

ACC

10000/142/364

POLICY OF APPO
JUDICIAL OFFIC
(SEPT. 1943); JA

10000/142/364

POLICY OF APPOINTMENTS, TRANSFER, ETC., OF ITALIAN
JUDICIAL OFFICIALS
(SEPT. 1943); JAN. 1944-DEC. 1945

MINUTE SHEET N.O. 4.

- 16 -

TO: Executive Commissioner.

The attached letter on the proposed decree on the status of officials appointed or dismissed by AIG in the process of expiration is submitted for signature or the Chief Commissioner if approved.

18 AUG 45*

H. S. HARTLEY

H. S. HARTLEY, Col.,
CSG CA Section.

Chas
21/8

111

Minute Sheet No. 3

12

Chief Commissioner

The attached letter sets out the position. I should draw your attention to the fact that I have said that temporary appointments have been made since Salerno.

There are two reasons for this :-

a) It is in fact true

b) where any well be officials in the territory who have been appointed before the date of Mr Macmillan's side Memoire - n.g., in 1944, 1945, 1946, etc..

Legal 3/3
1 August 1945

13.

Executive Commission

letter for signature by CC.

This matter was discussed CC. yourself and CHA this

Monday
1 Aug

5/1 2/8

G.D. Bonhamfalk L Col
CAS

st

CA SECTION.

Letter signed and original delivered by 6/1/46

Prime Minister's copy withdrawn for CC & CC file

1 Aug 45

110

W.D. Schenck

T. S. BARRON,
Colonel,
Chief Legal Advisor.

Legal E/O
1 August 1945

Colonel,
Chief Legal Advisor.

Executive Commission

letter for signature by CC.

This matter was discussed. CC yourself and C.A. this

Monday

1 Aug

57 pgs.

G. D. Benhamfarth Lt. Col
CAS

28

CA SECTION

Letter signed and original delivered by telegraph

Prime Minister. Copies withdrawn for CC & C.A. files

1 Aug. 45

210

C.A.S. For Chief Commissioner.

1. The proposed decree is quite in order so far as appointments are concerned.
2. I discuss the question side with Big Upjohn who entirely approved it, and it appears from the legal point of view to be entirely satisfactory.
3. I have drafted the attached letter for the Chief Commissioner to sign.

18 Aug. 45

W. Upjohn
C.A.

V.P. CAS.

Order for signature please

'from us'

V.P.

- ① I like it you can do this
- ② in case
- ③ a better opportunity with you

(12)

18

To C.S.O.

ho.

I do not propose to make confirm

appointments of Legal Officers; I have never done so before & do not propose to start now; life is not long enough to undertake unnecessary acts.

After

VR

Legal / gather we have spoken

3 June

Admiral Sir C. G. L.

V.P. CAS.

10

I shall think that an appointment made "subject to confirmation by higher authority" and not so confirmed may be as trouble. I think therefore that something is required. I propose myself, to confer, subject to approval, to sign the attached letter.

4 June 1955

Legal &c

Admiral Sir C. G. L.

Legal & entirely approve your letter but suggest

never done so before & do not propose to do so
now; life is not long enough to undertake
unnecessary acts.

W. B. L.

W. B. L.

Legal / gotten we have spoken
3 June

W. B. L. K. Col

V. P. C. A. S.

¹⁰ I shall think that an appointment made "subject to confirmation
by higher authority" and not so confirmed may lead to trouble. (I think
therefore that something is required). I propose myself. To confirm, subject
to approval, to sign the attached letter.

W. B. L. (S. S.)
K. G. A. S. C.

W. B. L.
S. S. C.

Legal I entirely approve your letter but suggest
you send copies to all Regions.
W. B. L.

4 June 45

VP: C.A.

(1)

43 A involves questions of policy. Consider
we have your instructions please?

to Jan 14/4
Leg. sec

G.S. Hammond
Hague

PA Sec.

Please see 43 a & b. You will observe
that the complaint against Sabatich is not that he
has participated in the activities of the communist party but
has done so in breach of professional custom.

Referred back to Legal (Conservative Home) -
hypothetical ref.) himself of Justice with the
asked whether he has received the letter &
whether he recommends any action.

6 Feb. 44

[Signature]

3.

VP CAS

Herewith draft directive in variation of earlier directives fledged at
folios 9A and 13A which it is proposed to issue to Northern Regions.

Will you please say :-

(a) whether you approve the directive or have any
amendments to make; 3/38

has participated in the activities of the Communist party but
has done so in breach of professional custom.

Referred back to Legal (controversial) Harmanford-
hypothetical info.) Minister of Justice with the
asked whether he has received the letter &
whether he recommends any action.

6 Feb. 44

[Signature]

3.

VP CAS

Herewith draft directive in variation of earlier directives flagged at
folios 94 and 134 which it is proposed to issue to Northern Regions.

Will you please say :-

- (a) Whether you approve the directive or have any
amendments to make; 208
- (b) Whether you wish to sign it.

Legal S/C
16 February 1945

[Signature]

W.E. BEHRENS, Colonel,
Deputy Chief Legal Advisor.

Legal.

- (a) Approved.
- (b) Yes please

17/2/45

[Signature]

488

VP CAS. Stencil of directive approved in minute 4 is submitted
for your signature please.

Legal S/C
19 Feb. 45.

[Signature]
W.E. BEHRENS,
Col. DCLA.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AG/4039/4/L.

ES/es
12 December 1945

SUBJECT : Appointment of notaries by Social Italian Republic.
TO : Regional Commissioner (Attn: Regional Legal Officer)
LOMBARDIA Region.

1. The Ministry of Justice drew the attention of this Sub-Commission to your Leg/5104 of 20 November 1945 advising the Procuratore Generale of Milan that the notaries Stella Luigi, Giuriani Giorgio, Granzella Martino had been confirmed in their present seat by administrative order no 38 of 21 September 1945 issued by your HQ.

2. It is desired to point out that it has been the policy of this Sub-Commission to follow the views of the Ministry in matters pertaining to notaries particularly so, and for obvious reasons, where the question involves transfers or appointments by the Social Republic.

3. It is recommended that you reconsider the position of the three notaries advising this Sub-Commission accordingly.

By Command of Rear Admiral STONE

107
G.G. HANNAFORD,
Lt. Col.,
for Chief Legal Advisor.



4039/4

6 dicembre 1945

79A

Ministero di Grazia e Giustizia

DIREZIONE GENERALE DEGLI AFFARI CIVILI
E DEL NOTARIATOAlla Commissione Alleata
Sottocommissione legale

Ufficio II

Prot. 17-2-20012

Ricevuto al f. del 13-8-1945

Per la 1A-C/4039/1

Oggetto: Posti di notaio conferiti sotto l'impero del sedicente governo della repubblica sociale italiana (Decr. leg. luog. 5 ottobre 1944, n. 249) -

75A

Questo Ministero, a seguito di accordi presi con codesta On. Commissione e di cui al foglio sopra distinto, con circolare 24 ottobre u.s. diretta ai Procuratori Generali presso le Corti d'Appello, aveva disposto che tutti i notai trasferiti od assegnati temporaneamente con provvedimenti del sedicente governo della repubblica sociale italiana dovevano riprendere l'esercizio delle loro funzioni nelle precedenti sedi, delle quali sono tuttora i legittimi titolari, non intendendo questo Ministero provvedere, per ragioni di ordine generale e di opportunità politica, alla convalida dei menzionati provvedimenti del sedicente governo repubblicano.

Ora il Procuratore Generale presso la Corte d'Appello di Milano, con nota 23 novembre u.s., n. 1255,

./.

di cui si alliga copia, ha fatto conoscere che l'ufficio legale dell'A.M.G. per la Lombardia, con disposizione del 20 novembre u.s., n° Ref. Leg. 5104, di cui si alliga pure copia, ha disposto che i notai STELLA, GIURIAMI e GRANZELLI, trasferiti dal sedente governo repubblicano, non debbono rientrare alle precedenti residenze.

Poichè il provvedimento dell'ufficio legale dell'A.M.G. per la Lombardia è in contrasto con le istruzioni impartite da questo Ministero, d'accordo con codesta On. Commissione Allegra, si prega di voler adottare le disposizioni che codesta Commissione stessa riterrà del caso al fine di eliminare il lamentato inconveniente e di fornire al riguardo cortesi informazioni a questo Ministero.

Pel MINISTRO

Quella

CIO

DCIO

Chief Counsel

CIO

→ Italian Section

CL RKS

1 DEC 1947

798
PROCURA GENERALE MINISTERO LA CORTES D'APPELLO DI MILANO

N. 1255

Milano, 14 23 novembre 1943

OGGETTO : Sistemazione dei servizi notarili.-

Allegato N.1

AL COMANDO MILITARE ALLEATO
per il MINISTERO DI GRAZIA E GIUSTIZIA
Direzione Generale degli Affari Civili e
Libere professioni

R O M A

Questo ufficio in esecuzione di quanto coddato Ministero disponeva con sua nota 24-10 scorso n. 7-2-18523 circa il rientro alle sedi di origine dei notai trasferiti in altre fuori distretto con provvedimenti dell'ex. Governo repubblicano, trasmette copia di comunicazione ricevuta dall'Ufficio legale dell'A.M.G. per la Lombardia in cui per i notai dr. Stella, Giuriani e Gran - zella s'informa che essendo stati confermati nelle sedi attuali del Comando Alleato non dovrebbero rientrare alle precedenti residenze.

Tanto per le ulteriori direttive che coddato Ministero credeva opportuno
2.5.5
re al riguardo.-

IL P.P. PROCURATORE GENERALE DEL REGNO

segue la firma

HEADQUARTERS

ALLIED MILITARY GOVERNMENT

LOMBARDIA REGION

APO 394

Legal Division

Ref.: L3G/5104

20 November 1945

OGGETTO : Notai - Dott. Stella Luigi

Dott. Giuriani Giorgio

Dott. Granzella Martino

A S.S. il Procuratore Generale della Corte d'Appello di Milano

1. Con riferimento alla recente circolare del Ministero di Grazia e Giustizia sulla assegnazione delle sedi notarili durante il governo della sedicente Repubblica Sociale Italiana, si esclude per opportuna conoscenza e per gli eventuali provvedimenti, l'istanza pervenuta a questo Comando.
2. Si fa presente che i suddetti notai sono stati confermati nella loro attuale sede con ordine amministrativo n.38 in data 21 settembre 1945 di questo Comando e quindi nei loro confronti non deve trovare applicazione la menzionata circolare ministeriale, continuando essi a prestare servizio presso le attuali rispettive sedi.

F.to W.J.FURCHIL

Lt. Colonel

Regional Legal Officer

Allegato

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

ES/lo.

28 August 1945.

AC/4039/4/L.

SUBJECT : Transfer of personnel, Lombardia Region.

TO : The Minister of Pardon and Justice.

Enclosed herewith is a letter Prot.H.3259 proposing a reorganization of personnel in the Brescia district. This Sub-Commission has no objection to transfers involved in the reorganization. It should be noted, however, that the plan is dependant on the nomination of a Procuratore Generale for Brescia.

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

Incl.

77 A

AC/4039/WL

22 August 1945 /rtp.

My dear Mr. Prime Minister:

I thank you for your letter of 7 August 1945 enclosing the draft of a proposed Decree on the status of officials appointed by AMG to public offices, and of officials removed or dismissed by AMG in the process of operation.

The principles of the proposed decree are entirely acceptable to this Commission and I agree that it will be most helpful if the Decree is passed as soon as possible in order that officials appointed or removed by AMG may have no doubt as to their true legal status.

Yours very truly,

HARRY W. STACE
Rear Admiral, USNR
Chief Commissioner

Professor Ferruccio Parri,
The President of the Council of Ministers,
Italian Government, Rome.

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Translation

The president of the Council of Ministers
11878.2/1.3.1.

Rome, 7 August 1945

My dear Admiral,

according to the agreements previously made to settle the legal effect of the handing over of the territories by the Allied Military Government to the Italian Administration, it was decided that the appointments and dismissals from public or private charges, ordered by the Government itself, would remain unchanged, being considered as fully valid in relation to Italian laws.

On the basis of the former agreements, the R.L.D. of February 11th, 1944, n. 31., concerning the juridical regime of the territories which have been returned to Italian Administration, explicitly confirms, in the second para of art. 1, the validity of the appointment and dismissals mentioned, rendering them equal to acts of the Italian Government. The regulation has been reproduced in identical terms, in the following decree, which issued new orders about the said legal regime (art. 1., third para, Decree of the Lieutenant 20 July, 1944, n. 162).

As you well know, ever since it was first enforced, this principle received a logical modification, for it was admitted that similar A.M.G. regulations were to be considered as not having a definitive character, and liable therefore to revocation on the part of the Italian authorities, in agreement, of course, with the Allied Commission.

Later on, the Mac Millan Memorandum, of February 24th, acknowledged a still greater autonomy to the Italian Government, for what concerns the appointments, granting them greater powers, also regarding those made by the Allied Authorities. Besides, as for the dismissals ordered by A.M.G. for motives of epuration, the Allied Commission ordered them to be assimilated to purely suspensive regulations, so as in no way to prejudice the definitive decisions following the epuration judgements.

Considering this new juridical situation, the clause which, formerly, referred to the efficaciousness of the appointments made by A.M.G. has been eliminated in Document A, which goes with the various restitutions of territory to the Italian Government.

However, as the regulation contained in the above mentioned art. 1 of the R.L.D. n. 162 remains in force, the Italian Government is still linked, speaking from a strictly legal point of view, to the appointment and dismissal acts issued by the Allied Authorities. The question takes a particularly delicate character for what concerns the replacement of people summoned by A.M.G. to fulfil certain charges, for, according to the Italian law which is now in force, the persons concerned might argue of the validity of the charge, going on after the passage of

- 2 -

the territories, and also take legal action to support their claims.

Such being the case, it is urgently necessary to make an adequate modification to the regulation in question.

To my mind, the most advisable criterion would be to consider every appointment made by A.M.G. as the pure and simple conferring of a mission to exercise given functions. Such a solution, while perfectly in accordance with the agreements already made on this subject with the Allied Organs, would enable the Italian Administration to revoke any moment the said charges, and make all the replacements which would be deemed necessary in the offices in question, according to the Italian laws on such charges, except for what concerns such registering in the establishment as would be deemed advisable. Besides, the new decree should be drafted so as to have the people appointed by the Allies carry on their functions as long as no other administrative act on the part of the Italian Authorities intervenes.; this to have the continuity of functions in public offices assured at the time of the handing over of the territories, and enable the Italian Government to proceed, gradually, to make new appointments.

The enclosed legislative decree, which I want to communicate to you, has been drafted on such lines. As you well understand, this regulation is most urgent in relation with the recent passages of territories, and those which will ~~later~~ take place later on.

Waiting to hear your opinion on this matter, I remain, my dear Admiral,

Yours very truly,

S. Ferruccio Parri

trans. e/c

LEGAL SUBCOMMISSION	
CLO	
DCLO	
Chief Counsel	
CJO	
Italian Section	
CL RKS	
15 AUG 1945	

EC DIST - 11 Aug
 ACTION:- CA, SEC (2)
 INFO: CHIEF COMM.
 EX COMM.

ART 1

in line with the spirit of the law
According to Italian law, positions in public offices conferred by the Allied Military Government in the territory under its jurisdiction shall be *considered* of a temporary character.

ART 2

Those who, upon the restoration of the territory to the Italian Administration hold public offices conferred to them by the AMG, shall continue to hold these offices until such time as their substitution is ordered by the proper authorities of the Italian Government, unless they are admitted into the regular list (ruolo).

For purposes of remuneration, employees not belonging to the Administration shall be considered on an equal basis as the regular employees in the State classification who perform the same duties. This equal basis shall be established by decree of the ministry having jurisdiction in conjunction with the Ministry of the Treasury.

Employees not belonging to the Administration and working in bodies other than those of the State shall be paid those salaries established by present laws or by regulations issued for those positions whose duties they perform.

ART 3

Employees of the State or of the bodies referred to in art 11 of D.L. 159 of 27 July 1944 who have been removed or dismissed from office by the AMG for expiration purposes, shall be considered as being suspended from office in accordance with art 22, para 3 of D.L. 159 of 27 Jul 44.

This suspension shall be effective from the date on which the above mentioned measures were taken.

The charges shall be contested, for the purpose of the expiration trial, within three months from the restoration to the Italian Administration of the territory in which the said measures were taken or, if the territory was already restored, from the effective date of the present decree.

Any other disciplinary measure to be taken against the said employees as a result of penal proceedings taken against them shall be excluded from the above provision.

ART 4

The provision of the present decree shall be valid also for the measures taken by the AMG in the territory which is restored to the Italian Administration before this said decree becomes effective.

ART 5

in law of a temporary character.

ART 2

Those who, upon the restoration of the territory to the Italian Administration held public offices conferred to them by the AMG, shall continue to hold these offices until such time as their substitution is ordered by the proper authorities of the Italian Government, unless they are admitted into the regular list (ruolo).

For purposes of remuneration, employees not belonging to the Administration shall be considered on an equal basis as the regular employees in the State classification who perform the same duties. This equal basis shall be established by decree of the Ministry having jurisdiction in conjunction with the Ministry of the Treasury.

Employees not belonging to the Administration and working in bodies other than those of the State shall be paid those salaries established by present laws or by regulations issued for those positions whose duties they perform.

ART 3

Employees of the State or of the bodies referred to in art 11 of DLL 159 of 27 July 1944 who have been removed or dismissed from office by the AMG for epuration purposes, shall be considered as being suspended from office in accordance with art 22, para 3 of DLL 159 of 27 Jul 44.

This suspension shall be effective from the date on which the above mentioned measures were taken.

The charge shall be contested, for the purpose of the epuration trial, within three months from the restoration to the Italian Administration of the territory in which the said measures were taken or, if the territory was already restored, from the effective date of the present decree.

Any other disciplinary measure to be taken against the said employees as a result of penal proceedings taken against them shall be excluded from the above provision.

ART 4

The provision of the present decree shall be valid also for the measures taken by the AMG in the territory which is restored to the Italian administration before this said decree becomes effective.

ART 5

The present decree shall become effective the day following its publication in the Gazzetta Ufficiale d.l. Regno.
We order.....

UNBERTO DI SAVOIA
 Principe di Piemonte
 Luogotenente Generale del Regno

In virtù dell'autorità a Noi delegata;
 Visto il decreto legislativo luogotenenziale 20 luglio
 1944, n. 162;

Visto il R. decreto 17 novembre 1923, n. 2395, e viste le
 sue successive modificazioni;

Visto il R. decreto 30 dicembre 1924, n. 2960, e viste le
 sue successive modificazioni;

Visto il titolo II del decreto legislativo luogotenenziale
 27 luglio 1944, n. 159, e viste le successive disposizioni con-
 cernenti l'epurazione dell'Amministrazione;

Visto l'art. 4 del decreto-legge luogotenenziale 25 giu-
 gno 1944, n. 151;

Visto il decreto legislativo luogotenenziale 10 febbraio
 1945, n. 58;

Sulla proposta del Presidente del Consiglio dei Ministri,
 Primo Ministro Segretario di Stato, di concerto con tutti i Mini-
 stri;

ABBIAMO SANZIONATO E PROMULGHIAMO QUANTO SEGUE:

Art. 1

A tutti gli effetti della legge italiana, le nomine ad uf-
 fici pubblici conferite dal Governo Militare Alleato, nei territo-

760

Visto il decreto legislativo luogotenenziale 20 luglio 1944, n. 162;

Visto il R. decreto 11 novembre 1923, n. 2395, e viste le sue successive modificazioni;

Visto il R. decreto 30 dicembre 1924, n. 2960, e viste le sue successive modificazioni;

Visto il titolo II del decreto legislativo luogotenenziale 27 luglio 1944, n. 159, e viste le successive disposizioni concernenti l'epurazione dell'Amministrazione;

Visto l'art. 4 del decreto-legge luogotenenziale 25 giugno 1944, n. 151;

Visto il decreto legislativo luogotenenziale 1° febbraio 1945, n. 58;

Sulla proposta del Presidente del Consiglio dei Ministri, Primo Ministro Segretario di Stato, di concerto con tutti i Ministri;

ABBIAMO SANZIONATO E PROMULGHIAMO QUANTO SEGUE:

Art. 1

A tutti gli effetti della legge italiana, le nomine ^{ad uf-}fici pubblici conferite dal Governo Militare Alleato, nei territori ed esso soggetti, hanno carattere d'incarichi temporanei.

Art. 2

Coloro che, all'atto del ritorno dei territori all'Amministrazione italiana, si trovino preposti a pubblici uffici, in virtù di disposizioni del Governo Militare Alleato, continuano ad esercitare le loro funzioni fino a quando non siano sostituiti dal-

la competente autorità del Governo italiano, salva la loro eventuale immissione in ruolo.

Ai fini del trattamento economico spettante per detti incarichi, le persone estranee all'Amministrazione sono equiparate ai dipendenti di ruolo del grado gerarchico cui corrispondono le funzioni ad esse affidate. Tale equiparazione è disposta con decreto del Ministro competente, di concerto con quello per il tesoro.

Qualora trattasi di funzioni esercitate, da parte di estranei all'Amministrazione, in enti pubblici diversi dallo Stato, è corrisposto il trattamento economico previsto dalle vigenti disposizioni o dai rispettivi ordinamenti per la carica cui le funzioni stesse corrispondano.

- Art. 3 -

I dipendenti dello Stato e degli enti previsti dall'art. 11 del decreto legislativo luogotenenziale 27 luglio 1944, n. 159, rimossi dall'ufficio o licenziati, per motivi di epurazione, dal Governo Militare Alleato, s'intendono sospesi cautelamente dall'ufficio ai sensi dell'art. 22, terzo comma, del decreto legislativo luogotenenziale 27 luglio 1944, n. 159.

Detta sospensione decorre dal giorno in cui i provvedimenti subindicati vennero adottati.

La contestazione degli addebiti, ai fini del giudizio di epurazione, deve essere fatta entro tre mesi dal giorno della restituzione all'Amministrazione italiana dei territori in cui detti provvedimenti vennero adottati o, se trattasi di territori già restituiti, dal giorno della entrata in vigore del presente de-

creto del Ministro competente, di concerto con quello per il te-
soro.

Qualora trattisi di funzioni esercitate, da parte di e-
stranei all'Amministrazione, in enti pubblici diversi dallo Stato,
è corrisposto il trattamento economico previsto dalle vigenti di-
sposizioni o dai rispettivi ordinamenti per la carica cui le fun-
zioni stesse corrispondano.

- Art. 3 -

I dipendenti dello Stato e degli enti previsti dall'art.
11 del decreto legislativo luogotenenziale 27 luglio 1944, n. 159,
rimossi dall'ufficio o licenziati, per motivi di epurazione, dal
Governo Militare Alleato, s'intendono sospesi cautelamente dal-
l'ufficio ai sensi dell'art. 22, terzo comma, del decreto legisla-
tivo luogotenenziale 27 luglio 1944, n. 159.

Detta sospensione decorre dal giorno in cui i provvedi-
menti suindicati vennero adottati.

La contestazione degli addebiti, ai fini del giudizio di
epurazione, deve essere fatta entro tre mesi dal giorno della re-
stituzione all'Amministrazione Italiana dei territori in cui dei
ti provvedimenti vennero adottati o, se trattasi di territori già
restituiti, dal giorno della entrata in vigore del presente de-
creto.

E' fatto salvo ogni diverso provvedimento disciplinare
da adottare nei confronti di detti dipendenti, in conseguenza di
procedimenti penali istituiti a loro carico.

- 3 -

Art. 4

Le disposizioni del presente decreto valgono anche per i provvedimenti adottati dal Governo Militare Alleato nel territorio che, all'atto della entrata in vigore del decreto stesso, siano già stati restituiti all'amministrazione italiana.

Art. 5

Il presente decreto entra in vigore il giorno successivo a quello della sua pubblicazione nella Gazzetta Ufficiale del Regno.

Ordiniamo, ecc.



Roma,

7 agosto 1945

AUG 8 1945

*Al Presidente
del Consiglio dei Ministri*

11878.2/1.1.1

Mio caro Ammiraglio,

secondo gli accordi a suo tempo intervenuti per regolare gli effetti giuridici della restituzione dei territori da parte del Governo Militare Alleato all'Amministrazione italiana, venne fissato il principio che le nomine ed i licenziamenti da uffici pubblici o privati, disposti dal Governo medesimo, dovessero restar fermi, riconoscendosi ad essi piena validità in relazione alle leggi italiane.

Sulla base dei predetti accordi, il R.D.L. 11 febbraio 1944, n.31, concernente il regime giuridico dei territori restituiti all'Amministrazione italiana, confermò esplicitamente, al secondo comma dell'art.1, la validità delle nomine e licenziamenti suaccennati, equiparandoli ad atti compiuti dal Governo italiano. La disposizione è stata riprodotta, in termini identici, nel successivo provvedimento legislativo che ha dettato nuove norme circa detto regime giuridico (art.1, terzo comma, D.L.L. 20 luglio 1944, n.162).

Come Ella sa, tale principio ha avuto, fin dalle sue prime applicazioni, un logico temperamento, inquantochè si è ammesso

./ 95

All'Ammiraglio Ellery W.STONE
Commissario Capo della
Commissione Alleata

R O M A



*Il Presidente
del Consiglio dei Ministri*

- 2 -

che simili provvedimenti dell'A.M.G. fossero da considerarsi come aventi carattere non definitivo e suscettibili, quindi, di revoca da parte dell'autorità italiana, d'intesa naturalmente con la Commissione Alleata.

Successivamente, il Memorandum Mac Millan, del 24 febbraio scorso, ha riconosciuto un'autonomia ancor maggiore al Governo italiano, in materia di nomine, conferendogli i più ampi poteri anche nei riguardi di quelle disposte dalle Autorità Alleate. Inoltre, quanto ai licenziamenti effettuati dall'A.M.G. per ragioni di epurazione, la Commissione Alleata ha stabilito che essi siano da assimilare ai provvedimenti puramente sospensivi, sì da lasciare del tutto impregiudicate le decisioni definitive conseguenti ai giudizi di epurazione.

In considerazione di tale nuova situazione giuridica, nel Documento A, che accompagna le singole restituzioni di territori al Governo italiano, è stata eliminata la clausola che, in passato, si riferiva alla efficacia delle nomine disposte dall'A.M.G.

Poichè, peraltro, permane in vigore la disposizione contenuta nel precitato art.1 del D.L.L. n.162, il Governo italiano è tuttora vincolato, a stretto rigore giuridico, agli atti di nomina e di licenziamento posti in essere dalle Autorità Alleate. La questione assume un carattere particolarmente delicato ove si tratti di sostituire persone chiamate dall'A.M.G. a coprire determinati uffici, giacchè

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*Al Presidente
del Consiglio dei Ministri*

- 3 -

gli interessati, sulla base della vigente norma italiana, potrebbero opporre la validità della carica, sopravvivate al passaggio dei territori, ed eventualmente far valere la loro pretesa in sede giurisdizionale.

Ciò premesso, si delinea la urgente necessità di apportare un'adeguata modifica alla norma in questione.

A mio avviso, il criterio più opportuno sarebbe quello di configurare ogni nomina effettuata dall'A.M.G. come un puro e semplice conferimento d'incarico per l'esercizio di date funzioni. Questa soluzione, mentre sarebbe perfettamente aderente alle intese già raggiunte in materia con gli Organi Alleati, consentirebbe all'Amministrazione italiana di revocare in qualsiasi momento detti incarichi e di effettuare ogni sostituzione che si ritenga necessaria negli uffici in questione, secondo le norme delle leggi italiane che regolano simili incarichi. ^{salvo a nominare in modo conveniente opportuno} Converrebbe, inoltre, formulare la nuova disposizione legislativa nel senso che le persone nominate dagli Alleati continuino ad esercitare le loro funzioni, fino a quando non intervenga un diverso atto amministrativo da parte dell'autorità italiana: ciò affinché, all'atto della restituzione dei territori, resti assicurata la continuità delle funzioni nei pubblici uffici, e possa il Governo italiano provvedere, con gradualità, alle nuove nomine.

Nei suaccennati termini, è stato predisposto l'unito schema

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*Al Presidente
del Consiglio dei Ministri*

- 4 -

di decreto legislativo, di cui stimo doveroso darle preventiva comunicazione. Come Ella ben comprende, il provvedimento riveste carattere di estrema urgenza, in relazione ai recenti passaggi di territori ed a quelli che saranno successivamente disposti.

In attesa di conoscere il Suo pensiero al riguardo, colgo l'occasione, mio caro Ammiraglio, per riaffermarLe i sensi della mia viva considerazione.

Fernando Tam

Translation

The President of the Council of Ministers
11876.2/1.3.1.

Rome, 7 August 1945

My dear Admiral,

according to the agreements previously made to settle the legal effect of the handing over of the territories by the Allied Military Government to the Italian Administration, it was decided that the appointments and dismissals from public or private charges, ordered by the Government itself, would remain unchanged, being considered as fully valid in relation to Italian laws.

On the basis of the former agreements, the R.L.D. of February 11th, 1944, n. 31., concerning the juridical regime of the territories which have been returned to Italian Administration, explicitly confirms, in the second para of art. 1, the validity of the appointment and dismissals mentioned, rendering them equal to acts of the Italian Government. The regulation has been reproduced in identical terms, in the following decree, which issued new orders about the said legal regime (art. 1., third para, decree of the Lieutenant 20 July, 1944, n. 162).

As you well know, ever since it was first enforced, this principle received a logical modification, for it was admitted that similar A.M.G. regulations were to be considered as not having a definitive character, and liable therefore to revocation on the part of the Italian authorities, in agreement, of course, with the Allied Commission.

Later on, the Mac Millan Memorandum, of February 24th, acknowledged a still greater autonomy to the Italian Government, for what concerns the appointments, granting them greater powers, also regarding those made by the Allied Authorities. Besides, as for the dismissals ordered by A.M.G. for motives of epuration, the Allied Commission ordered them to be assimilated to purely suspensive regulations, so as in no way to prejudice the definitive decisions following the epuration judgements.

Considering this new juridical situation, the clause which, formerly, referred to the efficaciousness of the appointments made by A.M.G. has been eliminated in Document A, which goes with the various restitutions of territory to the Italian Government.

However, as the regulation contained in the above mentioned art. 1 of the D.L.R. n. 162 remains in force, the Italian Government is still linked, speaking from a strictly legal point of view, to the appointment and dismissal acts issued by the Allied Authorities. The question takes a particularly delicate character for what concerns the replacement of people summoned by A.M.G. to fulfil certain charges, for, according to the Italian law which is now in force, the persons concerned might argue of the validity of the charge, going on after the passage of

reg. n. 43

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- 2 -

the territories, and also take legal action to support their claims.

Such being the case, it is urgently necessary to make an adequate modification to the regulation in question.

To my mind, the most advisable criterion would be to consider every appointment made by A.M.O. as the pure and simple conferring of a mission to exercise given functions. Such a solution, while perfectly in accordance with the agreements already made on this subject with the Allied organs, would enable the Italian Administration to revoke any moment the said charges, and make all the replacements which would be deemed necessary in the offices in question, according to the Italian laws on such charges, except for what concerns such registering in the establishment as would be deemed advisable. Besides, the new decree should be drafted so as to have the people appointed by the Allies carry on their functions as long as no other administrative act on the part of the Italian Authorities intervenes; this to have the continuity of functions in public offices assured at the time of the handing over of the territories, and enable the Italian Government to proceed, gradually, to make new appointments.

The enclosed legislative decree, which I want to communicate to you, has been drafted on such lines. As you will understand, this regulation is most urgent in relation with the recent passages of territories, and those which will ~~later~~ take place later on.

Waiting to hear your opinion on this matter, I remain, my dear Admiral,

Yours very truly,

A. Ferruccio Parri

E C DIST - 11 AUG 45

ATTORNEY - C A Sec (2)

INFO - C MEX Command

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HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4039/4/L.

GGH/lc.
13 August 1945.

SUBJECT : Notaries appointed by Fascist Republican Government.
TO : The Minister of Pardon and Justice.

1. Reference your Prot. N.7-2/18331 Uff.II
2. This Sub-Commission concurs in your policy in respect of the appointments of notaries made by the neo-fascist pseudo Government.
3. Whenever you prepare an instruction pertaining to the status of a notary situated in AMG territory would you please submit a copy thereof through the Procuratore Generale to the competent Regional Legal Officer in order that he may render it effective in AMG territory. Should a Ministerial Decree be issued in this connection and published in Gazzetta Ufficiale it will be rendered immediately operative in AMG territory by the usual AMG order.
4. In all probability ~~those~~ decrees will not be published before the restoration of such territory to Italian Administration and consequently the intervention of AMG will not be required.

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

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Mod 266 MG

Roma, 8 agosto 1945

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Min. On. COMMISSIONE ALLEATA
(Sottocommissione legale)

Ministero di Giustizia

DIREZIONE GENERALE DEGLI AFFARI CIVILI
E DELLE LIBERE PROFESSIONI

Ufficio II

Prot. N. 9-2/18331

OGGETTO - Posti di notaio conferiti sotto l'impero del se-
dicente governo della repubblica sociale italiana (Decr. leg. luog. 5 ot-
tobre 1944 n. 249)

Resposta al foglio del
D. N. 9-2/18331

Per l'art. 2 n. 2 del decreto leg. luog. 5 ottobre 1944 n. 249 sono privi di efficacia giuridica i conferimenti di posti notarili disposti sotto l'impero del sedicente governo della repubblica sociale italiana, salva la validità degli atti notarili, redatti anteriormente all'entrata in vigore del decreto stesso.

Al riguardo si è ritenuto che la frase "conferimento di posti di notaio" sia comprensiva, tra l'altro, di tutti i trasferimenti, e quindi anche delle assegnazioni temporanee a posti notarili, le quali in sostanza rientrano nei traslochi sia pure aventi carattere transitorio. Ai sensi poi dell'art. 3 del citato decreto i trasferimenti come sopra disposti possono essere dichiarati validi, anche solo a determinati effetti, con decreto motivato del Ministro competente.

Poiché ragioni d'ordine generale e di opportunità politica consigliano di non convalidare di regola i provvedimenti anzidetti, questo Ministero ha già invitato i Procuratori Generali presso le Corti di Appello delle provincie settentrionali del Regno (escluse quelle di Trie-

Ufficio II
 Bol. N. 7-2/18331

Resposta al Teleg. del
 No. 12

OCCORRENZA - Posti di notaio conferiti sotto l'impero del se-
 dicente governo della repubblica sociale italiana (Decr. leg. luog. 5 ot-
 tobre 1944 n° 249)

Per l'art. 2 n° 2 del decreto leg. luog. 5 ottobre 1944 n° 249 sono privi
 di efficacia giuridica i conferimenti di posti notarili disposti sotto
 l'impero del sedicente governo della repubblica sociale italiana, sal-
 va la validità degli atti notarili, redatti anteriormente all'entrata
 in vigore del decreto stesso.

Al riguardo si è ritenuto che la frase "conferimento di posti di no-
 taio" sia comprensiva, tra l'altro, di tutti i trasferimenti, e quindi
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 no di non convalidare di regola i provvedimenti anzidetti, questo Mi-
 nistero ha già invitato i Procuratori Generali presso le Corti di Ap-
 pello delle provincie settentrionali del Regno (escluse quelle di Trie-
 ste, Gorizia, Pola, Fiume e Zara) tuttora amministrate dal Governo Milli-
 tare Alleato, ad adottare i seguenti provvedimenti d'intesa con i com-
 petenti Uffici legali regionali:

- a) affidare i notai che siano stati trasferiti come sopra dalle sedi

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originarie ad essere legittimamente conferite in sedi di altri di retti notarili, ed abbiano già ottenuto l'iscrizione a ruolo per le sedi medesime, ad astenersi dal ricevere atti in quest'ultime sedi in quanto nel relativo territorio si siano verificate le condizioni per l'entrata in vigore del citato decreto legge luogotenenziale;

b) diffidare i Consigli notarili a non iscrivere a ruolo quei notai che abbiano conseguito il trasferimento per effetto dei provvedimenti anzidetti e ciò allo scopo di evitare, fin d'ora oppure a breve scadenza, e cioè all'entrata in vigore del citato decreto luog. la nullità dell'iscrizione a ruolo e, nel caso di trasferimento da altro distretto notarile, anche la nullità degli atti notarili.

Ciò premesso, questo Ministero intenderebbe completare le menzionate istruzioni disponendo che tutti i predetti notai debbano riprendere al più presto il servizio nelle sedi originarie di cui sono tuttora legittimi titolari e delle quali furono trasferiti per effetto dei provvedimenti suindicati.

A tale proposito codesta On. Commissione ha fatto conoscere con foglio 31 agosto 1944 n.A.C.O./4039 L. che nessun trasferimento di notaio da un posto all'altro nel territorio del Governo Militare ^{o dal territorio del Governo} medesimo nelle zone amministrate dal Governo italiano si sarebbe potuto effettuare senza il consenso degli Ufficiali Legali regionali competenti. Siffatto consenso sarebbe quindi da chiedere, nel caso in esame, all'Ufficiale legale tanto della regione in cui i notai predetti attualmente esercitano quanto della regione in cui essi dovrebbero riprendere il servizio. Poiché tale procedura sarebbe congiunta a perdita di tempo e darebbe la possibilità agli stessi notai di continuare nel frattempo, sia pure diffidati, a ricevere atti, che sarebbero privi di efficacia giuridica con evidente pregiudizio agli interessi delle parti, si prega codesta On. Commissione Alleata di cominciare di men-

che abbiano conseguito il trasferimento per effetto dei provvedimenti anzidetti e ciò allo scopo di evitare, fin d'ora oppure a breve scadenza, e cioè all'entrata in vigore del citato decreto luog. la nullità dell'iscrizione a ruolo e, nel caso di trasferimento da altro distretto notariale, anche la nullità degli atti notarili.

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Si sta in attesa di cortese sollecito riscontro.

11 AUG 1945
Fel MINISTRO

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HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

NO/4039/4/1.

/rlp.
4 August 1945.

SUBJECT : Temporary appointments.

TO : Regional Commissioner (Attn: Regional Legal Officer),
VENETIE Region.

1. Receipt is acknowledged of your EXII/LS/Reg/C/03 of 2 August 1945.
2. It has always been the practice of this Commission to require the Italian Government to issue a proclamation, when any territory is handed back to Italian administration, under which appointments made by the Allied Military Government "will be recognized by all Italian courts and officials as legal, valid and binding."
3. This proclamation is in fact further covered by a decree in substantially, if not exactly, the terms of Article I of RDL No. 31 of 11 February 1944.
4. The position therefore is that any official temporarily appointed by AMG must be deemed to have been temporarily appointed by the Italian Government. Since his appointment is only temporary it can be changed; until changed it remains in full effect.
5. In these circumstances it does not appear to me that any further action is required. If, however, I have misunderstood your point, will you please let me know.

By command of Rear Admiral STONE-

W. E. BERRIS, 87
Colonel,
Chief Legal Advisor.

HEADQUARTERS
VENEZIE REGION
ALLIED MILITARY GOVERNMENT
APO 394

2 August 1945

TO : Chief Legal Adviser, Legal Sub-Commission,
HQ., AC.

SUBJECT : Confirmation of temporary appointments, transfers
and promotions.

File n° : RXII/LE/Reg/C/03.

1. As you will well remember, during the first two months of Allied Military Government a large number of Orders were made by the Regional Commissioner, making temporary and provisional appointments, transfers and promotions of judicial Officials. No doubt the same thing has been done in other Regions.

2. These orders, being temporary and provisional, will presumably lapse on the termination of Allied Military Government, except in so far as they may be confirmed by the Italian Government. If this were to occur I can only say that unutterable confusion would supervene on 1st September in this Region. It seems obviously desirable that existing appointments, etc., should be at least temporarily confirmed by the Italian Government, so as to prevent a complete breakdown of the machine on 1 September.

3. Two copies of every order made have been supplied to you, one of which was in each case intended for the Ministry of Justice. You have, therefore, a complete record of what has been done.

4. My suggestion is that as a temporary measure, to avoid the possibility of confusion arising at the moment of transfer of authority to the Italian Government, the latter should be invited to make a "blanket" order confirming all appointments, and until further order, all appointments,

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1. As you will well remember, during the first two months of Allied Military Government a large number of Orders were made by the Regional Commissioner, making temporary and provisional appointments, transfers and promotions of judicial Officials. No doubt the same thing has been done in other Regions.

2. These orders, being temporary and provisional, will presumably lapse on the termination of Allied Military Government, except in so far as they may be confirmed by the Italian Government. If this were to occur I can only say that unutterable confusion would supervene on 1st September in this Region. It seems obviously desirable that existing appointments, etc., should be at least temporarily confirmed by the Italian Government, so as to prevent a complete breakdown of the machine on 1 September.

3. Two copies of every order made have been supplied to you, one of which was in each case intended for the Ministry of Justice. You have, therefore, a complete record of what has been done.

4. My suggestion is that as a temporary measure, to avoid the possibility of confusion arising at the moment of transfer of authority to the Italian Government, the latter should be invited to make a "blanket" order confirming for the time being, and until further order, all appointments, transfers and promotions of judicial officials made by the Allied Military Government.

5. May this suggestion please have your favourable consideration?

H.C. Linder

Colonel,
Regional Legal Officer,
Venezie Region.

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Chief Counsel

Section

4 AUG 1945

Ref: AC/A039/4/L

4 August 1945

My dear Mr. Prime Minister,

I wish to assure you that, in accordance with Mr. Macmillan's Aide Memoire of 24 February 1945, the Italian Government is perfectly free to remove, in territory restored to its administration, any officials who may have been appointed to posts in that territory during the time that the territory was under the administration of Allied Military Government.

In this connection I feel I should explain to you the purpose of condition number 3 which appears in the Proclamation issued by the President of the Council of Ministers on the occasion of the handover of any piece of territory. The sole object and intent of that portion of this condition which recognizes all appointments as "legal, valid and binding" are to ensure that the acts done by such officials during their tenure of office under Allied Military Government are formally recognized as valid and of full effect in law and that the officials themselves are protected against any suggestion that they have acted, during that period, without proper authority.

I should point out to you that the wording of this condition was fully discussed with the Ministers of Justice and Finance in Salerno. They agreed to the necessity of the conditions for the reasons given but added that officials whose appointments by Allied Military Government were originally expressed to be "permanent" might possibly be in a position to argue that they became irrevocably appointed by the Italian Government by virtue of this proclamation. The Allied Military Government has therefore been most careful to ensure that all appointments made since that date have been expressed to be "temporary".

The Ministers of Justice and Finance in Salerno agreed that this would meet the difficulty and would enable the Italian Government to remove Allied appointees provided, as was necessary at the time, that they could obtain Allied consent. This consent is no longer necessary, and I hope, therefore, that you will be satisfied that the present proclamation confers upon the Italian Government complete freedom of action in this respect after restoration of territory.

Yours very truly,

[s] Ellery W. Stone

ELLEERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Professor Ferruccio Parri,
The President of the Council of Ministers,
Italian Government, Rome.

HEADQUARTERS ALLIED COMMISSION
A PG 394
LEGAL SUB-COMMISSION

AC/4039/4/L

27 July 1945

SUBJECT : Slovene Judges in Italy.

TO : Executive Commissioner

1. Reference your 2619/EG of 26 July 1945 Col Dawson raised this question with me last week.
2. It is under investigation at the moment.
3. You will appreciate that we cannot compel the judges to go if they are unwilling to do so.

T. E. BEHRNS,
Colonel,
Chief Legal Advisor.

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HEADQUARTERS ALLIED COMMISSION

APO 394

Office of the Executive Commissioner

2619/EC

27 LUG 1945

Ref: ~~2619/EC~~

26 July 45.

Subject: Slovene Judges in Italy.

To: Civil Affairs Section (for Legal S/C).

During his recent visit to Venezia Giulia the Executive Commissioner was approached by Colonel DAWSON with regard to the possibility of substituting Italian judges for the Slovene judges in Italy - of which Colonel DAWSON understands there are three.

Would you please let us have your views on this proposal.

DCLO

DCLO

Chief Counsel

CJO

Italian Section

CL RKS

Exempted

C.S.O.

To Executive Commissioner.

82 (33)

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2619/EC
Ref: ~~2619/EC~~

26 July 45.

Subject: Slovene Judges in Italy.

To: Civil Affairs Section (for Legal S/O).

During his recent visit to Venezia Giulia the Executive Commissioner was approached by Colonel DAMSON with regard to the possibility of substituting Italian judges for the Slovene judges in Italy - of which Colonel DAMSON understands there are three.

Would you please let us have your views on this proposal.

E. Talbot

C.S.O.

To Executive Commissioner.

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HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/rlp.
5 July 1945.

AC/4039/4/L.

SUBJECT : Appointments of judicial officials.

TO : Regional Commissioner (Attn: Regional Legal Officer),
VENETIAN Region.

1. With reference to your RAIL/LE/Reg/C/03 of 30 ult. the letters referred to in your para. 4 have been placed before the Minister for his consideration and necessary action.

2. The policy outlined by you is approved and it is expected that it will be followed in other regions.

3. The Minister will probably request the "Consiglieri d'Appello" mentioned in letter No. 791 of the P.P. of the Court of appeal to come to Rome in order that he may decide for himself as to their future. The Minister is fully aware of the existing difficulties and will no doubt give to these cases all the consideration they deserve.

4. You will be informed immediately of the Minister's decisions.

By command of Rear Admiral STONE;

Copy to: AC/4039/L.

G. G. HANNAFORD, 81
Lt. Col.,
Officer i/c Italian Branch,
for Chief Legal Advisor.

HEADQUARTERS
VENEZIE REGION
ALLIED MILITARY GOVERNMENT
APO 394

30 June 1945.

TO : Chief Legal Adviser, Legal Sub-Commission, HQ., A.C.

SUBJECT: Appointments, etc., of Italian Judicial Officials.

File No: RXII/IE/Reg/C/O3.

1. After 2 months of Military Government in this Region I consider that the Italian Courts have been restored to a degree of organization which no longer calls for the making of temporary appointments, transfers, promotions, etc., on the part of the Regional Commissioner, except in cases of unusual urgency.

2. From now onwards, therefore, I propose to discontinue the practice of having these appointments, transfers and promotions made by order of the Regional Commissioner, and instead I propose merely to make my recommendations to the Minister of Grace and Justice and to leave it to him to make the necessary orders if he feels so disposed. This course will facilitate the transfer of the administration of this Region to the full control of the Italian Government, which I understand from the newspapers it is contemplated will be done in September.

3. I propose to make an exception to this rule in the case of magistrates who hold an appointment or rank conferred upon them by order of the Fascist Republican Government. Where such magistrates are doing satisfactory work, and are already holding positions which they can only legally hold if confirmed, I propose to continue asking the Regional Commissioner to make temporary and provisional orders, merely reporting to you for the information of the Minister what has been done, and leaving it to him either to confirm the appointments or to allow them to lapse when the period of Military Government comes to an end. Such an order, confirming certain magistrates in their present appointments and ranks, is actually in preparation at this moment.

4. In pursuance of the plan proposed in paragraph 2 hereof, I now forward to you copies of the following letters received from the Court of Appeal of Venice:-

2. From now onwards, therefore, I propose to discontinue the practice of having these appointments, transfers and promotions made by order of the Regional Commissioner, and instead I propose merely to make my recommendations to the Minister of Grace and Justice and to leave it to him to make the necessary orders if he feels so disposed. This course will facilitate the transfer of the administration of this Region to the full control of the Italian Government, which I understand from the newspapers it is contemplated will be done in September.

3. I propose to make an exception to this rule in the case of magistrates who hold an appointment or rank conferred upon them by order of the Fascist Republican Government. Where such magistrates are doing satisfactory work, and are already holding positions which they can only legally hold if confirmed, I propose to continue asking the Regional Commissioner to make temporary and provisional orders, merely reporting to you for the information of the Minister what has been done, and leaving it to him either to confirm the appointments or to allow them to lapse when the period of Military Government comes to an end. Such an order, confirming certain magistrates in their present appointments and ranks, is actually in preparation at this moment.

4. In pursuance of the plan proposed in paragraph 2 hereof, I now forward to you copies of the following letters received from the Court of Appeal of Venice:-

- (a) Letter N°4741 of 16 June from the Procuratore-Generale:
- (b) Letter N°4790 of 20 June from the Procuratore-Generale:
- (c) Letter N°760 P.P. of 20 June from Primo Presidente:
- (d) Letter N° 791P.P. of 23 June from the Primo Presidente:
- (e) Letter N°4906 of 24 June from the Procuratore-Generale.

I request that you, place these before the Minister of Grace and Justice for his consideration.

5. In the case of (a), (b) and (c) I recommend that the Minister make the orders asked for. In the case of (d) and (e) the difficulties arise from ~~the~~ orders already made by the Minister placing certain magistrates in retirement. You will observe from what is said by the Primo Presidente and the Procuratore-Generale that the effect of these orders is to cause a situation of extreme embarrassment in the Court of Appeal of Venice and in the Tribunale of Belluno. As the Minister has made an order I do not like to ask the Regional Commissioner to make a countermanning order, although of course he has power to do so. I prefer to submit the matter again to the Minister with a request that in the circumstances he re-consider his previous order, at least to the extent of allowing these magistrates to continue in office till the period of Military Government comes to an end.

6. Please inform me as early as possible as to the decision of the Minister on these points, and also let me know if you approve of the future course of action proposed in paragraph 2 and 3 hereof.

H.C. Linn

Colonel,
Regional Legal Officer,
Venezie Region.

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Pl. records to be retained

of allowing these magistrates to continue in office till the period of Military Government comes to an end.

6. Please inform me as early as possible as to the decision of the Minister on these points, and also let me know if you approve of the future course of action proposed in paragraph 2 and 3 hereof.

H. C. Lindner

Colonel,
Regional Legal Officer,
Venezie Region.

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1. How many...	2. How many...	3. How many...
4. How many...	5. How many...	6. How many...
7. How many...	8. How many...	9. How many...
10. How many...	11. How many...	12. How many...

8/11/41

Please consider, take appropriate

action and inform me -

Remember that all "concepts" letters

are cancelled by Rhine as a matter

of routine!

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

66A

AC/4039/W/L.

SBH/mt.
5 June 1945.

SUBJECT : Appointments of judicial officials.
TO : Regional Commissioner (Attn: Regional Legal Officer),
VENETIE Region.

1. Reference is made to Directive of 20 Feb 1945 and earlier dates.
2. It has been the practice in the past, when temporary appointments of judicial officials have been made, for Legal Sub-Commission to refer such appointments to the Minister of Justice and to endeavour to obtain agreement over the appointment. If the Minister accepted the appointment the Allied Commission (Legal Sub-Commission) formally recommended it and the appointment was made.
3. For this reason it was directed that officials should be appointed "temporarily" and made subject to confirmation by higher authority.
4. In present conditions however the Minister takes the line that he is of course perfectly prepared to accept temporarily any officials appointed by AMG but that, in view of the prevailing state of flux, it is not possible for him to maintain a general policy if he is to be required to confirm isolated appointments without regard to the overall situation.
5. In these circumstances it is no longer necessary for appointments to be made "subject to confirmation of higher authority". They will of course continue to be made as temporary appointments and will be notified to the Legal Sub-Commission in the normal way.
6. This letter will be taken as official "confirmation by higher authority" of the temporary judicial appointments already made in VENETIE Region and particularly of the temporary appointment of MARIO Filippo as Procuratore del Reame of the Tribunal of Verona with effect from 28 May 1945. No further confirmation in writing will be issued of any similar appointments.

By command of Rear Admiral STONE:

78

W. E. REIDEN,
Colonel,
Deputy Chief Legal Advisor.

~~SECRET~~
HEADQUARTERS ALLIED COMMISSION
AFO 394
LEGAL SUB-COMMISSION

65A

AC/4039/4/L

2 June 1945

SUBJECT : Appointments of Italian Officials

TO : Regional Commissioner (Attn: Regional Legal Officer) LIGURIA Region

1. Lt Col Hannaford, Officer i/c Italian Courts this Sub-Commission, has requested me to confirm the advice given by him that if a magistrate is removed by the Epuration Commission, his place should be filled by the next senior ranking magistrate available.

2. The above advice is in accordance with the policy of this Sub-Commission, and it is considered that, unless the next senior ranking magistrate is himself clearly unsound and subject to epuration, it would be most undesirable to pass him over and appoint some junior official who happened to be more welcome to the CLN.

By Command of Rear Admiral STONE:

W. E. BARRERS,
Colonel,
Deputy Chief Legal Advisor

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

64A
/cap

File
AC/4039

2 June 1945

SUBJECT : Revocation of appointments

TO : H.E. the Minister of Pardon and Justice

1. Ref Prot No 884/629 v.compl. (uff VI^o) of 29 May 1945 regarding revocation of appointment of BOZZINO Giuseppe, SPATAFORA Giuseppe and FERRARO Santo.

2. As pointed out in AC/4039/L of 3 April 1945, 24 March 1945 and in preceding communications, the Italian Government has full power to remove or transfer any Italian public official appointed by AMG on duty in territory restored to Italian administration, without the consent of the Allied authorities.

3. Would Your Excellency be good enough to issue necessary instructions to the effect that no further requests for approval of revocation of AMG appointments in restored territory be directed to this sub-commission.

CCF
A. R. THACKERAM,
Lt. Col.,
Italian Branch,
for Chief Legal Advisor.

Copy to, File AC/4039/L/L

78

4539/4
HEADQUARTERS ALLIED COMMISSION
APO 394
FINANCE SUB COMMISSION

63A

13006/F

21 April 1945

SUBJECT : Salaries of Italian Officials -
Temporary.

TO : Regional Commissioner,
Emilia Region.
(for R.F.O.)

59A

6A

1. Reference is made to our letter 13006/F of April 5th and to Legal S/C's letter to you, AC/4039/4/L, of April 17th, both of which dealt with the question of the salary payable to Italian Government servants temporarily appointed by A.M.G. to posts senior to that justified by their grading.

2. The position is governed by Exec. Memo No. 62. For ease of reference, I am enclosing a copy of same and you will note in particular, paras 7 and 3 thereof; the former lays down the normal procedure and the latter gives emergency powers, where such are necessary. You will appreciate that emergency powers provided by para 3, should only be employed when the normal procedure outlined in para 7 is impracticable.

By Command of Rear Admiral STONE

[Signature]
Joint Director
Finance Sub Commission

75

Copy to: Legal Sub Commission.

EPW/pmf

62A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

ES/ps.
17 Apr 45.

AD/4039/L/L.

SUBJECT : Claudio SABALICH Giovanni.

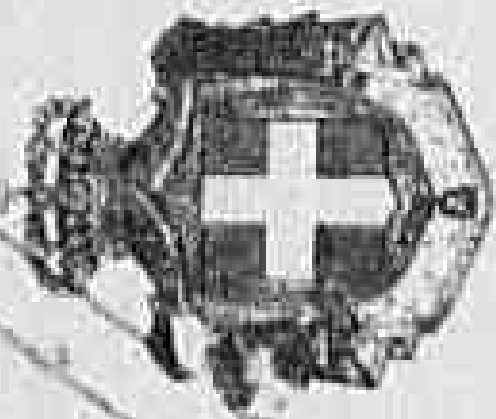
TO : Regional Commissioner, UMBRIA - MARCHE Region.
(Attn: Regional Legal Officer).

1. Reference your RS/511/12/AP/O of 2 March and previous correspondence; further to AD/4039/L/L of 24 March 45.
2. Enclosed a copy of Prot. No. 2235/CO3107 of 5 Apr 1945.
3. Do you have any comments ?

By command of Rear Admiral Stone:

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

Encls.



439 ✓

Mod. 1348 M. G.

61A

Ministero di Grazia e Giustizia

UFFICIO SUPERIORE DEL PERSONALE

Uff. 2° *100000*
Prot. n. *100000*

Roma, *10. 10. 1945*

Alla Commissione Alleata
Sottocommissione legale

R O M A

OGGETTO: Giudice SABALICH Giovanni.

Con riferimento a precedente corrispondenza, si comunica che, secondo quanto risulta a questo Ministero, l'aggiunto giudiziario presso il Tribunale di Ascoli Piceno, Dr. SABALICH Giovanni, recentemente trasferito al Tribunale di Sulmona a causa della sua attività politica, da tempo non dà più luogo ad alcun rilievo al riguardo ed il suo comportamento sia in pubblico che in privato appare ora improntato al massimo riserbo.

Questo Ministero ha considerato, pertanto, la opportunità di revocare il trasferimento di detto magistrato, e, salvo diverso avviso di cotesta Commissione, ritiene che il Sabalich potrebbe continuare a prestar servizio presso il Tribunale di Ascoli Piceno.

Rel 18/285

PM - MINISTERO

OGGETTO: Giudice SABALICH Giovanni.

Con riferimento a precedente corrispondenza, si comunica che, secondo quanto risulta a questo Ministero, l'aggiunto giudiziario presso il Tribunale di Ascoli Piceno, Dr. SABALICH Giovanni, recentemente trasferito al Tribunale di Sulmona a causa della sua attività politica, da tempo non dà più luogo ad alcun rilievo al riguardo ed il suo comportamento sia in pubblico che in privato appare ora improntato al massimo riserbo.

Questo Ministero ha considerato, pertanto, la opportunità di revocare il trasferimento di detto magistrato, e, salvo diverso avviso di cotesta Commissione, ritiene che il Sabalich potrebbe continuare a prestar servizio presso il Tribunale di Ascoli Piceno.

TEL MINISTRO

Ref. 18/285.
See file 44394
55
56

17 MAR 1951

in file

60A

HEADQUARTERS ALLIED COMMISSION
APC 394
LEGAL SUB-COMMISSION

AP/4039/4/1.

CGH/ra.
17 Apr 45.

SUBJECT : Appointment of Italian Officials - Temporary.

TO : Regional Commissioner EMILIA Region.
(Attn: Regional Legal Officer)

1. With reference to the correspondence exchanged between RFO Emilia and the Finance Sub-Commission in respect of the salary of Italian officials temporarily appointed by AMG, the matter has been taken up with Col. Waters Finance Sub-Commission, and it has been confirmed that

- a. Italian officials temporarily appointed to a post higher than their grade allow under Italian law shall NOT be upgraded.
- b. They will however receive the salary and allowances attached to the position they temporarily occupy.

2. This policy was agreed by Brig. Geoffrey Smith as early as 27 Sept 1943, when he was CNO Sicily and confirmed by the Finance Sub-Commission in May 1944, as the enclosed circulars show. This practice has been in force in so far as judicial officials are concerned since the early days of the invasion of Italy and has never been either modified or queried.

By command of Rear Admiral Stone :

G. C. HANNAFORD,
Lt. Colonel,
Officer in Charge Italian Branch,
for Chief Legal Advisor.

Incls.

HEADQUARTERS ALLIED COMMISSION
APO 394
FINANCE SUB-COMMISSION
Tel. 478604

13006/P

5 April 1945

SUBJECT: Appointment of Italian Officials - Temporary.

TO : Regional Finance Officer, Emilia Region

1. Receipt is acknowledged of your letter dated 29 March 1945, no file number, subject as above.
2. There is no known general directive providing for the payment of salary and allowances of a grade temporarily filled by an appointee of lesser rank.
3. There is only one known exception to the general rule, under Italian law, that provides for the filling of vacancies under civil service from a qualified list.
 - a. Direttori Didattici may be appointed from the ranks of regular teachers under the provisions of R.D.I. 4 June 1944, No. 158, and receive the pay of Grade 9 employees.
 - b. There is no known provision for increased pay to Judges detailed by A.M.O. to a high court.

Joint Director
Finance Sub-Commission

HEADQUARTERS REGION IX
ALLIED MILITARY GOVERNMENT
FINANCE DIVISION

59B

29 March 1946

Ref :

Subject : Temporary Appointment Italian Officials

To : Finance Sub-Commission
(Attention Joint Director)

1. When it is necessary to make a temporary appointment of an Italian Official, will you please advise if the Official so appointed is to receive the salary attached to the position he is appointed to for the period he fills such position.

2. It is my understanding that when Italian Judges are selected to sit in a higher court, the increased salary is paid.

3. This question arises over the temporary appointment of a school official pending a permanent appointment by the authorized authority.

4. Finance Sub-Commission letter (13145/F) dated 22 September 1944 would indicate that the salary attached to the position would not be paid.

L. V. McCARDLE
Lt. Col., Spec. Res.,
Regional Finance Officer

AMGOT/4039/L.
AMGOT Hq., SICILY
27 September 1943

SUBJECT : Salaries and Indemnities of Judicial Officials.

TO : All S.L.O.s through S.C.A.O.s.

1. A number of S.L.O.s have requested on several occasions that the instructions in regard to salaries and indemnities payable to Judicial Officials be clarified.

2. The C.F.O. has confirmed the following points:

- (a) The equivalent of four months salary paid in advance by the Italian Government prior to the Allied occupation is not to be considered as a bonus but as salary.
- (b) All indemnities payable under the old regime will be continued, and Pensions to all State, Provincial and Communal Officials will also be maintained.
- (c) Any official appointed by the Allied authorities will receive exactly the same amount of salary and indemnities as his predecessor.

3. Adjustment of salaries and indemnities to the cost of living are being considered, but no decision in this respect will be taken in the immediate future.

(sgd) W. C. CHANLER.

W. C. CHANLER.
Lt. Col., AUS.
Chief Legal Officer.

HEADQUARTERS ALLIED COMMISSION
APO 594
LEGAL SUB-COMMISSION

/mt.
2 April 1945

AD/AD59/4/1.

SUBJECT : Appointment of Judicial Officials.
TO : Regional Commissioner (Attn: Regional Legal Officer),
NORTH REGION.

Reference your HQ/LD/719/365 of 26 March 1945, herewith 3 copies of the requested directive.

By command of Rear Admiral STUBB:

G. D. HANFORD,
Lt. Col.,
Officer i/c Italian Branch,
for Chief Legal Advisor.

Incls.

4039/4
✓
file

Legal
57A

HEADQUARTERS EMILIA REGION
ALLIED MILITARY GOVERNMENT
APO 394

REF : RIX/LE/710/365

WHL/dsh.
28 March 1945.

SUBJECT: Directive.

TO : Headquarters, Allied Commission, APO 394 (For Deputy Chief Legal Advisor).

1. Will you please forward a copy of your directive, AOC/4039/L, 3 May 1944, relating to appointment of judicial officials in occupied territory. None is available at this Headquarters.

For the Regional Commissioner:

W.H. Levitt
WILLIAM H. LEVITT
Lt. Col., J.A.G.D.
Regional Legal Officer.



07

LEGAL SUB COMMISSION	
CLO	/
DCLO	/
Chief Counsel	/
CID	/
Legal Section	/
CL RKS	/
1 APR 1945	/



Sent 3 copies of 4039/4 to [unclear]

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AG/4039/4/L.

/mt.
24 March 1945.

SUBJECT : Dott. SABALICH Giovanni - Aggiunto giudiziario, Tribunale
Ascoli Piceno.

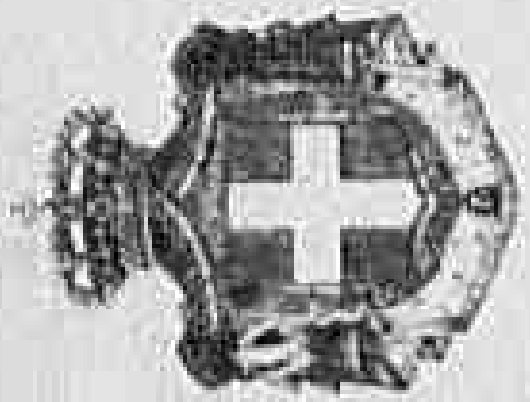
TO : Regional Commissioner (Attn: Regional Legal Officer),
ABRUZZI-MARCHE Region.

1. Reference R5/511/12/AP/O dated 3 March 1945.
2. The Ministry has designated giudice uditore Dott. AMODEO Antonio to take place of Dott. SABALICH at the Tribunale of Ascoli.

By command of Rear Admiral STONE:

Ref
A. R. THACKER, Lt. Col.
Italian Branch,
for Chief Legal Advisor.

Mod. 1348 M.G.



4039/45

55A
Ministero di Grazia e Giustizia

UFFICIO SUPPLEMENTARE DEL PARLAMENTO

Ufficio 2^o

Prot. n. 2038/002120

Min. al P^o del G^o corrente

A. AG/4039/4/c

Roma, 22 MAR 1948

Alla Commissione Alleata
(Sottocommissione Legale)

52A

R O M A

OCCORRENZA: DOTT. SABATINI GIOVANNI - AGGIUNTO GIUDIZIARIO NEL
TRIBUNALE DI ASCOLI PICENO.

In relazione alla lettera su indicata, si conviene che con
decreto in corso si provveda a sostituire il dott. SABATINI nel Tribu-
nale di Ascoli Piceno, destinandovi in funzione di giudice l'uditor
dott. ALBERTO ANTONINO.

Si è convenuta, pertanto, in pari data la disposizione che
il dott. SABATINI assuma subito possesso nella nuova sede di Ascoli.

LEG. 11 MAR 1948
CLO

FILE MINISTERO

Alle Commissione Alleata
(Sottocommissione Inglese)

R O M A

OGGETTO: Dott. SABALICH GIOVANNI - Accusato Giudiziario nel Tribunale Ascoli Piceno.

La relazione alle lettere su indicata, si comunica che con decreto in corso si provvede a sostituire il dott. SABALICH nel Tribunale di Ascoli Piceno, destinandolo in funzione di giudice Iuditorie dott. ARDUO ANTONINO.

Si è confermata, pertanto, in pari data la disposizione che il dott. SABALICH assume subito possesso nella nuova sede di funzione.

LEG. 10/10/1958	
CLO	
SCLO	
Chief Counsel	
CLO	
Italian Section	#
CL RYS	
28 105 108	

PER IL MINISTRO

McMurray

4039/4
7/3/45

HEADQUARTERS VENEZIA REGION
Allied Commission
APO 394

LEGAL INSTRUCTIONS

Amendment No. 4.

48A

March 1945.

LEGAL SUBCOMMISSION

CLO

CLO

Chief Counsel

CLO

Relief of

CL RKS

14 MAR 1945

54A

PART III, Paragraph 14 and Appendix II.

In amplification and partial modification of the instructions contained in Paragraph 14, directive of the Vice-President, Civil Affairs Section, H.Q., A.C., dated 20 February 1945, reference AGO/4039/4/1, is attached hereto, for compliance by all Legal Officers. Directive of the Legal Sub-Commission, H.Q., A.C., dated 1 May 1945, reference AGO/4039/1, is also attached for information. The above two documents will form part of Appendix II, together with the directives marked IIA and IIB already distributed. In pursuance of the policy set out in AGO/4039/4/1 of 20 February 1945, all recommendations for appointment, transfer or promotion of judicial officials of any category will be made to the A.L.O., who will be responsible for obtaining the necessary order from the Regional Commissioner. Provincial Legal Officers will NOT advise Provincial Commissioners to make appointments, transfers or promotions of judicial officials without reference to the A.L.O., except in cases of compelling necessity where all means of communication have broken down.

H. L. Wilmer

Colonel,
Regional Legal Officer,
Venezia Region.

Copy to Chief Legal Advisor,
Legal Sub-Commission,
H.Q., A.C.

HEADQUARTERS ALLIED COMMISSION
 AND
 LEGAL SUB-COMMISSION

687/pt.
 7 Mar 45.

SUBJECT : Judicial Personnel in Territory restored to Italian Administration.

TO : H. E. The Minister of Justice.
 (Attn: Direttore Ufficio del Personale)

1. With reference to Your Excellency's communication of 3rd Inst. in regard to the personnel of the Court of Appeal of Catanzaro I wish to thank Your Excellency personally for the information contained therein. I must point out however that following the dissolution of the Acting President of the Allied Commission, there no longer exist in territory under the jurisdiction of the Italian Government any obligation for the Minister of Justice to obtain the approval of the Allied Commission for Italian appointments or promulgation of legislation.

2. Nevertheless may I suggest that whenever such Italian appointments affect directly or indirectly territory under the sub-commission concerned be consulted in order to prevent the recurrence of situations which, as you are aware, have given rise in the past to many unnecessary problems and inconsistencies. The same remark applies to the promulgation of legislation which it is desired to implement in AC territory.

3. Such coordination of action will be especially useful when dealing with some of the great difficulties which will confront the Allied authorities in Northern Italy.

It is assumed that a very heavy percentage of judicial officials will be unable (at least temporarily and until such time as separation proceedings are concluded) to continue in office.

On the other hand the number of offenders under the old and new legislation will be larger than ever before.

It is therefore essential for the Italian Government to take immediate steps, in accord with the Allied authorities in order to provide for such contingencies.

4. To date the provisions made by the Italian authorities in regard to the above are very limited in scope and hardly adequate in efficacy. They can be summed up in two items:

- a. Constitution of a pool of judicial officials which, as Your Excellency informs me, is composed of less than 40 registrars of all grades, and probably not immediately available.
- b. Establishment of a Tribunale Militare Extraordinary of North Italy for which, both the Procuratore Generale Militare and the legal

Sub-Commission are busily engaged in endeavouring to obtain the personnel necessary to its judicial activities.

5. I feel that in order to meet what will be no doubt a very confused situation, provisions of an exceptional character should be contemplated.

There is no doubt that however serious the problems of the administration of Justice may be in territory restored to Italian administration, the difficulties to be dealt with in Northern Italy will far exceed those in gravity. "De deux maux sachons choisir le moindre"

6. Therefore, I take the liberty to request Your Excellency to give your earnest consideration to the following suggestions :

- a. Increase of number of judicial officials who shall be immediately available to take up posts as soon as Northern territories are liberated.
- b. Temporary reduction of members of the Procura in "Tribunali" and "Corti" wherever the small volume of cases will allow it. These "Procuratori" or "Sostituti" and "Giudici Istruttori" to be provisionally appointed to Courts in Northern Italy.
- c. Recall from the various offices of the High Commissioners or fascist crimes ^{or} as many judicial officials as possible, in order to increase the number of available magistrates.
- d. Facilitate, in agreement with the Minister of War, Navy and Air Force the temporary transfer of judicial officials from the ordinary Courts to the "Giustizia Militare".

7. No doubt Your Excellency will favour me with an early reply

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

26
HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

52A

AG/4032/4/L.

APT/pe.
3 March 1945.

SUBJECT : Dott. SABATINI Giovanni, Judge of ASCOLI Tribunale.

TO : H. E. The Minister of Pardon and Justice,
(Ufficio Superiore del Penale)

1. Further to Your Excellency's letter dated 26 Feb 45 Ref. Prot. No. 2235/001412, this Sub-Commission is now informed that the President of Ascoli Tribunale states that he will be unable to release the above named magistrate until a substitute arrives.

2. Would Your Excellency therefore please take the necessary dispositions so that confirmation may be notified to the President concerned.

ay
A. R. THACKERAY,
Lt. Colonel,
Italian Branch,
for Chief Legal Advisor.

4039/4

(5/A)

TO : HQ ALLIED COMMISSION
(for attention of Legal Sub-Commission)

FROM : HQ AG ABRUZZI MARCHE REGION

SUBJECT : Judicial Officials

REF. : R5/511/12/AP/O

DATE : 2 March '45

Dott. SARALICI

You will remember that the above official one of the judges of the Tribunale of Ascoli is to be transferred as a disciplinary measure on account of his political activities to the Tribunale of Sulmona. The President of Ascoli Tribunale states that he will be unable to release SARALICI until a replacement is received. May the Ministry's attention be drawn to the necessity for replacement of this official please?

For the Regional Commissioner

LEGAL SUB-COMMISSION	
☐	
☐	
Chief Counsel	
☐	

R. G. S. Alexander
R. G. S. ALEXANDER, Major
R.L.O.

3 MAR 1945

3533

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

50A

file
AC/4039/L.

ES/pa.
1 March 45.

SUBJECT : Dett. SARALICH Giovanni, Judge of Asseli Tribunal.

TO : Regional Commissioner, ABRUZZI-MARCHE Region.
(Attn: Regional Legal Officer)

1. Reference your R5/511/12/AP/O of 23 Feb 45.
2. Enclosed for your information is a copy of Prot. No. 2235/001412 of the Ministry.

By command of Rear Admiral STONE :

59

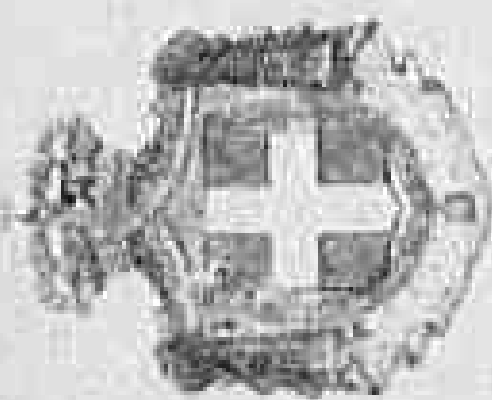
Incl.: 1 copy.

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

Mod 1342-MG

508

4039/4



Ministero di Grazia e Giustizia

UFFICIO SUPERIORE DEL PERSONALE

Uff. 2°

Prot. n. *2031/001413*
 Resp. al fo del 5 corrente

AC/4039/4/L

46A

Roma, *26.8.1943*

OGGETTO: dott. SABALICH Giovanni - aggiunto nel Tribunale
 di Ascoli Piceno

In relazione alla lettera su indicata, si comunica che con decreto in corso di firma il dott. SABALICH Giovanni viene tramutato dal Tribunale di Ascoli Piceno a quello di Sulmona.

E' stato disposto che detto magistrato assuma subito servizio a Sulmona.

PEL MINISTRO

58

Alleanza

LEGAL SUB COMMISSION	
CIO	
ACIO	
Chief Counsel	

AC/4039/1/L 46A
 OGGETTO: dott. SABALICH Giovanni - aggiunto nel Tribunale
 di Ascoli Piceno

In relazione alla lettera su indicata, si comunica che con decreto in corso di firma il dott. SABALICH Giovanni viene tramutato dal Tribunale di Ascoli Piceno a quello di Sulmona.

E' stato disposto che detto magistrato assuma subito servizio a Sulmona.

PEL MINISTRO

58

Alleanza

LEGAL SUB COMMISSIO	
CLO	
DOLO	
Chief Counsel	
CJO	
Section - Section	
CL RKS	
98 FEB 1945	

Alia Commissione Alleata
 Sottocommissione Legale

R O M A

Reply to AC/4039/4/L of 5 Feb 45.

Ref. the a/m letter Ministry informs that a decree is being prepared for the transfer of Dott. SABALICH Giovanni from Ascoli Piceno to Sulmona Tribunale.

✓ 4039/4

49A

TO : H Q AG (for attention of Legal Sub-Commission)
 FROM : HQ AG ABRUZZI MARCHE REGION
 SUBJECT : Judicial Officials - Dott. SABALICH Giovanni - Judge of Ascoli Tribunal
 REF. : R5/511/12/AF/O
 DATE : 23 Feb. '45

Index file

With further reference to your AG/4039/4/L dated 8 Jan. '45 herewith copy letter ANC/11/6/8 dated 19 Feb. '45 addressed by PIO Ancona to the Procuratore Generale of Ancona Court of Appeal for your information.

LEG - SUB COMMISSION

For the Regional Commissioner

18/283

HEADQUARTERS

2 FEB

A

C

R. G. B. Alexander
 R. G. B. ALEXANDER, Major
 R.L.O.

56

24 FEB 1945

2842

HEAD QUARTERS
ALLIED MILITARY GOVERNMENT
ANCONA PROVINCE

49B

Subject: Magistrati - SABALICH GIOVANNI
To: Primo Presidente Corte di Appello - Ancona
From: L.O. Ancona
Ref: ANO. 11/6/8
Date: 19 Feb. 1945

LEGAL OFFICE

ANCONA

Rif. vostra lettera datata 9 Feb. 1945

Nulla osta da parte di questo Ufficio riguardo al
trasferimento del nominato in oggetto, dal Tribunale di Ascoli
Piceno al Tribunale di Sulmona.

Per il Commissario Provinciale

P.D. Cotes-Pready
P.D. COTES-PREEDY, Major
L.O. Ancona Province

Copy to: R.L.O. ✓
(

HEADQUARTERS ALLIED COMMISSION

APC 394

Civil Affairs Section

AC/4039/4/E.

20 February 1945

Subject: Appointment of Judicial Officials in Occupied Territory.

To : Regional Commissioners (Attn: Regional Legal Officers),
LIGURIA, PULMONO, LOMBARDIA and VENETIA Regions.

6 to send

1. Reference is made to the attached directives of the 3rd May 1944 and 21st July 1944. It is probable that the initial conditions which will be found in Northern Italy will be such that the procedure indicated in these two directives for the appointment of judicial officials cannot be taken immediately into operation.

2. Until the situation has become sufficiently organized to enable this procedure to be followed, the following method will be adopted:

a. Wherever it is necessary to make a temporary appointment, transfer or promotion, the Regional Commissioner, on the recommendation of the RLO, will issue the necessary order for the temporary appointment, transfer or promotion of a local judicial official of any category.

b. The order will make clear that it is of a temporary nature and that it is subject to confirmation by higher authority. This is particularly necessary where an official is being appointed to an office of higher grade than that which he holds.

c. A copy of the order together with the reasons therefor will be sent forthwith to the Legal Sub-Commission.

d. As soon as the appointment is issued the Finance Officer shall be notified. See directive of 3 May 1944 2A (v) and (vi).

3. As soon as RLOs are satisfied that conditions are such that the normal procedure laid down in the earlier directives above mentioned can be taken into force, they will notify the Legal Sub-Commission to this effect. Thereafter, the normal procedure will apply. It is obviously desirable to restore the normal procedure as soon as possible in order that discrepancy between the different regions may be avoided and the appointment of judicial officials restored largely into the hands of the Minister of Justice.

G. R. VICTOR, Brig

these two directives for the appointment of judicial officials cannot be taken immediately into operation.

2. Until the situation has become sufficiently organized to enable this procedure to be followed, the following method will be adopted:

a. Whenever it is necessary to make a temporary appointment, transfer or promotion, the Regional Commissioner, on the recommendation of the RLC, will issue the necessary order for the temporary appointment, transfer or promotion of a local judicial official of any category.

b. The order will make clear that it is of a temporary nature and that it is subject to confirmation by higher authority. This is particularly necessary where an official is being appointed to an office of higher grade than that which he holds.

c. A copy of the order together with the reasons therefor will be sent forthwith to the Legal Sub-Commission.

d. As soon as the appointment is issued the Finance Officer shall be notified. See directive of 3 May 1944 14 (v) and (vi).

3. As soon as RLCs are satisfied that conditions are such that the normal procedure laid down in the earlier directives above mentioned can be taken into force, they will notify the Legal Sub-Commission to this effect. Thereafter, the normal procedure will apply. It is obviously desirable to restore the normal procedure as soon as possible in order that discrepancy between the different regions may be avoided and the appointment of judicial officials restored largely into the hands of the Minister of Justice.

G. R. UFFORN, Bt15
VP Cs Sec AC

Copy to: Regional Commissioners (Attn: Regional Legal Officers)
EMILIA, TOSCANA, ABRUZZI-MARCHE Regions.

(For information-NOT for action)

2 to each

DIRECTIVE FOR RECENTLY RECOVERED

file
Reference

40/4039/4/1 - 21 JULY 1944.

47A

APPOINTMENT OF JUDICIAL OFFICIALS IN THE RECENTLY RECOVERED TERRITORY.

Until the situation has become stabilized to such an extent that the seats of *Primi Presidenti* and *Procuratori Generali* are occupied by suitable officials with organized offices, it is recommended that the procedure laid down in the previous directive 40/4039/1 dated 3 May 44 be followed, namely that the appointments and promotions of all judicial officials should be made through this Sub-Commission in consultation with the Minister of Justice.

As soon as the transitional period from improvisation to organization is passed and *Primi Presidenti* and the offices of Public Minister are functioning normally, the system of initiating appointments locally under the directive of 21 July 44 can be safely adopted.

Existing JRG territory now under Army would continue to be regarded as "organized" and remain under Directive of 21 July 1944.

Date of Reversion to existing directive will be decided after consultation and in accord with Legal Sub-Commission.

53

ADJUTANTS GENERAL COMMISSION
APC 394
LEGAL SUB-COMMISSION

46A

10/1839/4/L

IS/ps.
5 Feb 45.

SUBJECT : Capt. SARAJEVI, Judge at Ascoli Tribunale,
Alleged political activities.

TO : H. E. The Minister of War and Justice.

1. Reference is made to the telephone conversation with H.E. SARAJEVI who has informed this Sub-Commission that no advice had been received by the Ministry in the above matter.

2. As agreed this Sub-Commission has obtained and is enclosing herein for any action the Ministry might deem necessary, copies of three communications on the above subject.

G. G. HARRISON,
Lt. Colonel,
Officer i/c Italian Branch,
For Chief Legal Advisor.

Incls.

4039/4

Legal 45A

TO :- HQ. AC. (for attention of Legal Sub-Commission).

FROM :- HQ AMR/AC Abruzzi-Marche Region.

SUBJECT :- Judicial officials - Dott. SAPALICH.

REF :- AMR/511/12/AF/6.

DATE :- 2 February, 1945.

44A

1. Reference your AM/4909/4/L, dated 8 Jan 45 the following are enclosed:-

- a. Copy letter dated 4 Sep 44 from President of Tribunal of Ascoli to Primo Presidente of Ancona Court of Appeal.
- b. Copy letter dated 24 Oct 44 from Primo Presidente to Ministry of Justice.
- c. Copy letter dated 30 Sep 44 from Ministry to Primo Presidente.

2. Letter number (c) shows that the Ministry had already at that stage been informed about the matter.

LEGAL SUB-COMMISSION
FOR THE JUDICIAL COMMISSIONER:

CLO

CLO
Chief Counsel

CJO

Italion

C. RX

3 FEB 1945

R. G. S. Alexander
R.G.S. ALEXANDER, Major,
R.L.O.

51

Int. file

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

44A

AC/1039/L.

/rs.

3 Jan. 1945.

SUBJECT : Dott. ABALON, Judge at Ancona
Tribunale - Alleged political activities.

TO : Regional Commissioner (attn: M.L.T.),
Abruzzi-Marche Region.

43A

Reference AMR/511/2/12/0 dated 2 January 1945

1. Enquiries have been made at the Ministry of Justice in connection with the above matter. No trace has been found of the Prime Presidente's communication referred to in Para 1 of your letter of 2 Jan. 45.

2. Would you please forward to this H.Q. a copy of the Presidente of the Tribunale's report which has apparently gone astray. The position will then be discussed with the Minister.

By command of Rear Admiral CROSS:

G.E. HARRAFORD,
Lt. Colonel,
Officer i/c Italian Branch,
for Chief Legal Adviser.

Copy to: AC/1039/L.

50

4039/4.

43A

TO :- H.S. A.C. (for attention of Legal Sub Commission).
 FROM :- HQ AMR/AC Abruzzi-Marche Region.
 SUBJECT :- Judicial Officials.
 REF :- AMR/511/12/AP/O.
 DATE :- 2 January, 1945.

1. I am informed that Dott. SARACCH, Judge of the Tribunale of Ascoli, has openly participated in the activities of the Communist Party contrary to professional custom. The Presidente of the Tribunale recommended to the Primo Presidente of Ancona Court of Appeal that disciplinary action (reprisand and transfer to another Court) be taken by the Ministry. The Primo Presidente approved the recommendation and forwarded it to the Ministry about 2 months ago. No action has yet been taken.

2. I have hesitated to suspend this judge as I thought that the situation was one calling for disciplinary action by the Ministry. But if the Ministry fails to act in the proper interests of the Court I feel compelled to recommend to P.C. Ascoli Piceno that this official be suspended. May I be informed whether you agree to the proposed course of action, please? If not may the matter be taken up with the Ministry, please.

FOR THE REGIONAL COMMISSIONER:

R. G. S. Alexander
 R.G.S. ALEXANDER, Major,
 R.L.O.

/s/.

Copy to:- P.L.O. Ancona (through P.C. Ancona). Your AMR/1/A10, dated 27 Dec. 44, refers.

- P.L.O. Ascoli Piceno (through P.C.) for information.

LEGAL SUB-COMMISSION

CLO

DCLO

Chief Counsel

CIO

Italian Section

CL RKS

3 JAN 1945
 4934

HEADQUARTERS ALLIED COMMISSION
APC 394
LEGAL SUB-COMMISSION

ES/rm.

6 Dec. 1944

AC/4039/L.

SUBJECT : AVG appointments in Sicily.

TO : U.S., the Minister ofardon and Justice.

1. In compliance with Ministry's verbal request this Sub-Commission approves of the transfer of Sig. COSSIGNATI Giuseppe, Section President of the Tribunale of Trapani, to Caltanissetta as judge of the Tribunale. The approval is given in consideration of the fact, the official concerned was reported by the Ministry to have assented to the transfer.

2. As regards the remaining 35 AVG appointments not out in the list forwarded by the Ministry to this Sub-Commission with a request for consent to their revocation the decision now rests with the Acting President of the Allied Commission and his instructions will be communicated to Your Excellency as soon as known to this Sub-Commission.

G.D. HARRAFORD,
Lt. Colonel,
Officer i/c Italian Branch,
for Ch. of Legal Advisor.

Copy to: 4039/L.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

41A

AC/4017/2/1.

/rip.
20 November 1944.

SUBJECT : Lists of appointments of notaries.

TO : H.S., the Minister of Pardon and Justice.

1. Returned herewith are eight lists of notaries forwarded to this sub-commission with Ministry's Prot. No. 39 (Off. 2 Notariato, Dir. Gen. Aff. Civ.) of 18 Nov 1944.

2. It has now been decided that the Ministry should be free in reorganizing the notarial districts and services in Italian Government Territory and in the Naples area without reference of the respective proposals to this sub-commission.

G. G. HANCOCK,
Lt. Col.,
Officer i/c Italian Branch,
for Chief Legal Advisor.

8 Incls.
Incl. 1-8: Lists of notaries.

Copy To : AC/4039/4/4 ←

40A

4039/4

QUARTERS ALLIED COMMISSION
APC 394
LEGAL SUB-COMMISSION

15/mt.
14 Nov. 1944.

SUBJECT: Reemployment of officials removed by AMB.
TO: H.E. the Minister of Pardon and Justice.

1. Reference is made to several enquiries recently directed by Your Excellency to this Sub-Commission last of which is contained in Ministry's Prot. No. 19929/6180 of 7 Oct.
2. A general policy has now been laid down by the competent authorities according to which officials removed or suspended from office by AMB for political reasons should not be eligible for any new appointment until they had appeared before the competent separation commission and had been cleared.

*This matter arose
out of the case of
SOLARINO, Filippo, 4039.*

A. R. THACKERAY,
Lt. Col.,
Italian Branch,
for Chief Legal Advisor.

408

Notes of Meeting
of
Sub. Comm. Representatives
14 Oct 44

- 1 The main object of the meeting was to obtain views of Sub. Comm. of a scheme for Epurating N Italy by AMI order if progress under the Italian procedure proved too slow. A draft order had been drawn but one or two gaps remained for completion when the views of Sub. Comm. had been ascertained. The draft if put in force would operate through a Provincial Committee of Italians appointed by AMI who would only have power to suspend not to dismiss. Persons suspended would later appear before the Italian Epuration Commission.
- 2 The first point upon which Sub. Comm. views were required was as to whether suspension should be with or without pay or whether that should be within the discretion of the committee.
IT WAS AGREED that persons suspended should receive their basic pay without allowances as in Art 22 of L.N. 159.
- 3 The second point upon which advice was desired was this. It was intended to remove most quickly the heads of various services. Then to deal with the more important of the remainder and to leave, unless they were very dilatory, the lowest grades to the Italians entirely. Where should the demarcation line be drawn.
IT WAS AGREED that the first priority should include Grade VI and the second Grade IX.
- 4 The next point was as to the corresponding grades in civil occupations. IT WAS AGREED that all Heads should be of first priority namely Directors, Managers (including Works and Branch Managers and Technical Heads) and that all other grades mentioned in the fortnightly return proforma should be second priority namely Deputy and Assistant Managers (whether of Head office Branch or works), Senior Technicians and Senior Foremen. Heads of departments would be in this class.
- 5 Brig UPICHY reported on progress of proposed legislation.
 - a) The rules of procedure had been agreed except for one point that it was now proposed to appoint the Provincial Committees centrally. He personally thought that was likely to lead to delay but the Italians were suggesting the contrary. If their lists of appointments were ready they might be right. He was enquiring as to this. There was also to be considered whether centrally appointed commissions would be acceptable in the North.

2676

(86D)

b) Priority of Grades I-IV. The new proposal took the sting out of the decree, on the face it appeared to slow down procedure, but were again the Italians claimed that in fact acceleration would be achieved.

6 Sub-Commissions were asked to enquire how many persons had been invited not to attend their offices or been otherwise regularly suspended and to take steps to get their cases determined quickly. They should as soon as possible either return to DO the work for which they were paid or be dismissed and their pay be stopped.

7 It should be agreed with the Italian Government :
 a) that persons appointed as Commissarios should be cleared by the appropriate Selection Commission before appointment.
 b) That persons suspended by AMG should not be eligible for any new appointment until they had appeared before an agrigation commission and been cleared.

8 Sub-Commissions would meet again in 14 days time.

NOTE: - Under 6 above the next meeting would be held on 26 Oct. As the next return is for the period ending 30 (not 31) Oct. It is considered desirable to hold the next meeting on 1 Nov. Sub-Commissions are asked to do their best to get the returns in before the meeting.

DISTRIBUTION :

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Legal Sec	Agric S/C	Transportation S/C
		PIB

COPY TO :

V.F.
Col. BERNARD

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL CMB-COMMISSION

39A

AG/4039/4/L.

ART/at.
13 Nov. 1944.

SUBJECT : Judicial officials at Naples.
TO : H.E. the Minister of Justice.

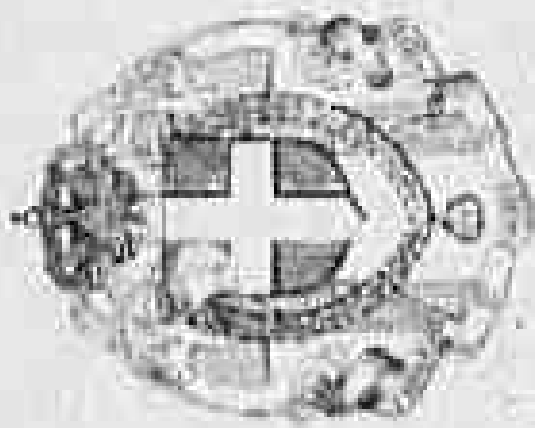
Your Excellency's letter dated 4 Nov. 44 -ref. Off. 2^o Prot. No. 1995 G-3536/0820 regarding the dispositions taken in the District of the Court of Appeal of Naples for the superannuation of judicial officials including "uffici giudiziari" has been noted with particular interest.

The concluding paragraph, however, is not understood since it appears to conflict with the assurances given by Your Excellency at our recent conferences, namely that a decree was to be published to permit the President of Council to recall retired magistrates into service and also that the possibility of holding competitive examinations on a regional basis would be studied. Is it to be understood from this that all possibilities of recruitment by examination have been definitely abandoned until the north is liberated?

dep

1/4

A. H. THACKERAY,
Lt. Col.,
Italian Branch,
for Chief Legal Advisor.



Mod. B. 2. 10. 1944

(38A)

Ministro della Giustizia

UFFICIO SUPERIORE DEL PERSONALE

Uff. 2°

Prot. n.

19955-3835/00820

Risp. a nota del 3.10.1944

ACC. 4039-4-L

31A

Roma, 4. 11. 1944

Alla Commissione Alleanza
Sottocommissione Legale

R O M A

OGGETTO: funzionari giudiziari a Napoli.-

Si è esaminata la nota sopra richiamata concernente le esigenze di servizio della Corte di Appello di Napoli, ed in proposito si rileva che la recente disposizione ministeriale riguardante il collocamento a riposo di tutti i magistrati che hanno raggiunto o raggiungano i limiti di età, è stata estesa anche agli uffici giudiziari di quella città, trattandosi di una norma di carattere generale che doveva essere applicata indistintamente a tutti i magistrati che si fossero trovati nelle condizioni predette.

Si comunica, peraltro, che in quella Corte di appello risultano attualmente vacanti solo 7 dei 71 posti di consiglieri previsti dalle piante organiche e che, con provvedimenti in corso, sono stati trasferiti allo stesso ufficio il Presidente di sezione del Tribunale di Cassino, Dr. STAVATO Lorenzo, il Procuratore del Regno di Larino, Dr. TREVIGANI Carlo, che ha fatto passaggio alle funzioni giudicanti, e il Presidente del Tribunale di Avellino, Dr. PISCOPO Ernesto.

Oggetto: funzionari giudiziari a Napoli.-

Si è esaminata la nota sopra richiamata concernente le esigenze di servizio della Corte di Appello di Napoli, ed in proposito si rileva che la recente disposizione ministeriale riguardante il collocamento a riposo di tutti i magistrati che hanno raggiunto o raggiungano i limiti di età, è stata estesa anche agli uffici giudiziari di quella città, trattandosi di una norma di carattere generale che doveva essere applicata indistintamente a tutti i magistrati che si fossero trovati nelle condizioni predette.

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Si deve, inoltre, rilevare che non si è finora provveduto alla immediata sostituzione dei magistrati collocati a riposo

perchè, non avendo avuto corso le promozioni al grado III, anche gli avanzamenti nei gradi inferiori hanno, di conseguenza, subito un arresto. E', tuttavia, evidente che non appena tali difficoltà saranno superate, il Ministero procederà, con le nuove nomine, alla graduale sollecita eliminazione delle vacanze verificatesi nei gradi IV e V.

Si avverte, infine, che ~~nessun~~ progetto per l'assunzione di nuovo personale in magistratura è attualmente allo studio, non essendo per ora possibile bandire i concorsi per uditore giudiziario, che per legge debbono estendersi a tutto il territorio nazionale, mentre le regioni dell'Italia settentrionale sono occupate dal nemico.

PEL MINISTRO

Handwritten notes:
 plus to meeting to meet a clearing up of the situation
 (a) published a magazine "convergence" magazine
 that would be performed to
 (b) to
 directly to the
 about to gain a permanent
 to the government

azione delle vacanze verificate nel grado IV e V.

Si avverte, infine, che nessun progetto per l'assunzione di nuovo personale in magistratura è attualmente allo studio, non essendo per ora possibile bandire i concorsi per addetto giudiziario, che per legge debbono estendersi a tutto il territorio nazionale, mentre le regioni dell'Italia settentrionale sono occupate dal nemico.

PAUL MINISTRO

This is not very
different from
what we try to
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(a) public sector
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HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

37A

ACG/4039/4/L.

/mt
26 Oct. 44

SUBJECT: Judges serving in dual capacity.

TO : Regional Commissioner Lazio-Umbria Region.
(Attention Regional Legal Officer).

1. This HQ is quite aware of the problem and the opinions of the First President and the Procuratore Generale are fully appreciated and agreed with.

The Minister of Justice himself has made repeated observations to both the President of the Council and the High Commissioner on this score. These appear to have had little effect.

2. The reasons put forward are that at the present juncture it is very difficult to select "separators" who may not be "separated" in turn and that once a commission of qualified judges has been formed it is impractical and dangerous to replace its components by newcomers.

Furthermore judges are happy to accept these posts as they carry an adequate indemnity which is most welcomed in these days of economic stress.

3. It is hoped however that "separation" operations will come to a close by the end of the year and judicial officials released on or before that time.

BY COMMAND OF COMMODORE STORE:

42

W.E. BARRONS,
Colonel,
Deputy Chief Legal Advisor.

R-E-S-T-R-I-C-T-E-D

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LAZIO-UMBRIA REGION, LEGAL DIVISION
A.P.O. 394

24 October 1944

L/1204

SUBJECT : Judges serving in Duél Capacities.
THRU : Regional Commissioner,
TO : Sub Commission A.C.C.
Officer in Charge of Italian Branch
(Col. Hannaford)

1. Our attention has been directed by the First President and the Procuratore Generale of the Court of Appeals *to the fact* that some 16 Judges assigned to the Legal Judicial District are presently in the service of the High Commissioner.

2. Whether these Judges are in a position to meet these duél responsibilities effectively and efficiently, I am not in a position to say at the moment. However the Minister of Grace and Justice should be able to furnish us with proper guidance on this score.

3. Quite obviously the loss of 16 Judges in a Judicial District would seriously impair the efficiency of all Courts functioning in the district. It is therefore recommended that consideration be given to (1) releasing a certain number of these Judges for their normal duties and (2) the use of Judges from other districts, where Courts are unable to function because of inadequate facilities or conditions.

LEGAL SUB-COMMISSION

CLO

DCLO

Chief Counsel

CJO RCH/PA.

Italian

C PK

25 OCT 1944

Robert C. Hendrickson
Major, A.U.S.
Regional Legal Officer,

R-E-S-T-R-I-C-T-E-D

SECRET

34A

4039/4

HEADQUARTERS
ALLIED CONTROL COMMISSION
A.P.O. 394

Ref: 9/6.2/A.B.

6th October, 1944.

SUBJECT:- Appointment of Italian Government officials.TO:- All Sub-Commissions CA Section.

Until further orders Sub-Commissions will NOT have any discussions with the Italian Government as to possible Italian Government officials for any appointments whatever in the provinces of TRIESTE, FRIULI, TRIESTE or GORIZIA.

R. R. Cripps
G.R. H. JOHN. Brigadier
V.P. C.A. Sec.
Dep. C. of S.

GRI/yab.

DISTRIBUTION:- Ed.
I. and D.P. Sec.
M.F.A.A.
Legal ✓
Local Gov.
Pat.
P.H.
P.S.

Copy to C. of S.

LEGAL SUB-COMMISSION	
→ CLO	✓
→ DCLO	✓
Chief Counsel	
CJO	
→ Italian Section	✓
CL RKS	

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

3/A

ACC/4039/4/L.

RMW/mt
3 Oct 44.

SUBJECT: Judicial Officials - Naples.

TO : R.E. Minister of Pardon and Justice.

1. Referring to the position taken by certain Magistrates in Naples relative to their retirement according to law and mentioned at our last conference, I have requested the Regional Legal Officer, ACC, at Naples not to take any action which would interfere with the carrying out of your program. I have advised him of your guarantee that immediate replacements would be sent to the extent required and have asked him to let me know what these requirements will be.
2. The Regional Legal Officer in Naples is anxious that there be no breakdown in the administration of the law there as the Italian Courts are trying virtually all of the cases affecting the Allied interests.
3. It might have been better if I had been notified in advance of the desire to make the retirement program effective there.
4. I entirely sympathize with the desire to infuse new blood in the Magistracy but have not heard of the holding of examinations to bring into it new members. In Sicily and possibly other places there are many unfilled vacancies. With the number who will likely be required in the north I would be interested in knowing what program is being carried out to fill the places made vacant by retirement, absence, death, expiration etc.

RICHARD H. WILMER,
Colonel OAC
Chief Legal Advisor 3

file

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

(30A)

ACC/4039/4/L.

ART/ap.
27 September 1944.

SUBJECT : Appointment of Judicial
Officials in AMG Territory.

TO : Regional Legal Officer (Thru RC) Tuscany.

1. Reference is made to your R VIII/19/5001 dated 25 Sept 44, with basic letter attached.

2. In addition to the two directives of this Sub-Commission quoted by you, attention is drawn to Executive Memo. No.62 dated 16 June 44 where the general policy governing the question is laid down.

3. This memo is contained in the cumulative supplement referred to by your L.O. at Florence, and will no doubt reach him in due course thru channels.

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

87

4039/4

Legal

29A

Rm/19/5001

1st Ind.

Regional Legal Officer, Region VIII (Tuscany) 25 September 1944.
 TO: Chief Legal Officer, Hq. Reg., AGO.

I. Because of the frequency with which this office has been asked to answer the question propounded in the basic letter, it is deemed of sufficient import to transmit the communication to you for whatever action you may care to take, if any, not only in the instant case, but in connection with other Regions. In this connection, on or about the 1st of August, this office submitted for your consideration an analysis of the various Executive Memorandums dealing with the subject matter, and pointed out that a concise statement by higher authority should be substituted for the answer by inference now contained in the various directives. It is believed that a substantial service would be rendered the operative officials in the field if such a directive would be forthcoming.

John E. Weber
 John E. Weber
 Colonel, Infantry
 Chief Legal Officer

HEADQUARTERS

25 SEP 1944

A. C. C.

1st Ind.	
2nd Ind.	
3rd Ind.	
Chief Counsel	
Chief	
→	
1st Ind.	

ALLIED MILITARY GOVERNMENT
HEADQUARTERS
FLORENCE PROVINCE

FL/31A

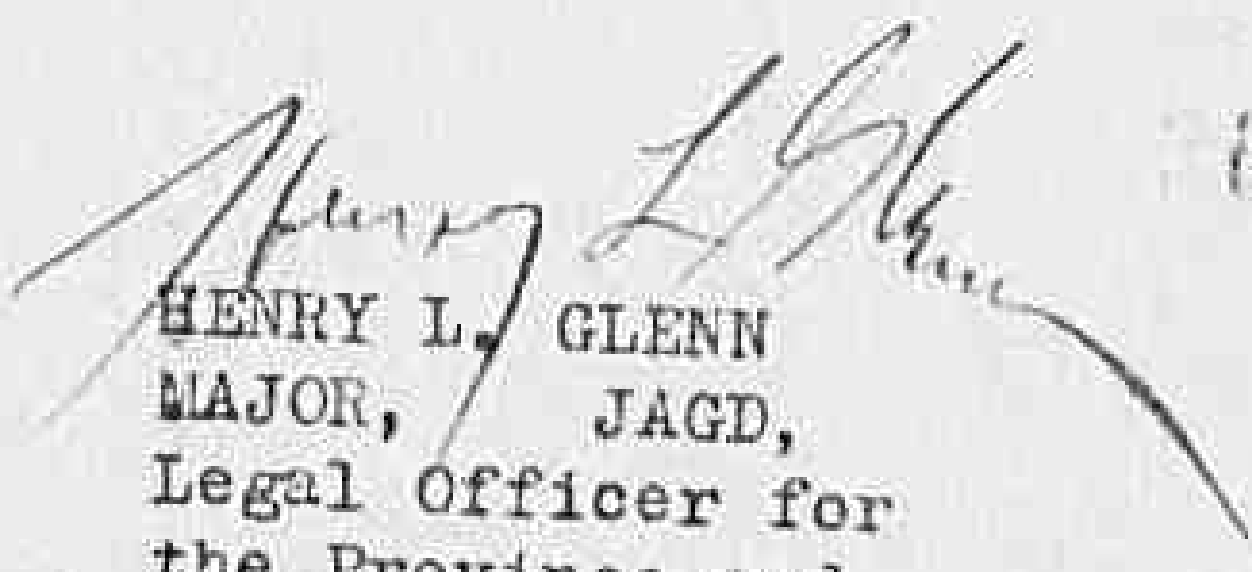
20 September 1944

SUBJECT: Appointment of Officials in
Military Government Territory

TO : R.L.O. HQ. Region 8

1. I have observed that practically all the directives relating to Italian Officials in Military Government Territory have to do with their removal and that none of them refer to the proper method of appointment, other than the two directives (ACC/4039/L and ACC/4039/4/L of the 3rd May and 21st July respectively, describing the appropriate method of appointing of judicial officials, and Executive Memo. N° 12 relating to appointment of a Prefect.

2. In view of the fact that I have not yet received the cumulative supplement of the A.C.C. "Instructions for the Guidance of Officials of the Commission," I am wondering whether there is any later directive covering the procedure of appointment for all types of officials and if not whether it is proper, in all cases, as it is in the case of judicial officers, for a Regional Commissioner or an Army S.C.A.O. to make temporary appointments subject to confirmation by HQ, A.C.O., after the latter consults the appropriate Sub-Commission.


HENRY L. GLENN
MAJOR, JAGD,
Legal Officer for
the Province and
City of Florence

RVIII/19/5001

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

23A

AGC/4039/4/1.

ART/pa.
31 Aug 44.

SUBJECT : Appointment of Notaries in Naples Province and Commune.

TO : RAO (thru RO) Southern Region.

1. Reference is made to this Sub-Commission's directive AGC/4039/4/1. regulating the appointment of judicial officials in AMG territory.

2. In this connexion it is necessary to assimilate the Notaries to the general body of the judiciary since they belong to a branch of administrative magistrates who are Italian State functionaries.

3. Occasions arise when this Status is lost sight of, and in the Province and Commune of Naples notaries have been appointed and/or transferred under AMG orders bearing a "permanent" character as opposed to a purely "temporary" one for the period of occupation only.

4. Now that Naples Province has passed to Italian administration such matters may be properly adjusted by the Minister of Justice in agreement with AMG, but there remain certain appointments within the Commune of Naples itself which need to be regularised under AMG through this Sub-Commission.

5. It is thought that these AMG Notarial appointments are relatively few in number and that there will be no difficulty in obtaining particulars from the President of the Naples Notarial Council with a view to taking action on the lines indicated in para 2 of this Sub-Commission's letter to the Minister of Justice of which a copy is enclosed for your information.

Deaf

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

Enclosure : 1 copy .

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

22A

ACC/4059/L.

ES/pa.
29 Aug 44.

SUBJECT : Appointment of judicial officials in Military
Government Territory.

TO : H.S. The Minister of Justice.

1. Following Your Excellency's observations made in regard to this Sub-Commission's directive on the above subject a letter of clarification was sent out to the Regional Legal Officers concerned which in substance reads as follows :-

"The Minister of Justice points out that in personnel matters concerning officials of all grades of courts of all categories, the President of the Court of Appeal responsible should be consulted rather than the Procuratore Generale as set out in para 1 A, B, C of the above directive. The latter should be contacted in personnel questions concerning officials who are members of Pubbliche Ministero such as Procuratori del Regno and all other employees of the offices of the Procure. The Minister's suggestion appears to be in accordance with the spirit of the Italian judicial organization and should be followed in order to facilitate full cooperation of the Allied and Italian authorities in this matter."

Delivered
personally
30 Aug 44
44
B.

G. G. HARTFORD,
Lt. Colonel,
Officer i/c Italian Branch,
for Acting Chief Legal Officer.

HEADQUARTERS
UNITED STATES COMMISSION
LEGAL SUBCOMMISSION
APO 394

2/A

✓ ACC/4039/4/C

SUBJECT : Replacement of unsuitable judicial officials in restored territory.

TO : DIA (thru IG) Region II .

1. With reference to the numerous recommendations made at various times by you with a view to replacing unsuitable Italian judicial officials by more efficient personnel, please bear in mind that Italian judges cannot be removed from their seats after 3 years of function. (Art. 69 of the Italian Constitution of 1849) and 217 of the RIL of 30/1/43 on the organization of the Magistracy refer. Therefore the only way to remove them is either to promote them, to dismiss them because of fascist activities, to sentence them for a common law offence or to suppress their seat altogether.
2. It is a fact that the fascists tried, as late as 1941 to increase their hold on the magistracy by adding certain political considerations to the existing motives for removal of judges. It is obviously undesirable to take advantage of purely fascist legislation to solve even a temporary difficulty.
3. Furthermore it must be remembered that the transfer of an unsuitable judge to another region may relieve a tense situation in Province, but that the unfortunate DIA to whose Region the unwanted official is appointed will be faced with exactly the same problem as you are facing now.

23

C. G. HANFORD,
Lt. Colonel,
Officer i/c Italian Branch,
for Acting Chief Legal Officer.

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
AFC 394

10 to each (20A)
Legal Section (20)
4 2 each for Ref.

ACC/4039/4/L.

/rlp.
26 August 1944.

SUBJECT : Appointments of Judicial Officials in Military Government Territory.

TO : Regional Legal Officers (THRU: Regional Commissioners),
Regions III, IV, V, VIII, IX, "Z";
for info: Regions I, II, VI, VII and H q AMG 5th and 8th Army.

1. Further to this sub-commission's directive ACC/4039/4/L of 21 Jul 44.
2. The Minister of Justice points out that in personnel matters concerning officials of all grades of courts of all categories, the President of the Court of Appeal responsible should be consulted rather than the Procuratore Generale as set out in para. 1 A, B, C of the above directive. The latter should be contacted in personnel questions concerning officials who are members of Pubblico Ministero such as Procuratori del Regno and all other employees of the offices of the Procure.
3. The Minister's suggestion appears to be in accordance with the spirit of the Italian judicial organization and should be followed in order to facilitate full cooperation of the Allied and Italian authorities in this matter.

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

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

Tel. Ext. 563.

2 August 1944.

REFERENCE : ACG/4039/4/L.

SUBJECT : Interpretation of Proclamation No.16A.

TO : Acting R.L.O., (thru Regional Commissioner), Region 3.

1. Reference your L-2053 dated 29 July 1944.
2. The problem you raise does not seem to me to be one affording any practical difficulties. The situation in Naples is not radically different from what we find it, in regard to ^{judicial} ~~judiciary~~, in Military Government Territory. In collaboration with the Ministry of Justice we have always been able to work out appointments, transfers, filling of vacancies etc. without any real difficulty.
3. It seems, therefore, that this is a matter to be worked out in each instance in collaboration with the Italian Government. For instance, if a prefect is involved and the matter is not worked out satisfactorily where you are, your Regional Commissioner should write to the Director of the Interior Sub-Commission, through the HC & MI Section. Such Director then can consult with the Minister of the Interior and the problem be solved by those means. In the case where a judiciary is concerned the Legal Sub-Commission may consult with the Ministry of Justice.
4. Owing to the peculiarity of channels in matters affecting Interior inasmuch as there is no Interior specialist in your region the Regional Commissioner has to communicate at a higher level. However, as far as Legal matters are concerned you may write direct to this Sub-Commission and the same thing would seem to apply as far as Public Safety Sub-Commission are concerned.

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

REW/ECW.

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

L-2053

29 July 1944

SUBJECT: Interpretation of Proclamation No. 16 A.

TO : CLO, Legal Sub-Commission, ACC.

1. Herewith is sent a copy of a letter PS/38 dated 28 July 44 which has been received from the Regional Public Safety Officer.

2. As a question of principle is involved, I shall be glad to have your ruling on the questions asked.

3. It is assumed that the answers to the questions will apply generally e.g. to officials at the Tribunale of NAPLES.

For the Regional Commissioner:

G.A. Banlet
G.A. BANLET,
Major, G.L.,
Actg Reg Legal Officer.

GAB/EO

Encls-

1. copy of ltr d/d 28 July 44 from RPSO. →

LEGAL SUB-COMMISSION	
CLO	
Chief Counsel	
CLO	
Itation Section	
CLERKS	

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

28 July 1944

PS/38

SUBJECT: Public Officials.

TO : Chief Legal Officer, Region 3.

1. As is well known, during the time Naples Province was in its entirety under Allied Military Government, certain Provincial Officials, e.g. the Questore and Vice-Questore, were appointed by the Regional Commissioner.

2. A question has now arisen as to the position with regard to the removal and replacement of such officials in the event of it being necessary to remove them or should they voluntarily wish to resign.

3. This has arisen by virtue of the fact that by Proclamation N°164 the Province of Naples, except the Commune of Naples in the Province of Naples, reverts to the Italian Government for administration.

4. The officials concerned are those of the Province whose jurisdiction is within the Province which is now Italian Government Territory apart from the Commune of Naples which remains a Military Zone under AMG.

5. Naturally most of the Provincial Officials are stationed in Naples City.

6. I should be grateful for your advice as to whether it is the responsibility of the Italian Ministry concerned or the Regional Commissioner of Region 3 to

- (a) remove undesirable Provincial Officials
- (b) accept resignations
- (c) appoint successors.

/s/ G.T. FRANCIS

/t/ G.T. FRANCIS

Lieut. Colonel, G.I.,

Reg. Public Safety Officer.

CTF/tp.

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION VIII.

RVIII/19/14

Legal
6900
26 July 1944. (16A)

SUBJECT : Proposed Informative Instruction.

TO : Chief Legal Officer,
Legal Sub-Commission, ACC. (Thru RO).

1. For the benefit of Region VIII Officers who may be confronted with problems of appointment, removal, detention and internment of Italian Officials, this Office has prepared an informative document, a draft of which is enclosed.

2. In editing this document, effort has been made to include every matter relevant thereto revealed in existing Proclamations, Executive Memoranda and Directives.

3. The document is not intended to be issued as an order or directive; rather it is designed as an explanation, elementary in character, of existing requirements.

4. It is believed that a document of this type will be useful to Regional Officers who do not have a clear understanding of the topics discussed.

5. In two instances it has been necessary to advance an opinion: See "Detention" sub-title, "By whom is it done"; also see "Replacement of Personnel".

6. The matter of appointment of Italian Judges and Officials is obscure to us. This is so because we do not have in our possession Legal Sub-Commission Directive ACC/4039/L dated 3 May 1944. We have Sub-Commission Directive ACC/4039/4/V dated 21 July 1944. To what extent each of these directives replace or modify Executive Memorandum No. 18 is not known. As a result, final comment on appointment of Italian Judges and Legal Officials is not included. To that extent the document is admittedly incomplete.

7. We would like to have your reactions and criticisms to the draft as well as any suggestions. In short, are we on the beam?

8. It is believed that the topics of this document should have a place on the agenda in the forthcoming legal conference. It is of import to Legal Officers entering newly occupied territory.

John K. Weber,
Col., Inf.,
A.L.C., Region VIII.

* See file 4088 folio 116
and 4039/4/V 15A

A.C.C.

BEST COPY POSSIBLE

APPROPRIATE, REMOVAL,
DETENTION AND INTERVIEW
OF ITALIAN OFFICIALS.

INTRODUCTION

For the benefit of Region VIII officers who may be confronted with problems of arrestment, removal, detention and internment of Italian officials, the Regional Legal Office has prepared this document, in the hope that a seemingly difficult task may be rendered an easy one by reason of the understanding of its varying details.

"Interment", "Screening" and "Detention" have been defined and distinguished. These are involved in the removal of officials.

In the replacement of personnel, the powers and duties of the Regional Commissioner have been set out.

In many instances Specialized Division, as well, have some Departmental interest in the discharge of these powers and duties. Such interests and rights have been set out under the headings of those Specialist Divisions.

JAMES A. STINE
CHIEF, REGIONAL
LEGAL OFFICE

DEFINITIONS.

1. WHAT IS INTERVIEW?

EXPLANATION. Among civilized nations the conduct of war is regulated by certain well-established rules known as the rules of land or sea. Many of the rules of war have been set forth in treaties or conventions. They are commonly called the written rules or laws of war. Some of the rules of war have never yet been incorporated in any treaty or convention. These are commonly called the unwritten rules or laws of war, although they are well defined by recognized authorities on international law and well established by the custom and usage of civilized nations. The same rules are binding on all civilized nations.

Among the so called unwritten rules or laws of war is a basic principle that war is all of the other rules or laws of civilized warfare, both written and unwritten, and forms a general guide for conduct where no specific rule applies, to wit:

THE PRINCIPLE OF HUMANITY, which justifies a resort to all the measures which are indispensable to bring about the complete submission

For checking, only,
Authority, for statement
is made in person

JOHN A. KATZ
COUNCIL, DEPUTY
OF THE HOUSE OF REPRESENTATIVES

100

100% Satisfaction
Guaranteed

of civilized nations the conduct of war is regulated by certain well-established rules even in the case of land or sea. Many of these rules have been set forth in treaties or conventions. They are commonly called the written rules or laws of war. Some of the rules of war have never been incorporated in any treaty or convention. These are commonly called the unwritten rules or laws of war, although they are well defined by recognized authorities on international law and well embodied by the custom and usage of civilized nations. The unwritten rules are binding on all civilized nations.

Away the so called unwritten rules or laws of war is a basic principle that underlies all of the other rules or laws of divided nations, both written and unwritten, and forms a general guide for conduct where no specific rule applies, to wit:

THE PRINCIPLES OF ELEMENTARY EDUCATION, which justifies a resort to all the measures which are indispensable to bring about the complete subordination of the young as soon as possible by means of regulated violence, and which are not forbidden by the modern laws and customs of man.

Military government is the organization through which a belligerent exercises authority over the territory of the enemy invaded and occupied by him. The rights and responsibilities of an army of occupation in any territory derive from the rules of war. This military authority is such that government arises from the failure or inability of the legitimate government to exercise its functions on account of the military operations or occupation.

By virtue of his orders of capture the command is only empowered to receive officials of every description. He will on principle receive British officials. Any official considered dangerous to the command may be refused a passport of war, or expelled from the occupied territory.

2. DEFINITION. Invariant may be defined as the result and subsequent equilibrium to a stimulus of your organ of any person considered diagnosis the organism. Ability to interpret, and pre-conditions that include now is submitted to the existence of invariant.

INTERVIEW. As shown in Appendix, above, Interview 1 is
 repeat of 1998. It was also held by virtue of a
 note. It may be assumed a different source within the available 1999

- 2 -

belligerent as well as against persons in an enemy occupied territory. It is not the responsibility of military Government branches of the military other than military Government are charged with its execution. It may be said usually is involved against persons for acts of war itself. But it may also be involved to occupation, and even the status of war itself. But it may also be involved for acts done or positions held after the declaration of the State of War and occupation of enemy territory.

3. 1910 AIRS EXECUTIVE. Executive Memorandum, No. 15, an revised and consolidated in Executive Memorandum, No. 67, divides officials into "List A" and "List B". "List A" is subdivided into Category 1, Category 2, and Category 3. All officials appearing in Category 1 and 2, of "List A" are to be interned if they have held office or been affiliated with the Neutral organization not out in "List B". But those in Category 3, if also connected as before mentioned with "List B" will be dismissed from office and allowed to go free, - unless considered a menace to security.

4. 21 APRIL 1942. Persons to be interned will be arrested by or handed over to CIP/ISS for execution through persons of War Museum to Prisoner of War Camp. An AIO officer may take the arrest for the purpose of handing over to CIP/ISS, but will give full particulars of person arrested, with reasons, so that CIP (b) can include them in the fortnightly list of persons arrested. Moreover a person in interned, a report must be made to H.Q., ACO, B.M. Executive Memorandum 67, paragraph 5.

5. 11 2 2 2: By the provisions of Executive Memorandum 67, Paragraph 5, officials (as well as any other persons) regarded as 'potentially dangerous' should be looked up immediately. (See 'Memorandum' for details by Article VIII, Section II). Thereafter, they may be (a) interned, (b) released or sent to war, (c) or, (d) if the Italian Government requests that they be turned over to it, (for trial under interned law). Suitable arrangements should be made to comply with the request. (In this connection, by Royal Decree Law dated 26th May 1941, No. 134, the Italian Government has defined Pending Prisoners, and the persons guilty thereof, and provided for their punishment.)

SECRET.

1. 1910 AIRS
Executive

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DEFINITION.

1. WHAT IS
Detention

DEFINITION. Detention may be defined as the detaining, under authority of Allied Military Government, for a period not exceeding three months, for the purpose of further investigation, of any person suspected of committing or intending to commit any act hostile to the Allied Forces or the Allied Military Government, or engaging in any political or other activity in the interests of the enemy or of its armed forces, or hostile to the Allied Forces or the Allied Military Government. The period of detention may be extended on order of the Regional Commissioner or Senior Civil Affairs Officer.

2. RESTRICTIONS. Detention is a creation of Proclamation I, Article VIII, Section II. Its boundaries are strictly defined and its scope is limited. It is employed as an aid to an existing investigation and as a means in the accomplishment of that end. It can only be used as an end in itself.

3. WHO MAY BE DETAINED. Before a person may be detained under authority of this provision, the following must prevail: (A) The person must already be under investigation - i.e. not under mere arbitrary arrest. He must be suspected of committing or intending to commit an act hostile to the Allied Forces or the Allied Military Government, or engaging in any political or other activity in the interests of the enemy or of its armed forces or hostile to the Allied Forces or Allied Military Government. (B) In point of time, the conduct under investigation to be further investigated, or some part of it, must have occurred after the creation of the Allied Force or Allied Military Government. For actual or suspected acts prior to the creation of the Allied Forces or Allied Military Government, intervention under the rules or laws of war and not detention under Proclamation I, Article VIII, Section II, is invoked. (C) A need for further investigation must exist.

4. BY WHOM IS IT DONE. Proclamation I, Article VIII consists of Section I, A and B and Section II. Section II is entitled "Detention". It is silent on the manner in which detention is to be effected; hence, therefore, is made to Section I for answer. Section I, A, reads as follows:

"SECTION I. Arrest and Search."

Any authorized member of the Allied Forces may:

- a) arrest or search any persons suspected of having committed or being about to commit offenses.

Are the acts in A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AB, AC, AD, AE, AF, AG, AH, AI, AJ, AK, AL, AM, AN, AO, AP, AQ, AR, AS, AT, AU, AV, AW, AX, AY, AZ, BA, BB, BC, BD, BE, BF, BG, BH, BI, BJ, BK, BL, BM, BN, BO, BP, BQ, BR, BS, BT, BU, BV, BW, BX, BY, BZ, CA, CB, CC, CD, CE, CF, CG, CH, CI, CJ, CK, CL, CM, CN, CO, CP, CQ, CR, CS, CT, CU, CV, CW, CX, CY, CZ, DA, DB, DC, DD, DE, DF, DG, DH, DI, DJ, DK, DL, DM, DN, DO, DP, DQ, DR, DS, DT, DU, DV, DW, DX, DY, DZ, EA, EB, EC, ED, EE, EF, EG, EH, EI, EJ, EK, EL, EM, EN, EO, EP, EQ, ER, ES, ET, EU, EV, EW, EX, EY, EZ, FA, FB, FC, FD, FE, FF, FG, FH, FI, FJ, FK, FL, FM, FN, FO, FP, FQ, FR, FS, FT, FU, FV, FW, FX, FY, FZ, GA, GB, GC, GD, GE, GF, GG, GH, GI, GJ, GK, GL, GM, GN, GO, GP, GQ, GR, GS, GT, GU, GV, GW, GX, GY, GZ, HA, HB, HC, HD, HE, HF, HG, HH, HI, HJ, HK, HL, HM, HN, HO, HP, HQ, HR, HS, HT, HU, HV, HW, HX, HY, HZ, IA, IB, IC, ID, IE, IF, IG, IH, II, IJ, IK, IL, IM, IN, IO, IP, IQ, IR, IS, IT, IU, IV, IW, IX, IY, IZ, JA, JB, JC, JD, JE, JF, JG, JH, JI, JJ, JK, JL, JM, JN, JO, JP, JQ, JR, JS, JT, JU, JV, JW, JX, JY, JZ, KA, KB, KC, KD, KE, KF, KG, KH, KI, KJ, KK, KL, KM, KN, KO, KP, KQ, KR, KS, KT, KU, KV, KW, KX, KY, KZ, LA, LB, LC, LD, LE, LF, LG, LH, LI, LJ, LK, LL, LM, LN, LO, LP, LQ, LR, LS, LT, LU, LV, LW, LX, LY, LZ, MA, MB, MC, MD, ME, MF, MG, MH, MI, MJ, MK, ML, MM, MN, MO, MP, MQ, MR, MS, MT, MU, MV, MW, MX, MY, MZ, NA, NB, NC, ND, NE, NF, NG, NH, NI, NJ, NK, NL, NM, NN, NO, NP, NQ, NR, NS, NT, NU, NV, NW, NX, NY, NZ, OA, OB, OC, OD, OE, OF, OG, OH, OI, OJ, OK, OL, OM, ON, OO, OP, OQ, OR, OS, OT, OU, OV, OW, OX, OY, OZ, PA, PB, PC, PD, PE, PF, PG, PH, PI, PJ, PK, PL, PM, PN, PO, PP, PQ, PR, PS, PT, PU, PV, PW, PX, PY, PZ, QA, QB, QC, QD, QE, QF, QG, QH, QI, QJ, QK, QL, QM, QN, QO, QP, QQ, QR, QS, QT, QU, QV, QW, QX, QY, QZ, RA, RB, RC, RD, RE, RF, RG, RH, RI, RJ, RK, RL, RM, RN, RO, RP, RQ, RR, RS, RT, RU, RV, RW, RX, RY, RZ, SA, SB, SC, SD, SE, SF, SG, SH, SI, SJ, SK, SL, SM, SN, SO, SP, SQ, SR, SS, ST, SU, SV, SW, SX, SY, SZ, TA, TB, TC, TD, TE, TF, TG, TH, TI, TJ, TK, TL, TM, TN, TO, TP, TQ, TR, TS, TT, TU, TV, TW, TX, TY, TZ, UA, UB, UC, UD, UE, UF, UG, UH, UI, UJ, UK, UL, UM, UN, UO, UP, UQ, UR, US, UT, UU, UV, UW, UX, UY, UZ, VA, VB, VC, VD, VE, VF, VG, VH, VI, VJ, VK, VL, VM, VN, VO, VP, VQ, VR, VS, VT, VU, VV, VW, VX, VY, VZ, WA, WB, WC, WD, WE, WF, WG, WH, WI, WJ, WK, WL, WM, WN, WO, WP, WQ, WR, WS, WT, WU, WV, WW, WX, WY, WZ, XA, XB, XC, XD, XE, XF, XG, XH, XI, XJ, XK, XL, XM, XN, XO, XP, XQ, XR, XS, XT, XU, XV, XW, XX, XY, XZ, YA, YB, YC, YD, YE, YF, YG, YH, YI, YJ, YK, YL, YM, YN, YO, YP, YQ, YR, YS, YT, YU, YV, YW, YX, YY, YZ, ZA, ZB, ZC, ZD, ZE, ZF, ZG, ZH, ZI, ZJ, ZK, ZL, ZM, ZN, ZO, ZP, ZQ, ZR, ZS, ZT, ZU, ZV, ZW, ZX, ZY, ZZ.

NEW
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in Schedule "B" and others to be separately notified, will also be subject to such prior approval. Appointments and removals of all officials will be reported to AOC.

(4) Executive Memorandum No. 62 (Civil Service) - In cases of emergency posts may be filled temporarily. In all other cases, requests for substitutes should be made to appropriate Sub-Commission.

(5) Executive Memorandum (Public Safety). No public official in this field having jurisdiction over more than one Province will be appointed without the prior approval of AOC II. No Brigadier General or higher ranking officer of the OAR may be appointed or removed without the prior approval of AOC II. Except as stated above, any public official in this field may be removed by the SC without prior approval.

(6) Executive Memorandum No. 28, paragraph 4 (Legal) states: "The Regional Commissioner may reserve Italian Judges and officials connected with the Italian Courts and will report such removal to Headquarters of the Allied Control Commission, with the reasons briefly for such removal. The Regional Commissioner may also appoint Judges and legal officials, but in the following cases all such appointments are subject to approval by AOC, and except in emergency are only to be made after prior consultation with the AOC usually.

First President of the Court of Appeal

Procuratori Generali

Procuratori del Re

Presidenti dei Tribunali

First Pretore in towns of over 40,000 inhabitants

All such appointments will be requested to be "until further notice".....

All appointments will be requested to be "until further notice".....

The procedure regarding appointments is now contained in AOC Legal Directive

AOC/4059/4/1, dated 21st July 1944.

(7) Executive Memorandum No. 20 (Agriculture) states: "No appointment or removal of the Chiefs of the Ispettorato Agrario Comunitario or Provinciale will be made without the prior approval of AOC II.

(8) Executive Memorandum No. 30 (Education) states: "The following subjects are reserved from the scope of authority of the Regional Commissioner and action thereon will be directed from AOC II.

- (a) The procedure for the appointment of all school personnel
- (b) Appointment or removal, in all universities and institutions of similar rank, of

(i) Professors and Heads

(ii) President of Faculties

(iii) Titular professors, all members of the Institute Comunitario, personnel of equivalent rank.

(9) Executive Memorandum No. 36 (Public Works and Utilities) states: "The power

Courts and will report such removal to Headquarters of the Allied Control Commission, with the reasons briefly for such removal. The Regional Commissioner may also appoint Judges and legal officials, but in the following cases all such appointments are subject to approval HQ ACC, and except in emergency are only to be made after prior consultation with HQ ACC itself.

First President of the Court of Appeal

Prosecutors General

Prosecutors del Rio

President del Tribunal

First Justice in towns of over 40,000 inhabitants

All such appointments will be expressed to be "until further order".....

All appointments will be reported to HQ ACC as soon as possible.

The procedure regarding appointments is now contained in ACC Legal Directive ACC/4039/1/L dated 21st July 1944.

(D) Executive Memorandum No. 70 (Agriculture) states: "No appointment or removal of the Chiefs of the Inspectorate Agrario Conquistadores or Provinciales will be made without the prior approval of HQ ACC."

(E) Executive Memorandum No. 30 (Education) states: "The following subjects are reserved from the scope of authority of the Regional Commissioner and action thereon will be directed from HQ ACC."

- (a) The procedure for the appointment of all school personnel
- (b) Appointment or removal, in all universities and institutions of studies rank, of
 - (1) Rectors and Heads
 - (ii) President of Republic
 - (iii) Titular professors, all members of the Institute Conquistadores, personnel of equivalent rank.

(F) Executive Memorandum No. 30 (Public Works and Utilities) states: "The persons shall be appointed to or removed from any of the following offices without the prior approval of HQ ACC."

- (a) Departmental Chiefs of A.A.S.S. (Public Highway)
- (b) Departmental Chiefs of the Inspectorate in all other public utilities

(G) Executive Memorandum No. 12 (revised and as dated 12th June 1944) (Appointment of Prefects). The Regional Commissioner appoints (see Form of Appointment annexed). The procedure is contained in that Memorandum, which has been varied by Executive Memorandum No. 70.

- 2 -

It will be observed that there is no specific power to appoint anywhere else to the Regional Commissioner, in the above. Having regard, however, to the power granted, and the limitations referred to therein, an inferred power to appoint would appear to be vested in the Regional Commissioner, and not always to such limitations.

Other than the above, there are no further limitations, as far as is known, upon the power to appoint.

- 5 -

SPECIALIZED DEFINITIONS.APPOINTMENT

1. GENERAL. If any official is a Civil Servant, in case of emergency appointment, he may be filled temporarily. In all other cases, requests for substitution should be made to the appropriate Sub-Commission.
2. APPOINTMENT OF Chiefs of Institutions Agrario Comunitarias or Provinciales. Prior approval of HQ AGO is required before appointment can be made by the Regional Commissioner. A prompt report of such appointment will be made by the Regional Commissioner to HQ AGO.
3. APPOINTMENT OF Lesser Agricultural Officials. Appointment is made by the Regional Commissioner without prior approval from HQ AGO. A prompt report of such appointment will be made by the Regional Commissioner to HQ AGO.

REPLACEMENT

1. GENERAL. If any official is a Civil Servant, in case of emergency, he may be filled temporarily. In all other cases, requests for substitution should be made to the appropriate Sub-Commission.
2. APPOINTMENT OF All Honor Personnel. This is reserved from the scope of the authority of the Regional Commissioner, and action will be directed from HQ AGO.
3. APPOINTMENT OF In all Universities and Institutions of similar rank, of:
 - (a) Rectors and Heads
 - (b) President of Faculties
 - (c) Titular Professors, all members of the Tenatus Academics and personnel of equivalent rank.
 This is reserved from the scope of the authority of the Regional Commissioner and action will be directed from HQ AGO.

PUBLIC WORKS AND UTILITIES

1. GENERAL. If any official is a Civil Servant, in case of emergency, he may be filled temporarily. In all other cases, requests for substitution should be made to the appropriate Sub-Commission.
2. APPOINTMENT OF Comptrollers Chiefs of A.A.S.S. (Public Highway). Prior approval of HQ AGO is required before appointment can be made by the Regional Commissioner. A prompt report of such appointment will be made by the Regional Commissioner to HQ AGO.
3. APPOINTMENT OF Comptroller Chiefs of the Provincial A.A.S.S. (Public Highway). Prior approval of HQ AGO is required before appointment can be made by the Regional Commissioner. A prompt report of such appointment will be made by the Regional Commissioner to HQ AGO.

1. GENERAL. If any official is a Civil Servant, in case of emergency posts may be filled temporarily. In all other cases, requests for substitutions should be made to the appropriate Sub-Commission.

2. APPOINTMENT OF ALL SENIOR PERSONNEL. This is reserved from the scope of the authority of the Regional Commissioner, and action will be directed from HQ ACC.

3. APPOINTMENT OF ALL UNIVERSITIES AND INSTITUTIONS OF SIMILAR RANK, OF:
 (i) Lecturers and Tutors
 (ii) Members of Faculties
 (iii) Titular Professors, all members of the London Association and personnel of equivalent rank.

This is reserved from the scope of the authority of the Regional Commissioner and action will be directed from HQ ACC.

EMERGENCY POSTS AND VACANCIES

1. GENERAL. If any official is a Civil Servant, in case of emergency posts may be filled temporarily. In all other cases, requests for substitutions should be made to the appropriate Sub-Commission.

2. APPOINTMENT OF DEPARTMENTAL CHIEFS OF A.A.S.S. (Public Highway). Prior approval of HQ ACC is required before appointment can be made by the Regional Commissioner. A prompt report of such appointment will be made by the Regional Commissioner to HQ ACC.

3. APPOINTMENT OF DEPARTMENTAL CHIEFS OF THE DEPARTMENT OF A.A.S.S. (Public Highway). Prior approval of HQ ACC is required before appointment can be made by the Regional Commissioner. A prompt report of such appointment will be made by the Regional Commissioner to HQ ACC.

4. APPOINTMENT OF ANY LEADER OFFICIAL. Appointment is made by the Regional Commissioner without prior approval from HQ ACC. A prompt report of such appointment will be made by the Regional Commissioner to HQ ACC.

EMERGENCY POSTS

1. GENERAL. If any official is a Civil Servant, in case of emergency posts may be filled temporarily. In all other cases, requests for substitutions should be made to the appropriate Sub-Commission.

2. APPOINTMENT OF ANY PUBLIC OFFICIAL IN THIS FIELD HAVING JURISDICTION OVER ANY OTHER POSTS. Prior approval of HQ ACC is required before appointment can be made by the Regional Commissioner. A prompt report of such appointment will be made by the Regional Commissioner to HQ ACC.

3. APPOINTMENT OF BRIGADIER GENERAL OR HIGHER RANKING OFFICER OF THE C.A.S. Prior approval of HQ ACC is required before appointment can be made by the Regional Commissioner. A prompt report of such appointment will be made by the Regional Commissioner to HQ ACC.

- 6 -

4. APPOINTMENT of: Any Junior Public Safety Official. Appointment is made by the Regional Commissioner without prior approval from HQ AOC. A pre-empt report of such appointment will be made the Regional Commissioner to HQ AOC.

P. H.

22

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

HP/ps

154

Tel. No. 484234

REFERENCE : ACC/4039/4/-

25 Jul 44

SUBJECT : Appointment of Judicial Officials.

TO : RIO (THRU: Regional Commissioner) Region VIII.

1. Reference your RVIII/19/15 dated 24 Jul 1944.

2. Herewith as requested further copy of ACC/4039/L of 3rd May.

3. A copy of the directive was forwarded to Executive Officer, Region VIII on the 10th June 1944 as Appendix "C" to our ACC.4088/L. It is suggested you obtain this letter from the Executive Officer as several legal directives of interest to a newly activated region were enclosed therewith of which no further copies are available here.

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

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION VIII

24 July 1944. *Legal* *6561* *(14A)*

RVIII/19/15/

SUBJECT : Appointment of Judicial Officials
in AMG Territory.TO : C.L.O., Legal Sub-Commission,
A.C.C., APO 394 (thru RC).

1. Receipt is acknowledged of your ACC/4039/4/L dated 21 July 1944.
2. As this Region was not fully activated at the date of your ACC/4039/L dated 3 May 1944, no copy thereof is in possession of this Office.
3. It is therefore requested that such a copy be forwarded to this Office.

John K. Weber
JOHN K. WEBER,
Col., Inf.,
R.L.O., Region VIII.

Recd (thru RC)
To Reg VIII

1. Ref your letter

2. Herewith is requested

3. A copy of *the digesting copy* of ACC/4039/L of 3 May 1944. *copy of which has already been furnished to Executive Office, Region VIII on 12 June 1944 (see memo)*as Appx C to an ACC/4081/L. *It is suggested you obtain this letter from the Executive Office or send Regal*

-O-O-O-

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HEADQUARTERS

of which is not in a

fully activated region

has not been the of which is not in a

as partly available here.

13A

LEGAL SUBCOMMISSION
LEGISLATION
LEGISLATION
LEGISLATION

21 JUL 64

100/4039/4/2

SUBJECT: Appointment of Judicial Officials in AIG Territory.

TO : DIRECT (THRU 20) Regions 1, 2, 3, 4, 5, 6, 7 & 8, Rome Region.
Regions 1, 2, 6, 7 & 8, 5th & 6th Army for information.

In partial implementation of 21st Subcommission's Directive 100/4039/2 of 3 May 1964 and of previous directives on this subject.

1. AIG territory administered by Regions.

Whenever it is necessary in such territory to appoint, transfer or promote locally a judicial official of any category or grade the following procedure will be adopted:

(i) The PIO will forward the name of the candidate to PIO who will refer it to the competent Procuratore Generale.

(ii) The Procuratore Generale will obtain from the Minister of Justice his advice on the candidate's suitability and communicate the result of the inquiry to the PIO. The Minister will forward to Legal Subcommission a copy of his communication to Procuratore Generale.

(iii) If there is a vacancy in an office for which no suitable candidate is locally available, the PIO will advise the PIO who will request the competent Procuratore Generale to obtain the name of a suitable candidate from the Ministry. The Minister will forward to Legal Subcommission a copy of his communication to Procuratore Generale. Upon receipt of the name the Procuratore Generale will communicate it to the PIO.

2. Whenever the Minister of Justice requests that a judicial official be transferred, appointed or promoted in the aforementioned territory the following procedure will be followed:

(i) The Minister will direct his request (copied to Legal Subcommission) to the competent Procuratore Generale and in the proposed movement of an official involves offices subject to different Procuratori Generali, the Minister will contact all Procuratori Generali concerned. *When possible, the request will be relayed to the Procuratore Generale through the Ministry to their respective PIOs for their recommendation.*

3. Whenever the seat of the competent Procuratore Generale is in an AIG area or in any occupied territory his functions in this respect will involve only the competent Procuratore del Regno.

4. All provisions contained in the Directive 100/4039/2 of 3 May 1964 Section 4 (III), (IV), (V), (VI) and Section B and C remain in full force.

5. As in the past all communications between Italian authorities in AIG and any territory on one side and those in Italian administered territory on the other will be processed through the usual AIG channels (PIO-EC-13).

proceedure locally a judicial official.

(1) The HIO will forward the name of the candidate to HIO who will refer it to the competent Procuratore Generale.

(2) The Procuratore Generale will obtain from the Minister of Justice his advice on the candidate's suitability and communicate the result of the inquiry to the HIO. The Minister will forward to local Subordinate a copy of his communication to Procuratore Generale.

(3) If there is a money in an office for which no suitable candidate is locally available, the HIO will advise the HIO who will request the competent Procuratore Generale to obtain the name of a suitable candidate from the Ministry. The Minister will forward to local Subordinate a copy of his communication to Procuratore Generale. Upon receipt of the name the Procuratore Generale will communicate it to the HIO.

3. Whenever the Minister of Justice requests that a judicial official be transferred, appointed or reappointed in the aforementioned territory the following procedure will be followed:

(1) The Minister will direct his request (see to local Subordinate) to the competent Procuratore Generale and if the proposed movement of an official involves offices subject to different Procuratori Generali, the Minister will consult all Procuratori Generali concerned. (2) The Minister will relay the request of the Minister to their respective HIOs for their recommendation.

4. Whenever the seat of the competent Procuratore Generale is in an area of emergency occupied territory the procedure in this respect will involve upon the competent Procuratore Generali.

5. All provisions contained in the Directive 100/1039/1 of 3 May 1944 (see Section A, Part (II), (IV), (V), (VI) and Section B and C remain in full force.

6. As in the past all communications between Italian authorities in the territory on one side and those in Italian administered territory on the other will be forwarded thru the usual 100/10 channels (HIO-HIO-16 HIO Subordination).

7. In territory administered by the HIO.
The procedure set out in the Directive 100/1039/1 of 3 May 1944 will be followed without change.

Check and

100/1039/1
Colonel, C.O.
Chief of Local Officer.

19

SECRET (12A)

ART/gad

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

AOC/1102/3/L

17 July 1944

SUBJECT: Further points under Document "D".

TO : Acting Head, Administrative Section.

1. In the course of the conversations with the representative of the Italian Government (Prof. Forti) on the contents of the transfer documents two points were raised on the other side which still call for solution, namely:

- (a) The preparation of a letter for the Acting Chief Commissioner's signature to the Italian Government on the subject of the appointment and dismissal of high officials, on the same lines as at the time of the previous handover, and referred to by Prof. Forti as the "gentleman's agreement".
- (b) A request that the unlimited power of arrest given to members of the Allied Forces under the reenactment of Article 3 of PHL No. 31 of 11 Feb'y 44 be limited to the commission of offences "in flagrante delicto", or otherwise to specifically authorized military personnel.

2. As to (a) above, traces of the existence of the so-called "gentleman's agreement" are evidenced in the accompanying file AOC/1039/1/L at flag "A", but searches at and enquiries of the Secretary General's office fail to produce a copy of the original document exchanged between Gen. Mason Macfarlane and Marshal Badoglio. The only solution would appear to be that of asking the Italian Government for a copy of their original.

In regard to (b) above, Public Safety Subcommittee when consulted (Lt. Col. Thackeray-Lt. Col. Wilcox) expressed itself in favour of restricting the unlimited powers in the manner suggested, subject to such policy being agreed at the proper level.

May we have your instructions hereon please.

Copy
A. R. THACKERAY, Lt. Col.
Italian Branch,
For Acting Chief Legal Officer.

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4039/4/L.

/rlp.
15 July 1944.

SUBJECT : Appointment of Italian Judicial Officials in AMG Regions.

TO : Acting Chief Legal Officer, Legal S/C.

1. It is suggested contrary to the procedure adopted up to this day for the appointment of judicial officials in AMG controlled provinces, that the Procurators Generale of the Court of Appeal District where a vacancy exists, should write direct to the Ministry of Justice after consultation with the local legal officer, requesting that the necessary appointment be made. Copy of the answer from the Ministry of Justice should be communicated to this Hq for information. The same method would apply if the Minister desires to ~~initiate~~ an appointment or a transfer and the appointment would become effective in the province by order of the PG or PG as the case may be.

2. This new method would save considerable time and staff work, and it is further pointed out that on no occasion has this Hq been in a position to screen effectively any of the nominees of the Ministry and the only "ardent fascists" appointed to judicial posts have been selected by AMG officers ~~themselves~~.

3. Finally it must be remembered that either the Minister is anti-fascist and just as anxious as this Commission to clear out the undesirable elements of his administration, or he is not and in the latter case ought to be removed.

G. G. HANMFOED.
Lt Col,
Officer i/c Italian Branch,
For Acting Chief Legal Officer.

Copy to: VP Admin Sec.

1
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 10A
 REAR HEADQUARTERS
 ALLIED CONTROL COMMISSION
 Legal Subcommittee
 280 394

RHC/ndf

10 June 1944

ACC/4233/L

SUBJECT: Promotions of Italians in Military Government Territory.

TO : Executive Commissioner, ACC.

1. The Director, Communications Subcommittee has asked our advice on the power of ACC to appoint an Italian to a civil service position and to change on a permanent basis his civil service grade so that it will be binding on the Italian Government hereafter. We have advised the Director that, while in the exigencies of Military Government Italian officials may be removed from office and others substituted, officers of ACC do not have the power to make a promotion in grade which will be binding on the Italian Government. A person acting as a substitute gets the salary called for by the position he is filling even though he is doing so temporarily.

2. The above question was prompted by the fact that the ACC Region 3 is reported by the Italian Government to have not only appointed certain Italians to governmental positions in Region 3 but also by order to have promoted them from one grade to a higher grade.

3. Obviously such promotion in grade is beyond the power of the occupant of occupied territory. It embarrasses the Italian government and it will also embarrass the official himself when he learns that the promotion in grade is illegal. Furthermore it will not serve to enhance the prestige of ACC.

4. The Italian Government in a long letter to the Director, Communications Subcommittee cites many specific instances of this purported promotion in grade.

5. For the reasons above expressed, I feel that the ACC Region 3 should be advised of the error in this connection and be directed that so much of each order which purports to promote in grade, whether made on a regional or provincial basis, be rescinded.

6. To avoid the same error being repeated in other parts of Military Government Territory I think it not out of place to suggest that a general directive be issued on this subject. If you desire, I will be glad to prepare a draft of such directive for you.

16
 G. R. UPTON, Colonel
 Chief Legal Officer.

Copy to Director, Communications Subc.

9A
 JOINT HEADQUARTERS
 ALLIED CONTROL COMMISSION
 Local Subcommission

APC 154

302/4039/1

3 May 1944

SUBJECT: Appointment of Judicial Officials in Occupied and Unoccupied Territory

TO : SACs (and SACs) Regions 1, 2, 3, 4, 5, 6 & 7.
 SACs AGC 5th & 6th Armies.

In pursuance to and partial modification of previous Directive issued on this subject:

1. Occupied Territory.

A. Whenever it is necessary in occupied territory to appoint a judge or a magistrate locally or to promote such official to a higher office, the following procedure will be adopted:

(i) The name of the candidate will be forwarded to this Subcommission who will consult the Minister of Justice for his advice on the candidate's suitability.

(ii) This Subcommission will inform the DGO of the Region or Army concerned, who can then proceed with the appointment.

(iii) Order appointing Italian State or Provincial personnel, judicial or otherwise, must be signed by the SAC, AG or AG as the case may be, not by the DGO.

(iv) Appointments must be of a temporary nature for the period of occupation not to prejudice the right of the Italian Government to proceed with regular transfer of personnel after the territory has been restored to their administration.

(v) As soon as the order of appointment is issued, the Finance Officer should be notified and he, in turn, should instruct the local "Intendenza di Finanza" to pay the salary attached to the office.

(vi) The office always carries the salary irrespective of the "grado" of the official in charge.

B. The foregoing does not preclude the right of duly authorized officers in occupied territory to make temporary appointments to take effect immediately where cases are required urgently to be tried. This will happen most frequently in army areas.

In making such temporary appointments however it will be made clear that they are made subject to confirmation by higher authority; this is particularly necessary where an official is being appointed to an office of higher grade than that which he holds.

C. The Regional or Provincial Commissioners may as formerly dismiss any judicial official on account of incompetence, political views, security on other grounds.

In pursuance to and applied modification of previous Directive issued on this subject:

1. Occupied Territory.

A. Whenever it is necessary in occupied territory to employ a judge or a magistrate locally or to promote such official to a higher office, the following procedure will be adopted:

(i) The name of the candidate will be forwarded to this Subcommission who will consult the Minister of Justice for his advice on the candidate's suitability.

(ii) This Subcommission will inform the HQ of the Region or Army concerned, who can then proceed with the appointment.

(iii) Order appointing Italian State or Provincial personnel, judicial or otherwise, must be signed by the SCIO, EC or HQ as the case may be, not by the S/O.

(iv) Appointments must be of a temporary nature for the period of occupation not to prejudice the rights of the Italian Government to proceed with regular transfer of personnel after the territory has been returned to their administration.

(v) As soon as the order of appointment is issued, the finance officer should be notified and he, in turn, should instruct the local "Intendenza di Finanza" to pay the salary attached to the office.

(vi) The office always carries the salary irrespective of the "grado" of the official in charge.

B. The foregoing does not preclude the right of duly authorized officers in occupied territory to make temporary appointments to take effect immediately where cases are required urgently to be tried. This will happen most frequently in army areas.

In making such temporary appointments however it will be made clear that they are made subject to confirmation by higher authority; this is particularly necessary where an official is being appointed to an office of higher grade than that which he holds.

C. The Regional or Provincial Commissioners may as formerly dismiss any judicial official for incompetence, political views, security or other grounds.

In any such case a report will be made to Legal Subcommission HQ ACC stating briefly in a Confidential Letter the grounds of the dismissal.

2. Unoccupied Territory.

See Para. 9 of Directive on Legal Liaison Officers in unoccupied territory ACC/11355/L dated 1 May 44.

G. R. WILSON, Colonel
Chief Legal Officer.

HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

24 March, 1944.

REFERENCE : ACC/4059/L.

SUBJECT : Appointment and Dismissal of Judicial Personnel in
Restored Territory.

TO : H. H. The Minister of Pardon and Justice.

1. This is to confirm and complete the understanding reached between Your Excellency and this Sub-Commission on the above subject at the meeting held on 24 March, 1944, namely that the Ministry will obtain the approval of this Sub-Commission before they proceed to dismiss or in any way change the official status of officials holding office within the restored territory who were appointed by the A.M.G. authorities during the occupation by Allied Forces. For this purpose the Ministry will communicate to the Sub-Commission the name of the official concerned, his seat of office and reasons for the proposed action.

2. Furthermore in pursuance of the understanding reached between General Kahan Macfarlane and Marshal Badoglio the Ministry will please submit the name of every official selected to occupy any of the following offices with the restored territory before the appointment is made :-

- (a) First President of Court of Appeal.
- (b) Counsellor of Cassation and of Appeal.
- (c) Procuratore Generale.
- (d) Sostituto di Procuratore Generale.
- (e) Presidente di Tribunale.
- (f) Procuratore del Re.
- (g) Primo Pretore in towns of at least 50,000.

3. Your excellency may rest assured that foremost among the objects of the Allied Authorities is to assist the Italian Government in its efforts to rid the present administration of its Fascist elements, at the same time recognising the valuable services rendered by Italian officials to the Allied Military Government during their period of office.

4. With this common aim in view, it is felt that the co-operation between the Ministry of Justice and the Legal Sub-Commission cannot fail to remain harmonious.

GERALD R. UNJOHN.
Colonel,
Chief Legal Officer.

RGU/vow.

759 di prot.

4039

COPY

7A

18 MAR 1944

Salerno, 13 March 1944

Dear General,

After having worked with me for quite some time, you know that it is my absolute decision to proceed in any matter in full accord with the Allied Control Commission over which you preside.

With regard to this, at next Thursday's Council of Ministers, I shall give definite orders to the effect that no government appointment be made without previous agreement with the Commission.

I hope that the same feelings prevail with the Control Commission toward us, so that it might be possible to come, in common agreement, to a revision of certain positions given to certain persons in the provinces recently turned over to the Italian Government, and which render nearly impossible a normal functioning of government.

With cordial greetings,

/s/ Badoglio

To General Noel Mason Mac Farlane
Chief of the Allied Control Commission
Naples.

13

SOFT

CC/P/134/900.1

10 March 1944

Recent events over certain appointments have shown that it is clearly desirable for us to have a mutually satisfactory arrangement to prevent misunderstandings and subsequent difficulties which it is in all our interests to avoid. I would suggest, therefore, that it should be agreed that you will let us know before any appointment to the Government is actually announced. Equally, I should be glad if you will impress upon all the members of your Government that they should, in turn, consult the appropriate authorities in the Allied Control Commission before making any senior appointments in their own departments either at the seat of the Italian Government or in those provinces under Italian jurisdiction. As they already enjoy close and friendly relations with the Subcommissions with whom they work, this should be an easy matter to arrange. It is clear that each minister must be strictly accountable for all appointments in his department, and the arrangement which I propose should be to their interests in carrying out the work which we are doing together.

I should be glad if you will let us know whether you are in full agreement with the proposals made in this letter. If so, I will give the necessary instructions to the various Heads of Sections and Subcommissions of the Allied Control Commission as soon as you confirm that members of your government have been notified of our agreement.

WILLIAM MARSH HICKMAN
Lieutenant General
Chief Commissioner

S. S. Marshal Pietro Badoglio
Capo del Governo

CCPI

Appointments by the Italian Government
as to which

The Allied Government reserve the right to be consulted
listed under appropriate Sub-Commission

JUDICIAL

First Presidents of Courts of Appeal
Councillors of Cassation and Appeal
Procuratori Generali
Sostituti di Procuratori Generali
Presidenti di Tribunali
Procuratori del Re
Primo Pretori (of town of pop 50,000)

INTERIOR

Prefects
Vice Prefects
Vice Prefect Inspectors
Consiglieri Primo Grado
Consiglieri Secondo Grado
First Secretary to Prefect
Special Secretary
Director of Religious Affairs
Sindaci } of communes of pop 15,000
Town Clerk } " " " " "

PUBLIC SAFETY

Legion Commanders CC UN
Legion Commanders Guardia di Finanza
Questori Public Security Service
Regional Directors Prison Service
Commandants (and upwards) Fire Service

EDUCATION

Rectors
Professors (titular)
Presidi of Faculties
Academy Inspectors of Schools (local
and centralized)
Heads of Divisions in Ministry
of Education
provveditori
Presidi of Schools
Inspectors of Schools
University Lecturers

CCFI

TD

No. 739. di prot

Salerno, 13 March 1944.

Dear General,

After having worked with me for quite some time, you know that it is my absolute decision to proceed in any matter in full accord with the Allied Control Commission over which you preside.

With regard to this, at next Thursday's Council of Ministers, I shall give definite orders to the effect that no government appointment be made without previous agreement with the Commission.

I hope that the same feelings prevail with the Control Commission toward us, so that it might be possible to come, in common agreement to a revision of certain positions given to certain persons in the provinces recently turned over to the Italian Government, and which render nearly impossible a normal functioning of government.

With cordial greetings,

/s/ Badoglio

To General Noel Mason MacFarlane
Chief of the Allied Control Commission
Naples.

10

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APC 394

/gaf

21 February 1944.

ACC/4039/L

SUBJECT: Directive No. 129 dated 20 Jan. 44 of the Chief of Government on the Status of the Italian Authorities in Allied Controlled Territories.

TO : H.E. The Minister of Pardon and Justice.

(2A (Italian))
(3A (English))

I have read with much interest the above referred to directive, a copy of which you have kindly transmitted to me, especially as regards the penultimate paragraph of the directive dealing with "comunicazioni di carattere particolare".

I am confident that you will agree that the procedure adopted with common accord up to the present has worked most satisfactorily and that the decisions taken have been in the best interests of judicial administration. As you are aware, under the system now obtaining, all organs of the Allied Military Government are ultimately responsible to the Allied Control Commission. Applying this principle to the relation between the Legal Subcommittee of the Allied Control Commission and the Ministry of Pardon and Justice this procedure ~~will~~ ^{should} operate as follows:

(a) All communications originating in the Ministry and destined for Italian officials with the seat in Allied occupied territory north of the northern boundary of the Provinces of Salerno, Potenza and Bari will continue to be transmitted solely through the Legal Subcommittee.

(b) All requests of the Ministry for movement of judicial personnel within the Allied occupied territory and all other proposals of steps to be taken within such territory will be forwarded to the Legal Subcommittee which will consider them and in case of approval, issue the necessary instructions to the competent local AMG authority. The present practice of limiting the movement of personnel within the operational zones to the minimum and of permitting such movement only in case of urgent and special reasons must be followed due to the well known considerations of military character.

A specific case to which I have to draw your attention has occurred in relation to Consigliere Cav. Uff. Cervelli Francesco (Foggia) - your letter No. 917 dated 3 Feb 44. Your proposal as to this transfer from Foggia to Bari was duly referred by this office to the Allied Military Authority on 16 Jan 44 but was not confirmed. However, notwithstanding

the absence of any confirmation transmitted through this Subcommission, a D.R. was issued dated 31 Jan 44 making this appointment. It is suggested to obviate the recurrence of any misunderstanding of this kind which might have serious consequences to the officials concerned apart from causing administrative complications, that it be a settled rule of procedure for no Decree affecting the appointments of judicial personnel in occupied territory to be issued until such appointment has been confirmed through this Subcommission.

Accordingly I must ask you to take the necessary steps to hold in suspense the execution of the Decree in question until such time as the Military Authority have consulted with this office, and taken a decision thereon.

In view of the foregoing explanations I am confident that in the future the procedure for transfer of officials set forth under (b) above will be followed by the Services of the Ministry in all cases where a movement to or from the Allied controlled territory is involved, and I should be glad to receive your confirmation hereon.

G. R. URICH
Colonel
Chief Legal Officer.

(5A)

14 Feb 44

EXCO MEMO NO 18

See para 4 of above Exco Memo in "Instructions for
Guidance of Officers of A.C.C."

7

EXCO MEMO No 147

EXTRACT

2 Feb 44

(4A)

8. JUDGES AND OFFICIALS OF COURTS.

(a) All judges and Italian Legal officers will be appointed, promoted or removed by the Italian Government with the consent of Hq. ACC and the RC will be not responsible for any further appointments, promotions or removals.

(b) Chief Legal Officers in the Regions will appoint a legal liaison officer to act with the First President of each Court of Appeal who will carry out the following duties:

(i) To advise and assist the First President in opening any Courts not yet opened in the administration of the Court of Appeal District.

(ii) To see that all appointments, promotions and removals of officials made by the Italian Government as notified to him by Hq. ACC are duly carried out.

(iii) To notify immediately Hq. ACC (Through Regional Hq) of any purported appointments, promotions and removals not sanctioned by Hq. ACC. If any judge or official appointed by AIG is proposed to be removed without the sanction of Hq. ACC he will advise the First President against taking any action without the consent of Hq. ACC.

(iv) To report to Hq. ACC (Through Regional Hq) any cases of biased or incompetent behavior on the part of judges or officials which come to his notice and to investigate any complaints received from an advocate or prisoner of unfair treatment by an Italian Court, and if the complaint appears to be well founded to forward a report and recommendation to Hq. ACC (through Regional Hq).

(v) Generally to keep Regional Hq and Hq. ACC advised of all relevant matters in the Court of Appeal District such as the reorganization of the Bar Association, the holding of examinations for advocates or procuratori, the reorganization of Notarial Councils and so forth.

(c) Chief Legal Officer in the Regions will inform Hq. ACC of the officers appointed as liaison officers to First President as soon as possible.

(d) Committees already sitting to consider the appointment of judges and officials will be abolished unless the First President desires their continuance, nor will it be the duty of the Chief Legal Officers in the regions to take any steps to fill any vacancies to Italian Legal Offices.

(e) If a list of judges has not already been compiled and sent to Hq. ACC the Chief Legal Officers in the Regions will compile a list of all judges and legal officials in office and forward it to Hq. ACC as soon as possible.

TRANSLATION

The Head of the Government.

R.M. 151, 20 January 1944.

SUBJECT:

Relations of Administrations
(translator's note: Ministries)
with Italian Authorities resid-
ing in provinces under direct
Allied control.

To T.E.'s the Ministers

To T.E.'s the Undersecretaries of State

It sometimes occurs that the Ministries transmit directly to the Italian authorities residing in Allied controlled provinces, communications contain-
ing acts of general or special character which cannot be executed because,
as it is known, the task of issuing acts in the said provinces has been re-
served in agreement with the Allied Military Command to Allied Military
Authorities for such time as the military exigencies in the said territories
would appear to prevail upon the exigencies of the civilian life.

As for the Acts of general character (be they legislative pronounce-
ments or only ministerial instructions) it is advisable that they be uniformly
applied in the entire liberated territory; however, in order to obtain such
result without violating the spirit of existing agreements it is necessary
that Your Excellencies from time to time call the attention of the Allied
Control Commission to the fact that it would be useful if the Allied Authori-
ties would enact individual circulars or legislative acts emanating from the
R. Government in provinces not yet restored to direct Italian administration.

Such procedure will constitute a new proof of the spirit of loyalty which
animates the actions of the R. Government and by the same token it will have
a beneficial effect upon the willingness of collaboration generally displayed
by the Allied Authorities.

As for the communications of special character (e.g. transfers of
personnel) I take the opportunity of reminding Your Excellencies that these
communications should be forwarded to the Senior Officials of the AMG who
exercise jurisdiction in the respective territories as per enclosed list.

An acknowledgement of receipt and a confirmation will be appreciated.

The Head of the Government

Signed after: BADOGLIO

has through ACC - no list attached. conf.



RISERVATA

IL CAPO DEL GOVERNO

Prot. N.129/Pres.Cons.

P.M.151, 11 20 gennaio 1944

OGGETTO:

Rapporti delle Amministrazioni
con le Autorità Italiane comprese
nelle provincie sotto il di-
retto controllo degli Alleati.

ALLE IL.ER. I MINISTRI

ALLE IL.ER. I SOTTOSGEGNATARI DI
STATO

Avviene talvolta che le Amministrazioni Centra-
li rimettano direttamente, alle Autorità Italiane delle pro-
vincie tuttora sotto il controllo delle Autorità Alleate,
comunicazioni contenenti disposizioni, di carattere genera-
le o particolare, le quali peraltro risultano poi non su-
scettibili di esecuzione perchè, come è noto, si è stabili-
to - d'accordo con il Comando Militare Alleato - che il com-
pito di impartire disposizioni nelle menzionate provincie
sia riservato alle dette Autorità Militari sino a quando
nei territori stessi le esigenze militari appaiano prevalen-
ti su quelle della vita civile.

Per quanto riguarda le disposizioni di caratte-⁴
re generale (siano esse vere e proprie norme legislative ov-
vero soltanto istruzioni ministeriali) è opportuno che le
medesime trovino applicazione uniforme in tutto il territo-
rio liberato; ma per conseguire, nello spirito degli accordi
vigenti, siffatto risultato, è necessario che le IL.ER. fac-
ciano presente di volta in volta alla Commissione Alleata
di Controllo l'utilità che singole circolari o norme legi-
slative, emanate dal R.Governo, siano adottate anche dalle

./.



IL CAPO DEL GOVERNO

./.

Autorità Alleate preposte alle provincie non ancora restituite alla diretta amministrazione italiana.

Tale prassi, mentre varrà a dare sempre nuove dimostrazioni dello spirito di lealtà cui si informa la azione del R. Governo, risulterà certamente proficua per la collaborazione della quale le Autorità Alleate sogliono dar prova.

*Per
transferta
in*

Per quanto riguarda invece comunicazioni di carattere particolare (es. trasferimenti di personale) ritengo opportuno rammentare alle M.M. che le comunicazioni stesse vanno inoltrate ai Capi Ufficio dell'A.M.G. aventi giurisdizione nei rispettivi territori come dall'unito elenco.

Tornerà gradito un cenno di ricevuta e di assicurazione.

IL CAPO DEL GOVERNO

P/to: RADOGLIO

4039
 ALLIED MILITARY GOVERNMENT
 SICILY REGION HEADQUARTERS
 A.M.C. 394

NUMBERED BY COMMAND:
 NOT 12

2776 Maple
 27 January 1944

Legal

SUBJECT: Promotions, Transfers of personnel, Increments of Salary.

TO : All State Financial Offices,
 Sicily Region.

1. Promotions.

- (a) No promotions will be permitted except by written order of the Regional Civil Affairs Officer.
- (b) No applications for promotion will be considered by the A.M.C. except those applications which are specifically invited by him.
- (c) Where promotions have been made since the occupation, but without the written authority of A.M.C., those promotions are regarded, retrospectively, and until further orders, as being of temporary nature and not authorized by A.M.C.

2. Transfers. Where it is definitely proved that it is urgently necessary in the interests of the State, Intendenti di Finanze may transfer personnel from office to office in the same Department and the same Province.

Where a promotion of such personnel will not be permitted, there will be no objection to transfers involving the performance of the duties of a higher grade. In no case, however, will increments of salary be permitted, although Heads of Departments may endorse the personnel record of any official where he has in fact effectively performed the duties of a grade superior to his own.

Transfers of personnel between Province and Province must be authorized in every case by Region A.M.C. Head.

3. Personal Increments of Salary.

- (a) Where normal increments of salary have fallen due since the date of occupation and have not been paid by Intendenti di Finanze may authorize Uff. Provinciale Tesoro to pay such increments to the individuals concerned, provided always that entitlement to increments is proved by reference to the law and regulations.

ACC-DIST

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- (b) Increases of increments accrued since the date of occupation may be allowed.
- (c) This authority extends only to personnel who have been continuously on duty since the date of occupation.

Charles Politti

CHARLES POLITTI
Lieut. Colonel,
Regional Civil Affairs Officer.

Distribution B

Finance Division 50
Source 35

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