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

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HANDLING OF PROPERTY WHEN OWNER IS ABSENT
MAY-NOV. 1944

4834/10

No. 11495/A/141/CA.
CIVIL AFFAIRS BRANCH,
G. O., M. E. F.
Tel. M. E. "George"
Ext. 16.

7th November, 1944.

Dear *Colonel Wilmer*

In the absence of Colonel Macrory on tour I acknowledge receipt of your letter ACC/4034/10/L dated 14th October 1944.

I thank you very much indeed for the trouble taken by Brig. Upjohn and yourself in this matter and the several helpful suggestions made in your letters which we have been able to carry out in part.

The C.C.A.O. has decided however that for the time being it is better not to apply any artificial stimulus to the process of owners recovering their property from the Custodians of Enemy Property by appointment of attorneys though no obstacles will be put in the way of those who do so of their own initiative in the normal course.

In these circumstances we need trouble you no further in the matter.

Yours *very truly*

W. H. H. Chackral

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Col. R. H. Wilmer
Chief Legal Adviser
Legal Sub-Commission
HQ. Allied Control Commission
A. P. O. 394.

GMSW/YA.

FROM Colonel R.H. Wilner, CAC

Chief Legal Advisor

Legal Sub-Commission

Hq. Allied Control Commission

APC 394

ACC/4034/10/1.

14 October 1944.

Dear Colonel Macrory:

At the request of Brig. Upjohn, I am replying to your letter of 4 October 1944. At the outset I assume that you have concluded that the suggestion Brig. Upjohn made in par. 5 of his letter of 22 June 1944 as to the appointment of curatori did not solve your problem.

To get notice to the widely scattered property owners, I suggest that you send 100 copies of a list of all property owners with a description of their respective properties. I would propose to have a copy of the list sent to the prefect of each liberated province as he is in the best position to ascertain through the questure in his province whether the persons are there and call attention to the desirability of appointing attorneys. Sufficient copies of powers of attorney in the requisite form together with instructions on all pertinent points should be submitted by you at the same time. All papers should be in Italian. I would like to have a version in English of the power of attorney and instructions. I would propose to transmit these lists and accompanying papers to the Minister of the Interior for distribution to the prefects in unoccupied territory and to transmit them direct from this Hq to the prefects in occupied territory. The returns would follow the same channel in reverse. Whether or not this procedure will be productive is hard to say.

The only other alternative is to advertise in the newspapers which would involve expense and would likely be even less productive of results.

If you have any idea as to where any owners might likely be such as their places of origin or residences of their families in Italy, such information would be helpful.

At the present time there are now about fifty provinces to which these papers might be sent. I am, therefore, requesting additional ones for use in the other provinces when liberated.

It may well be, of course, that the number of absent owners and the number of properties involved are so extensive that the suggestion I have made above would not be practicable.

Yours,

Colonel P. A. Macrory,
Civil Affairs Branch,
GHQ, MET.

Enter File

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(3A)

LEGAL SUBCOMMISSION
HEADQUARTERS,
ALLIED CONTROL COMMISSION.

22 June 44.

My dear Maxwell

1. Thank you for your letter of 30 May on Property Control. I am sorry I have not answered it before but we have, as you may imagine, been fairly busy.

2. While I should be happy to do all I can to assist we are so chronically short staffed, especially with the latest advances, that we could not let you have an officer on whole time duty to assist.

3. I think the best plan, if I may suggest it, is for you to send us a list of persons with their addresses and classified by provinces so that we could send these lists to the prefects to ascertain whether the persons can in fact be found at their addresses. Lists not so classified would, I fear be useless.

We could then send the list back to you noted as to those who could be found, and if a sufficient number were found to make it worth while you could send over an officer to interview them and make the necessary arrangements.

4. There used to be in Rome a central register of all those who had returned from abroad and if this is still extant I will let you know when I return to Rome and one of your officers could come over and consult it; but as it would appear that the recording of such information was political and therefore secret, its availability is most doubtful.

5. In the meantime could you not relieve yourself of some burden by getting the local Courts to appoint curators (See Arts 528 et seq Civil Code and Art. 25 of Preliminary Dispositions to the Code; also Art. 781 et seq C.G.P.).

6. So far as advising on claims is concerned I always impress on the Director of Property Control that it is not his business. Under the system we are setting up here, a bank looks after the actual property and is legally responsible for ascertaining that the claimant is truly entitled. If there is any doubt the matter is left to the Italian Courts.

Yours Sincerely,

Col. P.F.M. Maxwell
Civil Affairs Branch,
CSC, MAF.

(2A)

Col. Upjohn.

I don't know whether the Italian civil courts in these territories are still operating in occupied Italian colonies. If so they might be asked to appoint curatori for absent property owners in accordance with the Italian civil code, thus relieving the OT administration of a burdensome responsibility. This is what we have done with respect to Italian absentee property. I see no reason why it should not be done in the Italian colonies.

I think it would probably be quite premature to allow owners in Italy to start disposing of their property at this stage, especially in view of the uncertainty as to the future sovereignty of these territories.

CHS Harris

C. R. S. HARRIS,
Lt.Col.,
DPC.

19 Jun 44.

To ART. to approve of draft reply

Toad Mc Harris
D. C.

Ref conversation
Col hypoth. Col
Harris; herewith
letter from Col
Maxwell for
your perusal &
comment.

grm

1) Where the territory in which the Court is located has been restored
Administration: competence of Italian Government.

2) Where the territory in which the Court is located is still admin-
istered by the AMG or the defendants are in territory still subject to AMG: -
the petition will be carried out by Italian authorities
and transmitted with recommendation to Allied authorities for decision.

3) Where the competence of the Italian Government is determined
by the geographical location of the Court. There may be cases where the
sentence by such Court is retained in a jail situated in AMG territory.
In such cases the Italian Government will approach the Allied authority whose
decision will be final.

(1A)
Civil Affairs Branch,
G.H.Q., M.E.F.

30th May, 1944.

My dear Mr. Khan

As you know, we have in our occupied territories Custodians of Enemy Property whose duty it is to take charge of any property left abandoned by its owner in the disturbance that invariably accompanies the beginning of an occupation. When, however, public order is restored and the inhabitants return to their homes it is the duty of the Custodian to restore their property to them on payment of the appropriate fees.

On the occupation of Cyrenaica, most of the owners of property fled into Tripolitania; and on the occupation of Tripolitania many of the owners there fled into Sicily and Italy, accompanied by many of the fugitives from Cyrenaica. Similarly, most of the property held by the Custodian in Eritrea belongs to Italians who are now to be found in Italy. If these people were to appoint representatives to take charge of their property in the occupied territories, the Custodian would release the property to them and this would relieve the Administrations not only of an exceedingly onerous duty but also of the responsibility attached to it.

Our difficulty is that though we can ascertain the names and whereabouts of owners of property in one territory when they are to be found in another, we are not able to trace them when it is known that they have gone to Italy.

I should be very grateful if you could give some consideration to this difficulty in which we find ourselves and let me know what assistance I could expect from the A.C.C. if, for example, I were to send an officer to Italy taking with him lists of the persons whom we wish to trace. Is there anybody in the A.C.C. who could and would be willing to assist him in his task? Alternatively, if I sent the names of persons formerly known to have been in Cyrenaica, Tripolitania or Eritrea, would that be sufficient to enable the A.C.C. to inform us of their present addresses?

Before an owner consents to appoint a stranger to be his representative he will probably wish to have some information as to the circumstances in which it is now held by the Custodian. It is important from the point of view of the British Administration that no misrepresentation should be made to induce any Italian to appoint a representative and it would probably be better that all communications addressed to the claimant should come from the Custodian concerned or his representative.

Other questions of difficulty may arise as to the title of persons claiming. Could the A.C.C. give us any assistance by advising as to the means of verifying such claims? The Custodian will wish to satisfy himself that

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Other questions of difficulty may arise as to the title of persons claiming. Could the A.C.C. give us any assistance by advising as to the means of verifying such claims? The Custodian will wish to satisfy himself that the claimant is the owner and I should like to know whether you could suggest anybody either in the A.C.C. or in the framework of the existing Italian Administration to whom he could apply.

Yours Sincerely

E. F. M. May 1944

Colonel G.R. Upjohn,
Chief Legal Officer,
Rear Headquarters,
Allied Control Commission,
Legal Sub-Commission,
A.P.O. 394.

