

ACC

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INADEQU
MAR. 1944

10000/142/25

INADEQUACY OF SENTENCES IN ALLIED MILITARY COURTS
MAR. 1944 - AUG. 1945

LC/4002/4/L

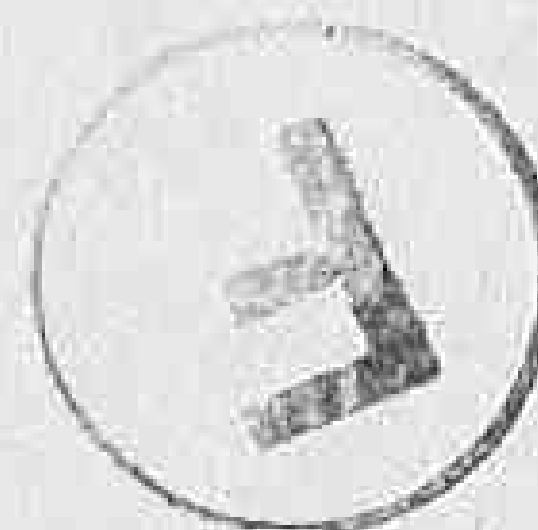
OPENED : 17 MARCH 1944

STICED : 1 AUGUST 1945

SUBJECT : INADEQUACY OF SENTENCES IN ALLIED MILITARY COURTS

(For Wire Cutting Cases - see file LC/4002/15/L)

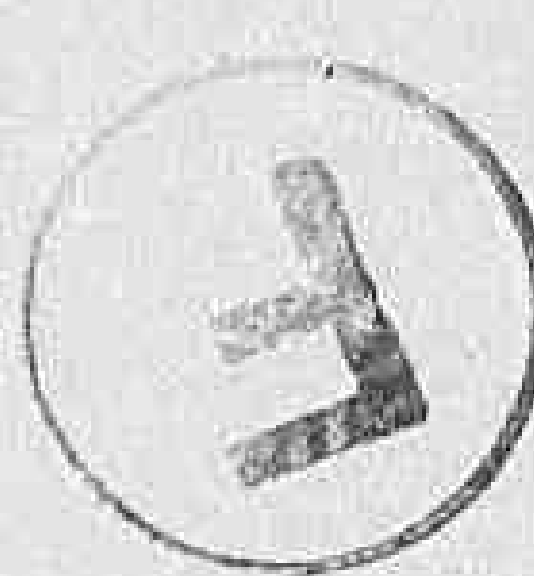
32/11



SUBJECT : INADEQUACY OF SENTENCES IN ALLIED MILITARY COURTS

(For Wire Cutting Cases - see file 40/4002/15/L)

22/11



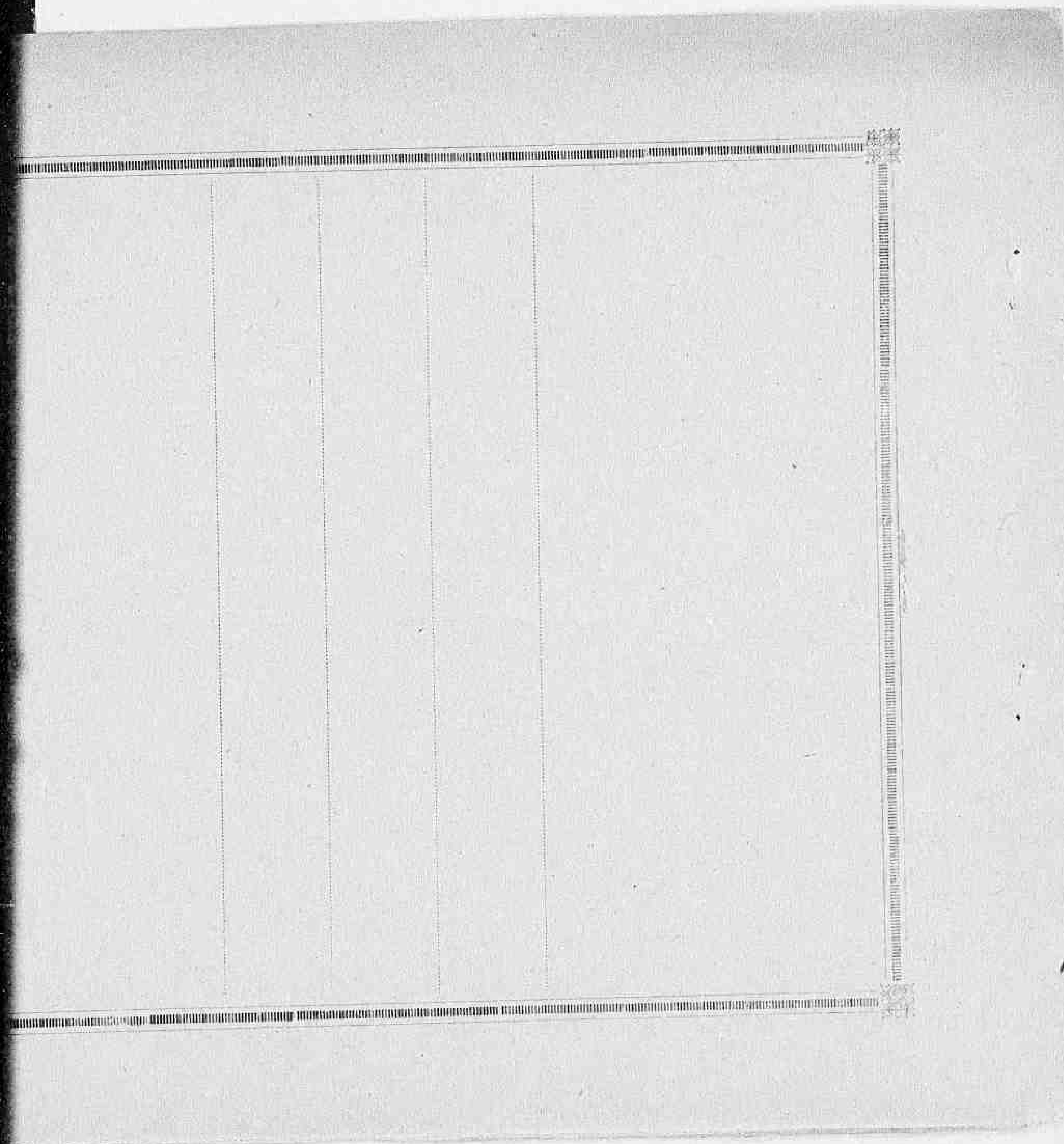
10000/142/258

THIS FOLDER
CONTAINS PAPERS
FROM ~ 1942. 44
TO ~ 1949. 45
CATALOGUE.

MINISTERO DELLE CORPORAZIONI

0007

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



Public Safety
To: Finance Sub-Comm. in.

Ref ②. Have you any record of this case, as you are stated
to have supplied the information. If not, I will write
to Region 3.

To Legal Sub-Commission

for Gerald R. Upjohn, *NY*
Col.
Chief Legal Officer.

The only information in Public Safety Sub-Commission
is that a penalty of 500 lire was imposed by an AMG
Court in Region III during January 1944. Region III should
be able to supply details
29th March 1944.

REW Major
Public Safety S/C.

CAS.

See yr backslip 21A. and fully reply thereto 22A etc.
I would back up Wagh every time. He is my best judge.

Wagh
C.A.

2 Aug. 45

V.P. / think we can now forget. - see Folio 22 A-D. Minute 3.
3 Aug. A. Benhamel
L.L.

Legal.

Judgment for Col Wagh with
costs to be paid by Sgt Murphy.

4 Aug

Wagh

4082/4

22A

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LOMBARDIA REGION
APO 394
Legal Division

Ref.: LEG/5003

the 1st August 1945

SUBJECT : Report submitted to Provost Marshall IV Corps.

TO : HQ Allied Commission
Legal Sub-Commission

1. The indictment prepared by Sgt. Murphy against Lt.Col. Waugh, which accompanied your letter AC/4002/4/L dated 24th July is returned herewith. 204.
2. The original of this document was sent to the City Commissioner, Milan, a copy of whose reply dated 18th July is enclosed for your information.
3. While it is probably unnecessary at this date to enter into further correspondence on the various points raised, Lt.Col. Waugh has prepared the attached Notes in respect of the cases to which the Sergeant takes exception. As a judge he is not normally addicted to undue leniency, and it is considered that he was fully entitled to exercise his discretion in favour of the accused in those cases where mitigating circumstances were proved to his satisfaction. 31
4. It is possible also that Sgt. Murphy is not fully instructed as to the value of "evidence". He would not, for example, have written the last sentence of his report if he had troubled to make a few more enquiries first.

For the Regional Commissioner:

Encl.
ar/

2 AUG 1945

Am Dickie W/Comdr.
H.M. DICKIE
W/Comdr., R.A.F.
Regional Legal Officer.

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HEADQUARTERS
ALLIED MILITARY GOVERNMENT
CITY OF MILAN

File:

Date, 18 July 1945

SUBJECT : A.M.G. Military Courts

TO : Provost Marshall IV Corps
(thru S.C.A.O. IV Corps)

1. Reference your memo of 15 July 1945.
2. The judgments rendered and sentences imposed in the cases enumerated in the report attached to your memorandum represent the considered judgments of able, experienced and qualified judges who passed upon the evidence in each case.
3. The sufficiency of the evidence to establish the guilt of defendants beyond a reasonable doubt, and the adequacy of punishment meted out to defendants are matters within the sole discretion of the Courts.
4. In my judgment the release by the Prosecuting Officer of the official automobile of the Sindaco of Milan was entirely proper.
5. The prosecutor described in the report as an Italian civilian clerk is Avvocato Carlo RICCI, a member in good standing of the Italian Bar, a judge (on leave) of the Tribunale of Torino, and a capable, vigorous, conscientious prosecutor, who has had nearly a full years experience in presenting cases before Allied Military Courts.

Harry G. Hershenson Lt. Col. A. U. S.
Commissioner for the City of Milan.

Memo.

BILLI, Alberto.

A sub-machine gun and four military rifles were found by Military Police on 25 June 1945 in the basement of the Borletti factory, where the defendant was employed. The defendant, who was not present when the premises were searched but who was arrested the following day, told the police that the arms had been found in the factory after 30 May 1945 (the last day upon which Partisans were permitted to possess arms in the City of Milan), and that the Questura had been notified and asked to collect them.

The defence disclosed that the defendant was employed as a Section Chief or Foreman by Borletti Brothers.

He served for a year during the clandestine period as a member of the Partisan Brigade "Giustizia e Libertà", and later as Commander of the Brigade "Sergio Cassman". The latter was disbanded prior to 30 May, and the arms were surrendered by the defendant to the Questura. Two receipts, containing in all the names of more than 200 members of the Brigade and descriptions of the arms surrendered by each, were exhibited to the court.

The defendant stated that he knew that some members of his Brigade had not turned in all their arms - that he wanted to achieve a full and complete compliance - that he used his persuasive powers to obtain the surrender of the arms still held - that the arms found were those collected by him in that manner after 30 May.

He further said that because he was so busy with his duties in the firm and in the Action Party he asked Signora Semmi (an employe of Borletti, who was acquainted at the Milan Questura) to notify the Questura instead of doing so himself.

Accused stated that as the former Commander of the Partisan Brigade he believed that it was his duty to see that all the arms of the Brigade were collected and surrendered - that as these arms came in he stored them in his office - that at the time of the demonstration in the Basile case he thought it was advisable to put the arms out of sight, so that they might not prove to be a temptation to agitated workers - so he removed them to the basement.

The Vice Questura of Milan, SCHINNETTI, Narrio, testified that about 17 June he was notified by Vanda Semmi, by telephone, that there were some firearms in the Borletti factory in the custody of the accused, which the accused wished the Questura to pick up - that he gave orders to his subordinates to collect them - that for some unknown reason the matter was overlooked - and that the arms had not been collected on 24 June.

VAGLIANI, Leo, Editor of "Italia Libera" (newspaper of the Action Party) and member of the CLNAI testified that the accused was a trusted leader of an Action Party Brigade - that he had rendered distinguished service over a long period of time, both during the clandestine period and during the insurrection - that he was a law abiding citizen and a man of good

2.

character.

I was favorably impressed with the accused, and while I realized that I could have found him guilty on the basis of his physical possession of arms which should have been surrendered forthwith, instead of being held awaiting their collection by agents of the Questura, I decided that even if I did find him guilty that I would not send him to prison for what appeared to me to be a technical, rather than a willful violation.

In view of the apparent good character of the accused, his general manner in giving evidence, his record as a Partisan leader, the surrender by him of on behalf of his Brigade of a large quantity of arms, his reasonable explanation as to his possession of the arms in question, I was not satisfied of his guilt beyond a reasonable doubt, and accordingly found him not guilty.

Note. I gathered the impression that the real issue in the case was not the guilt or innocence of the accused, but rather a contest between Sgt. Murphy and Vice Questura Schinnetti. The former, who has testified before me on other occasions, is an amateur policeman, who does not content himself with collecting evidence and presenting it to a court for a judicial determination as to its relevancy and probative value, but desires to serve as judge and jury as well. He stood up on several occasions during the trial and sought both to cross-examine the defence witnesses and to comment upon their testimony. It was plain to me that he thought that the accused and Schinnetti had framed up a defence that gave promise of being successful - and that he intended to overcome it by brute force, if possible.

PENSOTTI, Grusostomo.

Is the chauffeur of the Sindaco of Milan, who was arrested while driving the Sindaco's official automobile. When arraigned on the day²⁸ following his arrest he was both sober and penitent.

In my judgment the release of the car (which had been impounded by Sgt. Murphy) and the release of the accused on bail were entirely proper.

RIVA, Maria.

Accused, who is 41 years of age, is the operator of a maternity home.

The evidence disclosed that the defendant's automobile (which has the name of her hospital painted on the back) broke down near the post of 592 Army Troops Company, R.E. near Piazzale Corveto, and was repaired by men of the company. While there she asked if she could buy some gasoline and was told that she could not. The following day a 3/4 ton military truck driven by a soldier came to her hospital, and the soldier sold her

3.

8 five gallon cans of soline for 1000 lire per n. Two days later the same truck returned and she bought three cans for 3000 lire, and two days later two cans for 2000 lire.

The police report indicates they believed that she did buy the gasoline from soldiers, but that they were not sure whether the soldiers were British or American.

Acting upon information supplied by an informer the police searched the premises of the accused and found 10 empty five gallon cans in the garage, and 10 filled 5 gallon cans in the basement of the house.

The accused stated that she used the gasoline in her business, and there was no evidence that she sold or intended to re-sell any portion of it.

It is believed that under the circumstances a fine of 10,000 lire, coupled with the confiscation of the gasoline and empty cans, was adequate.

MURU, Guido.

Accused is a waiter in a Cafe in the Galleria - bought the blue seal dollars from a Japanese-American soldier (who had no right to have them in his possession) for 250 lire per dollar. The soldier said he needed Italian money - it was Saturday afternoon and the banks were closed - accused thought he was doing the soldier a favor - hopes to go to America some day and thought he could use the money then - did not know hw was doing wrong - would not have bought the money had he known it was against the law.

A fine of 1000 lire and the confiscation of the blue seal money appeared to be proper to me.

GELSOMINO, Catalano (was found to be a member of the Italian Air Force and his case was remitted to the Tribunale Militare)

SFONDRINI, Basilio

Civilian employed by the Air Force as a laborer at the airport. Caught stealing gasoline, which he was putting into the tank of a Fiat Automobile.

Accused has stomach ulcer and is required to go to the hospital every night after work for treatment - stole gas to use in auto so as to have transportation to hospital.

Six months imprisomnet (5 months suspended) appears to be a proper sentence to me in the circumstances.

PATRUCCO, Domenica.

The tire is not marked "military" It does have the mark " Made in U.S.A." in letters about 1/4 inch in height on the portion of the tire that fits under the rim. There was no evidence that the tire was "property of the Allied Forces". (Morris)

MARZAGALLI, Giuseppe and LIVRAGHI, Mario.

4.

The tire appeared to be an American jeep tire, but there were no markings on it from which it could be so identified. I examined the tire thoroughly in open court and found it to be cut and torn and of no value as a tire. Livraghi is in the business of cutting up worthless tires for the purpose of using the salvaged rubber for patches and repairs. He found that this particular tire was too hard to be cut in the usual way with the tools he possessed so he sent it into Milan where power tools could be used in the operation. The police picked it out of a truck which was loaded with worn out Italian tires. Accused admitted that he had removed some markings from the sides of the tire but said that he did so in order to have a smooth surface on his patches, and not for the purpose of destroying identifying marks. I believed him and would have found both defendants not guilty except that I thought it was a good idea to put them under the restraint that a suspended sentence would impose.

I am convinced that I was right about this one too.

FAMIGLI, Giuseppe.

This defendant was a Partisan, who was enroute from Bologna to Genoa, and was arrested outside the Central Railway Station in Milan on 30 May 1945. He had proper Partisan credentials and was carrying his pistol openly as he thought he had a right to do. (The order of 28 May required Partisans in Milan City and Province to surrender their arms by midnight 30 May - in the other Provinces in Lombardia Region the date was fixed as 7 June)

I found this man not guilty - but confiscated his pistol --- and I am convinced that I was right about that one too.

CANDIANI, Giovanni and PACELLA, Carlo.

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These men were Partisans from outside Milan Province who came into Milan bearing arms in the belief that they were entitled to do so. They were not aware of the fact that the surrender date in Milan antedated by a week the date fixed in the province from whence they came. Capt. Fleetwood disarmed and released them.

In my judgment his action was entirely proper. I would have disarmed and discharged them had they been arraigned before me.

William F. Waugh
 William F. Waugh, Lt. Col, JAGD.

30 July 1945.

12 July 1945

SUBJECT: Inadequate Sentences of AMG Courts in Milano

21 LUG 1945

TO: Provost Marshal,
IV Corps
APO 304, U.S. Army

On many occasions recently, Military Police investigation lasting from four to five days and even as long as two weeks, have resulted in the arrest of civilians violating AMG Proclamations or military laws. Yet when brought to trial these same civilians are released with a warning or are given inadequate fines or sentences.

I am listing below several incidents which will explain my point more clearly.

a. On the 25 June, I arrested Alberto Billi of Via Alessandro Paoli No. 6, Milano, for having in his possession firearms consisting of four Italian carbines, one Italian machine gun, one Italian sub-machine gun, four hand grenades, and a quantity of ammunition. These arms were found in the factory of Borletti Bion, No. 70 Via Geo Washington, Milano, where Alberto Billi is employed. The directors of the firm gave me a statement in which they denied they knew the arms were in the factory. It so happens, this civilian, Billi Alberto is a personal friend of the Vice-Questura of the City of Milan and when Billi Alberto learned his weapons had been discovered, he immediately went to his friend, the Vice-Questura and got a statement saying that on 3 June Billi Alberto had a girl friend telephone the Questuras office and notified them of his possession of the arms. The statement was dated 25 June 1945 and was not written until after the arms had been discovered. Yesterday morning Billi Alberto, was tried in AMG Court and pronounced "Not Guilty" for lack of evidence.

b. On the night of 9 July 1945, I arrested Pensotti Gracostomo, Via Semotti Martelli No. 16, Milano. This man was driving a civilian car Lancia, bearing license No. VR 10983, at about 2230 hrs. I was standing in front of No. 1 Police Station when I heard the screeching of brakes from Piazza Della Scala. A moment later the vehicle came into view and was swerving from one side of the street to the other. There were several Carabinieri and other MPs standing with me in front of the station and we all ran inside as we were afraid the vehicle was going to climb the curb. As soon as the vehicle passed, I and a Carabinieri gave chase in an MP jeep. The civilian car was travelling over 70 Km per hour and Pensotti was apprehended only after a chase of over two miles. I placed Pensotti in arrest when I saw that he was drunk. Returning to the MP prison with Pensotti, I learned that the vehicle was the property of the Comune of Milano. I could not see how it was possible for the vehicle to be carrying a Verona license

plate yet be the

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property of the City of Milano, so I impounded the vehicle. On the afternoon of July 10, two civilian policeman of Milano appeared at MP Headquarters and said Major Coxhead Public Safety Officer, and see them for the vehicle. I refused to release the vehicle until an investigation could be made. On the morning of July 11, Major Coxhead sent an order to our Station N°2, where the vehicle was impounded, ordering the release of the vehicle to the City. This order was complied with. The Public Safety Officer stated that Military Police had no right to arrest the man for speeding as there is no Italian speed limit law. This in spite of the fact that Fifth Army has issued standing orders and the city is posted with 40 Km per hour speed limit signs. Pensotti was charged by Military Police with "drunken driving, endangering lives of Allied troops and civilians, driving through congested area at 75 Km per hour". At present he has been released by the AMG authority pending their investigation.

c. On June 10, Corporal Standard arrested one, Riva Mario of Via Marcora, Milano, for having in her possession 50 gallons of Allied gasoline, and also ten empty gas containers. This woman admitted she purchased the gasoline from Allied soldiers yet when she was arraigned in AMG court, she was fined but \$100.00 and released with a warning. With fines such as these, it is very worth while for civilians to deal again in blackmarketing of gasoline.

d. On June 29, 1945, Mari Guido of Via Ampola, Milano, was arrested for having in his possession \$ 26.00 in United States blue seal money, which he admitted he had bought from American soldiers. The civilian admits paying 250 lires for each one dollar bill. This is a serious offense inasmuch as it defeats the aim of the Treasury Dept in freezing the circulation of our money in foreign countries. The accused was found guilty in AMG court and fined 1000 lires or but 1/3 of the amount of money he was charged with having.

e. On the evening of June 26, 1945, I placed in arrest Gelsomino Catalana and Sfondrini Basilio, both civilian laborers at the Milano Airport. They had been caught by the guard at the airport stealing American gasoline. The two civilians were found guilty in AMG court and sentenced to 6 months in jail of which 5 months was suspended.

f. Patrucco Domenico of Via Bassana, Vercelli, was arrested on July 22, for having on his civilian vehicle, a United States Military tire, which was clearly marked "military" as are all issued tires. The AMG Court decided that this man was "Not Guilty"

g. On the afternoon of July 4 1945, two civilians, Marzagalli Giuseppe and Livraghi Mario, both of the city of Lodi, were arrested in connection with having in their possession an American jeep tire. Livraghi admits giving the tire to Marzagalli so it could be cut up to rebuild civilian tires. After Marzagalli received the tire, he cut the U.S. markings from the tire and

mutated it boyon repair. Upon trial By AMG Court, both these civilians were given thirty day suspended sentence. //

h. On May 30, Famigli Giuseppe of Via Venturi, Sanzano, was arrested for carrying a firearm. This civilian, upon trial by AMG court, was found "Not Guilty" and charges dismissed. //

i. On June 6, 1945, Candiani Giovanni and Pacella Carla were arrested for carrying on their person hidden arms. These two men were never tried but were released on orders of Capt. Fleetwood, AMG Police Officer.

It should be noted that upon the arrest of a civilian by Military Police, the civilian, an arrest sheet showing the charges, and all evidence, is turned to the civil police authorities. A copy of the arrest report is forwarded to AMG by the Provost Marshal. Thereafter the Military Police do not enter into the cases except as they may be called as witnesses or to give evidence at the trial.

It may be added that in, at least, some of the Milan AMG Courts, the prosecutor is an Italian civilian clerk.

JOHN F. MUPHY 32064048
Sgt, Co. C, 101st MP Bn

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

24 July 1945.

AC/4002/1/L.

SUBJECT : Inadequate Sentences of AMG Courts .

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

1. The attached letter, which please return, is forwarded for investigation, report, and other necessary action.

2. There is no doubt an explanation, but on the face of it the AMG Courts are not awarding sufficiently severe sentences.

By command of Rear Admiral STONE:

W. E. BEHRENS,
Colonel,
Chief Legal Advisor.

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HEADQUARTERS
FIFTH ARMY CITY COMMAND SECTION
APO # 464, U. S. ARMY

10 February 1945

SUBJECT: Commendation.

TO : Commanding Officer 2675 Regiment, A.C. Allied
Military Government, APO 394.

1. I and my staff have had the pleasure of working closely for the past three months with Major STEPHEN H. YOUNG, 0510615, who is the Senior Civil Affairs and Public Safety Officer in a city overcrowded with thousands of Allied Military personnel on rest status. The large number of military-civilian problems arising every day have been handled by Major Young in a most commendable manner. His spontaneous cooperation with this headquarters has made it possible to give the military personnel the most enjoyable and restful stay in this city, while the civilians have received stern but fair treatment.

2. The most outstanding example of Major YOUNG'S cooperation has been in the problem of controlling the piracy of electric current by civilians. Where another Civil Affairs Officer failed to issue civilian orders on this matter, Major Young published adequate and explicit proclamations. Again, when an A.M.G. Summary Court Officer failed to support the proclamations by giving ridiculously low sentences of \$3.00 to \$5.00 fines to civilian violators, Major Young tried others and gave them jail sentences of from 10 to 15 days which proved effective in suppressing the illegal use of electric current.

3. Many other matters have been handled by this officer in an equally effective manner and this headquarters wishes to take cognizance of his efficiency, attention to duty, and excellent cooperation. It would be a great benefit to the Service if this officer were to work with us in the next city that this headquarters will move to.

/s/ Glenn E. O'Real
GLENN E. O'REAL
Major, GIC
Commanding

INFO COPIES TO:

✓ P. W. & U. Sub-Com Allied Commission
✓ Legal Sub-Com Allied Commission

A CERTIFIED TRUE COPY:

F. R. WERMUTH
GWO USA

LEG. COMMISSION	✓
10	
10	
Chief Counsel	
GIC	
Legal Section	
CL RKS	
18 FEB 1945	

Do I understand this to mean
that a PPO has been
holding court?

NA

LEGAL SUB-COMMISSION

180
/rlp
11 July 1944.

MEMORANDUM TO: Deputy Executive Commissioner.

Reference your 275/62/CA of 7 July 44.

Examination my file, I find that inadvertently the answer to the letter from AFHQ G-5 Section, was answered direct on June 27, 1944.

A copy of that letter is enclosed.

1 Encl: Letter of 27 Jun 44.

R. H. WILMER,
Colonel, CAC,
Acting Chief Legal Officer.

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HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.G. SECTION
APO 394

4347

17A

Ref/275/62/CA

7 July 1944

SUBJECT: Offences by Civilians in Italy.

TO : Admin. Sect. (for Legal Sub-Comm.)

With reference to my 275/44/CA of 15 June 44, are you now in a position to comment on the report which was enclosed.

Col Wilms.

Sir,

To obtain necessary information to answer folio 13A we wrote to Region 1 for file (folio 14A) and told RC&MG Sec we would write them further (see folio 15A). When file was received from Region 1 we inadvertently replied direct to G-5 AFHQ, instead of to RC&MG Sec.

N. E. Wicke
NORMAN E. WICKE
Colonel
Deputy Executive
Commissioner.

-llh-

11/7/44

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DEAN HEADQUARTERS
ALLIED COMBAT COMMISSION
Legal Subcommittee
APO 394

16A
HJ/3af

ACC/6002/1/1

27 Jun 44

SUBJECT: Offenses by Civilians in Sicily.

TO : AMM (G-5 Section).

1. Ref G-5: 000.5 dated 13 June 1944.

2. Region 1 has now sent to this HQ the record in the Petrusella case referred to in the enclosure to your letter. This case was tried 22 Dec. 1943. The accused was found guilty of illegal possession of three drums of caustic soda property of the British Government. He was found guilty and given a sentence of 12 months (11 suspended). Maj. P. H. Waldron the trial judge evidently took a lenient view of the offense because of the prior good service of the accused when employed by AMG, subsequent employment by British authorities at the dock, furnishing by him of useful information to the Carabinieri leading to arrests, and his large family.

3. Unquestionably the sentence was too light but there is nothing to be done about it now.

4. This Subcommittee is glad to know that the Italian courts are functioning to the satisfaction of the Navy.

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RICHARD H. KEMER
Colonel, SAC
Deputy Chief Legal Officer.

FILE

REAR HEADQUARTERS
ARMED CONTROL COMMISSION
Legal Subcommittee
APO 394

150
JRM/gaf

27 Jun 44.

ACC/1002/1/1

SUBJECT: Offenses by Civilians in Sicily.

TO : WFO (Main EC) Region 1.

1. Ref your RLB 013.03/PLV dated 23 June 1944.
2. The record in the Prestanzello case is returned herewith. Thank you for sending it to me.

RICHARD H. WILMER
Colonel, OAC
Deputy Chief Legal Officer.

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ALLIED CONTROL COMMISSION
SICILY REGION HEADQUARTERS
APO 394

14A

File: RLE 013.03/FLV

23 June 1944

SUBJECT: Offences by Civilians in Sicily.

TO : Chief Legal Officer, A.C.C. HQ.
(Att: Col. Richard H. Wilmer)

1. This office acknowledge receipt of your communication ACC/4129/L bearing date of June 17, 1944, together with the copy of the letter Ref. No. 8936/6 addressed to the Commander In Chief, Mediterranean.

2. This office has no personal information of this case, but my records show that my predecessor Wing Commander Dickie had this case investigated and an explanation was submitted by Major Waldron who tried the case. The entire file is being forwarded to you and when it has served its purpose may same be returned to this office.

3. From the record it appears that the sentence was extremely light, and there is no doubt that the trial judge was influenced by the fact of his personal acquaintance with the accused. These things are bound to occur, due to the fact that most of the C.A.O.'s are not lawyers and it is naturally difficult for them to properly evaluate a case. Major Waldron's letter does throw some light on the reasons for the disposition made in the case, but doubt if it will satisfy higher authority.

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For Colonel A.N. HANCOCK:

Frank L. Vecchiola
FRANK L. VECCHIOLA,
Major, JAGD.,
Regional Legal Officer.

sf
Encl: Case Records.

Chief Counsel

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Section

CLERKS

See folios 13, 14 and 15

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

13A

17 June 1944.

REFERENCE : ACC/4129/L.

SUBJECT : Offences by Civilians in Sicily.

TO : R.C. & M.G. Section.

1. Reference your letter Ref 275/44/CA dated 15 June 1944.
2. It will be necessary for me to make enquiry of the Regional Legal Officer, Region 1, concerning the case referred to. I am having such inquiry made and when I am in receipt of a reply from such Regional Legal Officer I will write you further.

RICHARD H. WILMER,
Colonel C.S.C.
Deputy Chief Legal Officer.

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

17 June 1944.

REFERENCE : ACC/4129/L.

SUBJECT : Offences by Civilians in Sicily.

TO : A.L.O. (thru Regional Commissioner), REGION 1.

1. On 18 April 1944 MGS AFHQ wrote a letter to HA ACC concerning Military Courts and among other things referred to a report made by the Senior Naval Officer, Eastern Sicily, dated 2 February 1944 complaining of the fact that an Allied Military Court had been giving light sentences. As it was impossible to locate any case from this general statement it became necessary for us to write back to AFHQ for information.

2. I have now received a copy of the complaint that was made and enclose it herewith. It would appear that whatever the case may have been it has been disposed of. In any event I would appreciate a report from you concerning this matter in order that I may transmit such report to AFHQ.

RICHARD H. WILMER.
Colonel OAC.,
Deputy Chief Legal Officer.

4002/4
11A
HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.G. SECTION
APO 394

Ref/275/44/CA

15 June 1944

SUBJECT: Offences by Civilians in Italy.

TO : Admin Sect. (for Legal Sub-Comm.)

*this was
merely
an
acknowledgment*

1. Reference is made to this Hq. letter 275/12/CA of 4 May 44 and to draft letter which accompanied your ACC/4129/L of 28 April 44.

a draft of folio 6A(4129/L)

2. There is forwarded for your perusal copy letter from G-5, AFHQ (ref. G-5: 000.5 of 13 June 44) and relative report. Will you please make enquiry and let us have an answer to the report which we can forward to AFHQ.

Norman E. Fiske

NORMAN E. FISKE
Colonel
Deputy Executive
Commissioner

JSR/JR

See folio 13B & 13C

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

CMS/CF/jw

G-5: 000.5

13 June 1944

SUBJECT: Offences by Civilians in Sicily

TO : Headquarters, Allied Control Commission, APO 394.

Attention is invited to your letter of 3 May 1944 on the above subject, Ref: 275/11/CA. A copy was transmitted to the Commander in Chief, Mediterranean. Pursuant to the suggestion in the 4th paragraph of your letter, the C.inC. Med. has now supplied particulars in support of his complaint that insufficient sentences had been imposed by an Allied Military Court in a specific case in which the Royal Navy was interested. The report and covering letter for the C.inC. Med. are inclosed herewith, for such inquiry and response as may be found appropriate.

CHARLES W. SPOFFORD
Colonel, G. S. C.,
Asst. Chief of Staff, G-5.

Incl: 1
As above.

COPY.

9A
SENTENCES OF ITALIANS CONVICTED OF THEFT GOVERNMENT STORES
(Military Government Section, A.F.H.Q.'s M.G.S.000.5 Dated
6th May 1944.)

III

Ref. No 8936/6

THE COMMANDER IN CHIEF, MEDITERRANEAN
(Copy to:- Vice Admiral, Malta)

1. The first reference in the extract from the War Diary refers to one PETRUZZELLO Domenico who, together with 6 other men was tried in Augusta in December 1943 or January 1944 for being concerned in the theft of some of the 10 tons of Caustic Soda from New Quay.

2. The presiding Officer was Major Waldren of AMGOT and the Naval Provost Marshal was present during the hearing.

3. The evidence showed that PETRUZZELLO, who speaks English, had taken a leading part in the organising of the disposal of the Soda and had, as he admitted, procured and offered bribes to members of the Naval Patrol and a Royal Marine driver to remove the Soda from where it had been stored after the theft. PETRUZZELLO's defence was that he did this only as an interpreter for the others.

4. The Court found the charges proved and sentenced PETRUZZELLO to 12 months' imprisonment. The others received heavy fines. In passing sentence on PETRUZZELLO Major Waldren told him that he considered that the offence was aggravated by the fact that he had been employed as Ship's Chandler at the Naval Base and as such he had frequent access to the Base and knew members of the Patrol well.

5. A few weeks later the Naval Provost Marshal was authorised to see PETRUZZELLO walking in the town. When questioned he said that Major Waldren had remitted the sentence to one of one month's imprisonment which he had served. The Naval Provost Marshal confirmed this with Major Waldren who said that before the Court rose he came the conclusion that the punishment was too heavy and had then

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6. It is understood that DAPM, Syracuse, when he became aware of the facts, lodged a protest with AMGOT HQ at Palermo.

7. The Court's final decision may have been influenced by the fact that in the early days of the occupation of Augusta PETRUZZELLO was employed by Major Waldren as an interpreter and was extremely useful to him.

8. So far as is known the sentences imposed in respect of the theft of cigarettes from the NAAFI are being carried out.

9. Generally on the question of the desirability of Allied Courts being retained it appears that heavier sentences are imposed by Italian Courts. This has certainly been the case in Augusta and is instanced by the fact that another gang of 6 men arrested by the Naval Provost Marshal for a further theft of Soda from New Quay and the bribery of a driver, almost the same offence that is discussed in paragraph 1, all received terms of 6 or 7 years imprisonment from the Italian Court.

(Signed)

CAPTAIN, R.N.

✓
REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 194

8A

12 April 1944

ACC/4002/4/L

SUBJECT : Forgery and Uttering of Allied Military Currency .
TO : Finance Sub-Commission .

1. Reference your 13002/P dated 10 April 1944 .
2. The importance of imposing heavy sentences in serious cases is not overlooked in fact from the records of cases passing through this office on review it is plain that heavy sentences are normally imposed in forgery cases .
3. The necessity for imposing heavy sentences in serious cases is continually being impressed on offices in the field and the results having been satisfactory ; I think you may rest assured that offices appreciate the gravity of forgery .

G. R. URJOHN,
Colonel,
Chief Legal Officer.

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HEADQUARTERS
ALLIED CONTROL COMMISSION
ECONOMIC SECTION
APO 394

13002/F

10 April 1944

SUBJECT: Forging and Uttering of Allied Military Currency

TO: Legal Sub-Commission.

1. Reference your AXC/4002/4/L of 30 March 1944 and Finance Sub-Commission's 13002/F of 27 March 1944. - 5A - 2A

2. We see no necessity for extracting the file from Region III for examination. Our only suggestion was that legal and judicial personnel might be circularized to the effect that convictions for this offence in the future and in the absence of special circumstances, should carry much more severe penalties.

3. A case has come to our attention which occurred in Region I in February. Defendant was sentenced by an AM Court to 12 months imprisonment for converting fifteen 50 lire notes into 500 lire notes. He had been deported from the U.S.A. in 1936 after serving 2½ years imprisonment for uttering forged currency.

4. Inasmuch as forged currency undermines Allied prestige and the financial stability of the Italian Government, the Finance Sub-Commission is inclined to view these offences very seriously. We should like to suggest that officers officiating at AM Courts, as well as Italian legal authorities in Italian Government territory be advised to impose substantial sentences in cases of forging and uttering Allied Military Currency. y

For Lieut-General MASON MACFARLANE,

F. W. Foley

Colonel,
Joint Director,
Finance Sub-Commission,
for: D.S. ADAMS, Col., C.E.,
Executive Officer,
Economic Section.

HBE/PTP

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

GRU/gmf

ACC/4080/1/1

5 April 1944

SUBJECT: Bovino Post Report.

TO : Deputy Executive Commissioner.

1. Ref your 311/42/CA dated 30 March 44 I have investigated the matter and find your criticisms are unfounded as in practically none of the cases referred to in para. 4 of the Report were the offenders charged with black market offences.

2. The Bovino Post Court merely deals with cases of entry into Foggia without permit or analogous offences and if the evidence disclosed a suspected case of black market activities it was handed over to the Italian authorities for trial in pursuance of the general policy operating outside the Naples area in case of all but the biggest cases of black market offences.

3. It is confirmed (ref conversation Brig. Lush - Col. Upjohn on this matter) instructions with regard to severity of sentences will, in common with other legal matters, normally be handled through this Subcommittee.

G. B. UPJOHN, Colonel
Chief Legal Officer

Copy: EC Region 5 (Attn. ELO)

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

GRU/gmf

5A

ACC/4002/4/L

30 March 1944.

SUBJECT: Forging and Uttering of Allied Military Currency.

TO : Economic Section, ACC.

(2A)

1. Ref your 13002/F dated 27 March 1944.
2. It appears that there was such a case as mentioned by you in Region 3 in January 1944.
3. No other similar cases have been reported and this one can be regarded as an isolated case, making it hardly worth while to have the file extracted from Region 3 for our examination as to the propriety of the sentence unless you particularly desire it.

C. R. URJOHN, Colonel
Chief Legal Officer.

31 MAR 1944

2578

(4A)

HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.G. SECTION
APO 394

Ref/311/41/CA.


30 March 1944.

SUBJECT: Black Market Prosecutions.

TO : V.P. Admin. Section (for Legal Sub-Commission)

1. Attached is copy of letter addressed to R.C. of Region V, also copy of report on certain Black Market activities in that Region.

2. Your particular attention is invited to para. 4 of the report. We believe you will concur in our view, that Black Market operations cannot be stopped, or even hindered, when sentences such as shown given, are meted out to offenders. The Black Market situation has assumed serious proportions and unless these offenders are sentenced in accordance with the seriousness of their offense, efforts to stop the black market are hopeless.


NORMAN E. FISKE
Colonel
Deputy Executive
Commissioner.

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HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.L. SECTION
APO 394

3A

30 March 1944

Ref/311/42/CA.

SUBJECT: Bovino Post Report.

TO : R.C. Region V.

Ref. your letter R5/514/22 of 24 March 1944.

1. Can you advise us which Military Police Unit handled the Military personnel involved?

2. The punishment meted out by the Summary Court, as given in the report, is considered not commensurate with the offense. It is suggested that Legal Officers should be impressed with the fact that responsibility of their office requires much more severe sentences, especially as they are handling a problem which is of the utmost gravity to the civil population as the military.

NORMAN E. FISKE
Colonel
Deputy Executive
Commissioner

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Copy to:

Legal Sub-Commission.

BOVINO POST REPORT

BB

1. Military Trucks

A total of 14 military trucks were caught working for the Black Market as follows:-

USA Vehicles7
French "4
English "2
Canadian"1

Trucks were impounded and Allied personnel handed over to the Military Police at Poggia.

News that post was in operation was known to Black Market operators in POGGIA by 1200 hrs. 22 Feb, or 16 hours after it was mounted. The foregoing trucks therefore are only the unlucky ones who were not tipped off about the post. No doubt numerous other military vehicles were warned and left the province by other roads.

It is submitted that the scale on which this illicit trade is being run shows disgraceful slackness and inefficiency in the control of Allied transport, by a large number of Units.

It is possible that the bulk of Black Market grain is being carried in Allied Military vehicles.

CC.68 and Guardia di Finanza are powerless to interfere with this traffic. Accordingly, the key to dealing with the Black Market may lie in improving transport discipline.

2. Traffic Offences

Charges against 65 British and US drivers were preferred by Military Police for traffic offences-chiefly carrying civilians without permission.

3. Contraband

(2)

32 tons of contraband and food-stuffs were seized, not including the contents of 5 military vehicles which were sent direct to FOGGIA with their loads - possibly another 15 tons.

4. Summary Military Court

This Court sat for long periods with the following results:-
During the period 24-25 Feb 44, the sentences were as follows :-

- | | |
|---|---------|
| (a) 1 month's imprisonment..... | 4 cases |
| (b) Sequestration of contraband goods and one day's
detention or work..... | 219 " |
| (c) Fined (mostly entering province without a permit)..... | 212 " |
| (d) Sequestration of contraband only | 200 " |

TOTAL:- 631 Cases

Total Fines to 27 Feb 44, were Lit. 97.200, including 10.000 Lire forfeited Bail. In addition one prisoner absconded leaving behind 100.000 Lire in cash and another absconded leaving behind a motor-car.

5. The Road Post was dismantled for 24 hours on 26 Feb 44, to enable arrears of work to be caught up. It is planned to convert the post into a mobile Black Market Patrol within the next few days which will set up temporary posts on various roads each night.

K
HEADQUARTERS
ALLIED CONTROL COMMISSION
ECONOMIC SECTION
APO 394

2095

2A

27 March 1944

13002/F

SUBJECT: Forging and Uttering of Allied Military Currency.

TO: Legal Sub-Commission.

1. Information has been obtained from the Public Safety Sub-Commission to the effect that in the one Region III case of forging and uttering AM lire currency in which conviction and penalty was imposed by an AMG court, such penalty consisted of a 500 Lire fine.

2. It appears to the Finance Sub-Commission that such a penalty is hardly an adequate deterrent. Until comparatively recent times, the crime involved was a hanging matter in England, and it is believed that three years imprisonment was the standard penalty imposed in Region I.

3. This Sub-Commission would appreciate having an expression of your views as to the possibility of a policy of imposing more severe penalties in these cases in the future.

For Lieut-General MASON MACFARLANE,

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E.H. Foley Jr. Col.
E.H. FOLEY JR.,
Colonel,
Joint Chief Finance Officer
for: D.S. ADAMS, Col, C.E.,
Chief Staff Officer,
Economic Section.

REE/PTP

HEADQUARTERS
REGION , ALLIED MILITARY GOVERNMENT
APO 394, U.S. Army

ADMINISTRATIVE INSTRUCTIONS

17 March 1944

NUMBER

1. Allied Military Courts are being criticized severely because many of the sentences imposed are inadequate for the purposes of Military Government. In many cases this criticism is justified. There is too much tendency toward sentencing solely as a means of punishment and reformation of the prisoner at the bar. The principle has already been laid down by higher authority that, "The purpose of Military Courts is to impose sentences...which will be a deterrent to others....." There is also a tendency to allow sympathy and sentimentality to become an important factor in the determination of sentences.

2. Court officers must adopt a mental attitude which will enable them to realize that the prisoner at the bar is only the offender who has been caught, while in the background are hundreds of others ready and willing to offend if the risk of severe punishment is slight. It is only by the imposition of a severe sentence on the former that the latter become impressed. Severe sentences should be the rule rather than the exception.

3. Extreme caution should be used in the consideration of mitigating circumstances in determining the severity of the sentence to be imposed. In the average run of cases before the Military Courts involving offences actually defined in Regulation 2, mitigation is rarely applicable. The fact that the accused has a family, either large or small, is not a mitigating circumstance.

4. The doing of justice, or the appearance of doing justice, is a principle quite properly applicable up to and including the determination of the guilt or innocence of the accused but, if and when guilt is established, the sentence imposed must be sufficiently severe to deter others from committing the same or similar offences.

5. Specifically, cases involving the cutting of wire communication lines, theft of wire from such lines and possession of such wire are of great concern and must not be treated lightly. Sentences in these cases must be severe regardless of the excuses. Convictions involving theft and possession of allied property have increased more than 60% during the past month although the total of all convictions increased less than 2%. It is very evident that sentences are not adequate as deterrents.

6. The right to suspend sentences will be exercised only in exceptional cases and not as a regular practice. Court officers have no power to suspend the payment of fines. The right of suspension exists only as to imprisonment. Court officers will not suspend any sentence at any time other than at the time of the announcement of the sentence.

By order of Lieutenant Colonel Charles POLETTI:

JOHN W. CHAPMAN,
Lt Col., J.A.G.D.,
Reg Legal Officer

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