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

ACC

10000/142/463

OLD PAPERS &
PREPARATION
SEPT. 1943 – M

2306

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

00/142/463 OLD PAPERS & DRAFTS LEADING TO FUSION OF AMG/ACC & PREPARATIONS OF DIRECTIVES, LEGAL
SEPT. 1943 – MAR. 1944

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FILE CLOSED :1 March 1944

authorities should give a full statement of the facts to the local representative of ACC with the request that an Allied Military Court be convened to hear the charges. It will be the responsibility of ACC to frame the charges and constitute the Court.

As an incident to the power to try such offenders there is reserved to the Allied Forces the power to arrest persons who are believed to have committed such offences. High ranking Italian officials and officers of the Italian armed forces should however only be arrested in collaboration with the appropriate Italian official (e.g. the Commanding Officer of the officer concerned). In all cases of arrest the local ACC officer will be informed beforehand, if possible, and if not, immediately thereafter.

4. Military Zones: In the agreements under which the powers of government are being restored to the Italian Government, the right is reserved to declare specific areas in the restored territory to be Military Zones. Upon the issuance of such a declaration, the right to exercise all or some of the powers of military government in the Zone in question become once more vested in the Commander in Chief. It is hoped that the need for the establishment of such Zones will never arise, but should the general, economic, labour or political situation in any area become such as to lead the area Commander to feel that such action is necessary, he should so signify to the ACC in C with a full report on the facts which justify his view. 9 The Allied

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4. Military Zones: In the agreements under which the powers of government are being restored to the Italian Government, the right is reserved to declare specific areas in the restored territory to be Military Zones. Upon the issuance of such a declaration, the right to exercise all or some of the powers of military government in the Zone in question become once more vested in the Commander in Chief. It is hoped that the need for the establishment of such Zones will never arise, but should the general, economic, labour or political situation in any area become such as to lead the area Commander to feel that such action is necessary, he should so signify to the COC in C with a full report on the facts which justify his ~~this~~ 9 The Allied Forces may also reoccupy any part of Italian territory but the right to constitute a Military Zone will in practice render it unnecessary to exercise this right in respect of any local disorders.

5. Prisoners of War and Civilian Internees: It has also been agreed with the Italian Government that the Allied Forces may continue to hold or require the Italian Government to hold in custody prisoners of war or civilian detainees in unoccupied territory. If the Allied Forces require to arrest any person for security or other reasons such arrest should, however, be carried out by Italian officials unless in any particular case it is thought that a request to the Italian police to arrest a suspect would ineffective. In ALL cases, except in emergency, the local ACC officer ~~will be consulted before such an arrest is made~~ must be informed of the intention to make any such arrest, whether by the Allied or Italian authori-

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/enl 120

NEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

1 March 1944.

ACC/4060/L

SUBJECT: Province of Salerno.

TO : RLO (thru RC) Region III.

1. Your attention is directed to the fact that the Province of Salerno is being transferred from Region II to Region III.

2. Inasmuch as this Province forms a part of the territory turned over to the Italian Government on 11 Feb 1944, and since the control to be exercised will be advisory and not executive, you will find enclosed herewith for your guidance Executive Memorandum No. 7 setting forth instructions to Legal Officer in Regions transferred to the Italian Government.

128

G. R. UPJOHN, Colonel
Chief Legal Officer.

4060 1200

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394
G-1

REFERENCE: 16052/G-1

23 February 1944

103

Amendment No. 2 to Executive Memorandum No. 2 dated 7 Feb 44.
(Executive Memorandum No. 25 dated 18 Feb 44 constituted Amendment No. 1)

114

1. It has been decided that the Legal Sub-Commission will not in future be represented at Main HQ. Any officers desiring to avail themselves of legal advice in connection with ACC activities will therefore refer to the HQ of the Sub-Commission at SALERNO.

2. MFA & A Sub-Commission will be located at Rear HQ with a detachment at Main HQ.

3. The following amendment to Executive Memorandum No. 2 dated 7 Feb will therefore be made :

Para 3e(1) :

Delete "Legal" and substitute "Monuments, Fine Arts and Archives".

4. Effective immediately, the Air Sub-Commission will move location from Rear to Main Headquarters and the following amendment to Executive Memorandum No. 2 made :

Para 3c(2) :

Insert "except Air Sub-Commission which will be located at Main HQ".

BY COMMAND OF LIEUT GENERAL MASON MACFARLANE

Amdts made 27/2/44

F.A. PURGOLD,

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

2. [illegible]
Main HQ.

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Amdts made 27/2/44

BY COMMAND OF LIEUT GENERAL MASON MACFARLANE

F.A. PURGOLD,
Lt-Colonel, A.A.
G-1

RCE/FAD.

DISTRIBUTION

1 - Deputy Chief Commissioner
1 - Secretary General
1 - Political Section
25 - Economic Section
15 - Admin Section
1 - Telecommunications Sub-Commission
1 - Telecommunications Sub-Commission (Main HQ).
1 - PA to Executive Commissioner
1 - Civil Affairs Branch
1 - Information Division
1 - Displaced Persons Sub-Commission
1 - Liaison Officer, Main HQ
1 - Executive Officers
1 - Security Branch
1 - G-1
1 - G-4
1 - Adjutant
1 - HQ Commandant, Main HQ
1 - HQ Commandant, Rear HQ
1 - ACC Liaison HQ ACMF
6 - Spare

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DRAFT

MOST SECRET

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394.

GRU/gmf

File

SUBJECT: Restoration of Italian Territory.

TO : General Officer Commanding in Chief
Allied Central Mediterranean Force.

It is important that the Military Commanders in those areas, i.e. Sicily and Italy south of the northern boundaries of Salerno, Potenza and Bari, recently restored to the control of the Italian Government should be informed of the rights which they can exercise in those areas after the restoration has occured and of the procedures which should be followed in exercising those rights. The following paragraphs, cast in the form of a suggested directive, indicate the most important of those rights and procedures, and it is suggested that all concerned by advised at the earliest possible moment of their substance. May I please be supplied with 12 copies of any directive you may issue.

1. General: Full powers of government will be possessed by the Italian authorities in the restored areas, subject only to such rights as have been reserved by the Commander in Chief by agreement with the Italian Government. The most important of these rights are set out ~~below~~ in paras 2-9 below

Apart from these rights, Allied Military Government comes to an end. This means that all Proclamations and Orders of the Military Governor and those made by his authority come to an end and are no longer operative; further, no

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exercising those rights. The following paragraphs, cast in the form of a suggested directive, indicate the most important of those rights and procedures, and it is suggested that all concerned by advised at the earliest possible moment of their substance. May I please be supplied with 12 copies of any directive you may issue.

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Apart from these rights, Allied Military Government comes to an end. This means that all Proclamations and Orders of the Military Governor and those made by his authority come to an end and are no longer operative; further, no such Proclamations or Orders can be issued in the future. The Military Governor and his representatives in various areas no longer have executive and administrative powers but subject to the ~~certain additional~~ rights, ~~the most important of which are~~ set out below, the Military occupy a position analogous to, for instance, U.S. troops quartered in England.

Although there will be officers of the Allied Control Commission in occupied Italy they will be there to advise and control the Italian Government and not as governors. One of the most important functions of the local officers of ACC will be to act as liaison officers between Allied military

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formations in the area and the Italian administrative officials, local, provincial and national. In order that the supervision of Italian administration may be coordinated and effective it is in the highest degree important that all but the most routine dealings between the Italian administration and the Allied military authorities be conducted through the ACC. When the Italian Government is directly represented on a control board or committee, the Military may, of course, deal directly with that organization without the intervention of ACC.

2. Requisitioning: The Allied Forces have retained the power and right to requisition private and public property and services and to maintain and quarter troops in unoccupied Italy - these rights must be exercised sparingly and only for reasons of pressing military necessity. These rights, furthermore, will be exercised through the Italian authorities. If, for example, a building is needed by the Military it should be requisitioned through the Sindaco of the town where the building is situated. It is not necessary, however, in requisitioning property that the local representative of ACC should be approached; contact between the Military requisitioning authority and the Sindaco may be direct. Needless to say, the usual formalities of requisitioning used in occupied territory should be strictly followed in unoccupied Italy. In particular the property of the dissolved fascist societies must not be seized without giving a receipt and then only if required for reasons of military necessity. The question of payment for such ex-fascist property will be determined hereafter.

3. Allied Military Courts: As the Proclamations of the Military Governor cease to operate in the restored area, except as hereafter indicated, all crimes will be tried under Italian law and in Italian courts. The Allied For-

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sparingly and only for reasons of pressing military necessity. These rights, furthermore, will be exercised through the Italian authorities. If, for example, a building is needed by the Military it should be requisitioned through the Sindaco of the town where the building is situated. It is not necessary, however, in requisitioning property that the local representative of ACC should be approached; contact between the Military requisitioning authority and the Sindaco may be direct. Needless to say, the usual formalities of requisitioning used in occupied territory should be strictly followed in unoccupied Italy. In particular the property of the dissolved fascist societies must not be seized without giving a receipt and then only if required for reasons of military necessity. The question of payment for such ex-fascist property will be determined hereafter.

3. Allied Military Courts: As the Proclamations of the Military Governor cease to operate in the restored area, except as hereafter indicated, all crimes will be tried under Italian law and in Italian courts. The Allied Forces, however, have reserved to themselves the right to hold Military Courts in unoccupied Italy for the trial of civilians who commit acts seriously hostile to the Allied Forces and to punish them in accordance with the Italian Penal Codes.

The reservation of this right is not intended to encourage the trial of civilian offenders by Allied Courts but only to deal with the MOST serious offences against Allied personnel or property which cannot be properly dealt with by the Italian Courts. If such an offence has been committed the military

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ties. + If there is within agreement the matter will be referred to higher authority. Normally such arrested persons will be detained in 371 POW camp.

6. Use of Troops in aid of the Civil Power: It may well happen that the local Italian administration may ask for the assistance of Allied troops in quelling some civil riot or disturbance.

If such request is made it is the duty of the local commander to point out that the quelling of civilian riots or disturbances is entirely a matter for the Italian Administration and he will refuse such assistance unless he is of the opinion that it is absolutely necessary for the protection of Allied interests and that such interests will be gravely prejudiced if such assistance is withheld. Furthermore, before rendering such assistance the local commander will invariably warn the local official requesting his assistance that the territory in question will be made forthwith an Allied Military Zone (see para 4 above).

The local commander will, if time permits, invariably seek instructions from his Superior Commander before giving assistance and he will in any event inform his Superior Commander and the local ACC officer of any request made to him and the action taken thereon without delay.

7. Process in Italian Courts: No member of the Allied Forces may be prosecuted or sued in Italian Courts.

8. Provinces of Apulia: Heretofore, the Allied Forces[1] had none of the powers of military government in the Provinces of Lecce, Taranto, Brindisi, and Bari. The agreement now reached with the Italian Government contemplates the future equivalence in all respects between the rights of the Allied Forces in those Provinces with their rights in the areas recently transferred from

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territory in question will be made forthwith an Allied Military Zone (see para 4 above).

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9. Emergency Action: It is appreciated that an emergency may arise which requires immediate action by the Allied Forces for their protection and security

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but except in such emergency all action required from the Italian administration should invariably be taken through the medium of ACC officers. Where immediate action is taken without previous reference to ACC for emergency reasons, ACC HQ or appropriate ACC officer will be informed as soon as possible.

Lieutenant General
Chief Commissioner.

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ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

21 February 1944.

ACC/4060/L

SUBJECT: Regional Powers.

TO : SLO 5th Army.

113 / 115

Ref your 208/CA/5 dated 18 Feb. 44 the directive enclosed with my ACC/4060/L dated 15 Feb. 44 does not effect the procedure in army areas which will continue as heretofore.

G. R. DEICHN
Colonel
Chief Legal Officer

Copy to: SLO 8th Army.

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HEADQUARTERS
AMG 5th ARMY
A.P.O. 464 U.S. ARMY
Legal Division

208/CA/5
18 February 1944.

Subject : Regional Powers.

To : HQ. A.C.C. (for Chief Legal Officer Legal Sub-Commission)

With reference to your letter ACC/4060/L dated 15th February 1944, I should be grateful to know if the unsigned directive enclosed therewith is intended only for information and in no way alters the powers of the S.L.O. AMG 5th Army or the procedure already prescribed for the appointment of Allied Military Government courts in Army areas, the trial of cases by such courts and the review and petition in such cases.

J. M. Shields
Lt Col

J.V.M. Shields,
Lt. Col.,
Senior Legal Officer
A.M.G. 5th Army.

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4060

Legal Sub Comm

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HEADQUARTERS,
ALLIED CONTROL COMMISSION,
APO 394.

Regional Control and Military Government Section.

EXECUTIVE MEMORANDUM
NUMBER 25

18 February 1944.

With reference to Executive Memorandum No.2 of 7.February.44, the importance is realised of independent Sub-Commissions maintaining their present relations with outside military formations.

Executive Memorandum No.2 will therefore be amended as follows:-

In paragraph 2(c), last sentence, after "that" insert "except for independent commissions".

Amended

In paragraph 7(a) line 2 after "Regions and AMG Armies" insert "or with technical branches of military formations".

M. S. LUSH,
Brigadier,
Executive Commissioner.

/JG.

DISTRIBUTION: As for Executive Memorandum No.2

Amended 21/2/44.

1265

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Doc 113

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394.

15 February 1944.

ACC/4060/L

SUBJECT: Regional Powers.

TO : RCLO (thru RC) Region III, IV, & V.
SLO AMG 5th Army.
SLO AMG 8th Army.

1. Enclosed additional copy Directive on Regional Powers.

MARC J. GROSSMAN
Major
for Chief Legal Officer.

Copies to Region 3 & 4
& 5th Army
taken by Sgt Schiff

2325

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

See 4084

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SUBJECT: Regional Powers.

TO : All R.C.

The following principle will be observed by R.Cs and R.C.L.Cs.

MILITARY COURTS

1. The R.C. shall have the authority and is responsible for the establishment of Superior and Summary Military Courts in his region. He will request HQ ACC to appoint a General Military Court whenever necessary.

2. Reviews of the decisions of Allied Military Courts will be in accordance with Proclamation No. 14 as it amends Proclamation No. 4 which provides for reviews substantially in the following manner.

Any person convicted by a Military Court may, within thirty days after the imposition of sentence, file with the trial court or forward to the R.C.L.C. a petition addressed to the C.C.A.C. submitting reasons why the conviction should be set aside or the sentence should be modified.

Every record of trial by an Allied Military Court shall be transmitted to the R.C.L.C. for examination and file. The record in any case may on the recommendation ofthe C.L.C., and shall, in the event of the sentence exceeding two years imprisonment or a fine of L. 50,000 be reviewed by the C.C.A.C. or by an officer of the Allied Military Government not below the rank of Lieutenant Colonel who may be appointed by the Chief Civil Affairs Officer for that purpose. Where there has been no petition of appeal as above provided and the sentence does not exceed two years imprisonment or a fine of L. 50,000 the R.C.L.C. shall review the case and may appoint a judicial officer not below the rank of Major for that purpose. Confirmation of death sentences remains as heretofore.

3. By Proclamation No. 14 referred to above the R.C. may order an Allied Military Court to sit in camera. The R.C.L.C. may also perform the functions previously assigned to the C.L.C. in connection with the detention of suspects. See Proclamation 2, Article VII, Section 2.

ITALIAN COURTS AND PERSONNEL

4. The R.C. may remove Italian Judges and Officials connected with the Italian Courts and on a temporary basis during occupation may fill existing vacancies. He may appoint Notaries when vacancies occur, upon the recommendation of the Notarial Council of the district in which such vacancies exist. For the purpose of securing assistance and advice on Italian legal and judicial matters, he may appoint a Central Committee of Italian Citizens. The R.C. will report in detail to HQ ABC on any proposed appointment, promotion

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or transfer of judges and court officials except in an emergency when an appointment, promotion or transfer may be made subject to confirmation by HQ ACC. Any removal will be reported to HQ ACC as soon as possible.

5. The opening and functioning of all Italian Courts, criminal, civil, is the responsibility of the R.C.

ITALIAN MILITARY TRIBUNALS

6. The R.C. acting on the advice of the R.C.L.O. will be responsible for permitting Italian Military Tribunals to function within his region in accordance with the Directive issued in that regard.

PRISONS

7. The R.C. shall be responsible for investigating the circumstances of all prisoners held in jail without trial and for investigating all cases of complaint by prisoners that they have been unjustly condemned for their political views. The R.C. shall forward to ACC HQ his recommendations for release of all such prisoners and may pending receipt of orders thereon grant provisional or conditional liberty or release, on parole, after consultation with the appropriate Italian Judicial Official. Investigation will also be made of persons charged with crimes and never brought to trial because of political connections and report made to H.Q., A.C.C.

ITALIAN LEGISLATION AND LAWS

8. The R.C. shall not abrogate or amend any laws on the ground that they are discriminatory or of a fascist nature and this matter is reserved to HQ ACC. The R.C. may, however, temporarily amend rules of procedure for the more expeditious hearing of trials but only in accordance with directives already issued.

GENERAL

9. HQ ACC retain the power to issue orders and directives binding upon regions, to assign, attach, relieve or replace regional legal personnel, and to review decisions of Allied Military Courts in accordance with paragraph 3 above.

10. The Regional Chief Legal Officer will NOT issue directives or render opinions dealing with matters of general legal policy without previous reference to HQ ACC. He will NOT fix penalties for prescribed offences but it is his duty to secure reasonable uniformity of sentences commensurate with the prevalence of any particular type of crime in his region, and commensurate with the particular crime itself.

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

SUBJECT : Regional Powers.

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Original Copy delivered to Brig. Leask by Capt Thompson
8 Feb 1945 on his request with the assent of
the Regional Commr & Civil Affairs Group.

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

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4. The R.C. may remove Italian Judges and Officials connected with the Italian Courts and on a temporary basis during occupation may fill existing vacancies. He may appoint Notaries when vacancies occur, upon the recommendation of the Notarial Council of the district in which such vacancies exist. For the purpose of securing assistance and advice on Italian legal and judicial matters, he may appoint a Central Committee of Italian Citizens. The R.C. will report in detail to HQ ACC on any proposed appointment, promotion or transfer of judges and court officials except in an emergency when an appointment, promotion or transfer may be made subject to confirmation by HQ ACC. Any removal will be reported to HQ ACC as soon as possible.

5. The opening and functioning of all Italian Courts, criminal, civil, is the responsibility of the R.C.

ITALIAN MILITARY TRIBUNALS

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GENERAL

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H060

HEADQUARTERS
ALLIED CONTROL COMMISSION
(Rear Echelon)
APO 394

File
104

6 February 1944

SUBJECT: Note of Our Talk this Morning.

TO : Colonel Kirk, Spicer, Cripps.

1. APPOINTMENTS:

Previous approval will be required for the major appointments in the Public Safety, Legal or Interior Departments of the Italian Government. This is to insure that reliable antifascists are at the head. Down to what level are we to be consulted on lower appointments? Are lists to be provided for approval or for information?

2. GENERAL DIRECTIVE:

In the memorandum of the 23rd January 4(c) it is stated that ACC, " is to be the organ through which the policy of the United Nations..... is conducted." Does this means that the Moscow declaration is to be our guide?

3. REPORTS FROM REGIONS:

Which reports should be sent to General Lush alone and which in duplicate to the Sub-commissions. It is suggested that Sitreps and periodic reports should be sent in duplicate to the sub-commissions. For day to day information the administrative sections will rely upon reports from the liaison officers or visiting representatives.

S

STANSGATE
Vice President
Administrative Section
Allied Control Commission

s/tm

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

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
Salerno Detachment.

98

6 February 1944

ACC/4060/L

SUBJECT: Duties of Legal Officers on Restoration of Territory.

TO : RCLOs (thru RCAOs) Regions I & II.

90

Enclosed is directive setting forth duties of Legal Officers on restoration of territory to Italian Government.

G. R. UNJOHN, Colonel
Chief Legal Officer, ACC.

Note. The official directive is now under consideration by Chief Commissioner and will be issued in due course with such amendments as seem appropiate. This is to be treated as an advance copy for information only.

(signed) G.R.U.

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SECRET FARGO 745

4060

FARGO 5 FEB 44

SECRET 10050 MACFARLANE

PRIORITY

FREEDOM

CABLE FROM FOUR SIX NINE FOUR THREE REFERS TO (PERHAPS PAPER FARGO FROM MACFARLANE PERSONAL PARSN TO AFHQ FOR MAS FOR CINC FOR MCMILLAN PD CITE FARGO SEVEN FOUR FIVE PD) ITALIAN GOVERNMENT ON THE MOVE PD DOUBTFUL IF I CAN GET FINAL AGREEMENT BEFORE EIGHT FEBRUARY AT EARLIEST PD YOUR TELEGRAM QUITE CLEAR AND UNDERSTOOD EXCEPT FOR DOCUMENT ABLE ARTICLE ONE PD ITALIANS MADE NO REQUEST FOR THIS ARTICLE TO BE REDRAFTED PD THEY ASKED ONLY FOR AN ASSURANCE THAT THEIR FINANCIAL LIABILITIES UNDER ARTICLE TWO ONE PARSN BASED PARSN OF THE LAND FORCES WERE LIMITED TO THE PROVISION OF FREE TRANSPORT AND THAT ARTICLE ONE OF DOCUMENT ABLE DID NOT INCREASE THEIR FINANCIAL LIABILITY PD PLEASE GIVE ME CLEAR ANSWER ON THIS POINT

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INTERNAL DISTRIBUTION:
Pol. Section
Finance Sub-Comm.
Econ. V.P.
Legal Sub-Comm.
Admin V.P.
Brig. Lush.

L.F. NICKEL,
Lt. Col., AGD,
Adjutant General.

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

2333

LEGAL

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394

Administrative Section LS/mb.

ACC/001.1/AS 5 Feb 44.

File 90 10.0.

Subject : Functions, Administrative Section.

To : Col. Upjohn.
Col. Kirk.
Lt. Col. Spicer.

The following is an outline of the functions of the Administrative Section as I see them at present.

I begin from the bottom:-

(a) The Sub-Commissions are drawing up unified plans for re-shaping the Government of the whole of Italy;

(b) These plans will be discussed in Italian Italy with the Ministers concerned and in AMG Italy with the Regional Directors;

(c) When agreement has been reached they will be executed in AMG Italy direct, and in Italian Italy by the Italian Ministers on the advice of the Commissioners;

(d) The duty of the Regional Officer and his subordinates will be to report on the effective execution of these plans;

(1) In AMG Italy where Executive action is direct;

(2) In Italian Italy where they will need to report upon the behaviour of Italian Subordinate officials.

The following questions arise :-

(a) To whom will the R.C.C. and his subordinates report breaches of agreement in Italian Italy ?

(b) On what general lines are these plans to be framed; in a word there seems to me to be no official Directive clearly stating either the limits within which we plan or the character of the advice we offer within those limits.

(c) Some points are clear, viz., that the War effort must be assisted,

(a) The Sub-Commissions are drawing up unified plans for re-shaping the Government of the whole of Italy;

(b) These plans will be discussed in Italian Italy with the Ministers concerned and in AMG Italy with the Regional Directors;

(c) When agreement has been reached they will be executed in AMG Italy direct, and in Italian Italy by the Italian Ministers on the advice of the Commissioner;

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The following questions arise :-

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(b) On what general lines are these plans to be framed; in a word there seems to me to be no official Directive clearly stating either the limits within which we plan or the character of the advice we offer within those limits.

(c) Some points are clear, viz:- that the War effort must be assisted, but what is not clear is how far beyond that we are to go.

I would suggest that Heads of the Interior, Legal and Public Safety Divisions might meet me to discuss these points.

Stansgate

STANSGATE,
Vice President Administrative Section.

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SECRET

HEADQUARTERS
ALLIED CONTROL COMMISSION
(SALERNO DETACHMENT)
LEGAL SUB-COMMISSION
APO 394

Acc/4102/L

3 February 1944.

SUBJECT : Restoration of Territory.

TO : Vice President, Economic Section.

1. As you are no doubt aware, the proposed terms of restoration of territory to the Italian Government have been discussed with the Italian Government and certain proposed amendments have been referred to higher authority for approval.

2. In the meantime in order that no time may be lost I have agreed with the Italian Government representative (Colonel Jung) to proceed with the drafting of certain purely transitional legislation designed solely to prevent a breakdown in administration consequent on the cessation of Allied Military Government and therefore of laws created by Proclamations and General Orders. The matter is very urgent as it is desired to enact certain Italian decrees before the actual date of restoration. One of the decrees deals with economic matters and the terms to which the Italian Government raised no objection are as follows:

(a) A decree stabilizing wage rates, maximum prices, charges for services; maximum quantities of grain to be held by anyone; as existing at the date of restoration and pending future policy being agreed upon between us.

3. A representative of the Italian Government is expected on the 4th or 5th February at Salerno and I shall be glad if you will make available a representative to attend this office at short notice to work out the detailed legislation required.

4. For your information I enclose the extracts from the relevant Proclamations and Orders which it appears to this Sub-Commission require to be enacted but as these were prepared some time ago, it is feared that the details may not be in accord with today's requirements.

5. A proposal was made to the Italian Government to continue the abrogation of Syndicate payments but as this raised the whole question of labor policy, the matter was dropped from the transitional legislative program pending urgent consideration of the whole subject; no doubt the Chief Commissioner already has spoken to you on this subject.

GERALD R. UNJOHN,
Colonel,

Chief Legal Officer.

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10050 MACFARLANE

FROM/OSS

TRANSFER OF TERRITORY PD PARAS FARGO FOR MACFARLANE PERSONAL FROM TO AFHQ FOR CINC FOR MACMILLAN AND MURPHY PD CITE FARGO SIX FIVE FIVE PD COLONEL JUNG ACCOMPANIED BY CASANDI AND PHILIPSON SUBMITTED AT DISCUSSIONS LAST NIGHT AND THIS MORNING VIEWS OF ITALIAN GOVERNMENT REGARDING DOCUMENTS ABLE AND CHARLIE PD PARA TWO PD DOCUMENT ABLE ARTICLE ONE PD THEY ASK FOR ASSURANCE THAT NOTHING THEREIN INCREASES THEIR FINANCIAL LIABILITY IMPLIED IN THEIR INTERPRETATION OF ARMISTICE TERMS PD THEIR VIEW IS THAT FINANCIAL LIABILITY UNDER ARTICLE TWO ONE PARA CHARLIE PARA IS LIMITED TO PROVISION OF FREE TRANSPORT FACILITIES PD COMMENT PD I SUGGEST THAT IF POSSIBLE THIS ASSURANCE BE GIVEN PD PARA THREE PD ARTICLE NINE PD ITALIAN GOVERNMENT DESIRE FOLLOWING REDRAFT PD QUOTE THE RIGHT TO IMPORT AND TO CONTROL AND SUPERVISE THE DISTRIBUTION TO THE CIVILIAN POPULATION OF SUCH CIVILIAN SUPPLIES AS THE ALLIED FORCES MAY DETERMINE WITHOUT PAYMENT CMA AS LONG AS SUCH SUPPLIES ARE AND REMAIN IN ALLIED HANDS CMA OF ANY IMPORT CMA TAX CMA CHARGE OR DUTY OF ANY KIND WHATSOEVER EITHER TO THE ITALIAN GOVERNMENT OR TO ANY OF ITS POLITICAL SUB DIVISIONS OR AGENCIES PD FROM TIME TO TIME THE UNITED NATIONS AND THE ITALIAN GOVERNMENT WILL CONSIDER WHETHER AND TO WHAT EXTENT CIVILIAN SUPPLIES FOR DISTRIBUTION TO THE CIVILIAN POPULATION SHOULD CMA WHEN TRANSFERRED TO DISTRIBUTORS CMA PAY ANY IMPORT CMA TAX OR CHARGE OR DUTY HAVING IN MIND THAT SALE PRICES TO THE CIVILIAN POPULATION SHOULD BE FIXED ON A BASIS CONSISTENT WITH THE GENERAL ECONOMIC FINANCIAL POLICY AND SITUATION BUT THAT ESSENTIAL SUPPLIES SHOULD BE FREE OF TAX PD THE ALLIED FORCES MAY ALSO EXPORT PRODUCTS OR COMMODITIES FREE

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OF ANY IMPOSTS CMA TAXES CMA CHARGE OR DUTY PD UNQUOTE PD COMMENT PD I RECOMMEND ACCEPTANCE OF THIS REDRAFT PD PARA FOUR PD ARTICLE ELEVEN PD ITALIAN GOVERNMENT WISH THIS ARTICLE TO COMMENCE AS FOLLOWS PD QUOTE ANY MEMBER OF THE UNITED NATIONS LAND CMA SEA OR AIR FORCES OR THEIR OFFICIALS OR ACCREDITED REPRESENTATIVES MAY ENTER AND REMAIN CMA ETC PD UNQUOTE PD ITALIAN GOVERNMENT FEARS THAT IN ITS ORIGINAL FORM AND BY INCLUSION OF THE WORD AGAINST THE ARTICLE INCREASE INCIDENCE OF SMUGGLING AND OTHER IRRESPONSIBLE ACTS PD COMMENT PD I RECOMMEND ACCEPTANCE ITALIAN REDRAFT PD PARA FIVE PD ARTICLE ONE THREE PD THE ITALIAN GOVERNMENT APPARENTLY IN AN ATTEMPT TO LIMIT FINANCIAL LIABILITY REQUEST THAT THE WORDS QUOTE ENGAGED IN DUTIES CONNECTED WITH THE OCCUPATION OF THE COUNTRY UNQUOTE BE ADDED AFTER THE WORDS QUOTE OR OTHER PERSONNEL UNQUOTE PD COMMENT PD I RECOMMEND THAT THIS ARTICLE BE OMITTED ALTOGETHER IN ORDER TO POSTPONE MAJOR QUESTION OF INTERPRETATION OF FINANCIAL LIABILITY UNDER ARMISTICE TERMS UNLESS IT IS DESIRED TO BRING THE MATTER TO A HEAD IN CONNECTION WITH THE DOCUMENT UNDER CONSIDERATION PD PARA SIX PD I CONSIDER THAT ON THE WHOLE THE REPRESENTATIONS OF THE ITALIAN GOVERNMENT IN CONNECTION WITH THIS DOCUMENT APPEAR GENERALLY REASONABLE PD PARA SEVEN PD DOCUMENT CHARLIE PD ITALIAN GOVERNMENT FOR PSYCHOLOGICAL REASONS WISH TO SEPARATE LEGISLATION PART OF PROCLAMATION FROM THAT PART WHICH APPEALS TO THE PEOPLE AND SUGGEST THE FOLLOWING PROCEDURE PD FIRSTLY PD ARTICLES ONE TO FOUR AS PROCLAMATION PD SECONDLY PD ARTICLES FIVE AND SEVEN AS MEASURE BY BADOGLIO OF WHICH ACCEPTABLE DRAFT HAS BEEN SUBMITTED TO US PD THIRDLY PD CONTENTS OF ARTICLE SIX TO BE ENACTED IMMEDIATELY BUT IN NORMAL MANNER UNOBTRUSIVELY AS LEGISLATION IN GAZETTE PD COMMENT PD I RECOMMEND THAT THIS PROCEDURE BE ACCEPTED PD END OF COMMENT PD IN ADDITION ITALIAN GOVERNMENT DESIRE OMISSION OF LAST SENTENCE ARTICLE THREE FROM QUOTE EXCEPT UNQUOTE TO END PD THEY ARE WILLING LOYALLY TO CONSULT ALLIED NATIONS BUT WISH FINAL DECISION TO REST WITH THEM PD COMMENT PD I CONSIDER THAT WE MUST BE FIRM ON THIS POINT BUT I SUGGEST THAT THESE WORDS COULD BE OMITTED FROM THE PROCLAMATION AND THAT A CLAUSE BE ADDED TO DOCUMENT ABLE TO COVER

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THE POINT PD PARA EIGHT PD DOCUMENT DOG PD AGREEMENT WAS ARRIVED AT ON THIS DOCUMENT PD PARA NINE PD I AM FORWARDING FULLER DETAILS BY AIR SOONEST POSSIBLE PD I HOPE IT MAY BE POSSIBLE TO SECURE AGREEMENT ON THE DOCUMENTS ABLE AND CHARLIE IN TIME TO CARRY OUT THE TRANSFER OF TERRITORY OF ONE ZERO FEBRUARY AS PROVISIONALLY AGREED.

INTERNAL DISTRIBUTION

Political Section
Finance Sub-Commission
Econ V.P.
Legal Sub-Commission
Admin V.P.
Brig Lush

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L. F. NICKEL
Lt. Col., AGD
Adjutant General

2339

GENERAL ADMINISTRATIVE INSTRUCTION No. 2

LEGAL

4060

1. GENERAL

(a) As stated in General Administrative Instructions No. 1, to which this directive is supplemental, upon the restoration of territory to the Italian Government subject to control by A.C.C. all powers of military government cease within the restored territory and the relationship between A.C.C. and the Italian Government depend entirely on contract. Such contract is contained in the Armistice Terms, and forms the charter of A.C.C.

(b) For security reasons it is not possible to communicate now in written form the Armistice Terms, but from time to time R.C.L.Os will be given appropriate information sufficient to enable them to carry out their duties.

(c) It will continue to be the duty of the R.C.L.O. to advise the R.C.A.O. in all legal matters affecting the Region. This directive is intended in part to assist the R.C.L.O. in giving advice to the R.C.A.O. in connection with the newly acquired powers and duties of A.C.C. personnel in the field. It must be appreciated that in furnishing such advice, as pointed out in para (a) above, the position has essentially changed and the powers of military government have ceased and are superseded by the Armistice Terms. In particular and subject to any special directives that may be issued the functions of the R.C.A.O. cease to be executive and become purely advisory and supervisory. Orders are no longer given by the R.C.A.O. but by the Italian Administrative officials and it is the duty of the R.C.A.O. within his region to see that the Italian Administration carries out the orders received from higher Italian authority (as to which the R.C.A.O. will be duly informed) and to report to H.Q. A.C.C. any failure to do so. It will no longer be within the province of the R.C.A.O. to issue proclamations and General or Regional Orders but to advise and supervise the local authorities in such matters. It follows that in the initial stages and until the Italian Government has proved its capacity to govern, a number of problems may arise which will have as a matter of policy to be referred to H.Q. A.C.C., but in matters of urgency R.C.L.Os will not hesitate to exercise their judgment and common sense in giving advice pending the receipt of instructions from H.Q. A.C.C.

(d) Initially the R.C.L.O. and his legal officers will remain at their posts to carry out their duties set forth herein and will retain their offices, motor equipment and requisitioned property to the extent necessary to perform their duties.

(e) On the restoration of territory the R.C.L.O. will prepare and forward to the C.L.O., H.Q. A.C.C. his report on the activities of his office running from the date of his last monthly report to the date of restoration.

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2. ALLIED MILITARY COURTS

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2. ALLIED MILITARY COURTS

(a) Legal officers will see that all pending cases are completed as quickly as possible and the records, petitions for review, etc., are speedily transmitted to the R.C.I.O.

(b) All reviews will be expedited and the following system (as set out in Proclamation No. 14) will be followed :-

> Any person convicted by an Allied Military Court may, within thirty days after imposition of sentence, file with the trial court or forward to the R.C.I.O. a petition addressed to the C.C.A.C. submitting reasons why the conviction should be set aside or the sentence should be modified.
>
> Every record of trial by an Allied Military Court shall be transmitted to the R.C.I.O. for examination and file. The record in any case may on the recommendation of the C.I.O., and shall, in the event of the sentence exceeding two years imprisonment or a fine of L. 50,000 be reviewed by the C.C.A.C. or by an officer of the Allied Military Government not below the rank of Lieutenant Colonel who may be appointed by the Chief Civil Affairs Officer for that purpose. Where there has been no petition of appeal as above provided and the sentence does not exceed two years imprisonment or

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a fine of L. 50,000 the R.C.L.O. shall review the case and may appoint a judicial officer not below the rank of Major for that purpose. Confirmation of death sentences remains as heretofore.

(c) If Military Zones are established in unoccupied territory and Allied Military Courts function therein, Summary and Superior Military Courts will be established either by the Commanding Officer, if the power to do so has been delegated to him, or by the R.C.A.O. if still functioning; otherwise by H.Q., A.C.C. A General Military Court may be established only by H.Q., A.C.C.

(d) If Allied Military Courts are to be set up at all in any other part of unoccupied territory, the requisite Military Court, will be established by H.Q.A.C.C. at the request of the R.C.A.O. concerned. A separate Directive with regard to the constitution and mode of application for such courts will be issued.

(e) All cases tried by Allied Military Courts referred to in 2 (c) and 2 (d) above will be reviewed solely by H.Q. A.C.C. until further order.

(f) In closing out the activities of the legal division of any region as to Allied Military Courts the following specific acts among others shall be performed by the R.C.L.O. or as he shall direct:

(i) The Italian Government will be required to carry out all sentences imposed by Allied Courts as though imposed by their own Courts. However, all cases in which a conviction has resulted and the sentence has not been fully executed will be re-examined and in appropriate cases recommendation for pardon or modification will be made to the C.L.O., H.Q., A.C.C. with reasons therefor. All cases in which severe sentences were originally passed and subsequently confirmed, because of military considerations which no longer prevail should therefore be reconsidered by the R.C.L.O. with the advice, where possible, of the presiding officer who tried the case and the R.C.L.O. should forward his recommendation to the C.L.O., H.Q., A.C.C. This is not to be regarded as an invitation to a general reduction in sentences especially having regard to the Italian practice (which will be applicable to these cases) of granting provisional liberty after a portion of the sentence has been served.

(ii) A careful check of outstanding fines will be made, steps will be taken to collect unpaid fines and a report will be made to the C.L.O. at HQ A.C.C.

(iii) All Allied Military Courts dockets will be checked for accuracy of entries required to be made including data on payment of fines and to determine that all fines collected have been remitted to proper authorities. All records properly indexed and files will be held by the R.C.L.O. for disposition on orders from C.L.O., H.Q., A.C.C.

3. WAR CRIMES

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3. WAR CRIMES

In the event that any evidence should come to the notice of legal officers indicating that a War Crime has been committed of the type mentioned in AFHQ circular dated 27 November 1943 of which copies were transmitted to R.C.L.Os Regions I and II on 6 January 1944, this will be immediately brought to the notice of the C.L.O., H.Q., A.C.C. and a report in the manner set forth in such directive shall be made to the C.L.O. H.Q., A.C.C. If an Italian Court is proposing to try such a case it should be advised against doing so and an immediate report on this situation should be transmitted to the C.L.O., H.Q., A.C.C.

4. ITALIAN LEGISLATION AND LAWS

R.C.A.Os acting through R.C.L.Os will not concern themselves with any amendments to Italian legislation or laws on the ground that they are Fascist or discriminatory, or with suspension of such laws, as all such matters will be dealt with by H.Q. A.C.C. Any suggestions for abrogation, revision or amendment of any Italian legislation will be transmitted to H.Q. A.C.C.

Amendments to rules of procedure which have been initiated during A.M.G. will however be continued by the Italian Administration and any departure from such

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amendments will forthwith be reported to H.Q. A.C.C.

5. Detainees

No persons detained under Article VII of Proclamation No. 2 will be released without further orders from H.Q., A.C.C. but R.C.I.Os will prepare and forward to H.Q. A.C.C. lists of persons so detained within fourteen days of the restoration of territory to the Italian Government. Such lists will show places of detention

6. ITALIAN MILITARY TRIBUNALS

These Tribunals will be allowed to function in accordance with the Military Penal Code of Law (Codice Penale Militare di Guerra) and the restrictions laid down by Directive with regard to the holding of these Courts under A.M.G. will be disregarded. If any reports are received indicating that any trial has been unsatisfactory the circumstances will be investigated and a report made to H.Q., A.C.C.

7. ITALIAN COURTS GENERALLY

All civil and criminal courts functioning at the date of the restoration of territory to the Italian Government will continue to function and any attempt to close such courts will forthwith be reported to H.Q. A.C.C.

If any Criminal or Civil Courts have not been reopened at the date of restoration steps will be taken to encourage their reopening at the earliest possible date subject to suitable personnel being available (see para 8 below). If any Courts remain unopened one month after the restoration of territory to the Italian Government a report stating the Courts remaining unopened and the reason therefor will be rendered to H.Q., A.C.C.

The above does not apply to any Corte di Cassazione which will only be reconstituted under the orders of H.Q. A.C.C.

The R.C.I.O. will no longer concern himself with the supervision of Italian Courts except for the purpose of carrying out his duties under this or any subsequent directive and he will formally hand over to the First President of the Courts of Appeal within his Region the management and supervision of Italian Courts and personnel.

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8. JUDGES AND OFFICIALS OF COURTS

(a) All judges and legal officers will be appointed, promoted or removed by the Italian Government with the consent of H.Q., A.C.C. and the RCAO will not be responsible for any further appointments, promotions or removals.

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If any Criminal or Civil Courts have not been reopened at the date of restoration steps will be taken to encourage their reopening at the earliest possible date subject to suitable personnel being available (see para 6 below). If any Courts remain unopened one month after the restoration of territory to the Italian Government a report stating the Courts remaining unopened and the reason therefor will be rendered to H.Q., A.C.C.

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5. JUDGES AND OFFICIALS OF COURTS

(a) All judges and legal officers will be appointed, promoted or removed by the Italian Government with the consent of H.Q., A.C.C. and the RCAO will not be responsible for any further appointments, promotions or removals.

(b) R.C.I.Os will appoint a legal liaison officer to act with the First President of each Court of Appeal of Palermo, Messina, Catania, Catanzaro and section at Potenza 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 H.Q. A.C.C. are duly carried out.

(iii) To notify immediately to H.Q. A.C.C. (through Regional H.Q.) of any purported appointments, promotions or removals not sanctioned by H.Q. A.C.C. If any judge or official appointed by A.M.G. is proposed to be removed without the sanction of H.Q. A.C.C. he will advise the First President against taking any action without the consent of H.Q. A.C.C.

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(iv) To report to H.Q. 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 H.Q. A.C.C. through Regional H.Q.

(v) Generally to keep Regional H.Q. and H.Q. A.C.C. advised of all relevant matters in theCourt 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) R.C.I.O. will inform HQ A.C.C. of the officers appointed as liaison officers to 1st Presidents as soon as possible.

(d) Committees already sitting to consider the appointment of judges and officials will be abolished unless the 1st President desires their continuance, nor will it be the duty of the R.C.I.O. 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 H.Q. A.C.C. the R.C.I.O. will compile a list of all judges and legal officials in office and forward it to H.Q. A.C.C. as soon as possible

9. CONCLUSION OF DUTIES OF LEGAL OFFICERS

(a) Any legal officer in the Region who has completed his work may be ordered by the R.C.I.O. to another post in the region to assist another officer to complete his work or be otherwise assigned in the region as circumstances warrant.

(b) When legal officers have completed all cases and have performed all other duties assigned to them, they will so report to the R.C.I.O. and he in turn will so report to C.I.O. HQ. A.C.C. If then so ordered they will close their offices and report in person to the R.C.I.O. with all records and equipment other than that which has been requisitioned and turned back to the owners upon receipt from them.

(c) It is essential that all legal officers complete their work with the utmost expedition, as their services are urgently required in occupied territory.

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No revisions were made 22 Jan. 1944 - RHV

File

LEGAL ADMINISTRATIVE INSTRUCTION No. 2

LEGAL

1. GENERAL

(a) As stated in General Administrative Instructions No. 1, to which this order is supplemental, upon the restoration of territory to the Italian Government subject to control by A.C.C. all powers of military government cease within the restored territory and the relationship between A.C.C. and the Italian Government depend entirely on contract. Such contract is contained in the Armistice Terms, and forms the charter of A.C.C.

(b) For security reasons it is not possible to communicate now in written form the Armistice Terms, but from time to time R.C.L.Os will be given appropriate information sufficient to enable them to carry out their duties.

(c) It will continue to be the duty of the R.C.L.O. to advise the R.C.A.O. in all legal matters affecting the Region. This directive is intended in part to assist the R.C.L.O. in giving advice to the R.C.A.O. in connection with the newly acquired powers and duties of A.C.C. personnel in the Field. It must be appreciated that in furnishing such advice, as pointed out in para (a) above, the position has essentially changed and the powers of military government have ceased and are superseded by the Armistice Terms. In particular and subject to any special directives that may be issued the functions of the R.C.A.O. cease to be executive and become purely advisory and supervisory. Orders are no longer given by the R.C.A.O. but by the Italian administrative officials and it is the duty of the R.C.A.O. within his region to see that the Italian Administration carries out the orders received from higher Italian authority (as to which the R.C.A.O. will be duly informed) and to report to HQ A.C.C. any failure to do so. It will no longer be within the province of the R.C.A.O. to issue proclamations and General or Regional Orders but to advise and supervise the local authorities in such matters. It follows that in the initial stages and until the Italian Government has proved its capacity to govern, a number of problems may arise which will have as a matter of policy to be referred to HQ A.C.C., but in matters of urgency R.C.L.Os will not hesitate to exercise their judgment and common sense in giving advice pending the receipt of instructions from HQ A.C.C.

(d) Initially the R.C.L.O. and his legal officers will remain at their posts to carry out their duties set forth herein and will retain their offices, motor equipment and requisitioned property to the extent necessary to perform their duties.

(e) On the restoration of territory the R.C.L.O. will prepare and forward to the C.L.O., HQ A.C.C., his report on the activities of his office running from the date of his last monthly report to the date of restoration.

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2. ALLIED MILITARY COURTS

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acquired powers and duties of R.C.A.C. personnel [illegible] that in furnishing such advice, as pointed out in para (a) above, the position has essentially changed and the powers of military government have ceased and are superseded by the Armistice Terms. In particular and subject to any special directives that may be issued the functions of the R.C.A.C. cease to be executive and become purely advisory and supervisory. Orders are no longer given by the R.C.A.C. but by the Italian administrative officials and it is the duty of the R.C.A.C. within his region to see that the Italian Administration carries out the orders received from higher Italian authority (as to which the R.C.A.C. will be duly informed) and to report to HQ A.C.C. any failure to do so. It will no longer be within the province of the R.C.A.C. to issue proclamations and General or Regional Orders but to advise and supervise the local authorities in such matters. It follows that in the initial stages and until the Italian Government has proved its capacity to govern, a number of problems may arise which will have as a matter of policy to be referred to HQ A.C.C., but in matters of urgency R.C.L.Os will not hesitate to exercise their judgment and common sense in giving advice pending the receipt of instructions from HQ A.C.C.

(d) Initially the R.C.L.O. and his legal officers will remain at their posts to carry out their duties set forth herein and will retain their offices, motor equipment and requisitioned property to the extent necessary to perform their duties.

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(e) On the restoration of territory the R.C.L.O. will prepare and forward to the C.L.O., HQ A.C.C., his report on the activities of his office running from the date of his last monthly report to the date of restoration.

2. ALLIED MILITARY COURTS

(a) Legal officers will see that all pending cases are completed as quickly as possible and the records, petitions for review, etc., are speedily transmitted to the R.C.L.O.

(b) All reviews will be expedited and the following system will be followed:

> Any person convicted by an Allied Military Court may, within thirty days after imposition of sentence, file with the trial court or forward to the R.C.L.O. a petition addressed to the C.C.A.C. submitting reasons why the conviction should be set aside or the sentence should be modified.
>
> Every record of trial by an Allied Military Court shall be transmitted to the R.C.L.O. for examination and file. The record in any case may on the recommendation of the C.L.O., and shall, in the event of the sentence exceeding two years imprisonment or a fine of L. 50,000 be reviewed by the C.C.A.C. or by an officer of the Allied Military Government not below the rank of Lieutenant Colonel who may be appointed by the Chief Civil Affairs Officer for that purpose. Where there has been no petition of appeal as above provided and the sentence does not exceed two years imprisonment or

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a fine of L. 50,000 the R.C.L.O. shall review the case and may appoint a judicial officer not below the rank of Major for that purpose. Confirmation of death sentences remains as heretofore.

(c) If Military Zones are established and Allied Military Courts function therein, Summary and Superior Military Courts will be established either by the Commanding Officer, if the power to do so has been delegated to him, or by the R.C.M.C. if still functioning; otherwise by HQ A.C.C. A General Military Court may be established only by HQ A.C.C.

(d) If Allied Military Courts are to be set up at all in any other part of unoccupied territory, the requisite Military Court, ~~Summary, Superior or General~~, will be established by HQ. A.C.C. at the request of the R.C.M.C. concerned.

(e) All cases tried by Allied Military Courts referred to in 2 (c) and 2 (d) above will be reviewed solely by HQ A.C.C. until further order.

(f) In closing out the activities of the legal division of any region as to Allied Military Courts the following specific acts among others shall be performed by the R.C.L.O. or as he shall direct:

(i) All cases in which a conviction has resulted and the sentence has not been fully executed will be re-examined and in appropriate cases recommendation for pardon or modification will be made to the C.L.O., HQ A.C.C. with reasons therefor. ~~This is not to be regarded as an invitation to a general reduction of sentences which it is expected the Italian Government will be required to carry out as if imposed by its own courts.~~

Take in Redd X

(ii) A careful check of outstanding fines will be made, steps will be taken to collect unpaid fines and a report will be made to the C.L.O. at HQ A.C.C.

(iii) All Allied Military Court dockets will be checked for accuracy of entries required to be made, including data on payment of fines and to determine that all fines collected have been remitted to proper authority. All records properly indexed and filed will be held by the R.C.L.O. for disposition on orders from C.L.O., HQ A.C.C.

3. WAR CRIMES

in AFHQ Circular dated 27 November 1943 of which copies were transmitted to R.C.L.O.s, Naples I and II on 6 January, 1944

In the event that any evidence should come to the notice of legal officers indicating that a War Crime has been committed of the type mentioned ~~in Directive from the C.L.O., HQ AFHQ dated 27 November 1943~~, this will be immediately brought to the notice of the C.L.O., HQ A.C.C. and a report in the manner set forth in such directive shall be made to the C.L.O., HQ A.C.C. If an Italian Court is proposing to try such a case it should be advised against doing so and immediate report on

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Enter in Rec'd X

[illegible] investigation to a general revision of sentences which it is expected the Italian Government will be required to carry out as it imposes by the Allied courts.

(ii) [illegible] and check of outstanding fines will be made, steps will be taken to collect unpaid fines and a report will be made to the C.L.O. and the [illegible].

(iii) All related military court dockets will be checked for accuracy of entries regarded to be made, including data on payment of fines and to ascertain that all fines collected have been remitted to proper authority. All records presently indexed and filed will be held by the A.C.L.O. for disposition on orders from C.L.O., HQ A.F.H.Q.

3. War Crimes

In the event that any evidence should come to the notice of legal officers indicating that a war crime has been committed of the type mentioned in AFHQ Circular dated 27 November 1943 of which extracts were transmitted to R.C.L.O., Naples and E on 6 January, 1944 ~~[illegible]~~, this will be immediately brought to the notice of the C.L.O., HQ A.F.H.Q. and a report in the manner set forth in such circular shall be made to the C.L.O., HQ A.F.H.Q. If an Italian Court is proceeding in any such a case it should be advised against doing so and instead to report on this situation should be transmitted to the C.L.O., HQ. A.F.H.Q.

4. Legislation and Laws

It is the intention through A.C.L.O. to will not concern themselves with any amendments to Italian legislation or laws on the ground that they are Fascist or discriminatory, or with the suspension of such laws, as all such matters will be dealt with by HQ A.F.H.Q. Any suggestions for abrogation, revision or amendment of any Italian legislation will be transmitted to HQ A.F.H.Q.

[illegible] instructions which have been issued during [illegible] will [illegible] be continued by the Italian Administration in any departure from such amendments will forth [illegible] reported to HQ A.F.H.Q.

5. Prisoners

It will be the duty of the A.C.L.O. acting through the A.C.L.O. to see that all sentences imposed by Allied military courts are carried out and that no prisoners are released without serving their proper sentences. Any cases of infringement of this rule will forthwith be reported to HQ A.F.H.Q. In conjunction with the Italian Government, it is proposed to set up Committees to consider revision of sentences imposed by Italian courts but no steps in this direction will be taken without further directions from HQ A.F.H.Q. Similarly no prisoners who have been imprisoned without trial by the Italian authorities or [illegible] upon arrest will

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RIDER A

If any reports are received indicating that any trial has been unsatisfactory the circumstances will be investigated and a report made to HQ ACC.

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of Proclamation No. 4, will be released without further orders from HQ A.C.C. but R.C.L.Os will prepare and forward to HQ A.C.C. lists of prisoners so imprisoned or detained within fourteen days of the restoration of territory to the Italian Government.

6. ITALIAN MILITARY TRIBUNALS

These Tribunals will be allowed to function in accordance with the Military Penal Code of War (Codice Penale Militare di Guerra) and the restrictions laid down by Directive with regard to the holding of these Courts under AMG will be disregarded. R.C.L.Os will however require from the Italian Military authorities reports of all cases heard by such Courts and may attend any cases, and any failure by the Italian authorities to cooperate in these matters will forthwith be reported to HQ A.C.C. If it appears that any cases determined by these Courts are unsatisfactory the circumstances will be fully reported to HQ A.C.C. Rule A

7. ITALIAN COURTS GENERALLY

All civil and criminal Courts functioning at the date of the restoration of territory to the Italian Government will continue to function and any attempt to close such courts will forthwith be reported to HQ A.C.C.

If any Criminal or Civil Courts have not been reopened at the date of restoration steps will be taken to encourage their reopening at the earliest possible date subject to suitable personnel being available (see para 8 below). If any Courts remain unopened one month after the restoration of territory to the Italian Government a report stating the Courts remaining unopened and the reason therefore will be rendered to HQ A.C.C.

The above does not apply to any Corte di Cassazione which will only be reconstituted under the orders of HQ A.C.C.

The R.C.L.O. will no longer concern himself with the supervision of Italian Courts except for the purpose of carrying out his duties under this or any subsequent directive and he will formally hand over to the First President of the Courts of Appeal within his Region the management and supervision of Italian Courts and personnel.

8. JUDGES AND OFFICIALS OF COURTS

Rule B

All judges and officials appointed under AMG will remain in office until further order and any local attempt to remove such judges or officials will be reported to HQ A.C.C. All further judges will be appointed by the Italian Government [illegible] sitting to consider the appoint-

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

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of Proclamation No. 4, will be released without further orders from HQ A.C.C. but R.C.L.Cs will prepare and forward to HQ A.C.C. lists of prisoners so imprisoned or detained within fourteen days of the restoration of territory to the Italian Government.

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These Tribunals will be allowed to function in accordance with the Military Penal Code of War (Codice Penale Militare di Guerra) and the restrictions laid down by Directive with regard to the holding of these Courts under AMG will be disregarded. R.C.L.Cs will however require from the Italian Military Authorities reports of all cases heard by such Courts and may attend any cases, and any failure by the Italian Authorities to cooperate in these matters will forthwith be reported to HQ A.C.C. If it appears that any cases determined by these Courts are unsatisfactory the circumstances will be fully reported to HQ A.C.C. Rule A

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All civil and criminal Courts functioning at the date of the restoration of territory to the Italian Government will continue to function and any attempt to close such courts will forthwith be reported to HQ A.C.C.

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8. JUDGES AND OFFICIALS OF COURTS

Rule B

All judges and officials appointed under AMG will remain in office until further order and any local attempt to remove such judges or officials will be reported to HQ A.C.C. All further judges will be appointed by the Italian Government with the sanction of HQ A.C.C. Committees already sitting to consider the appointment of judges and officials may be allowed to continue to sit and their recommendations will be forwarded to HQ A.C.C. No executive effect will be given to their

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All civil and criminal Courts functioning at the date of the restoration of territory to the Italian Government will continue to function and any attempt to close such courts will forthwith be reported to HQ A.C.C.

If any Criminal or Civil Courts have not been reopened at the date of restoration steps will be taken to encourage their reopening at the earliest possible date subject to suitable personnel being available (see para 8 below). If any Courts remain unopened one month after the restoration of territory to the Italian Government a report stating the Courts remaining unopened and the reason therefore will be rendered to HQ A.C.C.

The above does not apply to any Corte di Cassazione which will only be reconstituted under the orders of HQ A.C.C.

The R.C.L.O. will no longer concern himself with the supervision of Italian Courts except for the purpose of carrying out his duties under this or any subsequent directive and he will formally hand over to the First President of the Courts of Appeal within his Region the management and supervision of Italian Courts and personnel.

8. JUDGES AND OFFICIALS OF COURTS

Pl. B

All judges and officials appointed under AMG will remain in office until further order and any local attempt to remove such judges or officials will be reported to HQ A.C.C. All further judges will be appointed by the Italian Government with the sanction of HQ A.C.C. Committees already sitting to consider the appointment of judges and officials may be allowed to continue to sit and their recommendations will be forwarded to HQ A.C.C. No executive effect will be given to their recommendations locally. No Committees not already constituted before the restoration will be formed.

As soon as possible after the restoration R.C.L.Os will submit lists of all judges and legal officials within the Region showing who were appointed during AMG and who were appointed before (with dates of appointment) and also such vacancies as exist. They will also give particulars of any committees sitting to consider further appointments. Until further order R.C.L.Os will not continue to "vet" any judges or officials who have retained their appointments but it will be the duty of R.C.L.Os to report to HQ A.C.C. any cases which come to their notice of improper, biased or incompetent behaviour on the part of judges or officials. Any report received from an advocate or prisoner as to unfair treatment by an Italian Court will be investigated by the R.C.L.O. and if the report appears to be well founded he will forward the report together with his recommendation to HQ. A.C.C.

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9. CONCLUSION OF DUTIES OF LEGAL OFFICERS

(a) Any legal officer in the Region who has completed his work may be ordered by the R.C.L.O. to another post in the region to assist another officer to complete his work or be otherwise assigned in the region as circumstances warrant.

(b) When legal officers have completed all cases and have performed all other duties assigned to them, they will so report to the R.C.L.O. and he in turn will so report to C.L.O. HQ L.C.C. If then so ordered they will close their offices and report in person to the R.C.L.O. with all records and equipment other than that which has been requisitioned and turned back to the owners upon receipt from them.

Rider 2.

? 26 November 1943

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RIDER 2

(c) It is essential that all legal officers complete their work with the utmost expedition, as their services may be urgently required in other occupied territory.

Redo X

(81)

The Italian Govt will be required to carry out all sentences imposed by Allied Courts as though imposed by their own Courts. All cases in which severe sentences ~~were based on matters of military consideration which no longer prevail~~ were originally passed and subsequently confirmed, because of military considerations which no longer prevail should therefore be reconsidered by the RCLO ~~to~~ with the advice, where possible, of the presiding officer who tried the case and the RCLO should ~~send the papers~~ forward 96

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~~Should therefore the~~ were originally passed and subsequently confirmed, because of military considerations which no longer prevail should therefore be reconsidered by the RCLO ~~the~~ with the advice, where possible, of the pending officer ~~who~~ who tried the case and the RCLO should ~~send the papers~~ forward 96 ~~in the case together with~~ his recommendation to the CLO, HQ ACC. ~~from~~. This is not ~~[illegible]~~ to be regarded as an invitation to a general reduction in sentences as especially having regard to the Italian practice ~~of [illegible]~~

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~~after a period of the sentence has been served.~~ (which will be applicable to these cases) of granting provisional liberty after a portion of the sentence has been served.

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HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LEGAL SUB-COMMISSION

AMG/4060/1.

2nd January 1944

Subject:- General Order No 8

To :- Colonel George Pollock,
H.Q. A.M.G. (Rear)
PALERMO

1. On 31st December 1943 pursuant to the request of Major Hammaford there was forwarded to you, under cover of this H.Q. letter AMG/4074/L, copy of Sicily Gazette No. 3 containing General Order No. 8.

2. It has meanwhile occurred to us that the Chief of Staff's General Order No. 8 of the 23rd November 1943 was the document which Major Hammaford had in mind, and a copy thereof is accordingly enclosed herewith.

MARC J. GROSSMAN,
Major,
Acting Chief Legal Officer.

~~after a portion of the slaves have been~~
~~freed.~~ (which will be applicable
to these cases) of granting provisional
liberty after a portion of the sentence
has been served.

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

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LEGAL SUB-COMMISSION

AMG/4060/L

2nd January 1944.

Subject:- General Order No 8

To :- Colonel George Pollock,
H.Q. A.M.G. (Rear)
PALERMO

1. On 31st December 1943 pursuant to the request of Major Hannaford there was forwarded to you, under cover of this H.Q. letter AMG/4074/L, copy of Sicily Gazette No. 3 containing General Order No. 8.

2. It has meanwhile occurred to us that the Chief of Staff's General Order No. 6 of the 23rd November 1943 was the document which Major Hannaford had in mind, and a copy thereof is accordingly enclosed herewith.

MARC J. GROSSMAN,
Major,
Acting Chief Legal Officer.

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HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LEGAL SUB-COMMISSION

AMG/4074/1. 31st December, 1943.

Subject:- Request for transmittal of G.O. No. 8 and Directive to Col. G. Pollock.

TO :- Major G.G. Hammford,
A.C.C. Brindisi.

1. The attached copy of letter to Colonel George Pollock is self explanatory.

2. Our inability to supply copy of the directive therein referred to follows from the fact that you have with you our file AMG/4060/L containing our only copy thereof.

MARO J. GROESMAN,
Major,
for Chief Legal Officer.

Copy to File: AMG/4060/1.

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HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LEGAL SUB-COMMISSION

AMG/4574/L

Subject:- General Order No. 8

To :- Colonel G. Pollock,
H.Q. A.M.G. (ROME)
FAIRMED

31st December 1943

1. This morning, a message was received at this Headquarters from Major Hannaford (Brindisi) requesting that there be sent to you copy of General Order No. 8 and copy of Directive which includes instructions to legal officers upon the change over.

2. Enclosed herewith is Copy of Sicily Gazette No. 3 which contains General Order No. 8 at page 15.

3. Copy of directive above referred to is not here available, but we understand can be secured from Major Purcell at your Headquarters.

MAX J. CROSSMAN,
Major,
Acting Chief Legal Officer.

Copy to: Major Hannaford (Brindisi)
File AMG/4060/L.

4060

(77)

30 Dec 1943

Dear Marc:

Please get from Col Stafford or May.

Van Dusen a copy of order I believe it was No 8 dealing with the changeover together with the legal directive which is to be a part of it & send it to George Pollock at Palermo.

It looks as if present developments will keep me here for a little longer. I'll be back as soon as I can. Please hold my mail in absence of contrary request.

Dick

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FAEGC-1152

4-060/1

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SEARS FOR FARGO 1152 11th December 1943

SECRET PRIORITY

FATISA FOR UPJOHN

AM LEAVING FOR SALERNO BY AIR TOMORROW OTHERS OF OUR TROUP ARRIVING THERE ABOUT THURSDAY I PASS TO FATISA FOR UPJOHN FROM SEARS FOR FARGO FROM WINGER CITE FARGO CXR CXS SIX TWO PASS X AM LEAVING DAWSON BEHIND TO CLEAN UP X I HAVE GOT THE THREE DOCUMENTS BUT ANY PRINTING OF PROCLAMATIONS IS TO BE DONE HERE X NECESSARY FOR YOU TO SEND DAWSON COPIES OF WHAT IS TO BE PRINTED AND ADVISE HIM OF NUMBER OF COPIES OF EACH WHETHER IN ENGLISH OR ITALIAN OR BOTH AND CHECK AND WHERE THEY ARE TO BE SENT AND ANY OTHER DETAILS

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Originator. Lt. Col. Milner
A/D.C.I.C.
Legal Sub-Commission

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HEADQUARTERS
ALLIED MILITARY GOVERNMENT
APO 512
LEGAL SUB-COMMISSION

File (31)

AMG/4105/1 9 December 1943

Subject: Reorganization of AMG.

To : Lt. Colonel Rowe. AMG 15TH Army Group.

At the request of Colonel Upjohn I am enclosing herewith a copy of Chief of Staff General Order No. 8 which covers all Sub-Commissions under decentralization with the legal sub-commission directive attached.

R. H. WILMER
LT. COL.
Acting Deputy Chief Legal Officer

Incl.

Chief of Staff General Order No. 8.

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I General Administrative No 2 — has been approved but distribution withheld until restoration more imminent. Now known as No 58 revised.

II 23 Nov 1943 Subject Regional Boards Has gone out.

III Directive to legal personnel pgs 58-57-56-55-54-53 is the same as General admin No 2 — See I above.

IV Functions of Legal Sub commission not approved. Nothing done — probably in hands of General Joyce. (on number 51)

V Directive to chiefs of Regions as to powers and procedure on change from ANCA to ACC not approved — but will be included eventually in general directive. (on number 48)

The above represents status of directives as of 8 December 1943 — as reported by Capt Van Duesen.

Maj

8/12/43

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Section 1 Display of Flags & Singing of National anthems.

~~Section 1. Of any Hostile Nation~~ The public display of any flag or colors of any nation which is at present actively prosecuting war against Great Britain or the United States and the public singing and playing of the national anthem and any other patriotic or political song or music of any such country are prohibited.

Section 2. Flags on Public Buildings. The Italian flag or colors will not be displayed from any public building in any area under the jurisdiction of the Allied Military Government.

ARTICLE IV

OTHER AMENDMENTS TO PROCLAMATIONS

Section 1. IDENTITY CARDS.
From henceforth it shall be a sufficient compliance with Art. III, sect. 2 of Proclamation 11 if any person losing his identity card reports the fact to the nearest carabinieri post and to the official of the local government by whom the card was originally issued.

Section 2. Whereas by Art. VII, sect. 2 of Proclamation 2 issued by me in the Island of Sicily, I conferred certain powers upon the Senior Legal Officers in provinces of Sicily. Now I revoke such powers and declare such powers shall only be exercisable by the Regional Chief Legal Officer of Sicily.

[Note: Sect. 2 may better be enacted by a separate administrative instruction.]

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HEADQUARTERS

ALLIED MILITARY GOVERNMENT
(Executive Officer)

72

Reference:- 16071/2

4 December 1943

Subject:- Organization of Sub-Commissions.

To:- Economic Director (10)
Administrative Director (10)
Chief, Communications Section (5)

1. It will obviously take some time and possibly practical experience before the final required composition of Sub-Commissions can be determined. What is quite certain is that no further specialist personnel will be forthcoming from the U.K. or the U.S.

2. Proposals for final composition should not, therefore, be sent to G-1 until called for, but should be filed with the appropriate Directorate or Section Staff.

3. It is pointed out,

(a) That Regions 8 and 9 are being formed into a pool, which will be available for H.Q. A.C.C. and Regions under its command, and for A.M.G. 15 Army Group and Regions under its command.

(b) That, in view of the existing overall American T.O. (2675 Regt.) and the overall British W.E. to be published, transfers of personnel from Regions under command to H.Q. A.C.C., on permanent or temporary duty will present no difficulty since no fixed establishment is involved.

4. Action by Sub-Commissions should therefore for the present be confined to requests (through Directorate H.Q.) for Officers actually required for present duties, either by name or rank, nationality and qualifications. Action will then be taken by G-1, in approved cases, to obtain such officers, either from Regions under command or from the pool.

5. It should be noted that if the number of officers in a Sub-Commission is increased, a corresponding increase in clerks can by no means be counted upon. 88

By Command of Brigadier General MCSHERRY.

R.B. Rathbone

R.B. RATHBONE.
Colonel.
Executive Officer.

RBR/rce.

Copies to:- Vice President, Economic & Administrative.
Deputy Chief of Staff. (O. & I.S.)

RAW 29

SECRET (4060)

legal.

HEADQUARTERS
ALLIED CONTROL COMMISSION

Exec Off/TER/mh

DIRECTIVE NO. 2

December 4, 1943.

See folio 103 para 1 (b)

1. General

Reference is made to ACC General Orders No. 1 dated 10 November 1943, and to Directive No. 1 of same date.

2. Organization

on wall in CLO office

RG/53/4

a. When the Headquarters of the Commission is fully set up, the provisional organization will be as shown in the attached chart, Appendix 'A' hereto. This will be substituted for Appendix 'A' to Directive No. 1 above referred to. All copies (other than AG file, record and war diary copies of the latter chart) will be destroyed.

b. It will be seen that it is contemplated that the Headquarters of the Commission will be split into a Main Headquarters and a Rear Headquarters. This is, for the present, dictated by accommodation considerations.

c. Apart from the alterations due to the split Headquarters, the principal changes are as follows:

(i) The Deputy Chief of Staff (Admin) disappears, and a Vice Chief of Staff is introduced.

(ii) A Liaison Section under the Deputy President is introduced.

(iii) The Headquarters of the 2675th (American) Regiment and British Administrative Headquarters appear (for Administrative purposes) under the Executive Officers.

(iv) The number of Sub-Commissions under the Administrative and Economic Directors is reduced, the remainder coming directly under the Vice-President (and his Deputy) Economic and Administrative Section.

3. Operation of new organization

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The new organization will be put into operation forthwith to the extent possible, and progressively as and when future developments permit. Heads of Staff

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Commission will be [illegible]
for the present, dictated by accommodation considerations.

c. Apart from the alterations due to the split Headquarters, the principal changes are as follows:

(i) The Deputy Chief of Staff (Admin) disappears, and a Vice Chief of Staff is introduced.

(ii) A Liaison Section under the Deputy President is introduced.

(iii) The Headquarters of the 2675th (American) Regiment and British Administrative Headquarters appear (for Administrative purposes) under the Executive Officers.

(iv) The number of Sub-Commissions under the Administrative and Economic Directors is reduced, the remainder coming directly under the Vice-President (and his Deputy) Economic and Administrative Section.

3. Operation of new organization

87

The new organization will be put into operation forthwith to the extent possible, and progressively as and when future developments permit. Heads of Staff branches, Sections, Directorates, and Sub-Commissions will reorganize their personnel accordingly. Steps are being taken to fill existing vacancies on the basis of the original (not the revised) Appendix E to Planning Directive No. 12 dated 22 October 1943.

4. Consequential Amendments to Directive No. 1

It is not proposed at this stage to issue detailed amendments to Directive No. 1. The amendments required to some of its Appendices are sufficiently obvious from the chart Appendix 'A' hereto, which will prevail where there is any conflict between its provisions and those of the new chart.

5. Organization - Split Headquarters

Instructions regarding Office organization and procedure and other matters connected with the above will be issued shortly.

By Command of Major General JOYCE:

R. B. RATBONE,
Colonel,
Executive Officer.

724.

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1	PRO
2	Chiefs of Staff
2	G-1
2	G-2
2	Exec. Officer Admin.
15	Air Colonial Group
1	Misc. AP
10	Hq Co. Headquarters
2	Internal Security
2	Deputy G/S Operations Sec. Int.
2	Industrial Planning Staff
9	Military Section
4	Political Section
3	Econ. & Admin. Section
4	Communications Section
2	Economic Director
2	Hq 25/5th (A) Regt
2	Dr. Admin. Hq

Sub Commissions

2	Information incl. Liaison P.W.B.
2	Internees and D.P.
10	Chief of Finance
6	" " Ind. & Commerce
2	" " Public Works & Utilities
1	" " Fuel
5	" " Agric. Forestry, etc.
2	" " Labor
2	" " Interior
2	" " Public Health
2	" " Legal
2	" " Public Safety
2	" " Property Control
6	" " Monuments
2	" " Education
1	" " Shipping
1	" " Statistics & Intelligence

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2 Authorizations Section
3 Com. & Admin. Section
4 Communications Section
2 Economic Director
2 Hq 25th (A) Regt
2 Br. Admin. Hq

Sub Commissions

2 Information Intel. Liaison P.W.B.
2 Interpreters and S.P.
10 Chief of Finance
3 " " Ind. & Commerce
2 " " Public Works & Utilities
1 " " Fuel
3 " " Agric. Forestry, etc.
2 " " Labor
2 " " Interior
2 " " Public Health
2 " " Legal
2 " " Public Safety
2 " " Property Control
4 " " Monuments
2 " " Education
1 " " Shipping
1 " " Foreign & Internal
2 " " Internal Transportation
2 " " Telecommunications
100 Spares (Appx 'A' only
25 " (Directive "

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GENERAL ADMINISTRATIVE INSTRUCTION NO. 2

LEGAL

1. GENERAL

(a) As stated in General Administrative Instruction No. 1, to which this order is supplemental, upon the restoration of territory to the Italian Government subject to control by A.M.G. all powers of military government cease within the restored territory and the relationship between A.M.G. and the Italian Government is and entirely a contract. Such contract is contained in the Armistice Terms, and forms the charter of A.C.C.

(b) For security reasons it is not possible to communicate now to all ranks the Armistice Terms, but from time to time A.C.L.O. will be given appropriate information sufficient to enable them to carry out their duties.

(c) It will continue to be the duty of the A.C.L.O. to advise the A.C.C. in all legal matters affecting the Region. This directive is intended in part to assist the A.C.L.O. in giving advice to the A.C.C. in connection with the newly acquired powers and duties of A.C.C. personnel in the Field. It must be appreciated that in furnishing such advice, as pointed out in para (a) above, the position has essentially changed and the powers of military government now exercised are those needed by the Armistice Terms. In particular and subject to any special directives that may be issued the functions of the A.C.C. cease to be executive and become purely advisory and supervisory. Orders are no longer given by the A.C.C. but to the Italian Administrative Officials and it is the duty of the A.C.C. within his region to see that the Italian Administration carries out the orders received from higher Italian authority (as to which the A.C.C. will be duly informed) and to report to A.C.C. any failure to do so. It will no longer be within the province of the A.C.C. to issue proclamations and General or Regional Orders but to assist and supervise the local authorities in such matters. It follows that in the interim stages and until the Italian Government has proved its capacity to govern, a number of problems may arise which will have to be a matter of policy to be referred to A.C.C., but in matters of urgency A.C.L.O. will not hesitate to exercise their judgment and common sense in giving advice pending the receipt of instructions from A.C.C.

(d) Initially the A.C.L.O. and his legal officers will remain at their posts to carry out their duties set forth herein and will retain under their control equipment and requisitioned property to the extent necessary to perform their duties.

(e) On the restoration of territory the A.C.L.O. will prepare and forward to the C.A.O., A.C.C. his report on the activities of his office during the date of his last monthly report to the date of restoration.

2. OTHER PRIMARY DUTIES

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essentially changed and the powers of Military Government [illegible] [illegible] [illegible] vided by the Armistice Terms. In particular and subject to any special directives that may be issued the functions of the R.C.A.C. cease to be executive and become purely advisory and supervisory. Orders are no longer given by the R.C.A.C. but by the Italian administrative officials and it is the duty of the R.C.A.C. within his region to see that the Italian administration carries out the orders received from higher Italian authority (as to which the R.C.A.C. will be duly informed) and to report to HQ A.C.C. any failure to do so. It will no longer be within the province of the R.C.A.C. to issue proclamations and General or Regional Orders but to [illegible] and supervise the local authorities in such matters. It follows that in the initial stages and until the Italian Government has proved its capacity to govern, [illegible] of problems may arise which will have as a matter of policy to be referred to [illegible] [illegible], but in matters of urgency R.C.L.Os will not hesitate to exercise their judgment and common sense in giving advice pending the receipt of instructions from HQ A.C.C.

(d) Initially the R.C.L.O. and his legal officers will remain at their posts to carry out their duties set forth herein and will retain their offices, motor equipment and requisitioned property to the extent necessary to perform their duties.

(e) On the restoration of territory the R.C.L.O. will prepare and forward to the C.L.O., HQ A.C.C., his report on the activities of his office running from the date of his last monthly report to the date of restoration.

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[illegible]. ALLIED MILITARY COURTS

(a) Legal officers will see that all pending cases are completed as quickly as possible and the records, petitions for review, etc., are speedily transmitted to the R.C.L.O.

(b) All reviews will be expedited and the following system will be followed:

Any person convicted by an Allied Military Court may, within thirty days after imposition of sentence, file with the trial court or forward to the R.C.L.O. a petition addressed to the C.C.A.O. submitting reasons why the conviction should be set aside or the sentence should be modified.

Every record of trial by an Allied Military Court shall be transmitted to the R.C.L.O. for examination and file. The record in [illegible] [illegible] [illegible] to the [illegible] recommendation of the C.L.O., and shall, in the event of the sentence exceeding two years imprisonment or a fine of L. 50,000 be reviewed by the C.C.A.O. or by an officer of the Allied Military Government not below the rank of Lieutenant Colonel who may be appointed by the C.C.A.O. as [illegible] Officer for that purpose. [illegible] [illegible] [illegible] [illegible] above provided [illegible] the sentence does not exceed two years [illegible]

a fine of L. 50,000 the R.C.L.O. shall review the case and may appoint a judicial officer not below the rank of Major for that purpose. Confirmation of death sentences rests as heretofore.

(c) If Military Zones are established and Allied Military Courts function therein, Summary and Superior Military Courts will be established either by the Commanding Officer, if the power to do so has been delegated to him, or by the R.C.L.O. if still functioning; otherwise by HQ A.C.C. A General Military Court may be established only by HQ A.C.C.

(d) If Allied Military Courts are to be set up at all in any other part of unoccupied territory, the requisite Military Court, Summary, Superior or General, will be established by HQ, A.C.C. at the request of the R.C.L.O. concerned.

(e) All cases tried by Allied Military Courts referred to in 2 (c) and 2 (d) above will be reviewed solely by HQ A.C.C. until further order.

(f) In closing out the activities of the legal division of any region as to Allied Military Courts the following specific acts among others shall be performed by the R.C.L.O. or as he shall direct:

(i) All cases in which a conviction has resulted and the sentence has not been fully executed will be re-examined and in appropriate cases recommendation for pardon or modification will be made to the C.L.O., HQ A.C.C. with reasons therefor. This is not to be regarded as an invitation to a general reduction of sentences which it is expected the Italian Government will be required to carry out as if imposed by its own courts.

(ii) A careful check of outstanding fines will be made, steps will be taken to collect unpaid fines and a report will be made to the C.L.O. at HQ A.C.C.

(iii) All Allied Military Court dockets will be checked for accuracy of entries required to be made, including data on payment of fines and to determine that all fines collected have been remitted to proper authority. All records properly indexed and files will be held by the R.C.L.O. for disposition on orders from C.L.O., HQ A.C.C.

3. WAR CRIMES

In the event that any evidence should come to the notice of legal officers indicating that a War Crime has been committed of the type mentioned in Directive from the C.L.O., HQ AMG dated 25 November 1945, this will be immediately brought to the notice of the C.L.O., HQ A.C.C. and a report in the manner set forth in such Directive shall be made to the C.L.O., HQ A.C.C. If an Italian Court is proposing to try such a case it should be advised against doing so and immediate report on

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recommendation for pardon or modification will be made to the C.L.O., HQ A.C.C. with reasons therefor. This is not to be regarded as an invitation to a general reduction of sentences which it is expected the Italian Government will be required to carry out as if imposed by its own courts.

(ii) A careful check of outstanding fines will be made, steps will be taken to collect unpaid fines and a report will be made to the C.L.O. at HQ A.C.C.

(iii) All Allied Military Court dockets will be checked for accuracy of entries required to be made, including dates on payment of fines and to determine that all fines collected have been remitted to proper authority. All records properly indexed and filed will be held by the S.C.L.O. for disposition on orders from C.L.O., HQ A.C.C.

5. WAR CRIMES

In the event that any evidence should come to the notice of legal officers indicating that a War Crime has been committed of the type mentioned in Directive from the C.L.O., HQ AMG dated 20 November 1943, this will be immediately brought to the notice of the C.L.O., HQ A.C.C. and a report in the manner set forth in such Directive shall be made to the C.L.O., HQ A.C.C. If an Italian Court is proposing to try such a case it should be advised against doing so and immediate report on this situation should be transmitted to the C.L.O., HQ. A.C.C.

6. ITALIAN LEGISLATION AND LAWS

R.C.A.C.s acting through R.C.L.Os will not concern themselves with any amendments to Italian Legislation or Laws on the ground that they are Fascist or discriminatory, or with the suspension of such laws, as all such matters will be dealt with by HQ, A.C.C.

Amendments to rules of procedure which have been initiated during AMG will however be continued by the Italian Administration and any departure from such amendments will forthwith be reported to HQ A.C.C.

7. ITALIAN PRISONERS

It will be the duty of the R.C.A.C. acting through the R.C.L.O. to see that all sentences imposed by Allied Military Courts are carried out and that no prisoners are released without serving their proper sentences. Any cases of infringement of this rule will forthwith be reported to HQ A.C.C. In conjunction with the Italian Government, it is proposed to set up Committees to consider revision of sentences imposed by Italian Courts but no steps in this direction will be taken without further directions from HQ A.C.C. Similarly no prisoners who have been imprisoned without trial by the Italian authorities or detained under Article VII

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of Proclamation No. 4, will be released without further orders from HQ A.C.C. but R.C.L.Os will prepare and forward to HQ A.C.C. lists of prisoners so imprisoned or detained within fourteen days of the restoration of territory to the Italian Government.

6. ITALIAN MILITARY TRIBUNALS

These Tribunals will be allowed to function in accordance with the Military Penal Code of War (Codice Penale Militare di Guerra) and the restrictions laid down by Directive with regard to the holding of these Courts under AMG will be disregarded. R.C.L.Os will however require from the Italian Military Authorities reports of all cases heard by such Courts and may attend any cases, and any failure by the Italian Authorities to cooperate in these matters will forthwith be reported to HQ A.C.C. If it appears that any cases determined by these Courts are unsatisfactory the circumstances will be fully reported to HQ A.C.C.

7. ITALIAN COURTS GENERALLY

All civil and criminal Courts functioning at the date of the restoration of territory to the Italian Government will continue to function and any attempt to close such courts will forthwith be reported to HQ A.C.C.

If any Criminal or Civil Courts have not been reopened at the date of restoration steps will be taken to encourage their reopening at the earliest possible date subject to suitable personnel being available (see para 8 below). If any Courts remain unopened one month after the restoration of territory to the Italian Government a report stating the Courts remaining unopened and the reason therefore will be rendered to HQ A.C.C.

The above does not apply to any Corte di Cassazione which will only be reconstituted under the orders of HQ A.C.C.

The R.C.L.O. will no longer concern himself with the supervision of Italian Courts except for the purpose of carrying out his duties under this or any subsequent directive and he will formally hand over to the First President of the Courts of Appeal within his Region the management and supervision of Italian Courts and personnel.

8. JUDGES AND OFFICIALS OF COURTS

All judges and officials appointed under AMG will remain in office until further order and any local attempt to remove such judges or officials will be reported to HQ A.C.C. All further judges will be appointed by the Italian Government with the sanction of HQ A.C.C. Committees already sitting to consider the appointment of judges and officials may be allowed to continue to sit and their recommendations will be forwarded to HQ A.C.C. No executive effect will be given to their

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7. ITALIAN COURTS GENERALLY

All civil and criminal Courts functioning at the date of the restoration of territory to the Italian Government will continue to function and any attempt to close such courts will forthwith be reported to HQ A.C.C.

If any Criminal or Civil Courts have not been reopened at the date of restoration steps will be taken to encourage their reopening at the earliest possible date subject to suitable personnel being available (see para 8 below). If any Courts remain unopened one month after the restoration of territory to the Italian Government a report stating the Courts remaining unopened and the reason therefore will be rendered to HQ A.C.C.

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All judges and officials appointed under AMG will remain in office until further order and any local attempt to remove such judges or officials will be reported to HQ A.C.C. All further judges will be appointed by the Italian Government with the sanction of HQ A.C.C. Committees already sitting to consider the appointment of judges and officials may be allowed to continue to sit and their recommendations will be forwarded to HQ A.C.C. No executive effect will be given to their recommendations locally. No Committees not already constituted before the restoration will be formed.

As soon as possible after the restoration R.C.L.Os will submit lists of all judges and legal officials within the Region showing who were appointed during AMG and who were appointed before (with dates of appointment) and also such vacancies as exist. They will also give particulars of any committees sitting to consider further appointments. Until further order R.C.L.Os will not continue to "vet" any judges or officials who have retained their appointments but it will be the duty of R.C.L.Os to report to HQ A.C.C. any cases which come to their notice of improper, biased or incompetent behaviour on the part of judges or officials. Any report received from an advocate or prisoner as to unfair treatment by an Italian Court will be investigated by the R.C.L.O. and if the report appears to be well founded he will forward the report together with his recommendation to HQ. A.C.C.

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9. CONCLUSION OF DUTIES OF LEGAL OFFICERS

(a) Any legal officer in the Region who has completed his work may be ordered by the R.C.L.O. to another post in the region to assist another officer to complete his work or be otherwise assigned in the region as circumstances warrant.

(b) When legal officers have completed all cases and have performed all other duties assigned to them, they will so report to the R.C.L.O. and he in turn will so report to C.L.C. HQ ...C.C. If then so ordered they will close their offices and report in person to the R.C.L.O. with all records and equipment other than that which has been requisitioned and turned back to the owners upon receipt from them.

26 November 1943

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HEADQUARTERS
ALLIED MILITARY GOVERNMENT
APO. 512
LEGAL SUB-COMMISSION

AMG/4105/1.

30th November, 1943.

SUBJECT: Regional and Provincial Orders.

TO : Lt. Colonel H. K. Rowe.

Dear Colonel,

Thank you for your AMG/211/15 dated the 26th November, 1943.

I enclose a copy of this HQ. Directive dealing with decentralisation to Regions and the powers of R.C.A.Os. and their staff which shows you the method which has been adopted by this HQ to meet the situation. As you will observe the Directive really adopts the views you set out in your letter by defining what R.C.A.Os. may NOT do and otherwise giving them a free hand.

It was not understood, at any rate by me, that you would be using a Regional set-up and therefore those parts of the directives prepared by this Sub-Commission (Appendix C and Legal Directive) were not sent to you for your views before issue.

As I understood the matter, you would be using a centralised organisation as in Sicily merely using the bodies of regional personnel as your assistants. To make myself clearer, if 15 Army Group area includes say, parts of Regions 3 and 4, we thought you would treat this as one area under 15 Army Group, AMG.HQ. but using the personnel of these regions as your bodies in the field and there would be no decentralisation on a regional basis until a region was ready to be handed over to this HQ. Certainly when I was in Naples the position was not very clear but as we found in that Town Colonel Hume acting as Chief with Colonel Shields as his S.L.O. and not the Region 3 chiefs, I assumed this was what would happen.

If however you are proposing to use a Regional set up, I should be glad (at any rate so far as concerns the Legal Sub-Commission) if you would adopt our Directives which has gone out to those concerned.

Yours

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4105

Subject:- Regional (Provincial Orders.

AMG HQ.,
15 Army Group,
C.M.F.

Ref.AMG/211/15.
26 November 43.

Colonel G. Upjohn, K.C.
Legal Sub-Commission,
Allied Control Commission,
PALERMO.

Dear Colonel

On my recent visit to Region III, I found that the Regional Civil Affairs Officer had issued certain orders which had been described as "general orders". I arranged that in future all orders issued Regionally would be described as "Regional Orders", and that the term "General Orders" would be reserved for those of general application in occupied territory.

2. The subject of the issuance of local legislation is an important one and you will remember we discussed it when you were last here. At the present time, S.C.A.O's have limited powers and R.C.A.O's have no wider powers than S.C.A.O's. I think that S.C.A.O's powers of legislation could be left unaltered though made subject to closer control by Regional H.Q's. So far as R.C.A.O's powers are concerned, it is very difficult to enumerate the many subjects on on which legislation may require to be made by Regions without first consulting this or your Headquarters. An answer would seem to be to define (i) those matters on which R.C.A.O's may not issue legislation at all, and (ii) those matters on which they may only issue legislation after consulting with the main Headquarters concerned. This would leave R.C.A.O's a completely free hand on all matters not enumerated. A right would have to be reserved of course to main Headquarters to cancel any such legislation within a certain period, without prejudice to anything done under it in the meantime.

3. A scheme such as I have outlined above would be somewhat on the lines of British Colonial legislative practice and it has already been used in British Occupied Territories. I have not discussed the matter yet with C.C.A.O., so have no ideas as to what his own views may be. I think it would be better that we should first reach agreement ourselves as to the policy we recommend for approval.

4. I should emphasise that I have no very preconceived ideas on the subject and I would be much obliged if you would give it your consideration and let me know your own views. It is important, however, that we should get a scheme approved at an early date.

Yours very sincerely,

Richard Gore

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File

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HEADQUARTERS
ALLIED MILITARY GOVERNMENT
A.P.O. 512
LEGAL SUB-COMMISSION

AMG/4060/L 23 NOVEMBER 1943

SUBJECT : Preparation of Directives.

TO : Administrative Director

Reference AG. 461 dated 18 November 1943 herewith draft directive on functions of Legal Sub-Commission.

R. H. WILDER
Lt. Col.
For Chief Legal Officer

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HEADQUARTERS
ALLIED MILITARY GOVERNMENT
A.P.O. 512
LEGAL SUB-COMMISSION

AMG/4060/L 23 NOVEMBER 1943

SUBJECT : Meeting 5 Nov. 1943. Administrative Directorate.

TO : Administrative Director

Pursuant to Para 2(b) of your letter of 6th November 1943, subject as above herewith Draft Directive to Regions Limiting regional powers or reserving certain powers to this H.Q. under A.M.G. terms.

GERALD WEJOHN.
COLONEL,
DEPUTY CHIEF LEGAL OFFICER.

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HEADQUARTERS
ALLIED MILITARY GOVERNMENT
A.P.O. 512
LEGAL SUB-COMMISSION

AMG/4060/1 23 NOVEMBER 1943

(62)

SUBJECT : Regional Powers

TO : All R.C.A.Os.

Upon decentralization of occupied territory into regions, regions are to function from a legal stand point as follows:

MILITARY COURTS

1. The R.C.A.O. shall have the authority and is responsible for the establishment of Superior and Summary Military Courts in his region. He will request A.M.G. H.Q. to appoint a General Military Court whenever necessary.

2. Reviews of the decisions of Allied Military Courts will be in accordance with Proclamation No. 14 as it amends Proclamation No. 4 which provides for reviews substantially in the following manner.

Any person convicted by a Military Court may, within thirty days after imposition of sentence, file with the trial court or forward to the R.C.L.O. a petition addressed to the C.C.A.O. submitting reasons why the conviction should be set aside or the sentence should be modified.

Every record of trial by an Allied Military Court shall be transmitted to the R.C.L.O. for examination and file. The record in any case may on the recommendation of the C.L.O., and shall, in the event of the sentence exceeding two years imprisonment or a fine of L. 50,000 be reviewed by the C.C.A.O. or by an officer of the Allied Military Government not below the rank of Lieutenant Colonel who may be appointed by the Chief Civil Affairs Officer for that purpose. Where there has been no petition of appeal as above provided and the sentence does not exceed two years imprisonment or a fine of L. 50,000 the R.C.L.O. shall review the

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case and may appoint a judicial officer not below the rank of major for that purpose. Confirmation of death sentences remains as heretofore.

3. By Proclamation No. 14 referred to above the R.C.A.O. may order an Allied Military Court to sit in camera. The R.C.A.O. may also perform the functions previously assigned to the C.L.O. in connection with the detention of suspects. See Proclamation 2, Article VII, Section 2.

ITALIAN COURTS and PERSONNEL

4. The R.C.A.O. may remove Italian Judges and officials connected with the Italian Courts and on a temporary basis may fill existing vacancies. He may appoint Notaries when vacancies occur, upon the recommendation of the Notarial Council of the district in which such vacancies exist. For the purpose of securing assistance and advice on Italian legal and judicial matters, he may appoint a Central Committee of Italian citizens. The R.C.A.O. will report in detail to AMG HQ on any such removal or temporary appointment.

5. The R.C.A.O. may review any sentence of an Italian Court when a petition is presented by or on behalf of the sentenced person. Cases tried by the Court of Assizes will be reviewed by AMG HQ.

6. The opening and functioning of all Italian Courts, criminal, civil, is the responsibility of the R. C. A. O. This provision has no reference to the Court of Cassation.

ITALIAN MILITARY TRIBUNALS

7. The R. C. A. O. acting on the advice of the R. C. L.O. will be responsible for permitting Italian Military Tribunals to function within his region in accordance with the Directive issued in that regard.

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PRISONS

8. The R. C. A. O. shall be responsible for investigating the circumstances of all prisoners held in jail without trial and for investigating all cases of complaint by prisoners that they have been unjustly condemned for their political views. The R.C.A.O. shall forward to AMG HQ his recommendations for release of all such prisoners and may pending receipt of orders thereon grant provisional or conditional liberty or release

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on parole, after consultation with the appropriate Italian Judicial Official. Investigation will also be made of persons charged with crime and never brought to trial because of political connections.and report made to A.M.G. HQ.

ITALIAN LEGISLATION AND LAWS

9. The R.C.A.O. shall not abrogate or amend any laws on the ground that they are discriminatory or of a fascist nature and this matter is reserved to AMG HQ. The R.C.A.O. may, however, temporarily amend rules of procedure for the more expeditious hearing of trials in accordance with directives already issued.

GENERAL

10. A.M.G.HQ retain the power to issue orders and directives binding upon regions, to assign, attach, relieve or replace regional legal personnel, and to review decisions of Allied Military Courts in accordance with Paragraph 3 above.

11. The Regional Chief Legal Officer will NOT issue directives or render opinions dealing with matters of general legal policy without previous reference to A.M.G. H.Q. He will NOT fix penalties for prescribed offences but it is his duty to secure reasonable uniformity of sentences commensurate with the prevalence of any particular type of crime in his region, and commensurate with the particular crime itself.

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HEADQUARTERS
ALLIED MILITARY GOVERNMENT
A.P.O. 512
LEGAL SUB-COMMISSION

24, NOVEMBER 1943

AMG/4060/L

SUBJECT : Directive to Legal Personnel as to their duties on change over from AMG to ACC.

In accordance with para 3 (b) of memo dated 6th November 43 herewith draft directive to Legal Personnel as to their duties on change over from A.M.G. to A.C.C.

RICHARD H. WILMER
Lt. Col.
for Chief Legal Officer

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

DIRECTIVE to Legal Personnel as to their duties on change over from A.M.G. to A.C.C.

1. GENERAL

(a) On the restoration of territory to the Italian Government subject to control by A.C.C. all powers of military government cease within the restored territory and the relationship between A.C.C. and the Italian Government depend entirely on contract. Such contract is contained in the Armistice Terms, and forms the charter of A.C.C.

(b) For security reasons it is not possible to communicate now in written form the Armistice Terms, but from time to time R.C.L.Os will be given appropriate information sufficient to enable them to carry out their duties.

(c) It will continue to be the duty of the R.C.L.O. to advise the R.C.A.O. in all legal matters affecting the Region. It must be appreciated that in giving such advice, as pointed out in para (a) above, the position has essentially changed and the powers of military government have ceased and are superceded by the Armistice Terms. In particular and subject to any special directives that may be issued the functions of the R.C.A.O. cease to be executive and become purely advisory and supervisory. Orders are no longer given by the R.C.A.O. but by the Italian Administrative officials and it is the duty of the R.C.A.O. within his region to see that the Italian Administration carries out the orders received from higher Italian authority (as to which the R.C.A.O. will be duly informed) and to report to H.Q., A.C.C. any

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It follows that in the initial stages and until the Italian Government has proved its capacity to govern, a number of problems may arise which will have as a matter of policy to be referred to H.Q., A.C.C., but in matters of urgency R.C.L.Os will not hesitate to exercise their judgment and commonsense in giving advice pending the receipt of instructions from H.Q., A.C.C..

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BEST COPY POSSIBLE

(d) Initially the R.C.L.O. and his legal officers will remain at their posts to carry out their duties set forth herein and will retain their offices, motor equipment and requisitioned property to the extent necessary to perform their duties.

(e) On the restoration of territory the R.C.L.O. will prepare and forward to the C.L.O., H.Q., A.C.C. his report on the activities of his office running from the date of his last monthly report to the date of restoration.

2. ALLIED MILITARY COURTS

(a) Legal officers will see that all pending cases are completed as quickly as possible and the records, petitions for review, etc., are speedily transmitted to the R.C.L.O.

(b) All reviews will be expedited and the following system will be followed :-

Any person convicted by an Allied Military Court may, within thirty days after imposition of sentence, file with the trial court or forward to the R.C.L.O. a petition addressed to the C.C.A.C. submitting reasons why the conviction should be set aside or the sentence should be modified.

Every record of trial by an Allied Military Court shall be transmitted to the R.C.L.O. for examination and file. The record in any case may on the recommendation of the C.L.O., shall, in the event of the sentence exceeding two years imprison

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Every record of trial by an Allied Military Court shall be transmitted to the R.C.L.O. for examination and file. Any record in any case may on the recommendation of the C.L.O., shall, in the event of the sentence exceeding two years imprisonment or a fine of L.50,000 be reviewed by the C.C.A.O. or by an officer of the Allied Military Government not below the rank of Lieutenant Colonel who may be appointed by the Chief Civil Affairs Officer for that purpose. Where there has been no petition of appeal as above provided and the sentence does not exceed two years imprisonment or a fine of L.50,000 the R.C.L.O. shall review the case and may appoint a judicial officer of the rank of Major for that purpose. Confirmation of death remains as heretofore.

(c) If Military Zones are established and therein, summary and Superior

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either by the Commanding Officer, if the power to do so has been delegated to him, or by the R.C.A.O. if still functioning; otherwise by H.Q., A.C.C. A General Military Court may be established only by H.Q., A.C.C.

(d) If Allied Military Courts are to be set up at all in any other part of un-occupied territory, the requisite Military Court, Summary, Superior or General will be established by H.Q., A.C.C. at the request of the R.C.A.O. concerned.

(e) All cases tried by Allied Military Courts referred to in 2 (c) and 2 (d) above will be reviewed solely by H.Q., A.C.C. until further order.

(f) In closing out the activities of the legal division of any region as to Allied Military Courts the following specific acts among others shall be performed by the R.C.L.O. or as he shall direct :-

(i) All cases in which a conviction has resulted and the sentence has not been fully executed will be re-examined and in appropriate cases recommendation for pardon or modification will be made to the C.L.O., H.Q., A.C.C. In making a recommendation for pardon or modification consideration may be given to the fact that danger to the Allied Forces and their operational activities has in the restored territory become relatively less.

(ii) A careful check of outstanding fines will be made, steps will be taken to collect unpaid fines and a report will be made to the R.C.O. at H.Q., A.C.C.

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(ii) A careful check of outstanding fines will be made, steps will be taken to collect unpaid fines and a report will be made to the C.L.O. at H.Q., A.C.C.

(iii) All Allied Military Court dockets will be checked for accuracy of entries required to be made, including data on payment of fines and to determine that all fines collected have been remitted to proper authority. All records properly indexed and files will be held by the R.C.L.O. for disposition on orders from C.L.O., H.Q., A.C.C.

3. WAR CRIMES

In the event that any evidence should come to the notice of legal officers indicating that a War Crime has been committed of the type mentioned in Directive from the C.L.O., H.Q., A.M.G. dated 22nd November 1945, this will

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be immediately brought to the notice of the C.L.O., H.Q., A.C.C. and a report in the manner set forth in such directive shall be made to the C.L.O., H.Q., A.C.C. If an Italian Court is proposing to try such a case it should be warned against doing so and immediate report on this situation should be transmitted to the C.L.O., H.Q., A.C.C.

4. ITALIAN LEGISLATION AND LAWS

R.C.A.Os acting through R.C.L.Os will not concern themselves with any amendments to Italian Legislation or Laws on the ground that they are fascist or discriminatory, or with the suspension of such laws, as all such matters will be dealt with by H.Q., A.C.C.
Amendments to rules of procedure which have been initiated during A.M.G. will however be continued by the Italian Administration and any departure from such amendments will forthwith be reported to H.Q. A.C.C.

5. ITALIAN PRISONERS

It will be the duty of the R.C.A.O. acting through the R.C.J.O. to see that all sentences imposed by Allied Military Courts are carried out and that no prisoners are released without serving their proper sentences. Any cases of infringement of this rule will forthwith be reported to H.Q. A.C.C.
In conjunction with the Italian Government, it is proposed to set up Committees to consider revision of sentences imposed by Italian Courts but no steps in this direction will be taken without further directions from H.Q. A.C.C.
Similarly no prisoners who have been imprisoned without trials by the Italian Authorities or detained under Article VII of Proclamation No. 4, will be released

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5. ITALIAN PRISONERS

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Similarly no prisoners who have been imprisoned without trials by the Italian Authorities or detained under Article VII of Proclamation No. 4, will be released without further orders from HQ. A.C.C. but R.C.L.Os. will prepare and forward to HQ. A.C.C. lists of prisoners so imprisoned or detained within fourteen days of the restoration of territory to the Italian Government.

6. ITALIAN MILITARY TRIBUNALS.

These Tribunals will be allowed to function in accordance with the Military Penal Code of War (Codice Penale Militare di Guerra) and the restrictions laid down by Directive with regard to the holding of these Courts under A.M.G. will be disregarded.
R.C.L.Os. will however require from the Italian Military Authorities reports of all cases heard by such Courts and may attend any cases, and any failure by the Italian Authorities to co-operate in these matters will forthwith be reported to HQ. A.C.C.

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If it appears that any cases determined by these Courts are unsatisfactory the circumstances will be fully reported by HQ. A.C.C.

7. ITALIAN COURTS GENERALLY

All civil and criminal Courts functioning at the date of the restoration of territory to the Italian Government will continue to function and any attempt to close such courts will forthwith be reported to HQ. A.C.C.

If any Criminal or Civil Courts have not been reopened at the date of restoration steps will be taken to encourage their reopening at the earliest possible date subject to suitable personnel being available (see para. 8 below). If any Courts remain unopened one month after the restoration of territory to the Italian Government a report stating the Courts remaining unopened and the reason therefore will be rendered to HQ. A.C.C.

The above does not apply to any Corte di Cassazione which will only be reconstituted under the orders of HQ. A.C.C.

The R.C.L.O. will no longer concern himself with the supervision of Italian Courts except for the purpose of carrying out his duties under this or any subsequent directive and he will formally hand over to the First President of the Courts of Appeal within his Region the management and supervision of Italian Courts and personnel.

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8. JUDGES AND OFFICIALS OF COURTS.

All judges and officials appointed under A.M.G. will remain in

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8. JUDGES AND OFFICIALS OF COURTS.

All judges and officials appointed under A.M.G. will remain in office until further order and any local attempt to remove such judges or officials will be reported to HQ. A.C.C. All further judges will be appointed by the Italian Government with the sanction of HQ. A.C.C.

es already sitting to consider the appointment of judges and
ay be allowed to continue to sit and their recommendations will
to HQ. A.C.C. No executive effect will be given to their
locally. No Committees not already constituted before
l be formed.

After the restoration R.C.L.Os. will submit lists of
officials within the Region showing who were appointed
were appointed before (with dates of appointment)
s as exist. They will also give particulars

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of any committees sitting to consider further appointments.

Until further order R.C.L.Os. will not continue to "vet" any judges or officials who have retained their appointments but it will be the duty of R.C.L.Os. to report to HQ. A.C.C. any cases which come to their notice of improper, biased or incompetent behaviour on the part of judges or officials. Any report received from an advocate or prisoner as to unfair treatment by an Italian Court will be investigated by the R.C.A.O. and if the report appears to be well founded he will forward the report together with his recommendation to HQ. A.C.C.

9. CONCLUSION OF DUTIES OF LEGAL OFFICERS.

(a) Any legal officer in the Region who has completed his work may be ordered by the R.C.L.O. to another post in the region to assist another officer to complete his work or be otherwise assigned in the region as circumstances warrant.

(b) When legal officers have completed all cases and have performed all other duties assigned to them, they will so report to the R.C.L.O. and he in turn will so report to C.L.O. HQ. A.C.C. If then so ordered they will close their offices and report in person to the R.C.L.O. with all records and equipment other than that which has been requisitioned and turned back to the owners upon receipt from them.

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FUNCTIONS OF LEGAL SUB-COMMISSION.

1. MISSION.

To advise on questions of law, draft documents required by Allied Control Commission, recommend repeal of statutes, decrees, etc., of the Italian Government, supervise Italian Court system, and supervise any Allied Military Courts coming under the jurisdiction of the Commission, and otherwise aid the Commission in all legal and judicial matters.

2. MAJOR FUNCTIONS.

(a) The legal Sub-Commission will perform the following staff functions:-

(i) Advise the Commission and its various sections and sub-commissions on questions of law presented to it for opinion and otherwise assist in legal matters.

(ii) Draft formal documents required by Allied Control Commission, including such proclamations, decrees, etc., which it is desired that the Italian Government shall issue.

(iii) Make a full and complete study of Italian Codes, criminal and civil, codes of procedure, laws, decrees, regulations, etc., and recommend to the Commission the repeal by the Italian Government of those, not already repealed, which are deemed obnoxious under the terms of the Armistice agreement.

(iv) Make a study of the entire Italian judicial organization and its personnel and recommend to the Commission necessary changes in organization and personnel.

(v) Make recommendations to the Commission in respect of the foregoing.

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(b) The Legal Sub-Commission will directly perform the following operating functions: -

(i) Through supervision and direction see that the orders of the Commission to the Italian Government with respect to repeal of statutes, decrees and regulations are fully and promptly carried out.

(ii) Supervise the operation of the Italian judicial system to the end that all directed change in organization and personnel are carried out fully and promptly and that the courts function speedily and efficiently.

(iii) See to the enforcement of existing ~~vessels~~, options and the repurchase of former Italian merchant and fishing vessels.

(iv) Arrange the transfer of title of other vessels under Italian control.

(v) Conduct or give directions to, and supervision of the functioning of Allied Military Courts, if any, which come within the jurisdiction of the Commission.

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FUNCTIONS OF LEGAL SUB-COMMISSION.

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HEADQUARTERS
ALLIED MILITARY GOVERNMENT
A.F.O. 512
LEGAL SUB-COMMISSION

AMG/4060/1.

23 NOVEMBER 1943

SUBJECT : Directive to Chiefs of Regions as to their powers and procedure on Change from AMG to ACG

TO : Administrative Director

Reference to Par. 3(a) of your communication of 6 Nov. 1943; subject, Meeting 5 November 1943 Administrative Directorate.

The R.C.A.O. will be responsible for exercising the powers conferred upon regions and upon R.C.L.O's by Directive of Legal Sub-Commission dated 23 November 1943.

GERALD UNJOHN
COLONEL
Deputy Chief Legal Officer

2406

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Col. Hayden
file
Reorganization
gm
22

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
APO. 512
LEGAL SUB-COMMISSION

20th November, 1943.

SUBJECT: "Proposals to sort out AMG responsibilities"

TO : Chief of Staff.

1. I am not clear as to the meaning of the words "Command responsibilities" in para. 2 and the statement that "Present HQ AMG and HQ AMG 15th Army Group remain unchanged" in para. 5.

2. If "Command responsibilities" include power to command in military government activities, an impossible situation results: APM, can give orders to HQ AMG although it is under Lord Rennell as DCAO and Alexander as Military Governor.

3. I assume you refer to administrative, personnel and disciplinary responsibilities and suggest an amendment to para. 2 to cover this. I also have slightly changed para.5 and shifted it to para. 6 in order to make the distinction perfectly clear. If these or similar changes are acceptable, I think the plan will work admirably. If not, I would like to discuss the matter further as I am afraid further trouble might result.

Wm. C. Chilcott.
Lieut. Col. F.A.
Chief Legal Officer.

Copy to:
Col. Spofford.

Seen in DCCO 23/11/43

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HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LEGAL SUB-COMMISSION

STANDARD DISTRIBUTION LIST FOR DIRECTIVES.

R.C.A.C. Region I	(For action)	25
R.C.A.C. Region II	(For action)	25
AMG 15 Army Group	(For information)	6
MGS. AFHQ.	(For information)	2
R.C.A.C. Region III	(For information and action when these Regions are transferred to jurisdiction of A.M.G. H.Q.)	15
R.C.A.C. Region IV	(ditto)	20
M.G.S., A.F.H.Q. for distribution to Regions V, VIII and IX.	(ditto)	15
Subcommissions		15
Files		
Float		1
Spares		20

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ALLIED MILITARY GOVERNMENT

HEADQUARTERS,

15 ARMY GROUP,

C.M.F.

19th November 1943.

Dear Bill

I received your letter AMG/4060/L, of 18th November 1943, together with your signal AMG 720 of 18th November 1943 to-day and showed both of the same immediately to Lord Rennell. I will deal with the paragraphs of your letter seriatum.

With regard to terms of transfer and Proclamation, I have not yet had time to go through these, and I am off to Naples first thing in the morning. I am taking the draft documents with me, and I will write from there to save delay.

With regard to paragraph 2 of your letter I am in a somewhat difficult position. I entirely appreciate your kind remarks that you and Colonel Upjohn consulted me purely with the view of obtaining my advice, but, on the other hand, I must point out that I have a position of trust to fulfil and that there are other persons besides A.F.H.Q. and A.C.C. to be considered in connection with the drafts you put forward. Most important of all, there is General Alexander, who is expected to sign the drafts and he is neither A.F.H.Q. nor A.C.C. Rennell takes the view that any document which General Alexander signs or is asked to sign is a matter for his (Rennell's) concern. Moreover, there is no question in practice that General Alexander will not sign any documents without consulting Rennell who is, as you and General Holmes and Upjohn have agreed, still C.C.A.O. of all occupied territories. It would appear from your letter that you have not considered yourself as adviser to General Alexander in connection with the documents and therefore General Alexander or Rennell is quite entitled to ask for my advice on those documents which General Alexander is asked to sign. Quite apart from these problems of separate duties, I would never have consented to discuss the documents in question if I had thought that you or Upjohn would have objected to my making a minute of our interview so that Rennell might be informed of what was done at his Headquarters. The minutes I made were not in any way intended to quote an agreement but were purely for a matter of record, for Rennell's and my own use, and I considered it only a matter of courtesy to send you a copy. General Holmes arrived the following day and asked me for details of my discussion with you and I therefore handed him a copy. I am quite satisfied that no reasonable

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With regard to continuing to give you my views on any matter which you think fit to inform me of, I shall only be too pleased and I am sure you will do the same for me. We must have it quite clear, however, that nothing which goes forward to or from my office may not be submitted in a minute or any other form to Rennell for his information. I have seen Thacrer this afternoon and shall be most pleased to give you and Upjohn every help to assist at Brindisi, but it must be understood that the same conditions apply with regard to any interviews which I have with him.

With regard to Proclamation 14, I duly put your request up to Rennell after you had gone that it should be by Proclamation and not by General Order and he turned it down. I signalled to you and you sent your signal of request for a reconsideration. I put the matter up to Rennell again, and he kindly agreed on your urgent representations that he would accede to your request and the draft Proclamation has gone forward to G.O.C. in C. for signature. This afternoon your signal arrived that Rennell had no

/authority....

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authority to sign a General Order in the terms of the Proclamation. The point does not arise in practice now, but I must record that I profoundly disagree with you and that if you are correct all the General Orders in the past which Rennell has signed on your advice are out of order. I would observe however, in passing that the proposed Proclamation applies equally to territory North of it. You are the Chief Legal Officer South of the line and I am the Chief Legal Officer North of it and any advice either of us give in respect of a Proclamation or General Order which may apply to both our areas - I may be right or wrong - but Rennell is entitled to receive both our advice and he tells me that it will be for him to choose which advice he accepts.

With regard to my unfortunate mention in my minutes of the meeting that you had had Proclamation No. 14 printed "as an over sight." I withdraw entirely and I have deleted the offending words. However, although Rennell has now agreed to submitting the Proclamation for General Alexander's signature, he commented somewhat acidly on Proclamations being printed before he had seen them and before they were submitted to General Alexander. For Heaven's sake, do not print the Proclamation terminating Military Government before General Alexander has seen the final text. He has very decided views on how and to whom the hand over takes place.

Finally, with regard to your statement that you are still proposing to send Legal Directives to Regions 111 and 1V. When, in the first place, I agreed this policy with you, we both understood that AMG, 15 Army Group, would only be responsible for Military Government in the Army Areas, and that, as territory came out of Army Areas, it would be handed over to you for Military Government. This however has now been changed by the decisions of Gen. Alexander and others, Gen. Holmes concurring, that AMG 15 A.G. will continue to be responsible till further notice for all territory N. of the Salerno-Bari line, all territory S. of that line being handed over quam celerrime to the Italians under A.C.C. You perhaps had not seen these telegrams which were repeated to you when you wrote the last para. of your letter.

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lier with you to

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It will be necessary to co-ordinate policy with you to facilitate the hand back of territories, and I will do everything I can to assist to that end, but Legal Directives to Regions 111 and 1V, when these come into legal existence, must originate from this Headquarters and the policy for Military Courts in these occupied territories must, subject only to the directives of Allied Force Headquarters, be laid down here.

Chief Legal Officer,
Headquarters,
Allied Military Government,
PALERMO.

Lt. Colonel,
Chief Legal Officer.

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HEADQUARTERS
ALLIED MILITARY GOVERNMENT
APO.512
LEGAL SUB-COMMISSION

21st November, 1943.

AMG/4060/1

SUBJECT: Preparation of Directives.

TO : Administrative Director.

Reference para. 4 of your letter of 6th November, 1943 subject meeting of 5th November of Administrative Directorate, it is submitted with regard to legal matters that:

1. Under AMG,

(a) All matters of legal policy and procedure will be determined by AMG. HQ. and transmitted by directives from time to time to AMG. 15 Army Group who will be responsible for carrying out such directives in the area under command 15 Army Group (including any Regions or parts of Regions under command of 15 Army Group).

(b) AMG. 15 Army Group will be responsible for carrying out established policies and procedures with its area but will not initiate new legal policies or procedures or alter existing legal policies or procedures except after reference to and with the consent of AMG. HQ.

(c) In case of operational necessity AMG. 15 Army Group may initiate new or alter existing legal policies or procedures as a temporary expedient but all such matters shall be referred to AMG. HQ. for confirmation as soon as possible.

2. Under ACC,

(a) All matters affecting the territory restored to the Italian government will be determined by HQ. ACC and AMG 15 Army Group will be advised of those matters deemed necessary for its guidance.

(b) AMG. 15 Army Group will be responsible for all policies and procedures which affect only territory under AMG. 15 Army Group. In deciding matters of policy under this sub-para. AMG. 15 Army Group will constantly bear in mind the fact that the territory under their jurisdiction will ultimately be restored to the Italian Government under control of ACC and therefore such policies must be kept in line with this ultimate purpose in view. In case of any doubt over any policy ACC will be consulted for advice and assistance.

GERALD UNDAIN,
Colonel,
Deputy Chief Legal Officer.

2413

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

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
A.P.O.512
LEGAL SUB-COMMISSION

AMG/1067/L

18th November, 1943.

SUBJECT: Terms of Transfer of Territory to Italian Government.

TO : Lieut.Colonel H.E. Rowe,
AMG. HQ. 15 Army Group.

Dear

I enclose the copy of the terms of transfer and proclamations which contain your suggested amendments and a draft containing such of those amendments as Upjohn and I finally decided were necessary. I feel that the reservation "to the C. in C. and to such officers etc. excluding AOC as he may designate" is sufficient without the addition of a separate "defence indition clause". I am also strongly of the view that we should leave section 8 in. It was discussed at length by everybody at the Brindisi conference. I pointed out the sweeping nature of the provision but they all felt it should stay in. I also do not see any danger in exerting a right to "reoccupy". I really do not think it weakens the rest.

As I explained to you the other morning just before leaving, while I am very anxious to have your own views as "counsel" because of your past experience with this situation, I do not believe either the form or contents of these documents are properly the concern of anyone except AMG and AOC. I point this out because I want to limit the number of HQ whose official "approval" will have to be obtained - otherwise we will never get anything done at all. You know how difficult it is even with our ordinary proclamations. As Chief Legal Officer of AOC I think this is primarily my responsibility.

Accordingly I hope you will continue to give us your views "as counsel" but I hope you will not think it necessary to obtain any formal approvals. I would of course like the papers shown to the G.O.C. in C. with the statement that these are the documents which AMG will ask him to sign for the purpose of reading the rights needed by AOC.

Regarding your "minutes of meeting" on 12th November: Upjohn

as he may designate" is sufficient without the addition of a separate "defence tuition clause". I am also strongly of the view that we should leave section 8 in. It was discussed at length by everybody at the Brindisi conference. I pointed out the sweeping nature of the provision but they all felt it should stay in. I also do not see any danger in exerting a right to "reoccupy". I really do not think it weakens the rest.

As I explained to you the other morning just before leaving, while I am very anxious to have your own views as "counsel" because of your past experience with this situation, I do not believe either the form or contents of these documents are properly the concern of anyone except AFHQ and ACC. I point this out because I want to limit the number of those official "approval" will have to be obtained - otherwise we will never get anything done at all. You know how difficult it is even with our ordinary proclamations. As Chief Legal Officer of ACC I think this is primarily my responsibility.

Accordingly I hope you will continue to give me your views "as counsel" but I hope you will not think it necessary to obtain any formal approvals. I would of course like the papers shown to the G.O.C. in C. with the statement that these are the documents which AFHQ will ask him to sign for the purpose of ceding the rights needed by ACC.

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Regarding your "minutes of meeting" on 12th November: Upton and I were rather taken aback at finding our completely informal personal chat convened into a formal meeting with formal minutes. While it is undoubtedly a good thing to have informal notes of what we discussed, I do not think that anything should be embodied in the form of a "formal agreement" unless all parties present previously agreed that this should be done and we are not prepared to consider all of the matters presented by you as formally or finally agreed. Particularly I refer to paragraph 4. It was not "by an oversight" that Proclamation 14 had been printed nor on the record were the terms of Proclamation 14 objects for consideration on November 13th. On the contrary, as I have already wired you, you had written me on November 1st (AMG/205/24) that you and Upton had agreed to the terms of Proclamation 1, and that you were submitting them to the G.O.C. in C. In accordance with the invariable practice that you and I followed in getting out Proclamations when the form was agreed, and papers submitted, I went ahead and got 20,000 copies printed and I also advised Fairman to include it in Italy Gazette and go to print. Similarly it is included in the Allied Military Courts Manual. The new suggestion that it be changed is completely an afterthought and I might add, one which I consider to be untenable. If you re-examine the delegation of powers from the Military Governor to the C.C.A.C. dated 10th September, you will see that there is absolutely no power to make such sweeping changes in proclamations by General Orders. ~~The only power to change Proclamations~~ by General Order is to do so in the Military Governor's name, for the purpose of conforming proclamations issued in one region to later proclamations issued in another.

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

COPY.

XIS FOR PARGO - 720.

17th November, 1945

SECRET

SECRET

TO: PILSOT FOR TORRELL

PROCLAMATION NUMBER FOURTEEN x PAREN TO PILSOT FOR TORRELL FROM XIS FOR PARGO
FROM CLAUDIA GETE AND SEVEN TWO NOUGHT PAREN x REFERENCE MY CABLE AND SEVEN
NOUGHT TWO OF EIGHTEEN NOVEMBER UPON FURTHER CONSIDERATION OF DELEGATION OF
POWERS FROM MILITARY GOVERNOR TO YOU DATED TENTH SEPTEMBER I MUST ADVISE YOU
AS CHIEF LEGAL OFFICER THAT YOU HAVE NO POWER AS CLAO TO GIVE EFFECT TO THE
CHANGES IN PROCLAMATIONS AS PROVIDED IN PROPOSED PROCLAMATION NUMBER FOURTEEN
BY GENERAL ORDER

Originator: Lt.Col.Wm.C.Chandler.
Chief Legal Officer.
Legal Sub-Commission.

Please signal immediately that this matter is clear so that we can go ahead with the distribution of the proclamations and with the printing of the Gazette, and Allied Military Courts Manual.

As Chief Legal Officer, I would be unwilling to post Proclamation 14 in the form of a General Order and I have advised the C.C.A.O. by signal, a copy of which is enclosed. I am quite confident that such an order would be ultra vires.

I might add that the form and substance of Proclamation 14 was cleared long ago with MGS and would have to go back for their approval if any changes were made, particularly as the amendment which it seems to me must be done by Proclamation, is pursuant to a directive received from AFHQ.

Yours

Copy to: File AMG/4027/1.
AMG/4085/1.

60

P.S.

With further regard to the question of sending general directives to Regions III, IV etc: I think we should amend our prior views on this. I quite agree that we should not send directives to 5th or 8th Armies. We will merely send copies of directives to you for information to be forwarded to 5th and 8th Armies by you for information or action as and if you see fit. But I think we should send all directives direct to Regional HQ of all Regional organisations which have been established for information, and for action as soon as the Region is transferred from jurisdiction of 15 Army Group to the jurisdiction of HQ. AMG., otherwise it would be impossible for Regional organisations to keep abreast of what is going on. You must bear in mind that Regional HQ of course presumably will not function as such under 15 Army Group, they will merely be "bodies" attached to 5th and 8th Armies and then HQ. I assume they do not come into action until after the transfer.

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

Yours

Copy to: File AMG/4027/1.
AMG/4029/1.

1 66

P.S.

With further regard to the question of sending general directives to Regions III, IV etc: I think we should amend our prior views on this. I quite agree that we should not send directives to 5th or 8th Armies. We will merely send copies of directives to you for information to be forwarded to 5th and 8th Armies by you for information or action as and if you see fit. But I think we should send all directives direct to Regional HQ of all Regional organisations which have been established "for information, and for action as soon as the Region is transferred from jurisdiction of 15 Army Group to the jurisdiction of HQ. AMG., otherwise it would be impossible for Regional organisations to keep abreast of what is going on. You must bear in mind that Regional HQ of course presumably will not function as such under 15 Army Group, they will merely be "bodies" attached to 5th and 8th Armies AMG as a HQ. I assume they do not come into action until after the transfer.

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

2418

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

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
ADMINISTRATIVE DIRECTORATE.
APO 512

4060

AG 461

/mb
18 November 1943.

SUBJECT: Preparation of Directives.

TO: Distribution below.

1. Reference Allied Control Commission letter, dated 16 November 1943, no reference number, concerning the above subject and to which were attached certain abstracts.

2. The revised directives in draft, will be submitted to this office not later than 18.00 hours 24 November 1943.

3. If Sub-Commissions consider that no revision is necessary they will so inform this office by the date stated.

BY COMMAND OF MAJOR GENERAL JOYCE

R.R.CRIPPS
Lt. Col. G.S.
Administrative Director.

Distribution: Interior Sub-Commission.
Legal Sub-Commission.
Public Safety Sub-Commission.
Public Health Sub-Commission.
Education Sub-Commission.
Monuments, Fine Arts & Archives Sub-Commission.
Property Control Sub-Commission.
File.

1 58

Recd. 1100 hrs 19/11/43.

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

43

HEADQUARTERS ALLIED CONTROL COMMISSION
APO 512

16 November 1943

SUBJECT: Preparation of draft directives ordered by

(a) Paragraph 166 - Minutes of 16th Meeting of Executive Council, 29 October 1943

(b) Paragraph 174 - Minutes of 17th Meeting of Executive Council, 5 November 1943

TO : Director _____ Sub-Commission

1. Reference paragraph 185, minutes of 18th Executive Council Meeting, 10th November 1943, the abstracts appended hereto will affect the operations of the Allied Control Commission in general, and of your Sub-Commission in particular.

2. Your draft directives will be prepared in the light of these abstracts.

3. No technical action should be taken on the sole basis of these abstracts without first consulting the Legal Sub-Commission.

4. Attention is again directed to paragraph 8 of ACC Directive No. 1, dated 10th November 1943.

5. Draft directives should be submitted, through channels, to Vice Chief of Staff for approval by Deputy President ACC soonest possible and in any case not later than 1800 hours, 26 November 1943.

By command of Major General JOYCE:

E. GUETHROCK
Brigadier
Acting Chief of Staff

OFFICIAL:

E. L. Clough

E. L. CLOUGH
Lt Col, AGD
Acting Adjutant General

HEADQUARTERS
ALLIED MILITARY GOVERNMENT

BUCK SLIP

HEADQUARTERS
17 NOV 1943
AMGOT

Date

Sub: _____

Ref: _____

FROM		TO
	C.G. AMG	
	C. of S.	
	Exec Off	
	Economic Director	
	Industry & Commerce	
	Fuel	
	Agriculture	
	P. W. & Utilities	
	Labor	
	Interior	
	Information	
	Public Health	
	Legal	✓
	Public Safety	
	Property Control	
	Education	
	Fine Arts	
	Shipping	
	Internal Transportation	
	Telecommunications	
	Hq Commandant	
	C of Secretariat	
✓	Message Center	
	G-1	
	G-4	
	Displaced Persons	
	Adjutant	
	Personnel Office	

FOR:

Signature and return
Recommendation & Remark
Information & Guidance
Approval or Disapproval
Necessary Action
Investigation & Report

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

	C. of S.
	Exec Off
	Economic Director
	Industry & Commerce
	Fuel
	Agriculture
	P. W. & Utilities
	Labor
	Interior
	Information
	Public Health
	Legal
	Public Safety
	Property Control
	Education
	Fine Arts
	Shipping
	Internal Transportation
	Telecommunications
	Hq Commandant
	C of Secretariat
✓	Message Center
	G-1
	G-4
	Displaced Persons
	Adjutant
	Personnel Office

FOR:

Signature and return
Recommendation & Remark
Information & Guidance
Approval or Disapproval
Necessary Action
Investigation & Report
To note and return
File
Dispatch

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REMARKS: Please exhibit to all interested

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

HEADQUARTERS
17 NOV 1943
AMGOT

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

MINUTES OF MEETING WITH COLONEL UPJOHN AND LIEUT.COLONEL CHANLER HELD AT HQ., AMG., 15 ARMY GROUP on 12.NOV.43.

1. DIRECTIVES ISSUED BY H.Q., AMG.

The difficulties arising through directives being issued from Palermo to 5th and 8th Armies, and to Regions III and IV, was pointed out by Lieut.Colonel Rowe and instances were given of the confusion which had arisen as a result. It was agreed that in future AMG, Palermo, would observe channels with regard to all Legal Directives and that any communications for 5th and 8th Armies, or Regions III or IV, would go through this H.Q. (File AMG/207).

2. LAND TRANSACTIONS.

It was pointed out by Lieut.Colonel Rowe that under Proclamation 5, all land transactions were forbidden except so far as permission might be given by the C.C.A.C. C.C.A.C. had, at a meeting of S.C.A.C's in Palermo, approved land transactions up to 50,000 Lire and this approval was recorded in the minutes of such meeting, but no directive had ever been issued. Lieut.Colonel Rowe pointed out that it was necessary that a directive should be issued to cover this and also to cover all "family" transactions in land. This was a minimum. Lieut.Colonel Chanler and Colonel Upjohn agreed. The matter of freeing land transactions altogether was then considered and Brigadier Hamlyn's letter 13016/F dated 5.Nov.43 to Colonel Grafftey-Smith (File AMG/218/4) was discussed. Lieut.Colonel Rowe mentioned that in his opinion the freeing of land transactions would tend to stop inflation rather than to promote it. He also pointed out that Proclamation 5, which also dealt with the closing of banks, was not being posted in all places and that, in places where it was not posted, there was no legal rule against land transactions. Colonel Upjohn stated that he would go into the whole question on his return to Palermo. (File AMG/218).

3. AREAS OF CONTROL OF AMG, 15 ARMY GROUP AND AMG, PALERMO.

This subject was discussed and the respective limits of control of each Headquarters were agreed. It was also agreed that the present position was that Major-General The Lord Rennell was the Chief Civil Affairs Officer of all occupied territories and that Brigadier General McSherry was Deputy Chief Civil Affairs Officer of all occupied territories. Lieut.Colonel Rowe agreed to draw up

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meeting, but no directive had ever been issued. Lieut.Colonel Rowe pointed out that it was necessary that a directive should be issued to cover this and also to cover all "family" transactions in land. This was a minimum. Lieut.Colonel Chanler and Colonel Upjohn agreed. The matter of freeing land transactions altogether was then considered and Brigadier Hanlyn's letter 13016/F dated 5.Nov.43 to Colonel Greffiey-Smith (File AMG/218/4) was discussed. Lieut.Colonel Rowe mentioned that in his opinion the freeing of land transactions would tend to stop inflation rather than to promote it. He also pointed out that Proclamation 5, which also dealt with the closing of banks, was not being posted in all places and that, in places where it was not posted, there was no legal rule against land transactions. Colonel Upjohn stated that he would go into the whole question on his return to Palermo. (File AMG/218).

3. AREAS OF CONTROL OF AMG, 15 ARMY GROUP AND AMG, PALERMO.

This subject was discussed and the respective limits of control of each Headquarters were agreed. It was also agreed that the present position was that Major-General The Lord Rennell was the Chief Civil Affairs Officer of all occupied territories and that Brigadier General McSherry was Deputy Chief Civil Affairs Officer of all occupied territories. Lieut.Colonel Rowe agreed to draw up and put before the C.C.A.O. a form of delegation of powers by him to the D.C.C.A.O. to enable the D.C.C.A.O. to carry on administration in rear areas pending their relinquishment to the Italian Government. (File AMG/211).

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4. PROCLAMATIONS.

Lieut.Colonel Rowe informed Lieut.Colonel Chanler that Proclamation 1 had been submitted to the G.O.C.-in-C. for signature and that as soon as it had been returned signed, it would be forwarded. Proclamation 14 was discussed and it was agreed that the same was in order as drafted, subject to the C.C.A.O. agreeing that its provisions should be carried out by Proclamation rather than by General Order. Lieut.Colonel Chanler stated that by an oversight this Proclamation had already been printed and he urged that the same be put up in its present form to the G.O.C.-in-C. for signature. (File AMG/205).

No oversight at all. Lt. Col. Rowe by letter dated now stated he had agreed to the form & would submit it to M.G. As per invariable practice under these circumstances, printing was commenced. Further, this can not be done by G.O.C.

To Sheet 2...../

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

5. SUPPLY OF PROCLAMATIONS AND GENERAL ORDERS.
The supply of Proclamations and General Orders to AMG officers in the field was discussed. Lieut.Colonel Rowe informed Lieut.Colonel Chanler that he was awaiting a return from the Senior Legal Officers, 5th and 8th Armies, as to their estimated future requirements and present stocks. Lieut.Colonel Rowe would then inform Lieut.Colonel Chanler what further printing of Proclamations and General Orders was estimated as required over the period of the next three months for 5th and 8th Army areas (as they advanced) and Region III. (File AMG/205). Where does it?

6. JAIL SENTENCES.
The Directive issued by Lieut.Colonel Chanler to the effect that a Summary Military Court could only inflict 12 months' imprisonment and that the term included any term of imprisonment in default of payment of a fine, was discussed. Lieut.Colonel Rowe stated that he considered the Directive was incorrect and Colonel Upjohn agreed. Lieut.Colonel Chanler stated that he thought he also agreed but that Colonel Pollock, the Chief Judicial Officer AMG, Palermo, held strong views otherwise. It was agreed that Colonel Upjohn would discuss the matter with Colonel Pollock on his return to Palermo. (File AMG/207).

7. TRIAL OF PERSONS ACCUSED OF WAR CRIMES.
The Directive issued by this H.Q. (AMG/209/20 dated 6.Nov.43), was shown to Lieut.Colonel Chanler and Colonel Upjohn who agreed with its contents having regard to the C.C.S's Directive. It was generally agreed, however, that the C.C.S's Directive was unfortunate and that no action could be taken. (File AMG/209).

? Don't remember ever seeing it.

8. SIGNATURE OF GENERAL ORDERS.
The making of General Orders was discussed and it was agreed that the only person at present who could sign General Orders was Major-General The Lord Rennell. It was agreed that Regional Orders would probably be necessary and Colonel Upjohn was to put up a scheme for consideration at this H.Q. (File AMG/205).

? D.C.d A'o.?

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9. STAFF - LEGAL.
The question of legal Staff was raised. It was agreed that Capt.Brown, now at Palermo, be posted to AMG, 15 Army Group, in place of Major Campbell who had been returned. It was also agreed that if any other changes were found desirable, Lieut.Colonel Rowe [illegible] would be made if

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

AMG, Palermo, [illegible] Colonel Upjohn would discuss the matter with Colonel Forbes on his return to Palermo. (File AMG/207).

7. TRIAL OF PERSONS ACCUSED OF WAR CRIMES.

The Directive issued by this H.Q. (AMG/209/20 dated 6.Nov.43), was shown to Lieut.Colonel Chandler and Colonel Upjohn who agreed with its contents having regard to the C.C.S's Directive. It was generally agreed, however, that the C.C.S's Directive was unfortunate and that no action could be taken. (File AMG/209).

? Don't remember ever seeing it.

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? D.C.d A'e.?

54

9. STAFF - LEGAL.

The question of Legal Staff was raised. It was agreed that Capt.Brown, now at Palermo, be posted to AMG, 15 Army Group, in place of Major Campbell who had been returned. It was also agreed that if any other changes were found desirable, Lieut.Colonel Rowe would let Colonel Upjohn know and a re-arrangement would be made if possible. (AMG/200).

10. DOCUMENTS RELATING TO REQUISITIONING OF OCCUPIED TERRITORY TO THE ITALIAN GOVERNMENT.

Four draft documents were produced by Lieut.Colonel Chandler relating to this subject and were discussed at length. See separate memorandum. (File AMG/205).

14.November.43.
HQ., AMG.,
15 Army Group,
C. M. F.
HTM/JG.

H. E. ROWE,
Lieut. Colonel,
Chief Legal Officer.

Distribution: C.C.A.O.
HQ. AMG, PALERMO.
File 204.

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

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

Subject: Legal Directives.

H.Q., A.M.G.,
15 Army Group,
C. M. F.

15

Chief Legal Officer,
H.Q., A.M.G.,
PALERMO.

HEADQUARTERS
17 NOV 1943
Legal
AMGOT

AMG/207/10
11. Nov. 43.

Copies of directive signed by Colonel Pollock have been received at this H.Q. to-day. This directive deals with the review of Court cases and is not applicable to the procedure followed in 5th and 8th Army areas, or at the present time to Region III which comes under this H.Q. So far as Region IV is concerned it is at the present time wholly within Army areas. In spite of this the directive has been distributed to 5th Army, 8th Army and Regions III and IV, with the result that this H.Qs. has now to countermand the instruction given by your H.Q.

1. Confirming my AMG/207/7 dated 6.Nov.43, will you please ensure that Legal Directives are not given by you outside Regions I and II but that copies of same are sent to this H.Q. The procedure can then be followed in the other Regions and areas if it is applicable, but the decision as to that must remain here.

H. E. ROWE,
Lieut. Colonel,
Chief Legal Officer,
for Major-General,
Chief Civil Affairs Officer.

HER/JG.

Extra copy by hand of Major I. Campbell.

2427

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

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LEGAL SUB-COMMISSION

AMG/4002/L. 11th November, 1943.

SUBJECT: Non-Payment of Fines - Allied Military Courts.

TO : C.L.O. A.M.G. 15 Army Group.

1. Receipt of your AMG/207/7 of 6th November, 1943 is acknowledged.

2. Answering your para.2, you request information as to how the matter dealt with in our Administrative Instruction AMG/4002/L of 1st November came to us for a decision and why the instruction was sent to 5th Army HQ.

3. If you will re-examine this instruction, you will note that it is in mimeograph form as a general instruction and was not prepared in answer to Lt.Col.Shield's request at all. As a matter of fact, the question was first presented to this HQ by C.L.O. Region 2.

4. As to your suggestion that there was some impropriety in our including AFHQ 5th and 8th Armies in our distribution table for General Administrative Instructions etc., emanating from this office, I call your attention to the language contained in your para.4 of D.O. addressed to Col.Shields dated 28th October, 1943. It had always been our understanding as confirmed by you in that letter that copies of all General Administrative Instructions etc., emanating from this HQ. would be sent direct to 5th and 8th Armies as well as to yourself for information.

5. As it is apparent from your letter of the 6th November that you now desire to reverse this policy, instructions will be given to strike 5th and 8th Armies from our distribution table and no documents of any sort will be sent direct to the Legal Officers of those regions for information or any other purpose.

6. In regard to the legal point as to jail sentences in default of the payment of fines, we never received a copy of your letter AMG/207/3 of 27th October to Lt.Col.Shields. We would be glad to have that letter (for information only) so that we can attempt to adjust our policy to that which you have apparently laid down. We consider that the first consideration is that there shall be uniformity.

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Wm. C. CHANDLER,
Lieut.Col. F.A.
Chief Legal Officer.

WC/pw

2428

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

Subject: Legal Directives.

H.Q., A.M.G.,
15 Army Group,
C. M. F.

Chief Legal Officer,
H.Q., A.M.G.,
PALERMO.

AMG/207/ 8
11. Nov. 43.

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Confirming my AMG/207/7 dated 6.Nov.43, will you please ensure that Legal Directives are not given by you outside Regions I and II but that copies of same are sent to this H.Q. The procedure can then be followed in the other Regions and areas if it is applicable but the decision as to that must remain here.

H. E. ROWE,
Lieut. Colonel,
Chief Legal Officer,
for Major-General,
Chief Civil Affairs Officer.

HRR/JG.

Extra copy by hand of Major I. Campbell.

2429

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

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9 November 1943

SECRET

PATTIN FOR JUSTICE

MONTEREY HAS NO RIGHT NO LEGAL POWER TO ISSUE PASSES FROM SPAIN FOR PERSONS FROM GIBRALTAR TO PATTIN FOR JUSTICE REPEAT FREEDOM FOR MEN FOR SPAINS CITIZENS AND SIX OTHER FIVE PERSONS NOT FIGHTING WITH THE ENEMY RIGHT OF NOVEMBER EIGHT CHA MILITARY GOVERNMENT OFFICERS TO ITALIANS OR ACT UNDER EXISTING PROCLAMATIONS EXCEPT AS BOARD REPORT BOARD TO PERMIT AND CAN GET NO POWER TO ACT IN HIS OWN NAME EXCEPT BY DELEGATION FROM ALEXANDER K. AT PRESENT PERMIT HAS NOT REPEAT NOT DELEGATED GENERAL POWERS TO MONTEREY WHO CAN THEREFORE ONLY ACT LEGALLY IN HIS ALEXANDER K. APPROVAL CAN RESTORE EXERCISE OR DELEGATE ANY POWERS OF MILITARY GOVERNMENT IN OCCUPIED TERRITORY AS THESE ARE VESTED IN MILITARY GOVERNOR ALEXANDER

2430

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

File, A.P.C. relations with AMG

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SECRET
Received in Code

COPY

RECEIVED AT
ISLAND BASE SECTION

MSG NR 9218
MSG CEN NR
TO: SEARS FOR AMGOT

CLASSIFICATION "P"
TIME OF ORIGIN 061020
TIME OF RECEIPT 062300
TIME DECODED 060630

COMPELLING REASONS WHY ACTING DUPUTY PRESIDENT OF COMMISSION SHOULD NOT BE DESIGNATED MILITARY GOVERNOR OR CHIEF CIVIL AFFAIRS OFFICER REPLYING TO BAKER DASH FIVE SIX SEVEN CITE AMGOT RPT AMGOT FIVE EIGHT FOUR X PARAN TO FATIMA FOR JOYCE REPEATED FARGO SIGNED EISENHOWER CITE FHMBS PARAN X AMONG THESE IS THE CONSIDERATION THAT THE CONTROL COMMISSION HAS NOW BEEN EXPLAINED AT MOSCOW CONFERENCE AS A DIFFERENT SYSTEM OF CONTROL FROM AMG RPT AMG CMA AND ONE BEING CREATED PURSUANT OF THE ARMISTICE TO WHICH UNITED NATIONS GENERALLY ARE NAMED PARTIES X TO ANNOUNCE NOW THAT THE ACTING DEPUTY PRESIDENT IS REALLY BEING CHARGED WITH ADMINISTERING MILITARY GOVERNMENT WOULD CERTAINLY BE MISUNDERSTOOD X PRESS RELEASE FOR NOVEMBER TEN ON ESTABLISHMENT OF COMMISSION NOW UNDER CONSIDERATION BETWEEN GOVERNMENTS AND MUST BECOME FINAL TODAY X DESIGNATION OF YOU TO MILITARY GOVERNMENT POST WOULD APPEAR WHOLLY OUT OF KEEPING WITH PRESENT TEXT OF ABOVE X PARAGRAPH X BELIEVED THAT THE SUBSTANCE OF ALL YOU NEED HAS ALREADY BEEN PROVIDED X GENERAL ALEXANDER HAS AGREED TO DIVISION OF AMG SEMICOLON MCSHERRY IS IN COMMAND OF THE REAR ORGANIZATION AND ADMINISTRATIVEX RESPONSIBLE TO AFHQ X IT IS AGREED BETWEEN YOU AND HIM AND THIS HEADQUARTERS THAT HE WILL ADMINISTER HIS ORGANIZATION CONSISTENTLY WITH PURPOSES OF CONTROL COMMISSION AND SUBJECT TO YOUR GENERAL DIRECTION CMA SO THAT EVENTUAL TRANSFORMATION INTO COMMISSION WILL BE SMOOTH X THIS WILL BE THE SITUATION EVEN PRIOR TO TIME WHEN HEADQUARTERS AMG IS PLACED UNDER YOUR COMMAND X LETTER CONFIRMING NOW EN ROUTE TO MCSHERRY AND COPY TO YOU

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2431

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

(COPY)

4060

RECEIVED AT
ISLAND BASE SECTION

MSG NR 832
MSG CEN NR
TO McSHERRY

CLASSIFICATION URGENT
TIME OF ORIGIN 081905
TIME OF RECEIPT 082115
TIME DECODED 082130

QPWR MSG BEGINS IN ACCORDANCE WITH PARA ELEVEN B RPT PAGER OF MY DIRECTIVE I REPEAT ITEM RECOMMEND THAT HEADQUARTERS AMG RPT AMG BE BROUGHT UNDER THE COMMISSION ON TEN NOVEMBER OR AT SUCH DATE PAREN TO FREEDOM FOR HOLMES RPT PALERMO FOR MCSHERRY FROM JOYCE FROM FATIMA SIGNED MACFARLANE PAREN AS LEGAL BASIS FOR FUNCTIONING IS DECIDED ED AS TO QUESTION OF LEGAL BASIS REFERENCE IS MADE TO MY MESSAGE OF SIX NOVEMBER

WDC

2432

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

1441

Subject: Non-Payment of Fines - Allied Military Courts.

H.Q. AMG.,
15 Army Group,
C. M. F.

Chief Legal Officer,
H.Q., AMG.,
PALERMO.

P.94

HEADQUARTERS
10 NOV 1943
AMGOT

AMG/207/7
6. Nov. 43.

Copies of your Administrative Instruction (Legal), reference AMG/4002/L dated 1.Nov.43, are acknowledged.

2. The above instruction deals with a matter which was raised in a report by Lt.Col.Shields. This report was dealt with at this Headquarters, as appeared from our letter AMG/207/3 of 27.Oct.43 to Lt.Col. Shields, of which you received a copy. The instruction which was given by this Headquarters to Lt.Col.Shields was directly contrary to the one now issued by you, and it would be appreciated if you would let this Headquarters know how the matter came to you for a decision.

3. The giving of instructions direct to AMG, 5th and 8th Armies, from your Headquarters does not appear workable; and, on any legal matters, it is desired in future that copies of your directives should be forwarded only to these Headquarters, which will then distribute them to 5th and 8th Armies if they are agreed. With A.F.H.Q., your own Headquarters and these Headquarters, unless channels are preserved, the greatest chaos will arise. A further instance of this is contained in your instruction 4002/L of 3.Nov.43 with regard to General Military Courts. This instruction has been sent to 5th and 8th Armies who do NOT apply to you for the appointment of a General Military Court. P.96

4. With regard to the legal point, your instruction is not agreed. It is quite clear that a Summary Court has the power to impose a sentence of imprisonment up to 12 months AND a fine up to 50,000 Lire. The sentence of imprisonment imposed in default of payment of a fine is not a sentence imposed for the offence but for failure to pay the fine. Article V(2) of Proclamation 4 makes it quite clear that a person may be committed to prison for non-payment of a fine. The provision in that Section that the order, for the purpose of review, shall be considered part of the sentence, means only that the reviewing officer may reduce the alternate sentence of imprisonment, just as he can reduce any other part of the sentence.

5. If your instruction is not amended, then the result will be, in effect, that the jurisdiction of a Summary Court is reduced by 50% as it would be useless for a Summary Court to inflict a sentence of imprisonment of one year plus a fine of 50,000 Lire.

H.E. ROWE,
Lieut. Colonel,
Chief Legal Officer.

HER/JG.

P.S. The Senior Staff Officer here directs me to state that all communications to AMG, 5 & 8 Armies, must come through these Headquarters.

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

Headquarters
Allied Military Government
Legal Section, AFHQ

4060

6 November 1943

MEMORANDUM TO: Brig. Gen. Frank J. Kilbourne.

SUBJECT : The Jurisdiction of Military Government in Regions I and II.

1. AFHQ Administrative Instruction No. 69 of 15 October 1943 after providing for the division of AMG in Italy into the 15th Army Group and AFHQ, provides in para. 2 that General Alexander as CCS, 15th Army Group "will remain Military Governor of all Italian territory under Allied Military Government."

2. Cable no. 4484 of 24th October, signed Eisenhower, provides that pursuant to Administrative Instruction No. 69 "AMGOT Headquarters will forthwith revert into the Command" and that in areas south of the boundary as therein stated, AMGOT Headquarters will be "responsible to Allied Force Headquarters for Military Government." As all powers of Military Government in occupied territory rest solely and exclusively in the Military Governor, and as AFHQ has not granted General Alexander as Military Governor, it is clear that all powers of Military Government in any occupied territory including Region II, must derive from him, and no power of Military Government may be exercised within such territory except under his authority. It must be assumed therefore, that the provision in cable no. 4484 stating that AMG Headquarters will be responsible directly to AFHQ is in error, unless there is an order which we have not seen appointing someone other than General Alexander as Military Governor.

3. To clarify the situation I have sent a proposed delegation of power from General Alexander to you, authorizing you to exercise general powers of Military Governor as CCS to Regions I and II. While this draft has been approved by the Chief Legal Officer, 15th Army Group and is being submitted to General Alexander for signature, I have not yet learned that it has been signed.

Wm. C. Chanler,
Lieut. Co. F.A.
Chief Legal Officer.

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

(32)

4060

(4)

HEADQUARTERS
ALLIED MILITARY GOVERNMENT.

6th November, 1943.

Subject:- Meeting 5 Nov. 1943. Administrative Directorate.

To:- Sub-commissions of Administrative Group.

1. The following decisions reached at the a/m. meeting, which require action are recorded:-

2. Directives will be prepared as under:-

(a) Directive as from Deputy President to Sub-Commissions under A.C.C. conditions (Drafts for these are now in the hands of the Administrative Director).

(b) Directive to Regions limiting regional powers or reserving certain powers to this H.Q. under A.M.G. terms. (Drafts for these are also in the hands of the Administrative Director).

3. Pending the issue of the terms of the Directive from A.F.H.Q. to the Deputy President, consideration will be given to and skeleton drafts prepared of directives as under:-

(a) Directive to the chiefs of Regions as to their powers and procedure on the change from A.M.G. to A.C.C.

(b) Directives to specialist personnel of sub-commissions as to their duties on the change from A.M.G. to A.C.C.

4. Memorandum from Sub-commission to A.M.G. 15 Army Group for guidance of A.M.G. 15 Army Group Officers as to their procedure in relation to such matters of policy as sub-commission chiefs believe should be controlled from this Headquarters under either A.M.G. or A.C.C. conditions.

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5. It was decided that a meeting of Sub-commission heads of the Administrative Group will be held every Friday at 0900 hrs.

(a) Directive as from Deputy President to Sub-commissions under A.C.C. conditions (Drafts for these are now in the hands of the Administrative Director).

(b) Directive to Regions limiting regional powers or reserving certain powers to this H.Q. under A.M.G. terms. (Drafts for these are also in the hands of the Administrative Director).

3. Pending the issue of the terms of the Directive from A.F.H.Q. to the Deputy President, consideration will be given to and skeleton drafts prepared of directives as under:-

(a) Directive to the chiefs of Regions as to their powers and procedure on the change from A.M.G. to A.C.C.

(b) Directives to specialist personnel of sub-commissions as to their duties on the change from A.M.G. to A.C.C.

4. Memorandum from Sub-commission to A.M.G. 15 Army Group for guidance of A.M.G. 15 Army Group Officers as to their procedure in relation to such matters of policy as sub-commission chiefs believe should be controlled from this Headquarters under either A.M.G. or A.C.C. conditions.

45

5. It was decided that a meeting of Sub-commission heads of the Administrative Group will be held every Friday at 0900 hrs.

Lt. Col.
Administrative Director.

DISTRIBUTION:
Interior.
Legal.
Public Health.
Public Security.
Property Control.
Education.
Fine Arts.
File.
War Dairy.

Copy to:- Chief of Staff.
Director of Economics.

W.C.

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

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Ent
4060.
31

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LEGAL SUB-DIVISION

6 November 1943.

MEMORANDUM TO : Brig. Gen. Frank J. McSherry.

SUBJECT : State of Preparedness of Administrative Sub-Divisions to Assume their Functions under ACC Conditions.

1. As Acting Administrative Director, I recently requested the chiefs of the sub-divisions under my jurisdiction to prepare Administrative Instructions to be issued to specialist officers in the various sub-divisions in the field as to their duties under ACC conditions. It developed that not one of the sub-division chiefs was prepared to do so. I asked whether such directives had not been prepared at Tizi-Ouzou and was informed that they had not; that the only directives prepared were the short general directives outlining ~~in the proposed form~~ the general functions of the sub-divisions. They stated that so far as they knew, no study had been made as to the actual manner in which these functions would in fact be carried out by the officers in the various sub-divisions.

2. I pointed out that it was conceivable that Regions I and II might be turned over to the Italian Government at some period and that then all officers in the field would have to change from Military Government to ACC functions. When asked whether any of the sub-division chiefs in question felt that he was prepared to go into action in the near future, they unanimously agreed that not one of them was prepared to issue the necessary instructions to enable the general functions of the sub-divisions, as set forth in the directives prepared at Tizi-Ouzou, to be carried into effect. I should add that the Legal Sub-Division is prepared to issue such instructions.

3. I have given instructions to the Administrative sub-divisions to prepare such directives at the earliest moment. But you will recall that it was the preparation of these directives that took the bulk of the time devoted to planning in preparation for "Husky." The outline plan, known as "the AMGOT Plan," which corresponds generally to the outline plans prepared at Tizi-Ouzou, which had been prepared primarily by Colonel Spofford, with the assistance of Colonel Maxwell, ~~--~~ was completed about the fifteenth of May. It was at that time that the full planning staff was assembled at Algiers and the real work of planning began. You will recall that it took from six to eight weeks to prepare all of the actual administrative directives and to train and instruct the personnel of the different divisions so as to enable them to carry out their functions in the field.

4. The seriousness of the situation which would confront ACC if Regions I and II were turned over to the Italian Government in the immediate future is apparent.

WILLIAM E. CHANDLER,
Lt. Col., FA,
Acting Administrative Director.

Copy to C/S.

2437

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

Subject: Format. of AMG. H.Q. and AMG, 15 Army Group.

Chief Legal Officer,
H.Q. Allied Military Government,
PALERMO.

AMG/209/9
1.November.43.

HEADQUARTERS 4060 AMGOT

Reference para 1 of letter AMG/209/10 of 31.Oct.

1. The writer has since seen and discussed the contents with Col.Upjohn. The authority to Brigadier-General McSherry has been finally agreed in the attached form and the form has been submitted to the C.G.S. for signature by General Alexander.

2. A signal will be sent you as soon as the authority has been signed.

A.M.G.,
15 Army Group,
C. M. F.
HER/JG.

H. E. ROWE,
Lieut.Colonel,
Chief Legal Officer.

Subject: Division of Allied Military Government.

H.Q., 15th ARMY GROUP.
28th October, 1943.

With reference to Administrative Memorandum No.69 dated 18th of October, 1943, announcing the assignment of Brigadier General Frank J. McSherry to be Chief of Headquarters Allied Military Government and in view of the division of occupied territory into regions, I, Harold R.L.G. Alexander, G.C.B., G.C.I.E., D.S.O., M.C., General Officer Commanding the Allied Forces in Sicily and Italy and Military Governor of all occupied territory,

(1) appoint the said Brigadier General Frank J. McSherry to be Chief Civil Affairs Officer in the occupied territories under Headquarters Allied Military Government, but not including territories under the control of Allied Military Government, 15 Army Group.

(2) In respect to the territories now under or which may hereafter from time to time be transferred into the control of Headquarters Allied Military Government, I delegate to said Brigadier General Frank J. McSherry, Chief Civil Affairs Officer as aforesaid and to such other officer as may hereafter be assigned as Chief of Headquarters Allied Military Government, the following powers subject nevertheless to the provisions of such proclamations and other orders as I have already issued or may from time to time hereafter issue.

(a) To issue in his own name such orders and directives as may be necessary from time to time to carry out his duties as Chief Civil Affairs Officer and Chief of Headquarters Allied Military Government.

(b) To delegate the power to make such orders and directives to such officer or officers under his command as he may see fit.

(c) All powers which I possess to appoint and remove all Italian Administrative and Judicial officials of the provinces and communes and all other governmental and municipal functionaries and all officers and employees of state, municipal, or other public service who are in the occupied territory under the control of Headquarters Allied Military Government. The said Chief Civil Affairs Officer may nominate any officer or officers of the Allied Military Government of Occupied Territory, to exercise the powers hereby delegated to him.

(3) I empower the said Brigadier General Frank J. McSherry or such other officer as may hereafter be assigned Chief of Headquarters Allied Military Government by order issued in my name to make such amendments to any proclamations which I have already issued or may from time to time hereafter as may be necessary to effect the division of territory [illegible] of Headquarters Allied Military Government into

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

nevertheless to the provisions of such proclamations and orders as I have already issued or may from time to time hereafter issue.

(a) To issue in his own name such orders and directives as may be necessary from time to time to carry out his duties as Chief Civil Affairs Officer and Chief of Headquarters Allied Military Government.

(b) To delegate the power to make such orders and directives to such officer or officers under his command as he may see fit.

(c) All powers which I possess to appoint and remove all Italian Administrative and Judicial officials of the provinces and communes and all other governmental and municipal functionaries and all officers and employees of state, municipal, or other public service who are in the occupied territory under the control of Headquarters Allied Military Government. The said Chief Civil Affairs Officer may nominate any officer or officers of the Allied Military Government of Occupied Territory, to exercise the powers hereby delegated to him.

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(3) I empower the said Brigadier General Frank J. Rosberry or such other officer as may hereafter be assigned Chief of Headquarters Allied Military Government by order issued in my name to make such amendments to any proclamations which I have already issued or may from time to time issue as may be necessary to effect the division of territory under the control of Headquarters Allied Military Government into regions and for the decentralization of administrative powers to regional officers.

Not Signed

General,
General Officer Commanding the
Allied Forces and Military Governor.

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

2 4 4 0

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

Subject: Formation of AMG. HQ., and AMG, 15 Army Group.

Chief Legal Officer,
H.Q. Allied Military Government,
PALERMO.

SECRET.
AMG/209/10.
31.October.43.

Reference your letter of 28.Oct.43 with draft order for signature of G.O.C.-in-C., the amendments indicated in the copy of the draft returned herewith are suggested for your consideration. Will you please send a fair copy of the form you wish to be signed, with memorandum to G.O.C.-in-C. attached in explanation and cetifying that the form is in order.

2. Reference para.4 of your above letter, it would appear that Signal W/3308/1684 of 24.Oct from Freedom to Sears for AMG rptd to this H.Q. has escaped your notice. This signal defines the limits of AMG and 15 Army Group respectively, and, together with the order appointing the Commanding Officers of the two units, seems to settle all questions of responsibility. A Proclamation on the subject does not appear necessary or desirable as the Italian public is not concerned in matters which are purely domestic to the Allied Forces.

3. The difficulties arising from General Alexander being Military Governor of the areas outside the control of 15 Army Group are not, of course, a subject for consideration by this H.Q.; but the writer would suggest unofficially that such difficulties might be overcome by A.F.H.Q. issuing an order making it clear that General Alexander, besides being G.O.C.-in-C., 5th and 8th Armies, is also in Command of AMG as Military Governor. The Command of AMG(Main) would be an additional command and General Alexander would then communicate direct to A.F.H.Q. from his H.Q. at 15 Army Group and from his H.Q. at AMG (Main). The chief matter which will need clearing with General Alexander, whatever the form of the set-up, will be the extent to which he desires to be informed of matters and take decisions as Military Governor. The foregoing has not been discussed and is purely a suggestion from the writer for your consideration in formulating your proposals.

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H. E. ROWE,
Lieut. Colonel,
Chief Legal Officer.

A.M.G.,
15 Army Group,
C. M. F.
HER/JG.

2441

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

SUBJECT : Division of Allied Military Government.

HQ 15TH ARMY GROUP,
26 October, 1943.

With reference to Administrative Memorandum No. 63 dated 18 of October 1943 announcing the assignment of Brigadier General Frank J. McSherry to be Chief of Headquarters Allied Military Government and in view of the division of occupied territory into regions, I, Harold R.L.G. Alexander, G.C.B., C.M.G., M.C., General Officer Commanding the Allied Forces in Sicily and Italy and Military Governor of all occupied territory,

(1) appoint the said Brigadier General Frank J. McSherry to be Chief Civil Affairs Officer in the occupied territories under Headquarters Allied Military Government ~~so far as such territories are not under the Chief of Allied Military Government, 15th Army Group.~~

(2) In respect to the territories now under or which may hereafter from time to time be transferred into the control of Headquarters Allied Military Government, I delegate to said Brigadier General Frank J. McSherry, Chief Civil Affairs Officer as aforesaid and to such other officer as may hereafter be assigned as Chief of Headquarters Allied Military Government, the following powers subject nevertheless to the provisions of such proclamations and other orders as I have already issued or may from time to time hereafter issue,

Chief

(a) To issue in his own name such orders and directives as may be necessary from time to time to carry out his duties as Chief Civil Affairs Officer and Chief of Headquarters Allied Military Government.

(b) To delegate the power to make such orders and directives to such officer or officers under his command as he may see fit.

(c) All powers which I possess to appoint and remove all Italian administrative and judicial officials of the provinces and communes and all other government and municipal functionaries and all officers and employees of state, municipal, or other public service who are in the occupied territory under the control of Headquarters Allied Military Government. The said Chief Civil Affairs Officer may nominate any officer or officers of the Allied Military Government of Occupied Territory, [such officer or officers not being below the rank of Lieutenant Colonel] to exercise the powers hereby delegated to him.

are

Note: Every rank. The power might have to be exercised by an SCAO who was below rank of Lieut Colonel

(3) I empower the said Brigadier General Frank J. McSherry or such other officer as may hereafter be assigned Chief of Headquarters

2442

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~~260~~ 3

Note:
It is understood that this is only intended to apply to territory under control of your HQ. That that under control of 15 A G.

Allied Military Government by order issued in my name to make such amendments to any proclamations which I have already issued or may from time to time issue as may be necessary to effect the division of territory under the control of Headquarters Allied Military Government into regions and for the decentralization of administrative powers to regional officers.

General,
General Officer Commanding the
Allied Forces and Military Governor.

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2443

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Legal

054060

HEADQUARTERS
ALLIED MILITARY GOVERNMENT

AMGOT/107/HQ 1 November 1943

SUBJECT: Division of Allied Military Government

TO : R.C.A.Os

1. Reference memorandum AMGOT/107/HQ of 21 October 1943, copy attached, the words "rear of" in the fifth line of I should be deleted.

2. By order of Allied Force Headquarters, AMGOT 15 Army Group is responsible for Military Government in Italian territory occupied or to be occupied by the Allied Forces north of the Northern boundaries of the Provinces of Salerno, Potenza and Bari. Headquarters, Allied Military Government, are responsible for Military Government in Italy (including Sicily) south of the Northern boundaries of the Provinces of Salerno, Potenza and Bari.

3. The above became effective as from 0001 A hours on 24 October 1943.

By command of Brigadier General McSHERRY:

E. A. L. GUETERBOCK
Brigadier
Chief of Staff

1 Incl. - Division of Allied Military Government

DISTRIBUTION:
R.C.A.O. - Region I
" - " II
AMGOT 15 Army Group - 1
MGS, AFHQ - 1
Heads of all Subcommissions - 16

2444

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

4060

SECRET

31 October 1943

Subject: Future Relations with Italian Government

To : Chief, Headquarters Allied Military Government.

You will recall that on September 25 at your request I prepared a memorandum for Gen. Holmes on the above subject pointing out some of the consequences of turning over portions of the occupied territory to the Italian government, and suggesting certain provisions that should be included in the armistice terms.

Since that time I have had an opportunity to examine the long term armistice. I believe it my duty to call to your attention the consequences which will follow should we turnover at this time Regions I and II to the Italian government under the provisions of that armistice. It must be borne in mind that as soon as any occupied territory is turned over to the legitimate sovereign or government the occupying power has no more rights in territory so turned over than it would over the territory of a foreign nation except in so far as any rights may be reserved in the terms of the armistice. Although I have frequently called attention to this fact it seems to have been quite generally disregarded or overlooked. It seems to be thought in many quarters that because we have conquered the territory and the Italians have unconditionally surrendered we may safely return territory to the jurisdiction of the Italian government and retain certain inherent rights over it. Nothing can be further from the fact.

The occupying power has almost unlimited powers of government arising out of the fact of military occupation. All such powers are vested in the military governor who exercises them through his military government organization. The only limitations of his power are those minor limitations imposed by international

or government the occupying power has no more

than it would over the territory of a foreign nation except in so far as any rights may be reserved in the terms of the armistice. Although I have frequently called attention to this fact it seems to have been quite generally disregarded or overlooked. It seems to be thought in many quarters that because we have conquered the territory and the Italians have unconditionally surrendered we may safely return territory to the jurisdiction of the Italian government and retain certain inherent rights over it. Nothing can be further from the fact.

The occupying power has almost unlimited powers of government arising out of the fact of military occupation. All such powers are vested in the military governor who exercises them through his military government organization. The only limitations of his power are those minor limitations imposed by international law to prevent unnecessary abuses.

All those powers cease absolutely and completely the moment territory is turned back to the legitimate sovereign. The rights of the conquering power cease to be de facto and become de jure. I have examined the long term armistice terms carefully. The only powers reserved in unoccupied territory are as follows:

(a) A right of passage for members of the land, sea and air forces and officials of the United Nations in and over unoccupied Italian territory.

(b) All transportation facilities will be made available in unoccupied territory and free transit will be given for war materials and supplies.

(c) The Italian authorities will comply with all instructions issued by the Allied C-in-C regarding the use or control of air fields, transportation,

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

shipping, inland transportation systems and vehicles, inter-communication system, power stations and public utility services, oil refining stores and other fuel and power supplies and means of protecting same, as United Nations may specify, together with connected repair and construction facilities.

(d) The Italian government will make available such Italian currency as the United Nations may require and will withdraw and redeem all such currency as the United Nations may specify, and will take such measures as will be required to control banks and business in Italian territory, for the control of foreign exchange and foreign commercial and financial transactions, and for the regulation of trade and production, and will comply with the instructions issued by the United Nations regarding these and similar matters.

(e) There will be no financial or commercial or other dealings or intercourse with or for the benefit of countries at war with the United Nations, or any other foreign country, except as authorized by the Allied C-in-C.

It will be noted that no other rights whatever are reserved to the Allied Nations in unoccupied territory. Thus for example there is no right to quarter troops or maintain cantonments in unoccupied territory, except while they are in transit. There is no right to maintain military garrison troops. There is no right to operate ports, air fields, transportation systems, communications systems, power stations, oil refineries, or public utility services. The only right we have in this respect is to give instructions to the Italians as to how such facilities shall be operated.

There is no reservation of extra-territorially, an essential right if Allied personnel are to reside in any part of unoccupied territory. At present any member of the Allied Forces may be arrested in unoccupied territory by Italian

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

intercourse with or for the benefit of countries at war with the United Nations, or any other foreign country, except as authorized by the Allied C-in-C.

It will be noted that no other rights whatever are reserved to the Allied Nations in unoccupied territory. Thus for example there is no right to quarter troops or maintain cantonments in unoccupied territory, except while they are in transit. There is no right to maintain military garrison troops. There is no right to operate ports, air fields, transportation systems, communications systems, power stations, oil refineries, or public utility services. The only right we have in this respect is to give instructions to the Italians as to how such facilities shall be operated.

There is no reservation of extra-territorially, an essential right if Allied personnel are to reside in any part of unoccupied territory. At present any member of the Allied Forces may be arrested in unoccupied territory by Italian officials and hauled before Italian courts for infraction of Italian law and Armistice Control Commission officials would appear to have no right to permanently reside within unoccupied territory as the only right reserved is for "transit." Nor is there any provision exempting members of the Allied Forces from Italian taxation in unoccupied territory. Therefore all Allied personnel permanently residing in unoccupied territory would be subject to Italian taxation. Furthermore, there is no right reserved to conduct Allied Military Courts. This would probably be unnecessary in many parts of the unoccupied territory but might become necessary for example for the punishment of civilians interferring with the free movement of troops in transit and should certainly be necessary if any cantonment rights are reserved. I have called ~~xxxx~~ these matters to the attention of

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

MGS and suggested that these matters should be taken care of by a separate agreement entered into with the Italian government at the time of the transfer. General Holmes stated that he did not think it was necessary and felt it might expose a weakness in our position to make such a request. Up to the time of that discussion I had not been permitted to see the armistice terms and was not in a proper position to discuss them. On further consideration I feel it my duty to state that I believe that unless such an agreement is entered into the Italian government will be in a position to enforce all rights above referred to.

While it can be said that we may exert pressure against them from time to time we must remember that the Italians are good lawyers and that they are fully aware of these facts under international law. I believe that these matters should be carefully reconsidered before any territory is turned over to the Italian government.

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Action on
HQ file 107/HQ
Kept by Lt Jeffey Smith

(2)

SHAPE FOR AMGOT - 514

20th OCTOBER 1943

SECRET

URGENT

TO: AFHQ FOR MGS

NOTE APPARENT ERROR IN YOUR ADMINISTRATIVE MEMORANDUM NUMBER SIXTY NINE OF EIGHTEEN OCTOBER x PARAS FROM SHAPE FOR AMGOT FROM HQSHEHQ TO AFHQ FOR MGS CITE AMGOT FIVE ONE FOUR PARAS PARA ONE STATES AND FIFTEEN ARMY GROUP WILL ADMINISTER AMG IN REAR OF COMBAT ZONES x SHOULD NOT WORDS QUOTE REAR OF UNQUOTE BE DELETED x SEE YOUR NUMBER FOUR ONE FOUR ONE OF SIXTH OCTOBER x FURTHERMORE NO ORDER HAS BEEN RECEIVED FROM YOUR HQ TRANSFERRING ANY TERRITORY TO THIS HQ AS INDICATED IN SAME PARAGRAPH

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

A.C.C. HQ. SICILY
APO 512

319.1

28 October, 1943.

SUBJECT: Directives and Reports (Sub-Commissions).

TO : All Sub-Commissions of Administrative Directorate.

1. The following instructions are in confirmation or amplification of the verbal instructions given by Brig. Gen. McSherry at the conference held at this Hq. 27 October, 1943.

2. The returns and directives called for will take the following priority.

(a) Directives of functions of Sub-Commissions.

(b) Reviews of all activities of Sub-Commissions.

(c) Monthly Report for month of October.

3a. The directives referred to in paragraph 2(a) above are required for submission to the Commanding General for approval. They will embrace all aspects of the functions of sub-commissions, to include mission, major functions, and method of carrying these out.

b. The "Functions of Sub-Commissions" previously drawn up and issued at A.C. Hq. Tizi-Ouzou may be used as a basis, but will be revised where necessary in the light of experience gained by AMG officers working in Sicily and on the mainland of Italy.

4. Reviews of activities are required for the information of officers joining the Amalgamated Hq. of AC, AMG, and to enable an appreciation of the situation to be made at the time of the fusion of the two Hqs.

5. The monthly reports will be rendered as hitherto by Sub-Commissions. AMG officers will be largely responsible for their compitance. The returns will be rendered to this office by 1800 hours 5 November, 1943.

W. C. Schaeffer
Lt. Colonel.
Acting Admin. Director

LEGAL ✓

Copy of Draft Telegram

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To: CCS, Washington

From: Freedom

No. NAF 590

As result of practical experience I wish to make the following changes in the organization of the Allied Control Commission : (1) Appointment of a Deputy to the Deputy President. (2) Division of the Economic and Administrative Section into an Administrative Section and an Economic Section each under a Vice President. (3) Abolition of the appointment of Vice-President Military Section. This section will deal direct with the Deputy President through the Chief of Staff. (4) Reduction of the status of the Vice-Presidents of the Political Section and the Communications Section to the Rank of Director. (5) All Deputy Vice-Presidents to be abolished. (6) I propose to abolish Headquarters Allied Military Government with G.H.Q. A.C.M.F. Allied Military Government will continue only in the Fifth Army area and Eighth Army area. Operational control of A.M.G. in these two areas will be exercised by their respective Army commanders. Technical and administrative

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(3) Abolition of the appointment of Vice-President [illegible] Section. This section will deal direct with the Deputy President through the Chief of Staff. (4) Reduction of the status of the Vice-Presidents of the Political Section and the Communications Section to the Rank of Director. (5) All Deputy Vice-Presidents to be abolished. (6) I propose to abolish Headquarters Allied Military Government with G.H.Q. A.C.M.F. Allied Military Government will continue only in the Fifth Army area and Eighth Army area. Operational control of A.M.G. in these two areas will be exercised by their respective Army commanders. Technical and administrative control will be exercised by Headquarters A.C.C. which will absorb the necessary personnel from Headquarters A.M.G. A.C.M.F. now to be abolished. (7) I am now deciding upon the personnel for the higher appointments in A.C.C. I wish to make the following appointments and will forward my suggestions for those now omitted at a very early date. Deputy to Deputy President Captain E. Stone, U.S. Navy, at present Vice-President of the Communications Section. He will retain title of Vice-President. Vice-President Administrative Section Lord Stansgate. Vice-President Economic Section Mr.Henry Grady. Joint-Directors of Political Section, Mr. Caccia and Mr. Reber.

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Copy of Draft Directive

1. General Sir Harold Alexander is appointed Acting President of the Allied Control Commission in Italy and will continue to be the Military Governor of such occupied territory in Italy (including Sicily) as has not been restored to the Italian Government. He will carry out all functions of President of the Allied Control Commission in Italy and of Military Governor of occupied territory in Italy (including Sicily) but will refer all questions of high policy to the Commander-in-Chief Mediterranean theater.

2. Lieutenant-General Sir Noel Mason MavFarlane will be Deputy President of the A.C.C. and Chief Commissioner. He will also be the Chief Civil Affairs Officer of occupied territory under Allied Military Government. His headquarters will be Headquarters, A.C.C., and it will be in addition the Civil Affairs Branch of Headquarters, A.C.M.F.

3. Headquarters, A.M.G., 15th Army Group (now A.C.M.F.) is abolished. Headquarters, A.M.G., 5th and 8th Armies will operate in the areas forward of the territory handed back to the Italian Government under the operational command of Commanders, 5th and 8th Armies and under the technical control of Headquarters, A.C.C.

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4. All Italian territory not under Allied military government

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2. Lieutenant-General Sir Noel Mason-MacFarlane, President of the A.C.C. and Chief Commissioner. He will also be the Chief Civil Affairs Officer of occupied territory under Allied Military Government. His headquarters will be Headquarters, A.C.C., and it will be in addition the Civil Affairs Branch of Headquarters, A.C.M.F.

3. Headquarters, A.M.G., 15th Army Group (now A.C.M.F.) is abolished. Headquarters, A.M.G., 5th and 8th Armies will operate in the areas forward of the territory handed back to the Italian Government under the operational command of Commanders, 5th and 8th Armies and under the technical control of Headquarters, A.C.C.

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4. All Italian territory not under Allied military government will be administered by the Italian Government under the direction of the A.C.C.

5. A regional organization on the present lines will be maintained until further orders and the responsibility for all territory now under A.M.G. control passes to Headquarters, A.C.C.

6. The above orders will take effect from 0001 hours 25th January 1944.

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AMGOT/107/HQ

21 October 1943

SUBJECT: Division of Allied Military Government

TO : All S.C.A.Os & Heads of Divisions

The following memorandum is issued for the information and guidance of all concerned:

I - DIVISION OF THE ALLIED MILITARY GOVERNMENT OF OCCUPIED TERRITORY INTO TWO ORGANIZATIONS.

Effective 24 October 1943, the Allied Military Government of Occupied Territory established by Administrative Memorandum No. 35, this headquarters, as, is divided into two organizations: Allied Military Government 15 Army Group, and Headquarters Allied Military Government. The former will administer Allied Military Government in territory in rear of combat zones of the 15 Army Group. The latter will operate in such other Italian territory as is placed under Allied Military Government. The transfer of territory from the one organization to the other will be by order of this headquarters.

II - MILITARY GOVERNOR.

General Sir Harold Alexander, as General Officer Commanding-in-Chief, 15 Army Group, will remain Military Governor of all Italian territory under Allied Military Government.

III - ASSIGNMENT OF CHIEF OF ALLIED MILITARY GOVERNMENT 15 ARMY GROUP AND OF CHIEF OF HEADQUARTERS ALLIED MILITARY GOVERNMENT.

Announcement is made of the assignment of Major General Lord Rennell of Rodd to be Chief of Allied Military Government 15 Army Group, and of Brigadier General Frank J. McSherry to be Chief of Headquarters Allied Military Government.

By command of General EISENHOWER:

/s/ T. J. Davis
T. J. DAVIS
Brigadier General, United States Army,
Adjutant General

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OFFICIAL:

CHARLES M. SPOFFORD
Colonel, G. S. C.
Chief Staff Officer

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By command of General EISENHOWER:

/s/ T. J. Davis
T. J. DAVIS
Brigadier General, United States Army,
Adjutant General

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OFFICIAL:

CHARLES M. SPOFFORD
Colonel, G. S. C.
Chief Staff Officer

Distribution:

Agrigento - 6
Caltanissetta - 6
Catania - 6
Enna - 4
Palermo - 35
Ragusa - 6
Siracusa - 10
Trapani - 6
Messina - 8
Pantelleria - 3
AMGOT Liaison - 1
AMGOT 8th Army - 6
RCAC Region 2 - 6
RCAC Region [illegible] - 5
AMGOT 15 Army Group - 2
AMGOT 8th Army Region 3 - 10
File 266 & 107 - 2
Float - 1
MGS, AFHQ - 12
Spares - 10

Division

Finance - 5
Public Safety - 4
Legal - 1
Public Health - 1
Public Relations - 1
Controller of Property - 1
Trans. Com. & Utl. - 1
Labor - 1
Economics & Supply - 1
Agriculture - 1
Education - 1
Monuments & Fine Arts - 1

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

(COPY) File.

For C.L.O.

1/1957A

NB-7367 SECRET PRIORITY IBS-1804

FROM: FREEDOM SIGNED EISENHOWER 151500A

TO: SEARS FOR AMGOT

Situation altered since Maxwell left here with draft outline plan of 7th October. Situation Declaration of War by Italy makes desirable immediate activation of Allied Commission to provide machinery for negotiation with Italian Government for gradual transfer of Battled Territory to Italian Administration. MAT 53 does not change essentials of Plan agreed your 825 but does accelerate establishment of Allied Commission. Practical custom of AMG HQ and Allied Commission will continue. All points raised in 825 accepted and will be incorporated and will be incorporated present arrangements.

(FROM FREEDOM TO FILPOT FOR AMG FOR RETHEIL REPEATED IBS FOR SEARS FOR AMG FOR MACSIMRY SIGNED EISENHOWER FOR CITE FIMGK REFERENCE FILPOT MESSAGE EIGHT TWO THREE OF 15 OCTOBER AND MAT 53 14 OCTOBER)

DIST: CO

AMGOT

INTELL

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copy handed to CSO by CLCO on 2/45

SECRET

AMGOT/4060/L.

AMGOT HQ., SICILY

9 October 1943

MEMORANDUM TO: C.S.O.

SUBJECT : Proposed Reorganization of AMGOT as per M.G.S. Memo of October 1943.

The new proposal is that AMGOT be split in two separate and independent parts; one a headquarters set up under 15 Army Group with two detachments, one assigned to 5th Army and one to 8th Army, to have full responsibility under the C.O.C. for the government of areas under the control of 5th and 8th Armies and of 15 Army Group; the second, a separate independent AMGOT Headquarters, is to be set up directly under A.F.H.Q. to supervise the government of the territory in the rear of that controlled by 15 Army Group.

The proposal then is gradually to merge AMGOT Headquarters, A.F.H.Q. with Allied Commission, as and when the Italian Government is strong enough to permit the lifting of military government from those areas - presumably not until some time after Rome has been occupied.

The proposal for the merging of AMGOT Headquarters, A.F.H.Q. with Allied Mission appears to be worked out on as sound a basis as is possible under existing circumstances, it now being apparent that Military Government will not be abandoned until an Italian Government strong enough to function is actually created. But the proposal to split AMGOT into two separate and independent headquarters raises in even more agravated form the very objection which was made to the earlier proposal. It means that there will be two separate and independent headquarters, each controling the military government organization in the field and the second moving up to take over territory previously governed by the first as the troops move forward.

As pointed out in previous memoranda, government, especially during the confusion and chaos following battle and military occupation, can not be successfully carried out unless there is absolute continuity and uniformity of direction from above.

Colonel Maxwell states that this uniformity and continuity would be supplied by M.G.S. as both AMGOT Headquarters would be under M.G.S., the former through 15 Army group and the latter directly.

But if M.G.S. is to perform the functions of the Supreme Governing body of Italy it must be expanded to include a group at least as large as the present AMGOT Headquarters and it should unquestionably

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But if M.G.S. is to perform the functions of the Supreme Governing body of Italy it must be expanded to include a group at least as large as the present AMGOT Headquarters and it should unquestionably move to the mainland of Italy. It will be impossible to govern even the territory already occupied by remote control from a small Headquarters such as that now established at M.G.S. Nearly every problem of government in some way or other involves questions of policy. Anyone familiar with government at home or with our experience in Sicily must realize that practically every act of Provincial Officers must be considered by somebody in the top headquarters who is familiar with the general policies and program of government so as to synchronize these acts with those it has taken in other provinces and synchronize the whole with basic over-all policy.

If M.G.S. is to undertake this function it must, as stated, be expanded into a full fledged military government headquarters situated in Italy. Difficulties of communication would make it impossible to function from Algiers and its present manpower would be wholly inadequate to begin to deal with the problems with which it will be confronted.

If this plan were adopted it would be unnecessary to have more than a small headquarters with 15 Army Group acting primarily as liaison between M.G.S. and officers in the field in the forward area. Officers in the field in the back area (such as Regions I and II) could be handled through the R.C.A.O's. directly by the expanded M.G.S. Headquarters.

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The only alternative to this proposal which seems workable would be to have a single AMGOT Headquarters which would itself send detachments to 15 Army Group and through to 5th and 8th Armies. It is objected that this would interfer with "chain of command", but the authority of AMGOT Headquarters over its detachments could be restricted to technical matters of government and the manner in which government functions will be carried out. The question of what government functions will be carried out within the territory of 15 Army Group would still be under 15 Army Group Headquarters.

For example, as to questions related to Finance or Legal questions: Forms of procedure in regard to either Financial transactions or the conduct of courts, would be laid down by AMGOT Headquarters, just as they are at present for the detachments assigned to 5th and 8th Armies, even though the detachments themselves are under the commanders of the Armies. The officers of Headquarters would have a direct line of communication and a right to confer with and advise AMGOT officers in the detachments on special questions as: whether and when to open banks, courts, etc.

Certainly it could lead only to endless confusion and inefficiency if C.A.O's. in the forward areas would look solely to a Headquarters established at 15 Army Group for guidance in the ennumerable problems that arise from day to day and then at a certain arbitrary moment these same officers find they must look to a new and different Headquarters for further guidance on the same problems.

W. C. Chanler

W. C. CHANLER
Lt. Col.
C.L.O.

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Lt. Col.
C.L.O.

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SECRET

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Relations of AEROT and Radiation Control Coordination. AFOOR/4060/1.

General Holmes.

24 Sept. 3

Dear General Holmes,

Chuck Spofford showed me a copy of Terry Maxwell's memo of 17 Sept. and his of 18 Sept. regarding the conference we had on 17 Sept. on the question of the future relations of AEROT and the Radiation Control Coordination. As my views are there referred to, it seems appropriate to set them forth, as in fact I am in entire agreement with Chuck Spofford, though reaching my conclusion from a different angle.

I imagine the whole controversy may by now have become academic. Nevertheless, both to "keep the record straight" and with the thought that it might help to clarify the subject of Radiation Control vs. Military Government, I enclose a memorandum which I prepared.

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

Incl.
jd

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AMG /L.

AMGOT H.Q. SICILY.

9 September, 1943.

SUBJECT: Comments on Proposed Plan for Armistice Control Commission.

TO: Chief Staff Officer.

1. You have asked me to comment on the proposed plan for an Armistice Control Commission. I divide my comments into two parts: (a) General and (b) Special reference to the Legal Division.

(a) General Comments. The writers of the plan appear to have confused Armistice Control with Military Government. The plan seems to treat Armistice Control as what is generally considered to be the second phase of Military Government: the phase when law and order has been re-established so that the government can become milder than it was immediately behind the front, and greater responsibility can be placed upon the local authorities. But this is still Military Government.

Military Government functions only in Occupied Territory, whether before or after an Armistice, whereas an Armistice Control Commission functions only in Unoccupied Territory and only after an Armistice. The former is purely military; the Military Governor is the head of Government, all orders are issued in his name or under his authority, and the country is governed under some such system as that set up for AMGOT. Military Government, to a greater or less degree, actually governs.

Armistice Control on the other hand does not govern, and is only to a slight extent military. Its principle function is to see to it that the Armistice terms are carried out by the existing Government of the country in question. Military Government derives its authority from the Commander-in-Chief of the theatre of operations who is, or appoints, the Military Governor. An Armistice Commission is responsible to the Governments of the victorious Powers. Although this responsibility may be exercised by or under the direction of the Commander-in-Chief, he does not exercise that power by virtue of his position as Commander-in-Chief, but by virtue of his appointment by the Governments. Nor is he in such case Military Governor, for there is no Military governor in unoccupied territory.

Examples of this distinction are not hard to find. Thus in Germany after the Armistice of November 11, 1918, the Occupied Territory was entirely under military rule. All orders were given by the various Military Governors and enforced by members of the armed forces. That organisation formed the pattern for the outline of Military Government contained in U.S. Basic Field [illegible] the basis for the AMGOT Plan. On

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So also, in France during the present war and in other countries which have capitulated to Germany. In the Occupied Territory, there was Military Government; in the Unoccupied Territory, there was Armistice Control. A recent example occurred in Denmark. At first Denmark was under an Armistice. The Danish Government, quite properly, refused to allow German Military Courts to try sabotage cases in Denmark, whereupon the German Government set aside the Armistice, occupied the country and set up Military Government.

In the present instance, there is no apparent reason why a different pattern should be devised. Depending on the military situation, certain parts of Italy no doubt will be reserved under the Armistice terms as Occupied Territory, the rest will not. In the former, some organisation of Military Government should be established under a Military Governor. In the unoccupied Territory, an Armistice Commission should function. Matters of direct interest to the Military, such as the disarming of troops, prisoners of war, communications, etc. would of course be left exclusively to Military supervision, but the Military should not be concerned in actual Government; nor should the Armistice Commission itself,

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except in so far as may be necessary to enforce the Armistice terms.

This is in entire accordance with the draft Armistice terms as submitted to this Headquarters. See paragraph 19 of 2nd Revised Edition of Draft Armistice terms of 5th June, 1943.

Of course, if it is desired to create a new agency to exercise the powers of Military Government in the second phase of occupation, the set up proposed in the plan might be appropriate for that purpose. In fact the plan follows somewhat plans prepared by AMGOT for the second phase; but it would seem preferable to call such an organisation by a less misleading and confusing name, for undoubtedly there will still have to be an Armistice Control Commission in the true sense at some point.

(b) Effect on Legal Division. From the standpoint of the Legal Division, this question is perhaps of greater importance than in the case of other divisions, because the work of the division under the two situations is wholly different. Under Armistice Control there would be no place for Military Courts, as there would be no Military Government whose laws should be enforced. The law of the land is the law of the government of the country, as it may be affected by the Armistice terms. Normally it should be enforced by the local courts.

No doubt the Armistice terms might provide for certain specialized categories of acts which should be tried by our own courts, but so far as the writer knows this would be an innovation in this type of situation, and it would seem better if such power were retained to maintain Military Government.

Secondly, an Armistice Commission has not the same responsibility for the functioning of the local judicial system as a Military Government. The latter is responsible for the government of the country, and under international law is responsible for the manner in which the courts under its jurisdiction function. Under an Armistice Control Commission there is no such inherent responsibility, and except for a general supervision to see to it there is no violation of Armistice terms, the courts should be left to function under their own legal system.

Thus two of the principle functions of the Legal Division under Military Government are not present under Armistice Control. The third function, that of advice to the Military Governor, or in this case the Armistice Commission, however, becomes of greater importance for presumably there will be continual disagreements as to the meaning and interpretation of the Armistice terms. This kind of work is totally different from the judicial work done under Military Government and requires a different training and a different type of lawyer. It would seem, therefore, important that the Legal Staff of AMGOT be not transferred bodily to Armistice Control work. The bulk of this division should be kept intact to do the work for which it was selected and trained in Occupied Territory as long as any Occupied Territory remains.

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WILLIAM C. CHANLER,
Lt.Col., F.A.
Chief Legal Officer.

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(16)

ANZIO U.S., SICILY

26 September 1943

SUBJECT: Future Relations with Italian Government

TO : Brigadier General Julius C. Holmes, AGD, A.F.H.Q.

This memorandum was drafted at my request by Lt. Col. Chanler, Chief Legal Officer, after discussion with Colonel Spofford, Chief Staff Officer, and myself. The memorandum, as now submitted, has the individual approval of each of us.

For the purposes of this memorandum, it is assumed that it is to be determined as a matter of policy forthwith to turn over all occupied territory of Italy to the Italian Government pursuant to the armistice and subsequent agreements.

In considering the consequences of such a policy it must be borne in mind at the outset that upon the adoption of such a course all inherent rights of the Allied Forces as "an occupying power" under international law will automatically cease and only those rights which are reserved under the armistice will remain. As long as military occupation continues, whether before or after an armistice, the occupying power is vested under international law de facto with practically all powers of government as a necessary consequence of the occupation. But after part of the territory is turned back to the legitimate government of the conquered territory pursuant to an armistice all de facto powers cease to an end and the rights of the conquering power become de jure: it has only such rights as it may have reserved under the terms of the armistice.

Accordingly, it is of the utmost importance to consider what powers may be required so that they may be reserved in the armistice terms.

Under ordinary circumstances a mere reservation of the right to continue the military occupation of such portions of the territory as may be desired, with the full right of an occupying power under international law (as was provided in the earlier draft of the armistice terms) would be sufficient. It will be possible under such terms for the Allied Forces to impose a greater or lesser degree of military government from time to time in various areas as the circumstances might require.

But in the present instance if it be determined as a matter of policy to announce the termination of military government and to return all Italian territory to the Italian government, a different problem is presented.

23

The problem would be simple enough if there was an Italian Government in existence, ready and able to function, but manifestly there is not. During the past 20 years the powers of local government in Italy have been systematically cut down so that today both by custom and by existing law

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But in the present instance if it be determined as a matter of policy to announce the termination of military government and to return all Italian territory to the Italian government, a different problem is presented.

23

The problem would be simple enough if there was an Italian Government in existence, ready and able to function, but manifestly there is not. During the past 20 years the powers of local government in Italy have been systematically cut down so that today both by custom and by existing law the whole system of government is highly centralized. Nearly every act of local government requires some confirmation or direction from the central government, whose nearly all appointments to office stem. Unless there is a fully organized and competent central government with all necessary departments, bureaus, officials and civil servants ready to take over its functions in directing local government, it would be impossible to withdraw Allied control immediately without producing complete chaos, if not partial anarchy. For the local governments would be left without any head.

This would be so even if the provincial governments were well organized. Certainly in Sicily they are not at present sufficiently organized to be able to carry on without strong and continuous direction from above.

In other words, the time has not come when, following ordinary precepts of military government, an occupying power would be justified in withdrawing and turning the territory back to its own government. The process of getting both the local and central government organized should continue under military government for some time to come

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The problem then is to find a way of retaining the necessary powers in the hands of the Allied Forces until it is in fact safe to turn all powers of government over to the Italian government without running counter to the declared policy that military government will cease.

It is understood that the first step in this direction would be to abolish AMGOT and to substitute an "Allied Commission". Ordinarily such a commission would have no power of government whatever, and would have only two functions: First, to assure the proper carrying out of the armistice terms, particularly in so far as military matters are concerned; and secondly, to act in an advisory capacity to the government.

But here it will obviously be necessary for the reasons above stated for this organization to exercise actual powers of government in varying degrees, from full military government in the forward army areas through a gradual lessening of control until an Italian government is sufficiently well organized to take over. In other words, this organization will have to fulfill in fact all the functions ordinarily carried out by a military government organization.

Even in Sicily today, which is the most advanced area, such a Commission would have to exercise considerable powers of government for some time to come.

In order to enable the Allied Military Commission to exercise such powers it is essential that they be reserved in the armistice terms, otherwise we will be in the same position that Germany found itself recently in regard to Denmark. When a wave of sabotage broke out, Germany sought to try saboteurs within Denmark by German military courts. But the Danes, quite properly, refused to permit this as it was a violation of the armistice terms, pursuant to which Denmark was considered unoccupied territory governed under the Danish government, subject only to a German armistice control commission. The Germans thereupon violated the armistice and occupied the entire country (these facts may not be entirely accurate but are taken from newspaper accounts).

Some care must be taken in so drafting these reservations of powers as not to contradict the desired public announcements that the country is being turned back to the Italian government. But the exercise of these powers will present the most difficult problems, in order not to openly or apparently violate the accepted policy. But the details of how the Allied Commission will function can be worked out separately after the armistice has been agreed upon. The important question at the moment is to see that the necessary powers of government are reserved by the terms of the armistice.

22

It is recommended that the following powers be specifically reserved by the terms of the armistice. The suggested reservations can be divided into three categories:

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In order to enable the Italian Authority such powers it is essential that they be reserved in the armistice terms, otherwise we will be in the same position that Germany found itself recently in regard to Denmark. When a wave of sabotage broke out, Germany sought to try saboteurs within Denmark by German military courts. But the Danes, quite properly, refused to permit this as it was a violation of the armistice terms, pursuant to which Denmark was considered unoccupied territory governed under the Danish government, subject only to a German armistice control commission. The Germans thereupon violated the armistice and occupied the entire country (these facts may not be entirely accurate but are taken from newspaper accounts).

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22

It is recommended that the following powers be specifically reserved by the terms of the armistice. The suggested reservations can be divided into three categories:

(a) Powers necessary in connection with actual military operations.

(b) Powers necessary during the transition period above referred to.

(c) General powers which should be reserved even after an Italian Government has been re-established.

(a) (In aid of actual military operations)

The Allied powers reserve the right to declare any portion of the territory of Italy to be a military zone whenever in the opinion of the C.-in-C. such a step is deemed necessary for the safety or security of the Allied Forces or for the better prosecution of the war. In any military zone the military Commander will be vested with all rights of the Commander of an occupying force under International law including the right to issue proclamations and to punish offenders violating the provisions of such proclamations in Allied Military Courts. (i.e. He will in fact, though not in name, be Military Governor).

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(14)

(b) (During the transition period)

Until the Italian Central Government is successfully organised and re-established so as to be able adequately to function to the satisfaction of the C.-in-C. the functions of the Central Government in any part of the territory may be carried out by A.C. or as it may direct. During such period A.C. will have the right in such parts of the territory to issue such proclamations and orders either in its own name or in the name of the Italian Government, as may be necessary, and it shall have the power to try the offenders against such proclamations in Allied Military Courts.

(c) (General long term rights during continuance of the Armistice)

The Allied Forces reserve the right within any part of Italian territory: (1) to control and direct the administration of all means of communication and transportation including telephone, telegraph, railway, automobile and truck transportation, ports and harbors; (2) the administration of police, so far as may be necessary to maintain law and order; (3) the administration of essential services such as water supply and electricity so long as may be necessary; (4) the supervision of financial and economic policy so far as may be necessary to prevent economic chaos; and (5) the administration and distribution of all civilian supplies so long as it is necessary for the Allied Forces to import any civilian supplies into Italy. This last is of great importance if we are to avoid the situation we were confronted with in North Africa, when we lost all control of distribution after the supplies were turned over to the French.

As the re-establishment of the Italian Central and Provincial Governments proceeds, it will be the policy gradually to hand over the immediate direction to the above administrations and to continue thereafter only to exercise such powers of supervision as may be required to carry out general armistice terms.

In addition to the above, the power to requisition supplies, industrial plants, public utilities, etc. or to take over the management or operation of any of them wherever necessary for the successful prosecution of the war or for the maintenance of law and order in the territory, including the prevention of economic chaos wherever necessary, and the administration of Allied Property in Italy should also be reserved to A.C. during the armistice period.

The above terms are of course intended only to apply to matters affecting quasi military government, and do not purport to deal with purely military rights or powers.

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The above terms are of course intended only to apply to matters affecting quasi military government, and do not purport to deal with purely military rights or powers.

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FRANK J. McCARTHY
Brigadier General, USA
D.C.G.A.C.

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Q.529 Fcl (13)

Relations between AMGOT and Armistice Control. W.P. Personal ~~Unofficial~~.

Brigadier General Holmes,
M.G.S., A.F.H.Q.

25th Sept. 3.

Dear General Holmes,

On re-examining the memorandum which I sent you yesterday on the question of relations between AMGOT and Armistice Control, I note that it was inadvertently prepared in the form of an official memorandum. This of course is a mistake. I merely wanted to present my own personal views, in order to correct any misapprehension which might arise from Colonel Maxwell's statement in his memorandum of 17th September in which he referred to the views expressed by me at the conference on that date.

My memorandum should be marked "Personal and unofficial. The views herein expressed are those of the writer and do not express any official view of AMGOT". I am sorry I let the document go out in the wrong form.

Very sincerely yours,

W.D.C.

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Personal (12)

Relations of AMGOT and Armistice Control Commission.

~~AMGOT/ACC/I.~~

General Holmes.

24 Sept. 3

Dear General Holmes,

Chuck Spofford showed me a copy of Terry Maxwell's memo of 17 Sept. and his of 13 Sept. regarding the conference we had on 17 Sept. on the question of the future relations of AMGOT and the Armistice Control Commission. As my views are there referred to, it seems appropriate to set them forth, as in fact I am in entire agreement with Chuck Spofford, though reaching my conclusion from a different angle.

I imagine the whole controversy may by now have become academic. Nevertheless, both to "keep the record straight" and with the thought that it might help to clarify the subject of Armistice Control vs. Military Government, I enclose a memorandum which I prepared.

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

Incl.
jd

Subject:- U.S.S. Plan for Future Operations of AMGOT and Armistice Control Commission.

~~Secret/Ia~~

To:- General Holmes.

AMGOT H.Q. SICILY.

22 Sept. 1943.

1. Further supplementing Colonel Spaffard's memorandum of 18 September and Colonel Maxwell's of 17 September on this subject, it seems to me important in deciding this very important question to give some consideration to the basic principles of Military Government and Armistice Control as affected by the present circumstances.

2. Ordinarily Military Government functions only in Occupied Territory whether before or after the Armistice. Its purpose is to govern the Occupied Territory, first in the interest of military operations and, secondly, in the discharge of the duties of an Occupying Power under International Law, to restore and maintain law and order and to govern the country as well as possible. Any plan for Military Government contemplates the gradual building up of the provincial and local governmental machinery so as to turn over the actual functions of government to the local authorities as early as possible.

3. Assuming that military operations are successful and an Armistice is concluded, as much as possible of the Occupied Territory should be turned over entirely to the national government of the defeated country, subject only to the supervision of an Armistice Control Commission. This Commission would not govern and should not interfere with the new government which has been re-established more than may be necessary to carry out the terms of the Armistice, to preserve law and order and to aid in the rehabilitation of the defeated country.

4. Generally Armistice terms consist largely of military requirements: the turning over of arms, ammunition and ships, the disarming of troops, the maintenance of railroads and communications etc. Aside from supervision of this, an Armistice Control Commission should furnish economic and financial advisers and a Civilian Supply Organization, to the extent necessary to prevent economic collapse of the country.

5. Examples of the distinction between Military Government and Armistice Control are numerous and all follow a generally similar pattern. C.F. Occupied and Unoccupied German territory in 1919; France, Denmark etc. in the present War.

6. Following this pattern AMGOT was created and its plans prepared on the basis that it would carry on the government of occupied portions of Italy, reconstructing the local government in each portion as rapidly as possible, with a view, after the Armistice, to turning it over province by province to the national government subject to an Armistice Control Commission as above

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the supervision of an Armistice Control Commission [illegible]
not govern and should not interfere with the new government which has been re-established more than may be necessary to carry out the terms of the Armistice, to preserve law and order and to aid in the rehabilitation of the defeated country.

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6. Following this pattern AMGOT was created and its plans prepared on the basis that it would carry on the government of occupied portions of Italy, reconstructing the local government in each portion as rapidly as possible, with a view, after the Armistice, to turning it over province by province to the national government subject to an Armistice Control Commission as above outlined. This is a continuous process which must follow a uniform and consistent pattern.

7. Military Government Section Paper No. 7, however, proposes to create an Armistice Control Commission designed in all respects parallel to a military government organization, with the exception that it provides for less personnel. It is proposed that this so called Armistice Control Commission should as soon as possible take over from AMGOT all but the forward areas of the Occupied Territory, even though the Italian Government was not yet in fact to be given the full power to govern under ordinary Armistice control.

8. This is simply a proposal to set up a new organization to take over the powers and duties of AMGOT in what is commonly called the "second phase" of Military Government: that phase when law and order has been re-established, local government re-organized and the exercise of the powers of government by the Military Government organization greatly relaxed. This is not Armistice control but merely a phase of Military Government, and this is clearly recognized in Paper No. 7, which points out that the duties of the two organizations are closely parallel and would gradually merge.

9. It is my view that such a change-over at that stage is wholly unnecessary, and would only lead to duplication of effort, conflicting policies

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and endless confusion. The process of bringing a new Occupied Territory to the point where it may be turned over to its own government, is a gradual and continuing process which must be conducted under a single directing head from start to finish. To try and bring in a new separate governing power in the middle of this process is to run directly contrary to all first principles of government. No matter how hard we try, it will be impossible to co-ordinate the activities of an Armistice Control Commission in the realm of Military Government with those of AMGOT in such a way as to avoid utter chaos after the transfer.

10. Accordingly I at first urged that AMGOT should continue as the controlling organization throughout the period when it was necessary for us really to govern the country, turning it over at the end of that period, not to a new Armistice Commission, but to an Italian National Government, functioning under the guidance of an Armistice Commission in the ordinary accepted sense of that word.

11. Colonel Maxwell, however, states that owing to the turn of events which have actually taken place, it has now become desirable for political reasons nominally to turn over as much as possible of recaptured Italian territory to the Italian Government immediately, even though we are not yet ready to give up the powers of an occupying force in the degree usually contemplated at this phase. In other words, the proposal is to give the appearance of withdrawal as an occupying power without necessarily giving up its powers.

12. If this policy has been determined upon, its object can be achieved without causing all the disruption following upon the introduction of a new Headquarters, by the simple process of announcing that AMGOT, an organization designed only to govern enemy Occupied Territory, has withdrawn from Italy as the result of the Armistice, and that in its place an Armistice Control Commission or, if even this proves politically undesirable, an "Allied Military Mission", has taken its place. This "Allied Military Mission" could in fact be organized along the lines set forth in Paper No. 7 for the Armistice Control Commission. In the regions directly behind the front, it could in fact impose all of the restrictions of actual military government by merely declaring such areas to be not "Occupied Territory" but "Military Zones". So much of the present AMGOT personnel as might be necessary to administer such zones could be taken into the Allied Military Mission and perform its functions in accordance with the original AMGOT Plan, but under different nomenclature. From that point back to the regions where the government could be turned over to the Italian Government under Armistice Control in its true sense, the gradual process of rebuilding the local government would be carried on exactly as intended in the original AMGOT Plan, except that, owing to the greater co-operation to be expected from the Italian Government, the process would presumably move more rapidly. Such a plan would give all the flexibility that would be desired. The issuance of an announcement as to the removal of AMGOT would accomplish

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ready to give up the power [illegible] contemplated at this phase. In other words, the proposal is to give the appearance of withdrawal as an occupying power without necessarily giving up its power.

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13. The so called "combat phase" of Military Government, the phase when the responsibility for government of a newly Occupied Territory is directly on the tactical commanders, would be conducted under the proposed plan just as it has been under the AMGOT Plan. Officers of the "Allied Mission" would be attached to the staff of the Military Commanders as Civil Affairs Officers until the tactical commander was relieved of the responsibility for the Military Government of the particular area. Such an area would be designated as a Military Zone, and, to all intents and purposes, fully fledged Military Government would be enforced there. The change from that stage to the mere centralized control of the Allied Mission would be exactly parallel to the present change when the tactical commanders are relieved of responsibility for military government and full responsibility is placed upon AMGOT Headquarters.

14. It must be borne in mind that in order to accomplish the above results the Armistice terms must specify that the Allied Powers reserve the right to exercise such of the rights and powers of an Occupying force in such parts of Italy as the Allied Powers may from time to time consider desirable. But this

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(9)

does not mean that these powers must be exercised by an organisation bearing such a name as AMGOT, nor in the name of a "Military Government".

W.C.CHANLER, Lt. Col. (F.A.)
Chief Legal Officer,
AMGOT.

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

04060/2 Ordle. (8)

Palermo.....

R. PREFETTURA DI PALERMO

Divisione..... N. di prot.....

Risposta a nota.....

OGGETTO:.....

.....

Allegati N.....

COPIA DEL

Telegramma del Ministero dell'Interno in data 25 marzo 1943 con N.93175.-

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Prefetti Palermo-Agrigento-Caltanissetta-Trapani.

N 23691 Con R.Decreto 23 corrente in corso di registrazione emanato in applicazione legge 21 maggio 1940-XVIII numero415 è stato assegnato Ispettorato Militare colonn. Igola unico ufficiale per affari civili col compito curare coordinamento servizi civili isol. in relazione stato guerra et esigenze militari. In esecuzione detto provvedimento è stato nominato con decreto del Alto Commissario per gli affari civili colonn. Comando Militare Sicilia Dr.Temistocle Testa. Prefetto Regno.Nel dare tale partecipazione per norma recco endusi agevolare nel miglior modo et coadiuvare per quanto vostra competenza suddetto commissario espletamento compito affidatogli.Pregasi dare atto.-

P.Ministero Interni Albini

P.C.C.

Palermo,li 28 Settembre 1943

IL CAPO DI GABINETTO

Il Prefetto
Col Chiandle

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Copy Translation

Telegram from the Ministry of the Interior dated 28 Mar 43

To. Prefetti Palermo, Agrigento, Caltanissetta, Trapani.

R D 23691 of 22/3/43 in the course of reorganization - In accord with terms of Law of 21 May 40 No 415 a High Commissioner for Civil Affairs is appointed for this island under the High Military Command with a view to coordinating all civil administrations in connection with State of war & military exigencies.

For permanence of this decree Dr Prefetto Terranova Tiesta is appointed Commissioner for Civil Affairs by order of the Duce.

You are requested to give all civil & carabinieri authorities the scope of your functions to the commissioner -

Please acknowledge

For the Minister

Bellavia

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(1)

R.D. I2 Giugno I943-XXI

Trasformazione del Commissariato Civile della Sicilia in Alto Commissariato Civile presso il Comando delle Forze Armate della Sicilia-

VITTORIO EMANUELE III
Per grazia di Dio e Volontà della Nazione Re d'Italia
e di Albania-Imperatore d'Etiopia

Visto il R.D. 23 marzo I943-XXI n.I49 che istituisce i Commissariati Straordinari Civili per la Sicilia e per la Sardegna;

Visto il bando del Duce, Primo Maresciallo dell'Impero, Comandante delle truppe operanti su tutte le fronti, di data I4 aprile I943-XXI, in base al quale i territori della Sicilia e della Sardegna sono stati dichiarati zone di operazioni;

Considerata la necessità di inquadrare o unificare, in relazione allo stato di guerra, tutti i servizi civili e tutte le attività economiche dell'Isola;

Visto l'art.2, n.2 della legge 2I maggio I940-XVIII, n.4I5;

Su proposta del Duce del Fascismo, Capo del Governo;

ABBIAMO DECRETATO E DECRETIAMO:

Art.I-

Il Commissariato straordinario per gli affari civili istituito con R.D. 23 marzo I943-XXI° n.I49 presso il Comando delle Forze Armate della Sicilia assume la denominazione di Alto Commissariato Civile per la Sicilia-

Art.2-

L'Alto Commissariato Civile è posto alle dirette dipendenze del Comando delle Forze Armate della Sicilia.

I poteri dell'Alto Commissariato si estendono a tutta la zona insulare e a quella continentale sulla quale si esercita la giurisdizione del Comandante delle Forze Armate della Sicilia.-

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Art.3-

L'Alto Commissario Civile per la Sicilia è nominato, con Decreto del Duce del Fascismo Capo del Governo, Ministro dell'Interno e della Guerra, fra i funzionari di grado III° dell'Amministrazione Civile dell'Interno ed è es

Considerato le [illegible] e tutte le attività [illegible] stato di guerra, tutti i servizi civili e tutte le attività [illegible] l'Isola;

Visto l'art.2,n.2 della legge 21 maggio 1940-XVIII,n.415;

Su proposta del Duce del Fascismo,Capo del Governo;

ABBIAMO DECRETATO E DECRETIAMO:

Art.1-

Il Commissariato straordinario per gli affari civili istituito con R.D. 23 marzo 1943-XXI° n.149 presso il Comando delle Forze Armate della Sicilia assume la denominazione di Alto Commissariato Civile per la Sicilia.

Art.2-

L'Alto Commissariato Civile è posto alle dirette dipendenze del Comando delle Forze Armate della Sicilia.

I poteri dell'Alto Commissariato si estendono a tutta la zona insulare e a quella continentale sulla quale si esercita la giurisdizione del Comandante delle Forze Armate della Sicilia.-

13

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Art.4°-

All'Alto Commissario Civile per la Sicilia saranno delegati tutti i poteri civili il cui effettivo esercizio il Comando Militare ritenesse opportuno di assumere in quanto attinenti con la difesa dell'Isola e con i provvedimenti in vista di essa.-

S'intendono trasferiti all'Alto Commissario Civile i poteri e le prerogative già attribuite al Commissario Generale per il coordinamento dei rifornimenti della Sicilia con il R.D. 2 febbraio 1943-XXI n.64 e deferiti successivamente al Commissario Straordinario per la Sicilia con R.D. 3 maggio 1943 XXI° n.375.-

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E' in facoltà dell'Alto Commissario Civile di richiedere il Comando di un funzionario di grado IVº dell'Amministrazione Civile dell'Interno, che assumerà le funzioni di Vice Commissario Civile.-

Art.5º-

L'Alto Commissario Civile potrà procedere, di propria iniziativa o per delega, alle requisizioni che si rendessero necessarie, anche in base agli articoli 48 e seguenti del R. D. 18 agosto 1940-XVIII, N.1741.

Art.6º-

L'Alto Commissario Civile è il Superiore regolatore e coordinatore di tutte le attività civili ed economico-produttive della zona di sua competenza.-

Nell'espletamento del proprio compito egli esercita il potere su tutte le Autorità civili e su tutti i funzionari di qualsiasi grado e amministrazione che esplicano le loro funzioni nell'ambito della stessa zona di competenza.-

Art.7º-

I servizi ed il personale dell'Alto Commissariato Civile sono equiparati a tutti gli effetti a quelli delle unità di guerra operanti in zona di operazioni.-Tutto il personale dell'Alto Commissariato Civile sarà considerato al seguito delle Forze Armate operanti.- Ad esso è attribuita una speciale indennità, da determinarsi con successivo provvedimento.-

Art.8º-

Il Ministero delle Finanze provvederà allo stanziamento di apposito fondo per le spese necessarie al funzionamento dell'Alto Commissariato.-

La relativa gestione è affidata all'Alto Commissario, secondo le norme da determinarsi dalla predetta Autorità d'intesa con il Ministero delle Finanze.-

Art.9º-

E' abrogata ogni disposizione contraria o comunque incompatibile col presente decreto che ha effetto dal giorno successivo a quello della sua data.-

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

sua competenza.-

Nell'espletamento del proprio compito egli esercita il potere su tutte le Autorità civili e su tutti i funzionari di qualsiasi grado e amministrazione che esplicano le loro funzioni nell'ambito della stessa zona di competenza.-

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Art.9°-

E' abrogata ogni disposizione contraria o comunque incompatibile col presente decreto che ha effetto dal giorno successivo a quello della sua data.-

Ordiniamo, che il presente decreto munito del sigillo dello Stato sia inserto nella raccolta Ufficiale delle leggi e dei decreti del Regno d'Italia, mandando a chiunque spetti di osservarlo e di farlo osservare.-

Dato a Roma I2 giugno I943-XXI°

F/to- Vittorio Emanuele

Mussolini

E' copia conforma per uso amministrativo

Palermo,28 settembre I943-

IL CAPO DI GABINETTO

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(DRAFT)

H4 4560 (6)

AMGOT/ /L
AMGOT HQ SICILY
22 September 1943

SUBJECT: M.G.S. Plan for Future Operations of AMGOT and A.C.C.

TO: General Holmes

1. Further supplementing Colonel Spofford's memorandum of 18 September and Colonel Maxwell's of 17 September on this subject, it seems to me important in deciding this very important question to give some consideration to the basic principles of Military Government and Armistice Control as effected by the present circumstances.

2. Ordinarily Military Government functions only in Occupied Territory whether before or after Armistice. Its purpose is to govern the Occupied Territory, first in the interest of military operations, and secondly, in the discharge of the duties of an Occ~~upied~~upying Power under international law, to ~~recapture~~ restore and maintain law and order and govern the country as well as possible. Any plan for Military Government contemplates the gradual building up of the provincial and municipal ~~local government~~ machinery so as to turn over the actual functions of government to the local authorities as early as possible. 3. Assuming that ~~ultimately with~~ military operations are successful, ~~and assuming~~ and an Armistice ~~to have been~~ is concluded, ~~at some earlier date.~~

4. As much as possible of the Occupied Territory should be turned over entirely to the national government of the defeated country, subject only to the supervision of Armistice Control Commission. This commission would not govern and should not interfere with the new government which has been reestablished ~~except in so far as~~ more than may be necessary to carry out the terms of the Armistice

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whether before or after Armistice. [illegible]

Territory, first in the interest of military operations, and secondly, in the discharge of the duties of an Occupied Power under international law, to ~~recapture~~ restore and maintain law and order and govern the country as well as possible. Any plan for Military Government contemplates the gradual building up of the financial and local government machinery so as to turn over the actual functions of government to the local authorities as early as possible. 3. Assuming that ~~Ultimate with~~ military operations are successful, ~~and assuming~~ and an Armistice ~~to have been~~ is concluded, ~~at some earlier date.~~

2. As much as possible of the Occupied Territory should be turned over entirely to the national government of the defeated country, subject only to the supervision of Armistice Control Commission. This commission would not govern and should not interfere with the new government which has been reestablished ~~except in so far as~~ more than may be necessary to carry out the terms of the Armistice ~~and to~~ preserve law and order, and aid in the rehabilitation of the defeated country.

4. Generally the Armistice terms consist largely of military requirements: The turning over of arms, and ships, ammunition, the disarming of troops, the maintenance of railroads and communications, etc. Aside from this, an Armistice Control Commission should furnish independent economic and financial advisers and a Civilian Supply Organization, to the extent necessary to prevent economic collapse of the country.

5. Examples of the distinction between Military Government and Armistice control are numerous and all follow a generally similar pattern. Of German Occupied and unoccupied territory in 1919, France, Denmark, etc. in the present

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Rider A

~~9. But~~

9 ~~But~~ It is ~~was at point~~ my view that ~~this~~ such a change-over at that stage is ~~was~~, wholly unnecessary, and would only lead to duplication ~~confusion and chaos~~ of effort, ~~divided~~ conflicting policies, and endless confusion.

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Following this pattern, AMGOT was created and its plans prepared on the basis that it would carry on the government of occupied portions of Italy, reconstructing the local government in each portion as rapidly as possible, after an Armistice, with a view to turning it over province by province to the national Government subject to an Armistice Control Commision as above outlined. This is a continuous process which must follow a uniform and consistent pattern. Owing to the turn of events which have actually taken place, Col. Maxwell states that it has been deemed that it has now become desirable for political reasons, nominally to turn over as much as possible of recaptured Italian territory to the Italian Government immediately, although, even before we are ready, not in fact, to give up the powers of an occupying force in the degree usually contemplated at that stage. In other words, the proposal is to give the appearance of withdrawal as as an occupying power without necessarily giving up the rights of an occupying power.

Military Government Section Paper No. 7 proposes to create an Armistice Control Commission designed in all respects parallel to a military government organization, with the exception that it provides for less personnel. It is proposed that this so called Armistice Control Commission should as soon as possible take over from AMGOT all but the forward areas of the Occupied Territory, even though the Italian Government has not yet in fact to be given the full power to govern under existing Armistice Control. This is simply a proposal to set up a new organization to take over the powers and duties of AMGOT in what is commonly called the "second phase" of Military Government: That phase when law and order has been re-established, local government reorganized, and the exercise of the powers of government by the Military Government orgnization

the degree usually contemplated ~~because~~ giving up the the appearance of withdrawal as as an occupying power with ~~in~~ rights of an occupying power.

7. ~~In order to accomplish this proposal,~~ However, carrying out Military Government Section Paper No. 7 proposes to create an Armistice Control Commission designed in all respects to be parallel to a military government organization, with the exception that it provides for less personnel. It is proposed that this so called Armistice Control Commission should as soon as possible take over from AMGOT all but the ~~very~~ forward areas of the Occupied Territory, even though the Italian Government was not yet in fact to be given the full power to govern under existing Armistice Code.

8. ~~It is to be noted at this point that actually all that is proposed~~ This is simply a proposal to set up a new organization to take over the powers and duties of AMGOT in what is commonly called the "second phase" of Military Government: That phase when law and order has been re-established, local government reorganized, and the exercise of the powers of government by the Military Government orgnization greatly relaxed. This is not Armistice Control but merely a phase of "Military Government", and this is clearly recognized in Paper No. 7, which points out that the duties of the two organizations are closely parallel and would gradually merge.

9. ~~Obviously the setting up of two separate individual headquarters to take conduct from chaos which follows occupation the process of building up the local government, to the point when we can withdraw entirely will create interminable duplication of effort, change of policy, and confusion.~~ The process of bringing a new Occupied Territory to

Rider A

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Rider B

¶10 Accordingly I at first urged that Aunpat should continue as the controlling organization throughout the ~~whole~~ period ~~&~~ when it was necessary for us to really govern the country, turning it over at the end of that period, not to a new Armistice Commission, but to ~~the~~ an Italian National Government, functioning under the guidance of an Advisory Commission in the ordinary accepted sense of that word.

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Nisden

10th or But Colonel Maxwell states that

[illegible] according to the turn of events which have actually taken place, it has now become desirable for political reasons nominally to turn over as much as possible of recaptured Italian territory to the Italian government immediately, even though ~~before~~ we are not yet ready to give up ~~control and~~ the powers of an occupying force in the degree usually contemplated at this phase. In other words, the proposal is to give the appearance of withdrawal as an occupying power without necessarily ~~the~~ giving up ~~the~~ its powers. ~~rights of an occupying power.~~

~~7. In order to accept this proposal, Military Government Section under~~

7

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the point where it may be turned over to its own government, is a gradual and continuing process which must be conducted under a single directing head from start to finish. To try and bring in a new separate governing power ~~between organizations and the relinquishing of all governing powers~~ in the middle of this process is to run directly contrary to all first principles of government. No matter how hard we ~~try~~, it will be impossible to coordinate the activities of Armistice Control Commission with those of AMGOT ~~so~~ in such a way as to avoid ~~other~~ chaos ~~at the time~~ after the transfer. ~~Nor does it seem that such a course is in any way necessary.~~

Riders B and C

~~But that~~ If this policy has been determined upon, it is the object ~~10.~~ ~~The same political purpose~~ can be achieved ~~to even greater degree~~ without causing all the disruption following the introduction of a new Headquarters by the simple process of announcing that AMGOT, an organization designed only to govern enemy Occupied Territory, has withdrawn from Italy as the result of the Armistice, and that in its place an Armistice Control Commission, or, if this even proves politcally undesirable, an "Allied Military Mission", has taken its place. This "Allied Military Mission" could in fact be organized along the lines set forth in Paper No. 7 for Armistice Control Commission. In the ~~arrangements~~ regions directly behind the front, it could in fact impose all of the restrictions of actual military government by merely ~~dealing~~ declaring such areas to be not "Occupied Territory" but "Military Zones." So much of the present AMGOT personnel as might be necessary to administer such zones could be taken into the Allied Military Mission and perform its functions ~~practically~~ in accordance with the original AMGOT Plan, but under ~~this~~ different nomenclature ~~and~~ From that point back to the ~~arrangements~~ regions where the government could be turned over ~~completely~~ under Armistice Control to the Italian Government. The gradual process of rebuilding the

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by the simple process of announcing

to govern enemy Occupied Territory, has withdrawn from Italy as the result of the Armistice, and that in its place an Armistice Control Commission, or, if this even proves politcally undesirable, an "Allied Military Mission", has taken its place. This "Allied Military Mission" could in fact be organized along the lines set forth in Paper No. 7 for Armistice Control Commission. In the ~~arrangements~~ regions directly behind the front, it could in fact impose all of the restrictions of actual military government by merely ~~dealing~~ declaring such areas to be not "Occupied Territory", but "Military Zones." So much of the present AMGOT personnel, as might be necessary to administer such zones, could be taken into the Allied Military Mission and perform its functions ~~practically~~ in accordance with the original AMGOT Plan, but under ~~this~~ different nomenclature ~~and~~ from that point back to the ~~arrangements~~ regions where the government could be turned over ~~completely~~ to the Italian Government under Armistice Control in the usual sense. The gradual process of rebuilding the local government would be carried on ~~as~~ exactly as intended in the original AMGOT Plan, except that, owing to the greater cooperation to be expected from the Italian Government, the process would presumably ~~be much~~ move more rapidly. Such a plan would give all the flexibility that would be desired. ~~But~~ The issuance of an announcement as to the removal of "AMGOT" would ~~accompany~~ accomplish the desired ~~of~~ political effect, and there would be continous unified control of the entire process, ~~from the period of first occupation until the period when the whole government is turned over to the Italians.~~

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13 ~~It is to be noted that in the above discussion no act~~ account was taken

~~of~~ The so called "combat phase" of Military Government, the phase when the responsibility for government of a newly Occupied Territory is directly ~~placed upon~~ on the tactical commanders, ~~direct and in short, AMGOT.~~ ~~This phase~~ would ~~of course~~ be conducted under the proposed plan just as it has been under the AMGOT Plan: Officers of the "Allied Mission" would be attached to the staff of the Military Commanders as Civil Affairs Officers until the tactical commander was relieved of the responsibility for the Military Government of the particular area. ~~Such the area would be come under the direct control of the Allied Mission~~.

14 It must be borne in mind that in order to accomplish the above results the Armistice terms must specify that the Allied powers reserve the right to exercise such of the rights and powers of an Occupying force in such parts of Italy as the Allied powers may from time to time consider desirable. But this does not mean that these powers ~~may~~ must be exercised by an organization bearing such a name as AMGOT, nor in the name of a "Military Government." ~~The same results would be accomplished by calling the "Military Government" "Allied Military Area Commander."~~ "Military Zone Commander."

W. E. Chandler
Lt. Col. FA.
Chief Legal Affairs
Amgot.

Such an area would be designated as a Military Zone, and, to all intents and purposes

was relieved of the [illegible]

particular area. ~~Such the area would be some [illegible] closer control of the Allied Mission~~.

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W. R. Chandler
Lt. Col. FA.
Chief Legal Affairs
Amgot.

5

Such an area would be designated as a Military Zone, and, to all intents and purposes, full fledged Military Government would be enforced there. ~~[as it is now]~~. The change from that stage to the ~~an~~ more centralized control of the Allied Mission would be exactly parallel to the present change ~~from tactical control to Amgot control~~ when the tactical commanders are relieved of responsibility for military government, and full responsibility is placed upon Amgot Headquarters

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~~ANGOT~~ A.

AMGOT M.G. SICILY.

9 September, 1943.

SUBJECT: Comments on Proposed Plan for Armistice Control Commission.

TO: Chief Staff Officer.

1. You have asked me to comment on the proposed plan for an Armistice Control Commission. I divide my comments into two parts: (a) General and (b) Special reference to the Legal Division.

(a) General Comments. The writers of the plan appear to have confused Armistice Control with Military Government. The plan seems to treat Armistice Control as what is generally considered to be the second phase of Military Government: the phase when law and order has been re-established so that the government can become milder that it was immediately behind the front, and greater responsibility can be placed upon the local authorities. But this is still Military Government.

Military Government functions only in Occupied Territory, whether before or after an Armistice, whereas an Armistice Control Commission functions only in Unoccupied Territory and only after an Armistice. The former is purely military; the Military Governor is the head of Government, all orders are issued in his name or under his authority, and the country is governed under some such system as that set up for AMGOT. Military Government, to a greater or less degree, actually governs.

Armistice Control on the other hand does not govern, and is only to a slight extent military. Its principle function is to see to it that the Armistice terms are carried out by the existing Government of the country in question. Military Government derives its authority from the Commander-in-Chief of the theatre of operations who is, or appoints, the Military Governor. An Armistice Commission is responsible to the Governments of the victorious Powers. Although this responsibility may be exercised by or under the direction of the Commander-in-Chief, he does not exercise that power by virtue of his position as Commander-in-Chief, but by virtue of his appointment by the Governments. Nor is he in such case Military Governor, for there is no Military governor in unoccupied territory.

4

Examples of this distinction are not hard to find. Thus in Germany after the Armistice of November 11, 1918, the Occupied Territory was entirely under Military rule. All orders were given by the various Military Governors and enforced by members of the armed forces. That organization formed the pattern for the outline of Military Government contained in U.S. Basic Field Manual 27 - 5, which in turn formed in part the basis for the AMGOT Plan. On the other hand; in the Unoccupied Territory, the German Government functioned under such supervision of the Armistice Commission as was necessary to enforce

military; the Military Governor is the head of Government, all orders are issued in his name or under his authority, and the country is governed under some such system as that set up for AMGOT. Military Government, to a greater or less degree, actually governs.

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So also, in France during the present war and in other countries which have capitulated to Germany. In the Occupied Territory, there was Military Government; in the Unoccupied Territory, there was Armistice Control. A recent example occurred in Denmark. At first Denmark was under an Armistice. The Danish Government, quite properly, refused to allow German Military Courts to try sabotage cases in Denmark, whereupon the German Government set aside the Armistice, occupied the country and set up Military Government.

In the present instance, there is no apparent reason why a different pattern should be devised. Depending on the military situation, certain parts of Italy no doubt will be reserved under the Armistice terms as Occupied Territory, the rest will not. In the former, some organization of Military Government should be established under a Military Governor. In the unoccupied Territory, an Armistice Commission should function. Matters of direct interest to the Military, such as the disarming of troops, prisoners of war, communications, etc. would of course be left exclusively to Military supervision, but the Military should not be concerned in actual Government; nor should the Armistice Commission itself,

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or after an Armistice, whereas an Armistice Control Commission functions only in Unoccupied Territory and only after an Armistice. The former is purely military; the Military Governor is the head of Government, all orders are issued in his name or under his authority, and the country is governed under some such system as that set up for AMGOT. Military Government, to a greater or less degree, actually governs.

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except in so far as may be necessary to enforce the Armistice terms.

This is in entire accordance with the draft Armistice terms as submitted to this Headquarters. See paragraph 19 of 2nd Revised Edition of Draft Armistice terms of 5th June, 1945.

Of course, if it is desired to create a new agency to exercise the powers of Military Government in the second phase of occupation, the set up proposed in the plan might be appropriate for that purpose. In fact the plan follows somewhat plans prepared by ANCXC for the second phase; but it would seem preferable to call such an organization by a less misleading and confusing name, for undoubtedly there will still have to be an Armistice Control Commission in the true sense at some point.

(b) Effect on Legal Division. From the standpoint of the Legal Division, this question is perhaps of greater importance than in the case of other divisions, because the work of the division under the two situations is wholly different. Under Armistice Control there would be no place for Military Courts, as there would be no Military Government whose laws should be enforced. The law of the land is the law of the government of the country, as it may be affected by the Armistice terms. Normally it should be enforced by the local courts.

No doubt the Armistice terms might provide for certain specialized categories of acts which should be tried by our own courts, but so far as the writer knows this would be an innovation in this type of situation, and it would seem better if such power were retained to maintain Military Government.

Secondly, an Armistice Commission has not the same responsibility for the functioning of the local judicial system as a Military Government. The latter is responsible for the government of the country, and under International law is responsible for the manner in which the courts under its jurisdiction function. Under an Armistice Control Commission there is no such inherent responsibility, and except for a general supervision to see to it there is no violation of Armistice terms, the courts should be left to function under their own legal system.

Thus two of the principle functions of the Legal Division under Military Government are not present under Armistice Control. The third function, that of advice to the Military Governor, or in this case the Armistice Commission, however, becomes of greater importance for presumably there will be continual disagreements as to the meaning and interpretation of the Armistice terms. This kind of work is totally different from the judicial work done under Military Government and requires a different training and a different type of lawyer. It would seem, therefore, important that the Legal Staff of ANCXC be not transferred bodily to Armistice Control work. The bulk of this division should be kept intact to do the work for which it was selected and trained in Occupied Territory as long as any Occupied Territory remains.

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WILLIAM O. COWLING,
Lt.Col., F.A.
Chief Legal Officer.

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Sicily Gazette No. 2.	Final Proof with Col. Rowe for approval. 1 Oct. 1943. Approved 4 Oct Will print for 5000 copies 4 Oct.
Sicily Gazette No. 3.	Proofs containing Proc. 13, G.Os. 3, 4 and 6 received and await examining. G.O.5 (revised) given to Printers on 1 Oct. so that proof of this for the Gazette can be prepared. Awaiting this Proof - 2 Oct.

Proofs of Procs. 13 & G.Os. 3, 4 & 6 examined & returned to Printers for fresh proofs 5 Oct.

G.Os. 8 & 11 to Printers for proof 6 Oct

G.Os 9 & 10 & Tabled Contents) shared for

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In the absence of records
I suggest adopting the
same P.A's recommendation
WW.
9 Dec 69

2505

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Code Cable

(1)

241[illegible]A NR 4884 SECRET OPERATIONAL PRIORITY IBS 2371

FROM: EISENHOWER

TO : CO IBS * AMGOT 250800A

A. AMGOT headquarters will forthwith divide into 2 commands in compliance with Allied Force Headquarters Administrative Memorandum #69 of October 18:

1. Two mobile AMGOT headquarters to move with 5th Army and 8th Army will establish under command AMGOT 15th Army Group, for Military Government in areas north of provinces Salerno, Potenza, Bari.

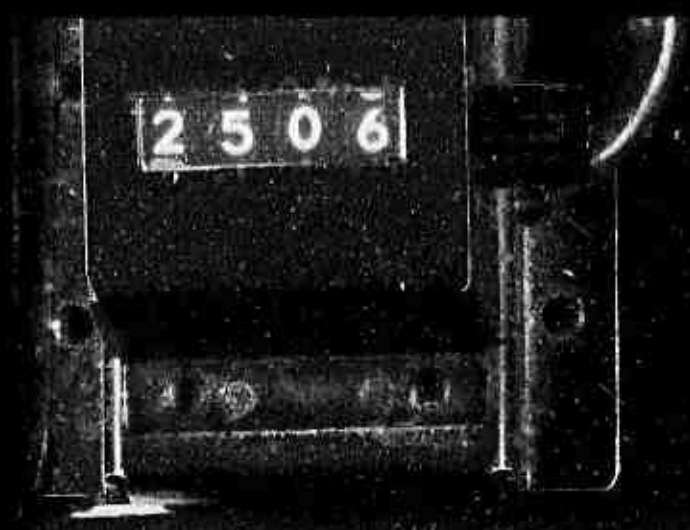
2. In Italy (including Sicily) in areas south of the Northern Boundary of provinces Salerno-Potenza-Bari. Including Sicily, Headquarters for Military Government.

B. All effective as from 0001A 24 October.

C. TO/WE for above as approved YEWNELL, MCSHERRY will be formally submitted soonest with date 9 October.

(This paraphrase of Msg #W 2208/1684 by crypto Freedom from AFHQ to IBS, 15th Army Group, 5th Army, 8th Army, AGWAR, Troopers, Fatima, Flambo. To IBS for SEARS for AMGOT. Repeated 15th Army Group for AMGOT, 5th Army for AMGOT, 8th Army for AMGOT: Troopers, Fatima, AGWAR and Flambo. Cite FHMGS. Signed Eisenhower)

DIST: CO AMGOT ACTION


2506