

ACC

10000/142/200

10000/142/200

REQUISITION OF PAPAL PROPERTY
NOV. 1943 - AUG. 1944

FILE CLOSED 23 August 1944

65

(6)

HEADQUARTERS
ALLIED GENERAL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/1015/1/1.

/rlp.
23 August 1944.

SUBJECT : Property of His Eminence Cardinal SIBILLI.

TO : Political Section.

1. The Legal Sub-Commission has considered the letter of His Eminence Cardinal SIBILLI dated 14 Aug 44, and your request of 20 Aug 44.

2. It is not entirely clear to us whether or not the property is required for the housing of refugees or for some necessary military purpose.

3. It is our opinion that there is nothing in the Italian Treaty which precludes the requisitioning for a proper purpose of the Cardinal's property by the Allied Forces.

4. When His Eminence objects that such requisitioning is contrary to the spirit of the Treaty it is pointed out that he relies upon Articles 19 and 21 thereof, under which:

- a. Cardinals are exempt from prestation of a personal character. This would extend, e.g., to exemption from military service, but does not cover requisitioning which is a prestation in kind and
- b. Cardinals enjoy in Italy the honors, due to princes of the royal blood. This does not extend to exemption from requisitioning which is a right and not an honor.

5. It should be pointed out, however, that in practice Cardinals receive from Italian authorities the rights as well as the honors of princes of the royal blood, and these rights do extend to freedom from requisitioning.

6. In this case the property in question is in Italian Government Territory. If it has not already been requisitioned, any future requisitioning should, according to the normal procedure, be effected by the Italian authorities. In view of what is said above, the Italian authorities would only consent to requisition, if at all, at the strong request of the Allied Forces and with considerable protest.

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7. Technically, it is no doubt true that under the Restoration Terms, the Allied Forces have reserved to themselves sufficient rights to requisition directly should the Italian authorities refuse or be unwilling to do so, and we are of opinion that legally such requisitioning is justified provided the property is to be used for an essential military purpose. If it is intended to use the property merely for housing Italian refugees far from the battle zone, that would not appear to be a matter of such military necessity as to warrant requisition on the part of the Allied authorities.

We express no opinion as to whether it is desirable to stir up considerable ill-feeling with the Italian Government and the Vatican for the sake

of a property, which is probably not really necessary to the war effort and more particularly, over a case where the abandonment of our strict rights would not create a precedent which would be likely in the future to cause us any serious inconvenience.

RICHARD H. WILSON,
Colonel, JAG,
Acting Chief Legal Officer.

*Correspondence handed to
Political Section
24.8.44*

4015/1

5-5141 1624
Legal (62)

ACTION AAI INFO ACC MAIN AFHQ ADV OF HQ MAAT /

13/16

AFHQ SOD SACRED
P59613

SECRET
ROUTINE
CITE/THCAO

JUN151328

PROPOSE REPORT AS FOLLOWS TO COMBINED CHIEFS OF STAFF. BEGINS.
SUPPLEMENT TO REPORT IN MAP 710 ON BENEVENTO. PARA 1. ARCHBISHOP WAS
INFORMED SEMINARY WAS REQUISITIONED FROM 1 JUNE, WITH EXPRESSION OF
HOPE IT WILL BE POSSIBLE TO RELEASE BEFORE OPENING OF NEW SCHOLASTIC
YEAR AT END OF SEPTEMBER. PARA 2. DIRECTOR OF COLLEGIO LA SALLE
AGREED TO PLACE ACCOMMODATION OF COLLEGE AT DISPOSAL OF ARCHBISHOP AND
SEMINARISTS. ACCOMMODATION ADEQUATE. EVERY ASSISTANCE GIVEN TO
ARCHBISHOP AND SEMINARISTS, WITH PROVISION OF 3 TRUCKS ON 2 JUNE AND
DAILY AS NEEDED. TRUCKS ALSO PROMISED TO CONVEY STUDENTS TO THEIR
HOMES IN NAPLES, AVELLINO, FOGGIA ^{and} BENEVENTO PROVINCES AT CLOSE OF
PRESENT TERM. PARA 3. SEMINARY NOW VACATED NORMAL RESIDENTS EXCEPT FOR
ARCHBISHOP WHO MOVED TO COLLEGIO LA SALLE IN FEW DAYS. PARA 4. ⁶²AVE FOR
LOCALISED DAMAGE SEMINARY IN EXCELLENT CONDITION. PARA 5. LOCAL VATICAN
REPRESENTATIVE MADE REQUEST THAT NO STRUCTURAL CHANGES BE MADE WITHOUT
PRIOR CONSULTATION WITH ARCHBISHOP. ALTERATIONS DESIRED ARE ALL MINOR
AND WILL BE MADE ONLY IN CONSULTATION AND AGREEMENT WITH ARCHBISHOP.
ENDE. ABOVE BASED ON ACC REPORTS. CONFIRM EARLY AND ALSO THAT YOU STI

REQUIRE THE SERVICES.

LEGAL SUB COMMISSION	
CLO	☒
CLIO	☐
Chief Counsel	☐
CIP	☐
Italian Section	☐

JUN152019

SECRET

ACC DIST
ACTION/ FOR SEC
INFO/ DGC
CA BR
LEGAL
FILE
FLOAT

REAR HEADQUARTERS
ALLIED CENTRAL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4015/1/L.

/rlp.
23 May 1944.

SUBJECT : Vatican Property.

TO : Political Section, ACC.

1. Confirming our conversation of 22 May 1944, the proposed form of directive which was sent to this sub-commission on 21 May 1944, appears to state correctly the attitude to be observed with respect to Vatican property and other religious property in Italy. However, this is said without this sub-commission having been able to secure and examine Administrative Memorandum No. 10 and its appendices referred to therein or the annex to the Lateran Treaty dated 11 February 1929 (not 1921).

GERALD L. UPJOHN,
Colonel,
Chief Legal Officer.

-61

~~TOP SECRET~~

OUTGOING

LEGAL

GSU/341

60

5/18

2781

MAY 18 20 278

ROUTED

PRIORITY

ACC REAR

AFHQ

40/5/11

Enter in and out

VATICAN PROPERTY YOUR FOUR ONE NINE FOUR FIVE THREE OF FIVE MAY REFERS TO PARA
THREE SUB DASH PARA ABLE SAYS THAT VATICAN PROPERTIES LISTED IN PARAS ONE CMA THREE AND
FOUR OF MESSAGE FOUR TWO FOUR EIGHT SIX ARE TO BE ACCORDED STATUS OF NEUTRAL TERRITORY
ETC TO PARA FOUR OF MESSAGE FOUR TWO FOUR EIGHT SIX AS AMENDED BY CABLE FROM CMC REF
NUMBER FOUR NINE EIGHT EIGHT SEVEN THREE OF ONE ZERO FEBRUARY FOUR FOUR WHICH CONTAINED
REVISED AND RENUMBERED LIST AS FOLLOWS COLON PARA TO AFHQ FOR GEORGE DASH FIVE FOR
FAIRMAN FROM ACC REAR FROM UPJOHN SIGNED MCCAPLANE PARA PARA ONE PARA BENEDICTINE
ABBEY ON MOUNT CA SINO PARA TWO PARA BENEDICTINE ABBEY AT SUBICO PARA THREE PARA
BASILICA OF HOLY HOUSE AT LORETO CMA ABOONA PROVINCE PARA FOUR PARA BASILICA OF ST
ANTHONY AT PADUA PARA FIVE PARA BASILICA OF ST FRANCIS AT ASSISI PD PLEASE SIGNAL
WHETHER THIS IS THE COMPLETE LIST OR WHETHER ADDITIONAL PROPERTY IS TO BE INCLUDED AS
INDICATED IN PARA FOUR OF FOUR TWO FOUR EIGHT SIX WHICH REFERS TO LIST CONTAINED IN GEORGE
DASH THREE SIX TWO EIGHT FIVE OF FOUR NOVEMBER AND TWO FIVE SEVEN TWO TWO OF EIGHT
JANUARY PD LAST MENTIONED TWO SIGNALS ARE NOT AVAILABLE AT THIS HQ PD IF COMPLETE LIST
UNDER PARA FOUR OF FOUR TWO FOUR EIGHT SIX NOT AS SET OUT ABOVE PLEASE RENDER COMPLETE
LIST.

DISTRIBUTION:

- 1 - Adj. File
- 1 - DEO
- 1 - ICC

- 1 - Legal S/C

AUTHENTICATED

E. J. ChioCCA

E. J. CHIOCCA
CNO, USA
Asst. Adj.

~~TOP SECRET~~

TOP SECRET

ALLIED COUNCIL COMMISSION

3731

59

INTELLIGENCE MESSAGE

Admin, Sec.

MSG CENTER NO: 17/6

CLASSIFICATION: ~~TOP SECRET~~

PRIORITY: PRIORITY

FROM: UNKNOWN SIGNED CING

TO: AAL, ACC MAIN, AALB, PBS, LPS, NO TWO DIST

DATE/TIME USED: MAY060813

DATE/TIME SENT: MAY091917

REFERENCE NO: 741945

CITE: SHMSH

COMBINED CHIEFS OF STAFF HAVE GIVEN 3 DIRECTIVES ON TREATMENT OF VATICAN PROPERTY. PURPOSE OF PRESENT MESSAGE IS TO TIE THOSE DIRECTIVES TOGETHER FOR INFORMATION AND GUIDANCE OF ALL CONCERNED. PARA. FIRST.

(1) R311 WAS TRANSMITTED IN PARAGRAPH BY MESSAGE 13280 OF 18TH DECEMBER 1943. PARA C PROVIDED A COMPLETE LIST OF VATICAN PROPERTIES WHICH WERE TO BE TREATED IN EXACTLY THE SAME WAY AS THE VATICAN CITY ITSELF AFTER THE ASSAULT ON ROME. PARA. SECOND. MESSAGE 42486 OF 24 JANUARY TRANS- MITTED IN PARAGRAPH WEE. IN PARAS 1, 3, AND 4 IT SUPPLIED THE LIST OF VATICAN PROPERTIES WHICH ARE TO BE TREATED IN THE SAME WAY AS VATICAN CITY. PARA 5 GAVE DIRECTIVES AS TO TREATMENT OF OTHER VATICAN PROPERTIES, AND PARA 6 SUMMARIZED A LETTER FROM PHILIPPO TO POPE WHENIN OPENED PHRASE "VATICAN CITIES". PARA. THIRD. IN REFERENCE TO REQUEST FOR CLARIFICATION, WE HAVE NOW SENT PAR 357, WHICH REQUESTS SUMMARY FOR YOUR INFORMATION AND GUIDANCE. (A) VATICAN PROPERTIES LISTED IN PAR 302 PARAS PARAS 1, 3 AND 4 OF MESSAGE 42486 PARAS ARE TO BE ACCORDED STATUS OF NEUTRAL TERRITORY, ALTHOUGH AS POINTED OUT IN MESSAGE 15980 THE "IMMUNITY OF VATICAN PROPERTIES LOCATED IN ROME SHOULD NOT BE ALLOWED TO INTERFERE WITH MILITARY OPERATIONS, BOMBING, ARTILLERY FIRE, ETC, DURING THE ASSAULT". (B) OTHER VATICAN PROPERTIES THROUGHOUT ITALY IS TO BE ACCORDED "TREATMENT OF PROPERTY OF A NEUTRAL STATE IN OTHER TERRITORY". IT IS 59 SPARED FROM OCCUPATION AND DAMAGE HOWEVER IT IS POSSIBLE TO DO SO WITHOUT INJURY TO THE ALLIED WAR EFFORT. (C) OVER THE OCCUPATION OF RELIGIOUS

31) MENTIONED IN PARAGRAPH 8122. IN PARAS 1, 3, AND 4 IT SURVEILED THE LIST OF
 VATICAN PROPERTIES WHICH ARE TO BE TREATED IN THE SAME WAY AS VATICAN
 CITY. PARA 5 GAVE DIRECTION AS TO TREATMENT OF OTHER VATICAN PROPERTY,
 AND PARA 6 SUMMARIZED A LETTER FROM PRESIDENT TO POPE WHICH APPEARED
 UNDER "MILITARY OPERATIONS", PARA. THREE. IN RESPONSE TO REQUEST FOR CLARI-
 FICATION, NOW HAVE NOT BEEN PAR 357, WHICH HIGHLIGHTS SUBMITTING FOR YOUR
 INFORMATION AND GUIDANCE. (A) VATICAN PROPERTIES LISTED IN PAR 322 HAVE
 PARAS 1, 3 AND 4 OF MESSAGE 4248⁶ RATHER ARE TO BE ASSIGNED STATUS OF
 NEUTRAL TERRITORY, ALTHOUGH AS POINTED OUT IN MESSAGE 15980 THE "IMMUNITY
 OF VATICAN PROPERTIES LOCATED IN ROME SHOULD NOT BE ALLOTTED TO INTERFERE
 WITH MILITARY OPERATIONS, BOMBING, ARTILLERY FIRES, ETC., DURING THE ASSAULT."
 (B) OTHER VATICAN PROPERTY THROUGHOUT ITALY IS TO BE ASSIGNED "TERRITORY
 OF PROPERTY OF A NEUTRAL STATE IN FOREIGN TERRITORY". IT IS TO BE
 FROM OCCUPATION AND DAMAGE HOWEVER IT IS POSSIBLE TO DO SO WITHOUT
 INJURY TO OUR ALLIED WAR EFFORT." (C) WHEN THE OCCUPATION OF RELIGIOUS
 PROPERTY, AS DISTINGUISHING FROM VATICAN PROPERTY, IS ESSENTIAL FOR
 MILITARY OPERATIONS IT MAY BE SEIZED. (D) ANY QUESTION OF REQUI-
 TIONING OR OCCUPYING VATICAN OR OTHER RELIGIOUS PROPERTY IN ITALY WILL
 IN EVERY CASE BE REFERRED TO AHEAD WITH A VIEW TO FURTHER INFORMATION TO
 COMBINED CHIEFS OF STAFF, EXCEPT IN CASES OF OVERHEUNG OPERATIONS
 NECESSITY WHEN AN IMMEDIATE REPORT WILL BE SUBMITTED TO AHEAD WHICH IS
 REQUIRED TO SUBMIT REPORT TO THE COMBINED CHIEFS OF STAFF. PARA. FOURTH.
 OUR MESSAGE 48057 OF 5 FEBRUARY 1944 TO CLASBO, PAVIA (HEAR) AND PARGO
 IS HEREBY REVOKED.

AND DISTRIBUTION:
 Action: Sec Gen (2)
 Info : Dep S.I.
 C.I. Br (2)
 Admin Sec
 Pol Sec
 File

TOP SECRET

Part with Papal Property list

1/8/5/1

58

Buildings or other buildings ^{in Italy} where the Roman Catholic Religion is publicly practised, taught or observed can be divided as follows

I. Property of the Holy See outside Vatican City

a) Various Churches, Catholic Colleges, ^{seminaries} ~~and~~ ^{etc}
located in the City of Rome (Art 13 to 16 of Lateran Treaty)

b) Various properties outside Rome

1) Castel Gandolfo & Villa Barbera - Art 17 of Lateran Treaty

2) Bishops of Porto, Ancona, Pesaro - Art 18 of Lateran Treaty

II. Property under the direct control of the Holy See, but appearing in the records of the bank registration under the name of other religious communities or congregations (Art 21 of Lateran Treaty)

III. Property of various religious bodies under the ^{indirect} control of the Holy See -

Dioceses, chapters, seminaries, parishes etc

IV. Property ^{taken over} ~~belonging~~ to the Italian States through the provisions of the Law of expropriation of 1855 to 1871, but where the exercise of the Catholic cult was ^{in whole} tolerated -

! - Property belonging to private individuals, but
loaned or leased to the local Church for
the use of the Catholic cult -

SECRET

Legal SC
(57) 7120 51990

4015/1

W 28/12

SECRET

priority

PREVIOUS SIGNED CINC

WATERS FOR EASTARLANE

APRIL 12/1455

APRIL 12/1132

| F 31009

FMCS

VATICAN DESIRES INFORMATION FIRST THERE IS ALTERNATIVE ACCOMMODATION REQUESTED FOR BENEFIT INTO
SEMINARISTS; SECOND DOES LOCAL BISHOP APPROVE ALLOCATION OF ALTERNATIVE PREMISES ; THIRD
PRESENT TOTAL OF STUDENTS, PROFESSORS AND SUPERVISORS AT BENEFIT SEMINARY; FOURTH SIMILAR
TOTALS FOR OTHER SEMINARY PROPOSED FOR THEIR USE. ANSWERS REQUESTED SECRET

ACC DIST

ACTION CA M (2)

INFO DEF CC

LEGAL SC

FILE

FLAT

SECRET

SECRET

S1398

Legal Sec (56)
(Rec 40)

ALLIED FORCE HEADQUARTERS
Military Government Section

HP/OF/r1

MOS: 601

6 April 1944

SUBJECT: Requisition of Papal Property

TO : Headquarters, Allied Control Commission

50

Receipt is acknowledged of your message 2517 of 24 March on the above subject. It was found that this Headquarters was not prepared to answer Colonel Upjohn's questions on its own responsibility, and they have accordingly been submitted by cable to the Combined Chiefs of Staff. The responsibility, accordingly, will be made to you as soon as this Headquarters is in a position to do so.

Charles Fawcett

Lt. Col., JAG, A

for signature

HENRY FAULKNER, JR.

Lt. Col., G.S.C.

Acting Chief of Section

56

SECRET

(55)

~~See~~

(54-51)

These drafts were not
acted upon but are included
as a matter of history.

The matter has been referred
to CCS.

gms
6.9.49.

SECRET

ALLIED FORCE HEADQUARTERS
Military Government Section

29 March 1944

SUBJECT: Requisitioning of Papal Property

TO : The Chief of Staff

1. DISCUSSION

1. Message 2517 (Tab A) discloses that the Allied Control Commission is preparing a general directive on requisitioning of papal property, embodying therein the various instructions already received. In this connection the Chief Legal Officer seeks a ruling on two questions:

a. Where papal property is required for urgent operational needs, may a requisition thereof be followed by the application of such force as may be necessary to secure possession?

b. Is it agreed that the President's letter of 10 July 1943, when it pledged that the neutral status of papal domains throughout Italy would be respected, did not accord extraterritorial status to such domains?

2. The basic directive of the Combined Chiefs of Staff on the subject was set out in paragraph 3 of Letter AG 386.2-1 WGS-ACW, dated 2 March 1944, addressed to the Deputy President, ACC. (Tab B). This directive by higher authority must govern throughout this theatre. However, there is outstanding a message on the same subject, 48057 of 6 February (Tab C), which lays down certain propositions inconsistent with the CCS directive. This message has produced numerous difficulties, - among them the two questions now raised by the Chief Legal Officer in message 2517 (Tab A). It is believed that message 48057 should be revoked, in order to clear the ground for the general instructions which ACC is now preparing.

3. Considering the first question on which the Chief Legal Officer needs instructions: It is clearly recognized by the CCS directive (Tab B) that, although the requisitioning of papal property is to be avoided as far as possible, urgent operational needs may require Allied Forces to occupy such property. To occupy necessarily includes the application of such force as may be requisite to secure possession. This view is in agreement with paragraph 5 of Sir Anthony Rumbold's letter on Volpette Seminary (Tab D). It is therefore believed that the question in paragraph 1 a above should be answered in the affirmative.

SECRET

RE SECRET

-2-

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4. As to the second question on which the Chief Legal Officer needs a ruling: The President's letter of 10 July (para. 3 at Tab E) speaks of sparing religious institutions from devastation to the extent that it is within our power, and states that the neutral status of the Vatican City as well as of the papal domains will be respected. The purpose in view was evidently not a tightly-phrased legal undertaking. But whatever the words should be taken to mean, neutral status pretty certainly does not mean extraterritorial status. To be extraterritorial a place or person or thing is to be treated as if it were exempt from the operation of local laws and rules, though in fact there present. To treat a papal seminary in the area of combat in Italy as though it were really not a part of the Italian territory at all is not required by the President's language and surely cannot have been the intent of his pledge. It is believed that the Chief Legal Officer's view is correct and that the question in para 1 b above should have an affirmative answer.

5. A draft message has been prepared (Tab F) to reply to the request in the sense indicated above, at the same time revoking message 48057 (Tab C) out of which the problems arose.

II. ACTION RECOMMENDED

That draft cablegram (Tab E) be approved and directed to be despatched.

III. CONCURRENCES

Mr. MacMillan's Office
Mr. Murphy's Office
C.A.O.

For and in the absence of Colonel SPOFFORD:

HENRY PARKMAN, JR.
Lt. Col., G.S.C.
Acting Chief of Section

Incl: as above

SECRET

54

HP/CF/as

52

FREEDOM

MARCH 291300A

FATIMA REAR

FATIMA - FLAMBO - FARGO

SECRET

HEREWITH REPLY TO YOUR TWO FIVE ONE SEVEN X PARAGRAPH TO FATIMA REAR
 REPORTED FATIMA CMA FLAMBO FOR D CLANT S A O AND FARGO SIGNED CING
 CITY FIELDS PARAGRAPH X YOU ARE PREPARING GENERAL DIRECTIVE ON REQUISITIONING
 PAPAL PROPERTY X THIS SHOULD COVER THE ENTIRE SUBJECT AND GOVERN
 THROUGHOUT ALLIED ARMIES IN ITALY X BASIC PRINCIPLES LAID DOWN BY CDS
 ARE TO BE FOUND IN PARA THREE OF AGO. LETTER AG THREE EIGHT SIX / TWO
 DASH ONE NINE DASH AGO OF TWO MARCH ONE NINE FOUR FOUR TO DEPUTY
 PRESIDENT AGO X PARA X TO CLEAR THE GROUND FOR YOUR GENERAL DIRECTIVE
 CMA OUR MESSAGE FOUR EIGHT ZERO FIVE SEVEN OF SIX FEBRUARY ONE NINE FOUR
 FOUR IS HEREBY REVOKED X PARA X MEETING YOUR SPECIFIC QUESTIONS X FIRST
 CMA AGREE THAT WHERE PAPAL PROPERTY IS REQUIRED FOR URGENT OPERATIONAL
 NEEDS CMA IT MAY BE REQUISITIONED AND POSSESSION MAY BE SECURED BY USE
 OF SUCH FORCE AS MAY BE NECESSARY FOR THE PURPOSE X PARA X SECOND X AGREE
 THAT PRESIDENTS LETTER OF ONE ZERO JULY HEREBY STATES NEUTRAL STATUS OF
 PAPAL DOMAINS WILL BE RESPECTED CMA AND DOES NOT

53

ROUTINE

MIL GOVT REC

309 CAG C/S HATO
 C-2 C-3 US NAVY
 CING MED AG RECORDS
 MSG MR MURPHY
 MR MACMILLAN

LT COL HENRY PARKMAN, JR
 136

(51)

STAND: THEY WILL BE TREATED AS HAVING EXISTENT DIPLOMATIC STATUS & NEUTRAL
STATUS DOES NOT PREVENT REQUISITIONS OR ENFORCEMENT OF REQUISITIONS BY
SUCH FORCE AS MAY BE NECESSARY.

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23 MAR 1944

U. S. SECRET
 Equals British SECRET

OUTGOING

/MOT



1/24
 2517



SECRET

ROUTINE

FATHER REAR

FREEDOM

4015/1
 L

File

25 MAR

gwh

REQUISITION OF PAPAL PROPERTY PD FOR PURPOSE OF ISSUING A GENERAL DIRECTIVE
 INVOLVING VARIOUS INSTRUCTIONS RECEIVED DESIRE TO BE INSTRUCTED ON FOLLOWING
 POINT PD WHERE PAPAL PROPERTY IS REQUIRED FOR URGENT OPERATIONAL NEEDS WITHIN
 MEANING OF PARA FIVE OF YOUR FOUR TWO FOUR EIGHT SIX ASSURE THAT REQUISITION
 MAY BE FOLLOWED BY USE OF SUCH FORCE TO SECURE POSSESSION AS MAY BE NECESSARY
 ONE OTHERWISE RIGHT OF REQUISITION PROBABLY VALUELESS PD TO FREEDOM FOR MGS
FOR FAIRMAN FROM FATHER REAR FROM DUTCH SIGNING MACFARLANE PD THIS VIEW SUPPORTED
 BY MEMORANDUM ONE ONE SLANT THREE FOUR SLANT ONE FIVE ZERO ONE DATED ONE SEVEN
 MARCH BY RUMBOLD PD ALSO POINT OUT THAT PRESIDENT IN HIS LETTER TO ROPE ONE ZERO
 JULY ONE NINE FOUR THREE MURRAY STATES THAT NEUTRAL STATUS OF PAPAL DOMAINS WILL
 BE RESPECTED PD IT DOES NOT SAY NOT STATE THAT THEY WILL BE TREATED AS HAVING
 EXTRATERRITORIAL STATUS PD NEUTRAL STATUS DOES NOT PREVENT REQUISITION OR ENFORCEMENT
 OF REQUISITION BY SUCH FORCE AS MAY BE NECESSARY

AUTHENTICATED:

E. J. Chiocca
 E. J. CHIOCCA
 CWO USA
 Asst Adj

DISTRIBUTION:

- 1 - AG
- 1 - DGC
- 1 - DSC
- 1 - Legal Col Upjohn ✓

U. S. SECRET
 Equals British SECRET

ACC/L/4015

MEMORANDUM

SUBJECT: Right to requisition Papal property (other than that given special status by Lateran Treaty) under the AFHQ Directives.

Consider letter of CLO to Exec. Comm., ACC dated 6 March 1944.

1. Signal No. 42486 from AFHQ dated 23 Jan. 44 of the Comb. Chiefs (paraphrasing FAN 322) directs to (a) "avoid requisitioning or converting to our use other Vatican property (i.e. other than that enumerated in Lateran Treaty) throughout Italy which existing occupants claim to be property of the Holy See. If urgent operational needs require occupation report should be made earliest to this HQ; and states that (b) Vatican City and Papal domains will have neutral status respected. (26)
2. Signal No. 48057 from AFHQ dated 6 Feb. 44 directs that (a) any property may be requisitioned; (b) for political reasons requisition of papal property in territory administered by Italians should be done through Italian authorities; (c) Vatican should be informed that a requisition of their property is being carried out. It is not necessary to obtain Vatican's consent in advance; (d) President's message of July 10 amounts to an undertaking that the Allied authorities will treat Vatican property throughout Italy as having extraterritorial character and therefore it is essential that force should not be used by the Allied Military Authorities or by the Italian authorities on their behalf. (35)

3. As pointed out in the aforesaid CLO's letter the Signals under 1 & 2 can not be reconciled. (26)

4. The directive of the AFHQ No. 386.2 of 2 March 1944 (a) repeats in para 3 almost word for word the instruction contained in Signal 42486 set out above under 2 (i.e. (i) avoid requisitioning of any property which the occupants allege to be the property of the Holy See, (ii) in case of urgent operational needs requiring requisition, report thereof should be made to AFHQ); (b) cites President's letter of 10 July according to which "the neutral status of Vatican City as well as the Papal Domains throughout Italy will be respected"; (c) provides that nothing contained in Message 48057 mentioned above under 2 "is to be so interpreted as in any way conflict with the directive in FAN 322" (i.e. with Signal 42486 set forth under 1 above). (26)
5. In the light of the last directive the following...

2. Signal No. 48057 from AFHQ dated 6 Feb. 44 directs that

- (a) any property may be requisitioned;
- (b) for political reasons requisition of papal property in territory administered by Italians should be done through Italian authorities;
- (c) Vatican should be informed that a requisition of their property is being carried out. It is not necessary to obtain Vatican's consent in advance;
- (d) President's message of July 10 amounts to an undertaking that the Allied authorities will treat Vatican property throughout Italy as having extraterritorial character and therefore it is essential that force should not be used by the Allied Military Authorities or by the Italian authorities on their behalf.

3. As pointed out in the aforesaid CLO's letter the Signals under 1 & 2 can not be reconciled. (26)

4. The directive of the AFHQ No. 386.2 of 2 March 1944

- (a) repeats in para 3 almost word for word the instruction contained in Signal 42486 set out above under 2 (i.e. (1) avoid requisitioning of any property which the occupants allege to be the property of the Holy See, (ii) in case of urgent operational needs requiring requisition, report thereof should be made to AFHQ);
- (b) cites president's letter of 10 July according to which "the neutral status of Vatican City as well as the Papal Domains throughout Italy will be respected";
- (c) provides that nothing contained in Message 48057 mentioned above under 2 "is to be so interpreted as in any way conflict with the directive in FAN 322" (i.e. with Signal 42486 set forth under 1 above).

5. In the light of the last directive the following is the final rule laid down by AFHQ:

- (i) You should avoid as far as possible requisitioning or otherwise converting to Allied use any property in occupied territory which the occupants allege to be property of the Holy See.

(ii) In case urgent operational needs require that Allied Forces occupy any such property, report thereof should be made as early as possible to AFHQ.

(iii) Papal domains enjoy neutral (not extraterritorial) status.

(iv) The principle set forth under (i) obviously applies to unoccupied territory with the modification that "for political reasons" requisition of papal property in such territory should be done through Italian authorities (Signal No. 48057 and penultimate para. of the last directive of 2 March referring to Doc. 4). (35)

- (v) It is not necessary to obtain Vatican's consent in advance.

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6. The last directive of 2 March (last para) requests that a report on the status of negotiations concerning the seminary at Molfetta be prepared. This seminary is considered as having been legally requisitioned and the case is considered apart from the general policy questions.

SGT E.S. - 20 March 44.

is tall with you, you agree — 48057 is really the direction that
has everything in it. But was that of without consequences here in
HSS, on the impression that it was a splendid starter for the
whole subject, & considering who had written it it must be the true view.
Once it was despatched, anxious people stood in the way of revoking it,
& AG letter 386.2-1 was an attempt to force you from 48057 without
expressly overruling & revoking it. But as your 2517 shows, you still
needed to be freed from some of the doctrines of 48057.

In all this confusion I feel a sense of deep personal regret, even
though I've not been able to avoid the action producing the result.

I wrote the above & inclosed the papers in a confidential letter,
for Proj. Lush 133/28/CA of 19 Mar. directing not to send papers
on Reg. of Royal Summaries marked Att. CLO, because RSC will
make the proper distribution in its own way. Since you & I had been
handling the matter in earlier correspondence, Att. CLO seemed to be
appropriate & calculated to facilitate delivery & consideration. So I
was surprised to get this little reproof.

— 17 —

Now & then CusC tried, in the person of Commander Lush, or Capt Lush,
comes over for a chat on legal problems under the armistice. It has
seemed here in HSS — & I've always consulted the Chief Secy 48 — that
we should give the opinion here — because CusC tried this as to
this Stg., because the Royal Navy is entitled to a prompt response,
because if we didn't answer their questions in a helpful way
right here they might not consult anyone. So — we have
in file a few cases, which I am sending you copies for your file.
I trust the various then laid down concerned themselves by your
judgment. The copies come under separate cover.

I find that the theory prevails in the Royal Navy that finally,

425
SECRET

ALLIED FORCE HEADQUARTERS
Military Government Section

HP/CF/thh

47

19 March 1944

MCS 601

SUBJECT: Requisitioning of Papal Seminary at Molfetta

TO : Allied Control Commission
(Attention: Chief Commissioner)
Chief Legal Officer

1. Inclosed will be found a copy of a memorandum of 17 March 1944 by Sir Anthony Humbold of the British Resident Minister's Office, subject Molfetta Seminary, which you may care to consider in preparing a reply to the letter of this Section, MCS-601 of 15 March, on the requisitioning of papal seminaries. The memorandum is being brought to your notice for its narrative of events.

2. The discussion of the legal position, in paragraph 5, restates what Mr. Watkins said in his memorandum 11/14/1501 of 16 November 1943 (a copy of which has, it is believed, in the CLO's files); it is also in the same vein as AFHQ message 48057 of 6 February. All this, however, is to be read subject to the authoritative Combined Chiefs of Staff directive set forth in paragraph 3 of AFHQ letter AG 386.2-1 MCS-ACM, which establishes the rule for this Theater of operations.

3. As to the suggestion in paragraph 10 (1) of Sir Anthony Humbold's memorandum, it has, on further consideration, seemed inadvisable to draw Monsignor Carroll into the present matter.

4. The entire question of further and presumably definitive action on the present matter is being held in abeyance awaiting your report, as requested in MCS letter of 15 March, which it is understood will be sent forward in a few days.

47
Henry Parkman Jr.

HENRY PARKMAN, JR.,
Lt. Col., G.S.C.,
Acting Chief of Section.

Incl: as above

SECRET

11/34/1501

Office of the British Resident Minister
at Allied Force Headquarters,
5, rue Professeur Curtillet,
Algiers.

To: Military Government Section
(For attention of Lt. - Col. Fairman)

From: Resident Minister's Office.

Molfetta Seminary.

1. The G.O.C. No. 2 District cabled to A.F.H.Q. on November 4th last to say that he was very anxious to requisition the seminary of Molfetta in the Province of Bari for use as a convalescent home for wounded. He said that the seminary provided the only suitable accommodation on the required scale in the area in question and that it was therefore urgently required on grounds of military necessity. It had no extra-territorial status but it was owned by the Vatican and the Head of the Seminary had said that he was not prepared to let it be requisitioned.

2. The position was explained to the Foreign Office by the Office of the British Resident Minister with the suggestion that the Vatican should be simply informed that the military authorities proposed to occupy the premises after requisition by the Italian Government and that it was assumed that no objection would be seen. The Foreign Office agreed and sent instructions to the British Minister at the Holy See to make a communication to the Vatican in this sense and in particular to make it quite clear that we were in no way asking their permission but were merely informing them as a matter of courtesy of what was proposed. The Minister was also instructed to suggest that as there might be further cases of the kind it would be helpful if the Vatican would issue a directive to their authorities in charge of ecclesiastical property to co-operate fully with the Allied Forces in such matter.

3. Instructions were sent to the Control Commission on November 21st to arrange for the Seminary to be requisitioned. It was duly requisitioned by the Italian Government on behalf of the Allied Forces.

4. Unfortunately the Vatican did not entirely accept the position as it was put to them by the British Minister. They replied to his communication by saying that the Seminary being their property their consent was necessary before it could be used for other purposes. On the other hand they said that if alternative accommodation could be

146

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4. Unfortunately the Vatican did not entirely accept the position as it was put to them by the British Minister. They replied to his communication by saying that the Seminary being their property their consent was necessary before it could be used for other purposes. On the other hand they said that if alternative accommodation could be found where the work of the seminary could be continued they would be prepared to agree to the building being used as a convalescent home. At the same time they asked the British Minister to arrange for the delivery of a message to the Archbishop of Bari instructing him to transfer his building to the Allied Forces if and when he could find other premises in which the seminary could continue to function.

5. It must be observed at this point that the Vatican contention that their consent had to be obtained before the seminary could be used by the Allied Force was entirely devoid of legal foundation. The Allied Military Authorities are fully entitled to requisition and make use of any property required for military or similar purposes in Southern Italy. This right is quite independent of any rights which the

Allied authorities may enjoy under the Armistice and is also not affected by the fact that an Italian Civil Administration may be functioning in the district. The Lateran Treaty (to which neither the U.S. nor the British Governments are a party) should in no way affect our rights in this respect. It was only as a matter of courtesy, as the British Minister to the Holy See made clear, that we warned the Vatican of our intentions. When the Vatican maintained the opposite point of view and claimed that their consent was necessary before the Allied authorities could take the property over, we would have been perfectly justified in contradicting them and proceeding to take the property over in the absence or in advance of their consent. As it was we chose to refrain from arguing with them because although wrong in their theoretical attitude towards the case they appeared in fact to wish to be accommodating. The message referred to above was accordingly passed on to the Archbishop of Bari and pending the receipt of his reply and the finding of alternative accommodation for the occupants of the seminary, no steps were taken to make use of the building.

6. On January 15th the Control Commission cabled to say that the Seminary authorities refused to move out on the ground that they were unable to find any alternative premises and therefore could not comply with the condition for the transfer laid down by the Vatican. The Control Commission commented that in their opinion nothing short of unconditional orders from the Vatican would cause the seminary authorities to change their attitude, unless of course they were moved out under pressure of actual force. It was clear that the Seminary authorities had made no effort to find any alternative accommodation.

7. The Foreign Office thereupon asked the British Minister to the Holy See to send a further message to the Vatican reviewing the position, saying that the Allied Military Authorities were satisfied that the Seminary authorities had made no effort to find any alternative accommodation and urging the Vatican to send positive instructions to the Seminary authorities to transfer the building to the Allied authorities, pointing out that their continued failure to do so might result in serious hardship to the persons whose use as a convalescent home the seminary was intended.

8. Meanwhile, the Control Commission were urged to extract an answer from the Archbishop of Bari to the message from the Vatican referred to in paragraph 5 above. It seemed at this point, that if further instructions were to be sent by the Vatican to the Archbishop, a reply from him to the Vatican's earlier communication would first have to be obtained. The Archbishop informed the Control Commission that he had replied to the Vatican's message by the hand of Monsignor Walter S. Carroll of the

6. On January 13th the Control Commission cabled to say that the Seminary authorities refused to move out on the ground that they were unable to find any alternative premises and therefore could not comply with the condition for the transfer laid down by the Vatican. The Control Commission commented that in their opinion nothing short of unconditional orders from the Vatican would cause the seminary authorities to change their attitude, unless of course they were moved out under pressure of actual force. It was clear that the Seminary authorities had made no effort to find any alternative accommodation.

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8. Meanwhile, the Control Commission were urged to extract an answer from the Archbishop of Bari to the message from the Vatican referred to in paragraph 5 above. It seemed at this point, that if further instructions were to be sent by the Vatican to the Archbishop, a reply from him to the Vatican's earlier communication would first have to be obtained. The Archbishop informed the Control Commission that he had replied to the Vatican's message by the hand of Monsignor Walter S. Carroll of the Secretariat of State to the Vatican who had recently returned to the Vatican after visiting Southern Italy. It is not known what was contained in this reply, but according to a telegram from the Foreign Office dated March 8th a message for the Vatican was received in London from the Archbishop "through the War Office". This message, which was dated February 29th, reported that the Allied authorities wished to take over the Seminary but that no alternative accommodation could be found and that the Archbishop requested instructions. It has not so far been forwarded to the Vatican because the Foreign Office feel that it would be wiser to

remain

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refrain from passing it on until they can have some further information about the possibility of finding some alternative accommodation.

9. The Control Commission has now reported in a cable dated March 15th, that alternative accommodation has been found for the Seminary by the Provincial Commissioner of Bari, but that the Archbishop still refuses to move on the ground that the accommodation found for him is neither adequate nor suitable. The Control Commission conclude their cable by stating that "he is clearly now being merely obstructive and I must ask that orders in the clearest possible terms be sent to him by the Vatican."

10. It is suggested that in the circumstances described above the following two steps should now be taken:

(1) Monsignor Walter S. Carroll is now in Algiers and the Chief of Staff might ask him to call in order to discuss the whole question. The Chief of Staff could point out to Monsignor Carroll that (a) the Allied authorities would have been within their rights not only in requisitioning but in making use of the Seminary many months ago without obtaining the consent of the Vatican; (b) that as a matter of courtesy the Allied authorities refrained from making use of the Seminary because the Vatican had expressed the hope that alternative accommodation would first be found; (c) that alternative accommodation has in fact been found; (d) that in spite of this the Archbishop still refuses to move out and the Allied authorities are satisfied that he is merely being obstructive, and (e) that the action of the Archbishop in holding on to the building has caused and will continue to cause suffering among the wounded for whom accommodation is badly needed. The Chief of Staff could ask Monsignor Carroll to request the Vatican to send positive instructions to the Archbishop to transfer the building to the Allied authorities and to warn the Vatican that the Allied authorities may otherwise be obliged to use force.

(2) A telegram should be sent to the Foreign Office briefly reviewing the position as set out above and requesting their authority for the Archbishop and the seminary to be moved by force into the new accommodation which has been found for them. It has been generally agreed that as a matter of policy it would be preferable for the Italian authorities to be the instrument of any forceful action which might have to be taken against the occupants of the Seminary and if the Foreign Office agreed that no further time should be wasted in corresponding with the Vatican and the Archbishop, the Italian authorities would have to be requested to take the necessary measures. In view of the correspondence which has already passed between the British Government and the Vatican on this subject, we feel that no forceful action should be taken without the consent of the Foreign Office. But we do not believe that the Foreign Office would be likely to raise any objection. If as the result of any message which Monsignor Carroll is persuaded to send to the Vatican positive instructions are sent to the Archbishop to move out, so much the better. But the Allied authorities need hardly wait for these to be received before proceeding to evict the

use of the Seminary many months ago without obtaining the consent of the Vatican; (b) that as a matter of courtesy the Allied authorities refrained from making use of the Seminary because the Vatican had expressed the hope that alternative accommodation would first be found; (c) that alternative accommodation has in fact been found; (d) that in spite of this the Archbishop still refuses to move out and the Allied authorities are satisfied that he is merely being obstructive, and (e) that the action of the Archbishop in holding on to the building has caused and will continue to cause suffering among the wounded for whom accommodation is badly needed. The Chief of Staff could ask Monsignor Carroll to request the Vatican to send positive instructions to the Archbishop to transfer the building to the Allied authorities and to warn the Vatican that the Allied authorities may otherwise be obliged to use force.

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/s/ A. Rumbold

17th March, 1944

SECRET U.S. SECRET EQUALS BRITISH MOST SECRET

AP 637

ALLIED FORCE HEADQUARTERS
APO 512

SECRET
AUTH: CINC, AFHQ
Initials: [initials]
2 March 1944

43

AG 356.2-1 MGS-AG

SUBJECT: Requisitioning of Papal Seminaries.

TO : Deputy President, Allied Control Commission.
(Attention: Chief Commissioner.)



7 MAR 1944
DDE

1. Reference is made to the inclosed copy of a note from Mr. C. F. Reinhardt, acting for the United States Government, in Mr. Murphy's absence, in respect of Italian affairs. The note covers a letter from the Apostolic Delegate at Washington to the Secretary of State, on the subject of the proposed requisition of the Pontifical Seminary at Molfetta. The Department of State requests that the Delegate's letter be brought to the attention of the appropriate Allied Military authorities with "an expression of the hope that the Delegate's request will receive sympathetic consideration".

2. The desire of the Holy See to receive a report from the Archbishop of Bari has already been transmitted to the Allied Control Commission by letter of 18 December 1943, MGS-336.2, covering the British Resident Minister's note 11/34/1501 of 18 December, by Message 45323 of 31 January from Allied Force Headquarters to Fatima Rear, Fargo and Flumbo, and by Message 51234 of 13 February from Allied Force Headquarters to Fatima and Fargo. In this connection the reply contained in Message 2270 of 5 February from Fatima Rear to Allied Force Headquarters has been noted.

3. The directive of the Combined Chiefs of Staff on the treatment to be accorded Vatican property was transmitted to this headquarters by Message FAN 322 which was conveyed to the Allied Control Commission and other units in the field by Message 42486 of 24 January 1944. The concluding portion of FAN 322, which was somewhat condensed in paragraphs 5 and 6 of Message 42486, is directly pertinent to the subject of the present letter, and is accordingly set out at length, in paraphrase, as follows:

Regarding other Vatican property in Italy, you should avoid as far as possible requisitioning or otherwise converting to Allied use any property in occupied territory which the occupants allege to be property of the Holy See. In case urgent operational needs require that Allied Forces occupy any such property, report thereof should be made as early as possible.

In connection with the subject of the treatment of Vatican property, attention is drawn to a letter of 10 July 1943, from the President to the Pope, assuring him of the respect of the Allied Forces for the domains of Pope. The pertinent portion is as follows:

- 1 -

(Signature) Chief Comm.

U.S. SECRET EQUALS BRITISH MOST SECRET

10 MAR 1944

386.8

SECRET

U.S. SECRET EQUALS BRITISH MOST SECRET

AG 386.2-1 MOS-AM, 2 March 1944

"There is no need for me to reaffirm that respect for religious beliefs and for the free exercise of religious worship is fundamental to our ideas. Churches and religious institutions will, to the extent that it is within our power, be spared the devastations of war during the struggle ahead. Throughout the period of operations the neutral status of VATICAN CITY as well as the Papal Domains throughout ITALY will be respected."

Nothing contained in message 43057 of 6 February from Allied Force Headquarters to Flambo for Deputy Chief Administrative Officer, Fatima Near, and Fargo is to be so interpreted as in any way to conflict with the directive in PAN 342. The subject to which paragraph 2 (a) of message 43057 was addressed is now governed by Document A of the instruments for the transfer of territory to Italian jurisdiction.

4. The concluding paragraph of Mr. Reinhardt's letters requests information on the status and progress of negotiations concerning the seminary at Molfetta. Headquarters Allied Control Commission is requested to prepare such a report for transmittal by this headquarters to the representative of the United States Government.

By command of General WILSON:


J. L. Tamm,
Colonel, AGC.,
Asst. Adjutant General.

1 Incl:
Copy of Mr. Reinhardt's letter,
with Apostolic Delegate's letter inclosed.

DISTRIBUTION:

2 - War Office
2 - War Department
2 - CG, Fifth Army
2 - CG, Eighth Army
2 - CG, Seventh Army
2 - GOCINC ACMF
2 - CG, MA F
2 - CINC Med
Districts
2 - No 1
2 - No 2
2 - No 3
2 - CG, P35
1 - S/Gs
1 - CAO
1 - G-1
1 - G-2
1 - G-3
1 - JAG
2 - AG Records

1 - Mr Murphy
1 - Mr MacMillan
1 - Mr Reinhardt
2 - ea addressee

- 2 -

U.S. SECRET EQUALS BRITISH MOST SECRET

~~SECRET~~

U.S. SECRET EQUALS BRITISH MOST SECRET

~~CONFIDENTIAL~~

UNITED STATES MEMBER
ADVISORY COUNCIL FOR ITALY

February 10, 1944

TO : Military Government Section, Allied Force Headquarters.

SUBJECT: Proposed requisition of the Pontifical Seminary of Molfetta.

There is enclosed a copy of a letter from the Apostolic Delegate at Washington addressed to the Secretary of State concerning the proposed requisition by the Allied armed forces in Italy of the Pontifical Seminary of Molfetta for use as a hospital.

The Department of State has requested that the Delegate's letter be brought to the attention of the appropriate Allied military authorities, together with an expression of the hope that the Delegate's request will receive sympathetic consideration.

This office will appreciate being informed of the present status and progress of the negotiations with respect to the Seminary at Molfetta.

/s/ G. F. Reinhardt

G. F. Reinhardt
Acting United States Member,
Advisory Council for Italy.

Enclosure:

Copy of letter as stated.

Copy to:

Office of British Resident Minister,
Chief Administrative Officer, AFHQ.

Incl 1 to Ltr AFHQ, AG 386.2-1 MGS-AGM,
2 March 1944.

~~SECRET~~

U.S. SECRET EQUALS BRITISH MOST SECRET

10 MAR 1944

SECRET

U.S. SECRET EQUALS BRITISH MOST SECRET

COPY

The Honorable
Cordell Hull
Secretary of State.

(41)

244/43

January 3, 1944.

My dear Mr. Secretary:

I am in receipt of a communication from His Eminence, Cardinal Maglione, Secretary of State, regarding the proposed requisition of the Pontifical Seminary of Molfetta by the Allied armed forces in Italy for use as a hospital.

During the month of November 1943, the British Government through their Minister to the Holy See, communicated to His Eminence that the Allied military authorities intended to use the Seminary for the purpose indicated and that the Italian Government had given an order for its confiscation.

His Eminence responded on November 17, 1943, that the Italian Government had given written assurances to the Holy See in the month of June 1940, that the Seminary of Molfetta would not be requisitioned. His Eminence further recalled that the President of the United States on July 10, 1943, had publicly given assurance that the properties of the Holy See in Italy would be respected. In conclusion His Eminence stated to the British Government that the Holy See authorized the Archbishop of Bari to permit the use of the Seminary as a hospital as soon as the seminarians could be transferred to another building.

The Holy See did not receive a reply from the British Government, but on December 27, 1943, the Charge d'Affaires of the Apostolic Delegation in Cairo informed His Eminence that the premises of the Seminary would be occupied on January 5, 1944. His Eminence then outlined to the Apostolic Delegation in Cairo the status of the negotiations as described above.

At this point the Holy See desires that the assurances given at the time of the invasion of Sicily be respected, and that in the specific case of the Pontifical Seminary of Molfetta the instructions of the Holy See be communicated to the Archbishop of Bari. Furthermore the Holy See wishes that the Archbishop of Bari be permitted to communicate to the Cardinal Secretary of State the progress of the negotiations.

I shall be most grateful if the Department of State of the United States will undertake to present the foregoing matter to the Allied Command in the Mediterranean area, in order that a solution may be reached by mutual agreement rather than by enforced requisition.

With the assurances of my distinguished consideration, and of my deep personal regard, I have the honor to remain,

Yours very truly,

(signed): A. G. CIOGGIARI

Archbishop of Laodicea
Apostolic Delegate

U.S. SECRET EQUALS BRITISH MOST SECRET

10 MAR 1944

4015
22 FEB 1944 1098
ALLIED CONTROL COMMISSION - INCOMING MESSAGE /hft
SVC/RELAY NO. M/C NO : 17/22
CLASS: IN THE CLEAR REF NO: NIL
PREC : IMPORTANT FILED : FEB 190900A
FROM : MAYNE CARE OF PROVINCIAL COMMISSIONER BARI REC'D : FEB 221553A
TO : FATIMA FOR UPJOHN By DRL

119
Ref signal 2324 of 16 Feb. This matter has been already dealt with as explained my telephone conversation today with Col Wilmer.

DISTRIBUTION:

- 1 - AG
- 1 - DSG (info)
- 1 - DCC (info)
- 1 - Legal (info)

U. S. SECRET Equals British SECRET

OUT 4

GRU/af

1041
39

SECRET

PRIORITY

FATIMA

DISTRO FOR AND REGION II

Cable No 2324
PER 161415A

See below 13, 16, 15
and 1-11

FOLLOWING PARAPHRASE OF A MESSAGE DATED ONE ONE FEBRUARY FROM THE VATICAN
HAS BEEN RECEIVED CLN PAPER TO DISTRO FOR AND REGION TWO TWO TWO TWO
CORONEL WAYNE FROM FATIMA FROM REGION NICKED MAUPARLANE PAPER ON ONE NINE
NOVEMBER THROUGH BRITISH GOVERNMENT ARCHBISHOP OF BARI WAS GIVEN SPECIAL
INSTRUCTIONS REGARDING MOLISITA REGIONAL SEMINARY PD ARCHBISHOP WAS
AUTHORIZED TO GRANT USE OF BUILDING FOR HOME FOR CONVALESCENTS WAS PROVIDED
SEMINARIANS COULD BE ACCOMMODATED CONVENIENTLY ELSEWHERE AND A REGULAR
ACT OF THOUGHT WITH FORMAL PRAYER OF INSTITUTION WAS DULY OBSERVED TO
NO ANSWER HAS REACHED HOLY ONE TO DATE PD PLEASE INQUIRE AND INFORM ME
WHETHER ARCHBISHOP HAS BEEN ABLE TO CARRY OUT INSTRUCTIONS IN THIS CASE
PARAPHRASE OF MESSAGE FROM CARDINAL MAGLIONE TO MEMORANDUM REPLY ONE
ARCHBISHOP OF BARI PD PAPA PLEASE SEE ARCHBISHOP SOONEST AND TELL HIM
TO GIVE YES FOR TRANSMISSION TO THE VATICAN REPLY TO ABOVE MESSAGE AND ALSO
IF HE DESIRES TO OTHER MATTERS MENTIONED IN LETTER DATED TWO TWO DECEMBER
OF GENERAL TAYLOR TO ARCHBISHOP PD ACKNOWLEDGE THIS SIGNAL IMMEDIATELY
ON RECEIPT

AUTHENTICATED:

5 JC
D. J. CHIOCCA
CWO, ASD
Asst. Adj.

DISTRIBUTION:

- 1 - AG File
- 1 - D.S.G.
- 1 - Dep Chief Comm.
- ✓ 1 - Legal Sub-Commission

U. S. SECRET Equals British SECRET

U.S. SECRET Equals British SECRET
ALLIE CONTROL COMMISSION INCOMING MESSAGE

14 FEB 1944

/sk

SVC/RELAY NO.

M/C NO: 4/14

CLASS: SECRET

REF NO: 51234

PREC: PRIORITY

FILED: 131927A FEB

FROM: FREEDOM SIGNED CINE CITE FRMG3

REC'D: 132327A FEB

TO: FATIMA FOR MAGFANLANE RPTD FARGO FOR MAGFANLANE

Following telegraphic message dated 11 February from Vatican received here.

On 19 November through British Government Archbishop of Bari was given special instructions regarding Molfetta Regional Seminary. Archbishop was authorized to grant use of building for home for convalescents, provided seminarians could be accommodated conveniently elsewhere and a regular act of transfer with formal pledge of restitution was duly executed. No answer has reached Holy See to date. Please inquire and inform me whether Archbishop has been able to carry out instructions. This ends paraphrase of message from Cardinal Maglione to Monsignor Mimmi, Archbishop of Bari.

Look at our message 45323 of 31 January and your 2270 of 5 February in connection with above.

DISTRIBUTION:

- 1 - AG File
- 2 - Deputy Sec. Gen.
- 1 - Deputy Chief Commissioner (Action)
- 1 - Legal Sub-Commission

38

U.S. SECRET Equals British SECRET

C O P Y

37

Subject: Occupation and use of Religious Property

AFHQ Adv Adm Echelon

CLP

HQ No 2 District
HQ No 3 District
HQ ACC

30/18/Q2

12 Feb 44

1. Arising out of the question of requisitioning Papal Seminaries for use as hospitals, the following general and special instructions have been received from A.F.H.Q.:-

"The following general considerations are operative:-

(a) In virtue of our military occupation of all South Italy we are entitled to requisition any property for military or similar purpose. This right is independent of our rights and under the Armistice and is not affected by the fact that an Italian civil administration may be functioning in the district concerned: it is also in no way affected by the Lateran Treaty.

(b) For political reasons it is desirable that in districts administered by the Italian Government any requisition of Papal property should be effected by the Italian authorities on our behalf.

(c) It is also desirable that the Vatican should be informed that a requisition of their property in Southern Italy is being carried out. It is not however necessary to obtain the Vatican's consent in advance.

(d) In view of the President's message of July 10, which amounts to an undertaking that the Allied authorities will treat Vatican property throughout Italy as having extra-territorial character, it is

essential that force should not be used either by the Allied Military Authorities or by the Italian Authorities on their behalf to eject the occupants from requisitioned premises which are the property of the Vatican.

In the case of the Molfetta Seminary, premises have been duly requisitioned by Italian Government (See FATIMA 1958 of Jan 13) and Vatican have been notified by British Minister. Only obstacle is difficulty in finding alternative accommodation for occupants which is possible increased by their uncooperative attitude. Instructions from the Vatican to the Archbishop of Bari to co-operate with the Allied Military Authorities in arranging for the handover of the seminary were contained in letters to Allied Control Commission MGS-386.2 of 18 Dec. If instructions to the Archbishop are to be sent it is essential that a reply from him to the Vatican's communication should first be obtained (see FREEDOM cable to FATIMA Rear 45323 of 31 Jan).

As regards Benevento Seminary, there is no reason why requisition should not be imposed forthwith. This Headquarters should be informed by cable of any developments so as to ensure that any occupants may be made for British Minister

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As regards Benevento Seminary, there is no reason why requisition should not be imposed forthwith. This Headquarters should be informed by cable of action being taken in order that arrangements may be made for British Minister to notify the Vatican. Alternative accommodation will have to be found for the inmates. If any message or instructions from the Vatican are required this Headquarters will endeavour to obtain them through the British Minister".

2. The Molfetta and Benevento Seminaries are probably still required for use as hospitals. If other accommodation is not available, No 2 District and No 3 District will take such action, in the light of the above, as is necessary and practicable in regard to Molfetta and Benevento respectively and report on the position to this HQ.

3. HQ ACC are requested to notify this HQ what action has been taken in connection with the Vatican instructions to the Archbishop of Bari and whether he has replied. (22)

4. (22) FATIMA signal 1958 was repeated to No 2 District and copy of FREEDOM signal 45323 is attached for No 2 District. Both refer to Molfetta.

...../2

OVER

-2-

HQ AOC have been requested to furnish a copy of the letter 163-366.2 dated 16 Dec 43.

Signed 2200000000000000

Major General,
Deputy Chief Administrative Officer.

Copy to:- A
Med.

C O P Y

C O N F I D E N T I A L

HEADQUARTERS PENINSULAR BASE SECTION

11 FEBRUARY 1944

36

..CONFIDENTIAL

..PRIORITY

TO (ACTION) : CG FBS FOR AMG FIFTH ARMY, ACMF, AIR C P, FARGO, FLAMBO
(INFORMATION) : NONE

FROM : SIGNED GING

DATE TIME SIGNED : 101607A *Sh*

DATE TIME REC'D : 102345A

REF NR : 49387

CITE : FMWGS

REF YOUR FBS 7717 OF 9 FEBRUARY.

1. PERTINENT PARTS OF MESSAGES REQUESTED ARE THESE

2. NUMBER 15530 OF 13 DECEMBER CONTAINS VIEWS OF GOVERNMENTS OF US AND UK REGARDING TREATMENT TO BE ACCORDED TO VATICAN CITY/STATES AND VATICAN PROPERTY. PARA C STATES THAT BUILDINGS DESCRIBED IN PARA 1 OF 142486 OF 24 JANUARY MUST BE AVOIDED BY ALLIED TROOPS. ALTHOUGH NOT PARTS OF VATICAN CITY AND NOT POSSESSING STATUS OF NEUTRAL TERRITORY, THEY MUST BE TREATED AFTER ASSAULT LIKE VATICAN CITY ITSELF. DURING ASSAULT THEY SHOULD NOT BE ALLOWED TO INTERFERE WITH BOMBING, ARTILLERY FIRE AND OTHER MILITARY OPERATIONS. EVERY PRECAUTION MUST BE TAKEN DURING ASSAULT, HOWEVER, TO AVOID VIOLATING TERRITORY OF VATICAN CITY PROPER.

3. SERIAL LIST MENTIONED IN PARA 4 OF 142486 CONSISTS OF BUILDINGS FOR WHICH VATICAN HAS REQUESTED SPECIAL PROTECTION. A REVISED RE-NUMBERED LIST FOLLOWS:

- (1) BENEDICTINE ABBEY ON MONTE CASSINO
- (2) BENEDICTINE ABBEY AT SUBIACOIZ
- (3) BASILICA OF HOLY HOUSE AT LORENTO (ANCONA PROVINCE)
- (4) BASILICA OF ST ANTHONY AT PADUA
- (5) BASILICA OF ST FRANCIS AT ASSISI.

36

ACTION:

INFO : AMG FIFTH ARMY - AMG REG 5 - HQS ACC - G-2 - SECY - C.O. ACC DIST (FA TO CG)
(MRIG GUTTERBOCK) (RC & MG SECTION) (FOR SEC) (ADM SEC) (EXEC OFFRS)

C O P Y

061042A

N 895

9AD

2621

35

RECEIVED AT

PENINSULAR BASE SECTION
SIGNAL MESSAGE CENTER

6 FEB 44

SECRET

PRIORITY

TO (ACTION) : CG PBS, FARGO, FLAMBO FOR D/CAL, FATIMA REAR.
(INFORMATION) : NONE

FROM : FREEDOM

DATE TIME SIGNED : 061042A

DATE TIME REC'D : 061730A

REFERENCE NR : 48057

CITE : NONE

*This message
is removed
See index*

28

20

REFERENCE DCAO 8800 OF 12TH JAN. YOU WILL HAVE SEEN OUR 42202 24 JAN REGARDING THE USE OF PAPAL SEMINARIES FOR HOSPITAL 2. THE FOLLOWING GENERAL CONSIDERATIONS ARE OPERATIVE : (A) IN VIRTUE OF OUR MILITARY OCCUPATION OF ALL SOUTH ITALY WE ARE ENTITLED TO REQUISITION ANY PROPERTY REQUIRED FOR MILITARY OR SIMILAR PURPOSES. THIS RIGHT IS INDEPENDENT OF OUR RIGHTS AFTER THE ARMISTICE AND IS NOT AFFECTED BY THE FACT THAT AN ITALIAN CIVIL ADMINISTRATION MAY BE FUNCTIONING IN THE DISTRICT CONCERNED: IT IS ALSO IN NO WAY AFFECTED BY THE LATERAN TREATY (B) FOR POLITICAL REASONS IT IS DESIRABLE THAT IN DISTRICTS ADMINISTERED BY THE ITALIAN GOVERNMENT ANY REQUISITION OF PAPAL PROPERTY SHOULD BE EFFECTED BY THE ITALIAN AUTHORITIES ON OUR BEHALF (C) IT IS ALSO DESIRABLE THAT THE VATICAN SHOULD BE INFORMED THAT A REQUISITION OF THEIR PROPERTY IN SOUTHERN ITALY IS BEING CARRIED OUT. IT IS NOT HOWEVER NECESSARY TO OBTAIN THE VATICAN'S CONSENT IN ADVANCE (D) IN VIEW OF THE PRESIDENT'S MESSAGE OF JULY 10, WHICH AMOUNTS TO AN UNDERTAKING THAT THE ALLIED AUTHORITIES WILL TREAT VATICAN PROPERTY THROUGHOUT ITALY AS HAVING EXTRA-TERRITORIAL CHARACTER, IT IS ESSENTIAL THAT FORCE SHOULD NOT BE USED EITHER BY THE ALLIED AUTHORITIES OR BY THE

35

N-895

34

ITALIAN AUTHORITIES ON THEIR BEHALF, TO EJECT THE OCCUPANTS FROM REQUISITIONED PREMISES WHICH ARE THE PROPERTY OF THE VATICAN. 3RD IN THE CASE OF THE MOLETTA SEMINARY, PREMISE HAVE BEEN DULY REQUISITIONED BY ITALIAN GOVERNMENT (SEE FATIMA 1958 OF JAN 13) THE VATICAN HAVE NOTIFIED BY THE BRITISH MINISTER. ONLY OBSTACLE IS DIFFICULTY IN FINDING ALTERNATIVE ACCOMMODATION FOR OCCUPANTS WHICH POSSIBLY INCREASED BY THEIR UN-COOPERATIVE ATTITUDE. INSTRUCTIONS FROM THE VATICAN TO THE ARCHBISHOP OF BARI TO COOPERATE WITH THE ALLIED MILITARY AUTHORITIES IN ARRANGING FOR THE HAND-OVER OF THE SEMINARY WERE CONTAINED IN LETTER TO ALLIED CONTROL COMMISSION MGS-586.2 OF 18 DEC. IF FURTHER INSTRUCTIONS TO THE ARCHBISHOP ARE TO BE SENT IT IS ESSENTIAL THAT A REPLY FROM HIM THE VATICAN'S COMMUNICATION SHOULD BE FIRST OBTAINED (SEE FREEDOM CABLE TO FATIMA BEAT 45523 OF 31 JAN) 4TH AS REGARDS BENEVENTO SEMINARY, THERE IS NO REASON WHY REQUISITION SHOULD NOT BE IMPOSED NOTWITH. THIS HEADQUARTERS SHOULD BE INFORMED BY CABLE OF ACTION BEING TAKEN IN ORDER THAT ARRANGEMENTS MAY BE MADE FOR BRITISH MINISTER TO NOTIFY THE VATICAN. ALTERNATIVE ACCOMMODATION WILL HAVE TO BE FOUND FOR THE INMATES. IF ANY MESSAGE OR INSTRUCTIONS FROM THE VATICAN ARE REQUIRED, THIS HEADQUARTERS WILL ENDEAVOUR TO OBTAIN THEM THROUGH THE BRITISH MINISTER.

Note : 42486 dated 24 Jan 44 from AFHQ refers

FBS DISTRIBUTION :

Action : AMG HQ

Info : Engr
C-4
Secy
C.G.

ACC DISTRIBUTION :

P.A. to C.G.
C.A.B.
Political Section
Adm Section (2)

34

Col Upjohn
Room 60

OUT

OUTGOING

33

SECRET

1/5

PRIORITY

2270

FATIMA REAR

051000A

FREEDOM RPTD FARGO FLAMBO

FEB

YOUR FOUR FIVE THREE TWO THREE DATED THREE ONE JANUARY ARCHBISHOP OF BARI
STATES HE HAS REPLIED TO HOLY SEE BY HAND OF MONS WALTER S CARROLL OF
SECRETARIAT OF STATE VATICAN CITY WHO HAS RECENTLY RETURNED TO VATICAN
AFTER VISITING S Uthern ITALY AND SICILY PD TO FREEDOM FOR FHMS RPTD FARGO
CMA FLAMBO FROM FATIMA REAR SIGNED MACFARLANE PD HOWEVER ARCHBISHOP WILL
GLADLY AVAIL HIMSELF OF ALLIED CHANNELS TO SEND A FURTHER MESSAGE THROUGH
US IN A FEW DAYS

AUTHENTICATED:

ROBERT E. DOE
Major, A.G.D.
Secretary of Commission

DISTRIBUTION:

- 2 - AG Files
- 1 - Diary
- 1 - Col. Wayne

33

ALLI CONTROL COMMISSION INCOMING MESSAGE /sk

SVC/RELAY NO.

Z

M/C NO : 10/31

CLASS: SECRET

REF NO: 45333

PREC : PRIORITY

FILED : Jan 311057A

FROM : FREEDOM SIGNED CINC CITE PHMS

REC'D : Jan 311321 A

TO : FATIMA HEAR RPT FARGO FLAMBO

(14)
Matter of Molfetta Seminary. British Resident Minister refers to his letter
No. 11/34/1501 of 16 December and requests following be transmitted to AGC.

"We have been asked by Foreign Office whether they may have message
for Holy See from Archbishop of Bari in reply to message contained
in memorandum under reference."

Unless you have good reason to the contrary will you invite Archbishop
to respond to the Holy See.

DISTRIBUTION:

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1 - Diary

U. S. SECRET
Eguals British SECRET

INCOMING

26 JAN 1944

100 2755

SECRET

PRIORITY

RECEIVED HIGH COM CINC CITE TILES

15 ARMY GROUP, AIR GP, FIANCO, RPTD NO. 2 DIST., FATIMA,
FAS, FANCO

13/17

14226

31

JAN 24 1944

JAN 25 0753A

1. Message from GDS (FAS 522) contains following list of Vatican property in zone outside Vatican City as defined in Lateran Treaty, Articles 13-16 and Annexes 2 and 3.

ARTICLE 13. 1. Basilica of Saint John Lateran (San Giovanni Laterano).
2. Basilica of Saint Mary Major (Santa Maria Maggiore).
3. Basilica of Saint Paul without the walls (San Paolo Fuori le Mura) including the Monastery

4. Palace of Saint Calixtus (San Calisto) in Trastevere

ARTICLE 14. 1. Property on the north side of Janiculum Hill overlooking Vatican City between Viale Aurelio and Passeggiata del Gianicolo and including that belonging to the Sacred College of Propaganda

2. Palace of the Holy (Roman) 12 Apostles attached to the Basilica of the Holy Apostles (Santi Apostoli).

3. Palace attached to the Church of San 'Andrea della Valle.

4. Palace attached to the Church of San Carlo al Corso

ARTICLE 15. 1. Palace of the Pataria, near the Quirinal Palace.

2. Palace of the Cancellaria between the Piazza Vittorio Emanuele and the Campo dei Fiori.

U. S. SECRET
Eguals British SECRET

31

2nd Dec

18-

U. S. SECRET
Equals British SECRET

Release for freedom, etc 24 Jan 44, cont'd.

26 JAN 1944

2755

30

3. Palace of the Propaganda 2 on the Piazza di Spagna.

4. Palace of the Holy Office (Sant'Uffizio) adjacent to the

Piazza San Pietro at Porta San Pietro.

5. Congregation of the Oriental Church, formerly Palace of the
Conventual in Piazza del Campidoglio.

6. Palace of Vicariate in Via delle Signe of the Corso Vittorio
Emmanuele near the Piazza del Gesù.

ARTICLE 16. 1. Gregorian University 10 Via dei Mellini near the Church of
Sant'Ignazio.

2. Gregorian University with Palazzo Farnese on Piazza di Farnese.

3. Pontifical Biblical Institute in Piazza di Farnese.

4. Archaeological Institute, Oriental Institute, Lombard College and
the Russian College on Piazza Santa Maria Maggiore.

5. The two Palaces of Sant'Apollinare between the Piazza Sant'
Apollinare and Via delle Scalette.

6. The House of Retreat for the Clergy of the Church of Saints
John and Paul, including the Gymnasium of Mars, on the Janiculum Hill.

2. Guidance from CGS for treatment of this property is given in our 17900
of 18 December, para 2.

3. Outside of Rome Villa Barberini in town of Castel Gandolfo, Province of
Rome, should be accorded same treatment.

4. A special attempt should be made to spare the following religious properties
from damage in view of their religious and historical significance:

1. The Basilica of the Holy House (Santa Casa) at

Loreto, Province

of Ancona. They should be added to the list of message 0-5 6285 of 4 November and

U. S. SECRET
Equals British SECRET

136

U. S. SECRET

Excluded British SECRET

26 JAN 1945

2755

29

2136 1/2 Freedom, dtd 24 Jan 44, cont'd.

25722 of 6 January as the following serials: Holy House 8; Saint Francis 9; 10
Saint Anthony.

2. The basilica of Saint Francis at Assisi, Province of Perugia.

3. The basilica of Saint Anthony at Padua, Province of Padua.

4. You should avoid requisitioning or converting to your use other Vatican property throughout Italy which existing occupants claim to be property of Holy See. If urgent operational needs require occupation report should be made earliest to this Headquarters.

5. In letter of 10 July to Pope, President stated churches and religious institutions will be spared devastation of war to extent within our power and Vatican city and Papal domains will have neutral status respected.

DISTRIBUTION:

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Excluded British SECRET

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Equals British SECRET

ALLIED CONTROL COMMISSION INCOMING

MESSAGE

/afe

2649

28

SVC/RELAY NO.

M/C NO : 20/24

CLASS : SECRET

REF NO : 42201

PREC : PRIORITY

FILED : JAN 24 1110A

FROM : FREEDOM SIGNED CINC CITE FMGS

REC'D : JAN 24 2037A

TO : FLAMBO RPTD FOR FATIMA

20
24
Responding to your DOAO 8800 of 12 January and 2131 of 21 January cite Q10959.
See our 29301 of 15 Jan. See particularly directive now being transmitted govern-
ing treatment of Vatican property, which in pertinent part applies to Papal Sem-
inaries.

NR
British Government has been requested to seek from Vatican more specific
instructions to Seminary authorities. This will take time and may not yield satis-
factory results. Therefore you should not proceed with requisitioning of Papal
seminaries, but should look to making other arrangements.

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- 1 - Col Upjohn - INFO

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C O P Y

27

ALLIED CONTROL COMMISSION INCOMING MESSAGE

W/C NO : 17/25

REF NO : Q11538

FROM: STAMBO
TO: AMRQ INFO FATIMA DISTWO

FIXED : Jan 24 1950a

REC'D : Jan 25 0300A

Unable accept view in Fatima 2011 of 16 Jan that it is not responsibility
of ACC to find alternative accommodation. Consider this should be done by
them through Italian Government in King's Italy and by AMG in AMG
territory. Our DCAO/6600 of 12 Jan also refers this subject. K. Reply
awaited. Matter is urgent.

26

U. S. SECRET
Excluded British MOST SECRET

INCOMING

16 JAN 1944

/ad

13/16

29301

JAN 152045a

JAN 160440a

200/1
MOST SECRET

IMPORTANT

FREEDOM STUNTS CINC CITE PHOTOS

FAPLA RPTD FLAMBO AND DISTWO

(21)
Use(ing) force at Molfetta Seminary presents question of principle. Situation presented in your 1958 has been cabled to British Government in order that it may, if it thinks proper, approach Holy See for direct order to Seminary authorities. Present directives of Vatican agree premises may be used for convalescent home if Seminary can continue to function and find other premises. Will you confirm such alternative accommodations exist, even though not necessarily equivalent in convenience. Desire establish that such condition has in fact been met.

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25

U. S. SECRET
Excluded British MOST SECRET

COPY

14 Jan 1944

23

To His Grace Monsignore Mimmi
Archbishop of Bari

My dear Archbishop:

I have the honor to acknowledge receipt of Your Grace's communication of 5 January 1944, addressed to General Taylor and I must apologize for the delay in answering it. General Taylor left this Headquarters a few days ago and your letter only reached me this morning.

No doubt Your Grace has been informed of the fact that His Excellency Marshal Badoglio himself appointed His Excellency the Prefect of Bari to be the representative of the Italian Government at the meeting held on the 5th of January.

I sincerely appreciate the spirit which has prompted Your Grace to propose the appointment of a small committee with a view to settling the long delayed question of the Seminary of Molfetta and also the constant efforts made by you to meet our requirements.

On the other hand, it appears to me that at the present juncture no useful purpose could be served by the nomination of a committee as suggested by Your Grace, as I understand that Your Grace is of the opinion that no alternative accommodation for the occupants of the seminary is at this time available.

However, if on reconsideration of the whole problem Your Grace is of the opinion that the proposed Committee may succeed in finding the required accommodation, I shall be happy to meet Your Grace's wishes in every way possible.

For the Deputy President, Allied Control Commission:

GILBERT W. STONE
Captain, USNR
Acting Chief of Staff

24

200/1 ^{Loco} Colegio Argentino for
Yaguatai u'pees

22

CABLE - OUTGOING

13 January 1944.

SECRET

PRIORITY

PAGE FATHA

TO DISTRO RPTD 71 Sub Area Col Mortimer DPSC FLANDS Displaced
Persons Subcommission

NR

In reply to your A 106 dated 11 Jan I have submitted question
of using force to evacuate occupants of ecclesiastical property for
decision to FREEDOM PD My dated 13 Jan rptd to you refers PD
Understand that in any event temporary alternative accommodation has
been found PD

original sent to Capt Stone

WTS

- (a) cable A106 H/C No 27/11 of Jan 11
(Rectory of Colegio Argentino has been refused
& immediate evacuation for Yaguatai (Arizans))
- (b) letter from Sir Ross Liaison A.C. to comfort
of 12 Jan 44
- (c) letter from Rectory of Coll. Arg. to 23 March 44

609

SECRET
BRITISH SECRET

OUTGOING*

GRU/SEC/mar

SECRET

10/13

URGENT

1958

FATIRA

JAN 131522A

FREEDOM MSG HPTD FLAMBO DISTWO

MOLFETTA SEMINARY DULY REQUISITIONED BY ITALIAN GOVERNMENT PAREN SEE YOUR THREE SEVEN FOUR NINE OF TWO ONE NOVEMBER FOUR THREE PAREN BUT SEMINARY AUTHORITIES REFUSE TO MOVE OUT STATING THAT THEY CANNOT COMPLY WITH CONDITION LAID DOWN IN MESSAGE FROM POPE PAREN SEE YOUR MSG THREE EIGHT SIX POINT TWO OF ONE EIGHT DECEMBER FOUR THREE PAREN BECAUSE THEY SAY THEY CANNOT CONTINUE TO FUNCTION ON FOUR OTHER PREMISES PD TO FREEDOM MSG HPTD FLAMBO DISTWO FROM FATIRA SIGNED JOYCE PD PROLONGED NEGOTIATIONS HAVE FAILED TO SATISFY REQUIREMENTS OF BRITISH MILITARY AUTHORITIES OR OF SEMINARY AUTHORITIES IN REGARD TO POSSIBLE ALTERNATIVE ACCOMMODATION AND FURTHER NEGOTIATION WOULD BE USELESS PD POSITION NOW IS SEMINARY AUTHORITIES WILL ONLY MOVE OUT UNDER PRESSURE OF ACTUAL FORCE PD BELIEVE THAT NOTHING SHORT OF ABSOLUTE AND UNCONDITIONAL ORDER FROM POPE WOULD CAUSE AUTHORITIES TO ALTER THIS ATTITUDE PD PAPA AS SEMINARY IS IN THE PROVINCE OF BARI WHICH IS NOT REPEAT NOT OCCUPIED BY ALLIED FORCES IT APPEARS THAT FORCE SHOULD ONLY BE USED THROUGH ARMY OF ITALIAN GOVERNMENT PD ITALIAN GOVERNMENT WOULD PROBABLY EXPOSE THE NECESSARY FORCE IF SO ORDERED CMA BUT THEY WOULD UNDOUBTEDLY MAKE IT CLEARLY EVIDENT THAT THEY WERE ONLY ACTING UNDER COMPRESSION OF ALLIED CONTROL COMMISSION AND AGAINST THEIR BETTER JUDGMENT PD URGENTLY REQUEST YOUR IMMEDIATE DECISION WHETHER I AM TO ORDER ITALIAN GOVERNMENT TO USE NECESSARY FORCE TO COMPEL OCCUPANTS FROM SEMINARY PD REQUEST YOUR REPLY BE REPEATED TO FLAMBO AND DISTWO

AUTHENTICATED:

ROBERT E. DOE, Major AGD
Secretary of the Commission

DISTRIBUTION:

2 - AG
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URGENT

14 JAN 1944
No 20

SECRET

IMPORTANT

FLANDS

22/13

ECAC 8800

JAN 1222504

JAN 1319254

ACTION PRISONER INFO DISTRO, AND 15 ARMY GROUP.
FATIMA, REGION III

Greatest difficulty being experienced finding accommodation for hospitals.
Negotiations have been proceeding for long period to secure two (Apel Seminaries
MOLFETTA, 600 beds, BENEVENTO, 1400 beds. Marshal Badoglio has agreed requisition
former, and prepared requisition letter. Archbishops of Bari and Benevento
respectively refuse vacate small number religious students accommodated in each.
Shall I proceed with requisition independently or can you approach Vatican.

DISTRIBUTION:

- 2 - AG
- 1 - Diary
- 1 - Chief of Staff - INFO
- 1 - Colonel Upjohn - INFO

21

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HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee.

624/34

10 January 1944.

In reply
refer to: ACC/L/303.

SUBJECT: Occupation of Rome.

TO : Chief Legal Officer, HQ AMG 15th Army Group.

Referring to our conversation of last Monday:

1. The Italian Government would definitely prefer that no steps be taken to open the Court of Cassation in Rome by AMG.

I think their attitude is both reasonable and correct and I hope that this view accords with your own and that you will give effect thereto.

2. I enclose in triplicate a list of buildings in Rome which have under the Lateran Treaty and Concordat diplomatic immunity.

It is understood that AMG are issuing an order with regard to the treatment of these properties to the effect that they are under no circumstances to be occupied or interfered with in anyway except for reasons of absolute military necessity in actual battle.

3. The question of policy over personnel of ministries in Rome has been taken up and I shall write you further thereon in due course.

4. There are some other buildings enumerated in Art. 16 of the Lateran Treaty which are exempted from expropriation and taxation by the Italian Government. It seems plain that they

could be requisitioned as a matter of international law but this matter is also, it is understood, being dealt with by AFHQ and no requisition should be effected except pursuant to a directive from that Headquarters.

G. H. UPJOHN, Colonel
Chief Legal Officer, AGC.

PS I have arranged for a meeting
with Mr. Justice at the
Palace of Justice Bari on Friday
(14) at 1100. I hope you will
be able to attend as we want
to discuss & settle the Foreign
Ct of Appeals

19

Volume

5 Jan 1900

18

When Col Deppe was driven in his office of Col Johnson (B) was seen to follow, receiving Col Deppe's message from Gen. Stager. When I put that Archbishop again objected to the manifest Roman being turned over for use as a military hospital. Col Johnson asked Col Deppe to try to go over the Archbishop's. He answered to us that Roman Catholic priests were of whom spoke Graham. He went to the Archbishop's Palace & was received by him & the Arch Bishop in charge of the Seminary & Bishop & several priests later came in. The Archbishop made the comment that apparently had been made before the present day which were:

1. We had not had sufficient time
2. There were plenty of other places equally good for a hospital
3. No place suitable to house the Seminary which had to be one place.
4. The work of God was more important than a hospital
5. How could he make adequate answer to his Pope.
6. In any event more time should be given.
7. Wanted to know who would be ordered to use the Seminary so he could talk with him.
8. The measures of money the students spent etc.
9. The Italian Government showed no sign of acquiescence
10. Other Seminaries further to the South had not been broken.

18

The answers were generally:

1. We had been notified of this situation many weeks previously and had been given an additional delay.

himself over for as a Military Hospital. The Roman Catholic
sought to go over the Archbishop's. He expressed to us two Roman Catholic
Confess the plains one of whom spoke Italian. He went to the Archbishop's
Palace & was received by him. The Archbishop in charge of the Seminary
in Bristol & several priests later on in the morning. He had been made before
the Archbishop made the arguments that apparently, he had been made before

The proceedings which were:

1. We had not had sufficient time
2. There were plenty of other places equally suited for a hospital
3. The place suitable to house the Seminary which had been in the
place.
4. The work of God was more important than a hospital
5. How could he make adequate answer to the Pope.
6. In any event more time should be given.
7. Wanted to know who issued the order for the use of the Seminary
so he could talk with him.
8. The means of moving the students & equipment etc
9. The Italian Government should do the requesting
10. Other Seminars further to the South had not been bothered.

18

The answers were generally.

1. He had been notified of this situation & many weeks previously
and had been given an additional day.
2. The authorities had made an examination of their place & found
that the place was the one deemed necessary
has found the place or groups of places near each other.
3. There must be temporary as a necessary although not
where could serve temporarily as a necessary and the nation
as a hospital
4. The wounded soldiers now the first coming the church and the nation
5. The Pope had already been addressed and understood the
situation after the conference was concluded and was received
by him that the Pope had approved

6. No more time could be given as the hospital signified
was arriving at the end of the week.
- (11)
7. Our orders were explicit & could not be changed.
8. Transportation would be furnished.
9. The Italian Government thought the Prefect had taken the
necessary steps. Furthermore the undersecretary of the Interior
would be asked to call on the Archbishop the following day to
complete all arrangements. Possibly he could suggest other
suitable quarters.
10. The appropriate officials had made the selection & we could
not alter it.

Our attitude was entirely friendly and sympathetic. We
stressed the need of hospitality, the wounded who would then
were suffering & we were. We were firm in the statement
that the decision was final. The case of the wounded did not seem
to make a great impression. We pointed out that the last
thing we wanted to do was to disturb the recovery but
that in times of war many unpleasant things had to be
done for the ultimate greater good of the world and for
for the liberating Italy in particular. The formal expressions
of the Archbishop all pointed to one immediate object - delay
this is by no means a complete report but gives the high points

(continued) to follow

9. The Italian government thing to the Prefect had taken the necessary steps. Furthermore the understanding of the Italian would be asked to call on the Archbishop the following day to complete all arrangements. Possibly, he could suggest other suitable quarters.
10. The appropriate officials had made the selection & we could not alter it.

Our attitude was entirely friendly and sympathetic. We stressed the need of hospitality, the wounded who would otherwise suffer from neglect. We were firm in the statement that the decision was final. The case of the wounded did not seem to make a great impression. We pointed out that the last thing we wanted to do was to disturb the surrounding district in times of war many unpleasant things had to be done for the ultimate greater good of the world and for the liberation Italy in particular. The general argument of the Archbishop all pointed to an immediate object - delay this is by no means a complete report but gives the high points.

Richard & Arthur
H.C.E. 1942

COPY

15 Spec available
INCOMING

SECRET

40/19

ROUTINE

150030

FREEDOM SIGNED CINC CITE PHOCT

DEC 182024A

ACTION AND ACKNOWLEDGE 15 ARMY GROUP, AIR GP,
FLAMBO, PRS RPTD NO. 2 DISTRICT FOR INFORMATION,
FATIMA.

DEC 191753A

Following paraphrase of message (F 311) from CCS is forwarded for your information and guidance; CINC MED and MAC also being informed.

"Transmitted for your guidance are the following views of the Governments of the United States and United Kingdom, as to the treatment to be accorded the Vatican City, State and Vatican property.

a. The Vatican City State will be accorded the normal rights of a neutral and treated as an independent neutral state.

b. Every precaution to avoid violating the territory of the Vatican City must be taken by the Allied Forces. Article III Annex 1 of the Lateran Treaty of the 11th February 1921 defines the territory of the Vatican City.

c. A number of other churches and buildings in Rome outside the boundaries of the Holy City, but which are on the property of the Holy See, as defined in Articles XIII - XVI and Annexes 2 and 3 of Lateran Treaty, also must be avoided by Allied Troops. Many buildings are not a part of the Vatican City, and strictly speaking, have no international status as neutral territory. However these properties are entitled to full diplomatic immunity under the Lateran Treaty, and therefore must be treated in exactly the same way as the Vatican City itself after the assault on Rome. Although during the assault on Rome every precaution to avoid violating the territory of the Vatican City must be taken, the diplomatic immunity of Vatican properties located in Rome should

15

not be allowed to interfere with military operations, bombing, artillery fire, etc., during the assault. A complete list of these properties will be transmitted to you.

d. Pickets should be posted at the boundaries of the Vatican City State, to insure that its neutrality is respected. This should be done by agreement with the Vatican authorities. The buildings described in "c" above also should have pickets posted at their entrances, and troops should be warned that these properties, although lying outside the Vatican City, belong to the Holy See and are to be accorded the same immunities as the Vatican City itself after the period of the assault. Through arrangements with the Vatican these buildings should be clearly marked so that Allied troops can easily identify them."

DISTRIBUTION:

2 AG Files
1 Diary
2 General Taylor - INFO

15

Office of the Resident Minister
at Allied Force Headquarters
ALGERIA.

14

11/34/1501

To: Military Government Section.

From: British Resident Minister's Office.

Subject: Requisition of MOLFETTA (not Moccetta) Seminary.

Ref:- British Resident Minister's Memorandum No. 11/34/1501 of December 15th.

It would be appreciated if the following message from the Vatican authorities might be transmitted to Monsignore Miami, Archbishop of Bari. Begins. "British Minister to the Holy See on instructions from the Government states that Allied military authorities propose to use seminary of Molfetta (presumably the regional seminary, the property of the Holy See) as a military convalescent home.

2. Y.M. is directed to settle this question with the appropriate authorities in accordance with the following instructions: (1) The Holy See agree that the premises of the said seminary may be used as a convalescent home if the regional seminary can continue to function and find other premises. (2) You should ensure that a regular act of transfer is drawn up with a detailed inventory and corresponding pledge of restitution. (3) You are further directed to refer any other similar cases which may subsequently arise to the Holy See, giving your opinion about them and making such proposals as appear necessary.

3. The Holy See regret to have as yet no news of Southern Italy. Y.E. should endeavour to convey some information on the subject to the Holy See, if necessary by means of the kind offices of the military authorities. News is particularly desired of Cardinal Ascalesi; of the Bishop of Cava and Sarno and of the Abbot of the Holy Trinity at Cava Dei Tirreni who are reported to be no longer at their posts: and of the Diocese of Campobasso whose Bishop is reported to have met a tragic death.

4. His Holiness blesses Y.E. and charges you to convey his ¹⁴placard blessing to all the Bishops and to the faithful." Ends.

The British Government hope that the Allied military authorities will be able to assist in the transmission of the information desired by the Holy See as stated in the third paragraph of the above message. Favourable action on this may well facilitate agreement on requisitioning. They similarly trust that a satisfactory arrangement may be reached with the Archbishop of Bari as regards the use of the Molfetta seminary, since an agreed solution in the present instance may do much to facilitate matters in future cases.

16th December, 1943.

200

13

Office of the British Resident Minister at A.F.H.Q.
5, Rue Professeur Gurtilliet
Algiers

11/34/1501.

To: Military Government Section.
From: British Resident Minister's Office.
Subject: Requisition of MONCETTA Seminary.
Ref:- Freedom cable No. 3749 of November 21st to Vatican
(MC OUT 6319)

The British Minister to the Holy See has informed the Papal authorities of the intentions of the Allied Command as regards the requisition of the seminary at Moncetta in the manner indicated in 83 of this Office's memo. No. 11/34/1501 of November 16th. He has said it clear that the Vatican was being informed solely as a matter of courtesy.

2. The Vatican has replied that, since the seminary is the property of the Holy See, the latter's consent is necessary before it may be used for other purposes. The Italian Government have always sought the prior consent of the Holy See in such cases and, in fact, when they proposed to requisition this seminary in 1940, they abandoned the proposal at the request of the Holy See. The Vatican further pointed out that President Roosevelt's message to the Pope of July 16th, 1943, contained an assurance that papal property in Italy would be respected.

3. The Vatican, however, agrees to the use of the seminary as a convalescent home, if the inmates can continue their work in other convenient premises. Instructions on this subject for delivery to Monsignore Minai, Archbishop of Bari, are being telegraphed to this Office and will be passed on to the M.G.S. in due course for transmission.

R.M.

15th December, 1943.

(12)

Office of the British Resident Minister at A.F.N.O.,
5, Rue Professeur Cartillat,
Algiers.

11/34/1501.

To: Colonel A. T. Maxwell .

From: Mr. Makins.

Subject:- Requisition of Moschetta Seminary

(Ref. my minute No. 11/34/1501 of Nov. 6th)

1. The British Government consider that, since the Allied military authorities are in occupation of all of Southern Italy, they are fully entitled to requisition any property required for military or similar purposes. This right exists whether or not they have any special rights under the Armistice and whether or not the district in question is being administered by an Italian civilian authority. The Lateran Treaty in no way affects our rights in this matter.

2. On grounds of policy, however, the British Government would prefer that the Italian Government should make the requisition. There seems to be nothing in the Lateran Treaty or the Concordat to prevent their doing this on grounds of military necessity.

3. It is felt, however, that the Vatican should be warned as a matter of courtesy, and the British Minister has been instructed to inform the Vatican that the Allied military authorities propose to occupy the seminary at Moschetta for use as a convalescent home after requisition by the Italian Government. He is to assume that in the special circumstances the Vatican will agree. He will make it clear that he is not seeking permission. As there may be further cases of this kind, he will also suggest that the Vatican should issue a directive to the authorities in charge of ecclesiastical property to co-operate fully with the Allied forces in such matters.

4. There is therefore no reason why the Italian Government should not proceed to requisition forthwith.

/s/ R.M.

Roger Makins.

16th November, 1943.

U. S. SECRET
Equate British SECRET
ALLIED MILITARY MISSION - INCOMING MESSAGE

/sk (11)

SVC/RELAY NO.

M/C NO: 14/9

CLASS: SECRET

REF NO: 8624

PREC : PRIORITY

FILED : 091659A

FROM : FREEDOM

REC'D : 092342A

TO : LATINA

2001

Convalescent home at Bari (TO LATINA FOR MACFARLANE SIGNED EISENHOWER CITE FREEDOM
REFERENCE YOUR 759 AND 797). Without doubting legal power of Allied Forces to
requisition seminary by whomever owned, it seemed expedient to invite Pope to give
direction generally that religious institutions comply promptly with military
requirements. This consultation will take a little time.

DISTRIBUTION:

- 2 - AG Files
- 1 - Diary
- 1 - M/C
- 1 - Gen. MacFarlane - Info
- 1 - Gen. Taylor - Info

U. S. SECRET
Equate British SECRET

10/11/43
To Col Upjohn
Communicate this
to Dowler
WJW
11

U. S. SECRET
Equivalent British SECRET

ALLIED MILITARY MISSION

OUTGOING CABLE #797

REFERENCE COPY

(10)

REFERENCE SEVEN FIVE NINE PAREN TO FREEDOM FROM FATMA SIGNED MACFARLANE PAREN
DATED FOUR NOVEMBER PD PROFESSOR OF ADMINISTRATIVE LAW BARI UNIVERSITY CONFIRMS
THAT SEMINARY UNLIKELY TO BELONG TO POPE BUT EVEN IF SO ITALIAN GOVERNMENT HAS
UNDENIABLE RIGHT TO REQUISITION THE PROPERTY IN CASE OF MILITARY NECESSITY IN
TIME OF WAR PD AWAIT INSTRUCTIONS

DISTRIBUTION:

- 2 - AG
- 1 - Diary
- 1 - Col Upjohn

10

U. S. SECRET
Equivalent British SECRET

U. S. SECRET
Equals British SECRET

9

ALLIED MILITARY MISSION

OUTGOING CABLE #759

REFERENCE COPY

GOC REPEAT GEORGE OBOE CHARLIE NUMBER TWO DISTRICT IS VERY ANXIOUS TO REQUISITION SEMINARY FOR TRAINING OF PRIESTS AT MOLFETTA IN PROVINCE OF BARI FOR PURPOSE OF CONVALESCENT HOME FOR WOUNDED PD TO FREEDOM FROM FATIMA SIGNED MACFARLANE PD THESE PREMISES PROVIDE THE ONLY SUITABLE ACCOMMODATION ON THE REQUIRED SCALE IN THE AREA AND ARE URGENTLY REQUIRED ON GROUND OF MILITARY NECESSITY PD PARA THE SEMINARY IS UNDER CONTROL OF POPE AND MAY BE PAPAL PROPERTY BUT CERTAINLY HAS NO EXTRA DASH TERRITORIAL STATUS PD PRINCIPAL OF SEMINARY IS UNWILLING TO ALLOW IT TO BE TAKEN OVER PD IT IS CONSIDERED HERE THAT ITALIAN GOVERNMENT PROBABLY HAS POWER UNDER TERMS OF LATERAN TREATY AND CONCORDAT TO REQUISITION THIS PROPERTY IN VIEW OF MILITARY NECESSITY BUT BEFORE DIRECTING THEM TO EXERCISE THIS POWER WE DESIRE TO BE DIRECTED ON POLICY PD PARA PAREN ONE PAREN SHALL WE DIRECT ITALIAN GOVERNMENT TO EXERCISE THEIR POWERS OF REQUISITION FORTHWITH OR PARA PAREN TWO PAREN IS THE MATTER ONE FOR NEGOTIATION WITH POPE ON GROUND THAT IN THE INTERESTS OF HUMANITY AND RELIEF OF SUFFERING HE SHOULD ALLOW THIS PROPERTY TO BE REQUISITIONED OR PARA PAREN THREE PAREN IS NO SUCH PROPERTY OF THIS CHARACTER TO BE TOUCHED IN ANY CIRCUMSTANCES PD PARA IF IT SUBSEQUENTLY APPEARS THAT CORRECT INTERPRETATION OF LATERAN TREATY AND CONCORDAT PRECLUDES PAPAL PROPERTY FROM REQUISITION CMA IT IS PRESUMED THAT ONLY ACTION POSSIBLE WOULD BE UNDER PAREN TWO PAREN ABOVE PD PARA PLEASE TREAT MATTER AS EXTREMELY URGENT

DISTRIBUTION:

- 2 - AG
- 1 - Diary
- 1 - #2 District (INFO)

U. S. SECRET
Equals British SECRET

8

MEMORANDUM

On legality of a requisition of Papal real property located in Italy.

Assumptions:

1. The realty (a seminary for young priests) is located in that area of the Kingdom of Italy in which the King has ~~retained~~ been allowed to retain his sovereign power.
2. In such area the Allied Armed forces do not possess the right of angary or any other right to requisition, since they are not on enemy territory.
3. Thus, any act of requisition must be done by the Italian authorities. Italy is at war and has therefore all the rights given to the belligerent by International Law including the right to requisition neutral property if International Law recognizes such right. (See Memo on that right).
4. The right of the Italian King to requisition property belonging to the State of Vatican or to the Italian ecclesiastical authorities or bodies is subject not only to the norms of International Law but also to the provisions of the Treaty between the Holy See and Italy of 1929 and to the Concordate with the Holy See of 1929.

Propositions:

A. According to the Lateran Treaty 1929, a Treaty between the sovereign Italian State and the Holy See, a sovereign power of unique character, the following are the categories of "Papal Property":

1. Property within the frontiers of the Vatican City as delineated by the Treaty: According to Art 3 of the Treaty, "Italy recognizes full ownership and exclusive and absolute power and sovereign jurisdiction of the Holy See over the Vatican.....creating thereby the City of Vatican....". According to Art 4 any other authority except that of the Holy See is excluded. It is obvious that no property of this category can be requisitioned by the Italian Authority.

2. Roman basilicas and other buildings (see enclosed list) enumerated in Art. 13, 14, 15 of the Lateran Treaty.

These realities have been given in "full ownership" and "free administration" (Art 13 & 14. Lat. Treaty) to the Holy See and "although being a part of Italian State territory they shall enjoy immunities granted by international law to the seats of diplomatic agents of foreign States". (Art 15 Lat. Treaty).

According to Art 16 ^{in domo} these properties and seats of certain enumerated pontifical institutions (see enclosed list, last paragraph) "will never be subjected to burdens of expropriations for public interest without

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2. ^B Roman basilicas and other buildings (see enclosed list) enumerated in Art. 13, 14, 15 of the Lateran Treaty.

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According to Art 16 these properties and seats of certain enumerated pontifical institutions (see enclosed list, last paragraph) "will never be subjected to burdens of expropriations for public interest without previous agreement with the Holy See and will be exempted from ordinary and extraordinary taxes imposed by State or any other entity". The Holy See is also given a full right to alter these realities without regard to any State, Communal or Provincial regulations. (Note: the seats of the pontifical institutions enumerated in this article are not given the international immunity as are the realities mentioned in Art 13, 14 & 15).

It would seem that although the property mentioned above under 2 is part of Italian territory it cannot be requisitioned by the Italian State for the following reasons:

(a) The property indicated in Art 13, 14 & 15 because of the immunity of international character granted by the Treaty (Art 15) and ^{because} of the express denial of State's right of expropriation (Art 16).

(b) The Seats of pontifical institutions enumerated in Art 16 because of the express denial of State's right of expropriation (Art 16) as to these realities; ^{However,} that a right of temporary requisition could be exercised by the State since it does not amount to ^{an} all out expropriation.

(it may be argued)

17

It is to be emphasized that the exceptional status has been given to this property for ~~the~~ specific reasons i.e. to make possible independent functioning of the Vatican State. (See Commento p. 47)

Note 1: According to Art 11, "Central bodies of the Catholic Church are exempted from any interference on the part of the State (saving the provisions of the Italian laws concerning acquisitions of property by juridical persons) and from a conversion in regard to immovables."

It would seem that the scope of this Article

(a) is limited to "Central organs (of the Church) in Rome" (See Report of the Commission of the Chamber of Deputies on the Draft of the Law Regarding Agreements signed on 11th of February 1929, Commento p. 545; See also Commento p. 50 and 49 as to the character of the "Central bodies".

(b) is limited to an exemption of administrative character but does not exclude applications of State public laws to the buildings in which such bodies are housed. (It does not provide for any absolute immunity or for a denial of the State's right of expropriation). See treatment of Art 27 of the Concordate using the same language when delimiting the status of property belonging to the Holy See in Italy.

Italy

Note 2: Report of the Commission of the Chamber of Deputies, p. 551 Commentg:
"It was intended that by that special sovereignty the Church be rendered capable of functioning as a center of Christianity. Thus the Treaty provides... for placing the Church in a privileged position by means of

- (a) its ownership of reality in Rome (Art 13)
 - (b) its ownership of several Roman Basilicas (Art 11)
 - (c) the free functioning of its Central Organs in Rome (Art 11)
- The privileges of exemption from expropriation for public use (Art 15 & 16), fiscal exemptions (Art 17)...serve the same purpose."

P. Any property other than that mentioned above belonging to the Holy See and situated in Italy is owned by the Holy See in its capacity not as a subject of international law but as an ecclesiastical person recognized by both the State (Italian) & Canon Law. It is regulated by the provisions of the Concordate entered into in 1929 between the Italian State and the Holy See in its character as a juridical person of Canon & State law. This agreement is made under public internal (State) laws and not under international law. Art 27 states;

"The Basilicas of S. Casa di Loreto, of S. Francesco in Assisi and of S. Antonio in Padova with annexed buildings and accommodations except those of a purely lay character will be transferred to the Holy See, which will conduct freely their administration. All other bodies of any type administered by the Holy See in Italy including colleges of missions are equally free from any interference by the State. However, the Italian laws concerning the acquisitions by juridical persons will remain applicable in any case."

Of Article 27 the Commento has the following to say (p. 145): "It is obvious, however, that this property (i.e. property belonging to the bodies mentioned, that it be confused with the immovables mentioned in

Concordate using the same language when delimiting the status of property belonging to the Holy See in Italy.

State

Note 2: Report of the Commission of the Chamber of Deputies, p. 551 Commento:

It was intended that by that special sovereignty the Church be rendered capable of functioning as a center of Christianity. Thus the Treaty provides... for placing the Church in a privileged position by means of

- (a) its ownership of realty in Rome (Art 13)
- (b) its ownership of several Roman Basilicas (Art 13)
- (c) the free functioning of its Central Organs in Rome (Art 12)

The privileges of exemption from expropriation for public use (Art 15 & 16), fiscal exemptions (Art 17)...serve the same purpose."

B. Any property other than that mentioned above belonging to the Holy See and situated in Italy is owned by the Holy See in its capacity not as a subject of International Law but as an ecclesiastical person recognized by both the State (Italian) & Canon Law. It is regulated by the provisions of the Concordate entered into in 1929 between the Italian State and the Holy See in its character as a juridical person of Canon & State law. This agreement is made under public internal (State) laws and not under international law. Art 27 states;

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To the self explanatory statements of the Commento the following could be added:

- (a) The exemption concerns only free land in the administration of the property. *of Art 17*
- (b) It does not set up any diplomatic immunity as does Art 15 of the Lateran Treaty.
- (c) It does not expressly deny State's right of expropriation or taxation as does Art 16 of the Lateran Treaty.

(6)

If State's right (flowing from public laws) to interfere in order to protect historical monuments is retained according to the official commentator, a much more vital State's right for temporary requisition of realty must also prevail.

If any doubts as to the State's right to requisition this group of "Papal Property" should arise in spite of the above set out explanations, they should be dispensed by Art 9 of the Concordate which states:

"As a rule buildings open to the public exercise of religion are exempted from requisition or occupation. If a grave public necessity demands that such building be occupied, the authority which proceeds to the occupation must previously enter in communication (prendere accordi) with the Ordinary unless reasons of absolute necessity do not allow that. In such case the occupying authority must immediately inform the Ordinary...."

If Art 9 of the Concordate permits under certain conditions a requisition of churches which are "res sacrae" (sacred things) in the sense of canon law, then obviously a requisition of other buildings i.e. of "bona ecclesiae" (property merely serving for physical maintenance of the church) must be permissible, even if such property belongs to the Holy See.

C. The status of ecclesiastical property in Italy other than that owned by the Holy See is described in Art 30 of the Concordate.

Art 30: "The ordinary and extraordinary administration of property belonging to an ecclesiastical institute or religious association takes place under the supervision and control of the competent ecclesiastical authorities at the exclusion of any intervention by the Italian State and without any obligation of conversion."

The State recognizes the capacity of all ecclesiastical institutes and religious associations to acquire property saving the dispositions of civil laws concerning the acquisitions of property by juridical persons...."

The arguments advanced above under "B" (especially the Argument regarding Art 9, the provision of which naturally also applies to churches owned by la-ties mentioned by the Art 30 now under consideration) apply with equal force to the type of ecclesiastical property treated in Art 30. Nothing indicates that State public laws are excluded. Thus a State's right of requisition stands.

Note 1: Art 39 excluding State's interference with Catholic institutes providing for education of the clergy deals - as pointed out by Commento, p. 198 - with scholastic independence only, leaving the regulation of economic aspects to Art 30 mentioned above.

Note 2: The discussion under "C" above is beyond the scope of this Memorandum which undertakes to deal with Papal property only. It is felt, however, that such would transpire that the Seminary under

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Note 2: The discussion under "C" above is beyond the scope of this Memorandum which undertakes to deal with Papal property only. It is felt, however, that such discussion should be helpful if it should transpire that the Seminary under consideration does not belong to the Holy See as it is assumed, but rather to another ecclesiastical authority or body.

Note 3: Commento p. 101, dealing with Art 9, refers to the Law of June 8, 1925 n. 909, which provides for requisition of any property within the territory of the State in case of mobilization. It also refers to T.U. 18 June 1931 n. 773 authorizing the Prefect to adopt necessary measures for maintaining public order and adds that under this provision the Prefect could also occupy a church.

(5)

Conclusions:

I. (a) Papal property enumerated in Art 13-15 Lateran Treaty cannot be requisitioned by the Italian State by reason of an immunity of international character accorded by Art 15 Lateran Treaty and probably also by reason of express exemptions granted by Art 16 Lateran Treaty.

(b) Pontifical institutions mentioned in Art 16 of the Lateran Treaty probably may not be requisitioned by reason of the express ~~exemption~~ ^{exemption} set out in Art 16 Lateran Treaty.

II. Any other ecclesiastical property located in Italy whether owned by the Holy See or by any other ecclesiastical body or authority may be requisitioned by the Italian State. Special conditions must be met in case of churches open to public religious exercise.

(The abbreviation "Commento" used in the text refers to the "Commento della Nuova Legislazione in Materia Ecclesiastica" by Raffaele Jacuzio, Director General of the Fund for cult purposes, published 1952 in Turin with a preface by the Minister of Justice, Alfredo Rocco).

es/gmf

Date: 5 November 1943.

Cf. H R. Art 56 (EM 27-10^f Art 318, 319.)

(The abbreviation "Commento" used in the text refers to the "Commento della Nuova Legislazione in Materia Ecclesiastica" by Raffaele Jacuzio, Director General of the Fund for cult purposes, published 1932 in Turin with a preface by the Minister of Justice, Alfredo Rocco).

es/gmf

Date: 5 November 1943.

Cf. H R. Act 56 (EM 27-10) Art 318, 319.)

(4)

List of Buildings in Rome and Vicinity Transferred by the Lateran Treaty of 1929 to the ownership of the Vatican State *Italy*

Patriarchal Basilicas of San Giovanni in Laterano, of Santa Maria Maggiore and of San Paolo with annexed buildings (Enclosure II, 1, 2, & 3 to the Lateran Treaty), Monastery annexed to the Basilica of San Paolo. Art 13 Lat. Treaty.

Building of San Callisto next to Santa Maria ~~Ad~~ in Trastevere (Enclosure II, 9). Art 13 Lat. Treaty.

Pontifical Palace of Castel Gandolfo with all annexes. (Enclosure II, 4 Lat. Treaty),

Villa Barberini in Castel Gandolfo with all annexes. (Enclosure II, 5). Art 14 Lat. Treaty

Belonging to the Congregation of the Propaganda Fide
Realty on the north slope of the Colle Gianicolense, See plan Enclosure II, 12. Art 14 Lat. Treaty.

The former convent buildings annexed to the Basilica dei Santi XII Apostoli with all annexes. (Enclosure III 3 4 & 5) Art 14 Lat. Treaty. *Church of San Andrea della Valle with the Palace attached to the Church of San Carlo all'Altare in Spagna,*

the Palace del Sant'Offizio and annexes, the Palace dei Convertendi in piazza Scossacavalli, the Palace del Vicariato (Enclosure II, 6, 7, 8, 10, & 11).

All other buildings housing the other offices of the Holy See. (Art 15 Lat. Treaty).

The following pontifical institutes: Gli immobili indicati nei tre articoli precedenti, nonché quelli adibiti a sedi dei seguenti Istituti pontifici: Università Gregoriana, Istituto Biblico, Orientale, Archeologico, Seminario Russo, Collegio Lombardo, the two palaces of Sant'Appollinare and the Casa degli esercizi for the clergy of San Giovanni and Paolo (Enclosures III, 1, 1 bis, 2, 6, 7, 8) Art 16 Lat. Treaty.

These buildings belong to the Congregation of the Propaganda Fide
These buildings belong to the Congregation of the Propaganda Fide

Art 14 Lat. Treaty.

The former convent buildings annexed to the Basilica dei Santi XII Apostoli

with all annexes. (Enclosure III 3, 4 & 5) Art 14

Lat. Treaty. *Palace of San Andrea della Valle and of*

Palace attached to the Curia of San Carlo Borromeo

Palaces della Dataria, della Cancelleria, di Propaganda Fide, in Piazza di

Spagna, the Palace del Sant'Offizio and annexes,

the Palace dei Convertendi in piazza Scossacavalli,

the Palace del Vicariato (Enclosure II, ~~IX~~ 6, 7, 8,

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Giovanni and Paolo (Enclosures III, 1, 1 bis, 2, 6,

7, 8) Art 16 Lat. Treaty.

1 - List of buildings belonging to the Holy See under the Lat. Treaty.
2 - List of buildings belonging to the Holy See under the Lat. Treaty.
3 - List of buildings belonging to the Holy See under the Lat. Treaty.
4 - List of buildings belonging to the Holy See under the Lat. Treaty.
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GOC REPEAT GEORGE OBOR CHARLIE NUMBER TWO DISTRICT IS VERY ANXIOUS TO REQUISITION
SEMINARY FOR TRAINING OF PRIESTS AT MOLFETTA IN PROVINCE OF BARI FOR PURPOSE OF
CONVALESCENT HOME FOR WOUNDED PD TO FREEDOM FROM FATIMA SIGNED MACFARLANE PD
THESE PREMISES PROVIDE THE ONLY SUITABLE ACCOMMODATION ON THE REQUIRED SCALE IN
THE AREA AND ARE URGENTLY REQUIRED ON GROUND OF MILITARY NECESSITY PD PARA THE
SEMINARY IS UNDER CONTROL OF POPE AND MAY BE PARAL PROPERTY BUT CERTAINLY HAS NO
EXTRA DASH TERRITORIAL STATUS PD PRINCIPAL OF SEMINARY IS UNWILLING TO ALLOW IT TO
BE TAKEN OVER PD IT IS CONSIDERED HERE THAT ITALIAN GOVERNMENT PROBABLY HAS POWER
UNDER TERMS OF LATRAN TREATY AND CONCORDAT TO REQUISITION THIS PROPERTY IN VIEW²
OF MILITARY NECESSITY BUT BEFORE DIRECTING THEM TO EXERCISE THIS POWER WE DESIRE
TO BE DIRECTED ON POLICY PD PARA PAREN ONE PAREN SHALL BE DIRECT ITALIAN GOVERNMENT
TO EXERCISE THEIR POWERS OF REQUISITION FORTHWITH OR PARA PAREN TWO PAREN IS THE
MATTER ONE FOR NEGOTIATION WITH POPE ON GROUND THAT IN THE INTERESTS OF HUMANITY
AND RELIEF OF SUFFERING HE SHOULD ALLOW THIS PROPERTY TO BE REQUISITIONED OR PARA
PAREN THREE PAREN IS NO SUCH PROPERTY OF THIS CHARACTER TO BE TOUCHED IN ANY
CIRCUMSTANCES PD PARA IF IT SUBSEQUENTLY APPEARS THAT CORRECT INTERPRETATION OF

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LATIN TREATY AND CONCORDAT PRECLUDES PAPAL PROPERTY FROM REQUISITION ONA IT
IS PRESUMED THAT ONLY ACTION POSSIBLE WOULD BE UNDER PARH TWO PARH ABOVE PD
PARA PLEASE TREAT MATTER AS EXTREMELY URGENT

AUTHENTICATED:

MAXWELL D. TAYLOR
Brigadier General, USA

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- 1 - Diary
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