

0500

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

ACC

10000/142/309

DISPOSIT  
FEB. 194



0507

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

785016

10000/142/309

DISPOSITION OF CONFISCATED PROPERTY  
FEB. 1944 - SEPT. 1945



20A

HEADQUARTERS ALLIED COMMISSION  
APO 394  
LEGAL SUB-COMMISSION

AG/4034/L.

APN/10.  
17 September 1945.

SUBJECT : Impounded Monies.

TO : S.W. Miller, Colonel, Liaison Officer. BARI Allied  
Commission.

1. Reference your 6 Sept. 1945 LB/53/113 and attached  
correspondence.

2. The cases listed in attached schedule are not in  
the files of this Sub-Commission. They were evidently tried  
in Italian Courts.

3. Unless the cases were properly brought to this  
Sub-Commission we would be without jurisdiction to make any  
order concerning the monies.

4. Reference para 4 of attached letter A.38/5  
articles 11 and 28 Consolidated Instructions provide that  
property or money seized must be produced in court and the  
court must scrutinize closely, reasons for its non production.  
The court must enter a proper order for its disposition.

20 5. Art. 28, Sect.3 Par "e" provides that "Confiscated  
money will be paid to nearest Provincial Finance Officer."

6. Unless these cases contain a proper order of  
either an Italian or AMG Court as to the disposition of these  
monies, they will have to be returned to the accused.

By command of Rear Admiral STONE:

*Anthony P. Nugent*  
ANTHONY P. NUGENT,  
Major A.U.S.  
Chief Counsel,  
for Chief Legal Advisor.

Incls.



HEADQUARTERS ALLIED COMMISSION  
400 394  
LEGAL SUB-COMMISSION

40/1034/1.

194A  
/int.  
2 July 1945.

SUBJECT : Disposition of Forfeited Goods.

TO : Provincial Commissioner LIVORNO Commune, (Attn: Senior Legal Officer).

1. Reference letter of 30-3-44 Region RVIII/19A of 29 June 1945.

2. In the cases referred to, forfeiture of the goods was ordered under the general powers of the Courts by reason of the wrongful use, sale, purchase or possession of the property in question (see Proclamation 1, Article VI). Under Article 26 paragraph 3, c, Consolidated Instructions confiscated unperishable goods will be at the disposition of the Provincial Commissioner. It is proper for the Regional Commissioner to direct that this property be turned over to the Prefect, Florence Province, to be disposed of by him in his capacity as such, and in accordance with the lawful powers vested in him as such officer.

By command of Rear Admiral STONE:

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Incls: Correspondence.

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



HEADQUARTERS  
TOGIANA REGION  
ALLIED MILITARY GOVERNMENT

RVIII/19A/

29 Jun 1945.

SUBJECT : Disposition of Forfeited Goods.

TO : Executive Commissioner, HQ. AC.

1. Enclosed herewith are copies of communications relative to the distribution of certain goods duly forfeited.
2. Your attention is particularly invited to the informal opinion of the Regional Legal Officer and to 1st Ind, this HQ dated 10 June 1945 to the Provincial Commissioner Florence Province.
3. It appears that the Provincial Commissioner Florence Province has not complied with par 3 of the 1st Ind. This HQ recommends that the property be turned over to the Prefect Florence Province for disposition. It is requested that instructions be issued for the disposition of these forfeited goods.
4. The key of the room where the property is stored has been sent to Major J. H. Salter, Executive Officer, Florence Province.

*Robert C. Kirkwood*  
ROBT. C. KIRKWOOD,  
Colonel, FA, US Army  
Regional Commissioner.

18 RGK/ttg.

## LEGAL SUB-COMMISSION

CLO

DCLO

Chief Counsel

CJO

Italian Section

CL RKS

2



*File 4034* 17A

HEADQUARTERS ALLIED COMMISSION  
APO 394  
LEGAL SUB-COMMISSION

AC/4040/L.

/mt.  
2 March 1945.

SUBJECT : Disposition of Personal Property of Enemy Agents.  
TO : Public Safety Sub-Commission  
(Attn: Col DOHERTY).

1. In answer to your oral request we have to advise you that we have been unable to discover any directives dealing with the disposition of the possessions which may be found on enemy agents.

2. The property of a person arrested on suspicion of espionage should be treated as that of a person arrested on any other charge, e.g. murder. The prisoner retains possession of his property subject to custodial or security exigencies. Such property as may be removed from his possession must be held subject to any order the Court may make; or, in the event there is no such order, must be returned to the prisoner upon his discharge.

3. If the alleged enemy agent is ultimately convicted, the trial court should be asked at the conclusion of the trial to make an order of confiscation with respect to such property as may properly be said to be an integral part of the mission of espionage. Such property could include for instance, a radio transmitter, or photographic equipment. It would not include personal clothing. Money could be made the subject of a confiscation order depending on whether the facts of the case showed it to be connected with the mission of the accused.

4. The strict legal position is in the event of the execution of an enemy agent, that such property as is not confiscated, is held by an appropriate public official for the benefit of his executor or legal representative.

*E. L. Palmieri*

E. L. PALMIERI,  
Major, Spec-Res,  
Acting Chief Counsel,  
for Chief Legal Advisor.

Copy to: AC/4014/5/L.



HEADQUARTERS  
ALLIED CONTROL COMMISSION  
LEGAL SUB-COMMISSION  
APO 394

(16A)

ACC/4034/L.

int.  
16 Oct. 44.

SUBJECT: Olive oil - Confiscation - Ownership.

TO : Canadian Section GHO 1st Echelon,

AAI, C.I.F.

Reference your cmd/56/10 Petrelli V/1 (AJAG), dated 12 Oct. 44.

1. According to Italian law the sale of the olive oil by the civilian to the Canadian soldier was illegal and constituted an offence by both the seller and the buyer.

2. Furthermore the unauthorized transportation of the oil from one district to another may be illegal under Italian law, if the competent Prefect has issued an order prohibiting it.

3. According Art. 240 Italian Penal Code, confiscation shall always be ordered of articles whose manufacture, use, carriage, possession or sale constitutes an offence, even though a conviction has not been pronounced.

4. The confiscation entails the loss of any private ownership.

The confiscated articles devolve upon the State. Olive oil, by virtue of special provisions in this matter, shall be delivered to the "Ambascio".

FOR THE ACTING CHIEF COMMISSIONER

16

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





CANADA

4034 ✓  
CANADIAN SECTION GHQ 1ST SHELON

Cdn 56/10/Petrelli V/1(AJAG)

Quote No.....

15A

12 Oct 44

Legal Sub-Commission,  
Italian Office,  
Allied Control Commission,  
Ministero Corporazione,  
Via Veneto,  
ROME.

Olive Oil - Confiscation - Ownership

1. Lt-col D.D. Carrick, the AJAG of this HQ, today spoke to Dr. Forti about a legal problem which has arisen in this HQ, involving Italian Law, and it was arranged that this letter would be sent to you in order to obtain your written confirmation of the verbal opinion on Italian Law given over the telephone.

2. A Canadian soldier stationed at Avellino purchased from a civilian, on 26 July 1944, a quantity of olive oil, the purchase taking place somewhere south of Cosenza - the exact location not being known. The civilian was paid and the olive oil transported by the Canadian soldier back to Avellino, where his possession of the olive oil was discovered. The soldier was tried by a Canadian Court Martial, convicted and given two years' imprisonment for an offence against Military Law in connection with the illegal use of a Canadian military vehicle.

3. The olive oil is being held by the Canadian Provost at Avellino and this HQ has been asked for an opinion as to what disposition should be made of the olive oil.

15

4. The matter is being considered from the point of view of Canadian Military Law and it is desired to have your opinion on the legality of the sale under Italian Law and on the ownership of the oil.

5. Lt-col Carrick was advised as follows:

- (a) Under Italian Law the sale was illegal and an offence by the civilian against Italian Law.
- (b) The oil in question, as a result of the illegal sale, is subject to confiscation and deposited in the ammassi. No ownership of the oil passed to the Canadian soldier as a result of the sale.

6. Your opinion is also requested on whether the transportation of the oil, under Italian Law, was illegal and, if so, whether the oil was thereby rendered subject to confiscation, and the effect of such law on the ownership of the oil.

...../overleaf







4634  
HEADQUARTERS  
ALLIED CONTROL COMMISSION  
P.O. Box 394  
C.G. Section

8 MAR 1944

3430  
(14A)

Ref/105/17/GA.

27 March 1944.

SUBJECT: Property of Arrested Persons.

TO : V.P. Admin Sec. -- For Legal Sub-Com.

1. Reference your letter ACC/4034/L of 16 Mar 44.
2. In compliance with the request contained in para. 5 of the above reference, HQ. A.A.I. (Admin Ech) has issued a directive, a copy of which is enclosed herewith.

RMH

*For [Signature]*  
for  
NORMAN E. FISKE  
Colonel,  
Deputy Executive  
Commissioner.



RESTRICTED

HEADQUARTERS  
ALLIED ARMIES IN ITALY  
(Adm. Echelon)  
APO 400

ALH/rjs  
24 March 1944

SUBJECT: Disposal of Property of Arrested Civilians.

TO : All Addressees.

1. Report has been received from the Allied Control Commission that in numerous cases, military arresting authorities have improperly disposed of firearms and other personal property taken from arrested civilians. This irregularity may prevent the production of the necessary evidence in court and thus impede administration of the law.

2. It is desired that commanders of arresting authorities issue the necessary instructions to assure that all property taken from arrested civilians is properly secured and held available and subject to the disposition and decisions of the Allied Military Courts. Property which belongs to any of the Allied Military Forces should be held by the arresting authorities sufficiently long to be produced as evidence before the court and then returned directly to the owning force by the arresting authority.

*W. H. Baggett*  
for

Major General  
Chief Administrative Officer

13  
DISTRIBUTION:

Fifth Army  
Eighth Army  
10 Corps  
No 1 District  
No 2 District  
No 3 District  
P B S  
I B S  
CG Sardinia  
MAAF  
AFSC/MTO  
FCWIT  
POEIT  
✓ACC

RESTRICTED



19 MAR 1944

2031

12

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

18 March 1944.

Ref/105/14/CA

SUBJECT : Property of Arrested Persons.

TO : Administrative Section  
(for Legal Sub Commission)

1. Ref your reference ACC/4034/L of 16 March.

2. The request contained in para 5 is being complied with.

3. It is suggested that, in the future, you might find it more satisfactory to draft the type of letter which you might desire, in such cases. If so, we will be glad if you will submit such a draft with your request.

12

*Forrest*  
in NORMAN E. FISKE,  
Colonel, Cavalry,  
Deputy Executive  
Commissioner.



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

19 MAR 1944

11

18 March 1944.

Ref/105/15/GA

SUBJECT : Property of Arrested Persons.  
TO : H.Q. A.A.I.

1. There have arisen a number of complaints in several regions of the Military Police, officers and enlisted men, of disposing of firearms and other property seized at the time of arrest of civilians who are charged with offences to be tried by Allied Government Courts. At the time of trial such property has often disappeared and cannot be produced at the trial of the accused. This failure to produce such evidence often prevents the Court from arriving at a proper adjudication of the case.

2. It is requested that you issue an order to the Military Police, and all other military personnel concerned, requiring all property of arrested civilians be held for disposition of the Allied Military Courts and subject to disposition in accordance with decision of these courts.

11

NORMAN E. FISKE,  
Colonel, Cavalry,  
Deputy Executive  
Commissioner.

Copy to : Admin Section  
(for Legal Sub Commission)



(10)

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

16th March, 1944.

REFERENCE : ACC/4034/L.  
SUBJECT : Property of Arrested Persons.  
TO : Deputy Executive Commissioner.

1. Reference your Ref/105/11/CA dated 15 March, 1944.
- 283/47/CA 2. Upon receipt of your letter of 8 March 1944 reference ~~enclosing letter of 8 March 1944~~ from Regional Commissioner, Region 4 dated 6 March 1944, I made inquiry of the Chief Judicial Officer who felt from records he reviewed that the issuance of the requested directive to Military Police was necessary. Hence my letter of 10 March 1944.
3. However on Sunday 12 March, 1944, the R.L.O. Region 5 called at this Headquarters to discuss various matters including the question of improper disposition of property by the Military Police citing various instances, which made it appear necessary that orders should be issued by arresting authorities. Hence my request of 12 March, 1944.
4. The change of view in this respect has been communicated to the R.L.O. Region 4.
5. Consequently it is requested that Headquarters, A.A.1. should issue an order which will require the arresting personnel to hold the property involved for the disposition of the Allied Military Court and dispose of it in accordance with the decision of that Court.

10

See folw 11

RICHARD H. WIENER.  
Lieut. Colonel CAC.  
Deputy Chief Legal Officer.

RHW/vcw.

Taken by Col Wiener  
17/3/44



16 MAR 1944

1903

⑨

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

Ref/105/11/CA

FLP/mrd  
15 March 1944

SUBJECT: Property of Arrested Persons

TO : Administrative Section (For Legal Subcommittee)

⑤ 1. Reference yours ACC/4043/L of 12 March and ACC/4002/L of 10 March and ours of 283/47/CA of 8 March, there is an apparent direct conflict between paragraph 3 of yours 10 March and yours 12 March.

⑦ 2. You are requested to clarify your position and state concisely what is desired.

*Norman E. Fiske*  
Colonel, Cavalry  
for  
NORMAN E. FISKE  
Colonel, Cavalry  
Deputy Executive Commissioner



16 MAR 1944

1903

(8)

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

Ref/105/11/CA

FLP/ard  
15 March 1944

SUBJECT: Property of Arrested Persons

TO : Administrative Section (For Legal Subcommittee)

1. Reference yours ACC/4043/L of 12 March and ACC/4002/L of 10 March and ours of 283/47/CA of 8 March, there is an apparent direct conflict between paragraph 3 of yours 10 March and yours 12 March.

2. You are requested to clarify your position and state concisely what is desired.

8

NORMAN E. FISKE  
Colonel, Cavalry  
Deputy Executive Commissioner



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

12 March, 1944.

REFERENCE : ACC/4034/L.  
SUBJECT : Property.  
TO : Executive Commissioner.

1. Region III reports considerable difficulty with the Military Police over the disposition of property taken from arrested Italian civilians. For instance pistols taken from civilians are kept by the arresting military personnel. The same is true of trucks as well as other articles. Property is reported as being disposed of by the Military Police, officers and enlisted men, as if they had the right of complete disposition even to the extent of doing so for their own personal benefit. This ousts the Military Courts of their jurisdiction to dispose of the property and makes it unavailable as evidence in cases.
2. There must be some clear line of demarcation between the functions of the Allied Military Government and the P.B.S. + 57th Area with respect to the civilians. Region III R.L.O. believes that orders should be issued to all military personnel and especially to C.I.D., F.S.S. and Military Police that property which is seized on the arrest of a civilian and involved in the offense must be held for the disposition of the Military Court and must not be disposed of by any other authority.

*Richard H. Wilmer*  
RICHARD H. WILMER.  
Lieut-Colonel, CAC.  
Deputy Chief Legal Officer.

RHW/wow.



HEAD HEADQUARTERS  
ALLIED CONTROL COMMISSION  
Legal Sub-Commission  
APO 394

10 March 1944

Ref. AGC/4002/L .

SUBJECT : Disposal of property in possession of arrested persons.  
*Executive*  
TO : Deputy ~~Chief~~ Commissioner .

1. reference your 283/47/GA, dated 8 March 1944 .
2. The new legal handbook will sufficiently cover the confiscation and disposal of property found in possession of the accused persons or proceeds thereof .
3. In view of the infrequency with which the points referred to in para.2 of the letter PC Legion 4 arise and are not dealt with properly, it is not thought necessary to approach Hq. AMCF on the subject .

6

RICHARD H. WILDER  
Lt. Col., G.A.C.,  
Deputy Chief Legal Officer.



4002/L

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

5

Ref/283/47/CA

8 March 1944.

SUBJECT: Disposal of Property in possession of arrested persons.

TO : Administrative Section. (For Legal Sub-Commission).

1. Reference our 283/19/CA of 25 Feb and your ACC/4002/S/L of 25 Feb a further communication on this subject has now been received from R.C. Region IV a copy of which is forwarded for any action which may seem to you to be necessary.

189.10.10

NORMAN E. FISKE  
Colonel, Cavalry,  
Deputy Executive  
Commissioner.



*Spaul*

HEADQUARTERS REGION 4  
Allied Military Government  
APO 394

4002  
AJS/JG ~~JS~~  
U-1232  
HEADQUARTERS  
6 MAR 1944

TO : HQ, ACC (R.C. and M.G. Sec.) (2 copies)

FROM : HQ, Region 4 AMG

SUBJECT: Disposal of property in possession of arrested persons.

REF : R4/250.5(P)

DATE : 6 March, 1944

1. With reference to the memorandum (283/30/CA) of 28th February, it appears that on some occasions when arrests have been made by Military Police, property which is subject of the charge or other property in the possession of an accused person has not been handed in to the Court.

2. The position would be regularised if orders were issued by the Commander-in-Chief providing that:-

4 (i) When Military Police make an arrest of any Italian person, all property the subject of the charge and all property in possession of the arrested person shall be handed into the custody of the Allied Military Court hearing the case.

(ii) That in any case in which goods in the possession of an arrested person are sold, the proceeds shall also be handed into the Court and

(iii) That any Order made by the Court as to the disposal of such property shall be final unless reviewed in accordance with the provisions of Proclamation No. 4 (as amended).

3. It appears desirable that the matter should be dealt with in connection with the proposed new directive and it is requested that the matter may be taken up with the appropriate authorities.

*M. Can Buyadici*  
Regional Commissioner  
Region 4, AMG

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

25th February, 1944.

REFERENCE : ACG/4002/1/L.  
SUBJECT : Disposal of Property in Custody of Allied Military Courts.  
TO : V.P., R.C. & M.G. Section.

1. Reference your 283/19/CA dated 23 Feb 44.

2. This matter has already been considered at a conference attended by C.L.O., D.C.L.O., R.L.O. Regions III & IV and S.I.O. 5 Army and a Directive is being prepared. It is not proposed to issue it specially in view of your pleas on behalf of the digestions of Regional Commissioners but in a book of consolidated directives which will be ready for submission to you shortly.

GRU/wow.

GERALD R. UPJOHN.  
Colonel,  
Chief Legal Officer.

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

Ref/283/19/CA

23 February 1944.

SUBJECT: Disposal of Property in Custody of Allied Military Courts

TO : Administrative Section

1. Attached copy of RA/250.5(P) of 19 February 1944 is forwarded to you for favor of comment by the Legal Sub-Commission.

2

Incl  
As above.

T. Farley Smith

T. FARLEY SMITH,  
Lt Colonel,  
G-1, R.C. & M.G. Section.

1414



HEADQUARTERS REGION 4  
Allied Military Government  
APO 394

AJS/lk

TO : A.C.G. (Regional Control & Military Government Section)

FROM : HQ, Region 4 AMG

SUBJECT: Disposal of Property in Custody of Allied Military Courts

REF : RA/250.5 (P)

DATE : 19 February 1944

1. It is understood that cases have occurred in other Regions which indicate the need for precise directions to be issued as to the disposal of property which is taken into custody by A.M.G. courts as evidence at a trial.
2. It is considered that disposal should always be exercised under a written order of the Court at which the case is tried, except in the exceptional case where perishable goods are involved and a direction from the court cannot be obtained without delay, in which case, it is thought that any Provincial Commissioner, Provincial Public Safety Officer or Provincial Officer should be empowered to order disposal subject to a copy of his order being lodged with the Court before which the case is tried.
3. It is requested that consideration should be given to the issue of a general directive in the matter.
4. If the proposal is agreed to, it is intended to issue instructions in Region 4 as to the detailed procedure to be followed to ensure inter alia that:
  - i) Military stores are returned to depots which can take them on charge.
  - ii) Civilian supplies do not find their way into the black market and
  - iii) The proceeds of sale are properly accounted for.

Copy to:

R.L.O., Region 4  
R.P.S.O., Region 4  
R.F.O., Region 4

/s/ M. Carr, Brigadier  
/t/ M. CARR, Brigadier  
Regional Commissioner

# PARTITO FASCISTA REPUBBLICANO

FEDERAZIONE DI ROMA

Cognome e nome

Paternità

maternità

Data e luogo di nascita

Indirizzo

0530

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

Cognome e nome

Paternità

maternità

Data e luogo di nascita

Indirizzo

