

FILE CLOSED MARCH 1944

~~TOP SECRET~~ 14

DRAFT

EXECUTIVE MEMORANDUM.

No. .

To All Regional Commissioners, CA 5th Army and SCACs 5th and 8th Armies.

Treatment and use of (Religious)(Church)(Vatican) property.
(suggested options)

1. The Vatican City is to be regarded as an independent neutral state and every precaution will be taken to avoid violating its territory before, during and after assault.

2. The Vatican properties listed in the annex attached located in and about Rome but outside of the Vatican City will have the same status as Vatican City itself save only that during assault their immunity will not be permitted to interfere with military operations such as bombing, artillery fire etc.

3. Whereas the Vatican City and the Vatican properties listed in the annex attached are to be treated (with the exception noted) as located upon the territory of an independent neutral State and therefore inviolable, all other Religious properties throughout Italy may be occupied or requisitioned but upon the following conditions only:

(a) Such property shall NOT be occupied or requisitioned without the authority of HQ ACC except as mentioned in Subpara (b) below.

Where the requisitioning authority desires to requisition such property he shall apply through the nearest representative of ACC who shall transmit such application to HQ ACC HC & HQ Section.

Such application shall contain:

2. The Vatican properties listed in the annex attached located in and about Rome but outside of the Vatican City will have the same status as Vatican City ~~its~~ save only that during assault their immunity will not be permitted to interfere with military operations such as bombing, artillery fire etc.

3. Whereas the Vatican City and the Vatican properties listed in the annex attached are to be treated (with the exception noted) as located upon the territory of an independent neutral State and therefore inviolable, all other Religious properties throughout Italy may be occupied or requisitioned but upon the following conditions only:

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(a) Such property shall NOT be occupied or requisitioned without the authority of HQ ACC except as mentioned in Subpara (b) below.

Where the requisitioning authority desires to requisition such property he shall apply through the nearest representative of ACC who shall transmit such application to HQ ACC RC & MI Section.

Such application shall contain:

- (a) The exact title and location of the property, the purpose for which it is now being used, whether the property is now full or empty and such other particulars as may be of assistance in any particular cases.
- (b) Whether alternative accommodation is available and if so particulars thereof.
- (c) The purpose for which it is proposed to be used and the circumstances which justify its occupation notwithstanding its use for religious purpose.
- (b) In case of overriding operational necessity the local commander may

(13)
forthwith requisition and occupy ~~xxx~~ such property but shall immediately make to the nearest representative of ACC for transmission to HQ ACC (HC & IB

Section) a report containing the following particulars:

(1) The exact title and locality of the place occupied, the purpose for which the property was being used, whether it was full or empty and such other particulars as may be of assistance in any particular case.

(2) Whether alternative accommodation has been found for the occupants and if so where.

(3) The purposes for which it is now being used and the circumstances which justified its immediate requisition without prior reference to HQ ACC.

4. Where HQ ACC grants authority for any property to be requisitioned in unoccupied Italy such requisition shall be carried out through the Italian authorities.

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4. Where HQ ACC grants authority for any property to be requisitioned in unoccupied Italy such requisition shall be carried out through the Italian authorities.

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Not used

Approved

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Executive Memorandum on Use of Papal Property (Outside Vatican State) by the Allies.

The following general considerations shall apply to the use by the

Allies of Papal property located outside the Vatican State.

1. (a) Papal property listed in App. A, and located in Rome and vicinity, was given by the Lateran Treaty full immunities accorded under international law to seats of diplomatic agents of foreign States.

(b) Papal property listed in App. B and located in Rome, although not enjoying full immunities, has been granted by the Lateran Treaty special protection against interference of the Italian State. As a matter of policy it has been decided that the property mentioned above under (a) and (b) and listed in App. A & B shall be avoided by the Allied troops and that it shall not be subject to requisition. However, this policy should not be allowed to interfere with military operations, bombing, artillery fire, during assault on Rome, although even at that stage every precaution shall be taken to avoid a violation of the above principle.

2. Any Papal property other than that enumerated in App. A & B, be it located in territory under Allied Military Government or in territory under the administration of the Italian Government, is as a matter of law ¹⁰ subject to requisition by the Allied Forces in virtue of the military occupation, of the Armistice terms and of the terms of the restoration of territory to the Italian Government. For political reasons, however, it has been resolved that:

(1) Allied military authorities shall avoid as far as possible requisitioning or otherwise converting to Allied use any property which the occupants allege to be Papal property.

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(1) Allied military authorities shall avoid as far as possible requisitioning or otherwise converting to Allied use any property which the occupants allege to be Papal property.

442086
2 NOV 1946
(2) Only in case of urgent operational needs such property shall be requisitioned. Report shall be made to HQ ACC at once.

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(3) In territory administered by the Italian Government the requisition of such property shall be done through the Prefect of the Province in which the property is located.

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(4) Force shall not be used either by Allied Military authorities or by the Italian authorities acting on behalf of the Allies, to eject any occupants of such requisitioned property.

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(5) In any case where the occupant of such requisitioned property are found to be uncooperative this fact will be reported to HQ ACC at once.

(11)

(5) A special attempt shall be made to spare the following papal property from damage in view of its religious and historical significance:

- (i) Basilica of Holy House at Loreto (Basilica della Santa Casa di Loreto) Ancona Province.
- (ii) Basilica of St. Anthony at Padua (Basilica di Sant'Antonio in Padova) Padova Province.
- (iii) Basilica of St. Francis at Assisi (Basilica di San Francesco in Assisi) Perugia Province.

Note to (5): Signal 4987 includes in the list of property to be protected for its religious and historical reasons also the Benedictine Abbey on Monte Cassino and Subiaco. The first was omitted above for obvious reasons, the second because it is not "Papal property".

Sgt. E.S. - 20 March 44.

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REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4015/L.

rlp.
15 March 1944.

SUBJECT : Executive Memoranda No. 11.

TO : Executive Commissioner.

Reference your 47/25/CA dated 13 March 44.

1. The revised memorandum is not ready as I have received no reply to my ACC/4015/L. dated 6 March 44, and the position is further delayed by the fact that:

a. I have just received a new directive from ACHQ relating to this matter, and

b. The relative file has been returned to you this date in response to your request and I am awaiting copies of relative documents thereout.

2. You should note that the latest directive appears to answer the queries raised by me in my letter of 6 March 44.

GERALD R. UNJOHN
Colonel
Chief Legal Officer

4015

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

1871
15 MAR 1944

Ref/47/25/CA

13 March 1944

SUBJECT: Executive Memoranda No. 11.

TO : Administrative Section (For Attention Legal Sub-Commission),
Rear HQ ACC.

(4)
Reference your ACC/4015/L of 27 February 1944 would you please inform this section if the draft memorandum is now ready for the approval of the Executive Commissioner.

for *Defield White*
for NORMAN E. FISKE,
Colonel, Cavalry,
Deputy Executive
Commissioner. *Major* *Er* **7**

~~The last~~

The revised memo
is not ready ~~to be~~
~~forwarded~~ and I send
in reply to my Acc/2015/L
of dated 6 April 1944
and the further is further.

Enclosed by the fact that

- (a) I have just sent a new
check for the \$1000 out of
to the matter. (b) the
relevant file has been
returned to you. The delay in
response to your request of 13 days
with copies of the document

12/31/44. Aug

Suggested addendum to Executive Memo #211

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(d) As a matter of policy it has been decided that Vatican property in Italy will be treated as neutral property. Requisitioning or otherwise converting to Allied use of such property should be avoided as far as possible, and only resorted to in case of urgent operational need. Accordingly cc

(e) In any case when urgent operational needs require that such property shall be requisitioned, a report thereof should be made as early as possible to _____ where the occupants of requisitioned Vatican property are found cc

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REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

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ACC/4015/L

6 March 1944.

SUBJECT: Executive Memo No. 11.

TO : Executive Commissioner, ACC.

1. Ref my ACC/4015/L dated 27 Feb 44 an initial point of principle arises on which I desire instructions before redrafting the a/m Memorandum.

2. Executive Memo No. 11 and the AGMF Memo dated 12 Feb 44 both set out a paraphrase of Signal 48957 dated 6 Feb (which lays down the general principle that Papal property may be requisitioned though actual force may not be used and the Vatican must be informed through the British Minister) and it is assumed in such Memoes that such powers of requisition may be exercised by field forces or Districts or by sub-units of ACC and that it is merely necessary to inform HQ ACC of the act of requisition.

This overlooks, however, the earlier Signal No. 42486 para 5 which states that Allied Forces should avoid requisitioning Papal property but that if it is urgently required for operational needs a report should be made to AFHQ.

3. Before redrafting Executive Memo No. 11, therefore, do you want me

(a) To assume that Signal 48957 entirely supersedes 42486

(b) To signal AFHQ to clear up the inconsistency or

(c) To assume that 42486 still governs the position in practice and that Signal 48957 merely states the abstract legal position.

4. May this matter be treated as urgent please.

With file 133/CA

G. E. BRIDGMAN, Colonel
Chief Legal Officer.

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REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

GRU/inf

27 February 1944.

ACC/4015/L

SUBJECT: Executive Memorandum No. 11

TO : Executive Commissioner, ACC. ①

The a/m Memorandum (of which this Subcommittee has only just received a copy) appears to be inconsistent with para 5 of message from Freedom 42486 dated 24 Jan (which contains paraphrase of message from CCS). Can you please let me know whether this message has been modified in any respect by a later message of equal authority? I respectfully suggest that the whole memorandum requires a good deal of further consideration, especially in regard to properties outside the Vatican State but in Rome or its vicinity.

G. R. UPJOHN
Colonel
Chief Legal Officer.

Declassified E.O. 12958 Section 1.4, 1.5
HEADQUARTERS REGION 4
ALLIED MILITARY GOVERNMENT
APO 394.

(3)

Ex Mem 11 read

TO : C.L.O., H.Q., A.C.C.
FROM : R.L.O., Region 4.
SUBJECT : Executive Memorandum No. 11
Use of Papal Property by the Allies.
REFERENCE : R4/LE/Reg/C/9
DATE : 20 FEBRUARY 1944.

(1)

1. Reference Executive Memorandum No. 11: - " Use of Papal Property by the Allies " it would be appreciated if clarification could be given on various points.

2. The heading to the Memorandum and paragraphs 1 (main) and 1 (b) speak of "Papal property", whilst paragraph 1 (c), 1 (d) and 1 (e) speak of "Vatican property". Is there any distinction between the two expressions?

3. The present understanding of this Division, based in part on AMG/232/10. of 13 Jan.44 from 15 Army Group AMG. HQ, is that there are gradations in the status of Vatican or Papal property, as follows:-

- a) The Vatican City :- a Sovereign neutral State.
- b) Buildings and land enjoying Extra-territorial rights or Diplomatic immunity under the Lateran Treaty: such as the Pontifical Palace of Castel Gandolfo. ³
- c) Buildings and land exempt from expropriation or taxation by the Italian Government under Article 16 of the Lateran Treaty, such as the Gregorian University building in Rome.
- d) Buildings and land which enjoy no special rights.

(2)

Is this correct? And if so, which of the various classes in subparagraphs (B) (C) and (D) are affected by Executive Memorandum No. 11. It is clear that subparagraph (A) is not affected by it, being completely inviolable territory.

4. It is presumed that in addition to the above, but not ranking as Papal or Vatican property, there is purely Ecclesiastical property owned by Sees, Orders, Societies, or the like; and such property is requisitionable in the ordinary way, and is not affected by the Memorandum.

H.G. Willmer

H.G. WILLMER, K.C.
Colonel,
R.I.O. Region 4

HEADQUARTERS
ALLIED CONTROL COMMISSION
H.Q. & M.C. Section
APO 394

12 February 1944.

EXECUTIVE MEMORANDUM)

NUMBER 14)

RUSK

To:-- All Regional Commissioners and S.C.A. on 5th and 8th April.

USE OF PAPAL PROPERTY BY THE ALLIES.

1. The following general considerations shall apply to the use by the Allies of Papal property located outside the neutral Vatican State.
 - (a) Under international law the Allies, by virtue of their military occupation of Southern Italy, are entitled to requisition any property located therein which is required for military or similar purposes. This right exists independently of the rights conferred by the Armistice and is not affected either by the functioning of an Italian Civil Administration in the area concerned, or by the Lateran Treaty.
 - (b) However, all requisitions of Papal property in territory administered by the Italian Government will be made by the Italian Authorities on behalf of the Allies.
 - (c) ^{Sanctus} Although it is not necessary to secure the consent of the Vatican in advance, whenever Vatican property is requisitioned H.Q., A.C.C. must be notified at once.
 - (d) As a matter of policy it has been decided that Vatican property in Italy will be treated as having a certain extra territorial character. Accordingly, it is essential that forced entry never be used either by Allied military authorities, or by the Italian Government acting on behalf of the Allies, to effect any occupation of requisitioned Vatican property.
 - (e) In any case where the occupants of requisitioned Vatican property are found to be un-cooperative this fact will be reported to H.Q., A.C.C. at once.
2. It is essential that the spirit as well as the letter of this directive be scrupulously observed.

of Papal property located outside the neutral Vatican State.

- (c) Under international law the Allies, by virtue of their military occupation of Southern Italy, are entitled to requisition any property located therein which is required for military or similar purposes. This right exists independently of the rights conferred by the Armistice and is not affected either by the functioning of an Italian Civil Administration in the area concerned, or by the Italian Treaty.
- (b) However, all requisitions of Papal property in territory administered by the Italian Government will be made by the Italian Authorities on behalf of the Allies.
- (a) ^{considered} Although it is not necessary to secure the consent of the Vatican in advance, ~~whenever Vatican property is requisitioned H.Q., A.C.C. must be notified at once.~~
- (d) As a matter of policy it has been decided that Vatican property in Italy will be treated as having a certain extra territorial character. Accordingly, it is essential that force should never be used either by Allied Military authorities, or by the Italian Government acting on behalf of the Allies, to eject any occupants of requisitioned Vatican property.
- (e) In any case where the occupants of requisitioned Vatican property are found to be un-cooperative this fact will be reported to H.Q., A.C.C. at once.
2. It is essential that the spirit as well as the letter of this directive be scrupulously observed.

By Command of Lieutenant General MASCH MACELMANS.

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K.S. LUSH,
Brigadier,
Executive Commissioner.

DISTRIBUTION:

Regional Commissioners Regions I, II, III, IV, V, VI.
S.C.A.A. 5th and 6th Armies.
File.

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