUSCANY)
ALLIED MILITARY GOVERNMENT

File Ref: RVIII/5004

4001/3

Date: 27 Sept. 44.

SUBJECT: Opening of Italian Court.

TO : CLO, HQ, ACC

1. Herewith copy of letter dated 25 sept. 44.
from P.L.O. Livorno.

HEADQUARTERS
30 SEP 1944
A. C. C.

W *Herewith letter left*
JOHN K. WEBER,
Colonel, Infantry,
Regional Legal Officer.

LEGAL SUBCOMMISSION	
CLO	
DCLO	
Chief Counsel	
CLO	
Colonel Weber	
CLARS	

89B

HEADQUARTERS
A.M.G. P.L.O.
LIVORNO PROVINCE

25 September 1944

SUBJECT : Opening of Italian Court.
TO : RLC., Region VIII.

1. Last week I traveled to Florence Province and returned with the local Livorno Pretore who had fled this city last November.
2. He has begun to function officially and it is expected to start trying cases within a few days.
3. I am arranging for Lt. Becker to go to San Miniato for the purpose of bringing back the judges of the Tribunale.

ROBERT M. WOODWARD
Major P.L.O.
Livorno Province

95

HEADQUARTERS
ALLIED CONTROL COMMISSION
JAL SUB-COMMISSION
APO 394

(88A)

4001/3
Full
ACC/4023/3/L

WEB/ap.
2 October 1944.

SUBJECT : PLO, Milan.

TO : Regional Legal Officer (Thru RC) Lombardia Region.

1. In order to facilitate the initial organization of Milan and the operation of the Italian Courts there it is proposed to attach Lt.Col. G.G. HANNAFORD to your HQ for a short period of approximately 3 weeks from the date of entry into Milan.

2. It is suggested that Major A.P. Nugent, an extremely capable American officer, be assigned permanently as PLO Milan, and with this object in view Major Nugent, who is now in Toscana Region, will be assigned to Lombardia.

3. Major Nugent should be made available for Milan not later than the initial entry in order that he may have the advantage of working with Lt.Col. HANNAFORD from the outset and thereby become thoroughly acquainted with the personnel and problems involved.

RICHARD M. WILMER,
Colonel, CAC,
Chief Legal Advisor.

Copy to : RLO, Toscana Region
ACC/4001/3/L.

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ES/pa.
29 Sept 44.

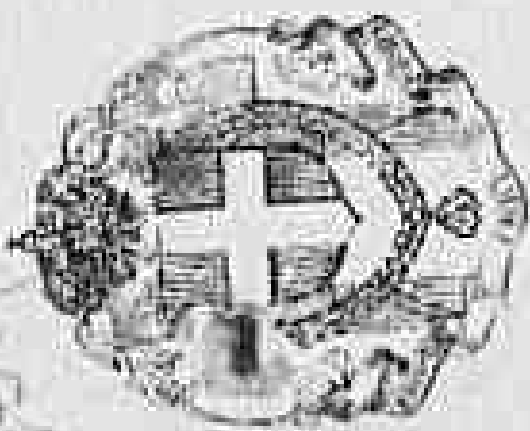
ACC/hpal/3/L.

SUBJECT : Tribunale di Orvieto.

TO : Regional Legal Officer (Taru Regional Commissioner) Lazio Region.

1. Enclosed for your information a copy of letter No. 1760/02714 of the Ministry of Justice.

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



Ministero di Grazia e Giustizia

UFFICIO SUPERIORE DEL PERSONALE E DEGLI AFFARI GENERALI

Roma, 20.9.1944

UFF. II° 1760/2274

ALLA SOTTOCOMMISSIONE LEGALE DELLA
COMMISSIONE ALIATA DI CONTROLLO

R O M A

OGGETTO: Tribunale di Orvieto.

In relazione alla lettera sopra indicata si informa codesta Sottocommissione che l'art. 4 del decreto legislativo con cui viene istituito il Tribunale di Orvieto attribuisce al Primo Presidente della Corte di Appello di Roma l'emanezione delle disposizioni occorrenti per l'attuazione del decreto stesso, ivi comprese le designazioni del personale.

Questo Ministero, pertanto, ha interessato il Primo Presidente della Corte di Appello di Roma perché provveda ad assegnare al Tribunale anzidetto il personale necessario al suo funzionamento.

LEGAL SUB-COMMISSION

PER IL MINISTRO

M. M.

Prot. n. 17607/0744

ALLA SOTTOCOMMISSIONE LEGALE DELLA
COMMISSIONE ANIATA DI CONTROLLO

R O M A

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PEL MINISTRO

Alfano

LEGAL SUB-COMM.
SUB-COMMISSION

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4001/3

Legal (86A)

1st Ind.

RVIII/19/5004

Regional Legal Officer, Region VIII (Tuscany) 25 September 1944
TO: Chief Legal Officer, Hq. ACC.

85A

I. See your letter ACC File No. 4001/3/1. The basic communication is in response thereto.

John K. Weber
John K. Weber
Colonel, Infantry.
Regional Legal Officer

HEADQUARTERS
25 SEP 1944
A. C. C.

91

LEGAL SUB-SECTION

CLO

OCLO

Chief Clerk

CIA

Regional Section

CLERKS

ALLIED MILITARY GOVERNMENT
GROSSETO PROVINCE

86B

REF: EVIII/19/3004 - AGO File No. 4001/3/L

SUBJECT: Court of Assize, Grosseto - Trial of
Fascists, etc.

DATE

TO: Lt. Col. G. G. Hannaford, Officer i/c Italian Branch
(through Col. Weber, Regional Legal Officer, Region VIII)

1. We have received Col. Hannaford's letter of 7 Sep't. transmitted to us by the Regional Legal Officer who asks that we supply details with reference to alleged overcrowded jails in Grosseto and failure of the local authorities to reopen the Court of Assizes, and stating further that this report had come from Mr. Scoccimaro to whom complaints had been voiced by Lt. Col. Hamilton, P. C., Grosseto.
2. Lt. Col. Hamilton says: "I told the High Commissioner (orally) that the jails of Grosseto would not accommodate the number of local Fascists recommended for safe custody pending trial under the Legge Sforza. I complained that trial of these people was being unnecessarily delayed, and that I was keen to commence the trials as soon as possible, when I anticipated that many of the accused would have to serve their sentences in jails and camps outside Grosseto."

Lt. Col. Hamilton says the Commissioner misunderstood somewhat his remarks inasmuch as he did not make any complaint of overcrowded jails at the time, and further that some of the offenders to be tried were not at that time yet in custody.

3. Since the date of that conversation Lt. Col. Hamilton has completed an inspection tour of the whole of Grosseto Province, and during the tour an additional 30 alleged Fascist offenders were ordered arrested. Before that time we had approximately 10 such alleged offenders incarcerated and awaiting trial on each of whom the Vice-Proc. del Regno has already completed his files containing charges, facts, etc. Some offenders to be later tried are now in concentration camps.

4. We are told today that the Ministry of the Interior has appointed Signor Testa, local citizen (also acting as Vice Prefect Ispettore) as head of Esercizio for this Province. Today we had Signor Testa and the Vice-Proc. del Regno in conference and advised them they should work in close cooperation, files would be prepared at once on all those recently arrested on who there are vet no complete files, and a procedure was put

Dr. Col. G. G. Hannaford, Officer in Charge, Region VIII)
(through Col. Weber, Regional Legal Officer, Region VIII)

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4. We are told today that the Ministry of the Interior has appoint-
ed Signor Festa, local citizen (also acting as Vice Prefect Ispettore) as
head of Epurazione for this Province. Today we had Signor Festa and the
Vice-Proc. del Regno in conference and advised them they should work in
close cooperation, files would be prepared at once on all those recently
arrested on who there are yet no complete files, and a procedure was out-
lined whereby any alleged offenders recommended for release pending trial
could be screened through AMG here for release on bail, house arrest, etc.
5. We do not yet have any information, however, as to when the
Italians will commence these trials.

Robert M. Hill
Robert M. Hill, Capt. (US)
P. L. O.

Rm/19/3004

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
AFO 394

85A

ACC/4001/3/L.

ES/ap
7 Sep 44

SUBJECT : Court of Assize, Grosseto.

TO : Regional Legal Officer (thru RC) Region VIII.

1. Mr. Scozzimaro, Assistant High Commissioner for sanctions against fascism advised Maj. Palmieri of this Sub-Commission of the complaints voiced by Col. Hamilton in respect to the overcrowded jails at Grosseto and failure of the local authorities to reopen the Court of Assize.

2. This Sub-Commission will be glad to take any action within its power to remedy the situation and will bring the matter up with the Minister if you let us have full particulars, the reasons for the difficulties and any proposals as to their remedy.

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

35

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

ACC/4001/3/L.

/rm
7 Sept 44.

SUBJECT : Court of Assize, Grosseto.

TO : CLO, for Lt. Col. G.G. Hannaford.

1. At a conference held yesterday, 6 Sept, Mr. Scoccimaru advised Col. White and me that, he had been to Grosseto a few days before and had spoken with Colonel Hamilton.

2. Mr. Scoccimaru added that Col. Hamilton had complained that the jails were full and that there was no Court of Assize functioning. The situation was aggravated by the fact no custodial facilities were available for persons who were to be arrested.

3. This information is passed on at Col. White's suggestion for your consideration.

E. J. Palmieri
E. J. PALMIERI,
Major,

35

Col W
[Signature]

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ES/pa.
1 Sept 44.

ACC/4001/3/L.

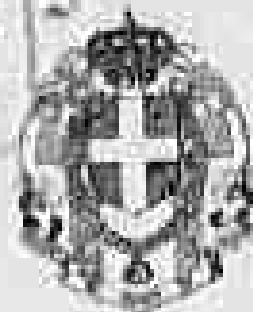
SUBJECT : Courts in Iacera and Campobasso Province .
TO : H. H. The Minister of Pardon and Justice.

1. This Sub-Commission is informed that the President of the Court of Appeal Section at Iacera has not received any instruction from the Ministry as to the continuation of the Section. Thus the magistrates of this Court have remained inactive since 20th July. At this occasion it is pointed out that despite repeated solicitations by this Sub-Commission the draft decree providing for continuation of the said Court has not yet appeared in the Gazzetta Ufficiale.

2. The local ACC Officers emphasize the fact that in the Provinces of Poggia and Campobasso a number of important Preture are manned by Vice-Pretori only. As far as Campobasso Province is concerned the matter was brought to Ministry's attention several months ago. The unsatisfactory nature of this arrangement is accentuated now that these Courts are responsible for trial of cases previously tried in Allied Military Courts. Attached a list of Preture administered by Vice-Pretori.

3. Would Your Excellency please give the above remarks an early consideration.

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



Ministero di Grazia e Giustizia

DIREZIONE GENERALE
PER GLI ISTITUTI DI PREVENZIONE E DI PENALEUfficio 7°
Aut. 1° 0163/1-42

Roma 2 AGO 1944

Mod. 805 MC

182A

Alla Commissione Alleanza
di Controllo-Sottocommis-
sione locale

ROMA

Proposta di N° 401/4001/2/E

del

OGGETTO: Ospedale psichiatrico di Volterra.

73A

Con riferimento alla nota sopra inci-
cata, si comunica che in data odierna è sta-
ta richiesto il Presidente del Tribunale di
Firenze, che risiede a Volterra, perché invii
con sollecitudine e celerità la Commissione di
Controllo-Sottocommissione locale ^{ed a quest'ultimo}
detta, nella relazione sulla visita, che so-
vrà fare all'Ospedale psichiatrico di Vol-
terra.

PER IL DIRETTORE

85

SIA

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/ 4001/3/L.

/gb.
19 Aug 44

SUBJECT: Offences in Italian Courts

TO: RLO REGION V

1. Reference your R5/511/12 of 16 Aug 44.
2. The cases mentioned should be investigated by the MACERATA Tribunale and the persons believed to be guilty should be brought to trial in the appropriate Italian Court.

RICHARD E. WILMER?
Col., C.A.C.
Acting Chief Legal Officer.

85

HEADQUARTERS

ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

80A

ACC/4001/3/L.

23/pa.
19 Aug 44.

SUBJECT : Tribunale of Terni and Orvieto.

TO : RLO (thru RC) Region 4.

1. Upon his return from Terni the Minister of Justice reported that the American flag is the only one displayed in the Court room of the Tribunale at Terni. As this Court room is used by Allied Military Courts and by the Italian Tribunale the Minister requested an authorization to display the Italian flag in addition to the British and American flags. Would you please inform the PLO of Terni that this Sub-Commission has acceded to Minister's request in this respect.

2. Furthermore the Minister stated that the present lack of means of transport and communication has brought the administration of justice in the Terni area to a virtual standstill. As there appeared to be no need for additional personnel for the above reason the Minister suspended for the time being his orders previously issued to several judicial officials to return to their offices at Terni.

3. In Minister's view the same difficulties caused by the lack of means of transport and communication render it necessary to divide the district of the Tribunale of Terni and reestablish the Tribunale of Orvieto abolished by the fascist Government. Thus the Tribunale of Terni would serve two mandamenti (Terni and Narni) instead of four and the Tribunale of Orvieto would operate for the two remaining mandamenti (Orvieto and Amelia). The Minister thought that this would make the recourse to Courts easier for the people. He also assured this Sub-Commission that the personnel allotted to Terni would suffice for both Terni and Orvieto and no additional appointments would be necessary. This Sub-Commission feels that there should be no objection against the proposed reestablishment of the Orvieto Tribunale on a temporary basis.

G. G. HANFORD,
Lt. Colonel,
Officer i/c Italian Branch,
for A/Chief Legal Officer.

4001/3.
 SUBJECT : Offences : Italian Courts
 TO : CIO HQ. ACC
 FROM : RIO REGION V

R5/511/12

16 August 44

1. During a recent tour of Macerata Province I discovered that there are about 300 cases awaiting trial or investigations in the Macerata Tribunale.
2. Of these cases approximately the 200 most recent occurred between the retirement of the Germans and the occupation by the Allies.
3. This period lasted a considerable time. During it there was "open warfare" between Fascists and others. Practically all the charges are Homicide or larceny. In only 32 cases are the offenders known.
4. In a number of others although the offender is listed as "Ignoto," he can be identified if the proceedings are continued.
5. Will you please advise as a matter of policy what course should be followed.
6. I am informed that the culprits are either Fascists or Partisans.

LEGAL SUB-COMMISSIONER

CLO

DCLO

Chief Counsel

CJO

Italian Section

CL RKS

For the Regional Commissioner

John Williams
 J. L. WILLIAMS
 Lt. Colonel,
 RIO



2101

78A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4001/3/L.

/rlp.
18 August 1944.

SUBJECT : Sentences of Republican Fascists at Grosseto.

TO : H.E., the Minister of Grace and Justice.

1. Further to this sub-commission's letter 4001/3/L of 16 Aug 44.

2. The following are the dates concerning the sentences against Republican Fascists rendered by the Tribunale of Grosseto:

The Tribunale Court of Grosseto, in the session of the 7th August 1944, has given the following sentences for violation of sections of the Italian Penal Code as indicated:

FROSI LORENZO	Secretary of the Republican Fascist Party of Scarlino. SENTENCE: a term of 18 years of jail imprisonment and a fine of 15,000 lire, for the following offences: Private violence (Sect. 610) - Swindling (Sect. 649) - Illegal detention of persons (Sect. 605) - threats (Sect. 612)
NOVELLI LIVENO	Vice-Secretary of the Republican Fascist Party of Scarlino. SENTENCE: a term of 4 years of jail imprisonment and a fine of 20,000 lire, for the following offence: Swindling (Sect. 649).
PETRI ARCHIMEDE	Vice-Secretary of the Republican Fascist Party of Scarlino. SENTENCE: a term of imprisonment of 13 years and a fine of 25,000 lire, for the following offences: Illegal detention of persons (Sect. 605) - Embezzlement (Sect. 647) and Swindling (Sect. 649).

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

77A

File

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

ACC/4001/3/L

GGH/AP
16 Aug 44

SUBJECT : Opening ceremonies and sentences of
Fascists at Grosseto.

TO : Regional Legal Officer (thru RC) Region VIII

1. Your interesting communications on the above
matter have been received with thanks. Copy of the sen-
tences have been forwarded to Minister of Justice.

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

~~File~~
HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

76A

ACC/ADOL/3/L

GCH/ap
16 Aug 44

SUBJECT : Sentences of Republican Fascists at Grosseto.

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

1. Your Excellency will no doubt be interested to hear that the Tribunale of Grosseto has rendered the following sentences against Republican Fascists for common law offences.

G. G. HANNAPORD,
Lt. Colonel,
Officer i/o Italian Branch,
for Acting Chief Legal Officer.

Copy to : 4082/3/L

3

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION VIII

RVIII/19/5004/3

14 th August 1944

SUBJECT : Opening ceremonies at Grosseto
TO : Chief Legal Officer , HQ AGC

1. The attached is a report of the opening ceremonies at Grosseto. I was impressed with the remarks of Colonel Hamilton, and thought the handling of the subject was appropriate to the occasion. I am taking the liberty to pass the report on to you in advance of our monthly report, as a matter of immediate interest.

LEGAL SUB-COMMISSION

CLO

DCLO

Chief Counsel

CJO

Italian Section

CL RKS

1 incl.

JOHN K. WEINER
Colonel, Infantry
Regional Legal Officer

HEADQUARTERS

15 AUG 1944

A. C. C.

79

ALLIED MILITARY GOVERNMENT
Province of Grosseto

Legal Office

8 August 1944.

SUBJECT: Opening Cases of Tribunale Court of Grosseto.

TO : Colonel Weber, R.L.C., Region VIII.

1. It was thought you might be interested in seeing the attached record of the three cases tried by the Tribunale Court here this week. Colonel Hamilton has asked that the attached notices be posted in public places.

The defendants, of course, were not tried under the provisions of the Decree Law for the punishment of Fascists, but were tried, at our direction and insistence, for violation of the named sections of the regular Italian Penal Code. The fact therefore that the defendants each formerly held fascist offices was immaterial, as was explained to the Court beforehand; it might be stated, however, that the Vice-Procuratore del Regno, who was in charge of the prosecutions, was particularly pleased that his first three cases were against former fascist office holders.

2. I believe you will be interested in the remarks of Lt. Col. Hamilton, P. C. made during the ceremony we had at the opening of the court. I enclose a copy. I particularly liked that portion of the remarks in which it is said we are now giving back to the Romans something about law which they gave to us centuries ago.

3. Today I ordered dismissal of a charge and release from imprisonment of an Italian citizen incarcerated and charged with a violation of the Italian Penal Code in that he said of the Sindaco of Pitigliano the following:

"Villager, you are only good to hoe the ground with potatoes and tomatoes".

The charge is probably true to say nothing of the free speech issue involved!

Robert M. Hill, Capt. (US)
F. L. C.

ALLIED MILITARY GOVERNMENT
REGION VIII
ACC
OFFICIAL

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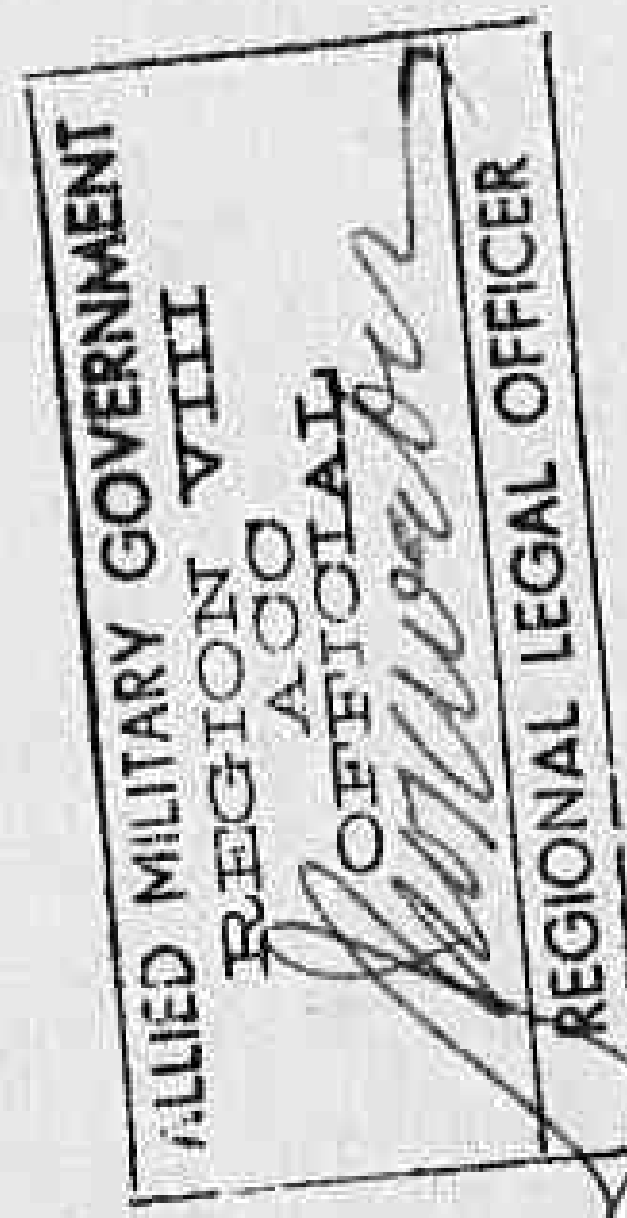
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"Villager, you are only good to hoe the ground with potatoes and tomatoes".

The charge is probably true to say nothing of the free speech issue involved!

Robert M. Hill, Capt. (US)
P. L. G.



ALLIED MILITARY GOVERNMENT
HQ. 3 GROSSETO PROVINCE
REGION VIII

LEGAL DIVISION

August 8th 1944.

TO: _____

The Tribunale Court of Grosseto, in the session of the 7th August 1944, has given the following sentences for violation of sections of the Italian Penal Code as indicated:

FROSTI LORENZO

Secretary of the Republican Fascist Party of Scarlino.

SENTENCE: a term of 18 years of jail imprisonment and a fine of 15,000 lire, for the following offences:
Private violence (Sect. 610) - Swindling (Sect. 649) -
Illegal detention of persons (Sect. 605) - threatment (Sect. 612)

NOVELLI LIVIANO

Vice-Secretary of the Republican Fascist Party of Scarlino.

SENTENCE: a term of 4 years of jail imprisonment and a fine of 20,000 lire, for the following offence: Swindling (Sect. 649)

PETRI ARCHIMIDE

Vice-Secretary of the Republican Fascist Party of Scarlino.

SENTENCE: a term of imprisonment of 13 years and a fine of 25,000 lire, for the following offences: Illegal detention of persons (Sect. 605) - Embezzlement (Sect. 647) and Swindling (Sect. 649).

ROBERT M. HILL - CAPTAIN
PROVINCIAL LEGAL OFFICER

4001/3

RLO - Region VIII

- Subj. Section of

- Subj. Section of

- Subj. Section of

- Subj. Section of

- Subj. Section of

- Subj. Section of

ALLIED MILITARY GOVERNMENT
REGION VIII
AOC

OFFICIAL

[Signature]

Illegal Detention of Persons (Sect. 612)

NOVELLI LIVING

Vice-Secretary of the Republican Fascist Party of Scarlino.
SENTENCE: a term of 4 years of jail imprisonment and a fine of 20,000 lire, for the following offences: Swindling (Sect. 649

PETRI ARCHIVED

Vice-Secretary of the Republican Fascist Party of Scarlino.
SENTENCE: a term of imprisonment of 13 years and a fine of 25,000 lire, for the following offences: Illegal detention of persons (Sect. 645) - embezzlement (Sect. 647) and Swindling (Sect. 649).

ROBERT M. HILL - Captain
PROVINCIAL LEGAL OFFICER

ALLIED MILITARY GOVERNMENT
REGION VIII
OFFICIAL
REGIONAL LEGAL OFFICER

4001/3
RLO - Region VIII
Subject - Petri and
- your attention is drawn to the fact
matter has been reviewed
with Mr. ... Copy of the
sentences has been forwarded to
the Minister of Justice -

4001/3

W F the Minister of Justice

Subject: Sentence of imprisonment of 13 years and a fine of 25,000 lire.

1. Your Excellency will be interested to know that
the Tribunal of Grosseto has rendered the following
sentences against Republican Party for common law
offences.

Copy to 4002/3

A.M.G.
Grosseto Province
Region VIII.

9/8/44.

P. C. Speech at opening of the Grosseto Tribunale.

Signor Procuratore, Judges, of the Bar, Ladies and Gentlemen.

It is fitting that we should open the Grosseto Tribunale in the free air of democracy as German armies are crumbling in East and West. It is a great honour to me and to Allied Officers under my command to attend this court today. As you are here for one main purpose only.

Many centuries ago the Romans came to our country and occupied England and parts of Lowland Scotland for two hundred years. They left us a great gift, the law and freedom under the law. For many centuries we in America, England and Scotland have fought to preserve and to enhance this gift, the foundation upon which we are still building the edifice of democracy in which we hope that the world may live in peace.

Now, against tyrants for the freedom of man have been fought since the creation, we come to you, which the arms of freedom once again as they even will be, victorious and we bring you that same gift which the Romans long ago gave us, freedom under the law. Throughout the history of mankind, the world has witnessed the rise of tyrants, they were fully armed. They always have superior force. They have the cannon, the armour and the great armies. Only one thing stands against them and the most powerful thing in all the world, the thoughts and aspirations of free men. That this is more powerful than armies the whole history of the world shows. I particularly commend this lesson to the young men of Italy and I urge them to study, as if it were a scientific demonstration, the disaster which is now befalling Germany, the fate which, in various forms, will inevitably fall upon her leaders Hitler, Goering, Himmler and upon the German people. They should take heart from this lesson and determine that never again shall the world permit such men to tyrannize their people. We are not together here all free men and women. We live in the law our fathers made when they were free. We can renew it after it by our free-will. At the same time it stands in our way made by us to ensure our freedom under it. Here as everywhere in the world today justice can hold her scales again and men can be confident in her. Before this war Mr. Churchill once cried: "the lights are going out all over Europe" today the lights are beginning to burn again and here in this tribunal we are not together to light one more.

N.B. This is an exact of the original.

A. A. B. HAMILTON
Grosseto Province
Reg. VIII.

78

ALLIED MILITARY GOVERNMENT
REGION VIII
GROSSETO

M. Hamilton

R.B. This is an exact of the original.

N. A. D. Province
Grosseto Province
Reg. VII.

**GOVERNMENT
MILITARY**

ADJUTANT

McDon LEGAL OFFICER

REGIONAL LEO

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

74A

ACO/4001/3/L.

RS/ps.
8 AUG 44.

SUBJECT : Ospedale Psichiatrico di VOLTERRA (Pisa).
TO : Director Public Safety Sub-Commission.

1. Enclosed for your information a copy of this Sub-Commission's letter addressed to the Minister of Justice and relaying information received from SLO AMB 5th Army .

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

75

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

73A

Tel. No. 478525

ACC/AC01/3/L

ES/ap

5 Aug 44

SUBJECT : Ospedale Psichiatrico di Volterra.

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

1. The following information received from SLO 5th Army is forwarded to Your Excellency's observation:

" Further investigation, however revealed that there is a problem at the Ospedale Psichiatrico di Volterra requiring attention. Of the 782 criminally insane committed to this institution, approximately 340 have completed a specified term of detention and under normal conditions would have been judicially surveyed to determine whether they should be released or detained for an additional period of treatment. The Presidente of the Tribunale of Pisa who is living in Volterra at the present time recommended that a judicial survey be made immediately in order to eliminate unrest among the inmates and to prevent possible rioting since approximately 140 of the 340 had been awaiting examination since last March. As war emergency conditions in the Province would not permit the release of any mental case of this kind, particularly with criminal tendencies, the Provincial Commissioner Col. T.W.J. Walters agreed on the survey being made to prevent unrest but only on the condition that no one be released until conditions warranted it. The offer of the Presidente to conduct the survey himself was accepted. He will be assisted by a psychiatrist from the Ospedale Psichiatrico di Volterra.

2. It is hoped that the steps taken by SLO 5th Army will be approved by Your Excellency and this Subcommittee will be pleased to receive any suggestions you may wish to make in the above connection.

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

R-E-S-T-R-I-C-T-E-D. (72A)

4001/3
 HEADQUARTERS.
 ALLIED MILITARY GOVERNMENT
 REGION IV
 LEGAL DIVISION
 A.P.O. 394

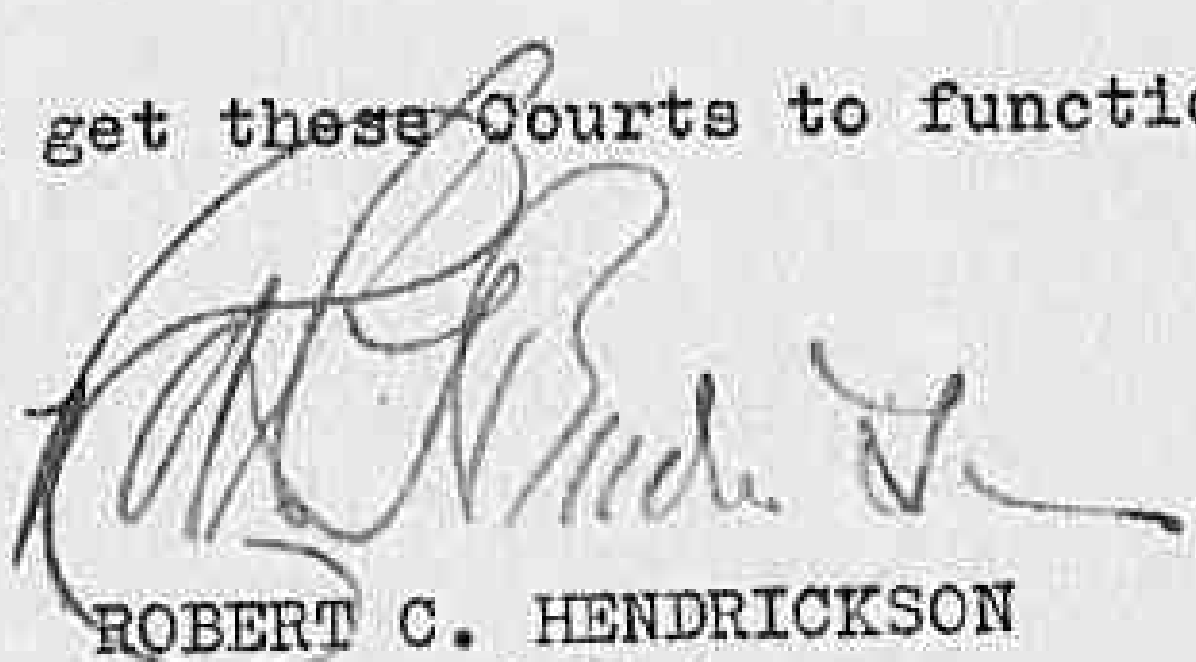
3 August 1944.

L/1025

Subject : Persons awaiting trial by Court of Assize.
 THRU : Regional Commissioner.
 To : Legal Sub-Commission, A.C.C. Att. Lt.Col. HANNAFORD.

1. Thirty or more persons are in the prisons of Fro-
 sinone Province awaiting disposition of their cases by the Court
 of Assizi.

2. What is being done to get these Courts to function?


 ROBERT C. HENDRICKSON
 MAJOR, A.U.S.
 REGIONAL LEGAL OFFICER.

RCH/AC.

Copies :
 1 to Major Waugh.
 1 " Regional Commissioner.

LEGAL SUB-COMMISSION	
CLO	
DCLO	7
Chief Counsel	
CJO	
Italian Section	
CL RKS	

R-E-S-T-R-I-C-T-E-D.

HEADQUARTERS
AMG FIFTH ARMY
APO 464 U.S. ARMY.

3 August 1944.

208/CA/33.

SUBJECT : Report on Italian Courts.

TO : C.L.O., A.C.C., H.Q.

1. With reference to the interim report on the Italian Courts in the Army Area dated 26th July 1944, para. 4 C. (Reopening of Courts in Pisa Province) requires correction in view of further information since received from P.L.O. Pisa, who reports as follows:

"The information given in the report of 24 July was erroneous, although stated in the report as given to the writer by local provincial officials.

Further investigation, however revealed that there is a problem at the Ospedale Psichiatrico di Volterra requiring attention.

Of the 782 criminally insane committed to this institution, approximately 340 have completed a specified term of detention and under normal conditions would have been judicially surveyed to determine whether they should be released or detained for an additional period of treatment.

The Presidente of the Tribunale of Pisa who is living in Volterra at the present time recommended that a judicial survey be made immediately in order to eliminate unrest among the inmates and to prevent possible rioting since approximately 140 of the 340 had been awaiting examination since last March.

As war emergency conditions in the Province would not permit the release of any mental case of this kind, particularly with criminal tendencies, the Provincial Commissioner Col T.W.J. Walters agreed on the survey being made to prevent unrest but only on the condition that no one be released until conditions warranted it.

The offer of the Presidente to conduct the survey himself was accepted. He will be assisted by a psychiatrist from the Ospedale Psichiatrico di Volterra."

LEGAL SUBCOMMISSION

CLO

DCLO

Chief Counsel

CJO

Legal Section

CL RK5

H.M. DICKIE., W/Cdr., R.A.F.,
S.L.O. AMG Fifth Army.

1001/3 *zh*

HEADQUARTERS
AMG FIFTH ARMY
APO 464 U.S. ARMY.

Legal 70A
27 July 1944.
208/CA/33. *7501*

SUBJECT : Report on Italian Courts.

TO : C.L.O., A.C.C., H.Q.

1. An interim report on the condition of the Italian Courts in the Provinces of Grosseto, Livorno, Pisa and Siena is sent herewith.
2. Attention is drawn to paragraph 4B reporting the presence in Volterra of the President of the Pisa Tribunale and a Judge of the Turin Tribunale, as it is thought that this information is likely to be of interest to the Minister of Justice.

For the Commanding General:

LEGAL SUB COMMISSION	
CLC	✓
CLC	
Chief Counsel	✓
CLC	
→ Legal Section	
CLC	

E.B. Mayne

E.B. MAYNE,
Colonel., UDF.,
Chief of Staff,
AMG Fifth Army.

70

HEADQUARTERS
AMG FIFTH ARMY
LEGAL DIVISION
APO 464 U.S. ARMY.

26 July 1944.
208/CA/33.

SUBJECT : Italian Courts in the Provinces
of Grosseto, Livorno, Pisa and Siena.

TO : S.C.A.O., A.M.G. 5 Army.

1. The following interim report on the position of the Italian Courts in the above-mentioned Provinces has been compiled from particulars supplied by the respective Provincial Legal Officers, and is submitted for your information

2. GROSSETO PROVINCE :-

A. Court Buildings and Records.

In Grosseto town, the building which houses both Tribunale and Pretura was found in fair condition except for broken glass and dirt, the courts having removed themselves and their records to the country last November. Necessary repairs were effected, magistrates and officials located and transport provided to bring them back to Grosseto.

The five other Preture in the Province are in reasonably good condition with the exception of Orbetello where the Pretura was completely destroyed. Arrangements have been made there for Courts to be held in part of the Municipio.

B. Personnel.

The President of the Tribunale, Cav. Laneri Leone, has been fetched from Rome together with another judge of the Tribunale, and four others had previously reported for duty in Grosseto. There is no Procuratore del Regno but the Procuratore Sostituto has been most co-operative. All Pretori are available.

Schede Personali, C.I.C. reports and information received from the C.N.L. indicate that one of the judges of the Tribunale and the Pretore of Orbetello should be removed from office on account of their Fascist background. Further details are awaited.

The Procuratore Sostituto del Regno is said to be popular and well-respected and known for his Anti-Fascist views, and in the opinion of the P.L.O. should be appointed as Procuratore.

C. Reopening of Courts.

Reorganization has been slower than desired pending the return of the President of the Tribunale, but all six Pretori are functioning, and have received oral and written instructions from the P.L.O., who has required weekly reports from them on cases handled. The number of cases awaiting trial is small.

A number of prostitution cases have been referred to the Italian Courts and steps are being taken to transfer minor violations of the Proclamations to their jurisdiction at an early date.

D. Fascist crimes and offences:

About 70 "political prisoners" arrested by the Patriots were found in Grosseto prison and according to reports received from the Questore, others are still being arrested and placed in clandestine gaols. C.I.C. have investigated the cases in which they are interested and have interned a number of persons; action will be taken to trace and release the remainder on condition that they report weekly to the CC.RR. until the allegations against them can be investigated by the High Commission.

In view of the past and present activity of the Patriot Groups in Grosseto Province, it is particularly recommended that the appropriate machinery under the R.D.L. be set in motion there as soon as possible. Some action on the part of the Italian authorities, even if of a preliminary nature only, is most desirable to convince all concerned that they do 'mean business'.

3. LIVORNO PROVINCE :-

A. Court Buildings and Records.

When all government offices, banks etc. were evacuated from Livorno under German orders, the Tribunale moved to San Miniato in the Province of Pisa. As this place is still in the front-line area, no information as to records etc. is as yet available. The Tribunale and Pretura buildings in Livorno are in the "Black Zone" and are uninhabitable.

The Pretura at Cecina has been destroyed, but at Piombino the building, though damaged, is in fair condition. No information is available as to the situation on the island of Elba, which is not within Fifth Army Area.

B. Personnel.

It is reported by a leading criminal lawyer in Livorno that the senior judge of the Tribunale, Martini, is an excellent judge and an Anti-Fascist. He is believed to be in the Pisa district.

The Pretore of Piombino, Campanelli Antonio, who has held the office for 10 years, is competent and reliable. C.I.C. state that he is anti-Fascist and held in high esteem by the local citizens.

C. Reopening of Courts.

The Piombino Pretura is open and functioning at Campiglia and will continue there temporarily owing to the evacuation of civilians from Piombino. Eleven criminal and one civil case are pending for trial, and some delay in disposing of these is unavoidable owing to lack of transport for witnesses.

The position at Livorno will be further investigated by the P.L.O. when the Provincial Administration moves there from Piombino. While circumstances are unlikely to permit the return of the Tribunale for some time, it may be possible to reconstitute a Pretura for the Livorno district at an earlier date.

D. Fascist crimes and offences.

49 persons arrested by Patriots have been released from Campiglia prison after a careful investigation by C.I.C. Two are still under detention.

4. PISA PROVINCE.

A. Court buildings and records.

The only Pretura in the central and southern parts of the Province is at Volterra, where the Provincial Administration now has its HQ. The Court room is badly damaged but an alternative room has been selected pending repairs; the Pretore's office is undamaged and all records are intact.

The Pisa Tribunale is said to have moved to Santa Croce sull'Arno in October 1943, but no information as to this Court or the other Preture in the Province is as yet available.

B. Personnel.

The Pretore and Vice-Pretore of Volterra, Sammuri Guiseppe and Gabelleri Gino are carrying out their duties and appear to be satisfactory politically.

The President of the Pisa Tribunale, Congini Tito, has presented himself at Volterra. He states that he left Pisa last August on sick leave, but on regaining his health was accused of having spoken against Mussolini and plotting against the State. He and his son, a Patriot, were accordingly kept in Volterra prison without trial for two months. The P.L.O. Pisa reports on him as follows :-

"The Presidente completed a Scheda Personale and appears to be more than satisfactory from a political standpoint. He is intelligent, and appears able. He has proved very cooperative. He submitted a list of all judicial officials and employees in the entire Province as of 1 Jan 1944 and discussed the political background and ability of each. The President was informed that he would continue to serve in that capacity for the present and that he should be ready to move forward when Provincial Headquarters is moved farther North."

The P.L.O. Pisa further reports the presence in Volterra of Costagli Dott. Guido, a judge of the Turin Tribunale, who came there on the 17th May last to undergo an operation. This man, who is a native of Volterra and very anxious to remain in Tuscany, is highly recommended by the President of the Pisa Tribunale mentioned above, and it is suggested that his services might be utilized to fill any vacancy which may occur in the Pisa or Livorno magistracy. Pending further instructions, he will remain in Volterra.

C. Reopening of Courts.

Volterra Pretura will be hearing cases within a week. There are approximately 30 criminal and 5 civil cases awaiting trial.

A special problem arises in Volterra by reason of the location there of one of the largest Psychiatric Institutions in the country. Fifty five sanity adjudications are now pending to decide whether the persons concerned, who have been convicted of offences, shall remain in the Institution or be transferred to Volterra prison to serve their sentences in the ordinary way. As this is a matter for the Procuratore del Regno, who is in unliberated territory, and owing to the damage suffered by the prison, it is more convenient to keep these people in the Institution, P.L.O. Pisa has been advised to defer further action temporarily. If a special magistrate has to be appointed to clear up these cases, the President of the Pisa Tribunale has suggested that the Judge from Turin might be used for the purpose.

D. Fascist crimes and offences:

106 persons are detained at Volterra as Fascists and German sympathizers. C.I.C. are being urged to hasten the processing of these cases, so that those not interned may be released pending the setting up of the Italian Commission in the Province.

E. Other persons held in prison:

15 prisoners serving life sentences for anti-Italian offences during the occupation of Greece were found in Volterra prison, having refused an offer of liberty made by the Patriots or the Allied Troops. On an investigation of their records, all were found to be of Greek birth and they were accordingly released to the custody of the Displaced Persons Sub-Commission at their request for service in the Greek Army. 61

The records of 39 persons tried by Fascist Military Tribunals are under investigation, but all those examined up to date are clearly non-political.

5. SIENA PROVINCE :-

A. Court buildings and records.

The Tribunale and Pretura buildings and records at Siena and Montepulciano are undamaged.

The Preture t Radicofani and Poggibon have suffered considerable damage; information is lacking regarding Asciano.

B. Personnel.

It is believed that all magistrates and judicial officials are available with the exception of Cav. Dott. Principe Pasquale a judge of the Siena Tribunale, who is working at a Military Court in Naples.

C. Reopening of Courts :

The Courts in Siena and Montepulciano are open having only had to interrupt their work for about two weeks. There are reported to be between 20 & 30 cases awaiting trial at Siena, but the position at Montepulciano is less satisfactory and is being investigated by the P.L.O.

D. General :-

The whole of Siena Province passed to the control of Eighth Army on the 22nd July and the P.L.O. has accordingly been directed to make all further reports through S.L.O. AMG 8th Army.

6. PRISONS.

(a) As detailed reports on the Prison situation are rendered by the Chief of Public Safety, it is only proposed to refer briefly to this subject in this report.

(b) There is an excellent prison at Grosseto, which should suffice for the needs of that Province.

(c) Long-term prisoners in Livorno Province may have to be sent to Volterra. Piombino prison has not been used since 1940 and the prison at Campiglia will not hold more than 50 prisoners.

(d) In Pisa Province, the Volterra Penitentiary had an original capacity of 600, which has been temporarily reduced by about 60% as a result of bombardment. Plans for repair have been completed and the necessary materials are being obtained. 50

Of the 504 prisoners in the prison, 373 escaped prior to and during the battle for the town. Approximately 300 of these are still at large, but are gradually being recovered as all military and civilian police units in the area have been notified and requested to assist in the recapture of these escaped convicts.

7. Further reports on the Courts in Livorno and Pisa will be rendered as soon as the Provincial Administrators have established

themselves in the cities. In the meantime it is considered that the P.L.Os, from whose reports the foregoing information has been collated, are to be complimented on the excellent work they have done so far towards the re-establishment of the Italian Courts in their respective areas.

H.M. Dickie W/Mar.

H.M. DICKIE., W/Cdr., R.A.F.,
S.L.O. AMG Fifth Army.

Copy to Region VIII.

61

TO CLO REAR HQ ACC
 FROM HQ REGION 5 AMG
 SUBJECT Italian Judicial Officials
 REF R5/511/12

26 June 1944.

1. In order to open the Italian courts in the new provinces it will obviously be necessary to have additional judges, pretors etc. as the numbers of existing officials found and the refugees who may be expected to return will not be equal to the vacancies.
2. In addition many of the normal staffs are already filling other appointments.
3. It is the policy of this HQ to avoid disturbing existing courts by sending back judges etc. to their original seats unless this becomes essential.
4. Could you advise please whether we may expect additional nominees to be provided by the Ministry, and if so how soon they will arrive after a request is forwarded for a specific appointment.

For the Regional Commissioner.

W.E. BEIRNS
 Colonel
 R.L.O.

SUB COMMISSION	
CLO	
JOLO	
Chief Counsel	
CIO	
Italian	
CL RKS	

63

SUBJECT: Italian Courts.

Legal S.C. (Reg. #2)

ANG Rear Eighth Army.

CA/13

26 Jun 44.

RC ANG Region VIII (Attn. R.L.O.)

COPY to C.L.C. (Attn. O.C. Italian Courts) —
" " S.L.O. ANG Eighth Army.

1. By agreement between S.L.C. Fifth Army and S.L.O. Eighth Army responsibility for and administration pertaining to Italian Courts in the Province of Siena will be undertaken by S.L.C. Fifth Army, while Army territory, regardless of the parts of the Province which may be occupied respectively by Fifth and Eighth Army.

*Noted
by ART
ES*

Edmund J. Mergert
EDMUND J. MERGERT, Lt. Col. Col.
Senior Legal Officer
for Group Captain,
Officer Commanding,
ANG Eighth Army.

62

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ART/da

67A

REFERENCE : AGC/4001/3/L.

26 Jun 44.

SUBJECT : Pronouncement of Sentences.

TO : RLOs (thru RG) Regions 3, 4 and 5.
RLO " " Rome Region.
SLOs AMG 5th and 8th Armies.

1. Reference our AGC/4001/3/L dated 17 June 1944 please note in modification thereof that notification has now received from the Minister of Justice that pursuant to a legislative decree dated 23 June 1944, the formula adopted for sentences etc and official Acts is as follows :

" IN NORE DI S.A.R. UBERTO DI SAVOIA "
PRINCIPE DI PIEMONTE
LUOGOTENENTE GENERALE DEL REGNO .

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

MINISTERO DI GRAZIA E GIUSTIZIA

CABINETTO

Prot. n. 335

Salerno, 23 giugno 1944.

OCCORRENZA: Perlaule da usarsi nelle sentenze e in tutti gli atti intestati nel nome del Re.

A S.E. IL PRIMO PRESIDENTE DELLA SUPREMA CORTE DI CASSAZIONE
A S.E. IL PROCURATORE GENERALE DELLA SUPREMA CORTE DI CASSAZIONE
ALLE LL. EE. I PRIMI PRESIDENTI DELLE CORTI DI APPELLO
ALLE LL. EE. I PROCURATORI GENERALI DELLE CORTI DI APPELLO
ILL. MI SIG. RI PRESIDENTI DI SEZIONI DISIOGATE DI CORTE DI APP.
AGLI AVVOCATI GENERALI DI SEZIONI DISTOCCATE DI CORTE DI APP.
ALLA COMMISSIONE ALLIATA DI CONTROLLO

Con decreto legislativo luogotenenziale edierne le formule da usarsi nelle sentenze dell'Autorità Giudiziaria e in tutti gli altri atti che devono essere intitolati al nome del Re è stabilita come segue:

IN NOME DI S. A. S.

UMBERTO DI SAVOIA

Principe di Piemonte

Luogotenente Generale del Regno

Tanto si comunica per l'esecuzione con preghiera di impartire ai dipendenti uffici le istruzioni del caso.

IL MINISTRO

nel nome del Re.

A S.M. IL PRIMO PRESIDENTE della Suprema Corte di Cassazione
 A S.E. IL PROCURATORE GENERALE della Suprema Corte di Cassazione
 ALLE LL.EE. I PRIMI PRESIDENTI delle Corti di Appello
 ALLE LL.EE. I PROCURATORI GENERALI delle Corti di Appello
 ILL.MI SIG.RI PRESIDENTI DI SEZIONI DISTACCATI di Corte di App.
 AGLI AVVOCATI GENERALI DI SEZIONI DISTACCATI di Corte di App.
 ALLA COMMISSIONE ALLEATA DI CONTROLLO

Con decreto legislativo luogotenenziale odierno la formula da usarsi nelle sentenze dell'Autorità Giudiziaria e in tutti gli altri atti che devono essere intitolati al nome del Re è stabilita come segue:

IN NOME DI S.A.R.

UMBERTO DI SAVOIA

Principe di Piemonte

Luogotenente Generale del Regno

Tante si comunico per l'esecuzione con preghiera di impartire ai dipendenti uffici le istruzioni del caso.

IL MINISTRO

Plavin

file

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ART/2A

65A

17 Jun 44

REFERENCE : AGC/4001/3/L.
SUBJECT : Pronouncement of verdicts.
TO : MEOs (thru RC) Regions 3, 4 and 5
Rome Region
SLOC AMG 5th and 6th Armies.

1. Please take note that in Italian Courts there is no objection to the pronouncement of judgements and sentences in the name of the King of Italy.

A. R. Thackrah
A. R. THACKRAH,
Lt., Col.,
for Chief Legal Officer.

59

Admin Sect (Reas)

SUBJECT :- D'All andro Mario, fu Umberto.

AMC Rear Eighth Army

OA/13

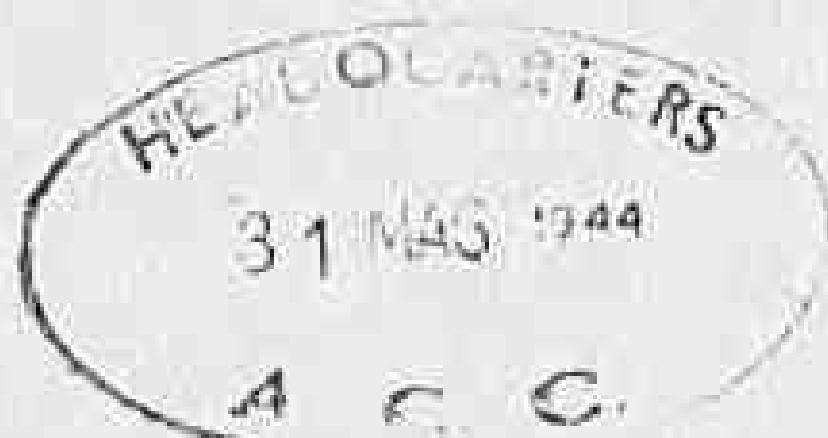
30 May 44

EXECUTIVE COMMISSIONER'S BRANCH,
ALLIED CONTROL COMMISSION.

Copy to : ADMINISTRATIVE SECTION, HQ, ACC.
PC CHIETI PROVINCE (attn FLO).

1. Attached are documents which, if true, would indicate undue delay in bringing accused to trial.

2. Forwarded for such action as is deemed appropriate.



EDWIN J. MERCER, Lt.-Col., Ord.,
Senior Legal Officer,
for Group Captain,
Officer Commanding,
AMC EIGHTH ARMY.

NOTE

*Original with attachments
directed to Legal SC
AK*

50

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

OGH/da

23 May 1944

AGC/ 4001/3/L.

SUBJECT : Pretura of Ponza.

TO : H.M. The Minister of Peace and Justice.

1. Reference is made to your Excellency's note of 19 May 1944 No. 200.

2. As previously pointed out this Sub-Commission fully agrees with the proposal to bring the Pretura of Ponza under the control of the Tribunale of Naples. This Sub-Commission will be glad to undertake to render your Excellency's provision on this subject effective in Region III.

C. S. HANNAWELL,
Major,
Officer i/c Italian Branch,
For Chief Legal Officer.

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4001/3

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MINISTERO DI GRAZIA E GIUSTIZIA

Gabinetto

Salerno, 19 maggio 1944.

Prot.n. 900

OCCORRENZA: Pretura di Ponza.

ALLA COMMISSIONE ALLEGATA DI CONTROLLO

Sottocommissione Legale

S A L E R N O

Questo Ministero, avendo ricevute varie istanze in cui è posta in evidenza la difficoltà dell'amministrazione della giustizia a Ponza, ritiene opportuno prospettare la cosa a codesta Sottocommissione Legale, allo scopo di evitare ad un inconveniente realmente sentito in quell'isola.

È presente in proposito che la Pretura di Ponza (con sede distaccata a Ventotene) a causa delle contingenze belliche posteriori all'armistizio essendo rimasta avulsa dal Tribunale di Littoria, nel cui circondario era compresa, si è venuta a trovare in condizioni di isolamento. Numerosi sono i processi sia civili che penali che non possono espletarsi perchè di competenza del tribunale, mentre nel carcere mandamentale di Ponza alcuni condannati che potrebbero ricorrere in Appello contro la sentenza del Pretore, vedono reso praticamente vano questo loro diritto.

Per quanto sopra, ritenendo tale situazione assai dannosa all'interesse della giustizia, si propone a codesta Sottocommissione che la Pretura di Ponza sia aggregata, sia pure temporaneamente, al Tribunale di Ventotene, ritenendo che questa in modo di potere efficacemente

ALLA COMMISSIONE ALIBATA DI CONTROLLO

Sottocommissione Legale

S A L E R N O

Questo Ministero, avendo ricevute varie istanze in cui è posta in evidenza la difficoltà dell'amministrazione della giustizia a Ponza, ritiene opportuno prospettare la cosa a codesta Sottocommissione Legale, allo scopo di ovviare ad un inconveniente realmente ben-
tito in quell'isola.

Fa presente in proposito che la Pretura di Ponza (con sede di staccata a Ventotene) a causa delle contingenze belliche posteriori all'armistizio essendo rimasta avulsa dal Tribunale di Littoria, nel cui circondario era compresa, si è venuta a trovare in condizioni di isolamento. Numerosi sono i processi sia civili che penali che non possono espletarsi perchè di competenze del tribunale, mentre nel carcere mandamentale di Ponza alcuni condannati che potrebbero ricorrere in Appello contro la sentenza del Pretore, vedono reso praticamen-
te vano questo loro diritto.

Per quanto sopra, ritengo tale situazione assai dannosa all'interesse della giustizia, si propone a codesta Sottocommissione che la Pretura di Ponza sia aggregata, sia pure temporaneamente, al Tribu-
nale di Napoli, affinché sia posta in grado di potere efficacemente
funzionare.

Si resta in attesa di un riscontro al riguardo.

IL MINISTRO



file *Large* *61*
: P.L.C. (through P.C.) CAMPOLASSO Province.

FROM : H.Q. Region 5 A.M.G. *4001/3*

SUBJECT: The Court of Appeal.

REF : R5/511/12.

15 May 1944.

1. Information has now been received that the First President of the Court of Appeal at Naples is making arrangements to send an extraordinary section of the Naples Court to Campobasso to dispose of the pending appeals.

2. The First President states that under existing Italian law the judicial officials proposed by you are not eligible to form the Court.

3. He is however making arrangements and will communicate further in due course.

W. E. DEHRENS
W. E. DEHRENS
Lt. Colonel
R.L.C.

Copy to C.L.C. _____
WEB/EP

55
4763

189
File
NEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

60
GCH/est

20 May 1944

ACC/4001/3/L

SUBJECT: Pretura of Ponza.

TO : FLO (thru NC) Region 3.

The Minister of Justice will issue shortly the required legislation placing the Pretura of Ponza within the jurisdiction of the Tribunale of Naples instead of Littoria, still in enemy hands.

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

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

Naples, Italy
18 May 1944

400-3
SUBJECT : Pretura of PONZA.
TO : C. I. C., Legal Subcommittee, Rear Headquarters Allied
Control Commission, SALERNO (Attention officer i/c
Italian Branch).

1. The attached letter from the Procuratore Generale and petitions of the Pretore and avv. CATTANEO Carlo, on the subject of the temporary transfer of the Pretura of PONZA from the jurisdiction of the Court of Appeal of Rome, to the jurisdiction of the Court of Appeal Naples, are submitted for consideration by the Minister of Grace and Justice.

2. The Pretura of PONZA, although now within the jurisdiction of Region III, is dependant on the R.Procura of Littoria, territory in enemy occupation, and therefor appeals to the Tribunale are in a state of suspension. Cases within the competency of the Tribunale are likewise being held up.

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

PROCURA GENERALE DEL R. 58
 PRESSO LA CORTE DI APPELLO DI NAPOLI

Div.Gab. N. 52 Risposta a nota 5 march 1944 MCH/LC Dio.

OGGETTO: Pretura di FONZA

Napoli, 11 maggio 1944

AL COMANDO ALLEATO
 Ufficio Legale

N A P O L I

In relazione alla sopraindicata richiesta di codesto Comando, informa che malgrado ripetute lettere alla pretura di Fonza non si é finora avuto alcun riscontro.

Ieri é qui stato il cancelliere della Pretura il quale ha informato che in quell'ufficio non perviene da vari mesi corrispondenza alcuna e mi ha consegnato una lettera del Pretore della quale allego copia.

Im merito alle notizie richieste mi ha informato che le cause civili pendenti sono solamente due, processi penali di competenza superiore cinquanta e di competenza propria dieci.

Sarà opportuno sollecitare i provvedimenti di aggregazione della Pretura - attualmente dipendente dal Tribunale di Littoria - a quello di Napoli, e di ripristino dei mezzi di comunicazione.

IL PROCURATORE GENERALE



C O P I A

REGIA PRETURA DI PONZA

Aggi.....

ALLA PROCURA GENERALE
N A P O L I

Lo scrivente comunica a cotesto Superiore ufficio quanto in appresso:

La Pretura di Ponza di cui lo scrivente é il reggente dipende dalla R. Procura di Littorio, territorio attualmente occupato dalle truppe germaniche.

Dal luglio scorso e a seguito della situazione determinatasi con l'armistizio dell' 8 settembre, con l'interruzione delle comunicazioni con Gaeta, quest'ufficio é rimasto avulso dall'ufficio Superiore di R. Procura, per cui tutto il lavoro di competenza superiore é rimasto per ovvie ragioni sospeso.

Lo scrivente, si é recato diversi mesi orá sono a Napoli a conferire con il Procuratore del re S.E. Siracusa per far presente la necessitá di aggregare la pretura di Ponza all'Ufficio Superiore di R. Procura di Napoli in attesa che il territorio di Littorio venisse liberato e che potessero riprendersi le comunicazioni con Gaeta. Ho ribadito anche dette necessitá al Governatore di Ischia, senonché nessun provvedimento al riguardo é stato finora ancora adottato. E' d'upo rilevare che a parziale rimedio di questa situazione, il Governatore di Ischia ha creduto di autorizzare lo scrivente a giudicare dei reati di competenza Superiore per la necessitá di far funzionare la Giustizia nell'isola e di porre una remora alla enorme quantitá di reati perpetrati a seguito dell'isolamento con la terra ferma.

Purtroppo, però, detto provvedimento ha messo in imbarazzo lo scrivente di fronte alla legge italiana e d'altronde, se praticamente serve in parte a raggiungere lo scopo, non elimina gli inconvenienti che si lamentano con una frequenza quasi quotidiana in materia civile, ove lo scrivente, non munito di nessuna autorizzazione a giudicare per quanto riguarda materia di competenza Superiore, non sa come regolarsi per gli innumeri casi che si presentano, alcuni dei quali reclamano provvedimenti di urgenza.

Stante la situazione di cui ho fatto cenno, prego codesto Superiore Ufficio di voler interessarsi per l'aggregazione di detta Pretura alla R. Procura di Napoli, o nella negativa, impartire allo scrivente le disposizioni che crederá opportune per una risoluzione di rimedio.

II. PRETORE

La Pretura di Ponza di cui lo scrivente è il reggente dipende dalla

R. Procura di Littorio, territorio attualmente occupato dalle truppe germaniche. Dal luglio scorso è a seguito della situazione determinatasi con l'armistizio dell'8 settembre, con l'interruzione delle comunicazioni con Gaeta, quest'ufficio è rimasto avulso dall'ufficio Superiore di R. Procura, per cui tutto il lavoro di competenza superiore è rimasto per ovvie ragioni sospeso.

Lo scrivente, si è recato diversi mesi or fa a Napoli a conferire con il Procuratore del re S.E. Siracusa per far presente la necessità di aggregare la pretura di Ponza all'Ufficio Superiore di R. Procura di Napoli in attesa che il territorio di Littorio venisse liberato e che potessero riprendersi le comunicazioni con Gaeta. Ho ribadito anche dette necessità al Governatore di Ischia, senonchè nessun provvedimento al riguardo è stato finora ancora adottato. E' d'upo rilevare che a parziale rimedio di questa situazione, il Governatore di Ischia ha creduto di autorizzare lo scrivente a giudicare dei reati di competenza Superiore per la necessità di far funzionare la Giustizia nell'isola e di porre una remora alla enorme quantità di reati perpetrati a seguito dell'isolamento con la terra ferma.

Purtroppo, però, detto provvedimento ha messo in imbarazzo lo scrivente di fronte alla legge italiana e d'altronde, se praticamente serve in parte a raggiungere lo scopo, non elimina gli inconvenienti che si lamentano con una frequenza quasi quotidiana in materia civile, ove lo scrivente, non munito di nessuna autorizzazione a giudicare per quanto riguarda materia di competenza Superiore, non sa come regolarsi per gli innumeri casi che si presentano, alcuni dei quali reclamano provvedimenti di urgenza.

Stante la situazione di cui ho fatto cenno, prego codesto Superiore Ufficio di voler interessarsi per l'aggregazione di detta Pretura alla R. Procura di Napoli, o nella negativa, impartire allo scrivente le disposizioni che crederà opportune per una risoluzione di rimedio.

IL PRETORE

F/to: Fortunato De Teo

P.e.e
V. Gaeta

56

On. U.L.O. Lancia del Comandante

Allied Control Commission

N.A.P.O.D.I

Il sottoscritto, avvocato di Lanza, non rispondo
a riferimento, alla segnalazione e opportuna rimo-
sta, fatte sia in proprio, come dall'illustra sig-
Prete di Lanza, alla nostra 303.000 Procura conve-
le di Napoli, come anche il competente modello mini-
stero di Giustizia e Giustizia di Salaria, espone diret-
tamente a questo On. U.L.O. Lancia int. Commission
Allied Control Commission, l'opportunità imperiosa
e urgente, di approssimare e provvedere brevemente
per l'Amministrazione, anche l'ammontare, della Prete
di Lanza, al Tribunale di Napoli, stante l'impossi-
bilità della Prete stessa, di funzionare e conchi-
sare, in corrispondenza all'ordinazione di dipendenza
giudiziale, del proprio Tribunale, quelle di
Lancia, dell'10 settembre, tuttora a scanso di an-
cora e sotto l'ordinazione.

e riferimento, alle segnalazioni e opportune richieste, fatte sia in proprio, come dall'illustrazione al Pretore di Lenza, alla nostra 200, in risposta di una lettera di Napoli, come anche alla competente sezione amministrativa di Lenza e Circoscrizione di Salerno, espone direttamente a questo On. C.I.C. Locali Int. Commission Allied Control Commission, l'opportunità importante e urgente, di appoggiare e provvedere convenientemente per l'Amministrazione, anche tenendo conto della presenza di Lenza, al Tribunale di Napoli, stante l'impossibilità della nostra stessa, di funzionare e comunicare, in corrispondenza all'occasione di dipendenza giurisdizionale, col proprio Tribunale, quello di Lenza, dell'8 settembre, tuttora e sempre di autorità e votiva l'operazione.

Senza questo intervento Accademico, anche tenendo conto, della R. Pretura di Lenza, al Tribunale di Napoli, la circoscrizione pretoriale di Lenza, è nella impossibilità di funzionare, con tutte le grave e dignitose prestazioni indispensabili, e con poca tranquillità di affidamento sottostante, per coloro, che

in un solo o in un altro vi inseguono, o per la tutela d'interessi, vi devono ricorrere.

Nel campo penale, la giurisdizione pretoria è assai limitata, dato che per le leggi speciali di guerra, la maggiore competenza è giudicare dei reati, è riservata al Tribunale: l'ordine, il quantitativo di processi pendenti, per essere rimessi al Tribunale di competenza, con dell'impossibilità di essere quello di Litoria, si chiede possa essere deciso anche in via temporanea, per quello di Napoli.

Senza contare, che anche per i pochi processi di possibile giudizio del si. Pretore di Lora, le loro venivano, si trovano come premeccò di ineguaglianza, per l'impossibilità di continuare il giudizio in sede di appello, questo di norma competenza del Tribunale di Litoria, e di attuale incrocio, anche temporanea, del Tribunale di Napoli.

La intanto come conseguenza i condannati, in stato di arresto, delle sentenze del Pretore di Lora, continuano a essere minati osservi tali, come se già in

limitata, dato che per le leggi speciali di guerra, la maggiore competenza a giudicare nei reati, è riservata al Tribunale: l'ordine, il quantitativo di processi pendenti, per essere rimessi al Tribunale di competenza, che nell'impossibilità di essere quello di Livorno, si ritiene possa essere deciso anche in via temporanea, per quello di Napoli.

Senza contare, che anche per i pochi processi di possibile giudizio del sig. Pretore di Roma, le loro sentenze, si trovano come pressoché di inassequibilità, per l'impossibilità di continuare il giudizio in sede di appello, questo di normale competenza del Tribunale di Livorno, e di attuale in vocazione, anche temporanea, del Tribunale di Napoli.

La intanto come conseguenza i condannati, in stato di arresto, della sentenza del Pretore di Roma, continuano a essere rinviati avanti tutti, come se più in esecuzione, di sentenza GIUDICATA, nel mentre quelli, giudicati in stato libero, corrono il rischio di essere subito arrestati, per lavorare in esecuzione della condanna riportata.

L'accusato, è questo stato pericoloso e di nes-

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sua tranquillità né giuridica né procedurale, circa il funzionamento della Giustizia Pretorile di Roma, né è evidente, ed ecco perché il sottoscritto Petronio, anche per suggerimento stesso, della Eccellenza, l'attuale Ministro di Grazia e Giustizia di Salerno, cui di recente il sottoscritto ricorre per gli opportuni provvedimenti nel caso, esordendo, di possibile adozione, da parte di S.E. il Ministro, perché di sola competenza di Questo On. C.D.C. Legal International Commission Allied Control Commission

INVOKA

ferorevole decisione Vostra, ed chiesto provvedimento al

ACQUEDOTTAMENTO, ANCHE TROPOLITANO, ed Tribunale di Napoli, della Prefettura di Roma, evulsa per necessità e contingenza bellica del proprio Tribunale di Litteria, facendo così possibile il normale funzionamento della Giustizia di Roma, sia in sede penale, come in sede civile, in ogni processo inesistente, e comunque in funzionalità procedurale e istituzionale

to Patrolo, anche per suggerimento stesso, della
Socallenza, l'attuale ministro di Grazia e Giustizia
di Salerno, cui di recente il sottoscritto ricorse
per gli opportuni provvedimenti del caso, esclusi gli,
di possibile adozione, da parte di S.S. il ministro,
perché di sola competenza di Votato On. G.L.O. Legal
International Commission Allied Control Commission

INVOCA

favorevole decisione Vostra, al chiesto provvedimento
to di

ACQUARANTO, ANTONI FARMACIANO, al tribunale
di Napoli, della Prefettura di Roma, avulsa per neces-
sità e contingenza bollione del proprio tribunale di
Littoria, fucinas così possibile il normale funzio-
namento della vinetizia di Roma, via in sede penale,
come in sede civile, in ogni prescrizione inesistente,
e comunque in difensibilità procedurale e irrita-
ta.

Con ossequio rispettos. • Napoli, 18/5, 1944

L'AVVOCATO
Antonio Farnese
(CANTIERO DELLO STABILIMENTO)

RECELLO MINISTRO DI GRAZIA E GIUSTIZIA
- S A L E R N O -

A S. E. il MINISTRO

In aggiunta alle reiterate segnalazioni e richieste, come fatte verbalmente ed epistolarmen-
te, alla R. Procura Generale di Napoli, dall' Illu-
stre Pretore di Ponza, circa le condizioni di in-
ciampo funzionale, della R. Pretura di Ponza, a
causa delle sopravvenute contingenze belliche,
del dopo arrestizio, che colla interruzione di
ogni comunicazione col R. Tribunale di Littoria,
ha fatto, come avulsa, e autonoma, la Pretura stes-
sa, io sottoscritto, Avv. in quel di Ponza, e ring-
stavi ivi bloccato, a causa delle cennate inter-
ruzioni di ogni comunicazione, credo doveroso, nel
l'interesse della Giustizia, segnalare direttamen-
te al presuroso interessamento di V. E., la parti-
colare e speciale condizione di anormalità fun-
zionale, di cui sopra, al fine di poter provvede-
re benevolmente, da parto dell' E. V. al necessario

AGGREGANTE ANCHE TEMPORANEO α NAPOC.

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chieste, come fatte verbalmente ed epistolarmen-
te, alla R. Procura Generale di Napoli, dall' Illu-
stre Pretore di Ponza, circa le condizioni di in-
ciampo funzionale, della R. Pretura di Ponza, a
causa delle sopravvenute contingenze belliche,
del dopo armistizio, che colla interruzione di
ogni comunicazione col R. Tribunale di Littoria,
ha fatto, come avulsa, e autonoma, la Pretura stes-
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colare e speciale condizione di anomalia fun-
zionale, di cui sopra, al fine di poter provvede-
re benevolmente, da parte dell'E.V. al necessario

AGGREGANTE ANCHE TEMPORANEO *NAPOL.*

della Pretura di Ponza, con sede staccata a Ven-
totenne, disponendo così il regolare e normale
funzionamento, e contatto, con il R. Tribunale di
Napoli, non potendosi diversamente superare nel
l'interesse della Giustizia tutti gli ostacoli

procedurali, che non invitano a far ricorso alla Giustizia, né lasciano tranquilli chi già in qual che modo e per forza di cose ci sono capitati, e in oggi ne sopportano lancinanti le conseguenze.

Da notare che nell'Isola di Ponza, sede staccata dell'Isola di Ventotenne, non vi è altra Autorità Giudiziaria, all'infuori di quella Pretorile, neanche sussidiata da nessuna amministrazione della Giustizia alleata, la quale solo si quando in quando, e dall'occupazione ad oggi, solo per tre volte, si è convocata, impersonata nel solo Governatore delle Isole Pontine, si è convocata ripetesi nella principale Isola di Ponza, per celebrarvi non più di cinque processi, di ~~nessa~~ ^{nessa} pertinenza.

Da notare che nel mentre vi sono numerosi processi pendenti, di impossibile espletamento del Pretore, purché di competenza superiore, anche vi sono in detenzione continuata, nel Carcere mandamentale di Ponza, parecchi condannati, che non potendo fruire tranquillativamente del giudizio di Appello,

1203

che modo o per forza di cose ci sono capitali, e in oggi ne sopportano laceranti le conseguenze.

Da notare che nell'Isola di Ponza, sede staccata dell'Isola di Ventotenne, non vi è altra Autorità Giudiziaria, all'infuori di quella Pretoriale, neanche sussidiata da nessuna amministrazione della Giustizia alleata, la quale solo di quando in quando, e dall'occupazione ad oggi, solo per tre volte, si è convocata, impersonata nel solo Governatore delle Isole Pontine, si è convocata ripetesi nella principale Isola di Ponza, per celebrarvi non più di cinque processi, di ~~Alcanta~~ ^{Alcantara} pertinenza.

Da notare che nel mentre vi sono numerosi processi pendenti, di impossibile espletamento del Pretore, perché di competenza superiore, anche vi sono in detenzione continuata, nel Carcere mandamentale di Ponza, parecchi condannati, che non potendo fruire tranquillamente del giudizio di Appello, stanno soffrendo in carcere, una espiazione di pena, quella comminata loro dal Pretore, e che certo in Giudizio di Appello, detta pena potrà essere anche mutata o per assoluzione, o per riduzione, in ogni modo sempre tardivamente, per l'espiazione che da

53
mesi stanno espiando.

Questo, per quanto riguarda in sede penale.

Ma per quanto può riguardare i giudizi di sede civile, la questione della anormalità funzionale, si risente di più, poiché data la limitata competenza pretorile, alle vertenze civili non superiori a Lire 10.000=, in oggi, nessuna lite è più possibile di iniziare, e quindi la Giustizia di Ponza, si può anche ritenere scomparsa.

Neanche per i provvedimenti cautelari d'urgenza, a termine dell'art. 700 C.P.C. è possibile provvedersi, dal Ministero Pretorile, poiché questo è ostacolato dalla impossibilità di fissare ~~la~~ termine di introduzione della causa dinanzi all' Autorità giudiziaria, e cioè del Tribunale competente, dato che per l'isola di Ponza, il Tribunale competente sarebbe quello di Littoria, ancora nei voti nostri, di presta e definitiva liberazione.

Ecco perché, lo sottoscritto, mi faccio rispetto savante ardito, di voler chiedere alla R.V. in con-

de civile, la questione della anormalità funzione
tiva, si risento di più, poiché data la limitata com
petenza pretorile, alle vertenze civili non supe
riori a Lire 10.000=, in oggi, nessuna lite è più
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dato che per l'isola di Ponza, il Tribunale compe
tente sarebbe quello di Littoria, ancora nei voti
nostri, di presta e definitiva liberazione.

Ecco perché, io sottoscritto, mi faccio rispetto
essente ardito, di voler chiedere alla E.V., in con
siderazione e accoglimento di tutto quanto sopra
esposto, il presto provvedimento dello

ACCRAGIMENTO ANCHE TEMPORANEO

della R. Pretura di Ponza, al Tribunale di Napoli
e ciò all'uopo di armonizzare l'impero della

Giustizia, coi giusti interessi e diritti di chi della Giustizia, e pur e stretto a ricorrere, per la tutela o della propria libertà, o dei propri interessi, o comunque per la giusta espiazione di colpe commesse, in tempi critici come i presenti.

Sarà ancora provvidenziale, Eccellenza, il Vostro pronunziamento, sul trattamento, anche liberatorio, in senso sospensivo e temporaneo, dei tra- carcerati che stanno in espiazione di pena nel Carcere Mandamentale di Ponza, e per di più di tutto carico dai familiari, poiché la Direzione del Carcere stesso non può provvederli di vitto né del necessario all'esistenza.

In ogni modo di ogni Vostro autorevole in- teressamento interventivo, nel senso sopra, sia dello

ACCRESCIMENTO ANCHE TEMPORANEO a NAPOLI della R. Pretura di Ponza, già appartenza del Tri- bunale di Littoria, a quello di Napoli, sia per i provvedimenti di scarcerazione e di cessione

1207

interessi, o comunque per la giusta espiatione di colpe commesse, in tempi critici come i presenti.

Sarà ancora provvidenziale, Eccellenza, il Vostro pronunciamento, sul trattamento, anche liberatorio, in senso sospensivo e temporaneo, dei tre carcerati che stanno in espiatione di pena nel Carcere Mandamentale di Ponza, e per di più di tutto carico dai familiari, poiché la Direzione del Carcere stesso non può provvederli di vitto né del necessario all'esistenza.

In ogni modo di ogni Vostro autorevole interessamento interventivo, nel senso sopra, sia dello

ACCRESCIMENTO ANCHE TEMPORANEO A NAPOLI
della R. Pretura di Ponza, già appartenenza del Tribunale di Littoria, a quello di Manoli, sia per i provvedimenti di scarcerazione e di missione dal carcere di Ponza, dei tre attuali arrestati io vi sono personalmente grato e con tutto ossequio

mi professo della S.V.

Obbligatissimo

Dr. Mancuso

Salerno, 12-5-1944 (Avv. Cattaneo Carlo)

Ponza

DEAR HEADQUARTERS
ARMED AND DANGEROUS
LAWYER, SUB-SECTION
AP 394

acc/101/3/1.

100.
17 May 1944

SUBJECT : Italian Courts.

TO : Regional Legal Officer (XIII: Regional Commissioner), Region V.

1. When I was recently at Campobasso Major Byrd-Carpenter stated that the Italian Courts were having trouble in communicating with the First President of the Court of Appeals and Prosecutors General in Naples.

2. None of this info. could be given if Major Byrd-Carpenter received no info from the Italian authorities and sent them under his own name to the RLD, Region III, Attention Major Holt. Major Holt will see that the papers are delivered at this end. Also he will act as conduit at his end for transmitting similar papers from Naples to Campobasso through you.

WILLIAM F. WILSON,
Lt. Col., USA,
Deputy Chief Legal Officer.

Copy for RLD, Region III (Letter Maj Holt).

File

52

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/1001/3/L.

/rlp.
17 May 1944.

SUBJECT : Italian Courts.

TO : Regional Legal Officer (THU: Regional Commissioner), Region V.

1. When I was recently at Casobasso Major Boyd-Carpenter stated that the Italian Courts were having trouble in communicating with the First President of the Court of Appeals and Procuratore Generale in Naples.

2. Some of this trouble could be avoided if Major Boyd-Carpenter received from the Italians any important communications and sends them under his own cover to the RLO, Region III, attention Major Holt. Major Holt will see that the papers are delivered at this end. Also he will act as conduit at his end for transmitting similar papers from Naples to Casobasso through you.

RICHARD H. WINTER,
Lt. Col., GAO,
Deputy Chief Legal Officer.

Copy to: RLO, Region III (Attn: Maj Holt).

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

ACC/4090/1

3 May 1944

SUBJECT: Recommendations regarding the Court and Prison Situation in Sardinia.

TO : V.P. Administrative Section.

1. The prisons in Sardinia used for the detention of persons awaiting trial are seriously overcrowded for two reasons;

(a) The Italian Military Tribunal as well as the Italian Civil Courts are understaffed and unable to dispose of cases rapidly enough in the face of an increasing amount of crime committed by Italian military personnel and by civilians.

(b) The Italian military establishment in Sardinia did not possess adequate prison facilities for prisoners awaiting trial with the result that the civil jails have been burdened with military prisoners. This situation has, however been somewhat remedied by General Magli who has constructed a prison camp at Villanova Strisaili and who has secured two barracks buildings formerly used by Italian artillery at Oristano.

2. The proper administration of justice and the reduction of the populations of the detention jails cannot be achieved in Sardinia unless additional personnel are sent there immediately.

3. The Italian Civil Courts require a minimum of thirty five (35) judges and ranking officials (magistrati) and a minimum of seventy six (76) minor employees (funzionari). These figures are based on information furnished me by President Volpe of the Court of Appeal and Procuratore Generale Spallone. The Minister of Justice at Salerno has been furnished with the necessary details.

4. Seventeen (17) officials are required by the Italian Military Tribunal to do the work of instructional judges and assist in its administration. These officials can be drawn from Italian Prisoner of War Camps in North Africa. Two requests to this effect have been made by Col. Upjohn. They should be acted on speedily.

46

EDMUND L. PALMIERI, Major AUS

Copy for file ACC/4001/3/L

TO : C.I.O. NEAR H.Q. A.C.C.
 FROM : H.Q. REGION V A.E.C.
 SUBJECT : Italian Courts.
 REF : R5/511/12.
 DATE : 24 April 1944.

Major Hameford

1. It is reported that there are 60 cases awaiting ^{trial} before the Court of Appeals at Casobuzzo, not including certain cases from Ischia of which details are lacking.
2. In view of the practice under Italian law by which provisional liberty is granted to convicted persons pending appeal, a large number of convicted persons are waiting appeal to avoid, or at least delay, serving their sentences.
3. It would be an advantage if the President of the Court of Appeal at Naples would arrange for a sitting of the Court of Appeal at Casobuzzo.

For Regional Commissioner

W. E. REISER
 Lt. Col.
 RLC

by A. R. Troxel
 ALEXANDER R. TROXEL
 MAJ. R.A.
 DRLO

WED/EP

45.

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✓
4001/3
WCH/LC

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

(49)
Naples, Italy
21 April 1944

SUBJECT : Court of Assize at CAMPOBASSO and LAGONEGRO.
TO : R. L. O., Region V (CAMPOBASSO).
Copy for information to:

Legal Subcommittee, Rear Headquarters Allied
Control Commission, SALERNO (Attention
officer i/c Italian Section); and, S. L. O.
8th Army.

1. Arrangements have been made for the opening of sessions
of the Court of Assize at CAMPOBASSO and LAGONEGRO, on Friday the
19 May 1944.

2. Comm. D'ALESSANDRIA Federico will sit as President of
the Court at CAMPOBASSO with Cav. SANTELIA Luigi as Consigliere, and
substitute procuratore generale BONAGURA Salvatore as Prosecutor.

3. Comm. CORTESANI Rocce has been detailed to sit as
President of the Court at LAGONEGRO, with Cav. Uff. TROMBETTI Carlo
as Consigliere, and substitute procuratore generale SIMEONI Adelchi
as Prosecutor.

M. C. Holt

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

No. 785016

British RESTRICTED

3576

48

ALLIED CONTROL COMMISSION

INCOMING

MESSAGE / 9

3VC/RELY NO.

I/C NO :

CLASS: RESTRICTED

REF NO : WM 1140

PREC : ROUTINE

FILED : 261657B APR sent

FROM : FABLE FROM CARH NR 328

REC'D : 271700B AR

TO : FATIMA HEAR FOR LEGAL SUB COMMISSION FOR UPJOH:

ACC Courier

Palmieri's last report stated personnel deficiencies of Sardinian courts. Please state if and when additional judges for temporary duty here will be available from pool at disposal of Ministry of Justice.

DISTRIBUTION:

- ```
1 - Adj File
1 - DSG - info
1 - DCC - info
1 - Admin - info
1 - Legal - Action
```

RECEIVED ADI 210  
MAY 27 1964  
F.B.I.

Major Hamford

Agenda Speak time:

450041 GENRE RESTRICTED

NEAR HEADQUARTERS  
ALLIED CONTROL COMMISSION  
Legal Subcommittee  
APO 394

47  
GKH/gmf

ACC/4039/L

22 April 1944

SUBJECT: Judicial Personnel in Sardinia.

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

1. Major Palmieri will visit the Ministry shortly to discuss this matter further.

2. In the meantime a list of officials required to ensure the proper functioning of the Courts is submitted hereunder:

Judges and Magistrates (Magistrati)

|                  |      |
|------------------|------|
| Court of Appeal  | - 7  |
| Procura Generale | - 1  |
| Tribunali        | - 9  |
| Procura del Re   | - 3  |
| Procuratori      | - 15 |

Personnel (Funzionari)

|                  |      |
|------------------|------|
| Court of Appeal  | - 6  |
| Procura Generale | - 1  |
| Tribunali        | - 29 |
| Procura del Re   | - 10 |
| Procuratori      | - 30 |

3. From Major Palmieri's report these figures are understood to represent the balance required to make up the full scale of the official establishment. It is therefore possible to conceive that in view of the extremely serious conditions prevailing in Sardinia, any increase of the existing personnel will help in relieving the situation.

G. G. HANNAFORD, Major  
Officer i/c Italian Branch  
For Chief Legal Officer.

*Part of report  
given to the  
court  
16/11/44*

*See file 29*

*12 April 1944 and 42*

*(46)*

SUBJECT: Reopening of Italian Civil Courts in Cagliari  
(Final Report - Reports of 16 March and  
1 April 1944 continued).

TO : CLO, Legal Subcommittee, ACC.

1. The Tribunale and the Pretura, as well as the Procuratore del Re and their Staff, have taken possession of their offices in Cagliari and have begun to do business. The Pretura has been functioning for more than one week. The first court sessions of the Tribunale took place this morning, 12 April 1944.

The two top floors of the Palace of Justice have been repaired according to plan and, for the time being, will house the Tribunale, the Office of the Procuratore del Re, the Court of Appeal and the Procura Generale. The Pretura will remain at the Istituto Pintor until such time as the lower floors of the Palace of Justice are made ready. The work in these floors is proceeding and it is hoped that it will be completed by the end of June.

2. A mess for the judges and court employees has been in full operation in a section of the basement of the Palace of Justice since 5 April 1944. The establishment of the mess was a source of considerable anxiety and inconvenience, as the court officials did not receive the cooperation they had been led to anticipate from the Office of the Prefect and the local Italian officials. After several days of fruitless discussion which resulted only in the release of

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(45)

In this connection I wish to express my appreciation of the assistance given to me by Colonel McPhee, Major Alexander and Captain Sullivan. I went to the offices of a number of Italian officials charged with the distribution of food, in order to complete the formalities necessary for the recognition of the mess for future allotments for foodstuffs. Captain Sullivan and I delivered to the Palace of Justice a quantity of dehydrated vegetables as an advance against the allotments about to be made, and I negotiated with a mess officer of an American regiment billeted nearby to procure some residue kitchen fats. I also procured an allowance of olive oil. I cannot overemphasize the good will and gratitude shown by the court personnel to the Commission and me as a result of these efforts. It can now reasonably be anticipated that the mess for the judges and court personnel will function smoothly. One of the iron foundries which I visited with Signor Valente (see Report of 1 April 1944, paragraph 8) namely, Chicca & Salvalini has made certain stove parts which will permit the installation of a more commodious cooking apparatus to supplement the stove presently in use.

3. The Palace of Justice has as yet no telephone connection and no motor transport. I have dealt with both these problems and it appears that several weeks will expire before either of them can be solved. With respect to the establishment of a telephone connection, it will be necessary to repair a considerable amount of damage done during the bombings of 1943. The skilled workmen required are now being used for military purposes, and it is not anticipated that they will be available in the immediate future. In the case of the motor transport, I discussed the matter at some length with the Transportation Officer of the Commission. The problem consists in

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(44)

4. Judge Pintor of the Court of Appeal has arrived at Cagliari to take possession of the necessary quarters both for the Court and for the Procura Generale. These offices will begin to function in Cagliari not later than 17 April 1944.

5. On 6 April 1944, I conferred at Ozieri with President Volpe of the Court of Appeal and Signor Spallanzani, the Procuratore Generale. They had already taken the necessary steps to remove their offices to Cagliari, and had arranged to transport their property and personnel. I secured from these gentlemen a list of personnel which they lacked. The problem of increasing the court personnel has not been solved and cannot expect to be disposed of unless personnel is forthcoming from some quarter outside Sardinia (see Report of 16 March 1944, paragraphs 4 and 7). The list furnished me indicates that all of the courts lack a total of 35 judges and ranking officials (magistrati). They are distributed as follows:

Court of Appeal - 7;  
 Procura Generale - 1;  
 Tribunale - 9;  
 Procuratore del Re - 3;  
 Pretura - 15.

The information furnished me shows that there are a total of 76 minor employees (funzionari) lacking in the Civil Court System, and who are needed to bring it up to its normal quota. They are distributed as follows:

Court of Appeal - 6;  
 Procura Generale - 1;  
 Tribunale - 29;  
 Procura del Re - 10;

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Court of Appeal - 6;

Procura Generale - 1;

Tribunale - 29;

Procura del Re - 10;

Pretura - 30.

6. The whole problem of overcrowded detention jails and the adequate functioning of the law enforcement agencies, cannot be adequately remedied unless the work of the Italian Civil Court System, as well as the Italian Military Tribunale is speeded up appreciably. This, in turn, cannot be expected unless additional personnel is provided.

(43)

7. President Volpe and Signor Spallanzani told me that they had arranged to pay particular attention to the trial of criminal cases. With this in view, steps were being taken to expedite hearings on the penal side by the Tribunale. Furthermore, the Court of Assize will be convoked for the conduct of trials in Cagliari during the month of May, after terminating its session at Sassari.

8. I secured from General Magli a list of the personnel required by the Italian Military Tribunal in order to bring it up to the minimum quota required for its efficient operation. In substance, the information furnished me reveals that 17 additional officials are required.

9. The problem of custodial facilities for military prisoners awaiting trial has been solved by the construction of a detention camp at Villa Nova Strisaili (near Villa Grande) and northeast of Lanusei in Cagliari Province. I visited this camp on 7 April 1944. It is a former prisoner of war camp in which maximum security facilities are being installed in the way of barbed wire enclosures and searchlight towers. The barracks are stone buildings which house about 100 persons each. In addition to this camp, General Magli informed me on 11 April 1944 that he had secured the transfer of two companies of Italian artillery out of Oristano. This will make <sup>33</sup> available two barracks buildings at Oristano for Italian military prisoners awaiting trial. The first shipment of military prisoners out of the Italian civil prisons to their new quarters was planned for 14 April 1944.

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10. I believe that everything feasible has been done to re-establish the courts in Cagliari. Many of the problems afflicting the courts will not be solved until the normal means of transportation and communication are reestablished.

The problem requiring urgent attention, particularly in its relation to the administration of criminal justice, is the one of inadequate personnel.

Copy to: Regional Commissioner  
Regional Law Officer

EDMUND L. PALMIERI  
Major, AUS

*Put in file  
2 boxes to file  
1944*

*Good report on matters  
reported here at with other  
information from it to make  
a summary of them  
in the file on matters. 11*

**SUBJECT:** Reopening of Italian Civil Courts in Cagliari -  
(Report of 16 March 1944 continued).

**TO :** CIO, Legal Sub-Commission, ACC.

*See folio 29*

1. On 20 March 1944, I conferred at Ozieri with the President of the Court of Appeal, Signor Volpe and the Procuratore Generale, Signor Spallanzani. I discussed with them in detail the necessity for reestablishing the Courts at Cagliari, and the various problems connected therewith. These gentlemen expressed their desire to cooperate and to resume their work at Cagliari as soon as arrangements could be made. I advised them of my adverse opinion regarding the use of the Conservatorio as a court building for the Tribunale (see paragraph 7, report of 16 March 1944). It was agreed that the Tribunale would not be sent to the Conservatorio and that they would be installed in a part of the upper two floors of the Palace of Justice Building pending their transfer to more suitable quarters in the same building. We went over the plans of the floor space which I had taken with <sup>me</sup> and it was agreed that the court facilities could be assigned to the space available, in such a way as to permit the adequate functioning of the various offices. I also discussed the plans for housing and feeding the judges and the employees of the courts, and a tentative arrangement was made with a view to pooling the resources available for the benefit of the courts as well as offices of

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I was not satisfied with our discussion regarding the speeding up of the work of the courts. Both President Volpe and Signor Spallanzani complained bitterly about the loss of personnel. They attributed this to the displacements brought about by the War, and to the fact that the Italian Military Tribunal in Sardinia had taken part of their inadequate personnel to assist in the dispatch of work accumulating in that court.

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Both gentlemen stated that they would require additional personnel in order to bring about any appreciable speed-up in the work. I subsequently found this statement to be justified. (see paragraphs 4 and 7 below).

We also discussed the desirability of reestablishing the Court of Assise at Cagliari at the earliest possible moment, and general necessity for paying particular attention to the administration of criminal justice. President Volpe advised me that the next sitting of the Court of Assise had been already fixed for Sassari, and that the Court could not be expected to finish its work there before the early part of May. He promised to sign the necessary order ~~of~~ convoking the court for a sitting at Cagliari on or about 15 May 1944.

2. On 21 March 1944, a long conference was held at the Office of the Italian High Commissioner for Sardinia, General Pinna. The purpose of this meeting was to establish a general agreement between the judiciary and the other branches of the Italian Government with regard to the prompt reestablishment of the Courts at Cagliari. It was also intended that this meeting should bring about a better coordination of the efforts which were expected of the various Italian Government officers in regard to this matter.

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The meeting was attended by the Prefect of Cagliari, Signor Mocci, Colonel Sanna, attaché to General Pinna, President Volpe and Signor Spallanzani. General Magli was present for about forty minutes, at which time the problem of dealing with

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The meeting was attended by the Prefect of Cagliari, Signor Mocci, Colonel Sanna, attaché to General Pinna, President Volpe and Signor Spallanzani. General Magli was present for about forty minutes, at which time the problem of dealing with the custody of military prisoners awaiting trial was discussed. The entire matter of the return of the judiciary to Cagliari was gone into in great detail, and I came away from the meeting with the impression that General Pinna was well-informed with regard to the matter, and that he was determined to do everything possible to have the courts reopened. His understanding of the technical problems involved was gratifying.

3. The overcrowded conditions of the jails in Cagliari,

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Oristano, Nuoro and Sassari, were discussed at some length. The prisons in these cities are used mainly as detention jails for the custody of prisoners awaiting trial. This is done because these jails are easily accessible to the trial courts (including the Italian Military Tribunal of Oristano) and because they are equally accessible to the offices of the officials who are charged with conducting the preliminary interrogatories and handling the instructional phases of the cases. It was ascertained that the overcrowding was due very largely to the presence of military prisoners in these jails. It was at this point that General Pinna telephoned General Magli and requested him to attend the conference.

The problem of providing separate custodial facilities for military prisoners was discussed in the presence of General Magli. He appeared to be well informed regarding the problem, and as a result of our discussion he agreed to undertake immediately the construction of a prison camp which would be under the direct supervision of military authorities and which would absorb the custodial responsibility for military prisoners which was now falling upon the civil prisons hereinabove referred to. Several sites for this camp were discussed. The necessity for avoiding malarial areas, and the further necessity of eliminating transport difficulties so far as possible, narrowed the choice down to the area close to Oristano. (On 24 March 1944, I had a conference with General Magli who advised me that the camp for military prisoners was to be set up at Villa Grande - Cagliari Province). It should be noted that there is no lack of penal institutions in Sardinia for convicted prisoners. In fact, a large suitable prison for convicted military prisoners

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4. After General Magli left the meeting of 21 March 1944 at the High Commissioner's Office, we discussed the problem of speeding up the work of the Courts and the problem of Court personnel. While the statistics at the High Commissioner's disposal were not complete, they indicated that there were at

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◆ least 5000 pending cases in the Italian Military Tribunal alone. There were well over 2000 criminal cases pending in the criminal courts under Italian Civil Jurisdiction. There could be no question, as a result of the information furnished by Signor Spallanzani and Colonel Sanna, that the personnel was inadequate and that no appreciable speed-up of the work could be expected to eliminate the back-log of pending cases, unless some addition to personnel could be made.

An enormous amount of unfinished work faces the Italian Military Tribunals. It could not be expected that any of the employees taken over by the Italian Military Court System would be released. Any persons in the Italian Army in Sardinia who possessed the proper qualifications had been taken over to assist in the work of the Italian Military Tribunal. The situation affecting this court was further aggravated by the presumed death of Capt. Lopane. This officer enjoyed the complete confidence of General Magli. He was Procuratore before the Italian Military Tribunal. It is believed that he was killed recently in an airplane accident between Salerno and Brindisi while on a mission in connection with the trial of General Martini. The loss of Capt. Lopane has created a serious difficulty because a suitable replacement has not to date been found.

In short, both the Italian Military Tribunal and the Italian Civil Courts are seriously under-staffed in the face of a large amount of accumulated work. Moreover, the commission of crime by Italian military personnel as well as by civilians appears, unfortunately, to be increasing rather than decreasing. It therefore appears urgent that some solution be found for pro-

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In short, both the Italian Military Tribunal and the Italian Civil Courts are seriously under-staffed in the face of a large amount of accumulated work. Moreover, the commission of crime by Italian military personnel as well as by civilians appears, unfortunately, to be increasing rather than decreasing. It therefore appears urgent that some solution be found for providing additional personnel. If none is forthcoming from the mainland, then some effort should be made to repatriate Italian prisoners of war in North Africa who are fitted for this work. I believe that a sufficient number of suitably trained personnel can be acquired from this source. I expect to obtain precise information regarding the personnel required from General Magli and President Volpe.

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5. The use of provisional liberty as a means of diminishing prison populations has been used, in my opinion, to the fullest possible extent. In fact, it has often been used when the interests of justice should have dictated otherwise, but when it was inevitable that such liberty be granted because custodial facilities were unavailable.

6. After the conference at General Pinna's office, we went together with the Judges to inspect the work at the Palace of Justice. There, we were joined by the Chief Engineer for the Italian Government, Signor Marotta. All of the work in progress was carefully inspected. In agreement with President Volpe, the space to be occupied by the various courts and offices was agreed upon. The rooms for the establishment of the mess were also inspected, and arrangements made for the procuring of the necessary cooking apparatus and dining room furniture.

President Volpe agreed to send the necessary order to the President of the Tribunale at Isili directing his return to Cagliari on 27 March 1944. The Pretura was ordered to resume its work at the Istituto Pintor by the same date. The Office of the Procuratore del Re at Isili was to return at the same time as the Tribunale. President Volpe and Signor Spallanzani agreed to transfer the Court of Appeal and the Procura Generale to Cagliari not later than 12 April 1944.

7. On 22 and 23 March 1944, I visited the courts and prisons at Cristano, Sassari and Nuoro. It was my primary purpose to determine whether a better use could be made of the Ita-

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7. On 22 and 23 March 1944, I visited the courts and prisons at Oristano, Sassari and Nuoro. It was my primary purpose to determine whether a better use could be made of the Italian Civilian court personnel at these places, in view of the fact that no solution had been found for the inadequacy of that personnel. I wished, also, to ascertain the extent of the overcrowded conditions of the prisons there. As a result of my visits to these places, I came to the conclusion that the Italian Civil Courts were under-staffed, and that the jails were crowded far beyond their normal capacities. There was no question in my mind that the best possible use was being made of the personnel attached to them. I found that the court employees were helping each other without regard to the specific offices to which they were assigned, and were rendering the most ade-

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adequate service possible.

Incidentally, my visits to these prisons permitted me to be of service to Brigadier Dunlop by submitting to the Directors of these institutions certain forms calling for detailed information regarding these prisons, and which were sent to Sardinia by the Public Safety Sub-Commission.

8. On 25 March 1944, I endeavored to ascertain what progress had been made with respect to the establishment of the mess at the Palace of Justice and the requisitioning of quarters for the court personnel.

I went to the court building with the Chief Architect, Signor Valente, and found that while the masonry work had been completed, no cooking facilities had been installed, nor had any messing equipment been made available. I found also, that while living quarters had been found which appeared to be suitable, the necessary requisitioning formalities had not been fulfilled. I conferred with Judge Cardia the same day. Since he was the Member of the Tribunale who had been left in Cagliari to take care of housing and feeding arrangements, it was his duty to superintend the details of these matters. I told him that he was expected to see that the requisitioning formalities were complied with; and that a more speedy effort should be made to install the mess. Judge Cardia appeared to have been occupied with other matters, and said that the person who had been chosen to supervise the mess had gone to Sassari to procure some wine. He also stated that he had been unable to find any plates, knives or forks or dining room furniture. Judge Cardia agreed

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I spent a considerable amount of time with Signor Valente searching for cooking apparatus since it appeared that the apparatus previously promised by the Prefect was not available. We then determined that a coal stove made of masonry and tiles would have to be constructed, and that we could not expect to procure any cooking apparatus ready to install. In-

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Accidentally, we visited a number of public buildings which had been bombed, and searched through the debris for suitable kitchens and for suitable cooking fixtures, but found that whatever was left was damaged beyond repair. We subsequently visited two iron foundries where we arranged to have certain necessary stove parts and cooking utensils manufactured.

9. On 25 March 1944, I found that some effort had been made to clean the upper two floors of the Palace of Justice and that furniture and documents were being arranged and installed.

10. On 30 March 1944, I made another inspection of the Palace of Justice, and found that the personnel of the Tribunale and of the Procuratore del Re were setting up their offices. Additional laborers were required for the cleaning and moving of furniture and the transportation of files. Although the stove for the mess of the court personnel had been practically completed, the mess equipment and the necessary food rations promised by the Prefect had not yet been delivered. Urgent representations are being made immediately to the Prefect in an effort to have these matters attended to speedily.

11. The Judges of the Tribunale complained about the lack of privacy in their offices caused by the absence of glass panes in interior doors. Signor Valente explained to me that a sufficient quantity of ply-wood was available to be installed in place of the glass, and that it would be done within 24 hours.

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12. The court-rooms intended for the use of the Tribunale and the Court of Appeal required certain window frames. I found that these had been completed and were in the carpenter's work shop ready for installation. Installation was promised 1 April 1944. The masonry and plaster work planned for these rooms had been completed and the necessary cleaning work finished.

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13. I expect to be able to leave Sardinia as soon as the President of the Court of Appeal and the Procuratore Generale arrive here. It is planned that they should be able to establish themselves at Cagliari on 12 April 1944.

*E. L. Palmieri*

EDMUND L. PALMIERI  
Major, A. U. S.

Copy to: Regional Commissioner  
Regional Law Officer

1 April 1944

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Copy to: Regional Commissioner  
Regional Law Officer

1 April 1944

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## REPORT OF DIO ON CONFERENCES WITH OFFICIALS IN SYLLI

I. Court of Appeals, Messina.

I saw the First President, Marchi and Procuratore Generale, Barone.

1. The prisons are congested and the condition is serious. The Military Authorities do not want provisional liberty on bail given to offenders against Allied property and personnel, hence it has to be given to other criminals which otherwise would not be the case. Many well known thieves are at large, some of them having been liberated when the invasion started. They ought to be rounded up, but there is no place to put them. The Procuratore suggests that some of the Prisoner of War camps no longer in use be turned over for confinement of minor offenders to relieve the situation. An amnesty of limited nature not including offenders who committed offenses after invasion started would be favored. Procuratore would be glad to suggest the extent of the amnesty if the Minister of Justice would like.

2. The Italian Courts have not suffered as the result of taking over black market and other food violations because now only a few articles are rationed and priced such as pasta, bread and sugar. Otherwise it is a free market.

3. Examinations for Procuratori is fixed from 30 May to 1 June.

4. Liaison between First President and Ministry of Justice very slow and uncertain. Suggestion made that we act as intermediary in instances of the more important correspondence and important telegrams.

5. The personnel situation is fairly well stabilized except for the Reggio situation. In the first place one assistant procuratore is needed now and if one available on mainland he could be used. As to Consiglieri, there should be 15--there are 10 of whom 2 are ill. Sent in only one nomination to Minister of Justice as other vacancies cannot be filled locally for there are not available men of the calibre required, except by moving up other judges which would disrupt lower courts. If any available on mainland they could be used. Names of men to fill vacancies in tribunals and praeturi already sent to Minister of Justice, but no reply.

The Reggio situation is serious. The lawyers there are bent on a separate branch and refuse to come to Sicily saying they cannot. Students from Reggio come over every day on the ferry and lawyers could do likewise as in the past. Litigants are writing in about their cases, but they can't be tried because the lawyers won't come over and papers held by AOC in Reggio.

AOC has three bags of legal papers and records wanted here, but are being held because of controversy. Maj. Loopp of AOC said he would put this up to Col. Gonsins, RHO, but no answer yet forthcoming.

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ACC has three bags of legal papers and records wanted here, but are being held because of controversy. Maj. Loopp of ACC said he would put this up to Col. Cousins, HIO, but no answer yet forthcoming.

All judges now in Messina.

If separate branch is established at Reggio there would not be enough to do, yet at same time to have court functioning at all, three or four more senior judges would have to be appointed. With all judges at Messina First President has received a message to continue section at Reggio. Lawyers to give enough work to a Reggio Section are trying to get the Tribunal at Loevi and Ialini put under it.

In any event, First President says that if Reggio is to be set up it will take a month to do so and the Minister of Justice should tell the lawyers in such cases that the cases will have to be tried in the meantime at Messina.

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The Minister of Justice should come to some final, early decision. How about his sending one of his assistants to go into the entire matter from all angles and make a report to the Minister. The latter would then have a chance of hearing both sides of the controversy.

6. All circuits of the Courts of Assise are functioning normally.

7. There has been no further attempt at defascistization among judicial personnel--Capt. Matthews.

8. See answer under II 8.

9. First President and Procuratore Generale are interested in carrying out directives relative to prompt and severe punishment of Army thefts and prostitution. As to latter within last couple of days a court gave three nine month sentences and others got seven months. Procuratore has given vigorous instructions on both subjects. Generally in Army theft cases he is cutting some of the red tape, but in one serious case he is afraid to because of possible reversal by the Court of Cassation on technical grounds. This case is serious enough to go to such court. The judiciary is co-operating in this drive.

10. The Palace of Justice was badly damaged by bombs and troops, but work is going on to restore the building. Important records were burned.

11. I was very favorably impressed by the First President and the Procuratore Generali. They appear to be men of fine calibre and appear to be very willing to cooperate. Their work is moving along at a normal rate now except for the Reggio cases.

I understand a list of damaged court buildings was sent to Palermo. Other court buildings have been damaged, but the courts are all functioning.

## II. Court of Appeals at Catania.

23 March 1944.

First President, Messina. and an Asst. Proc. Gen.

1. Prisons congested badly. Occupants are double the number they should be. Amnesty all right with limitations mentioned in I 1 above, but only a comparative few would get out. Would be glad for use of POW Camp for minor offenders. Delinquency very heavy in Catania. Many people should be sent to confine but no one doing anything about it. This cannot be started by the Judiciary. The Polizia di Pubblica Sicurezza and the Carabinieri should initiate it, but do not. The islands are available and buildings are there, but there are no personnel. The First President would like the Minister of Justice to be approached, as he feels if there could be rounded up a lot of well known thieves and it would help in the Army theft situation.

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2. See I 2 above.

3. No date set for examinations for procuratori. The First President says Minister of Justice has to fix date and submit questions to be asked on examination. Note what is being done in Messina, I 3 above.

4. First President says mail slow and uncertain and would welcome our help see I 4 above.

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5. Judicial personnel stabilized and generally strength is satisfactory. There is one vacancy on the Court of Appeals but it is not necessary to fill it immediately. Assistant Prosecutor functioning in many places. These vacancies should be filled and the minister should fix date, etc. For examinations for all Sicily. A list of vacancies will be sent. Staff of Procuratore Generale complete. Procuratori del Re' vacancies 2 at Syracuse, 1 at Modica and 1 at Ragusa. Would be glad to have qualified men sent from mainland if available.

6. Assize Courts functioning normally.

7. No further attempt at de-fascistization among judicial personnel - Capt. Matthews.

8. First President Messina suggested that a section of the Court of Cassation be set up soon, as quite a few death sentence cases are awaiting action by the highest court and something should be done about them.

9. The First President has sent a directive to all judges to speed up Allied cases and has gone as far as he could to suggest heavy sentences. He has upbraided one judge who gave too light a one. He is watching these cases personally. One of his handicaps is that the Courts themselves gave too light ones. He has just ordered one mail theft case expedited and has hinted at a severe penalty if the accused is guilty. He has not received any word about the drive on prostitution, but will push this anyway. The lower judges are co-operating in the drive to speed up Allied theft cases.

10. There appears to be no present jurisdiction to take care of labor pension cases, i.e., those involving injury and men over 65. How is any commission to act now that syndicates are no longer functioning?

11. Criminal records were buried in the bombing. Capt. Matthews is going to try to find a place to house them and then have them dug out.

12. The First President, Messina, is very able and cooperative. I feel that he will do all in his power to deal with the Army theft case situation but he needs some help at our end, i.e., more prison room and commissary arrangements.

Generally as to I and II.

Capt. Matthews can act as liaison officer to both courts of appeals without difficulty. He can if we agree, act as clearing house at this end for documents and telegrams to be sent back and forth for these courts. He states that the Army is satisfied with the Italian Courts functioning in theft cases and also that the ARs are cooperating fully in furnishing the Carabinieri and the prosecuting authorities all the information they need. The theft situation is very bad at Catania. It is apparent that the Army officials themselves are not giving the Army stocks and stores sufficient protection in transit and in storage.

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12. The First President, Messina, is very able and cooperative. I feel that he will do all in his power to deal with the Army theft case situation but he needs some help at our end, i.e., more prison room and commissio arrangements.

Generally as to I and II.

Capt. Matthews can act as liaison officer to both courts of Appeals without difficulty. He can if we agree, act as clearing house at this end for documents and telegrams to be sent back and forth for these courts. He states that the Army is satisfied with the Italian Courts functioning in their cases and also that the MPs are cooperating fully in furnishing the Carabinieri and the prosecuting authorities all the information they need. The theft situation is very bad at Catania. It is apparent that the Army officials themselves are not giving the Army stocks and stores sufficient protection in transit and in storage.

### III. Courts of Appeals, Palermo. 25 March 1944.

First President ~~of~~ Gentile and Procuratore Generale Capellani.

1. Prisons are congested. 2000 are in prison at Palermo where 1000 only should be. Amnesty would help some, but in view of great amount of delinquency, hardened offenders definitely should not be released. Number of provincial prisons destroyed or closed as unsanitary. POW camp if near Palermo would be helpful for minor offenders, but in view of transportation difficulties any additional place must be near Palermo.

2. See I 2.

3. No date fixed for examination for Procuratori. There was a decree of Italian Government setting 30 Jan 1944, but Sicily then occupied. Bar association formed under Lord Hennell intended - to take matter into its own hands, but Minister stated he was sending a new decree--never received.

4. Liaison between First President and Minister satisfactory except for length of time. It is believed that as the result of Minister Fanno (telecommunications and Posts) situation will improve. If we can help it will be appreciated.

5. Personnel situation not bad, but could be made better. Under AMG a committee of First Presidents and Procuratori Generali was to meet and choose judges. Status of Committee now uncertain. If these officials are merely to send in nominations to Minister, there is no need for them to have a meeting. On the other hand if their selection is to be final except for pro forma approval of Minister, they can meet and get on with it. They would like to know about this.

In the second section of the Corte di Assise, there is a vacancy by reason of the death of one Costa. This is being temporarily filled by one Leone, seconded from the Corte di Appello. When Leone was appointed by AMG order last November the Italian Legal Commission recommended that if he did not accept the post, one Cassata should have it in his place. It is now argued that Cassata has a reversionary title to the vacancy. The First President and Procuratore Generale point out that under the Italian system, neither Leone nor Cassata has the proper qualifications and the post should go to the Senior of the three judges with equal qualifications of merit.

There should be examinations for procuratori very soon. Advocates are having to act in many places. Also early examinations for uditori giudiziari and cancellieri and notari should be held. If any available personnel on mainland it could be used. List of vacancies already sent to Minister of Justice.

No one now knows status of Bar Association and Council of Notaries formed by AMG--Capt. Vecchiola.

Judges and Magistrates were taken from their positions for purposes of censorship and labor offices. They must be released. These appointments were made by AMG or Prefects.

Buildings or substitute buildings are in use everywhere. Repairs being made to damaged buildings.

6. Circuits of Corte di Assise are functioning normally everywhere.

7. See I 7, Capt Vecchiola.

8. See II 6.

9. See III 6.

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There should be examinations for praetori very soon. Advocates are having to act in many places. Also early examinations for uditori giudiziari and cancellieri and notari should be held. If any available personnel on mainland it could be used. List of vacancies already sent to Minister of Justice.

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Judges and Magistrates were taken from their positions for purposes of censorship and labor offices. They must be released. These appointments were made by AMG or Prefects.

Buildings or substitute buildings are in use everywhere. Remains being made to damaged buildings.

6. Circuits of Corte di Assisi are functioning normally everywhere.

7. See I 7, Capt Vecchiola.

8. See II 3.

9. Local magistrates and entire judiciary and prosecutors ready to act with despatch and necessary severity, but First President believes that until original act purporting to give Allied Military Courts jurisdiction is amended, the decree gives such courts exclusive jurisdiction in cases involving Allied interests. It was explained what had happened; both the First President and the Procuratore Generale are prepared to act immediately upon the amendment of the decree. In the meantime many cases have piled up.

10. Both this First President and Procuratore Generali impressed me very favorably.

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IV. I had a brief talk with H. E. Mussetta the new High Commissioner of Sicily. He was interested in my conferences with the First Presidents and Procurato Generali. He said that examinations as suggested should be held shortly and that he hoped if extra judges from the north were available they would be sent over to fill vacancies. He said that he hoped I would stay to see the courts in action. He expressed very forcibly his dislike of the use of assessors in trials. It was undemocratic he said and added that he would continue to urge the use of juries as the only democratic method of fair and impartial trial of criminal cases.

#### V. Prisoners of War. 25 March 1944.

Major George Haley, in office Judge Advocate General, IES, and liaison officer with AOC, talked with me today about the Prisoner of War situation which obviously requires some immediate clarifying action.

It is estimated that in Sicily there are about 70,000 paroled POW. These were residents of Sicily originally. When they were paroled they were given parole papers and required to report to AMG offices. The burden was so great that they were then required to report to the Carabinieri instead.

Some of these parolees get into trouble. Because of their status AMG Courts are without jurisdiction and Italian Civil and Military Courts claim to be without jurisdiction to try them. The Army does not want to take them over and has not the personnel to try them for breach of parole. The JAG says that the Army may try them for breach of parole, but from a practical stand-point is unable to do so.

Some of these parolees belong to classes that are being called up by the Italian Army, but in view of their status the Carabinieri cannot pick them up and send them over to the mainland.

The result is these people can commit all sorts of offences without getting into real difficulty. If they are taken up by the Allied Army and their paroles revoked, they have to be paid, housed, guarded and fed by the Army which has no desire to do so. The situation admittedly is unique, but it will have to be solved in some way.

One solution would be to revoke all their paroles and then release them as prisoners of war entirely. The Italian Government could then call them into active service or discharge them or put them on inactive service. Also ~~they~~ would be in the position to be tried for offences by Italian Courts. This would probably require some understanding between the Italian Government and Allied authorities and possibly also the Protecting Power.

TO : CLO, Legal Sub-Commission, ACC

SUBJECT: Reopening of the Italian Courts in Cagliari

*Very good report, should be sent to the Minister of Justice for his necessary action.*  
G. G. H.  
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1. I arrived at Cagliari on 11 March 44 at approximately 4 pm and immediately established liaison with Brigadier Dunlop and Major Alexander. I had dinner with Brigadier Dunlop and had a long talk with Major Alexander the same evening. The next day, 12 March 44, I examined the Commission's correspondence files and memoranda relating to the Italian Courts.

2. 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 of Cagliari. The Pretura moved to Sinnai, some 20 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 Sinnai 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 of an uncomplimentary nature as the explanation 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

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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 back-log of work to be done by the Courts of Cagliari.

3. 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 TULUI, the Director. 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 ~~in~~ 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 minors and female prisoners. Mattresses are provided for the prisoners, and an attempt is made to provide a better ration for minors and sick inmates. The food is reasonably good considering present dietary standards among the civilian population in Italy.

4. 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 CARDIA, a member of the Tribunale, and have gone over the work with the chief carpenter contractor, Mr. PODDA. I have also visited the

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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 lootings. An attempt is being made, however, to reconstruct broken doors and window-frames and procure the minimum amount of glass necessary to make the two top-most 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 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.

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

6. 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, Marotta, 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.

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7. 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 Ozieri 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

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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, 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.

8. On 15 March 44, I went to Isili and conferred with President SANNA of the Tribunale and Sostituto 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.

9. The Court of Assise 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 Assise. I was able to confer with Instructional Judge DESSY 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 Assise. When I go to Ozieri, I hope to make the necessary arrangements to have the Court of Assise open at the earliest possible moment.

(25)

10. 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 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.

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EDMUND L. PALMIERI  
Major, A. U. S.

Copy to: Regional Commissioner  
Regional Law Officer

16 March 44

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REAR HEADQUARTERS  
ALLIED CONTROL COMMISSION  
Legal Subcommittee  
APO 394

(24)  
GCH/gmf

ACC/4001/3/L

22 March 1944

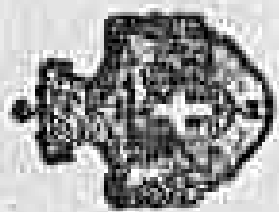
SUBJECT: Italian Courts at Campobasso.

TO : RLO (thru RC) Region 5.

1. Would you please inform this subcommittee at your early convenience as to the situation of the Italian Courts in Campobasso.
2. Special importance should be attached to -
  - (a) Judicial personnel (shortage and vacancies).
  - (b) Courts of Assizes.
  - (c) Appointments and dismissals (if any) by AMG authorities.

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

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# MINISTERO DI GRAZIA E GIUSTIZIA

Gabinetto

Protoc. N. *336*

Risp. al foglio N. \_\_\_\_\_

del \_\_\_\_\_

Salerno, 22 marzo 1944

**OGGETTO:** Riunione

A.S.E. IL PRIMO PRESIDENTE della Corte  
di Appello di

NAPOLI

A.S.E. IL PROCURATORE GENERALE presso

la Corte di Appello di

NAPOLI

e p.u.

ALLA COMMISSIONE ALLIATA DI CONTROLLO  
Settecomissione Legale

SALERNO

Si avvisa che sabato mattina 25 corrente, si terrà presso onesto Primo Presidenza, per interessamento della Settecomissione Legale della Commissione Alleata di Controllo, una riunione alla quale parteciperà un rappresentante di questo Ministero, per trattare della situazione giudiziaria di onesta Corte di Appello.

IL MINISTRO

*[Handwritten signature]*

*4001/3 23*

1258

NAPOLI

A.S.E. IL PROCURATORE GENERALE presiede

la Corte di Appello di

NAPOLI

e p.o.



ALLA COMMISSIONE ALLIATA DI CONTROLLO  
Settecommissari Legale

SALERNO

Si avvisa che sabato mattina 25 corrente, si terrà  
presso questa Prima Presidenza, per interessamento  
della Settecommissari Legale della Commissione Allea-  
ta di Controllo, una riunione alla quale parteciperà  
un rappresentante di questo Ministero, per trattare del-  
la situazione giudiziaria di cadente Corte di Appello.

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IL MINISTRO

*Ca. F.*

4001/3

LEGAL DIVISION  
TRIBUNALE - NAPLES

18 February 1944

SUBJECT: Survey of Italian Court System in the City of Naples.  
The Reopening of the Court of Assize.  
Comments and Recommendations with respect to the functioning of  
the Italian Courts and the Allied Military Courts.

TO : R.L.O. Region III.

1. Pursuant to Col. Upjohn's instructions I established liaison with the Legal Officer attached to the Tribunale at Naples with a view to bringing about the reopening of the Courts of Assize at Naples and at Avellino. In addition, I visited all of the Italian courts functioning in the city of Naples and I conferred with the various judges in charge. Moreover, I had numerous conferences with members of the Bar of Naples. As most of the Italian courts are situated in the Tribunale Building, which also houses various parts of the Allied Military Court system, I had occasion to observe the functioning of these courts. The latter part of this report will deal with the Allied Military Courts in Naples.

2. The court system of Naples normally handles the greatest volume of business in the entire Italian judicial system. From the standpoint of the number of cases disposed of and the importance of the cases, both of a civil and penal nature, the forum of Naples has always been of great importance.

REOPENING OF THE COURTS OF ASSIZE  
AT NAPLES AND AT AVELLINO

3. The Courts of Assize at Naples and at Avellino are due to be opened on 21 February. Both courts will deal with a number of important cases which have been pending for a considerable length of time. This is particularly true of the Court of Assize at Naples. This court will have to deal with more than 30 murder cases in addition to a large number of serious felonies. Not all of these cases can be dealt with at the forthcoming session but every effort is being made to dispose of all pending matters as rapidly as possible giving preference to those cases in which the accused have been in jail for the longest periods of time.

4. The opening of these courts was beset with a great many difficulties. The court rooms normally used by the two sections of the Court of Assize at Naples were occupied by military personnel almost immediately after the occupation of Naples. The unavailability of these courts was aggravated by the fact that valuable court records and procedure forms were destroyed and scattered and considerable court room furniture damaged or destroyed. The search for

appropriate quarters proved to be laborious because the only room that lent itself to the exigencies of Italian criminal procedure was a court room used for courts martial by the PMS Section. However, conferences with Col. Lemarr and Lt. Redston of the Judge Advocate General's Department helped me to secure the use of the room in question which is situated in the Tribunale Building. This necessitated, however, the making of arrangements with the British military authorities who had secured the temporary use of the room for a murder trial involving British military personnel. Moreover, it was necessary to let a contract for the construction of a prisoner's cage such as is required by Italian law. The prisoner's cage situated in the court room of the Court of Assise had been damaged beyond repair in the course of its occupancy by our military forces. Major Holt supervised the construction and installation of the cage at the Tribunale.

5. Another difficulty which had to be solved in order to secure the reopening of the Court of Assise at Naples was the reexamination of the list of assessori so as to remove persons who were politically objectionable. The President of the Court of Appeals at Naples was under a legal impediment in convoking the Court of Assise because the list of assessori had to be furnished by the Prefect of the Province of Naples, and despite several written requests, the first of which was made on 26 October 1943, the last of which was made, at my insistence, on 12 January 1944, the list was not forthcoming. It became necessary for me, therefore, to deal directly with the Prefect. The legal officers attached to the Tribunale had been forbidden by their commanding officer to approach the Prefect, and I did so after making an oral report to Col. Upjohn of the situation. I secured the list less than two days after having made a personal request of the Prefect. The reasons for the delay on the part of the Prefect for furnishing this list appeared to me to be specious. At any rate I secured the list and delivered it personally to the First President of the Court of Appeals. Within a short time after the list was delivered the First President signed orders convoking the two Courts of Assise in question. The order convoking the Court of Assise for Naples was signed 29 January 1944. The order convoking the Court of Assise for Avellino was signed on 31 January 1944. The reopening of both courts was set down for 21 February 1944.

6. The reopening of the court at Avellino required me to make two trips to that place; one on 7 February, the other on 17 February. On my first trip I conferred with the Chief Clerk (Capo Cancelliere) of the Court and with Capt. Gold, Legal Officer for Avellino. I had previously conferred with Capt. Gold (on 19 January 1944) while on my way to Potenza on other assignment and I was generally familiar with the conditions relating to the proposed reopening of the Court in that city. The quarters for the Court of Avellino were available although they were being temporarily used by the Allied Military Court. To a very serious degree, however, the reopening was beset with transportation and communication difficulties.

7. On the occasion of my visit on 7 February 1944 I found that the Chief Clerk of the Court, who had been notified of the order of convocation above referred to dated 29 January 1944, had drawn up the various notices and subpoenas required by Italian procedure and had delivered them for transmittal to the local post office which was not functioning. Upon discovering this state of affairs

on 7 February I arranged with Capt. Gold to have the papers withdrawn from the Post Office and delivered by Allied Military Government personnel who were travelling out of Avellino on other duties and who therefore could conveniently absorb this assignment. I also arranged to have copies of the various notices and subpoenas served through the motorcycle courier service of the Carabinieri group, the headquarters of which was situated at Avellino. Capt. Gold was very helpful in supervising the transmittal of these documents after 7 February and indeed personally saw to the delivery of several of them.

8. On the occasion of my trip to Avellino on 17 February 1944, I transported the president of the court, Vigorita, and the Scrittore Procuratore del Re, Simeone, their personal belongings and some of the court archives. The transportation used on the occasion of my previous visit, was an Italian civilian automobile driven by myself and for which I personally paid the rental and the upkeep.

9. At Avellino, on 17 February 1944 I had a conference which lasted over two hours with the Questore, Bianco, the Commander of the Carabinieri, Lisetti, the President of the Court of Assise, Vigorita, and Procuratore Simeone, the President of the Tribunale at Avellino, Piscopo, and the Assistant Procuratore del Re situated at Avellino, DeSilva. At this conference, the entire calendar of cases to be tried on 21 February 1944 by the Court of Assise was carefully examined, case by case, and understandings reached with respect to the measures to be taken so as to insure so far as possible the trial and disposition of all these cases. In view of the fact that the Capo Consigliere had caused a serious lapse of time by depositing various notices in the non-functioning post office, as already referred to, a number of difficulties had to be foreseen and provided for. The problem of securing the transport of prisoners incarcerated in jails outside of Avellino, the notification and transportation of witnesses from those places, and the re-arrest of fugitives were the principal topics of discussion.

10. As a result of this discussion, I came to the conclusion that the Court of Assise at Avellino might be faced with a serious calendar breakdown and I therefore requested the instructional judge at Avellino to be brought into the conference with a view to adding cases to the calendar for the forthcoming session of the court. As a result of the conference I had with him and with President Vigorita, it was determined that there were five cases which could be added to the calendar. He made a list of these cases and on 18 February 1944 I secured from the First President of the Court of Appeals at Naples the necessary orders directing these cases to be added to the calendar. This order was forthwith transmitted to Avellino and it can reasonably be expected that several of these cases will come to trial and will be disposed of at the forthcoming session.

11. The problem of transport and communication has seriously affected the Court of Assise at Naples, but, to a lesser degree than the Court at Avellino.

12. In both cities the members of the bar generally have expressed satisfaction with the reopening of these courts and have been grateful of the opportunity to dispose of cases in which their clients had been held in jail for long periods of time, in some instances, in excess of 18 months. The members of the bar have

also demonstrated their willingness to cooperate by furnishing the chief clerks of the courts with waivers of procedural notices which would have been a source of further delay if it had been necessary to comply with them.

#### THE ITALIAN COURTS OTHER THAN THE COURT OF APPEALS

13. Except for the Court of Appeals which is run efficiently by its First President, Lionati, both the Tribunale and Pretura leave much to be desired. My preoccupations with the problems affecting the Courts of Assise have prevented me from making a thorough and painstaking examination of the work of these two courts. I believe I am justified in saying, however, that both courts have been lax and negligent in the administration of justice. In the case of the Pretura, the situation is close to being scandalous. Italian law is flouted on every hand at the Pretura and there is little semblance of good administration in the functioning of this court. This is particularly unfortunate since the Pretura is the poor people's court and handles a large volume of judicial business affecting people who can least afford the delays, inconveniences and expenses attendant upon the administration of justice.

14. One of the most shocking conditions at the Pretura was the fact that decisions had been delayed well beyond the period permitted by Italian law. I chose the two judicial officers who were the most flagrant violators and prepared a letter for the signature of Major Holt with a view to having disciplinary action taken against them by the First President of the Court of Appeals. This letter is appended and marked Exhibit B. It is contemplated that after the disciplinary proceedings are closed, a more thorough study should be made of the functioning of the Pretura and a decision reached with respect to the improvement of its administration.

15. One section of the Pretura deals with the execution of the "atti notarili" which are certificates bearing a formal authentication by a Pretore which, under Italian law, are *prima facie* evidence of the facts therein certified to. For instance, a certificate is issued establishing that X died without a will. These certificates cover a wide variety of matters. In these times when civilian transport and communications are so seriously disrupted, the legal consequences flowing from these certificates are of increased importance. The section of Pretura in which the atti notarili are issued is a badlan. Although Italian law requires a Pretore to swear in the witnesses in his presence after satisfying himself as to their identity, no Pretore has ever attended this session of the Court to my knowledge. During my visits an overworked clerk who made no effort to ascertain the identity of the persons swearing to a particular certificate furnished them with an authenticated document in complete violation of Italian law. In many instances, the certificates were not sworn to at all, despite the fact that they bear the certification of an oath.

#### THE ALLIED MILITARY COURTS

16. While I was not primarily concerned with the Allied Military Courts, I find it necessary to make certain statements with respect thereto, inasmuch as they function in the same court premises as the Italian courts and certain conditions affecting the Italian courts necessarily affect the military courts.

17. Several weeks ago, I reported in a separate memorandum the conditions existing at the Tribunale at Naples and which were brought about by the fact that persons with criminal records were permitted not only to litter in the hallways and approaches of the Courts, and traffic in business before the, but were also permitted to act as defense counsel before Allied Military Courts.

18. I prepared for the signature of the officer in charge of Allied Military Courts an order directed to the Director of Public Safety at the Tribunale, Panachia. It has already begun to show good results. This order is appended hereto and marked Exhibit C. An Italian translation thereof is also appended and marked Exhibit D. Oral instructions were given by me to Panachia several weeks ago with respect to this matter. These instructions were identical with the written instructions which have now been signed by the Officer in Charge.

19. The enforcement of the order in question with regard to the clearing of undesirable elements from the premises of the courts has met with a number of difficulties which are required to be dealt with at once. Two of the most persistent violators of this order are persons with long criminal records. They are Guglielmo Di Rosa and Luigi Paolantonio. I have reliable information to the effect that Di Rosa is in possession of a paper signed by an American officer to the effect that he has right to practice before the Allied Military Courts. Di Rosa has made profitable use of this paper. I have taken steps with a view to securing this paper or a copy thereof. The activities of these two persons are not limited to representing clients before the Allied Military Courts. They also act as procurers of business for attorneys and counsellors at law regularly admitted to practice. Indeed, three attorneys (Aurelio Lombardi, Alfredo Palumbo and Salvatore DeCristoforo) have signed a petition in which they request that a special dispensation be given to Paolantonio so as to continue to permit him to practice and to frequent the precincts of the court house. This ex-criminal shares the offices of the three lawyers in question and is referred to by them as "Professor Paolo Antonio", their "collaborator", in whom the clients of their law office have the utmost confidence.

20. I have arranged to meet with the three lawyers in question and with two prominent members of the Bar in order to advise them that I shall recommend their disbarment if they do not terminate their professional association with Paolantonio. There are numerous other instances of persons requiring constant vigilance if the court premises are to be kept clean of these undesirable elements.

21. Another serious difficulty in the operation of Military Courts stems from the fact that there is no responsible officer in charge of the so-called secretariat. Consequently there is no orderly or systematic preparation of calendars of the cases set down for trial and very serious responsibilities are placed upon the shoulders of inept and ill-trained Italian civilian employees. Until recently the secretariat was under the supervision of an American sergeant who has recently be substituted by an officer who does not however spend more than a part of his time at the secretariat and the situation remains substantially the same.

22. Especially unfortunate is the fact that there is no responsible Allied officer in charge of the custody of Allied prisoners. The Italian prison keepers

have not been efficient either with respect to the custody of their prisoners or their transport to the court house for trial. Here again the responsibility has been left to Italian civilian employees who have either been improperly supervised or not supervised at all.

23. The Allied Military Court which deals with the granting of political liberty has, in my opinion, functioned very poorly. Provisional liberties appear to me to be granted in too many cases and for inadequate security. For instance, a few days ago, three defendants failed to appear before the Allied Military Court for trial. They had been released on provisional liberty on 11 February 1944. Three of them (Ciaravolo, Luigi, Brancaccio, Costantino, Ascone, Luigi) had been arrested for the theft of a mail bag on 27 January, in violation of Proclamation II, of Article II, Section 27. The fourth defendant (Torino, Bernardo Di Vincenzo) was charged with the theft of a truck load of flour in the port area and with an attempt to bribe in connection therewith. This recent example demonstrates a lack of proper judgment in the disposition of applications for provisional liberty.

24. There is no proper handling of exhibits or property seized in connection with many arrests. A great deal of Allied property has been accumulating in the Italian police stations, including perishable food stuffs, which have become useless either as food or as exhibits.

25. The Allied Military Courts frequently begin their sessions late because of the tardy arrival of prisoners or because the proper group of prisoners is not delivered. I have reason to believe that there are instances where prisoners are impersonated by persons from the outside.

26. There is a lack of quick and efficient prosecution. The amount of time which elapses between the commission of the crime and the investigation by the prosecuting officer appears to have resulted in many instances in a failure of justice.

27. I suggest that a uniform practice be adopted so as to streamline the handling and transport of exhibits so far as possible. A properly authenticated document establishing the existence of particular articles should be sufficient, as a general rule, to obviate the necessity for handling property in the police stations and then produce it in court. This is particularly necessary where perishable foodstuffs are involved.

28. If the policy with respect to the granting of provisional liberty is <sup>12</sup> to become more severe and more rigid, it may be necessary to provide for additional custodial facilities. I think that it may become necessary to construct a prisoners' stockade under the supervision of military police, at least for certain types of cases which are of special importance to the welfare of the armed forces.

#### UFFICIALI GIUDIZIARI

29. The officials who serve court notices and citations under the Italian law and who execute judgment are known as Ufficiali Giudiziari. The correspond, roughly, to marshalls or sheriffs in the American court system. One of the serious aspects of the present Italian court system in Naples is the fact that these

officials are functioning very badly when they function at all. The difficulty of transport within the city is partially responsible for this condition. More important, however, is the desire of these officials to collect more than the statutory fees established by law. In addition, there is no proper coordination of their efforts and no attempt to allocate their work on geographical basis so as to eliminate, so far as possible, a duplication of effort and the performance of unnecessary travel. I took up the matter with the First President of the Court of Appeals, and he in turn called in these officials and advised them of my views with respect to the matter and suggested certain remedies. I am sorry to report that the situation has not been improved and that it is necessary to bring about a thorough reorganization of this branch of the judicial system.

30. The reorganization of the Ufficiali Giudiziari is especially important because there are numerous instances in which people who have secured judgment can not obtain the enforcement of their judgment and consequently lose faith in the Courts. In connection with this proposed reorganization it will be necessary to confer with the responsible Carabinieri officers so that proper cooperation can be given to the Ufficiali Giudiziari. There are many instances, notably in dispossession proceedings, where judgment could not be executed because of the Carabinieri's refusal to lend the assistance which they were required to give by Italian law.

ERNEST L. PALMIERI  
Major, AUS.

Copy to: CLO, ACC  
H.Q. Naples Province

Exhibit "A"

10

ALLIED MILITARY GOVERNMENT  
HEADQUARTERS REGION III  
LEGAL DIVISION

MEH/IC

Naples, Italy.  
16 February 1944.

TO : The First President of the Court of Appeal, NAPLES.

- (1) I refer to the list transmitted with your letter of 8 February 1944, relating to decisions in civil cases at the Preture of Naples.
- (2) It appears that Pretore VERDE and VICE-Pretore MAIA are withholding decisions beyond the period established by law. Two cases submitted for decision before Pretore VERDE have been pending since 1942.
- (3) I request you to take appropriate steps to deal with this situation in order that the litigants involved may secure a prompt decision. If you find, moreover, that the Pretore and Vice-Pretore involved have been negligent, I should appreciate a full report from you at your earliest convenience so that a decision can be made as to whether they should be permitted to continue their judicial functions.

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

Exhibit "B"

(9)

ALLIED MILITARY GOVERNMENT  
HEADQUARTERS REGION III  
LEGAL DIVISION.

MCR/LC

NAPLES, Italy.  
12 February 1944.

AL : Primo Presidente della Corte di Appello di NAPOLI.

- (1) In riferimento alla sua lettera del 8 Febbraio 1944, riguardante le sentenze civili della Pretura di Napoli, nella quale risulta, che il pretore Sig. VERDE ed il Vice-Pretore RIL, trattengono delle sentenze che hanno sorpassato il periodo stabilito della procedura.
- (2) Due sentenze, passate in decisione dinanzi al Sig. Pretore VERDE, sono pendenti dal 1942. Le richiedo di prendere dei provvedimenti in merito a questo stato di cose, affinché, le parti in lite, possano avere una sollecita decisione.
- (3) Se fatte le indagini, dovesse risultare evidente che, il Pretore ed il Vice-Pretore, fossero venuti meno al loro dovere. La prego di volermi fornire al più presto, un completo rapporto, onde poter decidere se i suddetti giudici, debbano o meno continuare a ricoprire la carica presso i loro Uffici.

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

9

Exhibit "C"

TO : Commissario of Public Safety in CASTELCAPUANO.  
Mr. PANAGHIA Eugenio.

In order to end a situation existing now in the Tribunale of Naples, I order you as follows :

- (1) Persons having criminal antecedents do not have the right to fulfil the functions of defenders before Allied Military Courts.
- (2) Persons having criminal antecedents and who make a practice of lingering in the courtyards, in the corridors or in front of the entrance doors of the Tribunale, and, who do not have a plausible reason for their presence, will be warned to go outside of the Tribunale and away from the adjacent streets. If these persons, after having been warned, continue to loiter in the above mentioned places, they will be arrested and brought before a Summary Court.
- (3) Persons not formally admitted to practice as attorneys and counsellors at law and who make it a practice to defend before Military Courts, will be brought to the Legal Division in CASTELCAPUANO for questioning.

Exhibit "D"

(7)

AL : Comandante di P.S. di CASTELCAPUANO, Signor PANACHIA  
Eugenio.

Per mettere fine ad uno stato di cose esistenti ora nel  
Tribunale di Napoli, vi ordino come segue :

- (1) Persone avendo antecedenti penali non hanno il diritto  
di adempiere le funzioni di difensori davanti alle  
Corti Militari.
- (2) Persone avendo antecedenti penali e, che trovansi spesso  
nei cortili, nei corridoi, o davanti le porte d'ingresso  
del Tribunale, e, che non hanno una ragione plausibile per  
la loro presenza, saranno ammoniti di uscire di fuori al  
Tribunale, e alle atrade attigue. Se queste persone, già  
ammonite continueranno ad imporre la loro presenza nei  
suddetti posti, saranno arrestate e tradotte davanti alla  
Corte Suprema.
- (3) Le persone non iscritte negli albi degli Avvocati e Procura-  
tori, e che ~~non~~ fanno professione di difesa davanti le  
Corti Militari, saranno accompagnate dinanzi all'Ufficio  
Legale.

400/3  
 1-26-8  
 (6)  
THE ITALIAN COURT OF ASSIZES

The Court of Assizes in Italy has been and still is the highest criminal jurisdiction in the country. From its creation it became the subject of extremely bitter arguments on both juridical and political grounds, and there is no doubt that the satisfactory reorganization of the Assizes will be one of the major problems to be faced by both the new Italian government and the Allied Control Commission.

The polemics in which have been engaged at all times very distinguished University professors, the highest judicial officials in the Kingdom and political leaders can be summed up as follows.

"Can the politically desirable participation of popular judges in the proceedings of the Courts of Assizes and in the verdict, compensate the chances of miscarriages of justice due to the emotional and non professional frame of mind of the Italian laymen."

The partisans of the political solution strive hard to devise ways and means by which the selection of jurors or assessors could be achieved while minimising to a great extent the dangers of appointing incompetent or prejudiced juries or "scabinati".

On the other hand the supporters of the juridical method endeavour to contrive forms of procedure (and even education) by which professional judges sitting without jurors or assessors would be able to take into consideration the human element in the case.

It must not be forgotten that the Italian or even the French conception of crime and the degree of culpability of the accused have never been measured by the same standards as in Anglo-Saxon countries. As Montesquieu said "Nations obey the laws which the climate of their country and their own temperament render suitable". The philosophy of justice is generally the same, but the procedure by which it is administered varies [according to the degree of moral education of the public.]

It is thought that a short resumé of the History of Criminal jurisdictions in Italy and a summary of the opinions of the most qualified exponents of the question of the reform of the Court of Assizes, will perhaps help to clarify the present situation and facilitate the eventual solution of this very delicate problem.

1 - Origin of criminal proceedings in Italy. (5)

The main reason why the Italian people accepted so readily the French Napoleonic Codes in which were embodied and systematized the laws, ordinances and customs of ten centuries, is that the sources of these various legislations were the same and thus the concept of justice very similar.

During the last years of the Roman Empire, the inquisitorial principle was at first established, and remained in force during the domination of the Ostrogoths in Italy and the Franks in France.

The accusatorial notion which became prevalent in England, during the early middle ages (XII century) was also known in Italy during the same period especially in the South and even in Sardinia, under the influence of the Normands, first Christian kings of Sicily.

The "accusatorial system" was granted to the city of Palermo by ordinance, confirmed by Parliament in 1416 and 1451, "except for the cases of lese majesty, heresy and homicide, when the ecclesiastical inquisitorial procedure was applied" by special Courts.

The Sicilians preserved portion of these privileges through the reigns of the Aragons, Anjous, Bourbons until 1737. In all other parts of Italy, however, under the pressure of the Church, the whole procedure for dealing with criminal offenders became inquisitorial.

Furthermore the Holy See had preserved in all independent Italian States their own courts (Sant'Ufficio) which were competent to deal with such offences as misdeeds of the Clergy, heresy, adultery, usury, etc.

Ecclesiastical Courts were suppressed in Lombardy in 1750, in Sicily, Tuscany and Modena before 1785, and in Piedmont in 1797.

In both type of Courts proceedings were very similar, appeals were rarely admissible in Civil Courts and the decisions of the S. Ufficio were final.

In 1789 came the French Revolution and between that date and 1804, when Napoleon promulgated his first code, French jurists such as Cambacérès, Bigot, Portalis, Malleville, Tronchet etc. had worked continuously in an endeavour to unify the old French provincial customs and to adapt them to the principles of freedom and democracy of the Revolution which found their origin in the liberal institutions of England introduced in France by the philosophers of the XVIII century.

The French Court of Assizes, (later adopted throughout Italy) was one of the result of their efforts.

This Court retained many of the procedures of the old regime, it was inquisitorial, pre-trial investigations were carried out by a magistrate, the bench was formed of a college of judges, but for the first time a Jury selected according to the English custom was introduced. 5

The assizes received their final statute through the provisions of the French Constitutions of 1790 and 1791.

In 1797, after the conquest of Italy by Bonaparte, the sister Republic of Cisalpine and Cispadana was formed and its Constitution<sup>5</sup> (Art. 65) adopted the French system in the following terms: "Crimes of the first degree fall within the competence of the Criminal Courts, which shall not pronounce their sentence without the formal opinions of a jury of accusation, as to the criminality, and of a jury in Court, as to guilt, having been rendered."

The Constitution of 1800 embodied this formula in its provisions, but for political reasons postponed their application for ten years so that the new Court never operated in Italy during the period of French control over the country.

In 1848, the Court of Assizes and Jury reappeared in Piedmont for press offences only, in 1859 its competence was extended to political and serious crimes, its statute which remained in force up to 1931 was determined by the clauses of the Law of 6 December 1845 amended by the Law of 3 June 1874, the Code of Penal Procedure of 1913 and the Royal Decree of 5 October 1913.

There again the Italian Jurists had followed their French predecessors closely and the Assizes were practically identical in both countries. A Jury of twelve male members sitting in Court, together with a college of judges, the former being solely responsible for the verdict, the latter pronouncing sentence in accordance with the provisions of the Penal Code as to minimum and maximum.

No appeal was receivable, but recourse to Cassation on points of law and procedure was admissible.

### II The Reform of 1931

In December 1925, the then Minister of Justice, Alfredo Rocco, appointed a Commission of Senators and Deputies with the formal object of drawing a project of reform of the Court of Assizes.

It was composed among others of the present Minister of Justice, Alfredo De Michelis, who succeeded Rocco in 1941, d'Amelio, first President of Cassation and of the Committee of the "Digesto Italiano" <sup>16</sup> S-E Calisse, and the famous Roberto Perinacci.

A report of their activities was presented to the Chamber of Deputies by Gabriello Carnazza and to the Senate by d'Amelio.

The principal reasons in favour of the reform were the following:  
(a) The Jury (giudici popolari) and the bench (giudici professionisti) sat entirely apart during the proceedings, this fact had been the cause of many miscarriages of Justice as there is no summing up in Italian Courts.

(b) On the other hand the complete suppression of the jury favoured by a number of jurists and politicians, was at least premature and would probably disturb the mind of the nation.

(e) The amalgamation of professionals bring with them their authority, prestige, culture and juridical knowledge, with popular assessors chosen among free citizens well aware of the surrounding atmosphere (ambiente) and local conditions was a step in the right direction. (3)

(d) The mode of selection of assessors would be more restricted than that of the jurors and thus men of higher social, moral and cultural standard could be chosen.

(c) This form of assizes had been tried in the Colonies (French and Italian) and had been a success.

(f) Politically the Jury was the result of the former popular principle of the sovereignty of the people, a belief which held no place in the fascist ideology.

The main provisions of the Royal Decree could be summed up as follows.

1) The existing Jury and College of Judges forming the Bench were abrogated and replaced by a single college composed of a President of Section of Court of Appeal, a Counsellor of Appeal and five assessors. The Bench thus formed would decide as to the guilt or innocence of the accused by the majority of votes, each member having an equal vote.

2) The professional judges would draw up the judgment and pronounced the sentence in accordance with the law.

3) A new and rather complicated system of selection reduced the number of citizens who could legally become assessors. A special ballot was also devised to draw the names of assessors from the list of suitable candidates.

Though the Italian Jurists protested vigorously against the legislation, the reform was inspired by germanic precedents, the "sebbinto" or "college of laymen and judges", was an old teutonic custom adopted in Northern Italy when it became part of the Empire of Carlo Magno and by Italian Communes under German influence. It still exists in Germany for certain forms of offences.

### III The present situation

From 1931 to 1942, the new Italian Court of assizes appears to have been accepted without great difficulty by the public and even by professionals, and to have functioned fairly satisfactorily during the first years of its creation, in spite of the fact that the number of sentences reformed by the Court of Cassation increased from 2% to 20%.

This was due to the fact that every judgment, according to Italian Law, must be motivated and often the text of the sentence had to justify the decision of the majority (which was not per force shared by the professionals). This could not always be done without overlooking certain provisions of the Penal Code or the Code of Procedure. *Judges who drew up the sentence.* 2

Thus, more and more, the Court of Cassation whose functions are exclusively to ensure that the law has been respected had to reverse decisions in order that justice be done.

In 1942, the climax was reached when in the "Mulas" case, the accused was declared not guilty by the Court of Assizes of Sassari while the whole text of the judgment of acquittal clearly demonstrated his culpability.

The various solutions proposed by many eminent Italian jurists are completely contradictory and range from the suppression of the Court of Assizes and its replacement by a Supreme Criminal Court with a college of three to five judges and no jury or assessors to the appointment of a single judge sitting with a carefully selected jury.

Others are of opinion that the motivation of sentences, be suppressed quoting Lord Mansfield as advising a colonial Administrator "to give his sentences in Court resolutely as he would in all probability be right, but never to try and explain the reasons which determined his judgment as he would inevitably be wrong."

The problem is therefore far from solved and the political considerations involved will render the task of the Control Commission extremely delicate. A complete suppression of the Jury or "scabini" would be held in democratic countries as super-fascism. On the other hand a system by which ignorant, incompetent or prejudiced jurors or assessors could be selected would lead to a form of justice which might ~~afford~~ serious social disorders. A careful study of the question will have to be made by the new Italian government/whatever it may be:

There is little doubt that a main difficulty lies mostly in the lack of sense of responsibility, ignorance, and absence of moral training of the mass of the people after twenty years of fascist rule.

Illiteracy was the gravest problem in pre-world war days and the jurors were ~~often~~ too backward to understand not only their duties to their fellow citizens and the State, but ~~also~~ unable to grasp the mere facts of the case, when they were not the tools of some criminal organizations, such as the Mafia.

Until a new and well balanced system of education may produce satisfactory results it might be well to restrict the selection of popular judges to those whose cultural and social backgrounds clearly designate to undertake this responsibility.

The unwelcome burden which will fall on the shoulders of a few may be alleviated by a simpler and more speedy mode of selection.

In the meantime it will be the duty of legal officers to see that the advantages of the existing system, as set forth in the above memorandum are reduced to a minimum.

February 6 - 1944.

REAR HEADQUARTERS  
ALLIED CONTROL COMMISSION  
LEGAL SUB-COMMISSION

RHW/jpl

16 February 44

ACC/4001/3/L

SUBJECT : Italian Courts

To : RLO Region III.

At our recent conference our attention was called to the fact that military personnel were occupying certain Italian Court property in Naples. This matter has been called to the attention of Brigadier Lush who in turn will see what can be worked out with the military authorities. If the situation remains unremedied after a reasonable lapse of time please advise this Sub-Commission.

RICHARD H. WILMER

Lt. Col. C.A.C.

Deputy Chief Legal Officer

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