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

ACC

10000/142/47
(VOL. I)

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

10000/142/47
(VOL. I)

MISCELLANEOUS LEGAL OPINIONS
AUG. 1943 - OCT. 1944

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

SECRET FILE

FILE CLOSED : 24 October 1944 -

SEE VOLUME II

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

PARTITO FASCISTA REPUBBLICANO
FEDERAZIONE DELL'URBE

IL COMMISSARIO FEDERALE

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

162X

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 794

/rm.

ACC/4005/L. 24 Oct. 44.

SUBJECT : Engineer CUOMO.

TO : Agriculture Sub-Commission.

1. Reference yours 13 October 1944 AGR/23.22.

2. It is an understanding that Mr. CUOMO was merely confirmed by Col. Poletti in a position to which he had previously been appointed by the Italian Government.

3. Under these circumstances we are of the opinion that the consent of the Allied Military Government is not required with respect either to the disposition of the post or the occupant thereof.

MARC J. GROSSMAN,
Lt. Colonel,
Chief Counsel,
for Chief Legal Advisor.

Encls.

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

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

ACC/4005/L. 22 October 1944.

SUBJECT : Legal Opinions.

TO : Political Section.

1. Reference your attached memorandum I agree with the opinion ascribed to me in paragraph 4.

2. Under a decree dated 14 January 1944, No. 13, Art. 2, any person who wishes to print, publish or reproduce "news or political opinions" must obtain in advance the permission of the Prefect. I presume that no such permission was obtained in this case but it would seem unlikely that the subject matter of the book brings it within the definition.

3. I would certainly not advise that the Italian Authorities be requested to take any action in this case either on the ground that the name and address of the publisher are not printed on the copies or on the ground that the permission of the Prefect was not obtained. Both these reasons appear to me to be technical and not to justify any interference by the Allied Control Commission. They do not touch the substance of the complaint made by General VASILIEV.

RICHARD H. WILMER.
Colonel, CA.C.
Chief Legal Advisor.

WHR/wcw.

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

1612

PUBLIC RELATIONS BRANCH
ALLIED CONTROL COMMISSION

PRB/RSCb

1 October 1944.

SUBJECT: Director General of the Press.

TO : Acting Chief Commissioner.

The Council of Ministers at its meeting yesterday appointed Ronaldi "Director General of the Press". This, I understand, is a post which existed only under Fascism: it seems to me absolutely contrary to the idea of a free democratic press. I should like to know whether the Italian government can make such an appointment and how far we should, or can, oppose it.

LIONEL FIELDEN,
Major,
Public Relations Director.

Copy to: Chief of Staff
Political Section
Vice President, Civil Affairs Section
Director, Local S/C

My view is :-

No post exists whatever its functions being defined (expressed or implicitly). If the functions of the post are objectionable we can abolish the post and control the appointment of the functions are carried out by the Allied Commission or Allied subordinates on the spot.

The more fruitful line for the first instance is by [illegible]

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

160A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ES/pa.
18 Oct 44.

ACC/4005/L.

SUBJECT : Request for information.

TO : Regional Commissioner Southern Region.

1. Would you please find out whether Signora Maddalena GATTUSO of Rosario VALANIDI, residing at GUARDO, Province of Reggio Calabria, is still alive.

2. This information is requested by the War Dept., WASHINGTON D.C., on behalf of the son of the above party, a soldier in the U.S. Army stationed in the United States.

BY COMMAND OF COMMODORE STONE

21

RICHARD H. WIMER,
Colonel, CAC,
Chief Legal Advisor.

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

~~SECRET~~ 602 Legal

4005 ✓

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

1690

AMB/seb
14 October 1944

G-5: 013.

SUBJECT: Legal Assistance to Pvt. Paul Pavigliarti.

TO : Headquarters, Allied Control Commission,
APO 394.

1. Herewith file on a matter concerning an American soldier in the U.S. who is the owner of real estate in Reggio Calabria, with respect to the status of which he requires legal advice.

2. It is suggested by the Theater Judge Advocate that the matter be referred to the proper Italian authorities for advice.

3. It is requested that this Headquarters be notified of the action taken.

For the Asst. Chief of Staff, G-5:

Geo Bullowa
A. M. BULLOWA
1st Lt., A.U.S.

Incl:
as above.

HEADQUARTERS 15 OCT 1944 A. C. C.

210

~~SECRET~~

1328

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

158

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

/pa.
10 Oct 44.

ACC/4005/L.

SUBJECT : Law in Albania.

TO : Legal Officer BAPI ~~(Info: Regional Legal Officer Southern Region.)~~

1. In answer to Capt. GIBSON's telephone enquiry as to the prevailing law in ALBANIA, the position is as follows :-

In 1927 a new Penal Code was promulgated in Albania: this followed very closely the code then prevailing in Italy (the code of 1889).

On the union of the crowns of Italy and Albania no provision was made either by the Italian or Albanian authorities for the extention of Italian Penal law in Albania : the Code above mentioned therefore remains in force.

However, by Decreto Luogotenenziale No.176 of 11 Dec, published in the Albanian Official Gazette of 18 Dec 1939 the Italian "Codice Penale Militare per l'esercito" or the "Codice Penale Militare Marittimo" were extended to apply to Albania.

RICHARD H. WILMER,
Colonel, CAC,
Chief Legal Officer.

209

ISTITUTO ITALIANO DI STUDI LEGISLATIVI

~~ROMA - PALAZZO DI GIUSTIZIA~~

Nuovo indirizzo:
MINISTERO DI GRAZIA E GIUSTIZIA
ROMA

Roma, 10 ottobre 1944

TELEFONO 581-751

file 1005/L

Dr. Pasquale CHIOMENTI
Consulente Legale presso la A.C. .
Ufficio Legale

R O M A

Vi comunichiamo, che in Albania venne promulgato nel 1927 un codice penale, ad imitazione molto intensa del codice penale italiano allora vigente (cioè del 1889).

Non risulta che tale codice sia stato abrogato. Risulta invece che dal momento della unione della Corona d'Albania con quella del Regno d' Italia nessun provvedimento è stato emanato dalle Autorità italiane e dalle Autorità albanesi per la estensione della legislazione penale italiana in Albania.

Con decreto luogotenenziale 11 dicembre 1939 n.176, pubblicato nella Gazzetta Ufficiale albanese n. 129 del 18 dicembre 1939, venne esteso all'Albania la legislazione penale militare italiana e precisamente il codice penale militare per l'esercito e il codice penale militare marittimo.

Con distinti saluti.

ISTITUTO ITALIANO DI STUDI LEGISLATIVI

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

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Con distinti saluti.

ISTITUTO ITALIANO DI STUDI LEGISLATIVI

208

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

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

150

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

WEB/pa.
7 Oct 44.

ACC/4005/L.

SUBJECT : Rewards.

TO : Regional Legal Officer (THROUGH: RC) Toscana Region.

1. Reference your letter 5 Oct 44 enclosing enquiry from Lieut. HOCKIN on payment to Italians for assistance to POWs, it is suggested that as this matter raises questions of financial policy you refer the matter to your Regional Finance Officer.

2. He will explain to you the procedure under letter from Finance Sub-Commission reference 1504/F of 4 September 1944.

RICHARD H. WILDER,
Colonel, CAC,
Chief Legal Adviser.

207

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

155A

1st Ind.

Chief Legal Officer, Region VIII (Toscana) 3 October 44.
TO : Chief Legal Officer, Hqtrs, ACC.

1. Can answer be given to the inquiry made? We have not been able to find any directive thereon. It is believed that the topic is one of Army and not Military Government concern.

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

LEGAL SUB-COMMISION
CLO
DCLO
Chief Counsel
CJO
Italian Section
CLERKS

206

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

155B

R.L.O.

HEADQUARTERS
A.M.G. T.J.C.
ZIVILPOL SECTION

28th. September 1945.

NO. 227 - L.O. 4

SUBJECT: Rewards
TO : D.I.C., Section VIII

1. The T.C. has received a request for payment of a reward to [illegible] citizen for rendering assistance and aiding the escape of Allied personnel in enemy E.C.W. camps.

2. It is believed that a precedent for these matters has been formulated by A.T.C.

3. Reports information as above.

Lawrence C. Becker
Lawrence C. Becker
1st. Lt. Sig. C.
for
DOUGLAS E. MONTATO
Major, T.J.C.
Executive Secretary

205

RVIII/19/7000

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

154A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

FED/pe.
6 Oct 44.

ACC/4002/L.

SUBJECT : Constituent Assembly.

TO : Deputy Chief of Staff, Civil Affairs Section.

1. We have considered the question raised by your DF/5.2/CA of 5 Oct 44.

2. Article 1 of MIL No. 151 of 25 June 1944 provides, that the new constitution of the Italian State shall be determined by the Constituent Assembly to be elected by the Italian people for that purpose. We are advised and we are of opinion that this provision precludes the Government from determining the constitutional question by referendum. The effect of MIL is to take the direct determination of the issue out of the hands of the Italian people and to entrust it to a body which shall represent the Italian people for that purpose. It would be contrary to the terms of the MIL to solve the problem by a direct vote of the people.

3. It is of course possible that the Constituent Assembly, which is a sovereign body with power to adopt any decision, may decide itself to determine the issue by referendum, buth in this case both the holding of the referendum and subsequent constitutional decision based thereon will be the responsibility of the Constituent Assembly and not of the Government.

4. MIL No. 151 can be abrogated at any time by a subsequent MIL.

RICHARD H. WILDE,
Colonel, CAC,
For Chief Legal Advisor.

204

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

151A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4005/L.

RHW /ap.
5 October 1944.

SUBJECT : CIOCHETTI ANNA-MARIA &
CIOCCHETTI Annunziata.

TO : Allied Screening Commission C.M.F.

1. Reference your 1130/HJB/AL/7 of 3 Oct 44.

2. The Legal Sub-Commission, I regret to say is not in a position to advise individuals on their marital entanglements. I would think that the two people mentioned should consult Italian lawyers, as the question primarily would seem to be one of local law.

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

203

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

4C-25

159A

ALLIED SCREENING COMMISSION

C.M.F.

Tel; 66183.

LEGAL SUB COMMISION
CLO
DCLO
Chief Legal
3 Oct 1944
CLO
52
1130/HJB/AL/7.
CLO

SUBJECT: CICCHETTI ANNA - MARIA & CIOCCHETTI Annunziata.

TO:- Legal Sub-Commission A.C.C.

1. The above named Italian women married 2 Palestinian Arabs ex prisoners of war when the latter where in hiding in Rome during the German Occupation.

2. The case has been discussed with I.& D.P. who state they are not in a position to give aid to these 2 women until it has been established they are legally married to the two Arabs prisoners of war.

3. We would appreciate receiving your advice as to whether you can interview these women and give a ruling from their documents as to the legality of the marriages.

4. Please advise us when it will be convenient and we will arrange for these two women to present themselves at your Office.

HEADQUARTERS 5 OCT 1944 A. C. C.

Capt.
for Officer Commanding
Allied Screening Commission
C.M.F.

202

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

149A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

AG3/4005/1.

5 Oct 44.

SUBJECT: Real Estate Opera.

TO : Civil Affairs Sec (Maj. Holland).

1. Reference Adm. Order No. 12, 5 July 1944 of Region III (now Southern Region).

2. It is proposed to revoke or modify the above Administrative Order. There is no reason why this may not be done, but the contents of the revoking or modifying order will depend upon the ascertainment of certain facts not known at HQ AC and, I should think, upon some general agreement with the Allied Military Authorities in Naples, the Commune of Naples and any other persons now having an interest in the theater and the production of opera there.

3. If deemed necessary to accomplish the ends desired and an order could be made appointing some suitable ~~military~~ person Commissario for the theater. Then if under Art. II of the above mentioned Administrative Order, the National Controller of Property took over assets of the dissolved Ente, the order should direct him to turn them over to the Commissario upon receiving a proper receipt. Also if a liquidator was appointed by the Prefect as under Art. III at one time contemplated and the liquidator has assets of the dissolved Ente, the order should direct him to deliver such assets to the Commissario upon receiving a proper receipt.

4. Some reference has been made to the fact that there is, or at least recently was, in existance a contract between possibly the former Ente and third persons for the production of opera. This should be looked into to determine what rights may be involved and how they would be affected by any proposed revocation or modification of the above mentioned order.

5. If the Allied Military Authorities appear to be interested in the continuance of the opera as is the Commune of Naples on behalf of its citizens, I would think that the entire matter should be settled locally by the Regional Commissioner of the Southern Region aided by his Regional Legal Officer who are in the best position to ascertain the facts and have an actor issued which will take care of the situation to the satisfaction of all concerned including the Allied Military Authorities and the Commune of Naples.

RICHARD H. WILSON,
Colonel, GSC,
Chief Legal Advisor

Copy to: AG3/4120/3/2.

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

(148)

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4005/L

SUBJECT: American Consul General 3 Oct 44

TO : Political Section
(att: Mr.William W.Schott)

1. Reference yours of 2 October 1944 and enclosures.

2. There is no legal objection so far as ACC is concerned to the exercise by the American Consul General of his proper functions and duties in either Italian Government or Military Government Territory.

3. The ACC is not in a position through the Legal Sub-Commission to render services of the character referred to, to individuals.

4. It is suggested that the situation with respect to Mr. Swan be discussed with the Director of the Local Government Sub-Commission.

Marc J. GROSSMAN,
Lt. Col.
Chief Counsel,
for Chief Legal Advisor.

Encls: Memo. to Political Sec. - 6.9.44
Letter 125/18/44 to Mr.Caccia - 4.9.44

208

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

147A

TO: Colonel Wilmer, Legal Sub-Commission

FROM: Political Section

Would you be so good as to read the attached memoranda and give me an opinion as to the course which Allied Consuls should pursue.

Administrative Section agree to the procedure mentioned in the memoranda.

WILLIAM W. SCHOTT

2 October 1944

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

file

(146A)

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4005/L.

RHW/mt
3 Oct 44.

SUBJECT: Opinions to Regional Controller of Property.

TO : Regional Legal Officer (thru RC) - Tuscany.

1. Reference is made to your # VIII/19/700 dated 22 Sept 44 and attached basic communication.

2. The pratical solution as for the RLO to refer the case to the Italian notary within whose jurisdiction the property is situate for this official's advice and certification, and then for the LO to issue to the D.P.C. a statement based specifically thereon.

3. The notary may be paid a reasonable fee from ACC funds for his advice.

4. For your information, the policy in the matter of control of property is at present undergoing modification; the Italian authorities are preparing to continue or resume custody and administration of allied property. Under this policy Property Control officers will not be faced with the problem of restoring property to owners and will therefore not require a legal opinion on title.

RICHARD H. WILMER,
Colonel CAC
Chief Legal Advisor

193

Copy to: Director of Property Control

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

1st Ind. 4005

22 Sept. 44

RVIII/IG/7000
Regional Legal Officer, Region VIII (Tuscan)
TO : Chief Legal Officer, M.T. ACC.

1468 Legal

1. A search of our files has failed to disclose an answer to the questions propounded in the basic communication. Executive Memorandum No. 15 (22 May 44) makes reference to a "Legal Officer", but does not further identify him as being the Chief Legal Officer a Regional Legal Officer, or merely a Legal Officer on the permanent staff of the Property Control Officer. Under all the circumstances, it is desirable that authoritative expression be had from the Chief Legal Officer for our information and guidance.

JOHN E. WEBB,
Colonel, Infantry,
R.L.O., Region VIII.

LEG SUBC MISSION
CLO
DCLO
Chief Counsel
CJO
Italian Section
CL RKS

HEADQUARTERS
SEP 1944
A. C. C

196

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

146C

ALLIED MILITARY GOVERNMENT
FLORENCE PROVINCE

19 September 1944.

SUBJECT: Opinions to Regional Controller of Property.

TO : R.L.O., Region VIII.

1. The following extract is from a letter dated 14 Aug. 44 from Property Control Sub-Commission to Regional Controller of Property Region VIII:

"5. Pending further instructions, please observe the following when considering the restoration of properties to owners:

(a). You may restore a property, including a business concern to the owner, or to a person holding a general power of attorney (a full procura) from the owner, and terminate your responsibility with respect thereto, subject to the following:

(1). You shall first obtain from the R.L.O. an opinion verifying the title of the alleged owner, and, if restoration is to be to owner's representative, obtain in addition an opinion from RLO stating that the representative is legally qualified to receive custody and control of the property."

2. May a direction be obtained please from the Legal Sub-Commission of ACC, defining the duties of the R.L.O. with respect to the provisions of the above quoted sub-para. (1).

197

3. Opinions verifying title to both real and moveable property would not appear to be within the competence of the R.L.O. without previous consultation with a qualified Italian authority, and specific instructions as to the procedure to be adopted are considered to be desirable.

4. The question may also arise as to the recognition by the Controller of Property of a right of possession as distinct from that of ownership, and independant of the power of attorney referred to in sub-para. (1).

M. C. HOIT, Major,
Ass't. P.L.O.,
Florence.

RVIII/19/7000

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

1/10/44. 146D

Note for C-in-C. – Verifying Title to Italian Property

Have seen the D.P.C. re this & he is of opinion that as Executive Memo 15 is out of date and that new directives to P.C.s are being got out on the lines of the new policy, it is not worth while issuing amendments & interpretations at this stage. He will communicate with his P.C.s on lines of attached draft letter to R.L.O. Tuscany.

A.R. Thackrah 1/1/44

Do not type

ART-30/9/44 (146E)

Draft.

Subject: Opinions verifying title to Italian Property.

To: CHQ: (thru RCs) all regions.

1/ Reference is made to Executive Memorandum No-15 dated 22 May 1944, entitled "Instructions to Regional Controllers of Property", para 7, sub-paras iii and IV (a) x

2/ For the purposes of verification of title the Legal Officer will refer the case to the Italian notary written whose jurisdiction the property is situate for this officials advice and certification, and then for the L.O. to issue to the R.P.C. a statement based specifically thereon x

Colonel
Chief Legal Advisor.

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

to Regional Controllers
sub. paras iii and IV (a).

2. For the purposes of verification of title the Legal Officer will refer the case to the station notary written whose jurisdiction the property is situate for this officials advice and certification, and then for the L.O. to issue to the D.P.C. a statement based specifically thereon.

Colonel
Chief Legal Officer.

Copy to D.P.C.

Do not file

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

ART - 30/9/44

Draft.

Subject: Opinions verifying title to Italian Property.

To the Executive Commissioner, ACC.

1. The question has been raised as to the proper interpretation of the duties and competency of the "Legal Officer" as expressed in Executive Memorandum No. 15, para 7, sub paras III and IV (a), in view of the fact that no Legal Officer of ACC/CMG is competent to verify a title to Italian property and ergo to give an opinion & legs thereon.

2. The appropriate official to perform such work is the Italian Notary of the place where the property is situate.

3. It is suggested that the practical solution is for the Legal Officer to refer the case to an Italian Notary for advice and certification, and then for the L.O. to issue to the D.P.C a statement based specifically thereon. It is thought that such procedure would honor both the spirit and purpose of the instruction.

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

IV (a), in view of the fact that no legal officer of ACC/ANCG is competent to verify a title to Italian property and ergo to give an opinion & legs thereon.

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3. It is suggested that the practical solution is for the Legal officer to refer the case to an Italian notary for advice and certification, and then for the L.O. to issue to the D.P.C a statement based specifically thereon. It is thought that such procedure would honour both the spirit and purpose of the instruction.

5. A suggested form of letter is attached for circulation by the C.M.A. to all RMOs (ltrm R.Cs).

Do not type

Copy to D.P.C.

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

145B

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/400/L. WEB/pa.
1st Oct 44.

SUBJECT : Commissario Decree.

TO : Executive Secretary, A.C.S.

1. We have considered your letter of 29 Sept 44 and enclosures thereto.

2. It is true that the word "gestione" normally refers to the business - Administrative aspect of an organisation and not to policy powers. At the same time it must be pointed out that under Art.3 of the decree the Commissario is vested with the authority of the board of Director. We are of opinion that the application of the company would normally be signed by or on behalf of the Board of Director, and that in the absence of such a board it should be signed by the duly appointed Commissario.

3. We understand that the MESSAGGERO is to become a paper representing the views of the Government ; we do not understand that the Government is intending to take over the interests of the shareholders and to appoint the Board of Director. In these circumstances we do not agree that the application should be signed by the Government's side.

4. We entirely agree that it is technically out of order for a Commissario-elect to sign an application before his appointment is formally confirmed. As stated the application should be signed by or on behalf of the board: if there is no board and no Commissario the shareholders should appoint a new board.

5. On the subject of the memorial of Sig. PERRONE, which is not translated, we have the following comments to make :-

(a) The memorial is understood to state in substance that for the period subsequent to PAVOLINI's appointment he had no effective control over the paper, as Mussolini himself appointed Pavolini and moreover after 8th Sept 1943 Sig. PERRONI was hiding. Sig.Perrone claims to have been a consistent anti-fascist and not to have profited from fascism.

(b) We are advised that if the facts stated in the memorial are true, Sig. Perroni might succeed in persuading the Consiglio di Stato that the

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

1. We have considered your letter of 29 Sept 44 and enclosures thereto.

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(b) We are advised that if the facts stated in the memorial are true, Sig. Perroni might succeed in persuading the Consiglio di Stato that the President of the Council should not in this case have exercised his discretionary power.

(c) There is, however, no means of knowing whether the facts are true, and in any event Sig.PERRONE's remedy lies in an appeal to the Consiglio di Stato and not to Allied Authorities. The matter is purely one for Italian investigation and decision.

RICHARD H. WILMER,
Colonel, CAC,
Chief Legal Officer.

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

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

145A

405

OFFICE OF THE CENTRAL
ALLIED PUBLICATIONS BOARD

Room 108, 62 Via Veneto
ROME

29 September 44.

SUBJECT : Commissario Decree.

TO : Colonel Richard H. Wilmer,
Chief Legal Officer,
Legal Sub-Commission, AC.

The APB have instructed me to submit the following question for your legal opinion in connection with the application to revive the Rome newspaper, MESSAGGERO.

1. The decree legalising the appointment of Commissarios defines their functions as "per la temporanea gestione". The Board considers that the word "gestione" concerns the business-administrative aspects only and does not include editorial policy powers. Your counsel on this point would be appreciated.

2. In the case of the MESSAGGERO, the application form is signed by the Commissario-elect. This would mean that the Commissario was acting not only as in charge of "gestione" but as proprietor of the paper and therefore in complete control of all its manifestations with power to appoint editorial personnel.

3. This seemed to the Board to be out of keeping with the intention of the decree. Your advice on this would also be appreciated.

4. Please find attached (1) general background information; (2) copy of the Commissario decree; (3) copy of the Modula to be filled up by applicants, and (4) memorandum submitted by Sig. Perrone, present proprietor of the MESSAGGERO, in which he challenges the legal right of the Government to appoint any Commissario at all. This has not yet been submitted to the Board and is, so far, for your information and, if you care, general observations.

4. As the Board meets on Tuesday next at 9:30 a.m., I would be greatly obliged if you could possibly give me the required guidance before that date. Please return the attached file.

I. S. MUNRO,
Lt.Col.,
Executive Secretary.

file.

400-

CONFEDERATION INTERNATIONALE DES SOCIETE[illegible]
D'AUTEURS ET COM[illegible]ITEURS

file 144A

Rome, 7 Sep.44

To : Colonel Wilmer
Acting Chief Legal Officer - ACC

Following our conversation of 26 Aug.44, I consider my duty, as General Secretary of the Juridicial Commission of International Confrderation of the Society of Authors, to which the Society of British Authors P.R.S.(Performing Right Society) and American ASCAI also belong, and as lawyer of the Italian Society of Authors with residence in Rome, to resume briefly my opinion - as you desired - with regard to eventual orders of requisition made by the Allied Authorities, on copyright for works publicly supervised and used, especially through Radiodiffusion.

1. Copyright belongs to a sphere of private rights, it is not a purely patrimonial right, but also a personal one ("droit moral" of the International Convention of Berne). The principle of"requisition" does not seem adequate to my mind, for a right of so complicated a nature.

2. The profit of copyright, when the author is still alive, is not only profit of an economical possession,(work of the mind - l'oeuvre de l'esprit) but also and above all a professional profit. Also from this angle the Juridical principle of "requisition" could not be applied to copyright, as it cannot be applied in general to any profit of human work.

3. As much as I know, neither during this war, nor in the war 1914 - 18, such measures have been adopted by any Country in war or any Military Command. I will add, limiting myself to the present war, that the Governments of Countries in war have riaffirmed their intent to respect International Treaties regarding copyright (International Convention of Berne, for nearly all Countries of the world, including England, the Dominions, and the Engli sh Colonies; panamerican Conventions etc.) And if some Countries - and England has been first in time - have adopted measures (Patents, Designs, Copyright and Trade Mark (Emergency) act, 21 Sep.1939) to allow utilisation of work of foreign enemy authors, as it was impossible actually and for

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

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4. With regard to radiodiffusion, it is remembered that the Italian Radio Society (E.I.A.R.) is due to correspond proper copyrights in accordance with the Italian Author Society (now Ente Italiano per il Diritto d'Autore - E.I.D.A.), agreement based in its turn, on the Italian legislation on Copyright, (the law in force is that of 22 Apr.1941, No.633) and on the Conventions and International Treaties. The Italian Society of Authors has acted by such contract, as trustee of the Italian titulars for Copyright on works used by the radio, and as trustee of foreign titulars (including English, American, Canadian Societies etc.), by virtue of contracts for mutual reciprocity which were concluded with foreign Societies.

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

Profit for Copyright established by the contract with EIAR has been fixed generally with regard to the income of EIAR, through private subscriptions to the radiodiffusions. It would therefore seem just, even excluding any question of right, that if - as it is in fact - the EIAR continues to receive the due amount from private subscriptions, it should directly forward to the Society of Authors, the Copyright it is entitled to.

I trust this Command will take into consideration the above-said, and meet the needs and necessities of Authors and Editors Italian and foreign. I trust likewise that independently from the abovesaid, this Command will always examine with benevolence any other matter which refers to the protection of the rights of Authors and their respective compensations, with the same promptness it shows in solving problems of work, whether it be intellectual or manual.

Avv.Valerio De Sanctis.

19

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

Col Hennefin Please see me about this PMD

144B

CONFÉDÉRATION INTERNATIONALE DES SOCIÉTÉS D'AUTEURS ET COMPOSITEURS

COMMISSION DE LÉGISLATION
SECRÉTARIAT GÉNÉRAL
37, Via Valadier - Roma

Roma, 7 settembre 1944

Sig. Colonnello WILMER
Acting Chief Legal Officer - A.C.C.
ex Ministero Corporazioni - ROMA

Signor Colonnello,

A seguito del colloquio che ebbi con Lei il 26 agosto u.s., ritengo mio dovere, nella mia qualità di segretario generale della Commissione giuridica della Confederazione internazionale delle Società di autori, di cui fanno anche parte la società degli autori inglese P.R.S. (Performing Right Society) e americana ASCAP (American Society of Composers, Authors and Publishers), e di legale della Società Italiana degli Autori, con sede in Roma, di riassumere brevemente il mio pensiero -come Ella desiderava- in ordine ad eventuali ordini di requisizione, da parte delle Autorità Alleate, del diritti di autore su opere tutelate e utilizzate pubblicamente, specie a mezzo della radiodiffusione.

1°) Il diritto di autore (copyright) appartiene alla sfera dei diritti privati, ma non è un diritto puramente patrimoniale, bensì anche personale ("droit moral" della Convenzione internazionale di Berna). L'istituto della "requisizione" mal si addice, pertanto, a mio parere, a siffatto diritto di natura complessa.

2°) I proventi economici del diritto di autore, per l'autore ancora in vita, non stanno a rappresentare unicamente proventi di un "bene" economico (l'opera dell'ingegno - l'oeuvre de l'esprit) bensì e sopratutto, proventi professionali. L'istituto giuridico della "requisizione" non sembra, quindi, addirsi anche sotto tale profilo, al diritto di autore, come non si addice, in generale, ai proventi del lavoro umana.

3°) Per quanto mi consta, né durante la guerra attuale, né durante la guerra 1914- 1918, sono stati mai adottati dai Governi di Paesi in guerra o da Comandi militari, provvedimenti del genere. Aggiungerò, per li=

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

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3°) Per quanto mi consta, né durante la guerra attuale, né durante la guerra 1914- 1918, sono stati mai adottati dai Governi di Paesi in guer= ra o da Comandi militari, provvedimenti del genere. Aggiungerò, per li= mitarmi alla guerra attuale, che i governi di Paesi in guerra hanno te= nuto a riaffermare che i trattati internazionali in materia di diritto di autore (Convenzione internazionale di Berna, per quasi tutti i Paesi del mondo, compresa l'Inghilterra, i domini e le colonie inglesi; Con= venzioni panamericane ecc.) continuavano a spiegare tutti i loro effet= ti. E se alcuni paesi e per prima, in linea di tempo, l'Inghilterra, hanno adottato provvedimenti (Patents, Designs, Copyright and Trade, Mark (Emergency) act, 21 sept. 1939) per permettere l'utilizzazione del= l'opera degli stranieri nemici, in quanto era impossibile, in linea di fatto e per effetto della guerra, chiedere il relativo permesso all'au= tore stesso, è restato fermo il principio del pagamento di equi compen=

./....

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

si all'autore. Questa azione dei vari Paesi in guerra nei confronti del diritto di autore sta a dimostrare un atteggiamento di particolare benevolenza da parte dei Paesi medesimi, attesa la particolare natura dell'opera dell'ingegno e la sua origine.

4°) Per quanto concerne più particolarmente la radiodiffusione, si ricorda che l'Ente radiofonico italiano (E.I.A.R.) è tenuto a corrispondere i relativi diritti di autore in base a precisi rapporti contrattuali con la Società italiana degli autori (ora Ente Italiano per il diritto di autore - E.I.D.A.), rapporti che si basano, a loro volta, sulla legislazione italiana sul diritto di autore (la legge vigente è quella 22 aprile 1941, n.633) e sulle convenzioni e sui trattati internazionali in materia. La Società italiana degli autori ha agito, nel contratto medesimo, quale mandataria dei ditolari italiani di diritto di autore sulle opere utilizzate dalla radio e quale mandataria dei titolari stranieri (comprese le società inglese, americana, canadese, ecc.), in virtù di contratti di reciproca rappresentanza che essa ha concluso con le rispettive società straniere. Il compenso per diritti di autore, stabilito nel contratto con l'E.I.A.R., è fissato, generalmente, con riguardo agli incassi dell'E.I.A.R. per gli abbonamenti privati alle radiodiffusioni. Sembrerebbe, pertanto, equo, anche prescindendo da ogni questione di diritto, che l'E.I.A.R., qualora, come è nei fatti, continui a percepire le somme dovutegli per gli abbonamenti privati, dovesse continuare a corrispondere direttamente alla Società autori i dovuti diritti di autore.

Confido che codesto Comando vorrà prendere in considerazione quanto sopra è esposto, venendo in tal modo incontro alle necessità e ai bisogni dei singoli autori ed editori, italiani e stranieri. Confido altresì che, indipendentemente dalle questioni sopra accennate, codesto Comando vorrà sempre esaminare con benevolenza ogni altra questione che si riferisca alla tutela del diritto di autore e al relativo pagamento dei compensi, con quella medesima sollecitudine che esso pone nella soluzione dei problemi del lavoro, intellettuale e manuale.

Ossequi

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

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Ossequi

(Avv. Valerio De Sanctis)

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

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

143A

HEADQUARTERS
ALLIED CONTROL COMMISSIO
LEGAL SUB-COMMISSION
APO 394

AGO/4005/L.

WEB/pa.
19 Sept 44.

SUBJECT : Claim for PESCE Celestino.

TO : Establishments Officer - British .

The position in this case is as follows :

1. Lt.Col. Hamilton had no right to sell the mare or dispose of the beans because no proper order was made confiscating these goods - the official record must be taken as conclusive on this point.

2. Having sold them, Lt.Col. Hamilton should have handed the proceeds to the Finance Officer for disposal as AMG fine money.

3. We are of opinion that PESCE should be compensated. We have no power to order repayment by anyone except the Finance Officer, and in this case it would be inappropriate for the Finance Officer to pay, since the payment would then come from Italian Government funds. We consider that Lt.Col.Hamilton should pay. The fact that he will be out of pocket is due simply to the fact that he did not deal properly with the property in the first instance, and (possibly) that he sold at an inadequate price.

4. The value of the mare can be easily ascertained as she is still there. There is an official price for beans, at which PESCE should be repaid.

5. It should be mentioned that if in fact an order for confiscation had been made such an order would, in the circumstances of this case, have been improper and should have been quashed on review.

6. Lt.Col.Hamilton states that "" certainly restitution of the property was never ~~been~~ ordered"". This is a misconception as no such order would have been made in this case nor was it necessary in order to vest the property in PESCE .

RICHARD H. WILMER,
Colonel, CAC,
Chief Legal Officer.

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

Tel. No. 553

V605

CONFIDENTIAL

1424

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394

17 September 1946

REFERENCE : C-19/118/A

SUBJECT : Claim from PRICE Celestino.

TO : Legal Sub-Commission.

The attached papers relative to the irregular sale of a horse by Lt.Col. R.A.T. Hamilton are forwarded for favour of your comments as to the legal aspect of the case.

Kindly return all papers with your reply.

FOR THE ESTABLISHMENTS OFFICER.

A/Lieut. Major
J.L. JONES,
Lt.Colonel,
G-1 (3).

/av.

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

141A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

RHH/pm.
11 Sept 44.

AGC/14005/L.

SUBJECT : Real Estate, U.S.N., Cey .

TO : Public Work & Utilities, Sub-Commission.

1. We have considered the questions raised by your AGC/101/[illegible] of 8 September 1944.

2. In the first place the order of C.C. 276 Forces U.S. was given in Italian Government Territory. It is our opinion that he had no authority to give this order, and that the order is not valid.

3. The ground in question could no doubt be requisitioned if it is to be used for military purposes. It is presumed that the Saw Mill in question is to be operated for the benefit of the Allied Forces. But in this case the requisition should be executed through the Italian authorities in pursuance of the policy which is firmly established for such cases.

4. Secondly we are of opinion that the stipulation of a 4 years' term is ineffective. The requisition will remain in force as long as the ground is used or required for the purpose for which it was requisitioned - i.e. to supplement the requirements of the Allied Forces. After this the requisition ceases to an end. In any event, when the Allied Forces cease to occupy any part of Italy, the requisition terminates since the orders given by an occupying power do not continue in effect after the end of the occupancy.

4 Incls:
1 - certified copy origl. order 276 Wks RD RE
2 - letter 29 August 44 SME Co.
3 & letter 2 Sep 44 CU 1059
4 - letter 2 Sep 44 CU 1059 A.

RICHARD H. WILDE,
Colonel, GSC,
Chief Legal Officer.

186

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

4005 ✓

140A

Tel.489081

HEADQUARTERS
ALLIED CONTROL COMMISSION
PUBLIC WORKS AND UTILITIES SUB-COMMISSION
APO 394

LWL/ac

ACC/101/PWU

8 Sep. 44

Subject : Unauthorized occupation
Real Estate - S.M.E. Co.

To : LEGAL SUB-COMMISSION

1) - The attached file deals with an order by an Allied Officer that has raised points that require a legal interpretation.

2) - We can ubderstand where such an order would probably be effective as long as the emergency exsisted or as long as the military services required the Saw Mill to operate, but not for a period of four years or any other period.

3) - We would appreciate your advise on the matter.

4) - Pleqse return attached file.

W.M.LAPPER
Lieut-Colonel
Chief, Util. & Adm.Div.

4 enclosures :
1 - certified copy original order 276 Works R.E.
1 - letter 29 August 44 S.M.E. Co .
1 - letter 2 September 44 CU - 1059
1 - letter 2 do 44 CU- 1059 A

18

LEGAL SUB-COMMISSION
CLO
DCLO
Chief Counsel
CJO
Italian Section
CLERKS

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

(139A)

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

/rlp.
2 September 1944.

SUBJECT : Appointment Commissioner for Sud-Est Railroad System.

TO : VP. Admin Sec.

1. At my conference with the Minister of Justice yesterday I made the request asked for in the first paragraph of your memorandum attached. It seems to me that while through these means we might be able to catch and stop a decree of the type referred to in the Acting Chief Commissioner's letter of 30 Aug 1944, it would be even better if the Transportation Sub-Commission could get in touch with its opposite number in the Italian Government and arrange to have any such decree called to its attention at its inception so that it would not even get to the Council of Ministers before being approved by ACC.

2. Relative to the second paragraph of your memorandum, I understand that a commissario could be appointed under the provisions RDL, 21 Aug 43, No. 739 of which a translation appears in a file going forward to you today on another point (File DF/5.1/AS).

3. I am returning herewith the papers submitted by you.

RICHARD H. WILMER,
Colonel, C/C,
Chief Legal Officer.

2 Incls.-no change.

R.H.P.
& A.P.

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

(1384)

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

/rlp.
2 September 1944.

ACC/4005/L.

SUBJECT : Liability for damages arising out of the operation of I.N.T. trucks.

TO : RC&M Section (THRU: Transportation Sub-Commission).

1. Reference letter of Acting Regional Commissioner (Sicily Region) RC 151 dated 25 August 1944 addressed to Executive Commissioner.

2. The Chief Legal Officer has not received the inquiry referred to in par. 6 of the above.

3. The Legal Sub-Commission is not informed nor has it been able to secure information at this Hq concerning the set up and character of I.N.T. It is assumed however, since the agency was created by Region I, that it must be regarded as a direct instrumentality of the Allied Control Commission and that its drivers are in the same status as those directly employed by ACC. The conclusionswhich follow are based upon the foregoing assumption. We entertain some doubts, however, as to the correctness thereof because it appears that the agency is still functioning, and it is our understanding that it has been the policy of ACC to discontinue all operating agencies of like character in Italian Government Territory.

4. There would appear to be no difficulty with respect to vehicles driven at the time of the accidents by British or American Military personnel. Claims arising therefrom could be presented to Claims and Hirings in the case of British military drivers, and to the American Claims Service in the case of American military drivers. So far as we have been able to ascertain, no provision has be yet been made for the filing and adjudication of claims arising out of injuries resulting from the alleged negligence of drivers other than British and American personnel. Since we must assume that the drivers of the vehicles of I.N.T. fall within neither category, we know of no means whereby claims arising by reason of their alleged negligence can now be prosecuted.

5. Aside entirely from the obvious practical difficulties consequent upon the fact that no mechanism or agency exists within ACC for the fixing of liability, if any, and the determination of the measure of damages, we know of no authority for the payment of such claims out of the funds of I.N.T.

MARC J. GROESMAN,
Lt. Col.,
Chief Counsel,

for Chief Legal Officer.

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

1374

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

/gb.
31 Aug 44.

ACC/4005/L.

SUBJECT : SIEMENS Società Anonima.

TO : The Director of Communications Sub-Commissions

1. Reference is made to your letter CS/61/1/10 dated 29 Aug 44. and enclosures.

2. This Sub-Commission endorses the opinion of the Director of Property Control as expressed in para 4 of his letter of 3 Aug 44. in that the above named Company is to be considered as the property of German nationals. This conclusion is borne out by the statement of the Head Manager of the Rome branch to the effect that the German SIEMENS holds the majority of its shares.

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

Copy to : D.P.C. for information.

182

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

HHS/enc.
136A

4005

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394
Telephone 489081 Ext. 400

29th August, 1944.

In reply refer to: CS/61/1/10

Subject : Siemens Societa Anomina.

To : Legal Sub-Commission.

1. Inclosed for your information are:

a. Copy of letter from Siemens Societa Anomina dated July 29th, 1944 addressed to A.C.C. which was referred to this Sub-Commission since the company in question is primarily a manufacturer, installer and seller of Telecommunications equipment.

b. Copy of Memo from this Sub-Commission to Property Control Sub-Commission.

c. Copy of memo from Property Control Sub-Commission dated August 26th, 1944.

2. It is requested that opinion of Property Control Sub-Commission as to jurisdiction of Italian Government be confirmed. The Headquarters of Siemens Societa Anomina are in Milan.

J. L. HENDERSON
Colonel
Director, Communications Sub-Commission

3 Incls: As mentioned above.

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

Copy

(136B)

SIEMENS SOCIETA' ANONIMA

Ufficio Tecnico Regionale

ROMA
Piazza Mignanelli,3

July 29th 1944

MEMORANDUM FOR THE A.C.C.

The Firm "SIEMENS Societa' per Azioni" in Milan is an Italiana Society, not only Lawfully, but also effectively, because it has its manufactories and its clients in Italy and employs only Italian personel and workmen.

As it is authorized to use all patents and fabrication methods of the German Siemens, the last detains the majority of the Italian Siemens chairs.

In consideration of this bounding with a German Firm, I was very busy - as soon as Rome was liberated - with looking for a leading person of A.C.C., who could be able to give me instructions concerning the future desired activity of Siemens Rome Office.

In the first days it was impossible for me to find out a competent man to give me such instructions.

On the 12th June I spoke with Brig.Gen.Buckanan, Chief of "Wire Board Command" in Piazza Foro Traiano 1, and I gave him the here enclosed notices.

The Brig.Buckanan was so kind to take vision of them and express his advice that the overaid Branch directed by me could go on with its actual works.

As I think, that at present, such arguments are in the line of A.C.C., I allow myself to ask for a kindly comunication on the following points:

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

a) May the Roman Office of Siemens Milan continue its activity in the present way?

b) or under the control of a Commissary designed by the A.C.C. ?

c) or shall its activity at present be suspended partially or entirely?

d) In this last case, could our personel (about twenty-five employers and workmen), who has long seniority and numerous family, be engaged by the same organisation which could eventually execute the works now effected by this personel?

F.to Dr. Ing, Michele Autori

Head-Manager of Siemens Rome Branch

3 enclosed.

179

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

136C

Notices given to the Rome Aerea Command on the June 12th 1944, concerning the technical Rome Officer of "Siemens Soc.per Az." in Milan.

Address: Piazza Vignanelli 3 - Rome - Tel.61681 - 681378
Store: Via Frattina 50-51.
Shop for the Photostat: Via del Gambero,40.

Some important clients in normal times:

- Societa' Telefonica Tirrena
- Telegraph Telephon and Post administrations
- Navy and Air Ministeries

Thelephon and Telegraph apparatus, wire and wireless, produced by Siemens Milan works.

- The most important Societies for production and distribution of light and power in Rome.

Meterials imported from German or produced in Milan Siemens works and by Societa' Forni Elettrici e Elettrocarbonium in Narni and Ascoli Piceno.

In December 1943 about 2/3 of the personel has been dismissed owing to the difficult communications with our Head Office in Milan. The only remained activities maintained were the keeping of private telephon installations delivered from Siemens to Administrations, Banks, etc. and the Photostat shop.

The commercial possibilities after September 1943 of Siemens Rome were considerably reduced by the German Command which took and carried away all the materials from our story in Via Frattina.

Object of this notice is to ask the intentions of the Allied Military Command in Rome in order of knowning wether to continue or to suspense the commercial activity of the Branch managed by the undersigned.

Signed:
Dr.Ing.Michele Autori

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

136D

ELENCO DEGLI IMPIEGATI DIPENDENTI DALLA SIEMENS SOC.PER AZIONI
ALLA DATA DEL 12-6-1944

	Data di assunzione:
Sig. ANGELETTI ERMANNO	1.9.1928
Sig. AQUILINO GIOVANNI	1.4.1922
Ing. CALORI ALESSANDRO	1.3.1924
Sig. GARBOCCIA GIUSEPPE	1.4.1923
Sig. PALUTAN ALDO	18.9.1930
Sig. PARIS ALFONSO	1.7.1928
Sig. PASQUALONI MICHELE	16.1.1939
Sig. PICCIOLLO TOMMASO	1.10.1924
Sig. RANIERI ALFREDO	15.2.1926
Sig. URBAN CARLANTONIO	17.10.1940
Sig.ra CASAVECCHI AMELIA in CARNESI	15.9.1934
Sig.na LODI ZANIDA	9.10.1939
Sig.na ROSSI FERNANDA	2.10.1939

1 / 1

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

136E

ELENCO DEGLI OPERAI DIPENDENTI DALLA SIEMENS SOC. PER AZIONI
ALLA DATA DEL 12.6.1944

	Data di assunzione:
APRILE EDOARDO	9.3.1938
BARONE GIOVANNI	(+)
BATTIONI NATALE	11.1.1944
BIGELLI FORTUNATO	9.12.1937
BONA DANTE	5.11.1935
BRUSCHI TOMMASO	(+)
CAMPANELLA UGO	(+)
CASADIDIO SILVIO	(+)
CENCI LIBERATO	23.3.1926
CENERELLI ANTONIO	4.9.1934
COZZO FRANCESCO	3.5.1936
DE GREGORI MARIO	23.1.1935
EFFICACE ANTONIO	(+)
PASSACANTILLI AMERIGO	16.1.1939
PISSI VITTORIO	(+)
SAVI FELICE	12.3.1928
SCHINA EGIDIO	24.10.1938
TOFFOLI VITTORIO	2.10.1935

176

N.B.- I nominativi segnati con la crocetta attualmente non fanno piu' parte del nostro personale.

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

COPY

HHS/tjj 136F

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394
Telephone 489081 Ext.333

3rd August, 1944

In reply
refer to: CS/61/1/1

Subject: Siemens Societa Anonima.

To : Property Control Sub-Commission.

1. In confirmation of conversation with Major King on 30th July, advice is requested as to reply which should be made to letter of 29th July, 1944 from Siemens Societa Anonima, copy of which is enclosed.

2. The statement that Auteri had advice from Brigadier Buchanan to continue operation of the company is not literally true. A lieutenant of "S" Force who was investigating the company told Auteri to continue, as it was desired to avoid giving him the impression that he was under investigation.

3. There are two companies in Rome prepared and competent to take over maintenance work, listed in the letter. Large interests in both companies are U.S. and the companies are prepared to do everything possible to take over deserving employees of Siemens Societa Anonima.

/s/
H.H.SCUDDER
Lieut. Colonel, S.C.
Deputy Director,
Communications Sub-Commission

1 Incl:

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

1369

C O P Y

CC/ECK/ch

ACC/2080/CP

Subject : Siemens Societa Anonima.

To : Communications Sub-Commission
att: Lt.Col. H.H.Scudder.

1. Reference your letter CS/61/1/1 of 3rd August, 44.

2. I am enclosing copy of letter from RCP Region IV, which led me to believe that there was nothing more to be done so far as your inquiry was concerned.

3. Today Major King informs me that you do want a reply to your original inquiry so that you may write to Auteri.

4. Property Control Sub-Commission has no jurisdiction with respect to property of German Nationals located in transferred territory, and it is my opinion (which I suggest that you check with Legal Sub-Commission) that ACC has no jurisdiction except to the extent that questions of security or intelligence may be involved. In all other respects German property is the responsibility of the Italian Government.

5. It seems to me that Auteri should be told to direct his inquiries to the Italian Government.

/s/
CHARLES CARROLL
Lt. Col., Ord. Dept.
Acting Director
Property Control Sub-Commission

17

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

PDS/ep

(136H)

COPY

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION IV
APO 394

8th August, 1944

FC/386.74

Subject: Siemens Societa' Anonima.

TO : Acting Director Property Control Sub-Commission A.C.C.

1. Reference letter 6 August 44 (ACC/2080/CP). This matter was discussed with Lt. Col. Scudder and as a result of the conversation it was determined that a security investigation would be made but nothing further would be done if there is no reason to assume that the company is working against the military interest.

2. However, at the suggestion of Major King, the file is being returned to you because it would appear that this presents the fundamental question of the relationships of the D.P.C. to German propery in Italy. It would appear that the proper solution is the sequestration by the Italian Government of such property and that the R.P.C.O. should not become involved until a policy is established or there is evidence of use of property contrary to the military interest.

/s/
PAUL D. SHRIVER
Major, Spec. Res.
Regional Property Control Officer

Encl: 1 file-

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

(1354)

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/LSC/[illegible].

MJC/pm.
30 Aug 46.

SUBJECT : E.A.A.F.

TO : Civil Affairs Branch, G10, AAF.

1. Reference your letter 21 August 1946 No.11336/101/3A.

2. Please be advised that in Italy, under a decision given by the Highest Court in Italy, the Supreme Court of Cassation and the Council of State, E.A.A.F. (Ente Italiano Audiovisioni Radiofoniche) is a private concern.

MILO J. CONNETT,
Lt.Colonel,
Chief Counsel,
for [redacted] Chief Legal Officer

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

HEADQUARTERS 27 AUG 1944 4005

Segnale SC

No.11599/104/3A. BIA 432

CIVIL AFFAIRS BRANCH
G.H.Q., M.E.F.

21st August, 1944.

Headquarters,
Allied Control Commission,
Legal Sub-Commission,
A.P.O. 394.

I am directed to say that your views as to the status of the E.I.A.R. would be appreciated. (Ente Italiana Audizioni Radiofoniche). As you are aware a large proportion of the wireless licence fees collected under Italian law is payable thereunder to E.I.A.R. and the disposition of this revenue in the occupied territories administered by this Branch depends upon whether the Ente is statal or parastatal institution or a private concern.

P. A. Lacey.

Lieut-Colonel,
for CHIEF SECRETARY.

EW/AA.

171

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

Enter on and circ 1 file

133A

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394
ADMINISTRATIVE SECTION

ACC/1405/L 26 Aug 44.

SUBJECT : Legal Opinions.

TO : VP Economic Section.
VP PO & MG Section.

I have been informed that Sub-Commissions, no doubt in perfect good faith, have shown copies of opinions by the Legal Sub-Commission to members of the Italian Government.

Bearing in mind the fact that the Legal Sub-Commission is bound to express its views absolutely frankly and in a manner sometimes necessarily critical, I think you will agree that it is most undesirable to show to anyone outside the Commission a copy of an opinion expressed by the Legal Sub-Commission without first obtaining the consent of the CLO.

Your co-operation in this respect will be greatly appreciated.

G.R.URQUHART, Col
A/Head, Adm Sec.

Extn 525
GRU/wb

170

163

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

132A

4005

Ref: 550

HEADQUARTERS
ALLIED CONTROL COMMISSION
ECONOMIC SECTION
APO 394

G3(f)/23

Legal
29 AUG 1944
29AUG 1944

26 August 1944

EC3/77

SUBJECT: Legal Opinions.

TO : Agriculture Sub-Commission
Commerce Sub-Commission
Finance Sub-Commission
Food Sub-Commission
Industry Sub-Commission
Labor Sub-Commission
Public Works & Utilities Sub-Commission
Transportation Sub-Commission
Requisition Division

1. Administrative Section report that some Sub-Commissions have shown copies of Legal Sub-Commission's opinions to representatives of the Italian Government.

2. Legal Sub-Commission endeavors to express an opinion to other Sub-Commissions in a frank way which is sometimes critical of the Italian Government or Italian organizations. Accordingly, Legal Sub-Commission's opinions will not be communicated to anyone outside the ACC without first obtaining the consent of the Chief Legal Officer, ACC.

[signature]
Executive Director
Economic Section

169

Copy to:
Administrative Section

131

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

Entered in Post

131A

ACO/4005/L

26 Aug 44

SUBJECT : Legal Opinions.

TO : All Admin Sub-Commissions.

You are requested not to shew to Ministers or other persons outside ACC, copies of Legal opinions expressed by the Legal Sub-Commission without first obtaining the consent of the CLO.

G.R. Upjohn Col

for G.R. UPJOHN, Col
A/Head Admin Sec

168

LEGAL SUB-COMMISSION
CLO

Ext: 325

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

(130A)

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/LCSC/L. RWB/pe.
24 Aug 44.

SUBJECT : Late Colonel CASSARELLO, Italian Royal Navy .

TO : Navy Sub-Commission, ACC .

1. Subject to the question of any pension or other allowance due to the dependents of Col.CASSARELLO from Italian Naval sources, these dependants would appear to have a claim against the Claims Branch of the Government whose driver was responsible by his negligence for the death of Col. CASSARELLO. For this purpose it would seem that the British Government would accept responsibility for Lt.CAVICCHIO .

2. This Sub-Commission is not in a position to advise private individuals as to their rights, but when the question of negligence has been determined the dependants should be referred to the appropriate Claims Department.

3. In Rome the addresses of the offices are :-

U. S. Claims Department - Largo dei Lombardi, 21 .

B. A. D. Claims (British)- Via Torino, 107 .

RICHARD N. WILDER,
Colonel, CAC,
Acting Chief Legal Officer.

167

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

(129A)

4005

HEADQUARTERS
ALLIED CONTROL COMMISSION
Navy Sub-Commission
APO 394

NSC/748

19 August 1944.

TO : Legal Sub-Commission, HQ, ACC.

SUBJECT : Late Colonel CASSANELLO, Italy Royal Navy.

Enclosure: Statement of subject's widow.

1. Enclosure is a summary of the circumstances of death of subject as made by his widow.

2. Opinion is requested as to whether dependents have any right of claim against Allied funds.

H. W. ZIROLI,
Commodore, U. S. Navy,
for Chief, Navy Sub-Commission, ACC.

166

Chief Counsel

Asst Counsel

RAS

129B

AIDE-MEMOIRE.

(Colonel or the Port - Harbourmaster - Attilio CASSANELLO)

The wife of Colonel CASSANELLO, who died on 5.7.44 as the result of a motor accident on the Appian Way while he was returning to Rome from Naples on a Service mission, has made the following statement:-

"Colonel CASSANELLO of the I.R.N., due to his refusal to join the Fascist Republicans, had been placed on the list of hostages who were to be deported, and to save himself and his family who had suffered considerably under the Racial Laws and in reprisals (his wife's family are Jews), also to safeguard his son (born in 1925 and therefore subject to Military Service), spent large sum of money during the period 9th Sept. 1943 to 5th June 1944, to be exact nearly Lire 220,000, of which L. 200,000.- was obtained by selling his wife's shares in industrial undertakings, and L. 20,000.- from a private loan.

On the 10th June last this Officer was called to the Ministry of Marine and informed that he had been chosen to fill an appointment under the Allied Command in connection with the harbours at Leghorn, La Spezia and Genoa, ports which Col. CASSANELLO knew particularly well.

On the night of 12th June, Col. CASSANELLO left Naples for Rome to contact the Allied Command.

He returned to Naples on 26.6.44 for Service reasons, where NOTT informed him that he would receive orders in Rome, where he was to contact Cdr. O'CALLAGHAN at Via Sicilia No. 59, and where he would also get instructions from Cdr. DOUGLAS, of Leghorn.

On 5th July 1944, in a British Naval Traffic motor-vehicle, driven by Lt. CAVOLINO also of Naval Traffic and duly authorised by Lt. HERTZ, Col. CASSANELLO left Naples for Rome to carry out the instructions received from NOTT.

Near Littoria, the lorry in which Col. CASSANELLO was travelling, tried to pass an American lorry and trailer, was struck by the latter, swerved to the right and fell over the embankment.

165

In this accident, Col. CASSANELLO lost his life. He leaves a wife and two children underage:-

- The first born, 19 yrs. old, a law student in his 2nd year:- Obviously a lot will have to be spent on him before he will be in a position to help

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

On the 15th June last this Officer was called to the Ministry of Marine and informed that he had been chosen to fill an appointment under the Allied Command in connection with the harbours at Leghorn, La Spezia and Genoa, ports which Col.CASSANELLO knew particularly well.

On the night of 19th June, Col.CASSANELLO left Naples for Rome to contact the Allied Command.

He returned to Naples on 26.6.44 for Service reasons, where POWELL informed him that he would receive orders in Rome, where he was to contact Cdr. O'CALLAGHAN at Via Sicilia No. 59, and where he would also get instructions from Cdr. DOUGLAS, of Leghorn.

On 5th July 1944, in a British Naval Traffic motor-vehicle, driven by Lt.CAVOLINO also of Naval Traffic and duly authorized by Lt. HERTZ, Col. CASSANELLO left Naples for Rome to carry out the instructions received from POWELL.

Near Littoria, the lorry in which Col. CASSANELLO was travelling tried to pass an American lorry and trailer, was struck by the latter, swerved to the right and fell over the embankment.

105

In this accident, Col. CASSANELLO lost his life. He leaves a wife and two children underage:-

- The firstborn, 19 yrs. old, a law student in his 2nd year:- Obviously a lot will have to be spent on him before he will be in a position to help his family;
- The second child, a 14 year old girl, was in a very delicate state of health which has worsened since the loss of her father.

Moreover, the wife, due to her illness, can only be a moral support to her children; her heart and liver complaints have become more serious in the last 10 months living under constant strain and trying conditions, and to-day in her bereavement she is not only unable to make any economic contribution to help the family's difficult circumstances, but she herself should undergo medical treatment.

Therefore, in view of the above, Col. CASSANELLO's widow begs to submit that she be granted some financial assistance so as to be able to face the difficulties and hardships before her, brought about by her husband's death as he was the family's sole support.

DG.-)

Declassified E.O. 12356 Section 3.3/NND No. 785 Cle

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

138A

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

ACC/4005/L.

RHW/ap
21 Aug 44

MEMORANDUM : To the Acting Chief Commissioner.

1. I enclose herewith a letter from the American Consul General at Naples directed to Col.Chapman who made the inquiry and brought the enclosed letter with him to Rome. This letter is not particularly helpful. It does indicate that a formal application will have to be filed and later sent to Washington for decision.

2. As far as I can tell the Consulate at Rome will not be opened for some time.

3. If it will be of any help to you, I will be glad to talk with the lady who is interested in having her citizenship established and explain to her in a general way what she will have to do.

4. Possibly she is in a position to go to Naples and see the Consul General there. His office is at 123 via Roma.

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

16

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

(1283)

THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

AMERICAN CONSULATE GENERAL

Naples, Italy, August 19, 1944.

Colonel John W. Chapman,
Headquarters, Region III,
Allied Control Commission,
A. P. O. 394, U. S. Army.

Sir:

Your letter of August 8, 1944 relative to the determination of the citizenship status of a person claiming American citizenship, together with a copy of a memorandum from Colonel Wilmer, has been received.

As Colonel Wilmer indicates in his memorandum, the citizenship laws of the United States have undergone numerous changes over a period of years and in view of this fact and the fact that the person concerned has lived for a protracted period in the country of her parents birth and has been married several times to Italian nationals, it is not possible for the Consultate General to indicate her citizenship status. In order to determine her status, it will be necessary for her to call at the Consultate General in person to make application for registration as an American citizen, which application will have to be forwarded to the Department of State for a decision.

Since it might not be convenient for the person concerned to appear at this office and since the Consultate at Rome will probably be opened shortly, she may desire to make application there.

Very truly yours,

George L. Brandt,
American Consul General

165

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

File

127A

HEAD UARTERS
LIED CONTROL COMMISSION
LEGAL SUB-C MMISSION
APO 394

20 Aug 44

ACC/4005/L
SUBJECT: Case of American Citizenship

TO : RLO (thru RC) Region V

1. Reference your R5/511/19 of 15 Aug 44.

2. This sub-commission does not deal with citizenship questions. Raymond Capriotti should address his inquiry to the United States Consul at Naples, Via Roma, 123.

3. The papers you sent are returned herewith.

RICHARD H. WILMER,
Colonel, C.A.C.
Acting Chief Legal Officer.

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

TO CLO .Hq. ACC 4005 Tongat 864 [26A]

FROM Hq. REGIO AMG/ACC

SUBJECT Case of American citizenship.

REF. R5/511/19

15 August 44

1. Herewith letter of Capriatti Raymond claiming American citizenship and asking advice. He is now with A.M.G. S.Benedetto - Ascoli Piceno Province.

For the Regional Commissioner

J. L. WILLIS
Lt.Colonel,
RLO

by A. R. TROXELL
Lt.Colonel,
DRLO

ART/nm

LEGAL SUB-COMMISION
CLO
DCLO
Chief Counsel
CJO
Italian Section
CLERKS

161

2011

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

125A

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

ACC/4005/L

MJG/ep
15 Aug 44

SUBJECT : Payment of Taxes.

TO : Regional Commissioner, Region 3

1. Reference your R/3244 of 9 Aug 44.

2. Returned herewith enclosures.

3. General Order No. 2 (Revised) where posted meets the situation referred to.

4. Article I Section 2 thereof provides as follows:
" Article III of General Order No.1 requiring and making provision for payment of imposts and taxes in cash only is hereby repealed."

MARC J. GROSSMAN
Lt. Colonel,
Chief Counsel,
for Acting Chief Legal Officer.

/

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

124A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

/rip.
14 August 1944.

ACC/4005/I.

SUBJECT : Charities.

TO : Regional Legal Officer (THRU: Regional Commissioner), Region III.

1. With reference to your letter of 10th inst. in relation to the funds raised by a committee in 1942 to build a votive chapel for establishing a war time museum in Naples and the request from the Sindaco to operate the existing account in order to use the monies collected for the relief of mutilated and needy persons, the situation under the existing Italian legislation appears to be as follows:

As the committee does not appear to have been recognized under the provisions of Art. 12 of the Civil Code, that is to say had become a "juridical person" by royal decree, the functions of the Committee would be governed by Article 39 and following of the same Code, dealing with aid and welfare committees.

2. Though the capacity of the Sindaco to divert such funds to other purposes with or without the consent of the committee entirely depends on the terms of the statute of the said committee, such matters however are generally regulated by the provisions of Art 42 of the C.C. as follows:

"When the funds raised are not sufficient to meet the proposed aim, or this aim is no longer attainable or when the aim being reached a surplus remains, the governmental authorities shall decide the fitting destination of such funds unless such destination has been already decided upon at the time of the constitution (of the committee)."

3. It appears therefore that unless otherwise provided in the Statute, the Italian authorities have the power to change the destination of the funds concerned through the proper administrative channels. (Sindaco with C.C. consent of the Prefect and possibly of the Ministry of the Interior).

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

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

123A

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

1670/ge.
12 Aug 44.

ACC/4005/L.

SUBJECT : Copyright of Italian work in the United States.

TO : Library of Congress, Foreign Representative.

1. We acknowledge with thanks yours of 9 August 1944.

2. The Legal Sub-Commission has no comments or suggestion to offer.

RICHARD H. WILGER,
Colonel, CAC,
Acting Chief Legal officer.

154

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

4005

THE LIBRARY OF CONGRESS
FOREIGN REPRESENTATIVE
APO 394

122A

August 9, 1944

Subject: The Copy Right of Italian works in the United States

To : Legal Sub Commission

1. Attached is copy right information received from the Copy Right Office of the Library of Congress, Washington, D.C.

2. I expect, in the very near future, to take this matter up with the Association of Italian Authors here in Rome. Before taking this step, however, I would like to get any suggestions or comments from the Legal S/C.

3. The question of the payment of the $2.00 fee will be taken up with the Finance S/C.

LEGAL SUB-COMMISSION
✓
C&O
P&O
Chief Counsel ✓

Manuel Sanchez
Foreign Representative of the Library of Congress

157

1226

COPYRIGHT IN THE UNITED STATES FOR ITALIAN AUTHORS

The United States has not as yet become a member of the International Unions for the Protection of Literary and Artistic Works, established under the Berne Convention. It is therefore, necessary for the citizens of Italy to comply with the requirements of the copyright law of the United States in order to secure adequate protection in the United States. This can be accomplished by takyng the following steps:

1. Publish the work with the prescribed notice of copyright upon the title page or verso thereof, if it be a book or drama; or if it be a musical composition, either upon the title page or the first page if music.

This notice should consist of the word "copyright" accompanied by the year date of publication and the name of the copyright proprietor; and it must appear on all copies published or offered for sale in the United States.

2. The next step is to send to the Copyright Office, Library of Congress, Washington, District of Columbia, United States of America, one complete copy of the beste edition, accompanied (under separate cover) by an application for registration and the statutory fee of $ 2.00.

The Copyright office thereupon issues a certificate of registration without further cost to the proprietor.

Suitable application forms are supplied by the Copyright Office, free of charge. For a published book, the form designated A-J should be used; for a published drama, form D-1; dramatico-musical work, form D-J; musical composition form E. It is preferable to use these official forms so as to make sure of furnishing all the information necessary for proper registration.

The author or publisher, if he so desires, may authorize someone else to act in his behalf with respect to depositing the copy in the Copyright office at Washington, filling out the application form, and paying the statutory fee, without the need of filing any power of attorney or other document of authorization. The receipt of the certificate by the author or proprietor will be proof that all essential formalities have been complied with.

3. In addition to the requirements above explained, ci-

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

the title page or the first page if music.

This notice should consist of the word "copyright" accompanied by the year date of publication and the name of the copyright proprietor; and it must appear on all copies published or offered for sale in the United States.

2. The next step is to send to the Copyright Office, Library of Congress, Washington, District of Columbia, United States of America, one complete copy of the best edition, accompanied (under separate cover) by an application for registration and the statutory fee of $ 2.00.

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The author or publisher, if he so desires, may authorize someone else to act in his behalf with respect to depositing the copy in the Copyright Office at Washington, filling out the application form, and paying the statutory fee, without the need of filling any power of attorney or other document of authorization. The receipt of the certificate by the author or proprietor will be proof that all essential formalities have been complied with.

3. In addition to the requirements above explained, citizens of certain foreign countries, including Italy, are required by regulations of the Alien Property Custodian to file with each application for copyright registration form APC 23 containing a statement of facts required for the records of the Alien Property Custodian's Office. Registration of copyright cannot be made unless this form is filed.

RICHARD C. DeWOLF
Acting Register of Copyrights

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

1226

PROTEZIONE LETTERARIA NEGLI STATI UNITI DEI LAVORI ITALIANI

Gli Stati Uniti non sono entrati ancora a far parte della Unione Internazionale per la Protezione della Opera Letteraria ed Artistica, creata dalla Convenzione di Berna. E' però necessario che i cittadini italiani si uniformino alle regole contenute nella legislazione degli Stati Uniti sulla proprietà letteraria, al fine di assicurarsi un'adeguata protezione nel territorio degli Stati Uniti. Ciò può essere ottenuto col compiere le seguenti formalità:

1. Pubblicare il lavoro con il prescritto "copyright" stampato sulla pagina che porta il titolo o sul suo retro verso, se si tratta di un libro in genere o di una opera drammatica; se poi si tratta di una composizione musicale l'avviso deve essere stampato sia sulla pagina di intestazione sia sulla prima pagina di musica.

Tale avviso consiste nella parola "copyright" seguita dalla data di pubblicazione e dal nome del proprietario del diritto di proprietà letteraria; inoltre detto avviso deve apparire su tutte le copie pubblicate ed offerte in vendita negli Stati Uniti;

2. Inviare al Copyright Office, Library of Congress, Washington, District of Columbia, Stati Uniti d'America, una copia completa della migliore edizione, accompagnata (in piego separato) da una istanza per la registrazione e dalla tassa di due dollari ($ 2.00) stabilita dalla legge.

In seguito a ciò il Copyright Office rilascia un certificato di registrazione senza alcuna altra spesa per il proprietario.

I moduli di richiesta adatti sono forniti gratuitamente dal Copyright Office. Per i libri in genere deve essere usato il modulo A; per i lavori drammatici il modulo D 1; per i lavori drammatico-musicali il modulo D 3; per le composizioni musicali il modulo E. E' bene usare tali moduli ufficiali in modo da essere sicuri di fornire tutti i dati necessari per l'esatta registrazione.

L'autore o l'editore, se lo desidera, può autorizzare qualche altra persona che depositi per suo conto la suddetta copia al Copyright Office a Washington, che riceva il modulo di richiesta e che versi la tassa legalmente dovuta senza la necessità di produrre alcuna delega legale o

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

Tale avviso contiene nella parte [illegible]
pubblicazione e dal nome del proprie-
tario del diritto di proprietà letteraria; inoltre detto
avviso deve apparire su tutte le copie pubblicate ed of-
ferte in vendita negli Stati Uniti.

3. Inviare al Copyright Office, Library of Congress, Washington, District of Columbia, Stati Uniti d'America, una copia completa della migliore edizione, accompagnata (in piego separato) da una istanza per la registrazione e dalla tassa di due dollari ($ 2.00) stabilita dalla legge.

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4. Oltre agli obblighi esposti innanzi, i cittadini di paesi stranieri, inclusa l'Italia, hanno quello di presentare, secondo la norma dell'Articolo di Custodia della Proprietà Estera degli U.S.A., insieme a ciascuna istanza per la registrazione della proprietà letteraria, il modulo APC 2 contenente una dichiarazione dei fatti richiesti per l'Archivio dell'Ufficio di Custodia della Proprietà Estera. La registrazione della proprietà letteraria non può essere eseguita se tale modulo non sia stato riempito.

Richard H. De Wolf
Acting Register of Copyright

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

(12D)

Form APC-23
December, 1942

Form Approved
Budget Bureau No. 41-R010.2

UNITED STATES OF AMERICA

OFFICE OF ALIEN PROPERTY CUSTODIAN

Dichiarazione delle notizie richieste per la registrazione e il rinnovo del diritto di proprietà letteraria

Titolo e genere del lavoro (musicale, teatrale, libri in genere ecc.) .....

Nome, cittadinanza e indirizzo di chi afferma il diritto .....
.....
.....

Nome, cittadinanza e indirizzo dell'autore .....
.....
.....

Nome, cittadinanza e indirizzo di chi presenta l'istanza.....
.....
.....

Natura dell'interesse, se c'è, della persona che presenta la istanza ad ottenere il riconoscimento del diritto di proprietà letteraria .....
.....

E' allegata al presente una copia dello strumento, se c'è, nel quale la persona che presenta l'istanza afferma il detto interesse.

Io, ..., attesto che le dichiarazioni fatte in risposta alle domande di cui sopra sono, per quanto è a mia conoscenza e ascienza il mio parere, corrispondenti a verità e complete.

Nome .....

Indirizzo .....

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

.....

Nom, cittadinanza e indirizzo dell'autore .....
.....
.....

Nome, cittadinanza e indirizzo di chi presenta l'istanza.....
.....
.....

Natura dell'interesse,* se c'è, della persona che presenta la istanza ad ottenere il riconoscimento del diritto di proprietà letteraria .....
.....

E' allegato al presente una copia dello strumento, se c'è, sul quale la persona che presenta l'istanza afferma il detto interesse.

Io, ..., attesto che le dichiarazioni fatte in risposta alla domande di cui sopra sono, per quanto è a mia conoscenza e records il mio parere, corrispondenti a verità e complete.

Nome .....

Indirizzo .....

DA RISPETTARE DAL CONTRARE UFFICIO

L'istanza di cui sopra è stata ricevuta in data .....

ed ha ricevuto il numero di registrazione .....
.....

---

* Nel senso qui usato il termine "interesse" riferito al diritto di proprietà letteraria, va non in sia di l'istanza, il possesso, il possesso parziale, o l'affermazione di possesso, totale o parziale di ogni diritto od affermazione di diritto di proprietà letteraria esistenti, o ogni diritto, licenza, privilegio o proprietà su o riguardo a tale lavoro o rispetto ad esso; inoltre ogni diritto, titolo o interesse su o riguardo a o in dipendenza di ogni contratto o altro strumento relativo al diritto di proprietà letteraria, ogni

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

percentuale e ogni parte di profitto, diritto di licenza od altri emolumenti o compensi riscossi riguardanti quanto sopra. Tale interesse comprende anche, ma non in via di limitazione, ogni interesse, nel senso sopra spiegato, che appartenga o sia preteso da alcuno come azionista, come agente, come rappresentante o come proprietario nominale.

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

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

4005

121A

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

L-6075 10 August 1944

SUBJECT: Charities.

TO : CLO, Legal Sub-Commission, ACC.

1. An application has been received by the Finance Division of this headquarters from the Bank of Naples for the unblocking of an account standing in the name of the Podestà of NAPLES for a home for persons mutilated in war and a votive chapel. The amount standing to the credit of the account is 256,058 lire.

2. The facts relating to the application are as follows. In 1942 there was constituted in NAPLES a Committee, under the presidency of the then Podestà, for the purpose of collecting the sum of a million lire which was to be applied partly in building a votive chapel for dead soldiers and partly in establishing a war civic museum in the Home for mutilated soldiers in NAPLES. A sum of 256,058 lire was raised by the Committee but nothing further was done.

3. Now the Sindaco, after hearing the opinion of the Giunta Comunale, proposes to use the before mentioned moneys for assistance of mutilated persons who are in need and out of work. He has applied to the Bank of Naples for authority to operate the account, and the Bank in turn has applied to this headquarters for authority to unblock the account.

4. Certain legal questions arise. First, can moneys raised for one purpose be legally diverted to another and, if so, with what authority ? Secondly, it is submitted that if the Committee presided over by the Sindaco can legally divert the money, the Sindaco, either alone or with the

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

consent of the Giunta Comunale, cannot do so.

5. Your advise on these points and generally on the matter will be appreciated.

For the Regional Commissioner:

G.A. BAMLET,
Major, C.L.
Actg Reg Legal Officer.

GAB/mo

Copy to
Regional Welfare Officer, Region 3 (with papers).

LEGAL SUBCOMMISSION
CO
DCO
Chief Counsel
CJO
Italian Section
CLERKS

15i

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

fac
4005.

4005

Admin 120A

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

R/3244

9 August 1944 Legal

SUBJECT: Payment of Taxes.

TO : Administrative Section, Hq ACC.

1. Forwarded for your consideration.

HEADQUARTERS
10 AUG 1944
A. C. C.

John W. Chapman

JOHN W. CHAPMAN,
Colonel, JAGD.,
Actg Regional Commissioner.

JWC/bb

130

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

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

ACC/4005/L

MJG/ap
5 Aug 44

SUBJECT : Terni Steelworks

TO : Industry and Commerce Sub-Commission.

1. Reference your letter 3 Aug 44 ACC/5644/IND and enclosures.

2. Nothing appears in the file to support the conclusion of the P.C. that the property sought to be recovered is the property of the Allied Forces.

3. He may have assumed that the property was requisitioned by the Germans thus acquiring the status of German property and thereupon possibly becoming the proper object of booty by the Allied Forces.

4. It however appears that the property was not requisitioned by the Germans and so far as the file discloses was illegally seized by them.

5. Neither does it appear that the property was subsequently requisitioned by the Allied Forces.

6. Under these circumstances there is nothing to indicate that the Italian owners have lost title or right of possession to the property and it would therefore seem in order that upon proper proof of ownership, it should be restored to them. Aside from the manifest justice of this course, it would seem that a prompt restoration thereof would be in furtherance of the war effort.

7. We suggest that you consult with the RC & MG Section to the end that the appropriate officers of the AMG be directed accordingly.

MARC J. GROSSMAN,
Lt. Colonel,

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

(8A)

4005

HEADQUARTERS
ALLIED CONTROL COMMISSION
INDUSTRY SUB-COMMISSION
APO 394

Tel. 391 — JGE/rj

Ref. ACC/5644/IND — 3 August 1944

SUBJECT: Terni Steelworks

TO : Legal Sub-Commission

1. Attached for your information are copies of correspondence relating to certain machinery originally the property of the above mentioned company, but removed north by the Germans.

2. The company has applied to the Provincial Commissioner for permission to locate this machinery, but has been refused on the grounds that it is captured German material.

3. It would appear logical to us that this machinery could serve a more useful purpose if it were returned to the steelworks where it could perform useful work for Army requirements, but we should be glad to hear your opinion on the legal aspects of the case.

John S Todd

J. S. E. TODD
Colonel,
Acting Director,
Industry Sub-Commisaion.

1 Incl:
"Recovery of the "TERNI" Company's machinery lying along the Railroads" - ltr from Soc. per l'Industrie e l'Elettricita - dtd 2 Aug. 44 (with incls)

Copy to:
Economic Section

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

1 (B)

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

Copy

T E R N I SOCIETA PER L'INDUSTRIA E L'ELETTRICITA

ALLIED MILITARY GOVERNMENT

TERNI

343/A.G.

10th July 1944

In order to be able to trace railway wagons containing materials of which we are the owners, taken away by the germans and which are necessary for the ractivation of our works, we here with request you to Kindly to the necessary to have a porait issued by the Military Authorities to our employees:

Rag. Gilberto BIANCHI - Identity card N. 414 issued by the Municipality of Trevi (prov. Perugia);

and Mr. Aldo SVOZZA - Identity card n. 5391 issued by the Terni Municipality;

entling them to enter the railway stations on the following railroads:

Terni - Foligno - Perugia

Terni - Orte - Arezzo

Foligno - Nocera Umbra

Terni - Perugia (Ferrovia Centrale Umbra)

147

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

Copy

TRADUZIONE

TERNI PROVINCE

ALLIED CONTROL COMMISSION

REGION IV

AFO 394

R4/TER

Materiale Nemico

ALLA TERNI SOCIETA' PER L'INDUSTRIA E PER L'ELETTRICITA'

T E R N I

OGGETTO: Materiali nemici catturati.

Riferimento Vostra lettera datata 10/7/1944- 343/A.C.

Permettetevi di ricordarvi che materiali asportati dai tedeschi ed abbandonati o catturati, non sono proprieta dei proprietari originali ma materiali catturati al nemico, e rimangono proprieta delle forze Alleate.

In questa circostanza permessi come da Voi richiesti non possono essere concessi.

F.to A. Hunter Capt.

per il Maggiore

Commissario Provinciale

20/7/1944

Copia al Cap YOUNG

TERNI

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

copy

ROMA I

SOCIETA' PER L'INDUSTRIA E PER L'ELETTRICITA'

RECOVERY OF THE "TERNI" COMPANY'S MACHINERY LYING ALONG THE RAILROADS

The "Terni" Company, since it came to its knowledge that a good deal of its own plants machinery, shipped towards Northern Italy by order of the "Wehrmacht" has been left along the railroad in the stretches Arezzo-Firenze-Terni-Foligno-Perugia and Foligno-Ancona, has taken steps to send it its own deputies along the above mentioned railroad stretches in order to locate the machinery and recover it as soon as possible.

But the Allied Provincial Commissioner of Terni, whom the Company had applied to, in order to obtain for two of its deputies the admittance-permit to the railroad-station situated along the above mentioned stretches, has answered that the materials which have been removed by the "Wehrmacht" or abandoned or captured, are no longer to be looked upon as property of the former owners, but as materials captured to the enemy, and belonging to the Allied Forces, and that therefore it was not possible for the Allied Authorities to issue the permits requested by the Terni Company.

Referring to that, the "Terni" Co. makes following known.

1)- The machinery which, according to the first news, is lying along the Foligno-Ancona railroad is a part of the 750 semi-blooming mill, of which a great part has remained in the iron-works at Terni.

Such machinery could not therefore be used alone, whereas it is necessary to obtain the first treatment of the steel, before treating it with section and sheet rolling mills.

It follows that if the above mentioned machinery should not be given back, the producing power of the iron-works at Terni would be enormously diminished, and the machinery could not possibly be used.

The same is to be said about the machinery of the electrochemical works of the Terni Co. Which should eventually be lying along the railroads, as they are a part of working sets, which have remained incomplete in the same works.

2) -The "Terni" Co. has refused to sell its own plants to the Germans in spite of their pressures. In front of the firm behaviour of the "Terni" Co. the German authorities durst not issue requisitioning orders, but ordered to take to pieces the plants and to ship them towards Northern Italy, farther from the front. Afterwards as a matter of fact some plants, after having been put on the railroad-cars, have been sent to Germany.

The "Terni" Co. has declared in writing that it looked

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

(2)

upon that machinery as taken in use by the German uthorities and that therefore ~~it~~ remained a property of the same "Terni"Co. to which it had to be given back at the end of the war.
The German authorities did not object in the least to this point of view.

The "Terni" Co. thinks therefore taht the material put on the cars, which is now scattered on the railroad storing places owing to the impossibility of forwarding it, it its own material and that therefore it has never been German booty of war. The mosto of it had to be reassembled in Northern Italy in the works of the Ilva, Dalmine, S. Eustacchio and Cogne Companies.-

For this reason it cannot be booty of war of the Allied and the "Terni" Co. would have to be allowed to recover and reassemble it in its own works,

Anyway, whatever the decision about the juridical question may be, it is a common interest of the Allied and of the Italian Nation, besides the "Terni" Co. that the scatto red material the brought again to Terni and there reassambled, because otherwise it could not be, as we already pointed out, fittingly used.

Besides, since we know that the machines lying along the railroads are being touched and damaged both by passing troops and civilians it is urgent that the permit be issued, entitling usto look for the above mentioned machines and to retake them to the origin-works.-

Rome, 2nd August 1944

P.S. - Copy of the correspondence between the "Terni" Co. and the Allied Provincial Commissioner of Terni is enclosed.

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

HQ. ACC REGION III

Route Slip

Rc 121A

No.	Date	To	From	Communication
1	5/8/44	R.C.	K.F.O.	G.O. No. Sec. 3. Orders payments of all imposts K taxes in Cash & Nat. Gy. Postal Money Order Bank Checks or Coupons from Gov't Bonds. As Banks P.O's are operating normally & Coupons from Gov't Bonds are regularly met. I see no reason why Art. III (a) should not be repealed.

HQ. REGION 3 ACC.
5 MAY 1944
Rec'd in
Checked

K Rosenbaum
Lt Col

1/43

1408

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

Lt. Col. Battuello
Have you established a policy regarding this? A.M.R.

122A.

INTENDENZA DI FINANZA
NAPOLI
2III8 VI

N apies, 23rd July 1944

TO COMMUNE OF VICO EQUENSE

AND F.k.

TO ALLIED CONTROL COMMISSION
N A P L E S

SUBJECT: Taxes payment through Rent's coupons.

With reference to the question submitted by this Commune, by note n.1501 of June 30th 1944, re the collector's refusal to accept as cash, State's Rents coupons to pay taxes; I do inform that the Provincial Collector, asked about, has emphasized that, according to art. 29 of the Law, taxpayers are entitled to pay State's Taxes by State's Rents coupons, either due or to fall due.

But, by Allied Government's Order n. 2, this taxpayer's right has been suspended and, consequently, since no repeal or modification of said order has intervened hitherto, this Provincial Collectorship does not accept, from Collectors, any payment by State's Rents coupons.

THE REGENT INTENDENT
Longo

1454

1407

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

Mod. II (personalizzato)

MINISTERO DELLE FINANZE

RICEVUTA

INTENDENZA DI FINANZA

DI

NAPOLI

N. 21118 VI

Classifica

Risposta a N.

del

OGGETTO

Pagamento d'imposte mediante cedole di titoli di rendita-

Allegati N.

F/P

Collazionata il

Spedita il

Riprodursi il

Napoli li 23 Luglio 1944

Al COMUNE DI VICO EQUENSE

E p.c. COMANDO MILITARE ALLEATO
Div. Finanziaria
NAPOLI

In relazione alla questione prospettata da codesto Comune con nota nº 1501 del 20.6.944 circa il rifiuto offerto dallo Esattore ad assumere in valuta cedole di titoli di Stato per il pagamento di rate d'imposte, si significa che la Ricevitoria Provinciale interpellata al riguardo fa presente che ai sensi dell'art 29 del Testo Unico i contribuenti possono pagare l'ammontare delle imposte erariali, con cedole scadute e da scadere dei titoli di debito pubblico e dei buoni del tesoro.

Epperò con l'ordinanza N? 2 del Governo Alleato tale facoltà del contribuente è stata soppesa, per cui, non essendo sovraggiunta, ad oggi, alcuna revoca o modifica dell'Ordinanza citata, questa Ricevitoria Provinciale non accetta dagli esattori versamenti a mezzo cedole.

L'INTENDENTE REGGENTE
(Lopez)

Roma, 1942-XX - Tip. G. Bonanno - Ord. n. [illegible]

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

119A

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

JM/pa.
10 Aug 44.

ACC/4005/L.

SUBJECT : Monies owing to Greek subjects.

TO : Internees & Displaced Persons Sub-Commission.

1. Reference your IDP/90[illegible]/101/6 of 1/8/44/.

2. It may be that the Legge di Guerra compelled a withholding of the funds and still does so, in which case it will be necessary to await legislative action by the Italian Government.

3. The Greek representative should be advised to ascertain from the Bank of Naples at Ponza, either directly or through the Italian Government, its reasons for withholding the funds in question, and whether it is now able and willing to make the payment due.

4. At the same time it should be pointed out to the Greek representative that the ACC cannot undertake to deal with the claims of individuals. They must dealt with by the individual himself or by his Government.

RICHARD H. WILMER,
Colonel, C/A.C.,
Acting Chief Legal Officer.

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

(118A)

4005

HEADQUARTERS
INTERNEES AND DISPLACED PERSONS SUB-COMMISSION
ALLIED CONTROL COMMISSION
APO 394

IDP/904/101/6 1 August 1944

SUBJECT : Money owing to Greek Subjects.

TO : Chief Legal Officer,
Legal Sub-Commission,
Allied Control Commission.

1. With reference to your ACC/4005/L of 24 July 1944.

2. I regret to inform you that it is impossible to take the action which was recommended in the attached minutes of your letter, owing to the fact that Greece is still in war with Italy.

3. In view of the fact that this petition was officially submitted by the Greek Military Mission, accreditted to this H.Q. it is a matter for the A.C.C. Authorities to investigate before any legal action can be taken.

4. Therefore, this Sub-Commission would greatly appreciate any action that you may deem necessary so that the Greek Representative can be given a satisfactory answer to his request.

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

For the Director:

W. Kincaid
Major G-2

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

JM/pa 117A

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

24 Jul 44

REFERENCE : ACC/4005/T.

SUBJECT : Monies owing to Greek subjects.

: Internees and Displaced Persons Sub-Commission.

TO

1. Reference your letter IDP/671/101-6 of 18/7/44.

2. Please see attached minutes recommending action to be taken.

J. MORE, Capt.,
for Acting Chief Legal
Officer.

138

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

Doc/

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

Tel.Ext.679

AC/LCOS/L.

SUBJECT: Matter owing to Greek authorities.

TO : ~~Acting Director, Property Control.~~

20 Jul 44

SC/Grk

113A

1. Reference attached letter ICC/G3/101-6 of 11/7/44 from Interned and Displaced Persons Subcommission.

2. Subject to any technicalities of Italian law, which at the present stage have not been investigated, the claim put forward appears to be a straightforward one to be pursued in the Italian Courts and the only question appears to be how far ACC will sponsor it.

3. Would you consider whether this is a matter coming within your purview, and if so, give any necessary guidance on the matter?

J. NOYE, Capt.
for Acting Chief Legal Officer.

Copy of minute.

Copy to: Interned and Displaced Persons Subcommission.

The Negotiation should be made to the Greek Representative that he engage Italian Counsel to present this Claim. Wish not the Problem

Signed } Charles Cadet

137

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

BEST COPY POSSIBLE

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

Do not destroy / ACC / 4005 / L (112A) 20/7/44

Subject: Jurisdiction & Disposal of Claims Settlement

1. Ref.

2. There are two points ~~involved~~ urged (a) possibly after the war on the basis of the peace treaty & (b) mainly

claim against the ~~Italian~~ Banca di Napoli and (b) criminal prosecution against responsible officers of the bank.

3. The ACC is not taking jurisdiction of the claims of individuals. That must be dealt with by the individual himself or ~~by~~ his Government representing him. ~~Likewise~~ ACC is not in a position to ~~take~~ urge criminal action ~~in a case~~ even if possible. There is some basis for such action.

~~4. The records of the Claimant & Lawyer~~ ~~Possibly Criminal~~ ACCOR

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

4005

116A

HEADQUARTERS
INTERNEES AND DISPLACED PERSONS SUB-COMMISSION CFF/jd
ALLIED CONTROL COMMISSION
APO 394
Tel. 489081 Ext. 392

IDP/671/101-6 18 July 1944

SUBJECT : Monies owing to Greek Subjects.

TO : Legal Sub-Commission

1. Ref attached copies of letters from Head of Greek Mission and Mr. KOLIAS THEODORE and KOLIAS DANIEL.

2. Would you kindly give your opinion as to what course of action should be taken regarding this case.

LEGAL SUB COMMISSION
CIC
OCIO
Chief Counsel
CIO
Italian Section
Ct. MKS

For the Director.

C.F. FOTHERGILL
Lt. Colonel
Deputy Director

135

C*O*P*Y

(1163)

Rome, the 14 th July 1944.

TO:

COMMANDER J. MELISSINOS
Greek Representative
ROME

We have the honour to bring to your notice the fol owing:

On the 4 th of November 1942 we were arrested and sent by the Italian Authorities, of the Island of Corfu to the Island of Ponza, and shut up in the concentration camp there.

Our families paid the following sums to the Agency of the Banco di Napoli at Corfu to be remitted to us for our monthly expenses.

For DANIEL KOLIAS :

On the	25. 1. 43	300.-	Liras
" "	1.2. 43	300.-	"
" "	1. 3. 43	1000.-	"
" "	1. 4. 43	1000.-	"
" "	6. 4. 43	1000.-	"
	15. 5. 43	1000.-	"
	4. 6. 43	1000.-	"
	Total	5600.-	Liras

For THEODORE KOLIAS :

On the	23. 1. 43	300.-	Liras
" "	1. 2. 43	300.-	"
" "	1. 3. 43	1000.-	"
" "	6. 4. 43	1000.-	"
" "	15. 5. 43	1000.-	"
	4. 6. 43	1000.-	"
	Total	4600.--Liras	

13:

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

On the 4 th of November 1942 we were arrested and sent by the Italian Authorities, of the Island of Corfu to the Island of Ponza, and shut up in the concentration camp there.

Our families paid the following sums to the Agency of the Banco di Napoli at Corfu to be remitted to us for our monthly expenses.

For DANIEL KOLIAS :

On the	25. 1. 43.....	300.-	Liras
" "	1.2. 43.....	300.-	"
" "	1. 3. 43.....	1000.-	"
" "	1. 4. 43.....	1000.-	"
" "	6. 4. 43.....	1000.-	"
" "	15. 5. 43.....	1000.-	"
	4. 6. 43.....	1000.-	"
	Total	5600.-	Liras

For THEODORE KOLIAS :

On the	23. 1. 43	300.-	Liras
" "	1. 2. 43	300.-	"
" "	1. 3. 43.....	1000.-	"
" "	6. 4. 43	1000.-	"
" "	15. 5. 43	1000.-	"
	4. 6. 43.....	1000.-	"
	Total	4600.--Liras	

None of the above sums are paid to us by the agency of the above bank in Ponza, which was criminally negligent because it well know that life or death hung on the payment.

It is well known that the rations in Italian concentration camps were completely insufficient and many deaths of starvation demonstrated this fact.

We now submit to you the present report with the prayer that the Greek Government will take int rest in our case, recover the above sums and credit us in Egypt for which we are now leaving with the amount in British currency.

Your obedient servants:

KOLIAS DANIEL
KOLIAS THEODORE

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

4005

1157

ALLIED MILITARY GOVERNMENT

Province of Siena

Ref: SI/6

4 August 1944

SUBJECT : Permits to Travel

TO : R.L.O. Region VIII

1. The regulations governing civilian travel are contained in Gen Order 24. A difficulty has however arisen in their practical application.

2. Persons living north of the "Control Line2 cannot travel more than 10 Km from their residence without obtaining a " pass", Persons wishing to travel north acress the " Control Line " must also have a pass. The location of this Control Line will, it is stated, be notified from time, to time. To the writer 's knowledge, no such notification has ever been published , and yet to secure a conviction it must be proved in evidence that this been done.

3. Art. I Sec .2 states that the possession of a pass to travel north of the Control Line does not exempt a person from the necessity of obtaining a permit to travel more than 10 Km. from his residence. (It will be noticed that the pass referred to in sec . I is now described as a permit). Does this mean that in such a case a man will require two documents, one a pass to cross the Control Line, and a second permit to travel more than 10 km? And is there any distinction to be drawn between a pass and a permit? I might add that the words in the Italian version are also different, " permesso " and " Lasciapassare ". The words are useed indiscriminatelythroughout the Order, and yet Sec. 2 seems to imply that there is a difference.

4. Pending a ruling , I have advised the Police prosecuting the case to charge the accused under Proc. I Art. V Sec. 46 , though the crossing of the Control Line, if it could be proved, would to my mind be an aggravating factor.

CAPT.
Prov. Legal Officer

1ST. IND

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

more than 10 Km from their residence without obtaining a " pass", Persons wishing to travel north across the " Control Line " must also have a pass. The location of this Control Line will, it is stated, be notified from time, to time. To the writer 's knowledge, no such notification has ever been published , and yet to secure a conviction it must be proved in evidence that this been done.

3. Art. I Sec .2 states that the possession of a pass to travel north of the Control Line does not exempt a person from the necessity of obtaining a permit to travel more than 10 Km. from his residence. (It will be noticed that the pass referred to in sec . I is now described as a permit). Does this mean that in such a case a man will require two documents, one a pass to cross the Control Line, and a second permit to travel more than 10 km? And is there any distinction to be drawn between a pass and a permit? I might add that the words in the Italian version are also different, " permesso " and " lasciapassare ". The words are used indiscriminatelythroughout the Order, and yet Sec. 2 seems to imply that there is a difference.

4. Pending a ruling , I have advised the Police prosecuting the case to charge the accused under Proc. I Art. V Sec. 46 , though the crossing of the Control Line, if it could be proved, would to my mind be an aggravating factor.

[redacted] CAPT.
Prov. Legal Officer

1ST. IND

RVIII/19/2010/1
RLO, Region VIII, AMG

TO: C.L.C., HQ, AGC

12 Aug 44

1. The answer to the question raised in the basic letter is of interest to more than one Region . Because opinions thereon should be uniform it has been decided to forward the same to your Office for answer .

LEGAL SUB-COMMISION
→CLO
DCLO
Chief Co
CJO

h.h. JOHN N. WEBER
Colonel Infantry
Regional Legal Officer

Asst. RLO.

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

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

115Y

Regd S/Con -

1. Publication of "Control Line"

The "Control Line" is circulated to Regional Commissioners, who should publish it. In future AAI are going to have notices posted on roads informing the public that they are entering Enemy areas. The latest boundary of the Control Line was circulated to Reg. Comms on 5th July 1944 by AC.MG (Ref 316/154/(A))

2. Cert I Sec 2

132

A civilian does not require two passes for one journey. The pass to cross the Control Line will state that he may travel from A to B (in Enemy area). Having reached

informing the public that they are entering
Enemy areas. The latest boundary of
the Control line was circulated to Reg. Commrs
on 5th July 1944 by RC & MG (Ref 316/154/(A)

Part 1 Sec 2 .. 135

A civilian does not require two passes for
one journey. The pass to cross the
Control line will state that he may travel
from A to B (in Enemy area) Having reached
B he may not then travel more than 10 kms
without a pass. As this Section is
redundant it has been omitted from the
revised order. "Pass" & "Permit" are
referred to in this Section They are
identical.

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

3. In the English version, the reverse Carbon only the word "pass" is used

The Italian translation uses the word "permesso" (although in the original order "permesso" and "lasciapassare" were used.)

4. It is desirable that prosecutions should be brought under Byelaw 24

H. Winton
Lt. Col

14th May 1944

NB. The difficulty about publication of the Control Zone should be solved by Reg. Censor publishing when notified or by AAI notices

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

were used.)

4. It is desirable that prosecutions should be brought under Para Order 24

[signature]
15.VI

14th July 1944

137

NB. 1. The difficulty about publication of the Control Zone should be solved by Regl. Commrs publishing when notified of by AAI notices

2. The two passes & the use of "permit" "pass" will be cleared by the publication of the revised Order.

[signature]

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

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

File

(116A)

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

ACC/4005/L.

ART/pa.
1/8/44.

SUBJECT : RDL 1934 No.383 .

TO : RLO (thru RC) Region 5 .

Replying to your R5/511/17 dated 28 July 1944; there has been no change in the law as set out in the Articles in question.

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

130

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

114A

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/pa.
1 Aug 44.

ACC/4095/L.

MEMORANDUM : To the Acting Chief Commissioner.

1. With reference to your enquiry of yesterday about the citizenship status of the lady who was born in New York in 1884, I find that the American Embassy here has no information that would help us. However, I am advised that there is an American Consul in Naples and one of the duties of a Consul is to advise on citicenship matters. I have handed to an American lawyer in Region 3 a memorandum setting forth the facts you gave me and have asked him personally to see the Consul immediately on his return there/give me the answer. I think it likely that some further facts will have to be obtained possibly in addition to those we discussed. As soon as I receive a report on the interview with the Consul I will let you know the results and what more facts, if any, will be required for making a determination.

RICHARD H. WILMER,
Colonel, C.A.C.,
Acting Chief Legal Officer.

1427

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

113A

1

File

HEAD QUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

/rlp.
31 July 1944.

AO//4005/1.

MEMORANDUM FOR : Colonel Charman.

Captain Stone, Acting Chief Commissioner, asked me today to secure an answer for him on a citizenship question.

It appears that a woman was born in New York in 1882 her parents being Italians. Her father had some connection with the Metropolitan Opera Co. When she was two months old, she was brought back to Italy by her parents and has since been married twice to Italians. So far as I know she had not made any prior claim to American citizenship, but as you know, the citizenship laws have undergone changes from time to time and it may be that under the law as existed at the time of her birth, she may be regarded as an American citizen if she wishes to make the claim. In any event, would you be good enough to talk with the American Consul at Naples and let me know the answer to the question? I think it likely that the question cannot be answered on the present facts above given, but before going back for additional facts I would like to know exactly what the Consul will require for instance, the exact date of the birth in 1882 may become important. Likewise, it may become important as to whether the woman ever visited the United States later and whether she travelled on Italian passports when she was old enough to travel, etc.

Without knowing exactly what facts are required in a case of this kind, I have not tried to secure through Capt. Stone more facts than he gave me. It may well be that on the facts that I stated above, there is no chance of her being considered an American citizen, however, will you please let me know how the situation stands and what, if any, additional facts should be submitted?

128

R. P. CHARM,
Colonel, JAGD,
Acting Chief Legal Officer.

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

112A

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commiss
APO 394

ART/pa.
30 Jul 44.

ACC/4005/L.

SUBJECT : Italian National[illegible]y.

TO : Political Sec[illegible]on, ACC.

returned

1. Replying to yo[illegible] memo ref[illegible]. 226/2/44 dated 27/5/44, the date of the Ita[illegible]an law providing that the foreign wife of an Italian husban[illegible] automatically acquires Italian Nationality by marriage is [illegible] June 1912 (No.555 - Art.10 - para 2.).

2. However, it should be noted that where the foreign wife is resident outside Italy, she may retain her nationality of origin in cases where the law of the State to which she belongs so provides.

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

127

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

CLOOG 30 JUL 1944 A.C.C.

Regd CLTA 7361

TO CLO HQ ACC

FROM HQ REGION 5 ACC

R5/511/17

28 July 44

SUBJECT R.D.L. 1934 , N. 383, Arts 42,44,45.

Would you advise please whether there has been any modification of the above articles which relate to

(a) the incompatibility of the office of Sindaco and that of Consigliere di Prefettura, and

(b) the oath to be taken by the Sindaco before entering office.

LEGAL SUB COMMISION
CLO
DEPUTY
Chief Counsel
CJO
Italian Section

W. F. BERRENS
Colonel, RLO
for Regional Commissioner

126
335

1436

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

ART/pa

110A

HEADQUARTERS
ALLIED CONTROL COMMI. ION
Legal Sub-Commission
APO 394

REFERENCE : ACC/46405/L. 28 Jul 44

SUBJECT : Miss Andree Melchers.

TO : The Royal Netherlands Mission ·
Displaced Persons Sub6Commission, ACC.
(Att. Mr.A.H.Luijdjens).

1. Replying to your letter of 24 July 1944 ref. 360632, as it is not written the province of this Sub-Commission to advise on individual cases of status and nationality, it would appear that the best course for Miss.Melchers would be to seek the intervention of the R. Netherlands Consul on her behalf.

2. It is understood that a Netherlands Consulate is now functioning in Rome and no doubt this official could take the case up with the Italian Ministry of Foreign Affairs.

3. If it is found that a question of general principle is involved adversely affecting the interests of United Nations nationals, this Sub-Commission will be pleased to consider the matter from the broader angle.

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

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

JM/pa

HEAD QUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

REFERENCE : ACC/4005/L. 24 Jul 44

SUBJECT : Monies owing to Greek subjects.

TO : Interiess and Displaced Persons Sub-Commission.

1. Reference your letter IDP/571/101-6 of 18/7/44 .

2. Please see attached minutes recommending action to be taken.

J. MOEN, Capt.,
for Acting Chief Legal
Officer.

124

NETHERLANDS GOVERNMENT

FOREIGN AFFAIRS

Col Mackrah

119A

R. NETHERLANDS MISSION TO THE D.P.S.C., A.C.C.
Correspondence: Via Omero 12, Valle Giulia

360.632

Rome, the 24th July 19++

Subject: DOCUMENTS ANDREE MELCHERS

Dear Sir,

I herewith beg to comunicate you, that Miss ANDREE MELCHERS, born at Brussel the 28th Feb. 1907, probably of Netherlands nationality (father FRANS MARIE MELCHERT, probably Dutch, mother JEANNE MELCHERS DOMMARTIN, Belgian by birth but Dutch while married to a Netherlands subject) living in this moment in the Refugee-Camp "Cinecittà" near Rome is absolutely prived of documents which prove her identity and nationality.

She has been arrested on the 13 May 1940 and was condemned by the fascist Tribunale Speciale on 8 November 1940 to sixteen years of prison as being guilty of espionage in the service of the French Republic. Her arrest took place at Formia, but she tells me that on the day of her trial she saw, mixed up with the other papers, her Netherlands passport; so this might probably still be in Rome. When she was freed from the prison of Perugia, by the International Red Cross, one day before

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

Dear Sir,

I herewith beg to comunicate you, that Miss ANDREE MELCHERS, born at Brussel the 28th Feb. 1907, probably of Netherlands nationality (father FRANS MARIE MELCHERT, probably Dutch, mother JEANNE MELCHERS DOMMARTIN, Belgian by birth but Dutch while married to a Netherlands subject) living in this moment in the Refugee-Camp "Cinecittà" near Rome is absolutely prived of documents which prove her identity and nationality.

She has been arrested on the 13 May 1940 and was condemned by the fascist Tribunale Speciale on 8 November 1940 to sixteen years of prison as being guilty of espionage in the service of the French Republic. Her arrest took place at Formia, but she tells me that on the day of her trial she saw, mixed up with the other papers, her Netherlands passport; so this might probably still be in Rome. When she was freed from the prison of Perugia, by the International Red Cross, one day before Perugia was liberated by the Allied Forces, no document of any kind was given to her.

Without her passport, she cannot obtain an Italian residence-permit and without that it is impossible to hire a room to live in. Moreover she cannot be assumed by the French Forces for an administrative employment, if she cannot prove her identity. So my demand to you is, whether the A.C.C. can compel the Italian authorities to give back to Miss Melchers her Netherlands passport, which must exist in the archivs of the Tribunale Speciale, most probably still in Rome.

Thanking you for anything you can do for Miss Melchers,

I am, Dear Sir
Yours faithfully
A.H. Luijdjons

Royal Netherl. mission
to the D.P.S.C., A.C.C.

To the Chief Officer
of the Legal Branch, A.C.C.

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

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

FO 1005

118A

(226/2/44)

Mr Caccia.

The Embassy at Cairo have asked us to ascertain the date of the Italian law according to which it is understood that foreign women marrying Italians Automatically acquire Italian Nationality. Could you please let me know the answer?

27.5.44

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

4005 LEGAL SC 9875 1413

ACC

116A

HEADQUARTERS
22 JUL 1944
A. C. C.

~~HAF~~

LRAR V MEAV 257

TO CLO LEGAL SUBCOMMISSION ~~REGION 2~~ ACC ROME

FROM RLO REGION 2

2201/71/1 ADVICE REQUESTED AS TO WHETHER
MARRIAGE OF CANADIAN WOMAN TO AN
ITALIAN WILL
BE VALID
THI 221025
RPTN 257 CLO
~~2 2201/71/1 221025~~
DWVB

N46/22

A.C.C. DIST
ACTION: LEGAL SUB COMM
INFO: A/C C
C.A. B2
FILE (2)
FLOAT

Pvt Ford

ACTION

121 5.44

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

4005

(157)
21 July

Memorandum for Legal Sub-Commission
Adv. HQ. ACC.

Capt. Mazur—

Thanks for the information.
I believe that we can justly
claim that all medical supplies
(expendable) turned over to us
by the 5th + 8th Army were found
in fixed hospital installations
and that it might be better
not to raise this question
officially.

M E Griffin
Col. MC.
Supply Board
Public Health
Sub-Com.

1st Page

It would be
well to keep these
Some file of "Legal opinions"

21/7

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

Col. Griffin

The attached note (which has been seen and agreed by Col Wilmer, ~~Eisenhower~~ is the reply which would be given by this Sub-Commission if you decide to put the question to us.

J Rowe

20/7/44. Capt

Page 863251
16

(1147)

Subject: Captured Enemy Medical Material

To: Acting C.L.O.

1. Col Griffin, Public Health Sub-Commission, called to ask whether A.C.C. would be justified in (a) selling (b) giving away or (c) applying to civilian uses medical material of German and Italian origin captured by our forces.

2. As regards material captured in mobile medical units, we are apparently entitled to use it for the wounded and sick. Subject to this, we are under obligation to restore it. (International Convention 9.6 Article 14)

3. As regards material captured in fixed medical establishments, it seems that, subject to the primary obligation to apply them for the benefit

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

civilian [illegible]

Italian origin captured by our forces.

2. As regards material captured in mobile medical units, we are apparently entitled to use it for the wounded and sick. Subject to this, we are under obligation to restore it. (International Convention 9.6 Article 14)

3. As regards material captured in fixed medical establishments, it seems that, subject to the primary obligation to apply them for the benefit of the wounded and sick (which I take to mean wounded and sick already in those establishments or others in the vicinity who are unprovided for) the material becomes the absolute property of the captors who may dispose of them as they think fit. (see ibid Article 15)

~~Fit~~. Accordingly, circumstances may exist in

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

FORM. Mo

GOVERNO MILITARE ALLEATO

FOGLIO D'ACCUSA

PLACE .....
Luogo

DATE .....
Data

....
(NAME OF DEFENDANT) (ADDRESS)
(Nome dell'Accusato) (Indirizzo)

IS HEREBY CHARGED WITH THE FOLLOWING OFFENSES :
è qui accusato delle offese seguenti :

First Charge : .....

Particulars : .....

.....

Secund Charge : .....

Particulars : .....

.....

.....

TRADUZIONE

Prima Accusa : .....

Dettagli : .....

.....

Seconda Accusa : .....

Dettagli : .....

.....

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

First Charge : _____

Particulars : _____

_____

Secund Charge : _____

Particulars : _____

_____

_____

TRADUZIONE

Prima Accusa : _____

Dettagli : _____

_____

Seconda Accusa : _____

Dettagli : _____

_____

_____

(Se non tradotto dall'ufficiale, voi dovete farvelo tradurre da un amico o presso qualsiasi Ufficio di Questura).

Le suddette accuse sono riferite a processo davanti _____
(NAME AND ADDRESS OF COURT)
(Nome e indirizzo della Corte)

Per ordine

_____
Giudice, Tribunale Militare Inferiore o altro Individuo Autorizzato.

TIP. V. BELLOTTI - PALERMO

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

which such supplies could be ~~used or~~ disposed of ~~or diverted by A.C.C.~~ for civilian use.

4. If you agree with the above, I will inform C.S.I. Griffin accordingly.

5. The Convention in question is printed at pp. 361-2 of the British M.M.L.

Yours.

20/7/44. Capt.

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

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

(IIA)

TRADEMARK 283
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

14 Jul 44

AGC/4005/L

SUBJECT: Person born in BARI of Italian father.

Dear Captain Harris;

There is no doubt that the Home Office may decide that this man has not lost or may regain his British nationality. It is a question of facts. His children would follow his nationality in any case and his wife also unless her national law prevented her doing so and even this is doubtful.

If you wish more particulars please send the man to see me.

Many congratulations,

Yours

97755

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

III B

Yale

4009

Captain Donald Harris,
97 F.A.S.,
CMF.
8 July 44.

Dear Col Hannaford,

A legal question has been put to me here by a man born in 1921 of an Italian father (mother, prior to marriage being English) who, up to the age of 21 (1942), had a British Passport. Then, however, as he had come to Italy, his British Passport was withdrawn by the Italian Government and he was, he says against his will, given Italian nationality.

Now we have arrived he wants to know:-

(a) whether he can possibly regain British nationality.
(b) whether, in that event, his wife and children also would be British.

I have no idea whatsoever what international law says on this subject, but should be most grateful if you could let me have a ruling (without prejudice, of course) or tell me to whom I could apply for the information.

Yours sincerely,

Donald Harris

Lt-Col. Hannaford,
Legal Dept,
AFC, MAIR.

116

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

4005

ADVANCE HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

G.G. B./342 110

ACC/M/352

7 Aug 45

Subject: German Functionaries.

To : Senior Legal Officer, Hq, 3th Army.

1. If you are of opinion that the above mentioned have not committed an offense cognizable by MG Courts and if ACC does not want them interned, there is nothing further that can be done by this H. Q. in this respect.

2. The Allied Government do not decide whether they are interested in having action against such persons, until the files are communicated to them through this H. Q.

See G.G. 110 B

U.S. MAYFIELD
Lt. Colonel
Officer i/c Allied Control
for Chief Legal Officer.

Copy to: Regional Legal Officer.
Region IV.

113

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

(67)

4005

1 10 48

HEADQUARTERS REGION IV
Allied Control Commission
APO 394

TO : Chief Legal Officer, A.C.C., H.Q. Advance
(For Lt. Col. Hannaford, Officer i/c Italian Courts).

FROM : Regional Legal Officer, Region IV.

SUBJECT: German Sympathizers.

REF : R4/LE/Reg/P/06.

DATE : 6 July 1944.

1. The enclosed duplicate letters have been received from G.L.C. 8th Army.

2. Although the subject matter appears to affect Rome Province it would seem that, both from the form of address and from the nature of the inquiry in Paragraph 3, it is a question intended for you.

3. Inasmuch as your answer will affect our region it would be much appreciated if a copy thereof could be sent to us.

H. L. Loiseaux

Colonel,
Regional Legal Officer
Region IV.

111

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

NEAR EAST/AFRICA
ALLIED CONTROL COMMISS
Legal Sub-Commission.
APO 394

HHW/pm
(1891)

REFERENCE : AGO/4005/L. 4 July 44.

SUBJECT : Enquiries to employees - Insurance.

TO : R.C. & E.P. Section.

1. Reference to your 393/17/0A dated 3 July 44.

2. I am not familiar with the organization mentioned or its component members, which makes it difficult to answer the first question of responsibility. In any event it may well be that at least the person locally in charge of the direction of the organization would be subject to suit even if the organization itself were not.

3. There would seem to be two types of insurance that may be taken out (a) workmen's compensation insurance to cover injuries to employees and (b) insurance against injuries to third persons or property of third persons. I am not familiar with insurance in Italy. Either Finance Sub-Commission or Industry & Commerce Sub-Commission would know something about Italian insurance.

4. As a practical matter, assuming the members of C.M.C.W. are organizations similar to the American Red Cross, I suggest the same enquiry be made at the American Red Cross where undoubtedly the whole field has been explored and appropriate means adopted.

RICHARD H. WILDER,
Colonel, C.A.C.
Acting Chief Legal Officer.

123

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

14005

Regt 109B

3893.

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

Ref./393/17/CA 3 July 194[illegible]

SUBJECT: Enquiries to employees - Insurance.

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

There is attached hereto copy letter dated 30 June 44 from Council of Voluntary War Work, North Africa and Central Mediterranean. May we have your comments on the points raised in the letter.

Norman E. Fiske
Colonel
Deputy Executive
Commissioner

JSR/JR

Les pilotes privés français

112

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

COUNCIL OF VOLUNTARY WAR WORK
North Africa Central Mediterranean

10 RC

N° 2 Group C.V.W.W.
C.M.F.

Chief Staff Officer,
A.C.C.
C.M.F.

30th June 1944.

Dear Sir,

The Bodies in membership with the C.V.W.W. are employing a considerable number of Italian civilians and are anxious to know the extent of their responsibility in the case of an accident. If the employing Body is responsible in such cases it will be advisable for them to cover themselves by insurance and I shall be obliged if you will advise me (a) what measure of responsibility rests upon our Organisations and (b) if it is possible to cover ourselves by insurance in Italy for any responsibility which may be ours.

Yours faithfully

CHAIRMAN

WEW/GWK

11

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

4603 44

108

[illegible]

2. Under Art. 25 of U.S.S.R. any citizen residing outside of U.S.S.R. or permanent forces are punishable as if these forces were Italian, provided always that reciprocity exists.

2. Therefore if the surrender by an Italian subject of an Italian or Allied vessel [illegible] to the enemy to an offence punishable under the Code, the Italian Military Court can proceed against them.

[illegible] Italian nationals [illegible] Allied P.W., before [illegible] the accused [illegible] to the date of the offence. Such [illegible] Art. 24. 110

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

TRANSLATION

Military Personnel or persons outside the Armed Forces of the State who cooperate in committing a military offence are subject to the military Penal Laws (Art.1 et sq military Penal Code of War) - Art.84 of that Code is concerned with the giving of information by a soldier to an alien with the intention of assisting the military operations of a State at war with the Italian State.. Art.101 states that the penalties established by Art.84 et seq. shall also apply if the offence is committed to the prejudice of a State Allied with or associated in war with the Italian State.If it is not a case of military personnel or of association with military personnel Art.247 of the ordinary Penal Code applies. which deals with aiding (the enemy) in time of war. Art.268 of this Code given equivalent status to foreign State Allied with or associated in war with the Italian State.

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

106

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

SUBJECT. German sympathisers

HQ AAG Rear Eighth Army

CA/ZEP

3 Jul 44.

To. CLO (thro' AGC) Rome Area
(Attn. Officer i/c Italian Courts).

1. Several Italians of Province of Rome have been arrested by an AMG CAO and evacuated to Rome, where they are now believed to be in goal.

2. They are charged with betraying British P.O.W. and then helpers to the German while in German Occupied territory. Some of accused are said to be Members of Komando Corpanico.

3. The cases have been investigated by 406 FSS and it is considered by that Section that these persons should not be interned, but that they should not be allowed to return to their home until Palumbara and Nerola are behind Army Area.

4. This office has advised that the accused are not shown to have committed an offence cognizable by AMG courts.

5. Is the Italian Government interested in taking any action against persons in this category who are not public officials?

6. The files will be retained at this HQ until reply is received.

Edwin J. Mercer
Lt.Col., Ord.,
C.L.O.
for Group Captain,
Officer Commanding,
AMG Eighth Army.

HQ. RIC. N 1
A. Hq. Sc.
A 5/2
5 JUL 1944
RECEIVED

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

4005 (106A)

June 25, 1944

MEMORANDUM TO: Colonel Wilmer,
Legal Sub-Commission

Dear Dick:

Could you let me know what answer can be made to this inquiry from the Consulate General in Naples?

Samuel Reber

106

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

(13) ✓

IN REPLY REFER TO

FILE NO. 350.
GLB/BIMeC

DEPARTMENT OF STATE

THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

AMERICAN CONSULATE GENERAL
Naples, Italy, June 21, 1944.

Samuel Reber, Esquire,
[redacted] Allied Control Commission,
Political Section,
Naples.

Sir:

The Consulate General is in receipt of a telegram from the Department of State steting that a libel was filed against the United States on May 19, 1943 by a former Italian national for injuries sustained on December 1, 1942 on a public vessel of the United States.

Section 5 of the Public Vessels Act provides: "No suit may be brought under this chapter by a national of any foreign Government unless it shall appear to the satisfaction of the court in which suit is brought that said Government, under similar circumstances, allows nationals of the United States to sue in its court."

The Department of State therefore desires to know whether nationals of the United States under date of December 1, 1942, of May 19, 1943 and of January 5, 1944, could have sued the Italian Government in the courts of Italy within the reciprocal meaning of Section 5 quoted above.

105

It would seem that this information should be obtained from the Italian Ministry of Justice, through the Allied Control Commission. Please take the necessary steps accordingly to obtain it for me so that I may promptly pass it on to the Department of Stete. The reply of the Ministry of Justice, if in the affirmative, should as far as possible specifically refer to provisions of Italian law.

I enclose a translation in Italian of this letter to assist the Ministry of Justice in understanding the question raised.

Very truly yours,

George L. Brandt,
American Consul General.

Enclosure:
Italian translation.

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

File No. 350.
GLB/BHdeC.

(13.)

THE FOREIGN SERVICE

OF THE
UNITED STATES OF AMERICA.

Traduzione.

American Consulate General.
Napoli, 21 Giugno, 1944.

Samuel Reber, Esquire,
Chief Allied Control Commission,
Political Section,
Napoli.

Il Consolato Generale ha ricevuto un telegramma dal Dipartimento di Stato indicante che il 12 Maggio 1943, è stata fatta una querela contro il Governo degli Stati Uniti da un ex cittadino Italiano per danni subiti il 1 Dicembre 1942 a bordo di un vapore a servizio degli Stati Uniti.

Il Paragrafo 5 della Legge Sui Vapori Governativi dispone che: "Nessun processo può essere iniziato sotto questo capitolo, da qualsiasi cittadino di un governo straniero a meno che il tribunale in cui il processo è presentato non abbia prova soddisfacente che tale Governo, in simili circostanze, permetterebbe a cittadini degli Stati Uniti a promuovere causa nei suoi tribunali".

Il Dipartimento di Stato desidera quindi conoscere se un cittadino degli Stati Uniti in data del 1 Dicembre 1942, del 19 Maggio, 1943 e del 5 Gennaio 1944, avrebbe potuto intentare un processo al Governo Italiano, nei Tribunali d'Italia secondo il significato reciproco del paragrafo No. 5 sopra citato.

Sembra che quest'informazione può ottenersi dal Ministero di Giustizia, attraverso la Commissione Alleata di Controllo. Prego quindi di prendere i provvedimenti necessari per ottenere quest'informazione con sollecitudine in modo che io possa a mia volta trasmetterla al Dipartimento di Stato. La risposta del Ministero di Giustizia, se è nell'affermativo, dovrebbe specificamente citare le disposizioni della legge Italiana in riguardo.

10.

Accludo una traduzione di questa lettera in Italiano a fine di assistere il Ministero di Giustizia nel prendere visione della questione sorta.

F.to: George L. Brandt,
Console Generale Americano.

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

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394
Administrative Section

4005/L

3 July 1944

SUBJECT: Alleged political prisoners - ROME.

TO : RCWG. Section.

Reference your 314/150/CA, dated 1 July, 1944.

1. Attached is the CLO's opinion asked for, from which ~~you~~ ~~which~~ you will see that he agrees with the views expressed by AAI that the procedure adopted is not contrary to International Law.

2. The view expressed by Lt. Col Pollock is not concurred with.

S.H. White, Lt. Col
for A/Head Adm Sec.

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

HEADQUARTERS
THEATER SERVICE FORCES
EUROPEAN THEATER OF OPERATIONS
U.S. ARMY
A.P.O. 887

SUBJECT: Alleged political prisoners - ROTA

TO: Adj Gen

1. According to the attached correspondence there would appear to be three classes of prisoners lodged in the special wing of the prison in ROTA:

(a) persons who may have committed hostile acts against the Allied Forces such as sabotage, espionage, etc., and,

(b) persons whose presence at large would be regarded as dangerous to military security, and,

(c) suspected persons who may be determined to fall under neither (a) nor (b).

It also appears that reasonably prompt efforts are being made to determine in which classification these people fall so that if in classification (a) they may be held, or if in classification (b) they may be sent to a PW camp as internees, or if in neither classification (a) nor (b) they may be released.

2. The above seems to be clear from the attached telegram of the 26 Jun 44. Under international law I see no objection to this procedure so long as this screening is done reasonably speedily and that as soon as a person is determined to fall merely into the internee class he is removed to a camp suitable for that purpose. International law recognizes the fact that even military prisoners of war may have to be held temporarily in jails etc. under the exigencies of a given situation. However internees like military prisoners of war should be removed to proper places of detention as quickly as possible. Certainly there can be no objection to hold in jail a person genuinely suspected of crime.

3. Lt.Col.Pollock in his attached letter of 16 Jun 44 refers to "political prisoners". This appears to be an improper description of all the classifications referred to in para 1 above. However as presumably internees are the people he particularly had in mind, I have dealt with that point at greater length. The rest is self evident anyway.

RICHARD M. MYERS,
Colonel, O.A.C.
Acting Chief Legal Officer.

Copy to: File AGO/4005/L. (Legal Opinions).

Encls: Cable AAI to AGO, Ref 466 dated 26 Jun 44
Letter Base Area Command to Col Pickett, Dated 16 Jun 44
Cable AGO to AAI, Ref 6192 dated 30 Jun 44
Letter Provost Sec to Adj Gen Ref/AJ/119/CA dated 1 Jul 44
(With Inclosure: Adj Gen to Legal dated 2 Jul 44)

102

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

(C3A)

4005

PSYCHOLOGICAL WARFARE BRANCH
UNIT NO.8 - APO 512

1st July, 1944

Dear Colonel Upjohn,

Many thanks for your ACC/4005/L of the 30th June, 1944 on copyrights. I have forwarded it to Mr. Edman, and we shall adopt your recommendations as P.W.B. policy on copyright schemes.

Yours sincerely,

JAMES M. MINIFIE,
Liaison, ACC-PWB:
Acting Head - Naples Operation:

107

Colonel G. R. Upjohn,
Legal Sub-Commission,
ALLIED CONTROL COMMISSION,
S A L E R N O.

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

(102A) 3702

HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & H.C. Section
APO 394

Ref/314/150/CA. 1 July 1944.

SUBJECT: Alleged Political Prisoners - ROME.

TO : Admin. Section.

I forward copies of letter and two telegrams on this subject and will be grateful for your opinion on the comments contained in AAI's reply to our telegram.

NORMAN E. FISKE,
Colonel,
Deputy Executive
Commissioner.

GWTS/Auc.

Legal

May we have your views on the opinions expressed in B.C. as to the law on this point

Admin
-2 JUL. 1944

10

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

(10-23)

ROME AREA COMMAND
ALLIED MILITARY GOVERNMENT
A.F.O. N° 394, U.S.ARMY
POLICE HEADQUARTERS

16 June 1944

Subject: Civilians Arrested on Security Grounds.

To : Col. FISKE

1. There are over 200 civilians confined at present in Carcerie Regina Coeli. They have been arrested on security grounds and the responsibility for their arrest and detention lies with Lt. Col. FISCHER, G-2 Section. Rome Area Command.

2. These political prisoners are segregated in a separate wing of the prison and they are being well looked after in the way of food and are in complete charge of C.I.C. of Rome Area Command.

3. It is contrary to International Law for political offenders to be kept in civil jails and I know that Col. FISCHER, who is alive to the problem, is doing what is possible to move them elsewhere.

4. From an A.C.C. Public Safety angle, the sooner these prisoners are moved, to other accomodations preferably out of the Rome area, the better.

J.R. POLLOCK,
Lt. Col.
Chief, AMG Police
ROME

Copies to: Lt. Col. Fischer
Brig. Lush.

99

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

S E C R E T

1028

6402

ACC MAIN (Civil Affairs Branch)

SECRET
PRIORITY

20 June 1944
Vapor 165 - Lush

AAI REPEATED ROME AREA COMMAND ROME REGION

GS 1(c)

FOR [GEORGE SUGAR ITEM PAREN BAKER PAREN] ✂ [PAREN [TO AAI REPEATED ROME AREA COMMAND ALSO FOR ROME REGION FROM ACC MAIN PAREN] UNDERSTAND THAT [TWO ZERO ZERO] POLITICAL INTERNEES CONFINED IN CIVIL GAOL ROME ✂ THIS CONTRARY TO INTERNATIONAL LAW AND PRINCIPLES ADMINISTRATION ✂ IF NOT ALREADY MOVED GRATEFUL IF YOU WOULD HAVE THEM DISPOSED OF OTHERWISE IN CONSULTATION AMG ROME REGION AND AREA COMMANDER

ROGER B. DERBY
Capt. AGD
Deputy Adjutant

SECRET

98

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

(102D) 4

ALLIED CONTROL COMMISSION

INCOMING MESSAGE

TO: ACC MAIN INFO ROME AREA COMMAND

N° N/67/28

FROM : ADV AAI

CONFIDENTIAL

N° I(b) 466

NONE

JUNE 26/1000

REF YOUR MESSAGE DATED 20 JUNE REGARDING INTERNEES CONFINED ROME. MESSAGE NOT PROPERLY UNDERSTOOD AS PARTIALLY CORRUPT. SPECIAL WING OF REGINA COELI GAOL BEING USED FOR CONFINEMENT ALL PERSONS ARRESTED BY ALLIED AUTHORITIES ON SECURITY GROUNDS. GREAT MAJORITY ARE BEING DETAINED PENDING INVESTIGATION IN CONNECTION LARGE ESPIONAGE SABOTAGE ORGANISATION LEFT BY ENEMY IN ROME. IN THESE CASES INVESTIGATIONS PROCEEDING AS RAPIDLY AS POSSIBLE TO DETERMINE WHETHER INDIVIDUALS ARE TO BE RELEASED INTERNED OR TRIED. SMALL PROPORTION THOSE CONFINED ARE PROMINENT FASCIST TYPE ARRESTED WITH VIEW INTERNMENT. DISPATCH OF THESE TO 371 DW CAMP IS IN PROGRESS. NO POLITICAL INTERNEES INVOLVED ALL ARE SECURITY CASES. ABOVE BELIEVED IN ACCORDANCE INTERNATIONAL LAW AND IS SIMILAR TO PROCEDURE FOLLOWED THROUGHOUT ITALIAN CAMPAIGN

ACC DIST

ACTION CA BR (2)
INFO DEP CC
ADMIN SEC
SEC BR
FILE
FLOAT

97

JUNE 28/

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

(101A)
GRU/DR

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
A20 394

REFERENCE : A32/4005/L. 30 Jun 44.

SUBJECT : Payment for Copyright.

TO : P.W.B. Italian Theatre Hq.
(Att. for Lt. James I. McGirr)

98A

Thank you for your letter on copyright.

I enclose copies of two letters I wrote on 10 and 14 Dec. 1943 at the request of the P.R.O. for Earl Radio expressing my opinion on payment for copyright.

As you see I am of opinion that in principle copyright must be paid for, if used by the operators of any station.

I would add observating

(1) Payment should be made on the footing that the copyright has been requisitioned and therefore the amount to be paid must be a fair compensation. Though payments made by Italian wireless operators to the Authors Society in the past is some indication of a fair sum to pay it is by no means conclusive ; any more than the rent of a house in peacetime is conclusive as to what the requisitioning authority should pay for the use thereof in wartime.

(2) All claims for requisitioned services are now handled by the Finance sub-Commission who turns the claims over to the Italian Government for discharge.

I suggest therefore that you should contact the Finance Sub-Commission for the purpose of working out the details of payment especially in relation to foreign owners who may not be members of the Authors Society. Furthermore if the Authors Society is not the legal owner of the copyright but only a broker or agent then it would not seem practicable to make payment to the Society in respect of Foreign owners of copyright (see my letter of 14 Dec) it is only possible to advise on such cases 95.
knowing the circumstances of each case.

If I can help you further when you have considered this matter please let me know.

Yours sincerely

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

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission

C O P Y

10 December 1945

In reply
refer to : ACC/L/200

SUBJECT : Copyright in respect of performances at Radio Bari.

TO : Public Relations Officer.

In my view the use by U.S.W.A. of musical scores, gramophone records, etc., found on the premises of Radio Bari, for broadcasting purposes can be justified as a military necessity for the use of Radio Stations for propaganda is now a well established arm of warfare and such propaganda must naturally be accompanied by interspersed items of music and so on.

This use involves, however, notoriously the use of the natural scores and records but that of the copyright in the scores and records; and of course the copyright will in nearly every case be owned by private individuals (none of them without doubt nationals of the United Nations - though the position in law is the same whether the owner be an ally or enemy national), it is quite an established principle that the owners of the copyright are entitled to payment of royalties in respect of the use by U.S.W.A. of their copyright, and the only question that could be is as to the rate or mode of payment.

It does not appear practical at the moment to make any provision in respect of copyright royalties which is to be ultimately of finding the owner of the copyright, i.e. is, as will be appreciated, quite a different person from the actual owner of the score or gramophone record; he is normally the author or his assignee, and save in exceptional cases it will not be possible at the present juncture to trace the owner of the copyright without prejudicing the position in other countries - a burden which can hardly be undertaken by the Commission or U.S.W.A.

In my opinion, U.S.W.A. should keep an careful record of every piece performed, showing the title, composer, publisher, duration - i.e. giving all necessary particulars, i.e. title of the gramophone record, author and so on.

93

G.A.WRIGHT,
Col. AJ,
Chief Legal Officer, ACC.

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

(101c)

14 December 1943.

In reply
refer to : A37/1/ecc/

SUBJECT : Copyright Act - Public Act .

TO : Public Relations Officer, A.F.H.Q.

1. I am glad to note that a should be given to U.S.A.F. [illegible] use of copyright [illegible] should frequently require to [illegible] of [illegible] sources, who [illegible] give a receipt in the [illegible] it is [illegible] [illegible] by [illegible] and [illegible] or [illegible] a [illegible] [illegible] [illegible]

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

File 4005

(104A)

NEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission GRU/ap
APO 394

30 Jun 44

SUBJECT : Closing of Industrial Plants, Stores and Shops by Military Police.

TO : VP ADM SEC

1. Reference 765/L/CA of 25 Jun 44.

2. As to seizure of the liquor: this does not appear to be justified on the ground of requisition and indeed the requisition of the whole stock could not be justified by international law.

As a seizure it was wholly illegal; for goods (not susceptible to war use) of private owners can (apart from requisition) only be impounded in connection with judicial proceedings in AM Courts or on the circumstances now under review under Art.100 of the Public Security Law which confers on the Prefect ample powers to close the shop and so on if bad wine is sold.

The high handed and improper action on the part of F.B.S. warrants in my view the strictest investigations especially in view of a suspicion as to the use to which the wine may have been put.

3. The matter should in any event have been referred to A.C.C. for investigation as they are the duly constituted body for dealing with such matters. As an emergency and pending test of the wine etc. F.B.S. could no doubt have put the house temporarily out of bounds or even closed the shop and this would have been sufficient to protect possible purchasers in Naples.

4. File returned herewith.

Richard H Wilson
~~C. R. DEJEAN~~,
Colonel CAC
Deputy Chief Legal Officer.

Copy to Legal Opinions file - ACC/4005/L

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

97A

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

AGO/4.05/4. 27 Jun 44.

SUBJECT: Miss Lawrence - Requisitioned Building.

TO : Finance Subcommission.

1. Further ref AGO/307/4/52 of 20 Jun 44 and our letter AGO/4.05/4. of 22 Jun 44.

2. This Subcommission has now received from FCO Region 2 dated 19 Jun 44, referring to the same matter in specific rather than in general terms as your letter 20 Jun 44. We points out that some contracts of insurance contain specific use requirements which may be violated by the type of use under requisition. Also be indicated that insurance contracts may have been entered into by the occupant (and the owner) at the time of the requisition. Such occupant would no longer be occupying the property if taken over under requisition and the contract may become therefore ineffective.

3. While viewed generally as previously stated a contract of insurance is not necessarily incompatible with requisition, it would appear that a specific one in view of its limitations may become incompatible. This merely means that each specific contract would have to be examined in the light of the requisition to determine whether or not the particular contract is, because of its limitations, incompatible with requisition.

RICHARD H. DAVIES,
Colonel, GSC
Deputy Chief Legal Officer.

Copy to HQ Region 2 (Area HC).

97

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

PWB ITALIAN THEATRE HEADQUARTERS
PWB UNIT No. 8. APO 512

23rd June, 1944

Dear Colonel Upjohn,

Would you be good enough to help us to a solution of the radio copyright problem? It is set forth in the accompanying letter of Mr. Fornari, head of our Rome station.

In the early days we took the view that a captured radio station was as much a war weapon as any other piece of ~~enemy~~ equipment and that the programmes were directed essentially to the task of winning the war.

Under such circumstances we considered that the programming material which we used was also captured enemy stock and that we should no more be called upon to pay copyright fees for its use than we should pay Ansaldo royalties on captured ammunition shot from captured guns.

The armistice may have altered these conditions and we should appreciate a direction from you on the policy to be followed.

Sincerely yours,

JAMES M. MINFIE,
Liaison, ACC-PWB:
Acting Head, Naples Operation:

LEGAL SUB-COMMISION
Counsel
Section
CLERKS

Colonel G. M. Upjohn,
Legal Sub-Commission,
Allied Control Commission:

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

(988)

ALLIED FORCE HEADQUARTERS
PSYCHOLOGICAL WARFARE BRANCH (INC.)
RADIO ROME

June 20, 1944

To : C.W. Edman, A.D.P.W.C. - Italy (Lib.)
From : H.D. Fornari, Chief, Radio Rome
Subject : Liability and procedure concerning Copyrights

In the process of organizing our Program Dept. at Radio Rome we have come across the problem of copyrights, and should like to have the matter clarified in order to avoid misunderstendings and the possibility of future li= tigations.

The question in a nutshell is : "Does PWB Radio pay copyrights or not ?" In all our other stations we he= ver have, but there was no Authors' Society functioning in the other cities, while here there is the main office.

According to the Italian copyright law, we should pay the Authors' Society a fee on each piece of music, re= corded or live, which we broadcast. We should also pay them a fee on each play, sketch, dialogue or monologue we broad= cast, regardless of whether the piece was already written and printed or whether it was prepared especially for us by a staff writer. The thing would be even more complicated, as the fees would vary according to the number of stations broadcasting the same program simultaneously.

89

I am told that in normal times EIAR paid some 8 million lire a year to the Authors' Society. Fees on mu= sic were paid to the Society which in turn paid a smaller amount to the authors or editors. For prose, the mode of payment was to give an account to the writer, and pay the balance to the Society which gave the writer part of the balance itself and kept the rest.

./.

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

As far as we are concerned, we feel that the most convenient way to cope with the problem would be to do as we are doing in the other stations; namely :

1. Have dialogues and simple features prepared by staff writers paid on a monthly basis;

2. Contract individually with writers or composers for more important works, paying the artist a lump sum for the output and all rights to it;

3. Use music and scripts already published without pay=ing for them.

As a prompt clarification of the matter would be greatly appreciated, may I suggest that you contact Col. Ogilvie as soon as possible.

Harry D. Forward

HARRY D. FORWARD - P.W.B.
Chief RADIO NOIE

86

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

96A

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
Washington 25, D. C.

REPLY TO
ATTENTION OF:

Legal Subcommission
AEC 394

23 June 1954

SUBJECT: Fire Insurance - Requisitioned Buildings

TO : Finance Subcommission

1. Ref. ENGCW-E/53 dated 20 Jan 54.

2. A contract of insurance on property would not appear to be incompatible with a requisition of the same property as contemplated by Art. 30 quoted in your letter.

WILLIAM H. WEBER
Colonel, CmlC
Deputy Chief Legal Officer

87

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

(95A)

4005

HEADQUARTERS
ALLIED CONTROL COMMISSION
FINANCE SUB-COMMISSION

INS/105/F/53

20 June 1944

SUBJECT: Fire insurance - requisitioned buildings

TO : Legal Sub-Commission.

It has been reported from Region II that owners of buildings that have been requisitioned are demanding cancellation of policies of insurance against fire, by virtue of Article 30 of the Italian Civil Code. This Article reads:

"L'ordine di requisizione risolve di diritto qualsiasi
"contratto che abbia per oggetto il bene requisito, quando
"l'esecuzione del contratto non sia compatibile con l'ese-
"cuzione dell'ordine di requisizione. Questo, inoltre,
"libera di diritto il proprietario da qualsiasi obbligazione
"nei confronti dei terzi. La risoluzione dei contratti di
"cui sopra non dà luogo a rimborso di spese nè a risarci-
"mento di danni a favore di chiunque".

The purpose of requesting such a cancellation is not clear, inasmuch as no refund of premium is made. It is, however, possible that some owners may feel that in the event of damage by fire, they may obtain more by way of compensation from the requisitioning authorities than they would from the insurance company, especially if, as seems probable, the amount of insurande is inadequate for present costs of repair and replacement.

It is felt, however, that fire insurance cannot be regarded, as is contemplated in Article 30, as a contract incompatible with the requisitioning order, and your opinion on this point would be appreciated.

Major R.A.S.C.
Insurance Department
Finance Sub-Commission.

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

(97A) 1922

4005

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

19 June 44

Ref. :- 2201/70/A

Subject:- Insurance on requisitioned property

To :- Chief Legal Officer

1. A letter is enclosed from the Regional Insurance Officer on which this H.Q. will be glad of your instructions.

2. It would appear that if a property is requisitioned, as there is no privity of contract whatever between the occupier and the insurance company, and as the former can use the property for any purpose whatever irrespective of the terms of the insurance policy, the owner is entitled to cancel his policy.

LEGAL SUB-COMMISSION
CLO
DCLO
Chief
CLO
Legal Section
CL/RHS

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

See folios 95 + 96

H.Q., A.C.C., Region 2.

17 Jun 44

Ref: F.303/1/26

To: Finance Sub-Commission, A.C.C., Naples for Insurance Department.

Subject: Insurance on Requisitioned Property.

1. This is to confirm our conversation regarding the above.

2. The Article of the law on this subject is found in the "Legislazione Italiana" Chapter 2, Section 5, Art 30, and reads as follows:

"L'ordine di requisizione risolve di diritto qualsiasi contrattoche abbia per
"oggetto il bene requisito, quando l'esecuzione del contratto non sia
"compatibile con l'esecuzione dell'ordine di requisizione. Questo inoltre libera
"di diritto il proprietario da qualsiasi obbligazione nei confronti di terzi.
"La risoluzione dei contratti di cui sopra non da luogo a rimborso di spese
"ne a risarcimento di danni a favore di chiunque."

The quotation is given in Italian so that there may be no misinterpretation.

3. As explained, insurance agents in Bari are complaining that the owners of requisitioned buildings are taking advantage of the terms of this clause of the law to cancel insurance policies on their property. Whether or not they are entitled to do so is a matter that requires legal opinion, in view of the stipulation that such cancellation can be made where the execution of the contract is incompatible with the execution of the requisition order.

4. As similar circumstances will in all probability arise in other parts of the territory it is thought that the matter is rather one for action on a high level and might be very usefully discussed with the Legal Sub-Commission before any expression of opinion is given.

L. Frampton,
Captain,
Regional Insurance Officer.

Copy to Chief Legal Officer, Region 2.

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

of requisitioned buildings are taking advantage of the [illegible] the law to cancel insurance policies on their property. Whether or not they are entitled to do so is a matter that requires legal opinion, in view of the stipulation that such cancellation can be made where the execution of the contract is incompatible with the execution of the requisition order.

4. As similar circumstances will in all probability arise in other parts of the territory it is thought that the matter is rather one for action on a high level and might be very usefully discussed with the Legal Sub-Commission before any expression of opinion is given.

L. Frampton,
Captain,
Regional Insurance Officer.

Copy to Chief Legal Officer, Region 2.

81

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

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

4005

Legal 5

Advanced AFHQ
Petroleum Section
C.M.F.
A.P.O. 400

PET 19/18
9 June 1944

HEADQ. 10 JUN 1944 A. C. C.

SUBJECT: Captured POL

TO : Allied Control Commission
Legal Sub-Commission

1. In view of your ACC/4005/L dated 28 May 1944, it is desired to place on record the policy which is being adopted in regard to the question of payment for petroleum products which previously belonged to Italians and which were acquired by the Allied Armies in Sardinia and the mainland.

2. All such POL which is being used by the Allied Armies will not be paid for.

3. The balance which is being used or is still held by the Italians falls into two categories:-

A - POL previously owned by the Italian government and released either for use by the Italian Armed forces or to CIP for distribution to civilians.

B - POL previously owned by the civil distributing companies now taken over by CIP and by them released either to Italian Armed forces or civilians.

In all cases releases are made on instructions from this Section.

4. In neither of the cases mentioned above is it intended to raise any charge against the Italian Government or C.I.P. Any charge made by the Italian Government to C.I.P., or vice-versa, for products transferred is a matter for the Italians to settle themselves.

H. B. EYLES
Colonel
Petroleum Section

CC: Q. A.A.I.
CC: Financial Advisor A.A.I.
CC: Pet-Sec. AFHQ

Chief Counsel
Action Section
CLERKS

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

6th June 1944

93

Work file

Subject: Rights of occupying Powers over State employees.

TO : Deputy Chief Legal Officer.

1. The rights of an occupying power over employees of the State whose territory is occupied are limited by the principle that the sovereignty of the Government of the occupied State is only temporarily latent and does not pass to the occupant. The occupant's rights do not extend beyond measures for the purposes of the war, the maintenance of order and safety, and the proper administration of the country. (HLW para 314).

2. For the above purposes the occupant is entitled to suspend officials or alternatively to permit them to continue their functions, though he cannot compel them to continue. (HLW para 315).

3. The occupant is not in any permanent sense the legal successor of the Government of the occupied State. He does not succeed to the rights or obligations of any contract of service affecting the State employees; nor, as already mentioned, does he succeed to any authority which that government had over its employees. Any authority which he has over them is derived from an independent source; it is based on the fact of occupation.

4. Applying the above principles to the question as to how far the occupant can alter the grades, rank or authority of state employees, the answer is in my opinion as follows:

(a) For the purpose of the measures mentioned in paragraph 1, the occupant has an unrestricted right to entrust any functions to any state employee who is willing to assume them, to whatever extent those functions may differ from those which the employee was exercising under his own government. Within those limits the occupying power can confer on state employees temporary authority on any plane he may decide. He may create his own grades and designate them by his own titles.

(b) No act done by the occupant under subpara (a) above is of any continuing validity beyond the term of his occupation. No appointment made by him is in any way binding on the government of the occupied state, nor can it confer on any state employee any right against that government. Any purported interference with the normal grades of state employees is of no legal validity.

(1)

Jasper Mole

Captain.

4005

HEADQUARTERS
ALLIED CONTROL COMMISSION
OFFICE OF G-4
APO 394

SWM/KM/km. 92

G4/101/5.

30 May 1944.

SUBJECT: Italian Civilian Drivers.

TO : Regional Commissioner, Region I
" " " II
" " " III
" " " IV
" " " V
" " " VI
" " " VII
" " " VIII
" " " IX

S.C.A.O., A.M.G. 5th Army.
" " 8th Army.
Transportation Sub-Commission.
Economics Section.
Internees & D.P. Sub-Commission.
Italian Refugees Branch.

The following legal decision in regard to civilian drivers are issued for information and guidance of all concerned.

1. In reply to a question as to the financial responsibility of Italian civilian drivers of W.D. Vehicles with regard to loss of, or damage to vehicles by neglect, the reply was:

"Under Italian Law an Italian civilian driver is in the words of the Civil Code 'obliged to indemnify against the damage caused to persons or things as the result of the circulation of the vehicle, unless he can prove that he did everything possible to avoid the damage' ".

2. In answer to a further question as to whether a deduction could be made from wages:

"Under Italian law deductions from wages can be made only pursuant to agreement with the employee or pursuant to order of an Italian Court. Resort to an Italian Court by A.C.C. is out of the question. Of course a deduction pursuant to agreement with the employee is unobjectionable.

While A.C.C. has the absolute power in all the circumstances to make a deduction in the absence of agreement, such power, in all fairness, should be sparingly used and only after careful consideration in an individual case. Under such conditions, I suggest that a careful investigation be made of each accident and that no enforced deduction be made without the approval of H.Q., A.C.C.

The suggestion made, namely that the agreement with the civilian driver should contain a clause permitting deductions, seems a sound one, but even so the actual deduction should only be made after careful consideration by H.Q., A.C.C. in each individual case. In any event, the agreement should conform to Italian practice excepting exempting 750 lire per month of his wages from deduction.

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

1. In reply to a question as to the financial responsibility of civilian drivers of W.D. Vehicles with regard to loss of, or damage to vehicles by neglect, the reply was:

"Under Italian Law an Italian civilian driver is in the words of the Civil Code 'obliged to indemnify against the damage caused to persons or things as the result of the circulation of the vehicle, unless he can prove that he did everything possible to avoid the damage' ".

2. In answer to a further question as to whether a deduction could be made from wages:

"Under Italian law deductions from wages can be made only persuant to agreement with the employee or persuant to order of an Italian Court. Resort to an Italian Court by A.C.C. is out of the question. Of course a deduction persuant to agreement with the employee is unobjectionable.

While A.C.C. has the absolute power in all the circumstances to make a deduction in the absence of agreement, such power, in all fairness, should be sparingly used and only after careful consideration in an individual case. Under such conditions, I suggest that a careful investigation be made of each accident and that no enforced deduction be made without the approval of H.Q., A.C.C.

The suggestion made, namely that the agreement with the civilian driver should contain a clause permitting deductions, seems a sound one, but even so the actual deduction should only be made after careful consideration by H.Q., A.C.C. in each individual case. In any event, the agreement should conform to Italian practice excepting exempting 750 lire per month of his wages from deduction. Indeed, in view of the present value of the lira, you may think it wise, in consultation with the Labor Sub-Commission, to increase substantially this minimum sum. Any case, if so desired by H.Q., A.C.C. may be submitted to the Legal Sub-Commission for recommendations".

LEGAL SUB-COMMISION	
CLO	✓
DCLO	✓
Chief Counsel	
CJO	
Italian - Section	
CLERKS	

S.W. MILLER.
Major, R.A.
C-in-C.

Copy to: Legal Sub-Commission (your ACC/4005/L dated 12 May 1944 and even ref. dated 20 May 1944 refer.)

J 4 8 0

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

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

File

(91)

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394
ADMINISTRATIVE SECTION

30 May 44.

ACC/005/I.

SUBJECT : Requisitioning Brickworks.

TO : AAI 8 Army

Reference your G4/32 of 28 May .

1 It is agreed that 8 Army should be given every assistance possible but ACC has no power to decide civil rights of rival Italian nationals.

2 The advice given by RLO III Region is perfectly sound.

3 Payment for goods requisitioned may be paid into the Banca d'Italia (as agents for the Cassa depositi e prestiti). The claimants apply to an Italian Court which decides ownership and the owner draws out the money.

4 This is the only safe course to follow as should 8 Army pay a person who is not the owner they will not have paid for the bricks. It is no serious inconvenience.

5 The bank will supply details of procedure.

R.R. CRIPPS,
Lt Colonel,
for VP Adm Sec.

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

4882

40651 LEGAL SC 79

SUBJECT:- Requisitioning - Brickworks - Petrulla. 9291

AMG Rear Eighth Army

OA/32

28 May 44

EXECUTIVE COMMISSIONER'S BRANCH,
ALLIED CONTROL COMMISSION.

Copy to : ADMINISTRATIVE SECTION, ACC.

1. Attached copy of request from 156 CRE (Works) 8 Army, copy of this Hq letter to RC Region III and reply of RLO thereto.

2. This Hq wishes to be of service to 8 Army when possible.

3. Could your office assist as requested in para 4 of first-mentioned letter?

LEGAL SUB-COMMISSION
CLO
SLO
Chief Counsel
CJO
Italian Section
CLERKS

HEADQUARTERS
29 MAY 1944
A. C. C.

EDWIN J.MERCER,Lt.-Col.,Ord.
SLO,
for Group Captain,
Officer Commanding,
AMG EIGHTH ARMY.

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

89

COPY

SUBJECT :- Requ[illegible]tioning - Brickworks - PETRULLO.

HQ AMG
Rear EIGHTH ARMY.

OA/32

17 May 44.

TO: RC REGION III.
(attn R.L.O.)

1. Attached is copy letter to this HQ from 156 CRE (Works) dated 9 May 44 re subject.

2. As the agents referred to reside in NAPLES this is passed to you with request for your assistance in complying with para 4.

(signed)
Edwin J.Mercer,Maj.Ord.,
Senior Legal Officer,for
Group Captain,
Officer Commanding,
AMG EIGHTH ARMY.

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

88

C O P Y

SUBJECT:- Requisitioning Brickworks - PETRULLO.

156 C.R.E. (Works)
EIGHTH ARMY. CMF
Ref:- B/36/20
9 May 44.

AMG, Eighth Army

Copy:-
AMG CALAZZO
11 C.E. (Works)

1. On the authority of 11 CE (Works) the stock of bricks held in the brickworks PETRULLO has been requisitioned for military purposes.

2. The reputed owner is S.A. INDUSTRIA LATERIZI, CALVI RISORTA, with a local manager, ISSO LORENZO, PETRULLO.

3. The R.N.,however, has been dealing with presumed agents for bricks from the same source, and there appears to be considerable doubt as to actual ownership. These agents are

(i) MOCCIA LUIGI
via G PICA 43
NAPLES.

(ii) CONSTANTINO BENIGNO
via CAVALLERIZZA 37
NAPLES.

4. In view of this confusion it will be appreciated if you will assist in establishing ownership so that the necessary Requisition Note (AD 361) can be issued. If the owner can produce his title deeds and satisfactorily prove his ownership, action will then be taken by this HQ.

5. In the meantime, to avoid future dispute, the matter is being held in abeyance.

(signed) ? ? ?
Lt.Col. RE.
Commander.

Field.
EAP/LB.

77

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

87

COPY

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

20 May 1944

L-8030

Subject : Requisitioning - Brickworks - PETRULLO

To : Senior Legal Officer, 8th Army, (through SCAO).

1. Reference is made to your letter, dated 17 May 44, Reference CA/32, on this subject.

2. It is considered that it is not the duty of AMG to adjudicate in disputes between Italians as to the ownership of land. It is suggested that the requisition notice should be served on both the claimants, telling each of them at the same time that it has been served on the other of them. The claimants will then be in a position to argue their respective rights before the Italian Courts.

For the Regional Commissioner:

Sgd. JOHN W.CHAPMAN,
Lt. Col., JAGD,
Reg. Legal Officer.

GAB/mo

26

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

86

FCAN HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

/429.
28 May 1944.

ACC/4005/L.

SUBJECT : Rights of Creditors.

TO : Regional Legal Officer (PWD: Regional Commissioner), Region III.

1. Reference your letters L 2340 of 16th and 22nd May 1944 and enclosures.

2. It is understood from the Director of Property Control that arrangements have now been made by him whereby the Italian banks will advance all monies required for payment of taxes and other obligations in respect of Allied properties in his custody. The question put to you by the Controller of Property, Region III, in his letter 324/CP of 2 March 1944 is therefore probably academic.

3. It is, however, just conceivable that cases may arise of proceedings taken by an Italian in ignorance of the fact that the property concerned is in Allied ownership and before the existence of the property has come to the knowledge of the Director of P.C. Since our proclamations do not vest the legal title to Allied properties in the Director ab initio, such proceedings, if brought in good faith, would in my view be perfectly proper and would not be subsequently impeachable in the absence of intervention by the Director under new proclamation 2, Article V, or its counterpart.

4. As regards properties taken into the custody of the Director or an agent appointed by him, the situation envisaged could not arise except as a result of oversight by local managers. As mentioned in our letter ACC/4129/4L of 5th May 1944, the Director of Property Control cannot himself be sued by Italians. Whether proceedings could be taken against properties in his custody on the ground that the Director is not owner of the legal title may involve questions of Italian law which, in view of the present arrangements, do not seem to merit investigation. In any event it is of course clear that no judgment could be executed on any property in the control of the Director of PC.

75

George H. Green,
Colonel,
Chief Legal Officer.

Copy to: Director of Property Control.

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

FILE

85

JM/gmf

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

ACC/4005/L. 28 May 1944

SUBJECT: Captured POL.

TO : Petroleum Section, Advanced AFHQ, CMF.

84

1. Reference your letter PET 19/18 of 25/5/44.

2. Under the Armistice Terms the use and disposal of all war material is at the discretion of the Allied Commander in Chief, without prejudice to the question of ultimate payment. In my view war material includes POL. (c.f. Fischenfield's International Economic Law p. 60; JAG para 445, Note 7).

3. You are therefore entitled to treat the stocks in question as if they were Allied property. You will naturally keep the usual consumption records; but no special invoicing is required.

74

R. H. TIMMER
Colonel, CAC
Deputy Chief Legal Officer.

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

Legal S.C. 5467
(Rec'd HQ)
J-8815

84

6736

Advanced AFHQ
Petroleum Section
C.M.F.
A.P.O. 400

FET 19/18
25 May 1944

SUBJECT: Captured POL

TO : Legal Sub-Commission, HQ ACC, APO 394

1. The Petroleum Section has been advised that:-

(a) Stocks of POL belonging to the Italian or German Government, or to the Italian or German Armed Forces, may be taken possession of as booty (paragraph 430 Manual of Military Law).

(b) Stocks of POL belonging to private enterprises can be regarded as war material, and as such were correctly seized without payment.

2. In Sicily and the Italian Mainland (excepting Puglie and Sardinia) stocks of POL belonging to the Italian Armed Forces which were in existance at the time of the Armistice were seized and immediately put under armed guard. In Puglie and Sardinia the dumps were not physically seized but this Section has exercised control. Reports of stocks have been received and quantities from these stocks have been authorized for use monthly.

3. The question as to whether these latter mentioned stocks should be treated as booty of war is of importance for two reasons:-

(a) Should the Italian Government be invoiced by the Allied authorities for the quantities which this Section authorizes the Italian Armed forces to use.

(b) Should the invoice value of quantities released at the request of this Section by the Italian Armed Forces to CIF for civil use be payable by CIF to the Italian Government or to the Allied authorities?

4. The legal position as regards ownership of the POL in question derives from the Armistice Terms. As your organization is charged with the interpretation and administration of the Armistice Terms, may we please have a ruling.

LEGAL SUB-COMMISION
CLO
DCLO
Dep Counsel
C.J.O
Italian
Civilian

H. R. CARRUTHERS
Lt. Col., RASC

for Colonel
Petroleum Section

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

4005

Rege

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7027
89

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

Ref/156/26/CA

27 May 1944

SUBJECT: Claims against the French Army.

TO : Admin. Section (for Legal Sub-Commission.

1. Reference your ACC/4005/L of 23 May 44 it is understood that no directive has been issued.

2. It is suggested that the procedure which should be adopted for Region I is to forward all claims to American Claims Service I.B.S. who should be asked to forward to American Claims Service F.B.S. P.B.S. will then pass on the claim to 901 Base (French) through the French L.O.

3. It is suggested that on all possible occasions such claims should be verified and countersigned by the French C.O. concerned. It is appreciated that this will not be possible in may instances but it will help settlement and avoid delay if some form of endorsement by the French Commander concerned could be put in the claims.

LEGAL SUB-COMMISION
CLERKS

for NORMAN E. FISKE
Colonel
Deputy Executive
Commissioner

72

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

FEAF HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

/rlp.
23 May 1944.

AGO/4003/L.

SUBJECT : Claims against the French Army.

TO : RD & MG Section (CAD).

1. Enclosed is a copy of a letter dated 16 May 1944 from the Public Safety officer at Trapani concerning disposition of claims for damages caused by French troops. It was forwarded to this sub-commission by the HQ of Region I for advice.

2. It would be appreciated if you would advise this sub-commission as to what answer it shall send to the CAO, Region I, no directive on this subject having yet been seen by this sub-commission.

RICHARD H. WILDE,
Colonel, CAO,
Deputy Chief Legal Officer.

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

4005

S 25/39

ALLIED CONTROL COMMISSION
SICILY REGION HEADQUARTERS
APO 394

File RLE 013.17/FLV 18th May 1944

SUBJECT : Claims against the French Army

TO : Legal Sub-Commission - A.C.C. Headquarters

The attached letter is forwarded to you as this office is aware of no directive or order which bears upon the subject matter.

It is requested that this office be informed concerning the disposition of civilian claims against the French Army.

For Colonel A.H. HANCOCK :

Frank L. Vocchicella
FRANK L. VICCHICELLA
Major, JAGD.
Regional Legal Officer.

js.

Encl. 1 - PC -2070-F dated 16 May 1944.

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

70

ALLIED CONTROL COMMISSION

ALLIED MILITARY GOVERNMENT

18

CIVIL AFFAIRS OFFICE

PROVINCE OF TRAPANI

13 Via Regina Margherita

TRAPANI (Sicily)

16 May 1944.

REF: PC-2070-F

SUBJECT: Claims against the French Army.

TO : Regional Legal Officer, Region I.

THRU : Regional Commissioner, Sicily Region Hq., A.C.C., APO 394. and Pub. Saf. Div.

1. Request a ruling as to disposition of claims for personal and property damage caused by the French Army stationed in this province.

2. There is no French claims section here, but there is a section of the U.S. Army Claims service but there is no directive as to their official status in regard to claims against the French Command.

3. I have many of these claims, but do not know how to dispose of them.

Edward W Hanbury

EDWARD W. HANBURY
Major, C.A.F.,
Prov. Pub. Saf. Officer.

69

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

SUBJECT: Claims against the French Army.

TO : Regional Legal Officer, Region I.

THRU : Regional Commissioner, Sicily Region HQ., A.C.C., APO 394. and Pub. Saf. Div.

1. Request a ruling as to disposition of claims for personal and property damage caused by the French Army stationed in this province.

2. There is no French claims section here, but there is a section of the U.S. Army Claims service but there is no directive as to their official status in regard to claims against the French Command.

3. I have many of these claims, but do not know how to dispose of them.

Edward W Hanbury

EDWARD W. HANBURY
Major, C.M.F.,
Prov. Pub. Saf. Officer.

69

EWH/sm

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

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

4005

(22)

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

I-2140

22 May 1944

Subject: Rights of Creditors.

To : C.L.C., Legal Sub-Commission, A.C.C.

73

1. Reference is made to your letter, dated 19 May 1944, Ref. ACC/4005/L on this subject.

2. Herewith is sent a copy of the letter 314/CP of 14 March 1944 which you require.

For the Regional Commissioner:

See folios 66, 67, 71 - 73

JOHN W. CHAPMAN,
Lt.Col., JAGD,
Reg.Legal Officer.

GAB/mo

Encl - 1.
copy of letter dated 14 March 1944.

LEGAL SUB-COMMISIO
CLO
DCLO
Chief Counsel
C.L.
lation Section
CLERKS
Capt Howe

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

(76)

HEADQUARTERS REGION 3
ALLIED CONTROL COMMISSION

314/CP

Naples 14 Mar 44

Subject: Powers of Collector of Taxes

To : CHIEF LEGAL OFFICER, Region III.

1. There is a number of properties, owned by British or other Allied Nationals on which payment of Imposte is due and outstanding and there is no cash in the hands of the agents for the Sequestrator (now acting on behalf of C.P.) to pay same. The Agents namely the Bank of Naples (Ufficio CreditonFondiario) have been instructed in such cases to withhold payment of taxes.

2. The Esattore of Capri has made representations to the Bank of Naples stating that be must pay to the Intendente of Finance even though the amount is not paid to him by the contributor (subject to recourse as provided in esattorial laws) and asks who will pay the tax if the Bank (on our behalf) does not.

3. I shall be glad if you will advise

a) What powers of attachment or sale the Esattore may have against (1) Immovables and (2) movables situated in properties on which tax is overdue

b) Whether such powers are varied when the property is in the custody of Controller of Property.

67

/s/ E.M. GARD
Major, R.A.
Controller of Property
Region 3.

CMG/CdP.

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

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

75

ACC/4005/I. 23 May 1944.

SUBJECT : Claims against the French Army.

TO : Regional Legal Officer (FOR: Regional Commissioner), Region I.

1. Reference your RLB 013.17/FLV of 16 May 44, and enclosure.

2. As soon as the requested information is secured, it will be sent you.

RICHARD H. WILDER,
Colonel, CAC,
Deputy Chief Legal Officer.

65

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

74

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

MJG/bmf

ACC/4005/L

14 May 1944

SUBJECT: "Raising" of A.M. LIRE currency notes.

To : Finance Subcommission.

1. Reference letter Allied Financial Agency of 23rd March 1944 F/H/171/794.

2. Any person "raising" Allied Military Lira Notes is guilty of counterfeiting under Article 1 (22) of Proclamation No. 2, and may be convicted by reason thereof without proof of negotiation.

3. The same consequences follow in the territory controlled by the Italian Government under and by virtue of provisions of Italian law.

MARC J. GROSSMAN, Major
for Chief Legal Officer.

P.S. Returned herewith letter of Major J.H. Penick, Chief of AFA ref F/H/171/794 dated 23 March 1944.

65

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

73

HJG/cmf

H AR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

ADC/4005/L

19 May 1944

SUBJECT: Rights of Creditors.

TO : RLO (thru RC) Region 3.

1. Ref yours 16 May 1944 (L-2140).

2. Kindly forward copy of 314/CP of 14 March 1944 to which your opinion 17 March 1944 was a response.

MARC J. GROSSMAN, Major
for Chief Legal Officer.

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

72

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

JWC/em 17 March 1944.

To : Controller of Property

Subject : Powers of Collector of Taxes.

1. Reference is to your 314/CP, 14 March, 1944, subject as above.

2. The Receiver may attach and sell movables in properties on which tax is overdue. He may also initiate proceedings by the Intendence of Finance to sell immovables on which tax is overdue.

3. General Administrative Instruction No.1, paragraph 32 (c) gives your office power to pay taxes and imposts; paragraph 32(x) grants power to enter into contract or to execute legal deed as may be necessary to exercise your power to pay taxes among other things; and paragraph 32 (i) authorizes you to do whatever you would do under like circumstances if you held a general power of attorney from the owner.

4. The power to sell property for taxes is not affected by the fact that the property is in the custody of the Controller of Property.

64

JOHN W. CHAPMAN,
Lt.Col., JAGD ,
Reg.Legal Officer.

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

V. 4005/L

71

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

L-2140 15 May 1944.

Subject: Rights of Creditors.

To : C.L.C. Legal Sub-Commission, A.C.C.

1. Considering the ruling made by you in your letter ACC/4129/4/L, dated 8 May, 1944, I now have doubts concerning enother opinion made by me under date of 17 March 1944.

2. Inclosed herewith is copy of the opinion.

3. May I have your observations.

For the Regional Commissioner:

John W. Chapman

JOHN W. CHAPMAN,
Lt.Col., JAGD,
Reg.Legal Officer.

JWC/mo

S.O.
File 4005 in war
please see folio 1 of att file
Luigi Grossman

Encl- 1.
Letter 17 March 1944.

LEGAL SUB-COMMISION
CLO
DCLO
Chief Counsel
CJO
Italian Section
CLERKS

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

70

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL DEPARTMENT
APO 394

AC/14003/L. /2 pp.
20 May 1944.

SUBJECT : Italian civilian drivers.

TO : Executive Officer.

1. Reference your G1/102/5 of 19 May 44.

2. Under Italian law deductions from wages can be made only pursuant to agreement with the employee or pursuant to order of an Italian Court. Resort to an Italian Court by ACC is out of the question. Of course a deduction pursuant to agreement with the employee is unobjectionable.

3. While ACC has the absolute power in all the circumstances to make a deduction in the absence of agreement, such power is all reserves should be sparingly used and only after careful consideration in an individual case. Under such conditions, I suggest that a careful investigation be made of each incident and that no enforced deduction be made without the approval of Hq ACC.

4. The suggestion made by Col. Turman on the telephone, namely that the agreement with the civilian driver should contain a clause permitting deductions, seems a sound one, but even so this sub-commission thinks that the actual deduction should only be made after very careful consideration by Hq ACC in each individual case. In any event, the agreement should conform to Italian practice according exempting 750 lire per month of his wages from deduction. Indeed, in view of the present value of the lire, you may think it wise in consultation with the Labor Sub-Commission to increase substantially this minimum sum.

5. Any case, if so desired by Hq ACC, may be submitted to the Legal Sub-Commission for recommendations.

GERALD R. BROWN,
Colonel,
Chief Legal Officer.

62

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

4005

HEADQUARTERS
ALLIED CONTROL COMMISSION
OFFICE OF EXECUTIVE OFFICER
APO 394

RHF/eh 69

16 May 1944.

G4/101/5

SUBJECT:- Italian Civilian Drivers.

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

Ref your ACC/4005/4 dated 12 May 1944. — 68

May I ask you to amplify our ruling:-

Can we make a deduction from the pay of a civilian driver employed by A.C.C. if the vehicle of which he has charge is damaged by collision with another vehicle or with a wall, tree etc. ? If the vehicle becomes unserviceable through neglect, can we make a deduction from driver's pay in that case also.

LEGAL SUB-COMMISION
CLO
DCLO
Chief Counsel
CLO

R.H. FARREN.
Colonel.
Executive Officer.

61

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

(68)

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

AJT/pm

12 May 1944

A33/4005/1.

SUBJECT : Italian civilian drivers.

TO : Executive officer (R), Headquarters ACC, Naples.

1. Reference is made to your inter-office memo of 10 May 1944.

2. Under Italian Law an Italian civilian driver is in the words of the Civil Code " obliged to indemnify against the damage caused to persons or things as the result of the circulation of the vehicle, unless he can prove that he did everything possible to avoid the damage."

3. The file is returned herewith.

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

6.

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

4005

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

11 May 1944

L-2000

Subject: Rights of Unsecured Creditors.

To : C.L.C. Legal Sub-Commission, A.C.C.

1. Reference is made to your letter ACC/4129/4/Ir dated 8 May 1944, subject Report of Legal Division Region 3 for April, 1944.

2. Enclosed is copy of our letter withdrawing our opinion to the Regional Controller of Property dated 27 April, 1944.

For the Regional Commissioner:

John W. Chapman

JOHN W. CHAPMAN,
Lt.Col., JAGD ,
Reg.Legal Officer.

JWC/mo

Encl- 1.
Letter to R.C.P.

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

Copy for file 4005/L ✓

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

8 May 1944

66

REFERENCE : ACC/4129/4/L.

SUBJECT : Report of Legal Division Region 3 for April 1944.

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

1. [redacted] In paragraph 11 reference is made to the transfer of a case of four carabinieri charged with killing an Allied soldier, to the Italian Military Tribunal. I request a report on this. A case of this kind involves policy and it is important that the Legal Sub-Commission should be consulted in advance of any such action being taken.

2. In paragraph 24 it is stated that your office has given advice to the effect that the Controller of Property or at least the Regional Controller may be sued. Under no conditions may an Allied Officer be sued in any part of Italy in any capacity, representative or otherwise. The Property Controller is in no sense a representative of the owner. Please cancel your advice.

(sgd) GERALD R. [illegible]
Colonel,
Chief Legal Officer.

58

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

FILE

6.5

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

/rlp.
12 May 1944.

AGC/4005/1.

SUBJECT : WD Vehicles in AAC Truck Pools for Civilian Transportation.

TO : Reynolds Section.

1. Reference question raised in para. 2 of letter AC/517/12 dated 4 May 1944.

2. Para 3 of Establishment Memorandum No. 6 Headquarters AAC, 7 March 1944 makes clear the fact that officers in charge of Motor Transport may be held personally liable for damage to vehicles in the event of their failure to comply with the requirements thereof with respect to the selection and qualification of drivers.

3. Liability, if any, in each particular case will depend upon the facts thereof.

GERALD R. WARNER,
Colonel,
Chief Legal Officer.

57

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

4005

HEADQUARTERS
ALLIED CONTROL COMMISSION
FINANCE SUB-COMMISSION
APO 394

64

13078/F

10 May 1944

SUBJECT: U.S. Vehicles in AMG Truck Pools for Civilian Transportation.

TO : Economic Section.

1. Reference your buck-slip dated 9 May, 1944 and m/s/12 dated 9 May 1944 attached thereto, which is returned herewith.

2. The question raised in Para. 2 of the above-quoted letter appears to be one for decision by the Legal Sub-Commission, and that raised in Para. 3, by the Transportation Sub-Commission.

3. As stated in your buck-slip, paras. 4 and 5, insurance cover should be obtained under arrangements made by the Insurance Department of this Sub-Commission.

For Colonel,
Joint Director,
Finance Sub-Commission.

Encls/None

56

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

Head Lett
U - 6[illegible]
(63)

HEADQUARTERS
A.M.G. REGION V
C. M. F.

4 May 1944

Ref. : R5/517/12

SUBJECT: WD Vehicles in AMG Truck Pools for Civilian Transportation.

TO : Headquarters, Allied Control Commission, APO 394.
Economics Section.

1. Please clarify the position of the Regional Civil Transport Officer in regard to financial responsibility and accountability covering the use of WD vehicles in Civilian Transportation Pools established under the authority of your letter of 19 April 1944.

2. Is he financially responsible for loss or damage thereto while such trucks are in the custody of Italian civilian or military drivers employed pursuant to Par 5 of Establishment Memorandum #6, Headquarters ACC, 7 March 1944?

3. Do the provisions of Circular #3, Headquarters ACC, dated 27 April 1944, apply to such vehicles?

4. What specific steps should be taken by the RCTO to protect himself from financial responsibility for damage or loss to such vehicles?

5. Has the Finance Sub-Commission reached a decision on the question of insurance for such vehicles?

For the Regional Commissioner:

HEADQUARTERS
- 5 MAG 1944
A. C. C.

Claude A. Latimer

CLAUDE A. LATIMER,
Major, CE, Director,
Engineering Division.

55

376

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

(52)

/gmf

NEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

29 April 1944

ACC/4005/L

SUBJECT: Awards and Decorations for Italian Civilians.

TO : PC & MG Section, A.C.C.

1. Ref your letter dated 26 April 44 (no reference).

2. In the absence of any authority on the part of the Commander in Chief or any of his subordinate commanders to award any existing medal or decoration and aside from any financial reward mentioned in your letter, it seems to me that all that can now be done is have recognition of heroic deeds made in orders with copies to the heroic individuals or in the event of their deaths to their next of kin. Such orders, of course, can be given publicity if that is desired.

3. With regard to para. 12 (1) the CLO is of the opinion that it would be unwise to initiate in this theatre some new medal without reference to higher authority. In the first place I do not think there is any such power and even if there was it could not carry the authority of the Allied Governments without reference to them. Further, it would, I think, create an undesirable precedent.

4. The whole matter seems to be worthy of consideration by higher authority. If desired, the Italian Government could be approached to get their views as to some Italian award, but I agree that psychologically such an award would not have anywhere near the same effect as one made by a component of the Allied Forces.

RICHARD H. WILMER
Lt. Col. CAC
Deputy Chief Legal Officer

54

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

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

26 April 1944

SUBJECT: Awards and Decorations for Italian Civilians.

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

1. There have recently come to the attention of this section a number of cases in which Italian civilians, acting either within or beyond the normal scope of their duties as employees or agents of the armed forces of the Allies, or of the Commission, have rendered signal service, in several instances resulting in injury or death. For example:

a. A civilian port employee jumped into the water and rescued a soldier who had been pinned behind the wheel of a motor vehicle accidently driven off a wharf.

b. A civilian volunteered to lead an Allied patrol through a known mine field, and in so doing set off an anti-personnel mine which killed him.

c. Several Italian civilians found two badly wounded Allied soldiers in a mine field and carried them to safety in spite of continual sniping which resulted in a superficial wound to one of the civilians.

d. A civilian who had formerly served as an Italian Army requisitioning officer was employed by a component of the Commission for the same purpose. In the course of his duty, he was caught in a snow storm at a high altitude, was required by the military driver to get out of the car to seek assistance, and as a result died of exposure.

2. It is believed that only a small proportion of instances of this kind have thus far come to the attention of this section or of the Commission, and that they will continue to arise with increasing frequency as further areas are occupied.

3. In several cases the civilians injured or killed in the performance of creditable or heroic service have been

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

heads of families whose dependents have suffered or will suffer financially by reason of the breadwinner's demise or injury.

4. It is the considered opinion of this section that, not only as a matter of common humanity and justice, but as a measure likely to yield results in loyalty and cooperation far beyond the effort and monetary expense involved, provision should be made for appropriate financial reward and honorary recognition by medal, plaque, ribbon, citation or otherwise for the head who survives, and by appropriate provision for the loss by his family of his support when he is killed or injured.

5. Tentative commitments by the Finance Sub-Commission indicate that there will probably be no particular difficulty involved so far as the matter of financial award is concerned. There are differences of opinion as to the appropriate amount to be paid in various situations but the principle of such payment has been substantially approved. Precedents are found in provisions made in the early days of the occupation for the payment of awards for information and for the apprehension of certain types of war criminals.

6. The matter of medals and decorations is, on the whole, regarded as the more important aspect. Sociologically and psychologically "onore" and "gloria" are in many respects of more importance to Italians than financial reward. The Fascists made intensive and widespread use of this principle during their regime and it is submitted that we would be very short-sighted if we did not do likewise. It is in connection with this aspect of the matter that most of the difficulty has arisen.

7. The obvious first approach to the problem was along the line of an attempt to find appropriate provision under present laws and regulations of Great Britain and the United States to permit the award of a standard national military medal or citation to persons of the class under consideration. With this idea in mind, the matter has been discussed at some length with administrative officers of Peninsular Base Section, AFHQ and AAI, and some independent investigation was also carried on by this section. All of the American awards mentioned in Circular 26, AFHQ, 6 March 1942 were considered, and similar research was made as to the availability of cor-

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

responding British honors and medals.

8. The most promising "prospects" were the Albert Medal and, on the American side, the Medal for Merit (War Department Bulletin 9, May 4, 1943). After full consideration, however, it is the considered judgment of all concerned, not only in the Commission but in the headquarters' above referred to, that neither of these medals is appropriate or can be used.

9. In the case of the Medal for Merit, awards may be made to "civilians of the nations prosecuting the war under the joint declaration of the United Nations and of other friendly foreign nations (who)...have....distiguished themselves...." The position of Italy with relation to the United Nations at the present time is not believed to be such as to bring her citizens and nationals within this category. Further, even if this award were appropriate and authorized it may be made only upon action of a board consisting of the Secretaries of State, the Navy, and the Army, which would make it, for all practical purposes, unavailable for the prompt recognition of outstanding merit or performance in our cause by civilians in this theater.

10. The need is for a decoration which may be awarded promptly and rather freely by an officer or officers of the Allied Forces in this vicinity without too much red tape and, if possible, without obtaining clearance from Washington or London.

11. One method of accomplishing the desired result obviously is by initiating through channels, to and through higher headquarters, a proposal for the establishment of a new medal or award suitable for the purposes under consideration with a view to final action by AFHQ or appropriate departments, ministries, or executives of Great Britain or the United States. Preliminary action along this line has already been instituted.

12. Other possibilities (and it is these with which you are asked primarily to concern yourself) are:

(1) That the express or inherent implied powers of the Commission or the Chief Commissioner may be sufficiently broad to permit action of the type under consideration without reference to any higher echelon.

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

(58)

(2) That appropriate action may be instituted with a view to the vesting in the Commission, by the nations for whose benefit it was created, of power to confer appropriate awards and decorations in cases which seem to the Chief Commissioner to be deserving of such recognition, or

(3) That if neither plan (1) nor (2) is feasible, appropriate arrangements may be worked out with the Italian government for recognition in such cases by it.

(Possibility (3) is regarded as a poor third choice, the element of recognition by the Allied Governments -- regarded as a feature of prime importance -- not being present.)

13. This matter is regarded as being one of urgent and critical importance, and an early expression from you on the points raised in the immediately preceding paragraph will be appreciated.

ALFRED C. BOWMAN, Lt. Col.
for
NORMAN E. FISKE,
Colonel
Deputy Executive Commissioner

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

(57)

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

27 April, 1944.

REFERENCE : ACC/4005/L.

SUBJECT : Time limit regarding the carrying by Units of money owing to workers absent at pay time.

TO : H.Q., 2 District.

1. Receipt is acknowledged of your MG/6 dated 25 April, 1944. Your recommendations set out in Para. 3 raise the following observation

(a) It is legally impossible to deprive a man of his earnings, merely because of his absence during two pay days.

(b) As it is not conceived that formal powers of attorney can be drawn in this connection, an authority in writing from the employee enabling one of his fellow workers or a member of his family to draw his pay should suffice. Signature of employee and identity of agents should always be checked.

GERALD R. UPJOHN.
Colonel,
Chief Lofal Officer.

43

GRU/vew.

4005 ✓.

5-6

Subject:- Time limit regarding the carrying by Units of money owing to workers absent at pay time.

HQ. No. 2 District,
A.A.I.
MG/6.

23 April 44.

To:- H.Q., A.C.C.
A.P.O. 394.
(for Legal Sub-Commission).

---

1. At the District Labour Sub-Committee meeting held at this H.Q. on 20 April 44 the point was raised that employees were frequently not present to draw their pay on one and sometimes subsequent occasions. These absences are considered to be due frequently to sickness or other causes outside the employees' control.

2. The results have been that Units or Employers are left with sometimes large sums of money on hand, and are unable to close their accounts.

3. The Sub-Committee decided to put forward the following recommendations:-

(a) That accounts should be closed after the second pay day in the absence of an employee, but

(b) That if an employee were absent on account of sickness his "legally authorised representative" might attend and draw his pay.

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

(for Legal Sub-Commission).

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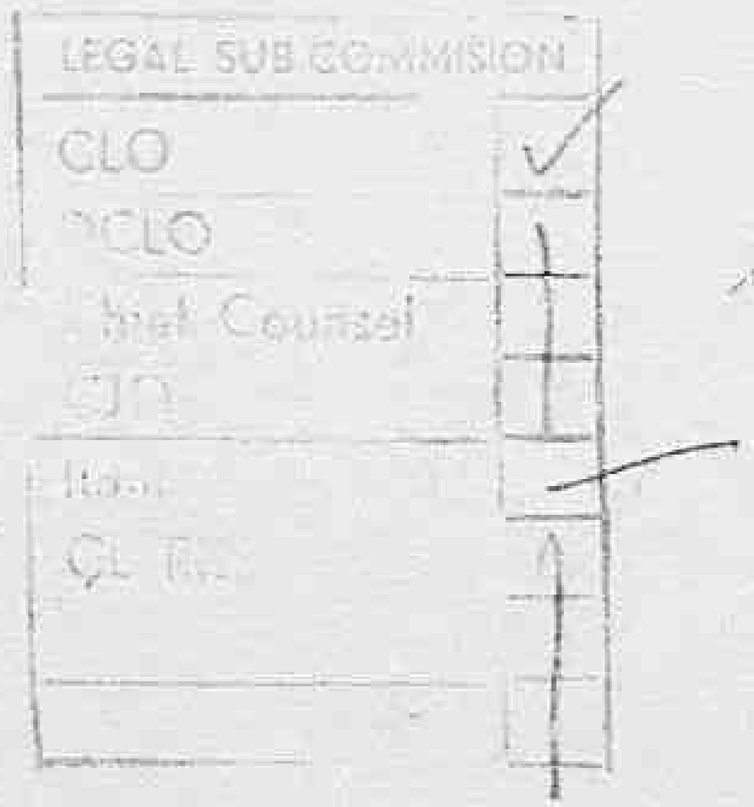
(a) That accounts should be closed after the second pay day in the absence of an employee, but

(b) That if an employee were absent on account of sickness his "legally authorised representative" might attend and draw his pay.

26

4. May a ruling be given on the above recommendations, with special reference to the definition of a "legally authorised representative" ?



ESD/HS.

Lt. Col.
A.C.C. L.O.

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

ACC/4005/L (55)

DRAFT

SUBJECT: Proof of Citizenship.

TO : Legal Division, Sardinia.

1. Ref your L/1410 of Feb. 6th on the above subject every effort has been made to obtain the information you request, but it has been necessary to send to London for text books in order to give you the full statement of the law you require. There will, therefore, be inevitably a considerable delay.

2. As regards your queries the following procedure is recommended in the interim. Papers will in many cases have been lost owing to the war. Provided it seems probable that the person was either born in Great Britain or any colony or dominion, as distinct from a Mandate, or is the child of British parents whether such parents are British by naturalization or otherwise treatment as a British subject pending further investigation is recommended.

3. In the case of persons born of foreign parents in England or of English parents abroad they should, prior to being given assistence, be required to state on oath they have never, since attaining their majority, renounced their British Nationality. Service in a foreign army, whether voluntary or compulsory, does not affect the foregoing.

4. Married women raise problems of their own. A foreign woman who has married a British subject, either in accordance with British marriage laws or in accordance with the marriage laws of the place of her domicile or of the country of her nationality becomes ipso facto a British

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

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3. In the case of persons born of foreign parents in England or of English parents abroad they should, prior to being given assistence, be required to state on oath they have never, since attaining their majority, renounced their British Nationality. Service in a foreign army, whether voluntary or compulsory, does not affect the foregoing.

4. Married women raise problems of their own. A foreign woman who has married a British subject, either in accordance with British marriage laws or in accordance with the marriage laws of the place of her domicile or of the country of her nationality becomes ipso facto a British subject, provided such a marriage is in a recognized form, e.g. a marriage according to a native tribal custom in Africa or the Malay states would not be recognized.

A British woman marrying a foreigner formerly lost her British nationality, but could in certain circumstances regain it. But generally speaking, before this could happen she must either have been divorced from her foreign husband or he must have died. ~~Any cases of British women seperated from foreign husbands should however be sympathetically treated and a subsistence allowance pending investigation of the case would probably be advisable.~~ Furthermore special rules apply to British women who have married foreigners since 1933. In all such cases full details should be sent of the marriage including the nationality of the husband at the time of the marriage & details of any statement made or document executed by the lady purporting to relase her British Nationality.

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

(54)

5. Doubtful cases should be forwarded to this HQ with full details by fast air courier and if the circumstances ~~warrant~~ a/hems it some subsistence allowance pending investigation would probably be advisable.

Declassified E.O. 13356 Section 3.3/NND No. 785016

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

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

4005

F.C. Apo 397
U.S. Army

HEADQUARTERS
ALLIED COMMISSION FOR SARDINIA

Cagliari. 6 Feb. 1944

TO: Legal Sub-Commission, H.Q., A.C.C.
FROM: Legal Division.
SUBJECT: Proof of Citizenship.
REFERENCE: I/1410/

Authority has been received from A.M.P.A. to make loans to needy British subjects on production of satisfactory proofs of citizenship. This office is not in possession of any instructions on Consular matters and it is felt that before embarking on the decision of questions of citizenship, where financial responsibility is involved, some general information on this subject is required. Probably some brief standing instructions to British Consular Officials exist which contain sufficient information to enable most ordinary questions of citizenship to be decided. If so, may a copy of such instructions be forwarded, please? If not, may information on the following points be supplied:

(1) In the absence of a British Passport or Naturalization papers, what documents may be accepted in lieu as proof of citizenship? Any advice to enable regularity of such papers to be determined, would be useful.

(2) A short statement of the general principles governing the acquisition and loss of British Nationality and the determination of Nationality for specific purposes where there is a possibility of dual Nationality would be useful. Such a statement might embrace the effect which service voluntary or compulsory in a foreign army has upon the status of a British Subject.

You might also kindly advise as to the quickest way of obtaining decisions on doubtful cases where reference requires to be made to Higher Authority.

For the Regional Commissioner,

R.G.S. Alexander

R.G.S. ALEXANDER 4.5
Major.
Legal Division.

RGSA/pd

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

S-2

/cmf

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

12 April 1944

ACC/4005/L

SUBJECT: Proof of Citizenship.

TO : RLO (thru RC) Region 6.

1. Yours L/1410 dated 6 Feb. 44.

2. Confirming our conversation 10 April 1944 with Major R.G.S. Alexander, we are advised by the Finance Subcommission that rules will shortly be published by it with respect to proof necessary to establish nationality in connection with payments referred to.

G. R. UPJOHN,
Colonel
Chief Legal Officer.

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

51

NEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

GRU/gmf

ACC/4005/1.

28 March 1944.

SUBJECT: Legal Advice.

TO : M.G. Regions 1. 2. 3. 4. 5. 6.
S.C. 5th & 8th Armies.

1. All officers are reminded that no legal advice may be given in their official capacity either to members of the Allied Forces or to civilians upon any private matter or matters of any such person or persons.

2. This in no way restricts the right of any legally qualified officer to give any such person or persons advice unofficially and in his private capacity.

3. For the private information of officers conversations are at present in progress with the Italian Government with the hope of being able to formulate a scheme to facilitate the marriage of members of the Allied Forces inter se in Italy and also with Italians.

G. R. UPJOHN
Colonel
Chief Legal Officer.

Copy to: ACC/4063/1.

43

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

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

10 March 1944

Ref. ACC/ 4005/L .

SUBJECT : Hygiene

TO : H. Q. , 5 District .

1. With reference to the enquiry contained in your letter/ reference 196 /A of 5 inst., it will be necessary to distinguish between occupied and unoccupied territories .

2. In occupied territory A.M.G. or other Military Authority may promulgate such orders as may be required to meet the contingencies set forth by you . Any civilian disobeying the terms of the order would be tried by Allied Military Courts and sentenced as that court may determine .

3. In occupied and unoccupied territory, if the local ordinances are not sufficient, Italian Authorities may be required to issue the necessary local ordinances. Under Italian law both "Prefetti and Sindaci" may promulgate this type of legislation.

4. Penalties for failing to observe such ordinances are covered in general terms by Article 650 of the Italian Penal Code which reads as follows : "Whoever fails to observe an order lawfully given by the authorities for reasons of justice, public safety, public order or hygiene shall be punished if the act does not constitute a more serious offence, with imprisonment up to three months and a fine up to 2000 lires " . In occupied territory anyone failing to obey any such ordinance may be tried either in an Allied Military Court or in an Italian Court. In unoccupied territory the trial would be before an Italian Court.

5. Military personnel or the Carabinieri can initiate proceedings in an Allied Military Court. The Military personnel can secure the aid of the Carabinieri in military proceedings before Praetorian Courts (Italian) where violations of this kind are likely to be tried. The cooperation of the Procuratore del Re or members of his office should be secured to expedite the handling of trials in the Italian Courts .

RICHARD H. Almond,
Lt. Col., A.U.S.A
Deputy Chief Legal Officer

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

Subject : Hygiene

4005

3 District
Tel Ext 10
196/A

Legal SC
V-1819
5 Mar 44. 1627

8 MAR 1944

HQ Allied Control Commission.

1. As you are aware this HQ is making every endeavour with the assistance of various departments of your HQ to improve the sanitary conditions of areas town village and country, where troops are or are likely to be accomodated.

2. It would be much appreciated if you would inform this HQ what are the appropriate offences which can be charged against offending civilians, who can lay the information, what are the scales of penalties which can be inflicted and before what courts are offenders tried, differentiating between Sicily Italy and Italy governed by ACC if necessary.

3. This HQ is particularly anxious that offenders should receive severe penalties and any assistance you can give in this matter will be much appreciated.

HEADQUARTERS
8 MAR 1944
A. C. C.

J.R. Richardson
Maj-Gen
Cond

HET/WE

41

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

(46)

REAR HEAD QUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

/zlp.
3 March 1944

ACC/4005/L.

SUBJECT : Payment of fees of Sequestrators and Manager Institutes.

TO : DEC.

1. Reference your ACC/6058/GC of 1 March 1944.

2. It is the opinion of this Sub-Commission that all fees and indemnities accruing from the administration of Allied properties by Italian Administrators up to the date of occupation of the territory in which the property concerned is situated, remain the responsibility of the Italian Government under the provisions of Article 22 of the Conventions passed between ACCI and sequestrators appointed by them.

3. Sequestrators of commercial concerns acting under the Minister of Corporations fall in the same category and their fees and percentages should be determined by the Minister of Finance or other competent agencies of the Italian Government.

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

40.

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

43A

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
PROPERTY CONTROL SUB-COMMISSION
AFO 394

ACC/6058/CP. 1 March 1944

Subject: Payment of Fees of Sequestrators and Manager Institutes.

To : Legal Sub-Commission.

1. We wish advice as to our legal right or duty to pay, or to permit deductions of, fees of persons or institutions who have managed Allied or French property under the sequestration laws, for services rendered prior to the time custody was taken by ACC. Such fees would be taken from the property account in question.

2. There are two principal classes of cases:

a. Sequestrators of commercial concerns, acting under the Minister for Corporations. To illustrate this class of cases we are attaching copy of recent letter from C.P. of Region III. Your attention is also called to Art. 11 of Royal Decree of Feb 4, 1942, XX, n. 11 (official gazette of Feb 6, n.30) as follows:

"When special reasons exist inherent in the character of the work to be performed, there may be allowed in favour of persons charged with control, sequestration, and in favour of auditors specified in arts. 3 and 4, the payment, at the expense of the concern of a fee to be determined by the Minister for Corporations in agreement with the Minister of Finance".

b. "Manager Institutes" such as Bank of Naples or Bank of Sicily, acting under conventions with EGELI. In this connection your attention is invited to the from of convention attached, and particularly to art. 22 where it is provided that fees, as per schedule there appearing, will be paid by EGELI.

3. In the latter class of cases, at least, it is our present opinion that fees should not be paid from the property account, but that the Bank should look to EGELI or the Italian Government.

C. R. S. Harris

C. R. S. HARRIS, 39
Lieut-Colonel,
Director of Property Control

1 Encl: Copy of Convention.

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

4605

LAJ/ei.

HEADQUARTERS
ALLIED CONTROL COMMISSION
Public Works & Utilities Sub-Commission
APO 394

ACC/051/PWU

18 February 1944

Subject: Decree by Italian Government Permitting Rate Increases.

To : Vice President, Economic Section, ACC.

1. Sometime in 1935, and again either in 1938 or 1939; the Fascist Government had issued decrees freezing utility rates with the understanding that losses sustained by these utilities would be made good in some form of subsidy by the Government.

2. When requests were made for rate increases in Sicily, and these were discussed with Gen. McSherry, I was advised that, although rate increases seemed quite proper, we could not permit rate increases until the Italian Government had passed a decree cancelling the former decrees and permitting these increases; that in the meantime these companies would have to borrow money from the banks to cover monthly deficits with the understanding that these banks be later reimbursed by the Italian Government. A letter along these lines was sent officially to the General Elec. Co. of Sicily.

3. While at Brindisi I discussed this question with some of our head officials there and I was again advised that the stand taken by Gen. McSherry was quite correct and that I should ask the Minister of Public Works to have such a decree passed by his Government. I did so. Since that time I have asked the Minister on several occasions what the status was and was advised that their Finance Minister was holding this up as he had no authority from our Finance Sub-Com. to consent to such a decree.

4. I fully appreciate that we as A.M.G. may do what we consider proper in A.M.G. territory, but I am not certain whether such increase can be granted in the Kings Italy without such a decree. Will you, therefore, please obtain a legal opinion on this subject and advise me

L. A. JENNY,
Lt.Col.,C.E.R.
Director.

1300

P.T.O.

(over)

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

19 Feb. 44- Decree By Italian Government permitting rate increases. (cont'd)

1st Ind

BE/JBT/sen

ECONOMIC SECTION HQ. ACC. 19 Feb 44.

4005

TO: Administrative Section

(39)

Ref para 4 of above letter. It is requested that an opinion be obtained from Legal Sub-commission

D. S. ADAMS
Colonel, C. E.
Economic Section

ACC/4005/L

To: Admin Section

Ref para 4 of letter overleaf.

Where, in unoccupied territory utility rates have been fixed by or under a government decree it follows that rates can only be altered by utilising the appropriate machinery of the Italian Administration and ACC cannot itself alter the rate. Whether the Italian Administration can alter the rate by a decree only, or whether it may be done merely by an administrative instruction or order or even by an order of the commune must depend on the circumstances of each particular case.
Although ACC can itself alter the rate in occupied territory, it would seem desirable to coordinate policy beforehand with the Italian Government.

G.R.Upjohn. Col.

22 Feb. 44.

38

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

(38)

GRU/smf

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394.

19 February 1944.

ACC/4005/L

SUBJECT: Works of Art.

TO : V.P. Administrative Section, A.C.C.

1. I see no objection to the attached documents so far as the law is concerned.

2. Would it not be wise to ask the Italian Government's cooperation in this matter?

3. The Legal Subcommission may be speaking out of turn but as we are here to fight or at least administer and not for a holiday, why is there not a complete prohibition on export of works of art? And is it going to be really feasible to enforce the 100 years rule? And are there not some works of art which are less than 100 years old but cost more than 15000 lire which under the proposed rule could be exported without licence but which in fact should remain in the country?

G. R. UPJOHN
Colonel
Chief Legal Officer.

37

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

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION.
LEGAL SUB-COMMISSION.
A.C.O 394.

(37)

17th February, 1944.

REFERENCE : ACC/L005/1.

SUBJECT : Payment of Local Produce.

TO : H.Q., 6 Base Sub-Area, C.M.F.

Reference your 11/17/ST of 8 Feb 44.

1. This is entirely a question of fact. Please let us know whether the Gas Works, B.N.I, is a private Company or a para-statal concern, so that this Sub-Commission may be in a position to advise whether payment should be effected or not. It is suggested that you find the necessary information at the Prefettura.

C. C. HAVERCROFT, Major.
Officer i/c Italian Section,
for Chief Legal Officer.

HGH/vcw.

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

Subject:- Payment of Local Produce.

H.Q. 6 Base Sub Area C.M.F.
114/17/ST
8 Feb 44

36

Legal Sub Commission
H.Q. A.C.C.
APO 394.

4-005/L

1. On instructions from H.Q. 2 District 520 gallons of Tar Oil were obtained last month from the Gas Works, BARI. This was urgently required for use in the Forward Areas.

2. In view of the latest instruction AFHQ Memorandum No.95 dated 27 Dec 43 relating to supplies purchased locally, may this H.Q. please be advised if payment should be effected, or whether it can be considered Parastatal. (Not recd at Legal)

3. The price requested is 2000 lire per quintal, which considering it is a bye-product is considered excessive. Should payment be necessary, your view as to a fair price will be appreciated.

Copy to:-
D.D.S.T. 2 District.
A.C.C. BARI.

JMM/hc

Lt. Col.
A.D.S.T.

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

(35)

G.S/gmf

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
A.P.O. 394

12 February 1944.

LSC/4005/1

SUBJECT: Enlisting of Italian Students.

TO : V. P. Administrative Section.

Ref attached correspondence the position is as follows:-

(a) British Soldiers.

An alien may only be enlisted on the terms set out in the Army Act Sec 95 which provides as follows:-

"(1) Any person who is for the time being an alien may, if His Majesty thinks fit to signify his consent through a Secretary of State, be enlisted in His Majesty's regular forces, so however, that the number of aliens serving together at any one time in any corps of the regular forces shall not exceed the proportion of one alien to every fifty British subjects, and that an alien so enlisted shall not be capable of holding any higher rank in His Majesty's regular forces than that of warrant officer or non-commissioned officer.

"(2) Provided that notwithstanding the above provisions of this section any inhabitant of any British protectorate and any negro or person of colour, although an alien, may voluntarily enlist in pursuance of this part of this Act, and when so enlisted, shall while serving in His Majesty's regular forces, be deemed to be entitled to all the privileges of a natural-born British subject.

It follows therefore that the consent of the Secretary will be necessary before any student can be enlisted. It is not for me to state whether as a matter of policy such consent would be forthcoming but I should hazard an emphatic NO.

(b) U.S. Soldiers.

Ref attached correspondence the position is as follows:-

(a) British Soldiers.

An alien may only be enlisted on the terms set out in the Army Act Sec 95 which provides as follows:-

"(1) Any person who is for the time being an alien may, if His Majesty thinks fit to signify his consent through a Secretary of State, be enlisted in His Majesty's regular forces, so however, that the number of aliens serving together at any one time in any corps of the regular forces shall not exceed the proportion of one alien to every fifty British subjects, and that an alien so enlisted shall not be capable of holding any higher rank in His Majesty's regular forces than that of warrant officer or non-commissioned officer.

"(2) Provided that notwithstanding the above provisions of this section any inhabitant of any British protectorate and any negro or person of colour, although an alien, may voluntarily enlist in pursuance of this part of this Act, and when so enlisted, shall while serving in His Majesty's regular forces, be deemed to be entitled to all the privileges of a natural-born British subject.

It follows therefore that the consent of the Secretary will be necessary before any student can be enlisted. It is not for me to state whether as a matter of policy such consent would be forthcoming but I should hazard an emphatic NO.

(b) U.S. Soldiers.

While in the United States aliens are inducted or enlisted in the United States Army. There is some indication that this may not be done abroad in view of Circular 12 of 1942 dated 3 Dec. 1942, in which it is stated that the enlistment of foreign nationals in the British or American Armies in North Africa is not authorised. U.S. Army Regulations, which might throw some further light, are not available at this HQ.

In the absence of some specific order affecting enlistments into the U.S. Army in Italy, it would be necessary that the highest U.S. Military authority should be consulted.

C[illegible] UNSOAF, Colonel
Chief Legal Officer.

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

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

ALLIED CONTROL COMMISSION
Education Subcommission

481

34

TO : Administrative Director, Headquarters A.C.C.

FROM : Education Subcommission

SUBJECT: Policy about enlisting of Italian Students

DATE : 8th February 1944.

1. Notification has been received from the Rector of Naples University that a number of students of the University wish to enlist in British or American combat units, rather than in the Italian Army.

2. May a statement of policy please be given in this regard.

G.R.GAYRE
Lt. Col. A.E.C.
Education Advisor

GRG/gb

SEEN	To
ADMIN DIRECTOR	
THE STAFF O.	
STAFF O 1	✓
STAFF O 2	✓
STAFF O 3	
CMFC CLERK	

10 FEB.

33

900

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

KJ/HC

ALLIED MILITARY GOVERNMENT

(22)

AMG/205/Hq.

3 November 1943.

SUBJECT : Reply to A. D. Claims and Hirings on question of Requisitioning.

TO : Chief of Staff.

Attached proposed draft prepared for your consideration and signature if approved.

WILLIAM C. CHANLER,
Lt. Col., FA,
Chief Legal Officer.

3

COPY.

RJ/45

32

Attached Mov & Tn.,
AFHQ Advanced Administrative Echelon,
C.M.F.

Our reference : ACC Tn/15/1

TO : H.Q., Allied Control Commission,
(Vice President, Communications Section).

FROM : Chief of Internal Transportation Sub-Commission, ACC.

SUBJECT : Claims against Italian Railways for loss, damage, etc.

DATE : 6 December, 1943.

1. The legal question arises as to whether the liability, as defined under Italian law, of a common carrier by railway may be asserted against Italian Railways in respect of incidents of carriage normally a proper basis for claim, such as loss, damage or injuries to a subject of carriage transported on behalf of the Allied Forces by such railways when under Italian operation.

2. It is requested that a ruling on the legal question here presented be obtained and furnished this office as soon as possible for guidance and necessary action of all concerned.

3. In considering this question attention is directed to (a) the terms and policy of use by the Allies of Italian transportation facilities as defined in Message (No. 3860, 10 Nov 43), copy attached, wherein the provision is contained, that no payments will be made, except where operationally essential, in respect of them by the Allied Forces, and (b) the fact that certain funds operationally essential have already been advanced to Italian Railroads, and that further advances doubtless will be required. Portions of such advances might have to be used by Italian Railway Administration to meet any legitimate claims referred to in para 1 above, if it is decided that such claims are to be made.

(Sgd) S.A. FITCH.
Colonel,
Internal Transportation Sub-Commission, ACC.

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

Italian law, of a common carrier by railway may be asserted against Italian Railways in respect of incidents of carriage normally a proper basis for claim, such as loss, damage or injuries to a subject of carriage transported on behalf of the Allied Forces by such railways when under Italian operation.

2. It is requested that a ruling on the legal question here presented be obtained and furnished this office as soon as possible for guidance and necessary action of all concerned.

3. In considering this question attention is directed to (a) the terms and policy of use by the Allies of Italian transportation facilities as defined in Message (No. 3869, 10 Nov 43), copy attached, wherein the provision is contained, that no payments will be made, except where operationally essential, in respect of them by the Allied Forces, and (b) the fact that certain funds operationally essential have already been advanced to Italian Railroads, and that further advances doubtless will be required. Portions of such advances might have to be used by Italian Railway Administration to meet any legitimate claims referred to in para 1 above, if it is decided that such claims are to be made.

(Sgd) S.A. FITCH.
Colonel,
Internal Transportation Sub-Commission, ACC.

31 Jan YY

Now was answered by telephone from Brindisi & he has given instructions. Telephone from Naples

RMA

Declassified E.O. 12356 Section 3.3/NND No. T8501a

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

COPY.

SECRET EQUALS BRITISH . SF SECRET

AFHQ MESSAGE CENTRE

PRIORITY

OUTGOING MESSAGE

TO: (FOR ACTION) FLIMSO.

NO. 8860

1. Under the terms of Armistice with Italian Government the Italian authorities will make available for Allied Use all naval, military and air installations, power stations, oil refineries, public utility services, all ports and harbours all transport and intercommunication installation facilities and equipment and all such other installations facilities or stocks as may be required by the United Nations: Italian Government will also make available such other local resources or services as the United Nations may require.

2. No contracts will therefore be entered into in respect of any of the items referred in 1 nor will any payments be made (except where operationally essential) in respect of them by the Allied Forces.

3. Exceptions to this general rule are wages for directly employed labour may be paid and payments made for day to day purchases of supplies or minor utilisation of equipment and facilities where impossible to operate normal procedure of provision through medium of Italian Government.

Further instructions in course of preparation.

ORIGINATOR : CAO AUTHENTICATION : H.M. GALE, LT. GEN.

INFORMATION : SOS
Gp. A
Gp. B
Q (MAINT)
Q (AE)
DST
M & TN
PET SEC
DOS
TN (E)
DME
FIN ADV
AG RECORDS
MGS

SUMMARY

et/ven.

MC OUT 2930 10 NOV 43 1054A NO 8860

30

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

30

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

18 January 1944

RJ/45

RHW/ipl

SUBJECT: Olive Oil Purchased by Region III.

TO : Economic and Administrative Section.

1. It is understood from the Ministry of Finance in Brindisi that the supplement of 130 liters per quintal levied on olive oil, is paid by the wholesalers to the Provincial distributing center. Whenever food in distributed by the producers to wholesalers through the distributing center. (Decree No. 5-Art. 9 of 10/11/43 refers.)

2. The Ministry of Finance points out that this amount cannot be considered as a political tax, but merely a compensation for the expense entailed for transport and distribution from the mills to the ammassi, then to the Distributing Center and finally to the wholesalers.

RICHARD H. WILMER
Lt. Col. CAC
Deputy Chief Legal Officer.

29

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

RD/45

29

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LEGAL SUB-COMMISSION

AMG/5103/IC

MEMORANDUM:

TO: Industry & Commerce Sub-Commission
(Attention Col. Todd)

12th January 1944

1. With reference to your memorandum AMG/5103/IC of 8 Jan 1944, it is understood that records of births in communes are being kept regularly by the proper officials there and except where removed or destroyed old records are generally available.

2. Apparently no British Consuls are yet available for the purpose of securing the required records. However, until other means are set up, it is suggested that any requests of the nature mentioned in your memorandum, be submitted to the Foreign Office in London to be forwarded to the Allied Control Commission.

3. In order that the records may be located it is advisable that the name of the particular Province and Commune be specified along with other details.

4. The only British official who might be available to make any verification would be some British officer associated with this organization. One is not available in every commune and with the small number of available officers and the difficulties of transportation it is not going to be possible for officers to do a great deal of this work.

RICHARD R. WILKER.
Lt. Col. C.A.C.
Deputy Chief Legal Officer.

28

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

RT/45

28

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
INDUSTRY & COMMERCE SUB-COMMISSION
APO 394

JSET/jd

AMG/5103/IC

8 January, 1944

MEMORANDUM:

TO: Legal Sub-Commission
ATTENTION: Lt. Col. Willmer

1. Col. Todd of this Sub-Commission has received an inquiry from a friend of his which reads as follows: "I act as agent for an Argentine firm who require certificates of birth, etc. from Sicily and other parts of Italy occupied by the Allies. Could you let me know as soon as possible to whom I must apply and whether the signature of the official issuing such certificates can be verified on the spot by the British authorities".

2. The author of this inquiry is a Notary Public practicing in the City of London and a British subject.

3. He will be much obliged for any information and advice you can give on this matter.

for John S. Todd
Col

J. S. EVANS
Colonel
Acting Director, Industry
and Commerce Sub-Commission

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

R3145

RESTRICTED
ALLIED MILITARY GOVERNMENT

Public Works and Utilities Sub-Commission
APO 512

SC/142/PWU

27

Subject: Italian laws permitting entrance of occupied premises for inspection.

To : Director Legal Sub-Commission.

1. On 16 November 1943, we addressed a communication to the Economic Director on the subject of laws to be put into effect by the Italian Government and it is my understanding that this communication was forwarded to you. In it we asked that there be legal provision authorizing those employed in public utility services, military or civilian, to enter not only vacant but also occupied premises for the purpose of inspection in an effort to stop waste and promote conservation. We were trying to get the local water company men to enter such premises for the purpose of stopping water wastage which is very serious and they told us they had no authority to enter occupied premises for such a purpose.

2. While at Brindisi I discussed this matter with the Italian Minister of Public Works (a lawyer) who advised me that such companies did have legal authority to make such examinations.

3. There is apparently a difference of legal opinion and I would like to have you advise us what the law is and what it covers so that we may be governed accordingly.

R 1404/6

L.A.TURNEY.
Lt. Col., U.S.A.
Acting Director.

Copy To. Economic Director.

HEADQUARTERS
BRITISH MILITARY GOVERNMENT
A.P.O. 512
LEGAL SUB-COMMISSION

RJH/45

(26)

6020/DP

Subject. Regusa Asphalt Mines

To: Director of Property 25th November 1943

1. Reference your letter of 24th November 1943 (6020/DP)

2. This office sees no legal objection to handling this matter in the method mentioned in paragraph 4 (ii) of your letter. It is assumed that you propose to enter into a lease with A.B.C.D. covering operation of the properties.

3. No difficulties should arise after the Italian Government takes over, as it could be required to pay in cash for asphalt powder and diesel oil produced. In the meantime, however, if the British Military Authorities do not buy the Asphalt powder on contract, but make requisitions, it would probably be necessary to make some arrangement with A.B.C.D. whereby G.M. would share in the claims arising under such requisitions, because in such event A.B.C.D. would not have current cash to pay the current rent and royalty under the lease.

4. It is suggested that this matter be forthwith taken up directly with the British Military Authorities engaged in negotiations with A.B.C.D. and explained to them with the end in view that under the circumstances they will pay in cash for the products and thus avoid the complications which otherwise would have to be worked out in the future.

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

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

3. No difficulties should arise after the Italian Government takes over, as it could be required to pay in cash for asphalt powder and diesel oil produced. In the meantime, however, if the British Military Authorities do not buy the Asphalt powder on contract, but make requisitions, it would probably be necessary to make some arrangement with A.B.C.D. whereby G. . would share in the claims arising under such requisitions, because in such event A.B.C.D. would not have current cash to pay the current rent and royalty under the lease.

4. It is suggested that this matter be forthwith taken up directly with the British Military Authorities engaged in negotiations with A.B.C.D. and explained to them with the end in view that under the circumstances they will pay in cash for the products and thus avoid the complications which otherwise would have to be worked out in the future.

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

25

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

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

HEADQUARTERS ARMY GROUP ENGLISH CHANNEL
PROPERTY CONTROL SUB-COMMITTEE
APO 512

(25)

6020/GP

25 November 1945

Subject: Magnus Asphalt Mines.

To : Chief Legal Officer. (Through administrative director)

1. Two British companies, the Val de Travers Asphalt Paving Co, owned perpetual concessions for mining rock in the Neuchâtel basin; the latter also owned a refining plant for producing asphalt powder and mastic. In Indian content, the A.C.T.D, whose capital is owned by the I.A.I, also owned a small mining concession in the same field, and plant for producing (a) asphalt powder and mastic, and (b) diesel oil. By the time that war broke out the ownership of the A.C.T.D. concession was practically vested with the I.A.I. After the outbreak of war the property of the two British companies was sequestrated, but their concessions were revoked and leased over for 30 years to A.C.T.D. The companies were then placed in liquidation by the Indian government, but a pair of their agents - Sir Finlay Gest, attorney, who, as not apparently the registered agent - were sold to A.C.T.D, which had worked the British concessions since March 1940.

2. On the occupation of Stolly by the Allied forces, the plant which had been stopped were set to work by the VIIIth Army on a contract for asphalt powder for the U.S 6th Corps, rock being taken from the Indian concessions and partly milled in the British Mayor mill. This was arranged previous to the arrival of the U.S, and without the knowledge of Caserte. I am advised that contracts for the Italian Forces are about to be placed, and that in the meantime the British mill is working for stock, as the U.S Division will require asphalt powder for next to nothing.

3. Under Proclamation No.2 all measures taken by the Italian Government against enemy Property were declared null and void. Presumably the effect of this proclamation is that the ownership of the British concessions, their mining plant and lay, reverts to the original owners. On 27 October ..... began took custody of the British property, but as it is understood that the Italian Ministry might be expected to claim ownership, the question of the British concessions and the British mills could be left in the hands of the Receiver of the enemy Property Dept.

4. The question now arises what payment if any should be made for the use of these British properties. Two alternatives would appear to be possible:

(i) To advise the A.C.T.D to go on working the mines, etc, and to leave the question of payment to the British companies to be settled between them under the peace treaty.

(ii) To direct the A.C.T.D to pay a royalty on all rock mined from the British concessions, and to rent for subsequent royalty, for the use of the British mill.

5. The question is further complicated by two considerations:

F.T.O.

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

(3.) It is not known whether the airline [illegible] is authorized or prepared to buy the asphalt plant or not, or whether they are going to negotiate the price, leaving the question of payment to be settled later, e.g. under the peace treaty.

(4.) When the Italian government takes over, they will presumably place the contracts for Italian civil aviation [illegible] temporary. And likewise the Italian civil needs to have [illegible] requirements.

5. [illegible] and Brigadier Pollard U.S.A. (A.C.A.S. (Air)) the proposals as regards [illegible] in para 4 (11) above, by collecting, each in his area of [illegible] Italian material, and both the U.K.C.C and U.S.A.C.C should be available [illegible] and form an [illegible] Italian requirements [illegible].

6. [illegible] the case of real property but not of [illegible] property should be paid for. There does not appear to be any reason why the [illegible] to be applied to other forms of property. The opinion of the [illegible] that if the Italian Army [illegible] to the Yugoslav owners, and that if the [illegible] and [illegible] equivalent should be stated by the U.K.

7. [illegible] conclusions arrived at in the meeting.

C. H. M. Lloyds,
Director of Property Control.

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

24

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
APO 512
LEGAL SUB-COMMISSION

AMG/209/LE.

17th November, 1943.

SUBJECT: Approved draft and answer to A.A.C. Claims & Hirings memo CH/3/13/29 dated 8th November, 1943.

TO : Acting Chief of Staff

1. I recommend an answer in the following form be sent to this communication.

2. " Receipt of your CH/3/13/29 dated 8th November 1943 is acknowledged.

We do not understand your suggestion that claims arising out of the requisitioning of articles to be used by members of the Allied Forces in performance of their duties should be presented to this HQ. This HQ has no powers to deal with claims for requisitionings or any other claims. This is clearly a matter for the duly constituted requisitioning authorities of the armed forces which we take it in the present instance is A.A.C. Claims and Hirings. "

Wm. O. CHANCE,
Lieut.Col.I.A.,
Chief Legal Officer.

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

SECRET

23

25/32

To: Chief of Legal Sub-Commission
From: Chief of Communications Section
Subject: Censorship of Italian Civil Communications
Date: 12 November 43.

1. Reference attached letter AFHQ/G-5/2-2 of 8 November 1943 and Point 4, communications relative to civilians, will you please say whether you agree that this should be issued as a Public Notice rather than a Proclamation.

2. Your decision will apply only to territory controlled by ACC, i.e., Regions I and II.

3. An early reply is requested please.

L. HAY, Capt. AUS.
for ACTING CHIEF OF SECTION

-2-

To : Chief of Communications Section.
From : Chief of Legal Sub-Commission 13th November 43

Reference above, it is agreed that the document should be issued as a Public Notice.

SECRET Dennis W Wolman
Lt. Col.
Acting Chief Legal Officer.

2

(21)

Claims against ANZAC Officers. 130/209/HQ.

Lt. Colonel Keith,
A.D. Claims and Firings. 1st November, 3

1. Receipt acknowledged of your communication C1/3/43/29 of 16th September 1943 in which you enclosed a schedule of property which you state was "seized by NZEF personnel, as well as by various units of all services, contrary to the laws and usages of war (NZL, par 407)."

2. We have examined the schedule of property which has been taken and cannot agree that the taking of such property was contrary to the laws and usages of war. NZL, par 407 which specifically states as follows :

> "Further, the right of an army to make use of and to requisition certain property is fully admitted. What is forbidden is such seizure, destruction, improper seizure of taking of property as is not required in the interests of the army, and as would therefore, increase the sufferings of the population in war."

FM 27-10 (American) at par. 336 similarly provides :

> "336. What may be requisitioned - Practically everything may be requisitioned under this Article (52) that is deemed necessary for the maintenance of the army, such as fuel, food, clothing, tobacco, printing presses, type, leather, cloth etc. Billeting of troops for quarters and subsistence is also authorized."

These quotations are based upon Rules 52 and 53 of the Hague Rules of Land Warfare. Rule 52 provides in part that "requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the interest of the army of occupation."

3. Under these rules it has long been accepted practice in International law for an Army of Occupation to requisition not only buildings intended for billets or office space, but furniture, bedding, kitchen utensils, table utensils, and any other articles that may be needed for the proper maintenance of the army of occupation.

4. All that is forbidden by the Hague Rules is the wanton destruction of property or the seizure of property not needed for the army but intended for some other purpose; for example, it is forbidden to requisition property to be taken out of the country either for the general use of the armed forces in other areas or for the enjoyment of the requisitioning power in its own land. But on

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

"Further, the right of an army to make use of and to requisition certain property is fully admitted. What is forbidden in such damage, destruction, improper seizure or taking of property as is not required in the interests of the army, and as would therefore, increase the sufferings of the population in war."

FM 27-10 (American) at par. 336 similarly provides :

"336. What may be requisitioned - Practically everything may be requisitioned under this Article (52) that is deemed necessary for the maintenance of the army, such as fuel, food, clothing, tobacco, printing presses, type, leather, cloth etc. Billeting of troops for quarters and subsistence is also authorized."

These quotations are based upon Rules 52 and 53 of the Hague Rules of Land Warfare. Rule 52 provides in part that "requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the interest of the army of occupation."

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4. All that is forbidden by the Hague Rules is the wanton destruction of property or the seizure of property not needed for the army but intended for some other purpose; for example, it is forbidden to requisition property to be taken out of the country either for the general use of the armed forces in other areas or for the enjoyment of the requisitioning power in its own land. But on the facts presented, it appears that all of the property in question was taken for the use of the army of occupation, in furnishing officers with proper living and messing facilities. It is perfectly necessary militarily from the standpoint of actual and essential local prestige of the Dutch officers in any place where they stay that they be well billeted with proper furnishings. Any other course would only serve to lower them in the eyes of the Italian people and thus unduly complicate their task. In this connection I quote from a memorandum of the Chief Civil Affairs Officer, Lord Rennell, dated 12th August, 1943, and directed to all C.M.A.Os. :

21

"C.M.A.Os. and C.A.Cs. are to house themselves properly in the best and most comfortable billets they can find. They are to regard themselves as permanencies and they must therefore be conveniently and comfortably housed with proper food and service, so that their health and morale will be maintained during perhaps many weeks of solitary or semi-solitary existence. Where several officers are in the same town, I should like them to mess together in the surroundings I have indicated, but at Provincial HQ the C.M.O. may decide to live by himself, at any rate after things have settled down. This I would consider quite proper, since the authority of the head of the Province must be maintained not only vis-a-vis the local population but also vis-a-vis his subordinate officers."

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

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

1652

(2)

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

RJ 19

ALLIED CONTROL COMMISSION
LEGAL SECTION
APO 512

AMG/6058/cp

15 November 1943

MEMORANDUM TO: Acting Administrative Director

With reference to letter of 8 Nov. 1943 from The Director of Property Control (File No. 6055/PC) I have the following observations to make:

1. General Administrative Instruction No. 10 permits the payment of fees for management and for the charging thereof against the estate. Where the property is income producing the costs of maintenance can be paid from the income. However, where property is unproductive of income, the costs of management can only be met currently by :

(a) Mortgage of the property, or
(b) An advance from AMG.

I do not recommend the first alternative although it may be permissable. It is well to bear in mind that under the Peace Treaty, Italy may be required to pay all costs during the period of sequestration and until the owners are reinstated. In no event should the Office of Property Control make any charge for its own services until that is approved by higher authority.

2. The procedure referred to in paragraph 2 seems to be quite proper particularly if all such accounts are actually placed in the name of the Director of Property Control, and the bank is considered secure.

3. If AMG will advance the money to repair the property referred to in paragraph 3, I see no reason why the property may not be repaired now. If, as suggested, the Italian government would have to pay for such repairs eventually and assuming that the funds advanced by AMG are in effect money of the Italian government, it would be only a question of it paying (in effect) the costs now instead of later, provided the costs are reasonable. In no event do I feel that property of Americans or British should be mortgaged or pledged to pay for any costs despite the provisions of Proclamation No. 6, and General Administrative Instruction No. 19, if there is any other way of avoiding it.

Richard H. Coffman
Lt. Col., CAC,
Chief Counsel, ACC.

19

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

MEMO TO: Transportation,
Telecommunications
& Shipping Division.

AMGOT/1000/TCU

30th October 1943

From:- C.I.O.

Reference your minute of above reference dated 28 Oct 43.

Two rail shipments: (a) Civilian Wine, and
(b) Military Wheat.

1. Railway Coy entitled to collect proceeds of sale of (a) in view of its statutory obligations as a common carrier under terms of Arts. 1693/4 of Italian Civil Code.

2. As to proceeds of sale of Shipment (b). This having been made under order of A.M.G., funds are at exclusive disposal of the Supply Division.

Major,
for Lt. Col.
Chief Legal Officer.

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

ALLIED MILITARY GOVERNMENT

(17)

SUBJECT: Railways - Request for Moneys Received from Sale of Goods in Transit under AMGOT Order.

FILE No. AMGOT/10004/JGU

TO: Chief Legal Officer. AMG Hq

AMGOT HQ., SICILY

28 October 1943

1. Reference is made to letter No. F.C. 21-622 A 39-43 dated 15 Oct., 43, from Director, Sicilian State Railways, Copy attached.

2. Opinion is requested as to action to be taken upon this request.

L. D. Densmore

L. D. DENSMORE
Lt. Col., S. C.
Acting Chief, Transportation, Telecommunications, & Shipping.

CRM/EDG.

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

(16)

SICILIAN RAILWAY DIRECTION

PALERMO

COMMERCIAL & TRAFFIC SECTION

NO. N. C. 21-622 A 39-43

Palermo, Italy 10/15/1943.

To: Claude R. Minard,
Captain C.M.P.
Civilian Supply Division,
PALERMO.

SUBJECT: Return sale of goods.

Pursuant to plundering at the railroad station at Licata in July, 1943, a shipment of 10 pipes of Marsala and 7 of Vermouth by slow train 272 of July 9, 1943 from Licata to vittoria, did not reach destination, and what was left was sold on the spot according to order from U.SSA. Major Franco Toscano, Who cashed the sale return in Lire 16,468.

9 cars of wheat, representing a military shipment in current account, direct to Licata, were also subject to partial plundering and the remaining part, about 129,500 kilos, was by order of same major delivered to Pontillo brot brothers Mills, which in several instancestturned over payments to the Banco di Sicilia in favor of the Consorzio Agrario of Agrigento.

With your approval, such sums should be turned over to this Administration, to which they belong.

Very respectfully yours,

Ing. Dr. Pietro Tuccio,
Director.

18

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

(15)

SUBJECT: Suppression of Black Market. AMGOT/1057/PS.

19th October, 1943.

TO: C.P.S.

1. Reference letter from S.L.O., Trapani, dated 16th October, 1943 at p.51 of this file, I have perused your instruction AMGOT/1057/PS of 2nd October and General Order No.5 (Revised) and have to inform you that the S.L.O. is incorrect in his statements. There is provision in Article 5 of the above Order for the issue of permits for the removal of certain commodities and there is provision in Article 6 for confiscation on conviction by an Allied Military Court.

2. The question raised by the S.L.O. as to whether the issuance of manifests or permits is possible having regard to the amount of work involved, is not a matter for the Legal Division and you may so inform the S.L.O.

3. With regard to last paragraph of S.L.O's above letter, the S.L.O. has been in error if his remarks result that instructions to Carabinieri have been emanating from the Legal Division.

H. E. [illegible],
Lt.Colonel,
D. C. L. O.

RJT 5

(14)

AMGOT/6088/CP
AMGOT HQ., SICILY
19 October 1943

SUBJECT: Management Fees - Controlled Estates.

TO : Controller of Property.

1. The question of payment of fees to the Bank of Sicily and other agents for the management of properties on your behalf was discussed yesterday with you and Lt. Colonel Kengeon, of Finance Division, and I confirm below the advice which I then gave.

2. In my opinion, no fees should be paid by AMG to any undertaking or person for the management of properties by them as agents for the Italian Government, or any of its organizations, before the date of the occupat on whether or not that undertaking or person has since the occupation continued with the management as your agent.

3. With regard to the payment of management fees to your agents for the period after the date of first occupation, some difficulties appear to arise. If the fees are ultimately a debt to the owner of the property, any reasonable fee agreed by AMG with the agents is likely to be attacked either as too large or on the ground that it should have been charged to the Italian Government. Further, it is agreeable that AMG should bear the expenses of the administration of the properties under its control (whether that control is direct or through agents), and that the same expenses should be recovered from the Italian Government as a part of the cost of occupation.

4. I do not think the position can be clarified until the complete Armistice Terms are available. If the Italian Government is left to pay the cost of administration of property under these terms, then they will settle, no doubt, direct with the agents. If AMG is left to pay, it may be considered that the better policy would be to fix scale charges payable to AMG, leaving AMG to settle with it's agents on such terms as it thinks fit, thus removing possibilities of criticism. I therefore advise that no further action to agree fees with agents be taken at the moment.

5. The case of the Branto Estate was raised at the meeting mentioned above. Your agent in that case is Signor Bodica who was previously an agent for the late owner, Lord Bridport, and I understand that Lord Bridport has considerable trust in him. If it ultimately results that the Branto Estate is entitled to Lord Bridport, the latter would be most unlikely to raise any objection to a reasonable fee having been paid to his former agent. In the case of the Branto Estate, therefore, I see no danger in agreeing a reasonable fee

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

Government, or any of its organisations, before the date of the occupation whether or not that undertaking or person has since the occupation continued with the management as your agent.

3. With regard to the payment of management fees to your agents for the period after the date of first occupation, some difficulties appear to arise. If the fees are ultimately a debt to the owner of the property, any reasonable fee agreed by AMG with the agents is likely to be attacked either as too large or on the ground that it should have been charged to the Italian Government. Further, it is arguable that AMG should bear the expenses of the administration of the properties under its control (whether that control is direct or through agents), and that the state expenses should be recovered from the Italian Government as a part of the cost of occupation.

4. I do not think the position can be clarified until the complete Armistice terms are available. If the Italian Government is left to pay the cost of administration of property under these terms, then they will settle, no doubt, direct with the agents. If AMG is left to pay, it may be considered that the better policy would be to fix scale charges payable to AMG, leaving AMG to settle with it's agents on such terms as it thinks fit, thus removing possibilities of criticism. I therefore advise that no further action to agree fees with agents be taken at the moment.

5. The case of the Bronte Estate was raised at the meeting mentioned above. Your agent in that case is Signor Bodica who was previously an agent for the late owner, Lord Bridport, and I understand that Lord Bridport has considerable trust in him. If it ultimately results that the Bronte Estate is returned to Lord Bridport, the latter would be most unlikely to raise any objection to a reasonable fee having been paid to his former agent. In the case of the Bronte Estate, therefore, I see no danger in agreeing a reasonable fee with Signor Bodica.

[signature]

H. S. [illegible],
Lt. Col.,
D. C. A. G.

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

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

RT745

DOE X.

AMGOT/4076/Ln. 13
AMGOT H.Q., SICILY
15 October 1943

SUBJECT : Case of MIGNI, Angelo, Paroled P.O.W.

TO : Director of Prisons.

1. Reference your enquiry how the above named prisoner shall be tried.

2. Offences committed by a P.O.W. before parole are triable only by Courts Martial. Proclamation offences committed by P.O.W's after parole may be tried by AMGOT courts. Accordingly this case should be tried in an AMGOT court.

3. The only evidence in the file is the statement of Pte. Cowan, 21 Sept. 43, and that of Sgt. Jablonski, same date. They indicate that three other men were implicated. No report has been received whether any of them has been arrested.

4. It is directed that the case be tried by a Superior Court convened by order of the S.C.A.O. at Caltanissetta. The C.A.P.O. should investigate further if necessary and this prisoner should be tried jointly with the other offenders if possible. From the evidence in the file, the following charges appear appropriate:

(a) Violation of Proc. 2, Art. I, Sec 10, entering a prohibited area. Entering area of the 727th Ry. Opng. Bn. protected by barbed wire at Caltanissetta at about 0300 hours 20 Sept. 43.

(b) Violation of Proc. 2, Art. II, Sec. 26; Art. III, Sec. 2, attempting to steal property of the Allied Forces. Attempted to steal gasoline at time and place stated under charge (a).

5. It will be necessary to return the prisoner to custody of the C.A.P.O. Caltanissetta.

6. Papers returned herewith.

WILLIAM R. JORDAN,
Lt. Col., C.A.C.,
Chief Judicial Officer.

Copy to C.A.P.O., Caltanissetta,
through S.C.A.O.

13

jd

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

Copy for file — (12)

Relaxation of Curfew restrictions. AMGOT/1052/PS.

Commanding General, Seventh Army,
APO 758.

1. This headquarters desires to explore the possibilities of relaxing the curfew requirements which have been in force since the occupation of Sicily.

2. The problem is one of balancing the inconveniences to the civil population and the considerable amount of police effort required which might well be employed on more important functions, on one side against the military necessity on the other.

3. Your views on this matter are invited, particularly with regard to the effect on military considerations, if the curfew restrictions were entirely removed.

FRANK J. McSHERRY,
Brigadier General, U. S. A.,
Deputy Chief Civil Affairs Officer.

MEMORANDUM

AMGOT/4064/L

TCLO

ABANDONED PROPERTY

1. The Property Custodian of the Province of Palermo has been harassed by persons presenting applications for the requisitioning of abandoned premises of all types, now empty and which could be used to house bombed out people, shops and other offices.

2. Normally it would be within the scope of the Property Custodian's functions to take over such property but unfortunately he does not possess the necessary staff to undertake a work of such magnitude. (It is estimated that over 1000 premises would fall in this category.)

3. It was at first suggested that the "Presidente del Tribunale" should, in accordance with the previsions of Italian Law, appoint a curatore to take charge of the abandoned property. This he could not do without the necessary inquest having been effected by the police and a formal report establishing the absence of the owner, (according to Italian Law,) presented to him.

4. It was obvious that the police possessed neither the time nor the facilities to effect such inquests under present conditions, nor could the Property Custodian request the President to act without the necessary inquest taking place.

5. Therefore it has been suggested by the Legal Section that all persons who for valid reasons desire that a curatore be appointed to look after certain abandoned premises, should present their applications to the President of the Notarial Syndicate, Dott. Salvatore Stella, 4, Prazza Castelunis, Palermo.

6. Dott. Stella would study each petition carefully and issue a

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

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5. Therefore it has been suggested by the Legal Section that all persons who for valid reasons desire that a curatore be appointed to look after certain abandoned premises, should present their applications to the President of the Notarial Syndicate, Dott. Salvatore Stella, 4, Piazza Castelnuovo, Palermo.

6. Dott. Stella would study each petition carefully and issue a recommendation that a curatore be appointed or not. This recommendation to be approved by the officer i/c of Italian Courts or the S.L.O., Palermo and forwarded to the "Presidente del Tribunale" for necessary action. (The President is in agreement with this procedure which he considers perfectly legal).

7. The "Curatore" will be chosen from the list of notaries now in Palermo. The "Honorarium" to which they are entitled according to Italian Law will be distributed among them according to the work entailed. - Control of appointments will be effected by S.L.O. and Legal Division, AMGOT H.Q.

8. All monies received by or paid to the "curatore" will be placed in separate current accounts in the bank until the landlord is again in a position to take over his property, when proper accounts will be rendered. (All this

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

10

is in accordance with the provisions of the Civil Code and Code of Civil Procedure.)

9. A notice will appear in the 'Sicilia Liberata' indicating the procedure to be followed by ~~petitioners~~ petitioners.

N.B. Notaries are State Officials, chosen after special examinations and appointed by Royal decree.

C.L.O.
Above seems to me a very good suggestion.
WSD
2/9.

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

C.L.O.

Above seems to have a very good suggestion.

HTD.

2/9.

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

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

CONFIDENTIAL FOR EXECUTIVE

Salaries for State and Provincial Officials

1. In view of the policy pursued by AMGOT in regard to reducing Allied personnel, it is obvious that the Allied Government will have to rely more and more on the efficiency of Italian officials to carry on with the administration of the Island.

2. To date a large proportion (35%) of Italian officials have not returned to their posts. This is due to two factors :-

(a) many are refugees on the Continent;
(b) more are dispersed all over the Island.

Generally, this second category of refugees have not been able to resume their functions for lack of transport and lack of funds.

3. Though nearly 50% of state officials have received on 1st July, four months salary in advance from the Italian Government, their indemnities, which double their salaries, have not been paid.

4. For nearly two months, we have been discussing with them the proportion of salary and indemnities due by the Italian Government or AMGOT, taking into consideration the "mensilita" paid in advance and considered by them as a bonus. In fact most of this advance has been absorbed by the expenses incurred in moving from their offices and their homes to new premises, when transport was extremely costly and rents in safe towns extremely high.

5. Considering Lt. Comdr. Southorn's report setting out that the official cost of living had risen since the occupation by 245% and the Black Market 65%, and the fact that no official can plan a family budget, if he does not know what will be the amount of his salary and indemnities, it would be preposterous to expect any efficient co-operation from people (especially the small civil servants) when we shall have reduced, if not to starvation, at least to a social position totally incompatible with the office they occupy.

6. Could a definite policy be recommended to the Executive Committee for its next sitting, urging them to publish as soon as possible, the general conditions under which Italian State and Provincial officials will be requested to function.

7. The suggestion put forward tentatively is to include all indemnities paid by the Italian Government before July 1st into the salary and treat as such from October 1st.

For instance, a civil servant who received 800 lire monthly salary, plus 650 lire in various indemnities, would, from October 1st, receive 1450 lire net as salary.

double their salaries, have [illegible]

4. For nearly two months, we have been discussing with them the proportion of salary and indemnities due by the Italian Government or Allied, taking into consideration the "mensualite" paid in advance and considered by them as a bonus. In fact most of this advance has been absorbed by the expenses incurred in moving from their offices and their homes to new premises, when transport was extremely costly and rents in safe towns extremely high.

5. Considering Lt. Cmdr. Southwards' report setting out that the official cost of living had risen since the occupation by 245% and the Black Market 6[illegible] and the fact that no official can plan a family budget, if he does not know what will be the amount of his salary and indemnities, it would be preposterous to expect any efficient co-operation from people (especially the small civil servants) whom we shall have reduced, if not to starvation, at least to a social position totally incompatible with the office they occupy.

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7. The suggestion put forward tentatively is to include all indemnities paid by the Italian Government before July 1st into the salary and treat as such from October 1st.

For instance, a civil servant who received 800 lire monthly salary, plus 850 lire in various indemnities, would, from October 1st, receive 1650 lire net as salary.

This method will not only allow the civil servants to balance their budget but would facilitate the future collection of taxes.

8. Any adjustment of the amount of salary to be paid as from October 1st, if the cost of living so justifies, should be carried out by the Wage Section (Dept. Norse) at their early convenience.

C.C.

C. C. Mumford, Major.
Legal Division.

12th Sept. 43.

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

File on ~~RFT~~ 3. Legal Opinions R.J.

Subject:- "Societa Anonima Imprese Elettriche Malinaggio". Palermo.

Memorandum to: D.C.O.R. AMGOT/5036/CS.
25th August, 1943.

1. Referring to your memorandum of even number dated 24th August, on the above subject. This appears to be a complaint by alleged majority stockholders of the above company that a group of Fascists illegally seized control of enough stock in the company to give them a majority, ~~and~~ that thereupon these Fascists appointed new officials who ran the company badly, that they were throughout protected by Fascist Officials in Palermo and that the members of the council appointed by the said Fascists are no longer in Sicily.

2. They ask that the Administration Council, elected by the illegal Fascist majority, should be dissolved and that the former administrator of the company, Prof. Nicasolino Carotenuto, should be restored to his former office, to run the company and to call a meeting of the stockholders and reorganise the company on a legal basis.

3. So far as the legal questions involved are concerned, they are purely matters of Italian Law which must ultimately be determined by the Italian Courts. Any steps taken by us regarding the corporate set-up would probably be subject to later revision by Italian Courts and it does not seem to me that we should get ourselves involved at present over quarrels between stockholders of an Italian company. We have neither a sufficient legal staff nor sufficient knowledge of Italian law to be able to settle such a controversy ourselves in accordance with Italian law.

4. On the other hand, it is our policy to prevent Fascist control of companies in which we are interested. It seems to me that this is precisely the situation in which it was contemplated that we should take control of the company on an "ad

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

Prof. Gioacchino Carotenuto, should be restored to his former office, to run the company and to call a meeting of the stockholders and reorganise the company on a legal basis.

3. So far as the legal questions involved are concerned, they are purely matters of Italian Law which must ultimately be determined by the Italian Courts. Any steps taken by us regarding the corporate set-up would probably be subject to later revision by Italian Courts and it does not seem to me that we should get ourselves involved at present over quarrels between stockholders of an Italian company. We have neither a sufficient legal staff nor sufficient knowledge of Italian Law to be able to settle such a controversy ourselves in accordance with Italian law.

4. On the other hand, it is our policy to prevent Fascist control of companies in which we are interested. It seems to me that this is precisely the situation in which it was contemplated that we should take control of the company on an "ad hoc" basis through the Controller of Property, appoint a manager who would manage the company under our supervision, keep records of the transactions during our administration, distribute profits (if any) to such security owners as are clearly entitled to such profits and impound profits belonging to stockholders whose rights are in question, until their rights are determined.

5. In the meantime as soon as the civil courts are re-opened the writers of the communication should be advised to take such steps as they deem suitable to re-establish their alleged rights. We should keep an eye on the resultant litigation to see that no Fascist influence is brought to bear to deprive them of those rights. But beyond this I do not think that we should interfere. We would probably end up by making a decision which was wrong by Italian Law and

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

would later be upset. I recommend this matter to be taken up from the standpoint of policy in order to determine whether such steps as above suggested should be taken.

W.C.C.

AMSCT H.Q.

W.C.Chanler, Lt.Col. (A.U.S.)
Chief Legal Officer.

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

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

File Legal Opinion 29

6

MEMORANDUM CONCERNING THE POWERS (IF ANY) OF THE OCCUPYING AUTHORITY TO CHANGE EXISTING LAWS IN THE OCCUPIED TERRITORY.

1. THE HAGUE CONVENTION of 1907.

The relevant paras. are as follows:- (The numbers are of the paras. in the Annex to the Convention).:

Art. 43. The authority of the power of the State having passed de facto into the hands of the occupant, the latter shall do all in his power to restore and ensure, as far as possible, public order and safety, respecting at the same time, unless absolutely prevented, the laws in force in the country.

Art. 46. Family honour and rights, individual life, and private property, as well as religious convictions and worship, must be respected. Private property may not be confiscated.

Art. 23 (h). It is particularly forbidden (inter alia) To declare abolished, suspended, or inadmissible the right of the subjects of the hostile party to institute legal proceedings.

2. TEXT BOOKS ON INTERNATIONAL LAW.

(a) Hall's International Law (8th Ed.). In Section 155 at pages 559 and 560 the writer observes as follows:-

"..... The right which he (i.e. the occupying power) possesses over them (i.e. the inhabitants of the occupied territory) are those which in the special circumstances represent his general right to do whatever acts are necessary for the prosecution of his war; in other words he has the right of exercising such, and such control only, within the occupied territory, as is required for his safety and the success of his operations. But the measure and range of military necessity in particular cases can only be determined by the circumstances of those cases. It is consequently impossible formally to exclude any of the subjects of legislative or administrative action from the sphere of control which is exercised in virtue of it; and the rights acquired by an invader in effect amount to the momentary possession of all ultimate legislative and executive power. On occupying a country an invader at once invests himself with absolute authority; and the fact of occupation draws with it as of course the substitution of his will for previously existing law whenever such substitution is reasonably needed, and also the replacement of the actual civil and judicial administration by military jurisdiction. In its exercise however this ultimate authority is governed by the condition that the invader, having only a right to such control as is necessary for his safety and the success of his operations, must use his power within the limits defined by the fundamental notion of occupation, and with due reference to its transient character. He

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

Art. 23 (h). It is [illegible] suspended, or inadmissible the right of the subjects of the hostile party to institute legal proceedings.

2. TEXT BOOKS ON INTERNATIONAL LAW.

(a) Hall's International Law (8th Ed.). In Section 155 at pages 559 and 560 the writer observes as follows:-

"..... The right which he (i.e. the occupying power) possesses over them (i.e. the inhabitants of the occupied territory) are those which in the special circumstances represent his general right to do whatever acts are necessary for the prosecution of his war; in other words he has the right of exercising such, and such control only, within the occupied territory, as is required for his safety and the success of his operations. But the measure and range of military necessity in particular cases can only be determined by the circumstances of those cases. It is consequently impossible formally to exclude any of the subjects of legislative or administrative action from the sphere of control which is exercised in virtue of it; and the rights acquired by an invader in effect amount to the momentary possession of all ultimate legislative and executive power. On occupying a country an invader at once invests himself with absolute authority; and the fact of occupation draws with it as of course the substitution of his will for previously existing law whenever such substitution is reasonably needed, and also the replacement of the actual civil and judicial administration by military jurisdiction. In its exercise however this ultimate authority is governed by the condition that the invader, having only a right to such control as is necessary for his safety and the success of his operations, must use his power within the limits defined by the fundamental notion of occupation, and with due reference to its transient character. He is therefore forbidden as a general rule to vary or suspend laws affecting property and private personal relations, or which regulate the moral order of the community (See Art.46. Hague Convention above)....."

(b) Oppenheim's International Law (6th Ed. Vol. 2. Section 169, pages 341 and 342):

" 169. As the occupant actually exercises authority, and as the legitimate Government is prevented from exercising its authority, the occupant acquires a temporary right of administration over the territory and its inhabitants; and all legitimate steps he takes in the exercise of this right must be recognised by the legitimate Government after occupation has ceased. But as the right of an occupant in occupied territory is merely a right of administration, he may neither annex it, while the war continues, nor set it up as an independent State, nor divide it into two administrative districts for political purposes. Moreover, the administration of the occupant is in no wise to be compared with ordinary administration, for it is distinctly and precisely military administration. In carrying it out the occupant is totally independent of the constitution and the laws of the territory, since occupation is an aim of warfare, and the maintenance and safety of his forces, and the purpose of war, stand in the foreground of his interest, and must be promoted under all circumstances and conditions. But, although as regards the safety of his army and the purpose of war the occupant is vested with an almost absolute power, as he is not the sovreign of the territory he has no

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

he has no right to make changes in the laws, or in the administration, other than those which are temporarily necessitated by his interest in the maintenance and safety of his army and the realisation of the purpose of war. On the contrary, he has the duty of administering the country according to the existing laws and the existing rules of administration; he must ensure public order and safety, must respect family honour and rights, individual lives, private property, religious convictions and liberty.....".

3. CASES ON THE OCCUPATION OF BELGIUM BY THE GERMANS IN THE WAR OF 1914/18.

Quotation from Oppenheim's International Law Vol.2. pp. 342/3 Note 5. (No reports available): .....
"After the World War Belgian Courts refused to admit the validity of most of the laws and regulations issued by the German occupation authorities as going beyond the authorisation of Article 43 (2 cases quoted). On the other hand, they recognised them as having legal effect when their reasonableness was proved, for instance, in cases when the regulations aimed at reducing the prices of commodities. (3 cases quoted).

4. Extracts from British and U.S.A. Pamphlets published during the Present War relating to the Occupation of Enemy Territory.

(a) The Notes on the Military Government of Occupied Territory, published under of the British C.-in-C. Middle East Forces, state as follows:-

Part I (2nd Ed.) at page 4 in Section 7:-
"(iv) In general the pre-occupation laws of the occupied country remain in force but it is competent to the occupying power to suspend, amend or supplement them for the following purposes:-
(a) To ensure the safety and well being of its troops;
(b) To maintain peace and good order;
(c) To alleviate the lot of the civil inhabitants, and generally to adjust the administration to the peculiar circumstances of a hostile occupation."

Part II at page 30 (2nd para on page):-
".....As time goes on, the need will be felt for various kinds of emergency legislation dealing with financial, economic and other internal affairs of the occupied State, and such legislation will be effected by proclamations. ..... All such proclamations as appear to have been genuinely designated for the benefit of the occupied enemy territory are likely to be recognised by the legitimate sovereign of the country should he ever regain possession of it."

(b) The U.S.A. War Dept. Basic Field Manual "Rules of Land Warfare" page 76:
"286. Power to suspend and promulgate laws. The military occupant may suspend existing laws and promulgate new ones when the exigencies of the military

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

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"286. Power to suspend and promulgate laws. The military occupant may suspend existing laws and promulgate new ones when the exigencies of the military service demand such action.

287. Nature of laws suspended. The occupant will naturally alter or suspend all laws of a political nature as well as political privileges and all laws which affect the welfare and safety of his command. Of this class are those relating to recruitment in occupied territory, the right of assembly, the right to bear arms, the right of suffrage, the freedom of the press, the right to quit or travel freely in occupied territory."

5. PRACTICE OF GREAT BRITAIN AND U.S.A. IN THIS WAR.

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A perusal of the Proclamations issued by the Occupying Authorities in Tripolitania, Cyrenaica and Sicily reveals that in practice the Allied Governments have acted on the principle enunciated in Part I. of the British Notes on Military Government etc., as quoted above, i.e. that it is permissible to vary existing legislation where necessary to alleviate the lot of the civil inhabitants and generally to adjust the administration to the peculiar circumstances of a hostile occupation. For instance the various Moratorium proclamations directly suspend existing contract rights and even provide that no interest shall accrue during the period of the Moratorium. See Tripolitania Proclamation No. 9. Art. 2. and Sicily Proclamation No. 5 Art. II Sect. 2. Attention is also drawn to the Tripolitania Proclamation No. 23 relating to Housing. This Proclamation sets up a Housing Commission which has powers of compulsory billeting of civilian inhabitants and may require landlords to let premises etc. for such purposes.

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

4

In both of these cases private property rights are infringed and, inferentially at any rate, existing Italian Law is suspended or modified, but in neither case could it be said that direct military necessity required the regulations in question.

6. SUMMARY.

According to the Text Books and the Hague Regulations the general position would appear to be that the occupying power can change or suspend existing laws in the occupied territory, provided that the success of his operations, the safety of his forces and "the purposes of war" require it. The exigencies of these military requirements can never be fully defined beforehand and in consequence it is impossible formally to exclude any of the subjects of legislative or administrative action from the sphere of control. In addition the occupying government has a momentary possession of all ultimate legislative and executive power.

The Hague Regulations were laid down (1907) and the text book principles enunciated when government of a country was a much less complex business than it is to-day and when all the requirements of a "war time economy" were imperfectly understood if they were appreciated at all.

The Belgian cases from the Great War show a realisation of this fact and the Belgian Courts held valid German Decrees establishing maximum prices of foodstuffs, as these were for the benefit of the community even though they may not have been required by strict military necessity.

The practice in the present War shows a further development along this line and it is submitted that International Law does not now invalidate legislative changes made by the occupying power provided that they are reasonably for the benefit of the community and are required by the administrative situation then existing and it is suggested that Art. 43 of the Hague Convention of 1907 would now be so interpreted.

7. THE PERSON ENTITLED TO EXERCISE THE LEGISLATIVE FUNCTIONS IN THE MILITARY GOVERNMENT IN SICILY.

None of the existing Proclamations contain any general power of delegated legislation. Compare Tripolitania Proclamation No. 6. It is thought that apart from special matters covered by existing Proclamations (e.g. the power of the C.C.A.O. to make regulations about Allied Military Courts - see AMGOT Proclamation No. 4. Art. IX, if it is required to vary existing Italian Laws, fresh Proclamations under the hand of Gen. Alexander, the Military Governor, would be required. . In particular there would appear to be no authority under Proclamation No. 6 (setting up the Property Control), for the Property Controller of the C.C.A.O. to make orders relating to property other than property of the types specified therein and taken into

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

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

File legal Affairs RG

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MEMORANDUM CONCERNING THE LEGAL CONSEQUENCES OF THE RESUMPTION OF HOSTILITIES AGAINST THE ALLIES BY CONSIDERABLE BODIES OF TROOPS ACTING UNDER THE AUTHORITY OF A DE FACTO ITALIAN GOVERNMENT HEADED BY MUSSOLINI.

The first point to be considered in relation to this subject is the nature of an Armistice and the possible action which could be taken in the event of its violation.

An Armistice is not a partial or a temporary peace; it is only the suspension of military operations to the extent agreed upon by the parties. (U.S.A. Basic Field Manual - Rules of Land Warfare Art. 253). The condition of war remains between the belligerents themselves on all points beyond the mere cessation of hostilities. (Oppenheim Vol. 2 at p. 434.)

According to Art. 40 of the Hague Regulations: "Any serious violation of the armistice by one of the parties gives the other party the right of denouncing it, and even, in cases of urgency, of recommencing hostilities immediately".

Art. 41 goes on to provide: "A violation of the terms of the armistice by individuals acting on their own initiative only entitles the injured party to demand the punishment of the offenders and, if there is occasion for it, compensation for the losses sustained."

The question of what treatment can be meted out to enemy soldiers captured while violating an armistice is considered both in the U.S.A. Basic Field Manual and also in the British Manual of Military Law. Art. 270 of the U.S.A. Manual states: "Enemy soldiers captured in the act of breaking an armistice are treated by the captor as prisoners of war. If acting on their

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

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Similarly the British Manual Ch. 14, para 300 states: "Soldiers captured in the act of breaking an armistice must be treated as prisoners of war, since the responsibility for such a violation lies not with them but with the commander."

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

B. The second point requiring attention is the extent to which a de facto government operating in part of the territory is bound by obligations entered into by the de jure government which previously exercised jurisdiction over the whole state territory.

In this connection it is necessary to bear in mind that International Law is concerned with States as such and not with governments as such. The State is the legal "person" in International Law and consequently internal changes have no influence upon the identity of the state. Even when internal change takes the form of temporary dissolution, so that the state, either from social anarchy or local disruption, is momentarily unable to fulfill its international duties, personal identity remains unaffected; it is only lost when the permanent dissolution of the state is proved by the erection of fresh states, or by the continuance of anarchy so prolonged as to render reconstruction impossible or in a very high degree improbable. See Hall at p. 21.

It is quite clear, further, that a general armistice entered into by the de jure government, exercising at the time of making the armistice effective authority over the state territory, binds the state. Such an armistice suspends the entire military operations of the belligerents and since such an armistice is of vital political importance, only the belligerent Governments themselves, or their commanders-in-chief, are competent to agree upon it and ratification is always necessary (British M.M.L. Ch. 14 Art. 262).

It therefore follows from the view of the "personality" of the state set out above that the whole state is bound by the armistice and in consequence

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

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It therefore follows from the view of the "personality" of the state set out above that the whole state is bound by the armistice and in consequence any de facto government subsequently arising in part of the state territory is bound by such armistice. Hostilities subsequently resumed by such government are, therefore, a breach of the armistice.

This brings us back to the original point considered namely: what are the steps which can be taken in the event of a breach of the armistice and it will be recollected that these are:-

(1) Any serious violation gives the other party the right to denounce the armistice, and even, in cases of urgency, of re-commencing hostilities immediately;

(2) A violation of the armistice by individuals acting on their own initiative only entitles the injured party to demand the punishment of the offenders. As a violation of an Armistice is a war crime, the injured party could itself arrange for the trial and punishment of the offending individuals;

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

But (3) Ene soldiers captured in the act of breaking an armistice must be treated as prisoners of war since the responsibility for the violation lies not with them but with the commander.

An analogous problem arises where civil war or armed insurrection breaks out in a state. Here the position would appear to be that as soon as a considerable population is arrayed in arms with the professed object of attaining political ends, it resembles a state too nearly for it to be possible to treat individuals belonging to such population as criminals. It is incumbent upon a state to treat subjects who may have succeeded in establishing a temporary independence as belligerents and not as criminals, and if it is incumbent upon the state itself, it is still more so with upon foreign governments which deal only with external fact and have no right to pass judgment upon the value, from a moral or municipally legal point of view, of political occurrences taking place within other countries. The obligation to act in this manner is, it is true, a moral rather than a legal one but there can be no doubt that if the govt. of a state in which civil war broke out, shot all prisoners taken from the rebels in the course of the operations, its conduct would be universally reprobated. See generally Hall pp. 37 and 38.

The conclusion which, therefore, seems inevitable is that if armies acting under the command of a Mussolini government commenced hostilities against the Allies, the Allies would have the right to denounce the Armistice and probably the right to resume hostilities themselves immediately without notice, but individual Italian soldiers captured in the course of operations would have to be treated as prisoners of war, however, though the Commanders who

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

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

1584