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DIRECTIVES, ITALIAN SECTION
AUG. 1943 - AUG. 1945

FILE CLOSED 10 August 1945

4062 file

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HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4010/2/L.

/rlp.
10 August 1945.

SUBJECT : Procedure of implementation of Italian legislation in AMG territory.

TO : Regional Commissioners (Attn: Regional Legal Officers for Provincial Legal Officers for Prefects), LIGURIA, PIEMONTE, LOMBARDIA and VENEZIA Regions.

1. The Italian Government has informed this Commission that considerable difficulty is being experienced both by the Government itself and by the communes within provinces in ascertaining the exact dates upon which Italian decrees become operative in AMG territory.
2. These dates are of course fixed by the date of receipt by the Prefect of the Official Gazette containing the order implementing the earlier Gazette which contains the particular decree concerned. The dates, in the case of any particular decree, are the same for all communes in a province, but are not necessarily the same in different provinces.
3. In order to satisfy the requirements of the Italian Government will you please ensure that in the future the Prefect notifies the Ministry of the Interior and all the communes in the province of the date of receipt by him of each copy of the Official Gazette. This can be done, so far as the communes are concerned, by publication of an official communique in the local press or by any other method the Prefect might think appropriate.
4. This letter is forwarded for distribution to PLOs with a translation in Italian for delivery to Prefects. The paper is printed in Italian.

By command of Rear Admiral STONE:

101

W. E. BEIRNS,

Colonel,
Chief Legal Advisor.

Incl: Translation.

73A

HEADQUARTERS ALLIED COMMISSION

APO 304

LEGAL SUB-COMMISSION

SECRETURGENT

25 May 1945

AC/4138/1/L

SUBJECT: Venezia Giulia

TO : See distribution

1. It has been decided that the procedure of implementation of Italian decrees will not be adopted in Venezia Giulia. The law to be administered there will be :-

(a) Italian law as existing at 8 September 1943 less any provisions (e.g. Fascist doctrines) which are excluded from operation in the territory; and

(b) All Regional Orders.

2. It should be pointed out that Venezia Giulia will be administered as an autonomous area and not as dependent from any central organization in Rome or elsewhere.

3. It follows from this policy that a considerable number of Regional Orders will have to be issued to cover matters which in other Allied territory are regulated by Italian decrees. Examples are: payment of wages, agricultural regulations, blocking of commercial products, transportation.

4. Will you please notify this sub-commission by 29 May 1945 without fail :-

(a) What points should be covered by Regional Orders to be issued in Venezia Giulia;

(b) Whether the Orders to be issued on these points should consist of a redraft of the existing Italian decrees modified as necessary for the purpose of an AMG order or whether an entirely new policy should be adopted. In this case please indicate the policy.

W.E. BENFENIS.

W.E. BENFENIS.

100

3. It follows from this policy that a considerable number of Regional Orders will have to be issued to cover matters which in other Axis territory are regulated by Italian decrees. Examples are: payment of wages, agricultural regulations, blocking of commercial products, transportation.

4. Will you please notify this sub-commission by 29 May 1945 without fail :- 100

- (a) What points should be covered by Regional Orders to be issued in Venezia Giulia;
- (b) Whether the Orders to be issued on these points should consist of a redraft of the existing Italian decrees modified as necessary for the purpose of an AMG order or whether an entirely new policy should be adopted. In this case please indicate the policy.

W.F. BEHRENS,
Colonel,
Dep'ty Chief Legal Advisor.

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S E C R E T

4062

ALC 594

LOCAL SUB-COMMISSION

AG 4510/9/L.

/pa.
1 May 45.

SUBJECT: Implementation of Italian Legislation in AMG Territory.

TO: AGs, Umbria - Marche, TOSCANA, EMILIA, LIGURIA,
PIEMONTE, LOMBARDIA and VENETIA Regions (Attn: R.L.O.s).
30AGs, 5th and 8th Armies and Hq IV Corps.

1. Order No. 2 published in the special supplement of G.U. No. 51 of 28 April 1945 contains for the benefit of all provinces situated north of a line formed by the northern boundaries of the provinces of Ravenna, Firenze, Pistoia, Lucca and Apuania a complete list of decrees published in Gazzette Ufficiali No. 1/B of 18 Nov 1943 to No. 44 of 12 Apr 1945 which were on 28 Apr 45 excluded from AMG territory.

2. Certain decrees have from time to time been temporarily excluded from implementation and have thereafter (prior to 28 Apr 45) been implemented. These decrees are not included in the list. Subject to this all excluded decrees remain excluded while the remaining decrees are rendered operative from the date of receipt by the Prefect of this Supplement.

3. It will be seen therefore that the order implements all "effective" decrees from the date of receipt of this Supplement, and not from the date of receipt of the particular G.U. containing the particular order implementing the particular decrees in question. Apart from this the roster is purely informative and does not itself make any new or revoke any existing implementation order. It is published in order to save AMG officers and Italian officials the inconvenience of searching through a series of Gazzettes to ascertain whether or not a particular decree has been implemented. The list refers to the position as at 28 April 1945 and if therefore it becomes necessary in the future to exclude other decrees or to implement decrees previously excluded in Gazzette Ufficiali issued later than No. 51 of 28 April 1945, the list will have to be modified accordingly.

4. It is further pointed out that the list does not cover issues No. 45-51 inclusive of G.U. which were issued between 12 and 28 April 1945 and does not therefore enumerate any decrees in these Gazzettes which may have been excluded from implementation.

5. Upon implementation procedure is hereafter initially introduced into a province which is north of the boundary above defined, the PLO should specifically draw the attention of the Prefect to this order and

724

are rendered operative from the date of receipt by the Prefect of this Supplement.

3. It will be seen therefore that the order implements all "effective" decrees from the date of receipt of this Supplement, and not from the date of receipt of the particular G.U. containing the particular order implementing the particular decrees in question. Apart from this the roster is purely informative and does not itself make any new or revoke any existing implementation order. It is published in order to save AG officers and Italian officials the inconvenience of searching through a series of Gazzettes to ascertain whether or not a particular Decree has been implemented. The list refers to the position as at 28 April 1945 and is therefore it becomes necessary in the future to exclude other decrees or to implement decrees previously excluded in Gazzette Ufficiale issued later than No. 51 of 28 April 1945, the list will have to be modified accordingly.

4. It is further pointed out that the list does not cover issues No. 45-51 inclusive of G.U. which were issued between 12 and 28 April 1945 and does not therefore enumerate any decrees in these Gazzettes which may have been excluded from implementation.

5. When implementation procedure is hereafter initially introduced into a province which is north of the boundary above defined, the PLO should specifically draw the attention of the Prefect to this order and to its effect so as to simplify the task of the Prefect in discovering which decrees are or are not operative in AG territory.

6. Special Order No. 1 has been explained in Directive 10/1010/9/L of 30 April 1945. This Order should also be explained to the Prefect.

7. This letter is for distribution to PLOs.

By command of Rear Admiral STONE:

W. E. BERTLES
W. E. BERTLES,
Colonel,
Deputy Chief Legal Adviser.

Copy to : G.S. Sec.

Incl: Supplement to G.U. No. 51 (This copy is additional to the copies distributed under the regular Gazzetta Ufficiale distribution).

IMPORTANT! See Notice on reverse.

Distribution to Regions :

UMERIA-MARCHI	Reg 15 copies
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EMILIA	" 14 copies
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Sufficient for distribution
down to Provincial Legal Officers.

NOTICE

no. according AC/4010/9/L dated 1 May 1945.

Because it has not been possible to remove from the packets of the prepared collections of the "G.U." No. 1/P of 18 Nov 1943 to No. 44 of 12 Apr 45 the original receipt forms for the individual issues containing the implementation orders, referred to in para. 3 of the attached letter AC/4010/9/L, and these receipt forms are rendered useless, in consequence they must not be signed by the Prefects. The numbers of the "G.U." subsequent to No. 44, e.g., from No. 45 onwards, are not affected, therefore the receipt forms attached to the packets containing such issues will be dealt with in the normal way.

ORDER NO. 2

I, Brigadier CERNED R. UPJOHN, Vice President (Civil Affairs Section), Allied Commission, hereby make the following order :

Whereas the Italian Government have issued the decrees contained in Gazzetta Ufficiale No. 1/8 of 18 November 1943 to No. 44 of 12 April 1945; and

Whereas the Allied Commission has issued orders rendering a greater part of such decrees of full force and effect of law from a certain date in certain parts of Allied Military Government territory;

And whereas by Order No. 1 published in this supplement to No. 51 of Gazzetta Ufficiale of 28 April 1945 the Allied Commission has issued further provisions in respect to certain of those decrees for certain parts of the Allied Military Government; now therefore, without prejudice to the said Order No. 1, I order that all decrees published in Gazzetta Ufficiale No. 1/8 of 18 November 1943 to No. 44 of 12 April 1945, save and except those listed in the schedule hereto, shall have full force and effect of law in each Province subject to Allied Military Government situated north of a line forming the Northern boundaries of the Provinces of Ravenna, Firenze, Pistoia, Lucca and Arezzo from the date on which the Prefect of each such Province shall receive from the Allied Commission a copy of the present supplement to the Gazzetta Ufficiale No. 51 of 28 April 1945.

98

G. R. UPJOHN, Brig,
Vice President (Civil Affairs Section),
Allied Commission.

Dated 27 April 1945.

4062
THE DOMINION ALLIANCE COMMISSION

APO 394

LOCAL SUB-COMMISSION

AC 4410/9/1.

/pa.
1 May 45.

SUBJECT: Implementation of Italian Legislation in AMG Territory.

TO: FOR, Umbria - Marche, TOSCANA, EMILIA, LIGURIA,
PIEMONTE, LOMBARDIA and VENETIA Regions (Attn: R.I.O.S.).
SCAGS, 5th and 6th Divisions and HQ IV Corps.

1. Order No. 2 published in the special supplement of C.U.No. 51 of 28 April 1945 contains for the benefit of all provinces situated north of a line formed by the northern boundaries of the provinces of Ravenna, Firenze, Fisticia, Lucca and Ancona a complete list of decrees published in Gazzette Ufficiali No. 1/5 of 18 Nov 1943 to No. 44 of 12 Apr 1945 which were on 28 Apr 45 excluded from AMG Territory.

2. Certain decrees have from time to time been temporarily excluded from implementation and have thereafter (prior to 28 Apr 45) been implemented. These decrees are not included in the list. Subject to this all excluded decrees remain excluded while the remaining decrees are rendered operative from the date of receipt by the Prefect of this Supplement.

3. It will be seen therefore that the order implements all "effective" decrees from the date of receipt of this Supplement, and not from the date of receipt of the particular C.U. containing the particular order implementing the particular decrees in question. Apart from this the roster is purely informative and does not itself make any new or revoke any existing implementation order. It is published in order to save all officers and Italian officials the inconvenience of searching through a series of Gazettes to ascertain whether or not a particular decree has been implemented. The list refers to the position as at 28 April 1945 and if therefore it becomes necessary in the future to exclude other decrees or to implement decrees previously excluded in Gazzette Ufficiali issued later than No. 51 of 28 April 1945, the list will have to be modified accordingly.

4. It is further pointed out that the list does not cover issues No. 45-51 inclusive of C.U. which were issued between 13 and 28 April 1945 and does not therefore enumerate any decrees in these Gazettes which may have been excluded from implementation.

5. When implementation procedure is hereafter initially introduced into a province which is north of the boundary above defined, the FIO should specifically draw the attention of the Prefect to this order and

72A

3. It will be seen therefore that the order implements all "effective" decrees from the date of receipt of this Supplement, and not from the date of receipt of the particular G.U. containing the particular order implementing the particular decrees in question. Apart from this the roster is purely informative and does not itself make any new or revoke any existing implementation order. It is published in order to save HQ officers and Italian officials the inconvenience of searching through a series of Gazettes to ascertain whether or not a particular decree has been implemented. The list refers to the position as at 28 April 1945 and if therefore it becomes necessary in the future to exclude other decrees or to implement decrees previously excluded in Gazette officials issued later than No. 51 of 28 April 1945, the list will have to be modified accordingly.

4. It is further pointed out that the list does not cover issued 26.45-51 inclusive of G.U. which were issued between 12 and 28 April 1945 and does not therefore enumerate any decrees in these Gazettes which may have been excluded from implementation.

5. When implementation procedure is hereafter initially introduced into a province which is north of the boundary above defined, the PLO should specifically draw the attention of the Prefect to this order and to its effect so as to simplify the task of the Prefect in discovering which decrees are or are not operative in HQ territory.

6. Special Order No. 1 has been explained in Directive 10/1010/9/L of 30 April 1945. This Order should also be explained to the Prefect.

7. This letter is for distribution to PLOs.

By command of Rear Admiral STONE:

W. E. DE PINIS
Colonel,
Deputy Chief Legal Adviser.

Copy to : G4 Sec.

Incl: Supplement to G.U. No. 51 (This copy is additional to the copies distributed under the regular Gazette ufficiale distribution).

IMPORTANT! See Notice on reverse.

Distribution to Regions :

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"	20 copies
"	14 copies
"	6 copies
"	12 copies
"	12 copies
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down to Provincial Legal Officers.

NOTICE

To accompany AC/4010/9/1 dated 1 May 1945.

Because it has not been possible to remove from the packets of the prepared collections of the "G.U." No. 1/2 of 18 Nov 1943 to No. 44 of 12 Apr 45 the original receipt forms for the individual issues containing the implementation orders, referred to in para. 3 of the attached letter AC/4010/9/1, and these receipt forms are rendered useless, in consequence they must not be signed by the Prefects. The numbers of the "G.U." subsequent to No. 44, e.g., from No. 45 onwards, are not affected, therefore the receipt forms attached to the packets containing such issues will be dealt with in the normal way.

ORDER NO. 2

I, Brigadier GERALD R. UPJOHN, Vice President (Civil Affairs Section), Allied Commission, hereby make the following order :

Whereas the Italian Government have issued the decrees contained in Gazzetta Ufficiale No. 1/B of 18 November 1943 to No. 44 of 12 April 1945; and

Whereas the Allied Commission has issued orders rendering a greater part of such decrees of full force and effect of law from a certain date in certain parts of Allied Military Government territory;

And whereas by Order No. 1 published in this supplement to No. 51 of Gazzetta Ufficiale of 28 April 1945 the Allied Commission has issued further provisions in respect to certain of those decrees for certain parts of the Allied Military Government; now therefore, without prejudice to the said Order No. 1, I order that all decrees published in Gazzetta Ufficiale No. 1/B of 18 November 1943 to No. 44 of 12 April 1945, save and except those listed in the schedule hereto, shall have full force and effect of law in each Province subject to Allied Military Government situated north of a line forming the Northern boundaries of the Provinces of Ravenna, Firenze, Pistoia, Lucca and Ancona from the date on which the Prefect of each such Province shall receive from the Allied Commission a copy of the present supplement to the Gazzetta Ufficiale No. 51 of 28 April 1945.

98

G. R. UPJOHN, Brig,
Vice President (Civil Affairs Section),
Allied Commission.

Dated 27 April 1945.

Schedule of decrees excluded from operation in Provinces
subject to Allied Military Government and situated north of a line
forming the northern boundaries of the Provinces of Ravenna,
Firenze, Pistoia, Lucca and Apuania, attached to Order No. 2.

RDL	No. 13	of 14 Jan 1944	
RD	" 96	" 5 Apr 1944	
NEL	" 133	" 5 May 1944	
RD	" 156	" 2 Jun 1944	
DLL	" 211	" 24 Aug 1944	
DLL	" 212	" 24 Aug 1944	
DLL	" 224	" 10 Aug 1944	
DP	"	" 22 Sep 1944	- (Nomina Commissario "Il Giornale d'Italia" - C.U. No. 63 of 3 Oct 1944)
DP	"	" 22 Sep 1944	- (Nomina Commissario "Il Messaggero" - C.U. No. 63 of 3 Oct 1944)
DP	"	" 22 Sep 1944	- (Nomina Commissario "Il Raso Editoriale degli Agricoltori" - C.U. No. 63 of 3 Oct 1944)
DP	"	" 22 Sep 1944	- (Nomina Commissario "Agenzia Stefani" - C.U. No. 63 of 3 Oct 1944)
DA	"	" 5 Oct 1944	- (Nomina Commissario Istituto italiano di credito fondiario - C.U. No. 66 of 10 Oct 1944)
IM	"	" 5 Oct 1944	- (Scioglimento dell'Istituto centrale delle banche e banchieri e nomina commissario - C.U. No. 66 of 10 Oct 1944)
IM	"	" 6 Oct 1944	- (C.U. No. 68 of 14 Oct 1944)
DL	" 263	" 5 Oct 1944	
DLL	" 279	" 19 Oct 1944	
DLL	" 311	" 19 Oct 1944	
DLL	" 319	" 3 Nov 1944	
IM	"	" 14 Nov 1944	- (C.U. No. 83 of 18 Nov 1944)
OL	"	" 31 Aug 1944	- (C.U. No. 89 of 2 Dec 1944)
DL	"	" 9 Nov 1944	- (C.U. No. 91 of 7 Dec 1944)
DL	" 395	" 12 Dec 1944	
IM	"	" 5 Mar 1945	- (C.U. No. 29 of 8 Mar 1945)
DM	"	" 7 Oct 1944	- (C.U. No. 34 of 20 Mar 1945)
DLL	" 36	" 1 Feb 1945	
DLL	" 46	" 1 Feb 1945	
DLL	" 77	" 8 Mar 1945	
IM	"	" 10 Oct 1944	- (C.U. No. 40 of 3 Apr 1945)
DM	"	" 15 Feb 1945	- (C.U. No. 40 of 3 Apr 1945)
DLL	" 116	" 13 Mar 1945	(excluded by terms of special order published in C.U. No. 51 of 28 April 1945)

71A

HEADQUARTERS ALLIED COMMISSION

APO 394

OFFICE OF THE EXECUTIVE COMMISSIONER

AC/40109/L.

30 April 1945

SUBJECT: Economic Decrees.

TO:

Regional Commissioners, UMBRIA-MARCHE, TOSCANA, EMILIA, LIGURIA, PIEMONTE, SARDEGNA and VENETIE Regions (for distribution see page 2);
SCAOs 5th and 8th Armies; HQ, IV Corps.

1. This directive cancels directive AC/40109/L of 31 March 1945.
2. To avoid inflation in Northern Italy it has been proposed that the economic levels in territory north of the provinces of Ravenna, Florence, Pistoia, Lucca and Apuania should be kept separate from those in Southern Italy, at least during the initial period after liberation. Wages and prices in the north would then be maintained initially at their level of 3 April 1945.

3. In view of the rapid advance in the north it has been decided that before this policy is introduced a survey should be made of the price and wage structure now existing in various parts of the northern territory.

4. In order to enable Italian decrees to be implemented in the north during the period when this survey is being made it is necessary to exclude from implementation in the north all decrees creating allowances, increasing salaries or wages, or establishing prices which are in force in the South and are inconsistent with the proposed northern levels.

5. A Special Order has been issued for this purpose and appended in the supplement to C.U. No. 51 of 28 April 1945. The decrees concerned are listed in the schedule to that order. The schedule is in two parts: the decrees in the first part grant allowances or increases which have retrospective effect and commence at dates earlier than the effective date of operation of the decrees themselves, e.g., 1 Nov 1943; the decrees in the second part of the schedule contain provisions which are inconsistent with the above mentioned economic policy.

6. It is uncertain to what extent it will be possible to maintain separate levels, and local conditions may require the reintroduction of certain elements of the southern economy. For this purpose it may be necessary to bring into effect at short notice in a particular province the provisions of some or all of these decrees. The special order therefore provides that the decrees in both parts of the schedule will remain excluded in all the northern territory unless implemented in any province

allowances, increasing salaries or wages, or establishing prices which are in force in the South and are inconsistent with the proposed northern levels.

5. A Special Order has been issued for this purpose and appended in the supplement to C.U.No. 54 of 28 April 1945. The decrees concerned are listed in the schedule to that order. The schedule is in two parts: the decrees in the first part grant allowances or increases which have retrospective effect and commence at dates earlier than the effective date of operation of the decrees themselves, e.g., 1 Nov 1943; the decrees in the second part of the schedule contain provisions which are inconsistent with the above mentioned economic policy.

6. It is uncertain to what extent it will be possible to maintain separate levels, and local conditions may require the reintroduction of certain elements of the southern economy. For this purpose it may be necessary to bring into effect at short notice in a particular province the provisions of some or all of these decrees. The special order therefore provides that the decrees in both parts of the schedule will remain excluded in all the northern territory unless implemented in any province by order of the Provincial Commissioner. No such order may be issued in any province without express authority from H. Allied Commission. Any Provincial Commissioner who considers that local economic conditions require the issue of such an order will therefore forward through the Regional Commissioner, his recommendations to H. Allied Commission before issuing any order to bring these decrees into operation. If authority is given for the reimplementation of any of the decrees contained in the first part of the schedule to the special order, the authority will state the date from which the payments will commence.

7. The special order covers also the Provinces of Apulia, Forlì and Ravenna.

8. In Apulia the southern economy will in general prevail. The decrees in the second part of the schedule will be implemented in full and those in the first part will be implemented but retrospective only to the date of liberation of the provincial capital. When the general implementation procedure is introduced into Apulia Province, the Provincial Commissioner should issue an order to establish the date for commencement of the payments under these decrees. One decree, promulgated on 25 Jan 45, which established a bonus for Christmas 1944, is excluded from Apulia Province as it is considered too late to give such a bonus.

b. In Forli and Ravenna Provinces the same considerations apply to the retrospective decrees. In these provinces, Provincial Orders have already been made establishing the dates for commencement of payments in the case of some of these decrees and the special order therefore applies these dates to all the decrees in the first part of the schedule.

DLL No. 13 will be implemented in these provinces, since they had already been liberated by Christmas 1944.

The decrees implemented in Forli and Ravenna Provinces, include DLL No. 30 of 1 March 1945 which imposes an economic price for bread. This decree should be put into operation in these provinces when the territory is handed over to the control of EMILIA Region and the Army area has moved forward. Until such time it can be excluded from implementation by ensuring that the prefects do not receive a copy of the Gazzetta Ufficiale containing the decree.

8. There are attached hereto:

- a. Translation of the special order referred to in para. 5.
- b. Draft of Provincial Order for use as in para. 6.
- c. Draft of Provincial Order for use as in para. 7 (a).

MS/Clark
Brigadier,
Executive Commissioner.

3 Incls:

- Incl 1 - Translation of special order
- Incl 2 - Draft of Provincial Order
- Incl 3 - Draft of Provincial Order

Copies to: Chief Commissioner (2)
CA Sec (9)
Econ Sec. (15)
Executive Commissioner

Distribution to Regions:

UMERIA-MARCHE Region	-	25	copies
Toscana Region	-	60	"
Emilia Region	-	50	"
	-	20	"

Sufficient for distribution
down to Provincial Commissioners,

c. Draft of provincial order for use as in para. 7 (a).

3 Incls:

- Incl 1 - Translation of special order
- Incl 2 - Draft of Provincial order
- Incl 3 - Draft of Provincial order

Copies to: Chief Commissioner (2)
CA Sec (9)
Exec Sec. (15)
Executive Commissioner

Distribution to Regions:

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Piemonte Region	-	45	"
Lombardia Region	-	50	"
Venezia Region	-	60	"
SCAO, 5th Army	(20)		
SCAO, 6th Army	(20)		
Hq IV Corps	(5)		

) Sufficient for distribution
) down to Provincial Commissioners,
) Provincial Finance Officers,
) Provincial Labor Officers and
) Provincial Legal Officers.

ORDER NO. 1

I, GERALD R. URTCHIN, Brigadier, Vice-President (Civil Affairs Section), Allied Commission, hereby make the following order in respect of the territory hereinafter mentioned which is or may hereafter become subject to Allied Military Government.

1. So far as concerns the provinces of Arunais, Porli' and Ravenna, I hereby vary the implementation orders already made in respect of the decrees enumerated in the first part of the schedule hereto and I order that each of the said decrees shall have full force and effect of law from the date on which the Prefect of each of the said provinces shall receive from the Allied Commission a copy of the present number of the Gazzetta Ufficiale, it being understood that the date from which payments under the said decrees shall commence shall be in the Province of Arunais the date which may hereafter be laid down in the said provinces by order of the Provincial Commissioner thereof and in the provinces of Porli' and Ravenna the 9th November 1944 and 5th December 1944 respectively.

2. So far as concerns the provinces situated north of a line forming the northern boundaries of the Provinces of Ravenna, Firenze, Pistoia, Lucca and Arunais, I hereby cancel the implementation orders previously made in respect of all the decrees listed in the first and second parts of the said schedule and I order that the said decrees shall remain excluded from implementation in the said provinces unless the Provincial Commissioner of any province shall hereafter make a further order in respect of any of the said decrees in which case in such province such decrees shall have full force and effect of law as provided by such order, it being understood that in no case shall payments commence in respect of any of the said decrees at a date earlier than the date which may hereafter be laid down by the order of the Provincial Commissioner as aforesaid.

3. So far as concerns the Province of Arunais and also the Provinces situated north of a line forming the northern boundaries of the Provinces of Ravenna, Firenze, Pistoia, Lucca and Arunais, I hereby cancel the implementation previously made in respect of DLL No. 13 of 25 Jan 45 which is published for information only.

G. R. URTCHIN, Brigadier,
Vice President,
(Civil Affairs Section),
Allied Commission

copy of the present number of the Gazzetta Ufficiale, it being understood that the date from which payments under the said decrees shall commence shall be in the Province of Apulia, the date which may hereafter be laid down in the said provinces by order of the Provincial Commission or thereof and in the provinces of Forlì and Ravenna the 9th November 1944 and 5th December 1944 respectively.

2. So far as concerns the provinces situated north of a line forming the northern boundaries of the Provinces of Ravenna, Firenze, Pistoia, Lucca and Apulia, I hereby cancel the implementation orders previously made in respect of all the decrees listed in the first and second parts of the said schedule and I order that the said decrees shall remain excluded from implementation in the said provinces unless the Provincial Commissioner of any province shall hereafter make a further order in respect of any of the said decrees in which case in such province such decrees shall have full force and effect of law as provided by such order, it being understood that in no case shall payments commence in respect of any of the said decrees at a date earlier than the date which may hereafter be laid down by the order of the Provincial Commissioner as aforesaid.

3. So far as concerns the Province of Apulia and also the Provinces situated north of a line forming the northern boundaries of the Provinces of Ravenna, Firenze, Pistoia, Lucca and Apulia, I hereby cancel the implementation orders previously made in respect of D.L. No. 13 of 25 Jan 45 which is published for information only.

G. R. UNGER, Brigadier,
Vice President,
(Civil Affairs Section),
Allied Commission.

Dated: 27 April 1945.

THE SCHEDULEPART IDECEDESNo.DATE

RDL	18/B	6 Dec 1943
RDL	23/B	7 Dec 1943
RD	12	13 Jan 1944
RDL	85	13 Mar 1944
RDL	103	23 Mar 1944
RDL	113	13 Apr 1944
RD	121	23 Mar 1944
RD	122	5 Apr 1944
RDL	131	9 May 1944
RD	156	2 Jun 1944
DIL	276	20 Jul 1944
AD (G.U. No. 79 of 9 Nov 1944)		23 Sept 1944
DIL	301	19 Oct 1944
DIL	303	2 Nov 1944
DIL	307	9 Nov 1944
DIL	328	18 Nov 1944
DIL	351	19 Oct 1944
DIL	360	19 Oct 1944
DIL	386	2 Nov 1944
DIL	400	4 Dec 1944
DIL	424	5 Nov 1944
DIL	434	22 Nov 1944
DIL	28	4 Jan 1945

PART II

Bando	3	8 Oct 1943
Bando	10	4 Nov 1943
Bando	11	4 Nov 1943
Bando	12	1 Nov 1943
RDL	12/B	2 Dec 1943
RDL	14/B	2 Dec 1943
RDL	24/B	13 Dec 1943
RDL	6	3 Jan 1944
RDL	11	13 Jan 1944
RDL	18	2 Jan 1944
RDL	19	24 Jan 1944
RDL	34	31 Jan 1944
RDL	43	26 Jan 1944
RDL	70	2 Mar 1944

III
IV[illegible]

3
10
11
12
12/3
14/3
24/3
6
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232
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237
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8 Oct 1943	4763
4 Nov 1943	4764
4 Nov 1943	4765
1 Nov 1943	4766
2 Dec 1943	4767
2 Dec 1943	4768
13 Dec 1943	4769
3 Jan 1944	4770
13 Jan 1944	4771
2 Jan 1944	4772
24 Jan 1944	4773
31 Jan 1944	4774
20 Jan 1944	4775
2 Mar 1944	4776
2 Mar 1944	4777
10 Mar 1944	4778
18 Mar 1944	4779
27 Jan 1944	4780
6 Apr 1944	4781
13 Apr 1944	4782
5 Jul 1944	4783
7 Jun 1944	4784
3 Aug 1944	4785
10 Aug 1944	4786
3 Aug 1944	4787
3 Aug 1944	4788
8 Sep 1944	4789
8 Sep 1944	4790
23 Sep 1944	4791
24 Aug 1944	4792
22 Sep 1944	4793

2	Nov	1944
4	Dec	1944
5	Nov	1944
22	Nov	1944
4	Jan	1945

DLL	253	5 Aug 1944
DLL	254	3 Aug 1944
DLL	273	21 Sep 1944
DLL	295	19 Oct 1944
DLL	312	26 Oct 1944
DLL	323	28 Sep 1944
DLL	335	17 Nov 1944
DLL	345	12 Oct 1944
DLL	376	23 Nov 1944
DLL	377	29 Sep 1944
DLL	380	9 Nov 1944
DLL	405	23 Nov 1944
DLL	420	9 Dec 1944
DLL	486	22 Dec 1944
	3	11 Jan 1945
	18	5 Jan 1945
	22	18 Jan 1945
	26	11 Jan 1945
	31	18 Jan 1945
	35	1 Feb 1945
	39	18 Jan 1945
	44	30 Jan 1945
	53	1 Feb 1945
	56	12 Mar 1945
	57	18 Jan 1945
	60	8 Mar 1945
	87	8 Feb 1945
	91	19 Mar 1945
	104	1 Feb 1945
	107	8 Feb 1945
		Decree of the Chief of Govt (G.U. No. 21 of 22 Apr 44)
		MD (G.U. No. 24 of 3 May 44)
		MD (G.U. No. 26 of 10 May 44)
		MD (Fixing Wages for the purpose of workmen's accident insurance - G.U. No. 33 of 3 Jun 44)
		MD (G.U. No. 38 of 5 July 1944)
		MD (G.U. No. 38 of 5 July 1944)
		MD (G.U. No. 40 of 27 July 1944)
		MD (olive oil collection - G.U. No. 54 of 12 Sep 44)

DIL	33	1 Dec 1943
DIL	35	18 Jan 1945
DIL	39	30 Jan 1945
DIL	41	1 Feb 1945
DIL	53	12 Mar 1945
DIL	56	18 Jan 1945
DIL	57	8 Mar 1945
DIL	60	8 Feb 1945
DIL	87	19 Mar 1945
DIL	91	1 Feb 1945
DIL	104	8 Feb 1945
DIL	107	21 of 22 Apr 44)
DIL		Decree of the Chief of Govt (G.U. No. 30 Dec 1943
MD	(G.U. No. 24 of 3 May 44)	2 May 1944
MD	(G.U. No. 26 of 10 May 44)	19 Apr 1944
MD	(Fixing wages for the purpose of workmen's accident insurance - G.U. No. 33 of 3 Jun 44)	25 May 1944
MD	(G.U. No. 38 of 5 July 1944)	28 Mar 1944
MD	(G.U. No. 38 of 5 July 1944)	28 Jun 1944
MD	(G.U. No. 40 of 27 July 1944)	26 Jul 1944
MD	(Olive oil collection - G.U. No. 54 of 12 Sep 44)	7 Sep 1944
MD	(G.U. No. 59 of 23 Sep 44)	19 Sep 1944
MD	(G.U. No. 82 of 16 Nov 1944)	14 Nov 1944
MD	(G.U. No. 6 of 13 Jan 45)	1 Dec 1944
MD	(G.U. No. 7 of 16 Jan 45)	1 Jan 1945
MD	(G.U. No. 13 of 20 Jan 45)	22 Jan 1945
MD	(G.U. No. 21 of 17 Feb 45)	13 Feb 1945
MD	(G.U. No. 41 of 5 Apr 45)	30 Mar 1945
MD	(G.U. No. 44 of 3 Aug 44)	31 May 1944
MD	(G.U. No. 7 of 16 Jan 45)	4 Jun 1945

I, ^{Province,} Provincial Commissioner, pursuant to the authority granted to me by order of the Allied Commission promulgated in the supplement to Gazzetta Ufficiale No. 51 of 28 April 1945 hereby order that all decrees listed in (parts I and II of) the schedule hereto shall have full force and effect of law in the Province of ^{from} 1945 (and I further order that in respect of the decrees listed in (Part I of) the said schedule the date for the commencement of payments under all such decrees shall be the 1945).

* * *

IO, Commissario Provinciale della Provincia di [,] in base ai poteri conferitimi con l'ordinanza della Commissione Alleata, pubblicata nel Supplemento Ordinario alla Gazzetta Ufficiale del 28 aprile 1945 n. 51, con la presente ordino che tutti i decreti elencati nella Tabella ivi contenuta (parte I e II) abbiano piena forza ed effetto di legge nella Provincia di ^{a par-} 1945 (io ordino inoltre che rispetto ai decreti elencati nella parte I della detta Tabella la data per l'inizio dei pagamenti si serse dei decreti stessi sia il 1945).

Notes:

1. Only those decrees required to be implemented should be listed. If the decrees to be implemented are comprised in both parts of the schedule to the said order in G.U. they should be similarly enumerated in two schedules to this order.
2. If any decrees in part I of the schedule are implemented it will be necessary to make provision for the date of the commencement of payments.
3. Unnecessary parts of the order should be deleted before issue.

Pursuant to the order of the Allied Commission promulgated in the Supplement to Gazzetta Ufficiale No. 51 of 28 April 1945 I, ^{, Provincial Commis-} sioner of Apunnia Province hereby order that in the Province of Apunnia the date for the commencement of payments under the decrees listed in the schedule hereto shall be the 1945. (Here set out the 23 decrees listed in Part I of the Schedule)

In conformity with the order of the Allied Commission Alleata published in the Supplemento Ordinario alla Gazzetta Ufficiale del 28 aprile 1945 n. 51, io, [,] Commissario Provinciale della Provincia di Apunnia, con la presente ordino che nelle Province di Apunnia la data per l'inizio dei pagamenti si sensi dei decreti elencati nella Tabella ivi contenuta sia il 1945.

(Here set out the 23 decrees listed in Part I of the Schedule).

Notes:

1. Only those decrees required to be implemented should be listed. If the decrees to be implemented are comprised in both parts of the schedule to the basic order in G.U. they should be similarly enumerated in two schedules to this order.
2. If any decrees in Part I of the schedule are implemented it will be necessary to make provision for the date of the commencement of payments.
3. Unnecessary parts of the order should be deleted before issue.

Pursuant to the order of the Allied Commission promulgated in the Supplement to Gazzetta Ufficiale n. 51 of 28 April 1945 I, _____, Provincial Commissioner of Apunnie Province hereby order that in the Province of Apunnie, the date for the commencement of payments under the decrees listed in the schedule hereto shall be the _____ 1945. (Here set out the 23 decrees listed in Part I of the Schedule)

* * *

In conformity with the ordinance of the Commissione Alleata pubblicata nel Supplemento Ordinario alla Gazzetta Ufficiale del 28 aprile 1945 n. 51, IO, _____

, Commissario Provinciale della Provincia di Apunnie, con la presente ordino che nella Provincia di Apunnie la data per l'inizio dei pagamenti dei sensi dei decreti elencati nella Tabella ivi contenuta sia il _____ 1945.

(Here set out the 23 decrees listed in Part I of the Schedule).

HEADQUARTERS ALLIED COMMISSION

APO 394

OFFICE OF THE EXECUTIVE COMMISSIONER

/rlp.

31 March 1945.

SUBJECT : Economic Decrees.

TO : Regional Commissioner, TOSCANA, EMILIA, LIGURIA, PIEMONTE, LOMBARDIA, and VENETIA Regions. (for distribution see Page 3)

1. The Italian Government has passed the following (and other) legislation for the financial improvement of economic conditions of State and private employees:

RDL No. 18/B of 6 Dec 43
 RDL No. 23/B of 7 Dec 43
 DIL No. 303 of 2 Nov 44
 DIL No. 307 of 9 Nov 44
 DIL No. 328 of 18 Nov 44.

2. These decrees provide for wage increases and allowances commencing at dates other than the effective date of commencement of operation of the law and in the case of the first two decrees for payments retrospective to 1 Nov 43.

3. In the provinces of FIORENTINA and RAVENNA, Provincial Orders have already been issued bringing the above five decrees into operation, but without retro-active effect.

4. It has been decided that in the remaining provinces of Northern Italy, these five decrees will either not be implemented at all or will be implemented without the full retrospective date as stated hereafter.

5. RDL No. 18/B of 6 Dec 43 will be implemented in AMG Territory, but the increases and allowances granted by this decree will be retroactive only to the date of liberation of the provincial capital. The same principle applies to other financial decrees which are enumerated in para. 10 b hereof.

6. The decision whether or not to implement RDL No. 23/B of 7 Dec 43, DIL No. 303 of 2 Nov 44, DIL No. 307 of 9 Nov 44 and DIL No. 328 of 18 Nov 44, will depend upon the economic conditions found in any particular locality after liberation. In accordance with the wishes of the Italian Government, it has been decided to exclude these decrees from immediate implementation. If, however, the

93

2. These decrees provide for wage increases and allowances commencing at dates other than the effective date of commencement of operation of the law and in the case of the first two decrees for payments retrospective to 1 Nov 43.

3. In the provinces of FRIULI and RAVENNA, provincial orders have already been issued bringing the above five decrees into operation, but without retroactive effect.

4. It has been decided that in the remaining provinces of Northern Italy, these five decrees will either not be implemented at all or will be implemented without the full retrospective date as stated hereafter.

5. RUL No. 18/B of 6 Dec 43 will be implemented in AMG Territory, but the increases and allowances granted by this decree will be retroactive only to the date of liberation of the provincial capital. The same principle applies to other financial decrees which are enumerated in para. 10 b hereof.

6. The decision whether or not to implement RDL No. 23/B of 7 Dec 43, DIL No. 303 of 2 Nov 44, DIL No. 307 of 9 Nov 44 and DIL No. 328 of 18 Nov 44, will depend upon the economic conditions found in any particular locality after liberation. In accordance with the wishes of the Italian Government, it has been decided to exclude these decrees from immediate implementation. If, however, the Provincial Commissioner of any province considers that the economic conditions of that province require the operation of all or any of these decrees he may recommend to this Hq (Labor Sub-Commission) that they be brought into effect and that payments thereunder be made from any date which he considers appropriate provided such date is not earlier than the liberation of the provincial capital.

7. In order to give effect to these decisions it has been necessary to devise a particular form of implementation order for publication in the Gazzetta Ufficiale. The purpose of this order is to prevent the automatic operation of the full retrospective effect of the decrees which any simple implementation order would produce.

8. This implementation order involves the publication by the Provincial Commissioner of a Provincial Order notifying the effective date upon which payment shall start under RDL No. 18/B of 6 Dec 43 and under certain other decrees mentioned in para. 10 b hereof. This date will be the date of liberation of the provincial capital.

If the Provincial Commissioner requests and obtains permission to bring into operation all or some of the decrees mentioned in para. 6, he will have to

issue a further Provincial Order to this effect. The date of commencement of payments must be stated. This can be at the discretion of the Provincial Commissioner but must not be earlier than the date of liberation of the provincial capital.

9. It is pointed out that considerable difficulties are likely to be caused if an attempt is made to bring these decrees or any of them into operation in any province by means of a Special Provincial Order published before the official procedure for the implementation of Italian decrees has become operative in that province. It is strongly recommended that the implementation procedure be brought into operation in all areas at or before the time when it is desired to give effect to these decrees. If, however, it is considered essential to give effect to the decrees at a date when the general implementation procedure cannot be put into operation then application for leave to do so will be submitted to this Hq together with the proposed form of Provincial Order.

10. Attention is also drawn to certain other decrees of a financial nature which have been enacted by the Italian Government:

a. DDL No. 13 of 25 Jan 45 provided a thirteenth month payment for employees during the year 1944. It is intended that this payment should be granted in the provinces of FOGLIA and RAVENNA, but that in provinces to be occupied in the future the decree will be excluded from operation. This decree is, therefore, specifically excluded in the northern areas.

b.

RDL No. 12 of 13 Jan 44
RDL No. 103 of 23 Mar 44
RDL No. 113 of 13 Apr 44
RDL No. 121 of 23 Mar 44
RDL No. 122 of 5 Apr 44
RDL No. 131 of 9 May 44
RDL No. 156 of 2 Jun 44
DDL No. 276 of 20 Jul 44
DDL No. 301 of 19 Oct 44
DDL No. 351 of 19 Oct 44
DDL No. 360 of 19 Oct 44
DDL No. 386 of 2 Nov 44
DL of 28 Sept 44
DDL No. 400 of 4 Dec 44
DDL No. 424 of 5 Nov 44
DDL No. 434 of 22 Nov 44
DDL No. 28 of 4 Jan 45.

These decrees all create or increase pay or allowances to various classes of employees of the public administration, and all provide for payments with retrospective dates. These decrees will all be included in the list of decrees to be implemented.

b. RDL No. 12 of 13 Jan 44
 RDL No. 103 of 23 Mar 44
 RDL No. 113 of 13 Apr 44
 RDL No. 121 of 23 Mar 44
 RDL No. 122 of 5 Apr 44
 RDL No. 131 of 9 May 44
 RDL No. 156 of 2 Jun 44
 DLL No. 276 of 20 Jul 44
 DLL No. 301 of 19 Oct 44
 DLL No. 351 of 19 Oct 44
 DLL No. 360 of 19 Oct 44
 DLL No. 386 of 2 Nov 44
 DL of 28 Sept 44
 DLL No. 400 of 4 Dec 44
 DLL No. 424 of 5 Nov 44
 DLL No. 434 of 22 Nov 44
 DLL No. 28 of 4 Jan 45.

These decrees all create or increase pay or allowances to various classes of employees of the public administration, and all provide for payments with retroactive dates. These decrees will all be implemented in AMG Territory, but the payments will date from the liberation of the provincial capital.

c. DLL No. 38 of 1 March 45 introduced an economic price in place of a political price for bread and pasta. This decree will not be implemented in RAVENNA or FORLI or in any future territory.

11. The Italian Government is understood to be considering further legislation for salaries, wages and allowances. It is not, however, the present intention of the Government to publish a consolidated text of all legislation so that it will be necessary to refer to all the existing decrees to calculate the total salaries and allowances payable. This will apply in AMG Territory as much as in Italian Government Territory.

12. Attached hereto are copies of:

a. The implementation order to be published in Gazzetta Ufficiale to give effect to the decisions set out above;

b. Form of Provincial Order to be issued by Provincial Commissioners at the time when the procedure for the implementation of Italian decrees is

brought into effect, which will fix the date for the commencement of payments under all the decrees above mentioned excluding RDL 23/E, DLL 303, DLL 307 and DLL 328.

c. Form of Provincial Order to be used if this HQ on the recommendation of the SCLC or Regional Commissioner authorizes the implementation of RDL No. 23/E, DLL No. 303, DLL No. 307 and/or DLL No. 328. It is framed to implement all three decrees, but can of course be modified to implement one or two only.

13. This directive cancels directive AG/4039/5/L of 2 January 1945 concerning the implementation of DLL No. 328.

NORMAN E. FISKE,
Colonel,
Acting Executive Commissioner.

3 Incls:

- Incl 1 - Implementation Order
- Incl 2 - Form of Provincial Order
- Incl 3 - Form of Provincial Order

Copies to: Chief Commissioner (2)
CA Sec (9)
Econ Sec (15)

Distribution to Regions :

Toscana Region	-	60 copies	Sufficient for distribution down to Provincial Commissioners, Provincial Finance Officers, Provincial Labour Officers and Provincial Legal Officers.
Emilia Region	-	50 copies	
Liguria Region	-	30 copies	
Piemonte Region	-	45 copies	
Lombardia Region	-	50 copies	
Venezia Region	-	60 copies	

92

Incl 3 - Form of Provincial Order

Copies to: Chief Commissioner (2)
CA Sec (9)
Econ Sec (15)

Distribution to Regions :

Toscana Region	-	60 copies	Sufficient for distribution down to Provincial Commiaaioners, Provincial Finance Officers, Provincial Labour Officers and Provincial Legal Officers.
Emilia Region	-	50 copies	
Liguria Region	-	30 copies	
Piemonte Region	-	45 copies	
Lombardia Region	-	50 copies	
Venezia Region	-	60 copies	

92

I, GERALD R. UPJOHN, Brigadier, Vice President (Civil Affairs Section), Allied Commission, hereby order that so far as concerns all provinces being subject to or to become subject to Allied Military Government and situated north of a line forming the Northern boundaries of the Province of Pesaro, Arezzo, Firenze, Pistoia and Lucca, the following provisions shall take effect.

I hereby cancel the implementation orders previously made in respect of:-

Bando No.	5 of 8 Oct 43
Bando No.	10 of 4 Nov 43
Bando No.	11 of 4 Nov 43
Bando No.	12 of 1 Nov 43
RDL No.	14/B of 2 Dec 43
RDL No.	18/B of 6 Dec 43
RDL No.	23/B of 7 Dec 43
RDL No.	6 of 3 Jan 44
RDL No.	11 of 13 Jan 44
PD No.	12 of 13 Jan 44
RDL No.	19 of 24 Jan 44
RDL No.	34 of 31 Jan 44
RDL No.	84 of 10 Mar 44
RDL No.	85 of 13 Mar 44
RDL No.	103 of 23 Mar 44
RDL No.	113 of 23 Apr 44
RDL No.	121 of 23 Apr 44
RDL No.	122 of 5 Apr 44
RDL No.	129 of 13 Apr 44
RDL No.	131 of 9 May 44

which implementation order/in ^{appeared} "Raccolta Ufficiale dei Provvedimenti emanati dal Governo Italiano dall'8 settembre 1943 all'8 luglio 1944": 91

and in respect of:-

DLL No. 187 of 10 Aug 44 which implementation order appeared in Gazzetta Ufficiale No. 56 dated 16 Sept 44;

DLL No. 230 of 3 Aug 44 which implementation order appeared in Gazzetta Ufficiale No. 71 dated 20 Oct 44;

DLL No. 231 of 3 Aug 44 which implementation order appeared in Gazzetta Ufficiale No. 71 dated 20 Oct 44;

DLL No. 248 of 28 Sept 44 which implementation order appeared in Gazzetta Ufficiale No. 75 dated 31 Oct 44.

RDL No. 13 of 31 Jan 44
 RDL No. 34 of 10 Mar 44
 RDL No. 84 of 13 Mar 44
 RDL No. 85 of 23 Mar 44
 RDL No. 103 of 23 Apr 44
 RDL No. 113 of 23 Apr 44
 RDL No. 121 of 25 Apr 44
 RDL No. 122 of 5 Apr 44
 RDL No. 129 of 13 Apr 44
 RDL No. 131 of 9 May 44

appeared
 which implementation order/in "Raccolta Ufficiale dei provvedimenti emanati dal
 Governo Italiano dall'8 settembre 1943 all'8 luglio 1944":

and in respect of:-

DLL No. 187 of 10 Aug 44 which implementation order appeared in Gazzetta Uf-
 ficiale No. 56 dated 16 Sept 44;
 DLL No. 230 of 3 Aug 44 which implementation order appeared in Gazzetta Uf-
 ficiale No. 71 dated 20 Oct 44;
 DLL No. 231 of 3 Aug 44 which implementation order appeared in Gazzetta Uf-
 ficiale No. 71 dated 20 Oct 44;
 DLL No. 248 of 28 Sept 44 which implementation order appeared in Gazzetta Uf-
 ficiale No. 75 dated 31 Oct 44;
 DLL No. 253 of 3 Aug 44 which implementation order appeared in Gazzetta Uf-
 ficiale No. 78 dated 7 Nov 44;
 DLL No. 276 of 20 Jul 44 which implementation order appeared in Gazzetta Uf-
 ficiale No. 82 dated 16 Nov 44;
 D.M. of 28 Sept 44 which implementation order appeared in Gazzetta Uf-
 ficiale No. 85 dated 23 Nov 44;
 DLL No. 301 of 19 Oct 44 which implementation order appeared in Gazzetta Uf-
 ficiale No. 87 dated 23 Nov 44;
 DLL No. 303 of 2 Nov 44 which implementation order appeared in Gazzetta Uf-
 ficiale No. 94 dated 14 Dec 44;
 DLL No. 307 of 9 Nov 44 which implementation order appeared in Gazzetta Uf-
 ficiale No. 88 dated 30 Nov 44;

..

- 2 -

DIL No. 312 of 26 Oct 44 which implementation order appeared in Gazzetta Ufficiale No. 94 dated 14 Dec 44;

DIL No. 328 of 18 Nov 44 which implementation orders appeared in Gazzetta Ufficiale No. 95 of 16 Dec 44 and Gazzetta Ufficiale No. 4 of 9 Jan 45;

DIL No. 329 of 28 Sept 44 which implementation order appeared in Gazzetta Ufficiale No. 95 dated 16 Dec 44;

DIL No. 351 of 19 Oct 44 which implementation order appeared in Gazzetta Ufficiale No. 98 dated 23 Dec 44;

DIL No. 360 of 19 Oct 44 which implementation order appeared in Gazzetta Ufficiale No. 101 dated 30 Dec 44;

DIL No. 386 of 2 Nov 44 which implementation order appeared in Gazzetta Ufficiale No. 6 dated 13 Jan 45;

DIL No. 400 of 4 Dec 44 which implementation order appeared in Gazzetta Ufficiale No. 8 dated 18 Jan 45;

DIL No. 424 of 5 Nov 44 which implementation order appeared in Gazzetta Ufficiale No. 15 dated 3 Feb 45;

DIL No. 434 of 22 Nov 44 which implementation order appeared in Gazzetta Ufficiale No. 24 dated 24 Feb 45;

DIL No. 13 of 25 Jan 45 which implementation order appeared in Gazzetta Ufficiale No. 25 dated 27 Feb 45;

DIL No. 38 of 22 February 1945 which implementation order appeared in Gazzetta Ufficiale No. 26 dated 1 March 1945;

DIL No. 28 of 4 Jan 45 which implementation order appeared in Gazzetta Ufficiale No. 33 dated 17 Mar 45.

And I hereby order as follows:-

RDL No. 18/B of 6 Dec 45;

RD No. 12 of 13 Jan 44;

RDL No. 103 of 23 Mar 44;

RDL No. 113 of 13 Apr 44;

RDL No. 121 of 23 May 44.

DL No. 434 of 22 Nov 44 which implementation order appeared in Gazzetta Ufficiale No. 24 dated 24 Feb 45;

DLL No. 13 of 25 Jan 45 which implementation order appeared in Gazzetta Ufficiale No. 25 dated 27 Feb 45;

DLL No. 38 of 22 February 1945 which implementation order appeared in Gazzetta Ufficiale No. 26 dated 1 March 1945;

DLL No. 28 of 4 Jan 45 which implementation order appeared in Gazzetta Ufficiale No. 33 dated 17 Mar 45.

And I hereby order as follows:-

DLL No. 18/3 of 6 Dec 43;

RD No. 12 of 13 Jan 44;

RDL No. 103 of 23 Mar 44;

RDL No. 115 of 13 Apr 44;

RDL No. 121 of 23 Mar 44;

RDL No. 122 of 5 Apr 44;

RDL No. 131 of 9 May 44;

RD No. 156 of 2 Jun 44;

DLL No. 301 of 15 Oct 44;

DLL No. 276 of 20 Jul 44;

D.M. of 28 September 44;

DLL No. 351 of 19 Oct 44;

DLL No. 360 of 19 Oct 44;

DLL No. 386 of 2 Nov 44;

..

DIL No. 400 of 4 Dec 44;

DIL No. 424 of 5 Nov 44;

DL No. 434 of 22 Nov 44;

DIL No. 28 of 4 Jan 45

shall have full force and effect of law in each province of territory situated North of the said boundary and subject to Military Government from the date on which the Prefect of such province shall receive from the Allied Commission a copy of the present number of the Gazzetta Ufficiale, it being understood that the date from which payments under the said decrees shall commence will be the date which has been or may hereafter be laid down in each province by order of the Provincial Commissioner thereof. All dates appearing in the said decrees for the commencement of payments under the said decrees are hereby excluded from implementation.

And I further order that DIL No. 13 of 25 Jan 45 shall in the provinces of Forlì and Ravenna have full force and effect of law from the date on which the Prefect thereof shall receive from the Allied Commission a copy of the present number of the Gazzetta Ufficiale but save as aforesaid the said decree shall remain excluded from implementation in the remaining territory North of the said boundary.

And I further order that

DIL No. 23/B of 6 Dec 45;

DIL No. 303 of 2 Nov 44;

DIL No. 307 of 9 Nov 44;

DIL No. 328 of 18 Nov 44.

90

shall remain excluded from implementation in the said remaining territory unless the Provincial Commissioner of any province therein shall have made or shall hereafter make a further order in respect of any of the said decrees in which case in such province such decrees shall have full force and effect of law as provided by such order, it being understood that the date from which payments shall commence under the said decree shall be the date which has been or may hereafter be laid down by the order of the Provincial Commissioner as aforesaid.

number of the Gazette Officielle but save as aforesaid the said remain excluded from implementation in the remaining territory North of the said boundary.

And I further order that

RDE No. 23/B of 6 Dec 43;

DIL No. 303 of 2 Nov 44;

DIL No. 307 of 9 Nov 44;

DIL No. 328 of 18 Nov 44;

shall remain excluded from implementation in the said remaining territory unless the Provincial Commissioner of any province therein shall have made or shall hereafter make a further order in respect of any of the said decrees in which case in such province such decrees shall have full force and effect of law as provided by such order, it being understood that the date from which payments shall commence under the said decree shall be the date which has been or may hereafter be laid down by the order of the Provincial Commissioner as aforesaid.

C. R. UPJOHI, Brig.,
Vice President
(Civil Affairs Section).
Allied Commission.

Pursuant to the orders of the Allied Commission promulgated in Gazzetta Ufficiale No. 40 of 3 Apr 1945 relating to the implementation of R.D.L. No. 18/B of 6 Dec 1943, R.D. No. 12 of 13 Jan 1944, R.D.L. No. 103 of 23 March 1944, R.D.L. No. 113 of 13 April 1944, R.D.L. No. 141 of 23 March 1944, R.D.L. No. 122 of 5 April 1944, R.D.L. No. 151 of 9 May 1944, R.D. No. 156 of 2 June 1944, D.L.L. No. 301 of 19 Oct 1944, D.L.L. No. 351 of 19 Oct 1944, D.L.L. No. 360 of 19 Oct 1944, D.L.L. No. 386 of 2 Nov 1944, D.L.L. No. 424 of 5 Nov 1944, D.L. No. 454 of 22 Nov 1944 and D.L.L. No. 28 of 4 Jan 1945.

I, Provincial Commissioner of Province hereby order that in the province of the date for the commencement of payments under the said decrees shall be the 1945.

I, Provincial Commissioner, Province pursuant to the authority granted to me by Order of the Allied Commission promulgated in Gazzetta Ufficiale No. 40 of 3 Apr 1945 hereby order that R.D.L. No. 23/B of 7 Dec 1943, R.D.L. No. 303 of 2 Nov 1944, D.L.L. No. 307 of 9 Nov 1944 and D.L.L. No. 328 of 18 Nov 1944 shall have full force and effect of law in the province of from 1945 and that for the dates of 1 May 1943 appearing in R.D.L. No. 23/B and of 16 Aug 1943 appearing in D.L.L. No. 303, D.L.L. No. 307 and D.L.L. No. 328 the same shall be substituted the date of 1945 aforesaid.

I, Provincial Commissioner,
 Province pursuant to the authority granted to me by Order of the
 Allied Commission promulgated in Gazzetta Ufficiale No. 40
 of 3 Apr 1945 hereby order that R.D.L. No. 25/B of 7 Dec 1943, 89
 D.L.L. No. 303 of 2 Nov 1944, D.L.L. No. 307 of 9 Nov 1944 and
 D.L.L. No. 328 of 18 Nov 1944 shall have full force and effect of law
 in the province of from 1945 and that
 for the dates of 1 Nov 1943 appearing in R.D.L. No. 25/B and of
 16 Aug 1944 appearing in D.L.L. No. 303, D.L.L. No. 307 and D.L.L.
 No. 328 there shall be substituted the date of 1945
 aforesaid.

(FOR ITALIAN OF ABOVE ORDERS, SEE OVER)

In conformità con le ordinanze della Commissione Allente, pubblicate nella Gazzetta Ufficiale del 3 Aprile 1945 N. 40, relative alla esecutorietà del RDL 6 Dicembre 1943 N. 18/B, del RD 13 Gennaio 1944 N. 12, del RDL 23 Marzo 1944 N. 103, del RDL 13 Aprile 1944 N. 113, del RDL 23 Marzo 1944 N. 111, del RDL 5 Aprile 1944 N. 122, del RDL 9 Maggio 1944 N. 131, del RD 2 Giugno 1944 N. 156, del DLL 19 Ottobre 1944 N. 301, del DLL 19 Ottobre 1944 N. 351, del DLL 19 Ottobre 1944 N. 360, del DLL 2 Novembre 1944 N. 386, del DLL 5 Novembre 1944 N. 424, del DL 22 Novembre 1944 N. 434, e del DLL 4 Gennaio 1945 N. 28.

Io,

Commissario Provinciale della Provincia di
con la presente ordino che nelle Provincia di
la data di inizio dei pagamenti ai sensi dei detti decreti sia il
1945.

Io,

Commissario Provinciale, Provincia di
in base ai poteri conferitimi con l'ordinanza dello Commissario Allente pubblicata sulla Gazzetta Ufficiale del 3 Aprile 1945 N. 40 con la presente ordino che il RDL 7 Dicembre 1943 N. 23/B, il DLL 2 Novembre 1944 N. 303, il DLL 9 Novembre 1944 N. 307 ed il DLL 18 Novembre 1944 N. 328 abbiano piena forza ed effetto di legge nella Provincia di
dal 1945 e che la data del 1 Novembre 1943 contenuta nel RDL 7 Dicembre 1943 N. 23/B, e quella del 16 Agosto 1943 contenuta nel DLL 2 Novembre 1944 N. 303, nel DLL 9 Novembre 1944 N. 307 e nel DLL 18 Novembre 1944 N. 328 siano sostituite con la predetta data
1945.

HEADQUARTERS ALLIED COMMISSION

APC 394

Civil Affairs Section

20 February 1945

AC/4039/4/L.

Subject: Appointment of Judicial Officials in Occupied Territory.

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

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

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

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

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

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

d. As soon as the appointment is issued the Finance Officer shall be notified. See directive of 3 May 1944 1A (v) and (vi).

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

4063

69A

transfer or promotion of a local judicial official or any other official.

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

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

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

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

G. R. UPJOHN, Brig
VP CA Sec AC

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

(For information-NOT for action)

~~SECRET~~
HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

68A

AC 4131/L.

/pa.
13 February 1945.

SUBJECT : Burials.

TO : AMHQ, G - 5.

1. With reference to your G-5, 293.8 of 6 Feb 45, enclosing copy of Brig. McHair's letter of 18 Jan, the question of burials in Italy is regulated by the Acts No. 448 of 25 July 1892 and No. 1265 of 27 July 1934.

2. Under Italian law, isolated graves of soldiers or civilians may remain in situ by special permit.

3. Art. 340 of the "Legge Sanitaria" of 27 July 1934 sets out that it is forbidden to bury a corpse in another site than the cemetery. However, burial of bodies in private and family chapels not open to the public is allowed if the site is situated at least 200 meters from inhabited centers.

Art. 341 of the same law reads as follows :

"The Minister of the Interior has the faculty of authorizing from time to time, by special order, the burial of corpses in other locations than the cemetery when reason of particular worship can be shown, provided always that the safeguards provided for by the "Legge Sanitaria" shall be respected.

4. It appears therefore that Italian legislation in this respect is more akin to the French than to the Belgian law. Considering that the issuing of a special order authorizing private burial in a place other than the cemetery rests entirely within the discretion of the Minister of Interior and considering further the general Italian outlook and tradition in this respect, there is a little doubt that such orders may from time to time be granted.

5. It may also be pointed out that up to May 1940, the question of British war graves in Italy had been the subject matter of a decree of 1918 and of an agreement between Britain and Italy dated 11 May 1922 (copies attached).

6. Lately the Italian Government has expressed its willingness to initiate legislation to give new life to the provisions of the decree and to renew the agreement. Correspondence to that effect was exchanged between Political Section, Hq AC and Lt. Col. McDougall of I.M.G. Commission.

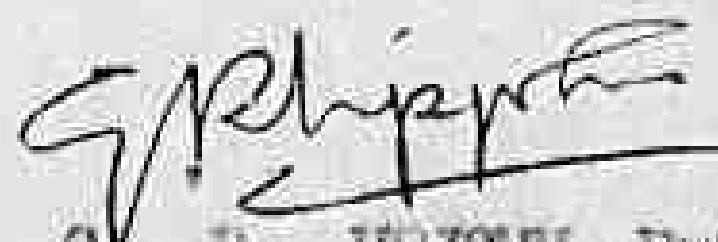
7. Considering this helpful attitude, the I.M.G. Commission might be of opinion that it would be worth while requesting the Italian Government to put into effect its undertakings and furthermore to insert in the new

..//

decree such provisions as will meet the difficulties set out in Brig. McHair's letter.

B. No doubt you will communicate again with this Commission should it be decided to press the matter further.

For the Chief Commissioner :


C. R. UPJOHN, Brig.
VP CA Sec
Dep COS, AC

Incls: Copies of Decree & Agreement.

56

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

67A
43A

AC/4028/L.

BN/pa.
1st Feb 45.

SUBJECT : VD - Italian Law.

TO : AFHQ, G-5 Section.

1. Reference is made to your letter G-5 726.1 of 28 January 1945.
2. The provisions concerning the notification of VD are contained in the following laws :-
 - (a) Consolidated Text of Sanitary Laws No. 1265 of 27 July 1934
 - (b) Regolamento No. 846 of 25 March 1923 .

A copy of the pertinent Articles with some explanatory notes is enclosed herewith as Appendix A.

3. The criminal liability for infection with syphilis and blennorrhagia is established by Art. 554 a copy of which (English translation) is also appended as Appendix B .

For the Chief Commissioner

C. R. DEJCH, Brig.
VP CA Sec
Dep OCS AC

Incls.

9310

Appx A.

NOTIFICATION OF VD.

Testo Unico 27 luglio 1934 n. 1265 delle Leggi Sanitarie.

ART. 254 :-

" Il sanitario che nell'esercizio della sua professione sia venuto a conoscenza di un caso di malattia infettiva e diffusiva o sospetta di esserlo, pericolosa per la salute pubblica, deve immediatamente farne denuncia al podestà e all'Ufficiale sanitario comunale e coadiuvarli, se occorre, nella esecuzione delle disposizioni emanate per impedire la diffusione delle malattie stesse e nelle cautele igieniche necessarie."

" Il contravventore è punito con l'ammenda da lire 300 a 5000, alla quale si aggiunge, nei casi gravi, la pena dell'arresto fino a 6 mesi. Il prefetto adotta o promuove dagli organi competenti i provvedimenti disciplinari del caso. "

Il Ministro per l'Interno o il Prefetto, per la sua Provincia, possono ordinare - in linea di misure sanitarie ai sensi del T.U. L.S. - che chiunque sia colpito da una malattia infettiva, di cui si vuol impedire la diffusione, deve immediatamente farne denuncia al Sindaco o/o all'Ufficiale Sanitario.

In tal caso, a chi non osserva l'ordine sarebbe applicabile l'Art. 260, T.U. L.S. :-

" Chiunque non osserva un ordine legalmente dato per impedire l'invasione o la diffusione di una malattia infettiva dell'uomo è punito con l'arresto fino a 6 mesi e con l'ammenda da lire 200 a 4000. Se il fatto è commesso da persona che esercita una professione o un'arte sanitaria la pena è aumentata ". (Vedi Art. 61 Cod. Pen.)

Oltre a queste norme generali, applicabili a tutte le malattie infettive, comprese quelle veneree, vanno tenute presenti le disposizioni particolari per la profilassi delle malattie veneree (blenorrea, ulcera venerea e sifilide).

ART. 292 T. U. L.S. :-

" I medici sono tenuti a denunciare qualsiasi caso di malattia venerea accertato:

negli istituti di ricovero e di cura, negli opifici industriali e in tutte le collettività civili e militari ;
nei locali di meretricio e in persona delle meretrici soggette a vigilanza.

Debbono inoltre denunciare qualsiasi caso di sifilide trasmessa per balneatico e di oftalmoblenorrea.

Chi trascuri di eseguire le denunce è punito con l'ammenda da lire trecento a cinquemila".

936

Il D.M. 23.4.1940 obbliga i medici a denunciare qualsiasi caso di malattia venerea accertata in persona di militari. In caso di contravvenzione si applica l'art. 254 T.U. E.S.

Ai sensi dell'art. 294 T.U. E.S., l'autorità sanitaria può far sottoporre a visita medica ogni persona, fondatamente ritenuta affetta da malattia venerea, se, per la sua professione o mestiere, può diffonderla ad altri.

L'art. 15 del Regolamento 25.3.1925 n. 846 sulla profilassi delle malattie veneree impone ai "medici visitatori" dei locali di meretricio l'obbligo di denunciare immediatamente all'autorità sanitaria le donne riscontrate affette da malattie veneree contagiose nei postriboli ed in genere tra le meretrici soggette alla loro vigilanza, sotto pena di sospensione e revoca dall'Ufficio e, nei casi più gravi, di sospensione dall'esercizio professionale da 1 a 6 mesi.

Il testo degli articoli 1 e 15 del suddetto Regolamento è il seguente :-

ART. 1.

" Le malattie, alle quali si applicano le disposizioni che seguono, sono :

- a) la blenorragia;
 - b) l'ulcera semplice contagiosa;
 - c) l'infezione sifilitica;
- considerate nel periodo di loro contagiosità."

ART. 15.

83

" I medici visitatori hanno l'obbligo di denunciare immediatamente all'autorità sanitaria le donne riscontrate affette da malattie, di cui all'art. 1, con manifestazioni contagiose, nei locali di meretricio ed in genere tra le meretrici soggette alla loro vigilanza.

Devono perimenti denunciare quelle che riscontrino affette da tubercolosi, tigna, scabbia, pediculosi, tracoma o da altra malattia a carattere diffusivo.

I medici visitatori devono altresì indicare, sui moduli che saranno stabiliti dal Ministero dell'Interno, e che dovranno conservarsi presso il locale di meretricio, il risultato di ogni visita.

Hanno infine l'obbligo di vigilare che i locali siano mantenuti in condizioni di igiene e di pulizia soddisfacenti, di assicurarsi che siano forniti i mezzi per eseguire le misure profilassi individuale prescritte, e di vietare l'adesione nei locali stessi delle donne che non siano state vaccinate da tre anni.

La contravvenzione a tali obblighi è punita con la sospensione o la revoca dall'Ufficio, da pronunciarsi dal prefetto, a norma dell'articolo precedente, e, nei casi più gravi, potrà a carico del sanitario contravventore essere applicata la sospensione dal libero esercizio professionale per la durata da uno a sei mesi, da determinarsi dal Ministro dell'Interno."

Appx B.

93c

OFFENCE, COMMITTED BY ANY WOMAN WHO EXPOSES HERSELF AS A PROSTITUTE
WHEN SHE IS INFECTED WITH SYPHILIS.

According to Art. 554 Italian Penal Code,

"Whoever, being affected with syphilis, conceals such state and carries out on any person acts such as to occasion to the latter the risk of infection, shall be punished, if infection supervenes, with penal servitude from 1 to 3 years "

"The guilty party shall be punished on action being initiated by the injured party. If the guilty individual has acted with the object of causing the infection, the provisions of Articles 583, 584, and 585 (aggravating circumstances) shall apply "

Inoltre il Ministro per l'Interno o il Prefetto della Provincia potrebbero vietare in generale, a sensi del T.U. L.S., il mercimonio delle prostitute infette da malattie veneree, indipendentemente dall'effettivo contagio di cui l'Art. 554 Cod. Pen. In caso di contravvenzioni, sarebbe applicabile il surriferito Art. 260 T.U. L.S., come pure, eventualmente, l'Art. 650 Cod. Pen. (Non observance of orders of the Authorities).

Inare

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

WGE/thh

28 January 1945

G-5 726.1

SUBJECT: VD - Italian Law

TO : Headquarters, Allied Commission,
(Attn: Legal SubCommission)
APO 394.

1. This Section has received a communication from the Provost Marshal as follows:

" 1. It would be greatly appreciated if this office could be notified as to the Italian law on the subject of notification of VD.

" 2. It is believed that a regulation exists, quite apart from the question of medical examination of registered prostitutes, whereby any woman, registered or not, commits an offence if she exposes herself as a prostitute when she is infected with Syphilis.

" 3. It is requested that this, and the question of notification of Syphilis under Italian law, may be checked and confirmed."

2. It would be appreciated if you could let us have your opinion on the points raised for the purpose of reply.

For the Acting Asst. Chief of Staff, G-5:

W. G. Elder
W. G. ELDER,
Lt. Colonel,
Cdn. Prov. Corps.

51

HEADQUARTERS ALLIED COMMISSION

JFO 394

LEGAL SUB-COMMISSION

AC/4028/L

SUBJECT : Prostitution and V.D.

TO : Regional Commissioners (Attn: Regional Legal Officers), POSCOM, EMIJA, LUSPIL, FIMONTE, LAMADIA, VENEZIA, REGIONS.

Jrip.
30 January 1945.

1. The military authorities are constantly requesting assistance from the various sub-commissions of AC concerned (Public Health, Public Safety, Legal, etc.) in order to secure from the Italian authorities full cooperation in their endeavors to minimize the diffusion of venereal diseases among Allied troops.

2. The Legal Sub-Commission in turn has made strong representations to the Minister of Justice with a view to obtaining the result that the rather loose procedure followed by Italian judicial and police officials in relation to VD offences be tightened up.

3. Consequently, the Ministry has issued a number of directives and memoranda to the various officials concerned and it will be the duty of LOS in the field to see that these directives are implemented.

4. It must be borne in mind that Italian law gives the judicial and police official ample means to fight prostitution and the various activities connected therewith. LOS should see that the "Pubblico Ministero" and the judges are given no latitude in supplying the letter of the law in the spirit set out in the Minister's instructions to all Procuratori Generali and Procuratori del Re.

5. A synopsis of the provisions of the law in relation to prostitution together with copies of a number of directives and memoranda published by the Minister of Justice and Interior and a translation of DIL 104 are enclosed in order that LOS may be in a position to supervise the activities of the Italian officials concerned.

6. Such supervision will obviously be easier in AMG Territory where LOS can give direct instructions to all Italian officials. In restored territory particularly, however, LOS should report at once to this sub-commission all actions by Italian judicial personnel tending to evade, set aside or ignore the formal instructions received by them from their superior officials in the above connection.

By command of Rear Admiral STONE;

G. G. H. H. H. H.

Lt. Col.

Officer i/c Italian Branch,
for Chief Legal Advisor.

6 Incls: (Appendices)

4. It must be borne in mind that Italian law gives the judicial and police officials ample means to fight prostitution and the various activities connected therewith. ICS should see that the "Pubblico Ministero" and the judges are given no latitude in applying the letter of the law in the spirit set out in the Minister's instructions to all Procuratori Generali and Procuratori del Re.

5. A synopsis of the provisions of the law in relation to prostitution together with copies of a number of directives and memoranda published by the Minister of Justice and Interior and a translation of RIL 194 are enclosed in order that ICS may be in a position to supervise the activities of the Italian officials concerned.

6. Such supervision will obviously be easier in ASO Territory where ICS can give direct instructions to all Italian officials. In restored territory particularly, however, ICS should report at once to this sub-commission all actions by Italian judicial personnel tending to evade, set aside or ignore the formal instructions received by them from their superior officials in the above connection.

BY COMMAND OF REAR ADMIRAL STONE:

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

- 6 Incls: (Appendices)
- Incl 1 - Appendix A - Synopsis of Law
 - Incl 2 - Appendix B - Compulsory Report of Doctors (Min of Interior)
 - Incl 3 - Appendix C - Instructions to Judges and Prosecutors (Min of Justice)
 - Incl 4 - Appendix D - Memo for Allied authorities
 - Incl 5 - Appendix E - Decree 194 amending Arts 235, 236, 253, 254 and 272 of the CFP (arrests in flagrant and provision of liberty)
 - Incl 6 - Appendix F - Cir of Min of Justice on Prostitution.

APPENDIX A

Synopsis of the Law of Public Safety of 18 June 1931 No. 723, Chapter VII, Articles 190 to 200

Art. 190: At the request of the keeper or at their discretion, Public Safety authorities may declare premises where prostitution is exercised to be licensed premises.

Art. 191: No premises of this type can be opened without the license referred to in the preceding article; this provision is also applicable to premises where one person only exercises this practice. Penalty up to one year and 1,000 lire fine.

Art. 192: Public Safety authorities can close any such premises in the interest of morality, decency and public order.

Art. 193: Whoever desires to open a house of prostitution must fill in a special form provided by Public Safety authorities in which are determined the conditions under which he may exercise his profession.

Art. 194: No premises used for prostitution can be modified without the authorization of the PS authority. List of persons who exercise prostitution in licensed premises must be supplied to the PS authority. If through negligence sanitary measures are not taken and an infected person is admitted, even for a short time, in the licensed premises, penalties up to one year and 5,000 lire can be upheld.

Art. 195: Hours of opening are determined by the PS authorities.

Art. 196: The following are forbidden in premises where prostitution is exercised:

- a. Gambling, dancing and any type of celebration.
- b. The ready sale of food and drink.
- c. Access to minors under 18.
- d. Entering the premises carrying arms.

Penalties up to 6 months and 3,000 lire fine.

Art. 197: Full rights of requisition at any time by PS authorities - and also of evacuation of all inmates.

Art. 198: The keeper cannot receive gifts of money or other articles from the inmates. Penalty - up to 3 months and 5,000 lire.

Art. 199: The keeper cannot retain an inmate wishing to leave the premises. Penalty up to 3 months and 5,000 lire fine.

Art. 200: Prostitution premises shall be closed when:

1. Venereal diseases are prevalent.
2. Minors are found among the inmates.
3. Sanitary visits are not properly carried out.
4. The keeper tries to prevent such visits.
5. The keeper becomes an habitual offender under Art. 195 & 196.
6. The lease is for any ends.

Art. 201: All such premises can also be closed for general hygiene motives or other reasons left at the discretion of PS authorities.

- c. Gambling, dancing and any other amusements.
- d. The ready sale of food and drink.
- e. Access to minors under 18.
- f. Entering the premises carrying arms.
- g. Entering the premises carrying weapons.

Penalties up to 6 months and 3,000 lire fine.

Art. 197: Full rights of requisition at any time by PS authorities - and also of evacuation of all inmates.

Art. 198: The keeper cannot receive gifts of money or other articles from the inmates. Penalty - up to 3 months and 5,000 lire.

Art. 199: The keeper cannot retain an inmate wishing to leave the premises. Penalty up to 3 months and 5,000 lire fine.

Art. 200: Prostitution premises shall be closed when:

1. Venereal diseases are prevalent.
2. Minors are found among the inmates.
3. Sanitary visits are not properly carried out.
4. The keeper tries to prevent such visits.
5. The keeper becomes an habitual offender under Art. 195 & 196.
6. The lease if any ends.

Art. 201: All such premises can also be closed for general hygiene motives or other reasons left at the discretion of PS authorities.

Art. 202: The keeper who re-enters the premises open after the date of closing is liable to one year's imprisonment and 5,000 lire fine.

Art. 203: Whoever contravenes the above provisions cannot receive a license for a period of five years.

Art. 204: One year is the minimum limit of time before any closed premises can be opened.

Art. 205: PS authorities can at any time order sanitary visits of the inmates or send them to special cure places.

Art. 206: Licenses are withdrawn if the keeper requests it when the premises are not used anymore for the exercise of prostitution.

Art. 207: All appeals against PS authority action can be made to a Commission convened by the Prefect, etc.

Art. 208: Incitement to debauchery is also forbidden, even by indirect means, in any public places.

It is also formally forbidden:

- a. to solicit by deeds or words in the streets
- b. to stand in public places in an indecent attitude
- c. to expose one's person at the windows or on the threshold of licensed premises
- d. to give the address or indicate in any way the location of licensed premises or to offer means of procuring.

Penalty up to six months.

APPX B

Ministry of the Interior

To all Prefetti.

The Allied authorities have informed the Italian Government that private doctors who treat military personnel for venereal diseases do not report the cases to proper quarters, as they are required to do by law. Thus the depletion of disciplinary and sanitary measures by the military authorities is made impossible. In order to obviate these difficulties, will you please inform the medical associations to the effect that soldiers are considered as living in the community and therefore in pursuance of the provisions of the Ministerial Decree of 23 April 1943, it is compulsory for the doctors to report all cases of syphilis, gonorrhea and venereal ulcers affecting military personnel which they may obtain knowledge of in the course of their professional activities.

All defaulters shall be punishable under the terms of Art. 254 of the consolidated text of the existing sanitary legislation. Please acknowledge.

The Minister.

APPX C

Instructions to the following effect have been issued to all Procuratori Generali - Procuretti Generali - Procuratori del Re - Galerno.

Instructions for the cooperation with the Allied authorities in order to eliminate the spreading of V.D. among troops.

.C have requested the effective cooperation of the judicial authorities in order to prevent the spreading of V.D. among Allied troops.

It has been agreed with the Ministry of the Interior that, where necessary, mixed squads of Allied and Italian police shall be organized to patrol the streets and prevent prostitutes from circulating with impunity and thus gaining easy contact with Allied soldiers. New observation centers have also been erected in towns to increase the possibilities of curing venereal disease and of detecting symptoms of suspicious character (disarmed persons may be kept at these centers until cured).

It has been reported that the system in jail of contaminated prostitutes, who have been either apprehended (fermata) or arrested (arrestato), and who have not been segregated from healthy ones tends to increase the spread of the disease, especially where there are large numbers of these women.

The attention of all Procuratori del Re and Procuratori is therefore directed to the gravity of these facts which have a direct effect on Allied military activity and they are hereby instructed to lend every assistance in their power in this connection to the Allied authorities. More specifically, the judicial police will be instructed to take all necessary steps to prevent prostitutes exercising their shameful trade away from the special authorized houses.

representations for the cooperation with the allied authorities in order to eliminate the spreading of V.D. among troops.

C has requested the effective cooperation of the judicial authorities in eliminating the spread of V.D. among Allied troops.

It has been agreed with the Ministry of the Interior that, where necessary, order to suppress the movement of A.C. units against the army.

Mixed squads of allied and IS Lin Police will be organized to patrol the streets and prevent disturbances from circulating with impunity and thus creating any contact with allied soldiers. New observation centers have also been created in Barcelona, increase the possibilities of curbing several diseases and of detecting symptoms of infectious diseases (influenza). Several measures kept at these centers until cured).

It has been reported that the spread in jail of contact-injected prostitutes, who have been either apprehended (femur) or converted (current), and who have not been exposed to the disease, tends to increase the spread of the disease, as-
sessment of these women.

The attention of all Prosecutors del. 23. 1940. Fred. is therefore directed to the gravity of these facts which have a direct effect on Allied military activity and they are hereby instructed to lend every assistance in their power in this connection to the Allied authorities. More specifically, the judicial police will be instructed to take all necessary steps to prevent prostitution exercising their shameful trade away from the special authorized houses.

Furthermore, in cases of prostitution either apprehended for reasons of public safety or removed, the following rules shall apply:

(1) Prostitutes recommended for removal of public safety in pursuance of article 15 of Law of Public Security shall be sent to the observation and treatment centers. They will not be returned to the prisons unless the doctors at the centers have decided that the patients are free from suggested disease.

(2) Prostitutes recommended pursuant to art. 236 of the Code of Penal Procedure or prostitutes arrested (sequestered) shall be carefully examined by the doctors of the prisons.* If any epidemic disease (i.e., a disease whose germs are not found temporarily in distinct from one in which long term prisoners have contracted) is not ascertained for such patient, the prostitute shall be transferred to a judicial prison.

(3) The names of all prostitutes who had been jailed, for any reason whatever, will be communicated by the Director concerned to the Indian Police Service authorities who shall observe the same with a view to detection of public houses in their localities.

(4) There shall be taken to supervise both protected investigations and all proceedings connected with prostitution and other offences included in that general category in order to ensure that the various cases are adequately and properly dealt with.

* All those found to be infected or suspected of being infected shall be segregated from the healthy ones and given adequate treatment at the prisons.

APPENDIX D

MEMORANDUM FOR ALLIED AUTHORITIES CONCERNING AS FURNISHED BY
MINISTRY OF JUSTICE

3. By Italian law there are two distinct ways in which a person can be arrested by the police:

1. "Arresto". This corresponds roughly to our ideas of arrest and is regulated by rules laid down in the Code of Penal Procedure, Arts. 248 and 250.

It is usually effected under an order or warrant issued by the judicial authorities. But cases when "arresto" can be made without such an order or warrant are set out in the Code of Penal Procedure, Arts. 235, 236, 237, 239 and following amended by the provisions of D.L. No. 194 of 10 Aug 1944. These cases are mainly those where persons are caught in the act of committing an offence (flagrant delicto). However, prostitutes and other offenders arrested in flagrancy may be granted provisional liberty under Art. 277 of the CPP. In certain cases the Giudice Istruttore or the Pretore may release the defendant under the provisions of Art 269 of CPP.

The Code, then, sets out when the police (a) must have a warrant before making an arrest, (b) when they need not have a warrant, and (c) when they must proceed to arrest without a warrant.

In all cases, however, the person arrested must be placed by the police at the disposal of the judicial authorities within 24 hours of making the arrest unless a longer period of detention shall be ordered by the Procuratore or Pretore (Arts. 244 - 248 Code of Penal Procedure).

2. "Fermo". The distinction between this method of arrest and "arresto" above lies not in its immediate effect upon the person arrested, for in either case he is taken into custody, but in the procedure adopted towards such a suspected person after arrest.

3. "Fermo" is regulated by Art. 238 of CPP notified by a Royal Decree of 20 January 44 and D.L. No. 406 of 8 December 44 whereby the police are empowered to apprehend or take into custody any person suspected of having committed a crime or who, in being interrogated by the police, attempts to escape. But the police may apprehend in this manner only such persons regarding whom they have reasonable grounds for suspecting a crime committed or being concerned in, a crime for which the issue of a warrant of arrest would be necessary. Apprehension in such cases must be immediately notified to the judicial authorities.

4. Under Art. 157 of the "Legge di Pubblica Sicurezza" a person may be apprehended by the police without being accused or even suspected of committing an offence, simply because he looks suspicious or immoral and when questioned by the police refuses to give them any explanation. By Art. 154 however, the powers of the police in such cases are limited to ordering that the suspected person return to his domicile of origin, by a compulsory travel order (Foglio di via obbligatorio).

However, when it is difficult to establish the identity of the person apprehended,

In all cases, however, the person arrested must be placed in "custody" by the police or the disposal of the judicial authorities within 24 hours of making the arrest at night. A longer period of detention shall be ordered by the Procureur or Pretore (Art. 244 - 248 Code of Penal Procedure).

2. "Arrest". The distinction between this method of arrest and "investigation" where lies not in its immediacy to effect upon the person arrested, for in either case he is taken into custody, but in the procedure adopted towards such a suspected person after arrest.

3. "Arrest" is regulated by Art. 238 of CPP initiated by a Royal Decree (Art. 45 of 20 January 44 and D.L. No. 406 of 8 December 44) whereby the police are empowered to apprehend or take into custody any person suspected of having committed a crime or who, in being interrogated by the police, attempts to escape. But the police may apprehend in this manner only such persons regarding whom they have reasonable grounds for suspecting he having committed or being concerned in, a crime for which the issue of a warrant of arrest would be necessary. Apprehension in such cases must be immediately notified to the judicial authorities.

4. Under Art. 157 of the "Loi de 1935" (Loi de 1935) a person may be apprehended by the police without being accused or even suspected of committing an offence, simply because he looks suspicious or immoral life and when questioned by the police refuses to give them any explanation. By Art. 154 however, the powers of the police in such cases are limited to ordering that the suspected person return to his domicile of origin, by a compulsory travel order (Ordonnance de comparution).

However, when it is difficult to establish the identity of the person so apprehended, he or she can be detained in custody for such a period of time until the police are satisfied as to his identity and morals.

5. It is to be observed that, inso far as prostitution are concerned, many more are apprehended by police patrols operating in town during the hours of darkness for security measures than are arrested for a specific offence.

Prostitutes so apprehended by the police who are found to be diseased may be detained in prison until cured. Where persons arrested (Arrestés), with or without warrant, must be dealt with in accordance with the Code of Penal Procedure, where it is laid down that such persons may be treated outside the jail.

APPENDIX

LEGISLATIVE DECREE OF THE LIEUTENANT GENERAL - NO. 194 of 10 AUG 44

Temporary limitations in cases of arrest, issue of warrant of arrest and preventive custody.

HUMBERT OF SAVOY, etc.

By virtue of the authority delegated to us:

Ref Arts 235, 236, 253, 254 and 272 Code of Penal Procedure;

Ref the DIL No. 151 of 25 June 1944;

Ref HDL No. 2/B, 30 October 1943;

Ref RDL No. 141, 29 May 1944;

The Council of Ministers having deliberated;

On the proposal of the Minister for Pardon and Justice

We have sanctioned and promulgated the following:

Art. 1

During the actual state of war and until six months after the conclusion thereof, the provisions contained in the present decree shall apply to penal procedure as modifying articles 235, 236, 253, 254 and 272 of the Code of Penal Procedure.

Art. 2

The officers and agents of the judicial police and of the public forces shall arrest any person who is caught in the act of committing any offense against the personality of the State which is punishable by a term of detention (concerning detainees) or by a more severe penalty, or committing any other offense, not being one without criminal intent, for which the maximum penalty prescribed by law is imprisonment (reclusion) for not less than five years or any more severe penalty.

Likewise they shall arrest any person declared to be an offender, habitual, professional or by tendency, or who is subject to any measures of personal restriction, or is subjected to a personal restrictive measure, or, whenever any such person shall be caught in the act of committing any offense punishable by imprisonment (concerning detainees) for a maximum term of not less than two years.

When the offense is one punishable on the complaint (quasi) of the party injured, arrest on the spot must be carried out in those cases set out in this article whenever the party injured declares to the officer or agent of the judicial police or of the public forces there present that it is his desire to present such a complaint.

Art. 3

The officers and agents of the judicial police and of the public forces shall have the power to arrest any person caught in the act of committing any offense for which the maximum penalty prescribed by law is imprisonment for not less than two years, when the person shall have the power to arrest any person declared to be a criminal, he-

Art. 2

The officers and agents of the judicial police and of the public forces shall arrest any person who is caught in the act of committing any offence against the personality of the State which is punishable by a term of detention (even pena definitiva) or by a more severe penalty, or committing any other offence, not being one without criminal intent, for which the maximum penalty prescribed by law is imprisonment (reclusione) for not less than five years or any more severe penalty.

Likewise they shall arrest any person declared to be an offender, habitual, or professional or by tendency, or who is subject to any measures of personal restriction, or is subjected to a personal restrictive measure, or, whenever any such person shall be caught in the act of committing any offence punishable by imprisonment (pena della reclusione) for a maximum term of not less than two years.

When the offence is one punishable on the complaint (querela) of the party injured, arrest on the spot must be carried out in those cases set out in this article whenever the party injured declares to the officer or agent of the judicial police or of the public forces there present that it is his desire to present such a complaint.

Art. 3

The officers and agents of the judicial police and of the public forces shall have the power to arrest any person caught in the act of committing any offence for which the maximum penalty prescribed by law is imprisonment for not less than two years.

Likewise they shall have the power to arrest any person declared to be a criminal, habitual, professional or by tendency or who has been subjected to a measure of personal restriction or who has been sentenced more than twice to detention for any offence not being one without criminal intent (non colpevole) or who has been previously sentenced to detention for an offence of the same kind, or who has no fixed residence within the territory of the State, whenever such a person shall be caught in the act of committing any offence not being one without criminal intent (reclusione).

When the offence is one punishable by the aforesaid penalty on the complaint of the party injured, arrest in flagrante delicto shall be carried out whenever the party injured shall declare to the officer or the agent of the judicial police or of the public forces then present his desire to prefer such a complaint.

The officers and agents of the judicial police and of the public forces shall have also the power to arrest any person caught in the act of committing any contravention with regard to arms or explosive material, provided for in the penal code or other laws or any contravention provided for in Arts. 670, 671, 688, 767 and 708 of the Penal Code and who shall have been declared to be an habitual or professional contravention, whenever he shall have committed a contravention of the same nature as that for which he has been declared an habitual or professional offender.

Art. 4

A warrant for arrest shall be issued against the accused for:

- (1) offences against the personality of the State for which the law establishes a minimum penalty of not less than five years imprisonment or heavier penalty;
- (2) wilful murder, committed or attempted, for robbery, for extortion or for seizure of a person for the purpose of robbery or extortion;
- (3) every other offence for which the law establishes the penalty of death or hard labor for life (ergastolo).

Similarly the warrant for arrest must be issued against any person accused of any offence, not being an offence without criminal intent ("non colposo"), for which the maximum penalty prescribed by law is imprisonment for a term of not less than five years, whenever the offender has been declared an offender, habitual, professional or by tendency, or is in such condition as is required by Art. 102 of the Penal Code for a declaration of habituality in order to be made against him, or is assigned to an agricultural colony or a labor institution or is subjected to liberty under supervision.

Art. 5

A warrant of arrest may be issued against the accused for:

- (1) offences against the personality of the State for which the maximum penalty prescribed by law is imprisonment for not less than three years.
- (2) offences, not being offences without criminal intent ("non colposo"), for which the maximum penalty prescribed by law is imprisonment for not less than five years.
- (3) offences without criminal intent ("non colposo"), for which the maximum penalty prescribed by law is imprisonment for not less than two years whenever the accused shall have been declared to be an offender, habitual, professional or by tendency or who is subjected to some measures of personal restriction or has been sentenced more than twice to penal detention for an offence not being an offence without criminal intent or shall have been previously sentenced to detention for an offence of the same kind or has no fixed residence within the territory of the State or when it appears that he has fled or intends to flee. The Judge in deciding whether to exercise his power of issuing a warrant for arrest shall take into account the moral and social conditions of the person and the circumstances of the case.

Art. 6

When during the formal investigation ("istruttoria") the period of preventive custody for the offence concerned has exceeded four months the examining magistrate shall immediately report to the President of the Tribunal the reasons why the investigation is not yet completed. The President, after having examined the documents if he thinks that necessary, shall make the appropriate provisions for accelerating the proceedings and whenever such is the case for answering the responsibility for the delay. The counsellor delegate of the examination section (Consigliere Delegato della Sezione Istruttoria) shall make a report to the President of the Tribunal who shall make similar provisions. The President who has made the provisions shall report to the President of the Tribunal.

[illegible]

(3) Offenses without criminal intent or by tendency or by prescription by law is imprisonment for not less than two years. A habitual offender, habitual, professional or has been sentenced more than twice to some measure of punishment without criminal intent or shall have been previously sentenced to detention for an offense or shall have been previously sentenced to detention for an offense of the same kind or has no fixed residence within the territory of the State or when it appears that he has fled or intends to flee. The judge in deciding whether to exercise his power of issuing a warrant for arrest shall take into account the moral and social conditions of the person and the circumstances of the crime.

2

When during the formal investigation ("instructions") the period of preventive custody for the offence concerned has exceeded four months the examining magistrate shall immediately report to the President of the Tribunal the reasons why the investigation is not yet completed. The President, after having examined the accounts of the proceedings that accompany, shall make the appropriate provisions for accelerating the delay. The President shall also, in the case of discovering the responsibility for the delay, the counsel or delegate of the examination section (Consigliere Delegato delle Sezioni istruttorie) shall make a report to the President of the Section who shall make similar provisions. The President who made the foregoing provisions shall within the prescribed period of the investigation.

In those cases where provisional liberty is permitted, when the period of preventive detention shall have exceeded six months, if the offense occurred in one within the jurisdiction of the Tribunal, or eight months if it is within the jurisdiction of the Tribunal, if trial shall not have been rendered by the Tribunal, the Tribunal shall have the right to revoke the provisional liberty.

part of assets, wherever the order is issued, the accused must be notified by the Registry (Cancellaria), the accused may be subjected to the restrictions deposited at the Registry (Cancellaria) together with the order freezing his first portion of art. 282 or those provided in the first paragraph of art. 284.

If the accused brings any restriction imposed, or if it appears that he has brought such a restriction upon himself, the court may remove him from the premises.

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[illegible]

When in proceedings within the jurisdiction of the Protor the period of preventive attention for the offenses concerned shall have exceeded thirty days and the order for trial has not been issued, the accused shall be freed; the Protor shall immediately make a report to the Procurators del Re enacting the reasons for the delay. The Procurators del Re shall ascertain the responsibility for the delay and inform the Procuratore Generale thereof.

Art. 7

Whenever Articles 233, 234, 253 and 254 of the Code of Penal Procedure or other laws in force are cited, it shall be understood that Articles 2, 3, 4 and 5 of the present decree are referred to in their stead.

Whenever par. no. 2 of Article 234 of the Code of Penal Procedure is cited in the above mentioned laws, it shall be understood that par. no. 3 of Article 5 of the present decree is referred to.

Art. 8

If during the proceedings already commenced at the date of the coming into force of the present decree, the delays set out in the first paragraph of Article 6 have expired, or in cases within the jurisdiction of the tribunals there are less than three months to run, or in those within the jurisdiction of the Court of Assize there are less than six months to run, the expiry of the said delays is respectively prorogued to three and six months from the date of the coming into force of the present decree.

Art. 9

This decree shall come into force on the date of its publication in the Official Gazette - Special Series, etc.

TRANSLATION

Appx F

MINISTRY OF PARDON AND JUSTICE
Office of the Director General
for Penal Matters

Rome, 16 January 1945

Off. I A.P.
Prot. No. 131.12/207 Fasc. Gen.
Circular No. 2988

TO:

Their Excellencies First Presidents of
Courts of Appeal
Prosecutors General of Courts of Appeal of
the Kingdom.

SUBJECT : Use of the power to grant provisional liberty in proceedings for offences concerning prostitution.

This Ministry has had occasion to point out that the prevention of certain offences, particularly of those concerning prostitution, is considerably impeded by the at times excessive use of the power to grant provisional liberty in the relative proceedings.

The legislator recently intervened in the repression of the phenomenon of prostitution, which at the present time is assuming increasingly serious proportions due to the commonly known sad social situation, by enacting the D.L. No. 323 of 12 Oct 1944 thereby effecting a timely increase in the penalties for offences established in this field by the Consolidated Text of the Public Safety Laws.

It is advisable that then rigorous criterion indicated by the legislator himself be followed by the judicial authority in each case where the option to grant provisional liberty is to be exercised in proceedings involving the offences under consideration; and particularly so in cases in which a sentence of conviction has already been rendered by the court of first instance and appeal lodged against it. ⁷⁴

Furthermore, whenever it is decided to accord the benefit of provisional liberty, it would be advisable, always in the interest of the prevention of crime, to exercise frequently and carefully the power authorized by 2nd part of Art. 282 Code of Penal Procedure to forbid the persons accused of prostitution or of inducement remaining in localities visited by military personnel.

It would be appreciated if your Excellencies would kindly issue the necessary instructions in this matter to the subordinate offices, advising the Ministry accordingly.

THE MINISTER
(sgd) Tapini

MINISTERO DI GRAZIA E GIUSTIZIA
Direzione Generale degli Affari Penali

UFF. I A.P.
 Prot. No. 131.12/207 Fasc. Gen.
 CIRCOLARE N. 2988

Roma, li 16 gennaio 1945

Alto Ill. Es.
 I PRIMI PRESIDENTI DELLE CORTI DI APPELLO
 e
 I PROCURATORI GENERALI PRESSO LE CORTI
 DI APPELLO del

R E G I O

OGGETTO: Uso della facoltà di concedere la libertà provvisoria, nei
 procedimenti per reati concernenti la prostituzione.

Questo Ministero ha avuto occasione di rilevare come la prevenzione
 di delitti reati, e segnatamente di quelli che concernono la prostituzione,
 trovi un notevole ostacolo nell'uso talora anodato dell'esercizio
 della facoltà di concedere, nei relativi procedimenti, la libertà prov-
 visoria.

Contro il fenomeno della prostituzione, che attualmente, per la ben
 nota triste situazione sociale, dilaga in modo impressionante, il
 Legislatore è di recente intervenuto, con il D.L. 12.13.1944, n. 323,
 il quale ha opportunamente inasprito le sanzioni relative ai reati pre-
 veduti, nella suddetta materia, dal T.S. delle leggi di P.S.

Questo criterio di rigore, indicato dallo stesso Legislatore, è
 opportuno sia seguito dall'Autorità Giudiziarla ogni qual volta debba
 fare uso della facoltà di concedere la libertà provvisoria, nei proce-
 dimenti che concernono per oggetto uno dei reati in questione. Ciò spe-
 cialmente nel caso in cui sia già intervenuta una sentenza di condanna
 di primo grado e vi sia stata impugnazione.

Sarebbe inoltre opportuno, sempre ai fini della prevenzione penale,
 che, qualora si decidesse di concedere il beneficio, si facesse un uso
 frequente ed esatto della facoltà sancita dal 2° comma dell'art. 282
 C.P.P. vietando alle persone imputate di prostituzione o di adescamento
 al libortinaggio, di dimorare nelle località frequentate da militari.

Si gradirebbe che le V. M. volessero compiacersi di impartire in
 proposito le opportune direttive agli Uffici dipendenti, dandone assi-
 curazione a questo Ministero.

IL MINISTRO

f.to Tupini

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

WEB/pa.
25 Jan 45.

AC/4026/L.

SUBJECT : Prostitution.

TO : See Distribution List.

1. Cases have occurred recently in which prostitutes have been charged with and convicted of an offence under Proc. 1 Art. V Sec. 45 on the sole ground that they had had or solicited intercourse with a member of the Allied Forces.

2. Intercourse with or solicitation of a member of the Allied Forces per se is not an act to the prejudice of the safety or security of the Allied Forces or of any member thereof, and cannot therefore properly be made the subject of a charge under this Section.

3. Such intercourse or solicitation is prejudicial to the safety of the Allied Forces if undertaken by a person infected with venereal disease; such cases therefore may properly be made the subject of such a charge. Evidence must be produced however that at the time of the offence the accused was suffering from such disease. It is immaterial in such a case whether or not the accused knew that she was so suffering.

4. Italian law provides ample means to fight prostitution and the various activities connected therewith. The relevant laws are contained in the law of the Public Safety of 18 June 1931, No. 773 Ch VII Art. 190-208, a synopsis of which is attached as Annex A hereto. Prostitutes found contravening these provisions should be handed over to the Italian Courts for trial.

5. Violations of these Italian laws can of course be tried in AMG Courts under Proc. 1, Art. VII, subject to the provisions of Art. 14 of the Consolidated Instructions for Allied Military Courts. It is however most undesirable for this course to be adopted save in most urgent and exceptional cases.

By command of Rear Admiral STONE :

that they had the

2. Intercourse with or solicitation of a member of the Allied Forces per se is not an act to the prejudice of the safety or security of the Allied Forces or of any member thereof, and cannot therefore properly be made the subject of a charge under this Section.

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By command of Rear Admiral STONE :

G. R. UPJOHN, Brig.
VP GA Sec
Dep COS AG

TO : SJAOS 5th and 6th Armies.
RCS (for RLOs) Sicily, Southern,
Lazio-Umbria, Abruzzi-Marche, Sardegna,
Toscana, Emilia, Liguria, Piemonte,
Lombardia and Venezia Regions.

Appx A

Synopsis of the law of Public Safety of 18 June 1931 No. 773, Chapter VII, Articles 190 to 208

Art. 190: At the request of the keeper or at their discretion, Public Safety authorities may declare premises where prostitution is exercised to be licensed premises.

Art. 191: No premises of this type can be opened without the License referred to in the preceding article; this provision is also applicable to premises where one person only exercises this practice. Penalty up to one year and 1,000 lire fine.

Art. 192: Public Safety authorities can close any such premises in the interest of morality, decency and public order.

Art. 193: Whoever desires to open a house of prostitution must fill in a special form provided by Public Safety authorities in which are determined the conditions under which he may exercise his profession.

Art. 194: No premises used for prostitution can be modified without the authorization of the PS authority. List of persons who exercise prostitution in licensed premises must be supplied to the PS authority. If through negligence sanitary measures are not taken and an infected person is admitted, even for a short time, in the licensed premises, penalties up to one year and 5,000 lire can be upheld.

Art. 195: Hours of opening are determined by the PS authorities.

Art. 196: The following are forbidden in premises where prostitution is exercised:

- a. Gambling, dancing and any type of celebration.
- b. The ready sale of food and drink.
- c. Access to minors under 18.
- d. Entering the premises carrying arms.

Penalties up to 6 months and 3,000 lire fine.

Art. 197: Full rights of requisition at any time by PS authorities - and also of evacuation of all inmates.

Art. 198: The keeper cannot receive gifts of money or other articles from the inmates. Penalty - up to 3 months and 5,000 lire.

Art. 199: The keeper cannot retain an inmate wishing to leave the premises. Penalty up to 3 months and 5,000 lire fine.

Art. 200: Prostitution premises shall be closed when:

1. Venereal diseases are prevalent.
2. Minors are found among the inmates.
3. Sanitary visits are not properly carried out.
4. The keeper tries to prevent such visits.
5. The keeper becomes an habitual offender under Art. 195 & 196.
6. The license if any ends.

Art. 201: All such premises can also be closed for general hygiene motives or other reasons at the discretion of PS authorities.

- a. Gambling, dancing and any games.
- b. The ready sale of food and drink.
- c. Access to minors under 18.
- d. Entering the premises carrying arms.

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2. Minors are found among the inmates.
3. Sanitary visits are not properly carried out.
4. The keeper tries to prevent such visits.
5. The keeper becomes an habitual offender under Art. 195 & 196.
6. The lease if any ends.

Art. 201: All such premises can also be closed for general hygiene motives or other reasons left at the discretion of PS authorities.

Art. 202: The keeper who maintains the premises open after the date of closing is liable to one year's imprisonment and 5,000 lire fine.

Art. 203: Whoever contravenes the above provisions cannot receive a license for a period of five years.

Art. 204: One year is the minimum limit of time before any closed premises can be opened.

Art. 205: PS authorities can at any time order sanitary visits of the inmates or send them to special cure places.

Art. 206: Licenses are withdrawn if the keeper requests it when the premises are not used anymore for the exercise of prostitution.

Art. 207: All appeals against PS authority action can be made to a Commission convened by the Prefect, etc.

Art. 208: Incitement to debauchery is also forbidden, even by indirect means, in any public places.

It is also formally forbidden:

- a. to solicit by deeds or words in the streets
- b. to stand in public places in an indecent attitude
- c. to expose one's person at the windows or on the threshold of licensed premises
- d. to give the address or indicate in any way the location of licensed premises or offer means of procuring.

Penalty up to 6 months.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4011/L

/mt.
20 January 1945.

SUBJECT : Circulars of Ministry of Pardon and Justice - Offences
against Allied interests and prostitution.

TO : (See Distribution List).

Attached for your information are the Italian texts and English translations of the following two circulars which have been directed by the Ministry of Pardon and Justice to the First Presidents and Prosecutors General of Courts of Appeal:

- a. Circular No. 2989: Issuance of warrant of arrest and use of the power to grant provisional liberty in proceedings for offences committed to the ^{the} ~~the~~ force of Allied Forces.
- b. Circular No. 2988: Use of the power to grant provisional liberty in proceedings for offences concerning prostitution.

2 Incls:

- Incl. 1 - Circ. No. 2989 and Eng. translation
- Incl. 2 - Circ. No. 2988 and Eng. translation.

K. J. H. H. C. L.
A. R. THACKER, Jr.
Lt. Col.,
Italian Branch,
For Joint Legal Advisor

72

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TRANSLATION

MINISTRY OF PARDON AND JUSTICE
Office of the Director General
for Penal Matters

Rome, 16 January 1945

Off. I A.P.
Prot. No. 131.12/207 Fasc. Gen.
Circular No. 2988

TO:
Their Excellencies First Presidents of
Courts of Appeal
Prosecutors General of Courts of Appeal of
the Kingdom.

SUBJECT : Use of the power to grant provisional liberty in proceedings for offences concerning prostitution.

This Ministry has had occasion to point out that the prevention of certain offences, particularly of those concerning prostitution, is considerably impeded by the at times excessive use of the power to grant provisional liberty in the relative proceedings.

The legislator recently intervened in the repression of the phenomenon of prostitution, which at the present time is assuming increasingly serious proportions due to the commonly known sad social situation, by enacting the D.L.L. No. 323 of 12 Oct 1944 thereby effecting a timely increase in the penalties for offences established in this field by the Consolidated Text of the Public Safety Laws.

It is advisable that then rigorous criterion indicated by the legislator himself be followed by the judicial authority in each case where the option to grant provisional liberty is to be exercised in proceedings involving the offences under consideration; and particularly so in cases in which a sentence of conviction has already been rendered by the court of first instance and appeal lodged against it.

Furthermore, whenever it is decided to accord the benefit of provisional liberty, it would be advisable, always in the interest of the prevention of crime, to exercise frequently and carefully the power authorized by 2nd part of Art. 282 Code of Penal Procedure to forbid the persons released of prostitution or of inducement remaining in localities visited by military personnel.

It would be appreciated if your Excellencies would kindly issue the necessary instructions in this matter to the subordinate offices, advising the Ministry accordingly.

THE MINISTER
(sgd) Tupini

63

71

MINISTERO DI GRAZIA E GIUSTIZIA
Direzione Generale degli Affari Penali

Uff. I A.P.
 Prot. No. 131.12/207 Fasc. Gen.
 CIRCOLARE N. 2988

Roma, 11 16 gennaio 1945

Alle LL. EE.
 I PRIMI PRESIDENTI DELLE CORTI DI APPELLO
 I PROCURATORI GENERALI PRESSO LE CORTI
 DI APPELLO del

R. E. G. I. O

OGGETTO: Uso della facoltà di concedere la libertà provvisoria, nei procedimenti per reati concernenti la prostituzione.

Questo Ministero ha avuto occasione di rilevare come la prevenzione di taluni reati, e specialmente di quelli che concernono la prostituzione, trovi un notevole ostacolo nell'uso talora smodato dell'esercizio della facoltà di concedere, nei relativi procedimenti, la libertà provvisoria.

Contro il fenomeno della prostituzione, che attualmente, per la ben nota triste situazione sociale, dilaga in modo impressionante, il Legislatore è di recente intervenuto, con il D.L. 12.10.1944, n. 323, il quale ha opportunamente inasprito le sanzioni relative ai reati previsti, nella suddetta materia, dal T.U. delle leggi di P.S.

Questo criterio di rigore, inteso a llo stesso Legislatore, è opportuno sia seguito dall'Autorità Giudiziaria ogni qual volta debba fare uso della facoltà di concedere la libertà provvisoria, nei procedimenti che abbiano per oggetto uno dei reati in questione. Ciò specialmente nel caso in cui sia già intervenuta una sentenza di condanna di primo grado e vi sia stata impugnazione.

Sarebbe inoltre opportuno, sempre ai fini della prevenzione penale, che, qualora si decidesse di concedere il beneficio, si facesse un uso frequente ed oculato della facoltà sancita dal 2° comma dell'art. 282 C.P.P. vietando alle persone imputate di prostituzione o di adescamento al libertinaggio, di dimorare nelle località frequentate da militari.

Si gradirebbe che le VV. LL. volessero compiere di impetire in proposito le opportune direttive agli Uffici di merito, dandone assicurazione a questo Ministero.

IL MINISTRO

f.to Tapini

TRANSLATION

MINISTRY OF PARDON AND JUSTICE
Office of the Director General
for Penal Matters

Rom. 16 January 1945.

OFF. I A.P.
Prot. No. 131.12/207 Fasc. Gen.
Circular No. 2989

TO:
Their Excellencies First Presidents of
Courts of Appeal
Prosecutors General at the Courts of
Appeal of the Kingdom.

SUBJECT : Issuance of warrant of arrest and use of the power to grant
provisional liberty in proceedings for offences committed
to the prejudice of Allied Forces.

This Ministry has pointed out on several occasions that in proceedings involving offences committed to the prejudice of Allied Forces in respect of which the issuance of a warrant of arrest is optional only, according to Art. 5 of D.L.L. No. 194 of 10 August 1944, the judicial authority has failed to use such power.

The present contingencies, however, which emphasize the necessity for intensifying in all possible ways the war effort against the common enemy, require that the aforesaid offences be prosecuted with the maximum rigor authorized by law.

It would, therefore, be advisable that the judicial authority in exercising its discretionary power to issue warrants of arrest in such cases, should follow this concept of rigor counselled by the present political situation.

Analogous concepts of severity intended particularly to prevent the relapse of the same offences, should be followed in the exercise of the power to grant provisional liberty.

In this respect if application is made for provisional liberty pending the proceedings on appeal, in evaluating the advisability of granting the liberty, consideration should be given, not only to the interests injured by the offence, but also to its nature and type and to the personality of the accused as prescribed by law, taking into account also the result of the proceeding in the Court of first instance.

It would be appreciated if Your Excellencies would kindly issue the necessary instructions in this matter to the subordinate offices advising this Ministry accordingly.

THE MINISTER
(sgd) Tupini

MINISTERO DI GIUSTIZIA E GIUSTIZIA
Direzione Generale degli Affari Penali

Uff. I. M.P.
Prot. n. 131.12/207 Fasc. Gen.
CIRCOLARE N. 2989

Roma, li 16 gennaio 45

Alle LL. EE.
I PRIMI PRESIDENTI DELLE CORTI D'APPELLO
e
I PROCURATORI GENERALI presso le Corti
d'APPELLO del

R. E. G. N. O.

OGGETTO: Emissione di mandato di cattura ed uso della facoltà di concedere la libertà provvisoria, nei procedimenti per reati commessi in danno delle Forze Alleate.

Questo Ministero ha avuto talvolta occasione di rilevare come, nei procedimenti commessi in danno delle FF. MM., in ordine ai quali la emissione del mandato di cattura sia soltanto facoltativa, ai sensi dell'art. 5 del D.L.L. 10.8.1944, n. 194, l'Autorità Giudiziaria non abbia fatto uso di tale facoltà.

Le attuali contingenze, viceversa, che mettono in rilievo la necessità di potenziare in tutti i modi possibili lo sforzo bellico contro il comune nemico, impongono che i reati suddetti siano perseguiti con il massimo rigore consentito dalla legge.

Sarebbe quindi opportuno che l'Autorità Giudiziaria, nell'esercizio della sua facoltà di emettere, in tali casi, il mandato di cattura, sia guidata da questo criterio di rigore, consigliato dall'attuale situazione politica.

Analoghi criteri di severità, intesi al fine di prevenire particolarmente la recidiva nel medesimo reato, dovrebbero essere seguiti nell'uso della facoltà di concedere la libertà provvisoria.

Al riguardo, ove la libertà provvisoria sia richiesta nelle more del giudizio di appello, l'opportunità o meno di concederla deve essere valutata, oltre che alla stregua degli interessi offesi dal reato, della natura e specie di questo e della personalità dell'imputato, come la legge prescrive, anche tenendo presente i risultati del giudizio di primo grado.

Si gradirebbe che le MM. VV. volessero compiacersi di dare in proposito le opportune direttive agli uffici dipendenti, dandone assicurazione a questo Ministero.

IL MINISTRO
f.to T. M. ni

HEADQUARTERS ALLIED COMMISSION

APO 394

LEGAL SUB-COMMISSION

13/PM.

3 January 1945

AC/4010/2/L

SUBJECT : Implementation of Italian legislation in Military Government and Army Territory.

TO : See Distribution List.

1. The following text is substituted for that contained in ACC/4010/2/L dated 25 July 1944. It will be noted that the basic procedure established by the previous directive remains unaltered.

2. At para (4) below is reproduced in English the text of the attached explanatory circular in Italian which will be handed to the Prefect on the occasion (a) of a province passing under Regional Control or (b) whenever the Army Authorities decide to apply the system of implementation in advance to a province within the zone under Army control and the competent SCAO issues an order to that effect.

At the foot of the directive is a form of acknowledgement which will be signed by each Provincial Level of order and returned to the Legal Sub-Commission for the purpose of recording that the circular was duly delivered to the Prefect when one of the aforesaid alternatives have taken place.

3. As is indicated in para (2) and (3) of the circular to the Prefects, the Provincial Legal Officer will be responsible for assisting the Provincial Commissioner in receiving and the recording formalities and also for remitting to the Legal Sub-Commission at HQ AC the receipts essential for maintaining the records.

The Regional Legal Officers will see that all Provincial Commissioners and Provincial Legal Officers become thoroughly familiar with this directive exercising all possible care in putting it into effect and especially that the receipts are forwarded regularly and without delay.

Whenever a copy of "Gazzette Ufficiale" is dispatched to the Regional Commissioner for distribution a warning note is sent to the Regional

the zone under Army control and to that effect.

At the foot of the directive is a form of acknowledgement which will be signed by each Provincial Legal Officer and returned to the Legal sub-Commission for the purpose of recording that the circular was duly delivered to the Prefect when one of the aforesaid alternatives have taken place.

3. As is indicated in paras (2) and (3) of the circular to the Prefects, the Provincial Legal Officer will be responsible for assisting the Provincial Commissioner in carrying out the regional formalities, and also for remitting to the Legal Sub-Commission at R.C. the receipts essential for maintaining the records.

The Regional Legal Officers will see that all Provincial Commissioners and Provincial Legal Officers become thoroughly familiar with this directive exercising all possible care in putting it into effect and especially that the receipts are forwarded regularly and without delay.

Whenever a remittance of "Gazzetta Ufficiale" is dispatched to a Province for distribution a warning note is sent to the Regional Legal Officer concerned giving the number of packets dispatched and the corresponding issue number of "Gazzetta Ufficiale", thus keeping the RLC informed and enabling him to ensure proper delivery by checking with the message center of his Hq.

4. Translation of the Circular to Prefects:

MINISTRE DE LA JUSTICE
Office for Publication of Laws
and Decrees

Rome, 5 Jan. 1945

To: Their Excellencies the Prefects

SUBJECT : Efficiency and promulgation of decrees collected by the Italian Government and published in the "Gazzetta Ufficiale" of the Kingdom.

The Allied Commission (A.C.) has ordered the distribution of the

of the "Gazzetta Ufficiale" of the Kingdom in territories administered by the Allied Military Government (A.M.G.) exclusive of the provinces in the zone of operations controlled by the Army.

However in the last mentioned provinces the distribution may be made from time to time on the order of the competent Senior Civil Affairs Officer (SCAO).

By agreement with this Ministry the said Allied Commission has issued the following instructions in respect of the efficacy and promulgation in the aforesaid territories of the legislation enacted by the Italian Government and published in the "Gazzetta Ufficiale" of the Kingdom:

- (1) Said legislation shall be made operative in territories administered by A.M.G. by virtue of a special endorsement of the Deputy Chief of Staff of the Allied Commission published at the end of the "Gazzetta" and referring to legislative provisions published in one or more issues of the "Gazzetta" preceding the issue containing the said endorsement. By way of exception the said endorsement may refer to legislative provisions contained in the same issue of the "Gazzetta" in which the endorsement is printed. The provisions thus made operative will become effective in each Province of the aforesaid territories as of the date on which the competent Prefect receives from A.M.G. (as explained below in para 2) the copies of the "Gazzetta" containing the above mentioned endorsement, for distribution to addressees within this Province.

However the Deputy Chief of Staff of the Allied Commission may in his endorsement exclude the application to the aforesaid territories of any legislative provision published in those issues of the "Gazzetta" to which the endorsement refers. The legislative provisions thus excluded are published in said territories for information only.

- (2) The distribution of the "Gazzetta" is entrusted in each

of the "Gazzetta" preceding the issue containing the said endorsement. By way of exception the said endorsement is not required to legislative provisions contained in the same issue of the "Gazzetta" in which the endorsement is printed. The provisions thus made operative will become effective in each Province of the aforesaid territories as of the date on which the competent Prefect receives from A.C. the explained below in para 1) the copies of the "Gazzetta" containing the above mentioned endorsement, for distribution to addressees within his Province. C.S.

However the Deputy Chief of Staff of the Allied Commission may, in his endorsement exclude the application to the aforesaid territories of any legislative provision published in these issues of the "Gazzetta" to which the endorsement refers. The legislative provisions thus excluded are published in said territories for information only.

(2) The distribution of the "Gazzetta" is entrusted in each Province of the said territories to the Prefect. For this purpose the Prefect receives from the A.C. through the Office of the Provincial Commissioner, and specifically through the Provincial Legal Officer, a package containing as many copies of the "Gazzetta" as are to be distributed under the Prefect's supervision to the addressees indicated on each copy.

(3) In order to record and make known the date of receipt of the individual issues of the "Gazzetta" containing the endorsement set out above in para 1 each Prefect before distribution is made shall cause every copy to be stamped or otherwise marked with the date on which he has received the specific issue of the "Gazzetta"; this date, as explained above in para 1, shall be the effective date in the Province concerned of the legislative provisions thus rendered operative therein. To ensure compliance with this requirement the Prefect receives from A.C. with each packet mentioned above in para 1 a triplicate form as printed in Italian and English to be executed and signed by

signed by him at the request of the Provincial Commissioner whose certificate the date of receipt.

The Prefect shall forward two copies of the aforesaid triplicate form of receipt to the Provincial Commissioner attention Provincial Legal Officer (one for onward transmission to the Legal Sub-Commission of the A.C. and the other to be filed in the files of the Provincial Commissioner) - and shall keep the third copy among the records at the Prefecture. As a consequence, no receipt forms will accompany packets of the "Gazzette" that do not contain an endorsement.

- (4) The legislative provisions enacted by the Italian Government in Brindisi and Salerno and published in the "Gazzetta Ufficiale" Nos. 12 to 6/3 of 1941 and Nos. 1 to 39 of 1944 have been reprinted and collected in one special volume. On page 661 of this volume is reproduced an endorsement of the Allied Commission rendering the major part of said legislative provisions operative in territories administered by the A.M.G. The above set out instructions relating to the "Gazzetta" shall apply equally to the procedure for the putting into effect and divulgation of the provisions reprinted in this "Collection".

- (5) It should be noted that when the above system first began to operate in a Province, the Prefect concerned will receive in one or more consignments a considerable number of packages each containing an appropriate number of copies of the "Collection" referred to above in para 4 and of the subsequent issues of the "Gazzetta Ufficiale" beginning with issue No. 40. At this initial stage particular attention will be required to ensure that the receipt forms mentioned above in para 3, relating to the packets to which they are attached, are dealt with in accordance with para 3 of this directive.

- (6) Considering the importance attaching to this service designed to ensure within the limits of present possibilities the continuity of the Italian legislative administration, it is considered that the administrative

- (5) It should be noted that when the above system first began to operate in a Province, the Prefect concerned will receive in one or more consignments a considerable number of packages each containing an appropriate number of copies of the "Collection" referred to above in para 4 and of the subsequent issues of the "Gazzetta Ufficiale" beginning with issue No. 40. It is this initial stage particular attention will be required to ensure that the receipt forms mentioned above in para 3, relating to the packets to which they are attached, are dealt with in accordance with para 3 of this directive.

- (6) Considering the importance attaching to this service designed to ensure within the limits of present possibilities the continuity of the Italian legislative system in territories not yet restored to the administration of the Italian Government, Your Excellency are enjoined at the request of the A.S. to supervise personally the proper application of this directive. For any question arising out of these matters please consult the individual Provincial Legation officers.

Director,
Gazzetta Ufficiale of the Kingdom
and Official Collection of Laws
and Decrees.
(sgd) G. GIULINI

By command of Rear Admiral STUART: *W. J. St. John*
W. J. ST. JOHN,
Colonel,
Deputy Chief Legal Advisor
Distribution List: (see over)

**MINISTERO DI GRAZIA E GIUSTIZIA**

UFFICIO PUBBLICAZIONE LEGGI E DECRETI

Roma, 5 gennaio 1946.

Alle LL. EE. e Prefetti

**OGGETTO: Efficacia e divulgazione dei provvedimenti emanati dal
Governo Italiano e pubblicati nella "Gazzetta Ufficiale", del Regno.**

La Commissione Alleata (A.C.) ha disposto la distribuzione della *Gazzetta Ufficiale* del Regno, nel territorio sottoposto all'Amministrazione del Governo Militare Alleato (A.M.G.) erezione fatta per le provincie incluse nella zona delle operazioni, sotto controllo delle armate, alle quali provincie, tuttavia, può esserne fatto invio ove lo disponga, di volta in volta, il competente Ufficiale Capo Affari Civili (S.C.A.O.).

D'intesa con questo Ministero, detta Commissione Alleata impartisce le istruzioni in ordine alla entrata in vigore e alla divulgazione, in detti territori, dei provvedimenti emanati dal Governo Italiano e pubblicati nella *Gazzetta Ufficiale* del Regno:

1) Detti provvedimenti vengono resi operativi nel territorio amministrato dall'A.M.G. mediante una speciale ordinanza del Sottocapo di Stato Maggiore della Commissione Alleata pubblicata in calce alla *Gazzetta* stessa e relativa ai provvedimenti pubblicati in uno o più numeri della *Gazzetta* precedenti il numero ove è inserita l'ordinanza stessa. Eccezionalmente l'ordinanza suddetta potrà riferirsi a provvedimenti contenuti nello stesso numero della *Gazzetta* in cui l'ordinanza viene pubblicata. I provvedimenti così resi operativi entrano in vigore, in ciascuna Provincia nel detto territorio, dalla data sotto la quale il Prefetto competente riceve, dall'A.C., come specificato al n. 2), gli esemplari della *Gazzetta* che contengono la menzionata ordinanza, per la distribuzione ai destinatari della sua Provincia.

Il Sottocapo di Stato Maggiore della Commissione Alleata si riserva, però, la facoltà, sempre limitatamente agli stessi spazi territoriali di escludere con la stessa sua ordinanza l'efficacia di alcuni fra i provvedimenti pubblicati nei numeri della *Gazzetta* cui l'ordinanza si riferisce. I provvedimenti così esclusi vengono resi noti, in detti territori, unicamente a scopo informativo.

2) La distribuzione della *Gazzetta* viene affidata, per ciascuna Provincia in detto territorio, al Prefetto. Allo scopo Egli riceve dall'A.C., per tramite degli Uffici dei Commissari provinciali ed in particolare degli Ufficiali Legali Provinciali un pacco contenente tanti esemplari della *Gazzetta* quanti dovranno distribuirsi, a sua cura, ai destinatari indicati su ogni copia.



Roma, 5 gennaio 1947.

MINISTERO DI GRAZIA E GIUSTIZIA

UFFICIO PUBBLICAZIONE LEGGI E DECRETI

ALL. II. E. N. P. 106

OCCETTO: Efficacia e divulgazione dei provvedimenti emanati dal Governo Italiano e pubblicati nella "Gazzetta Ufficiale" del Regno.

Il presente decreto ha lo scopo di stabilire le norme per la pubblicazione e la divulgazione dei provvedimenti emanati dal Governo Italiano e pubblicati nella "Gazzetta Ufficiale" del Regno. Il decreto è diviso in tre parti: la prima parte stabilisce le norme per la pubblicazione dei provvedimenti; la seconda parte stabilisce le norme per la divulgazione dei provvedimenti; la terza parte stabilisce le norme per la pubblicazione e la divulgazione dei provvedimenti emanati dal Governo Italiano e pubblicati nella "Gazzetta Ufficiale" del Regno.

Il presente decreto è emanato in esecuzione dell'articolo 1 della legge n. 1 del 28 gennaio 1947, recante "Disposizione sulla pubblicazione e sulla divulgazione dei provvedimenti emanati dal Governo Italiano e pubblicati nella "Gazzetta Ufficiale" del Regno". Il decreto è diviso in tre parti: la prima parte stabilisce le norme per la pubblicazione dei provvedimenti; la seconda parte stabilisce le norme per la divulgazione dei provvedimenti; la terza parte stabilisce le norme per la pubblicazione e la divulgazione dei provvedimenti emanati dal Governo Italiano e pubblicati nella "Gazzetta Ufficiale" del Regno.

Il presente decreto è emanato in esecuzione dell'articolo 1 della legge n. 1 del 28 gennaio 1947, recante "Disposizione sulla pubblicazione e sulla divulgazione dei provvedimenti emanati dal Governo Italiano e pubblicati nella "Gazzetta Ufficiale" del Regno". Il decreto è diviso in tre parti: la prima parte stabilisce le norme per la pubblicazione dei provvedimenti; la seconda parte stabilisce le norme per la divulgazione dei provvedimenti; la terza parte stabilisce le norme per la pubblicazione e la divulgazione dei provvedimenti emanati dal Governo Italiano e pubblicati nella "Gazzetta Ufficiale" del Regno.

3) Per rendere certa e per divulgare la data di ricezione degli esemplari della *Gazzetta Ufficiale* e pubblica l'ordinanza di esecutorietà menzionata al n. 1. - Ciascun Prefetto deve, prima di distribuirli, far timbrare, o annotare ufficialmente in altro modo, su ognuno di essi, la data di ricezione da parte sua di quello specifico numero della *Gazzetta*, che, come precisato al n. 1), rappresenta la data di entrata in vigore nella relativa Provincia, dei provvedimenti così resi operativi. Per meglio assicurare questo adempimento, egli riceve dall'A. C. insieme col pacco menzionato al n. 2), un modulo in triplice copia redatto in lingua inglese ed italiana. A richiesta del Commissario provinciale, lo riempie e lo firma per attestare la data di ricevimento degli esemplari. Delle tre copie dei moduli anzidetti, ne invia due al Commissario provinciale — all'attenzione dell'Ufficio Provinciale Legale — una per l'invio alla Sottocommissione legale dell'A. C. e l'altra per la conservazione negli atti dell'Ufficio) e trattiene la terza negli atti della Prefettura. Naturalmente nessun modulo di ricevuta accompagna quei pacchi di *Gazzette* che non contengono ordinanze di esecutorietà.

4) I provvedimenti emanati a Brindisi e a Salerno dal Governo Italiano e pubblicati nella *Gazzetta Ufficiale* dal n. 1/B al n. 6/B nell'anno 1943 e dal n. 1 al n. 39 dell'anno 1944, sono ristampati e raccolti in un volume speciale ove a pagina 681 trovasi pubblicata un'ordinanza della Commissione Alleata che rende operativi nei territori amministrati dall'A.M.G. la maggior parte di detti provvedimenti. Anche per l'entrata in vigore di essi e per la divulgazione della loro « Raccolta », valgono le istruzioni sopra menzionate per la *Gazzetta*.

5) E' da notare che allorché in una Provincia il sistema sopra esposto ha la sua prima applicazione, il Prefetto Intendente riceverà in una o più consegne un rilevante quantitativo di pacchi contenenti il necessario numero di copie della « Raccolta » di cui al n. 4) e dei successivi numeri della *Gazzetta* dal n. 10 in poi. Particolare cura sarà necessaria spiegare in tale stadio iniziale affinché le ricevute relative ai pacchi cui sono allegate, vengano utilizzate in conformità di quanto precisato al n. 3).

6) Data l'ovvia importanza che attiene al regolare funzionamento di questo servizio, con il quale si vuole assicurare per quanto possibile, la continuità del sistema legislativo italiano nei territori non ancora restituiti all'Amministrazione del Governo Italiano, a richiesta dell'A.C. si prega affinché le LL. EE. i Prefetti seguano personalmente l'applicazione delle istruzioni che formano oggetto della presente.

Per ogni questione relativa a tale soggetto le LL. EE. i Prefetti vogliano rivolgersi ai singoli Uffici Legali Provinciali.

Il Direttore
della *Gazzetta Ufficiale del Regno*
e della *Raccolta Ufficiale delle leggi e dei decreti*

G. GIOLITTI

Distribution List:

R.C.	(attn: R.L.O.)	Lazio - Umbria Region	4
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R.C.	(attn: R.L.O.)	Toscana Region	11
R.C.	(attn: R.L.O.)	Emilia Region	10
R.C.	(attn: R.L.O.)	Liguria Region	6
R.C.	(attn: R.L.O.)	Piemonte Region	9
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100. HC. AFFILIATION COMMISSION, LEGAL GRO-COMMISSION

I have noted the content of the directive and the action attached to it.

66

25

15th Army Group
 Navy S/C
 Land Forces S/C
 Air Forces S/C
 Communications S/C
 War Mat. S/C and P.M. S/C
 Public Relations Branch
 Minister of Pardon and Justice
 R.C. (attn: R.L.O.) Sicily Region
 R.C. (attn: R.L.O.) Southern Region
 R.C. (attn: R.L.O.) Sardinia Region
 Spares

ADMINISTRATIVE

TO: HQ. ALLIED COMMISSION, Legal Sub-Commission

I have noted the content of the directive file #
 40/4010/2/L of 3 Jan. 1945 and delivered the circular attached to
 the Prefect of

Provincial Legal Officer
 Province

764062

HEADQUARTERS ALLIED COMMISSION
ATO 394

CIVIL AFFAIRS SECTION

AC/4030/5/L.

SUBJECT : Increases of pay under DIL No. 328.

TO : See Distribution List.

89
2 JAN 1945

1. DIL No. 328 of the 18th Nov 44 provided certain increases of pay in favor of state employees and employees of local public and sub-statal organizations. This decree was implemented in the Military Government Territory by order dated 7 Dec 44 published in Gazzetta Ufficiale No. 95.

2. Under the terms of this decree the increases are expressed to be retro-active to the 16th Aug 44 in territory which on the 18th Nov was under Italian Government Administration. For provinces not at that date under Italian Government Administration, the true effect of Article 14 of the decree is drawn is that pay increases are not retroactive at all, but take effect in each province from the date upon which the decree was implemented in that province under the normal procedure of implementation in the Gazzetta Ufficiale.

3. It is not the policy of the Allied Commission to make this wide distinction between different provinces. The policy is that in provinces which, although not restored to the Italian Government on the 18th Nov 44, had nevertheless been liberated from German occupation on the 16th August 44, the pay increase shall be retroactive to the 16th Aug 44. In all other provinces, both those which have now been liberated and those which may at some future date be liberated, the pay increase will be retroactive to the approximate date upon which the provincial seat of the province was liberated from German occupation.

4. In order to give effect to this policy, it has been necessary to amend the order of implementation which appeared in Gazzetta Ufficiale No. 95. A copy of the amended order is attached hereto at Appendix "A" from which you will see that the effective date of the decree will be the date specified by the Provincial Commissioner in a provincial order to be published for that purpose.

5. At Appendix "B" is attached a general form of provincial order to be used for implementation of the decree. It will be observed that the number and date of the Gazzetta Ufficiale which will contain the amended order of implementation is left blank, as this order, although signed by the Chief of Staff, has not yet been published in the Gazette. These blanks must be filled in before the provincial order is published.

6. The Provincial Commissioners in territory now occupied and where the law has been implemented will publish the provincial order and will insert such date for the effective date of the law in their provinces as best gives effect to the policy indicated in para 3 above.

7. It should be observed that this provincial order cannot be issued until the Italian decrees has been put into effect in any

4. In order to give effect to this policy, it has been necessary to amend the order of implementation which appeared in Gazette: officielle No. 95. A copy of the amended order is attached hereto at Appendix "A" from which you will see that the effective date of the decree will be the date specified by the Provincial Commissioner in a provincial order to be published for that purpose.

6. The Provincial Commissioners in territory now occupied and where the law has been implemented will publish the provincial order and will insert such date for the effective date of the law in their provinces as **-best** gives effect to the policy indicated in para 3 above.

8. Copies of this instruction are enclosed for distribution to the Provincial Commissioners.

G. R. VEJCH, Brigadier
VF Cl. Sec
Dep COS, JC

DISTRIBUTION LIST:	Regional Legal Officers, Prov Courts
" "	-14
& Regional Commissioners, Regions L.	LIZIO-IBERIA,
" "	VERUZZI-M.A. ROME
" "	TOSCANA.
" "	EMILIA.
" "	LIGURIA.
" "	PEMONTE
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" "	VENEZIA.
" "	-20

SCAOs, 5th & 8th Armies	- 1
Chief of Staff	- 1
Finance S/C	- 1
Legal S/C	- 1
Labor S/C	- 1

ORDINANCE OF THE ALLIED MILITARY GOVERNMENT

Appendix A

I, MAURICE S. LUSH, C.B.E., M.C., Brigadier, hereby order that the endorsement of 7th December 1944 which appeared in Gazzetta Ufficiale, No. 95 of 16 Dec 1944 implementing the decrees contained in Gazzetta Ufficiale No. 86 of 25 Nov 1944 be varied as follows:

After the words "from the date upon which the Prefect of each province shall receive the present number of the Gazzetta Ufficiale" add "save and except DIL 328 of 18 Nov 1944 which shall become operative and have full force of law in each Province from the date of the order of the respective Provincial Commissioner implementing said decrees."

Dated: 27 December 1944

M. S. LUSH, Brigadier,
Chief of Staff, Allied Commission.

ORDINANZA DEL GOVERNO MILITARE ALLIATO

IO, Brigadiere Generale MAURICE S. LUSH, C.B.E., M.C., Capo di Stato Maggiore della Commissione Alleata, con la presente ordino che l'ordinanza in data 7 dicembre 1944, pubblicata nella Gazzetta Ufficiale No. 95 del 16 dicembre 1944, relativa ai decreti contenuti nella Gazzetta Ufficiale No. 86 del 25 novembre 1944, sia modificata come segue:

Dopo le parole "dalla data in cui il prefetto di tale Provincia riceverà" della Commissione Alleata una copia del presente numero della Gazzetta Ufficiale" si aggiunge "ad eccezione del DIL 18 novembre 1944, No. 328, che entrerà in vigore ed avrà piena forza ed effetto di legge in ciascuna Provincia a partire dalla data dell'ordinanza con cui il Commissario Provinciale disporrà l'entrata in vigore del detto decreto nella Provincia stessa."

In data 27 dicembre 1944

M. S. LUSH, Brigadiere Generale,
Capo di Stato Maggiore della Commissione Alleata.

PROVINCE OF

PROVINCIAL ORDER NO.

Appendix B

WHEREAS by DIL No. 328 of 18 November 1944 the Italian Government provided certain financial improvements in favor of State employees and employees of local public and parastatal organizations

AND WHEREAS by orders of the Chief of Staff of the Allied Commission dated 7 December 1944 and published in Gazzetta Ufficiale No. 95 on 16 December 1944 and further order dated 27 December 1944 and published in Gazzetta Ufficiale No. 86 on 25 November 1944 it was ordered that the aforesaid decrees should become operative and have full force and effect of law in each Province of the Allied Military Government, as of such date as the Provincial Commissioner thereof should by Provincial Order direct

NOW, THEREFORE, I, Provincial Commissioner of the Province hereby order as follows:

DIL No. 328 of 18 November 1944 shall become operative and have full force and effect of law in the Province of

(Date)

Provincial Commissioner.

PROVINCIAL DI

Appendix 2

PROVINCE OF _____

PROVINCIAL ORDER NO. _____

WHEREAS by D.L. No. 328 of 18 November 1944 the Italian Government provided certain financial improvements in favor of State employees and employees of local public and parastatal organizations

AND WHEREAS by orders of the Chief of Staff of the Allied Commission dated 7 December 1944 and published in Gazzetta Ufficiale No. 95 on 16 December 1944 and further order dated 27 December 1944 and published in Gazzetta Ufficiale No. _____ on _____ order dated 27 December 1944 and published in Gazzetta Ufficiale No. _____ on _____ it was ordered that the aforesaid decree should become operative and have full force and effect of law in each province of the Allied Military Government, as of such date as the Provincial Commissioner thereof should by Provincial Order direct

Provincial Commissioner of the Province

NOW, THEREFORE, I,

hereby order as follows:

D.L. No. 328 of 18 November 1944 shall become operative and have full force and effect of law in the Province of _____

Provincial Commissioner.

(Date)

PROVINCIA DI _____

GRANZA, PROVINCIALE NO. _____

CONSIGLIO che col D.L. 18 novembre 1944, no. 328, il Governo Italiano ha disposto dei miglioramenti economici a favore del personale statale e dei dipendenti degli Enti pubblici locali e parastatali;

CONCERNENTE che con Ordinanza del Capo di Stato Maggiore della Commissione Alleata in data 7 dicembre 1944; pubblicata nella Gazzetta Ufficiale No. 95 del 16 dicembre 1944, e che con successive ordinanze dello stesso Capo di Stato Maggiore in data 27 dicembre 1944, pubblicata nella Gazzetta Ufficiale No. _____ del _____, e' stato disposto che il detto D.L. entri in vigore ed abbia piena forza ed effetto di legge in ciascun provincia soggetta al Governo Militare Alleato, dalla data che sara' stabilita dal rispettivo Commissario Provinciale con Ordinanza Provinciale;

IO, _____, Commissario Provinciale della Provincia di _____

con la presente ordino quanto segue:

Il D.L. 18 novembre 1944, no. 328, entra in vigore e ha piena forza ed effetto di legge nella Provincia di _____ a partire dal giorno _____

(Data)

Il Commissario Provinciale

58

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

WFB/la.
7 Dec 1944.

AC/1002/1.

SUBJECT : Cases under Italian Law.

TO : Regional Commissioner (Also : Regional Legal Officer),
Southern, Lazio-Umbria, Toscana, Emilia, Liguria, Piemonte, Abruzzi-Marche,
Lombardia and Venezia Regions.

1. In accordance with Consolidated Instructions Art.32 all cases in which one or more of the charges is framed under Italian law will be reviewed at HQ AC.

2. The purpose of this rule is to ensure that there is available to the Reviewing Authority expert legal advice upon any question of principle or construction which may arise.

3. Any infringement of the Italian law regulating rationing etc, even if charged under Proc. 1 Art.V Sec 12, is in substance a charge framed under Italian law. All such cases will therefore be reviewed at HQ AC.

4. It is pointed out that neither the review nor the trial can be satisfactory unless the charge sheet states the precise section of the Italian law which is infringed and the manner of its infringement.

By command of Commodore STONE :

W. E. BREWERS.

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

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File 5062

ALLIED COMMISSION
APO 394
OFFICE OF CHIEF OF STAFF

WED:up.
15 NOV 44.

AD:ALC:XX

SUBJECT : Publicity and Propaganda-Judicial Proceedings.

TO :

Regional Commissioners, Sicilian, Sardinian, Iasio-Adonis,
Abruzzi-Marche, Basilicata, Toscana, Emilia, Liguria, Piemonte,
Lombardia, Venezia, Regioni.
SCAGs 3th and 4th Armies.

The following orders are issued by the personal direction of the Supreme Allied Commander and will come into force forthwith.

1 Allied Military Courts.

(a) No camera or other photographic apparatus may be taken into any Court (except as an exhibit in a case) and no photograph moving or still or sound recording of any proceedings in such Courts or of any service personnel engaged in any capacity in such Courts will be permitted.

(b) The foregoing applies to Allied Military Courts in both Military and Italian Government territory.

2 Italian Courts.

(a) No camera or other photographic apparatus may be taken into any Court (except as an exhibit in a case) in Military Government territory and no photograph moving or still or sound recording of any such proceedings in such Courts will be permitted.

(b) The Minister of Justice has been requested to issue similar orders in respect of Italian Courts in Italian Government territory and copies of his orders will be circulated to Regional Commissioners when received.

3 The Supreme Allied Commander has directed the issue of similar orders to all Allied cameramen.

4 SCAGs and SCAGs will bring the above to the notice of

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION

APC 394

/rld.

21 October 1944.

ACC/4011/6/L.

SUBJECT : Representation of Allied interests in Italian Courts (Parte Civile).

TO : Regional Commissioners (Attn: Regional Legal Officers),
SICILIA, SARDEGNA, SOUTHERN, LADIO-UMBRIA, ABRUZZI-MARCHE, TOSCANA,
EMILIA, LIGURIA, PIEMONTE, LIGURIA, VENEZIA Regions.

1. Cases frequently occur in which Allied financial interests are prejudicially affected by offences committed by Italians, e.g., by thefts of Allied stores.

2. Under Italian law a party whose interests are so affected by a criminal act may appear by an advocate at the criminal trial of the offender as "parte civile" and may be awarded damages. He can, of course, file a claim for damages after the criminal case has been determined, but procedure by way of "parte civile" eliminates the necessity for such action.

3. Parties may select any qualified legal representative they desire, but the Italian State has created a permanent body of legal representatives, the "Avvocatura dello Stato", composed of salaried functionaries whose duties are to represent the Italian State, the Government, Provinces and Communes as claimants or defendants before all judicial or administrative jurisdictions of the Kingdom.

4. The Italian Government has now passed D.L. No. 166 of 3 July 1944 (translation on reverse), which extends to Allied authorities or members of the Allied Forces the benefit of the services of the "Avvocatura dello Stato" to defend their interests in such cases. It should be observed that it is not compulsory for the Allied Forces to employ the services of the "Avvocatura dello Stato" as any duly qualified person may appear before the competent Italian court can be specially briefed for this purpose if so desired.

5. Branches of the "Avvocatura dello Stato" exist in the seventeen districts of Court of Appeal of Italy, i.e., ANCONA, AQUILA, PARI, BOLOGNA, FIRENZE, CAGLIARI, CATANIA, CATANZARO, FIVENT, GENOVA, MESSINA, MILANO, NAPOLI, PALERMO, TORINO, TRIESTE, AND VENEZIA. All those situated in liberated territory are functioning normally in spite of the fact that the number of their members has been somewhat depleted owing to the war and political considerations.

6. Whenever any military authorities decide that Allied interests should be represented by the "Avvocatura dello Stato" in Italian Courts, it will be the duty of the military authorities to request the "Avvocato distrettuale dello Stato" (head

13
Rome
1944

3. Parties may select any qualified person to represent the Italian State has created a permanent body of legal representatives whose duties are "Avvocatura dello Stato", composed of salaried functionaries and Communes as claimants or defendants before all judicial or administrative jurisdictions of the Kingdom.

4. The Italian Government has now passed D.L. No. 166 of 3 July 1944 (translation on reverse), which extends to Allied authorities or members of the Allied Forces the benefit of the services of the "Avvocatura dello Stato" to defend their interests in such cases. It should be observed that it is not compulsory for the Allied Forces to employ the services of the "Avvocatura dello Stato" as any person duly qualified to appear before the competent Italian court can be specially briefed for this purpose if so desired.

5. Branches of the Avvocatura dello Stato exist in the seventeen districts of Court of Appeal of Italy, i.e., ANCONA, AREZZO, BARI, BOLOGNA, BRESCIA, CAGLIARI, CATANIA, CATANZARO, FIRENZE, GENOVA, MESSINA, MILANO, NAPOLI, PALERMO, TORINO, TRIESTE, AND VENEZIA. All those situated in liberated territory are functioning normally in spite of the fact that the number of their members has been somewhat depleted owing to the war and political considerations.

6. Whenever any military authorities decide that Allied interests should be represented by the Avvocatura dello Stato in Italian Courts, it will be the duty of the legal officer concerned to request the Avvocato distrettuale dello Stato (head of the local branch of the Avvocatura) to appoint a suitable member of his staff for this purpose. It will be the further duty of the legal officer to advise the Military authorities concerned as to the advisability of such step according to the circumstances of each individual case.

By Command of Commandere STONE:

Copy to: AFHQ - for info,
HQ AAI - " "

for

RICHARD H. WILMER,
Colonel, DMC,
Chief Legal Advisor.

Webster, Col

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Pome?
POM

LEGISLATIVE DECREE OF THE LIEUTENANT GENERAL OF THE KINGDOM No. 166
OF 3 JULY 1944=

Conferring upon the Avvocatura dello Stato the defense of property interests of the Allied Armed Forces, rules for retention and reinstatement in service of the personnel of the Avvocatura dello Stato.

• • •
 GILBERTO DI SAVOIA, etc.

ART. 1

For the duration of the present war the Avvocatura dello Stato may upon request of an Allied Command undertake the representation and defence of the property interests of the Allied Armed Forces and members thereof in civil and criminal proceedings taking place in liberated territory.

The exercise of such functions shall be governed by the provisions of Art. 1, para 2 of the consolidated law No. 1611 of 30 Oct. 1933.

ART. 2

In order to meet the temporary and urgent requirements of the service arising out of the present war emergency the regular functionaries and employees of the Avvocatura dello Stato who distinguished themselves by their diligence, zeal and efficiency, may be retained in service beyond the ordinary term limits until six months after the cessation of the present state of war and not beyond the completion of the 75th year of their age.

Furthermore on account of the same requirements of service such regular functionaries and employees who have been retired for not more than two years, may be temporarily reinstated in their functions until they have completed their 75th year.

The relative provisions shall be enacted by a decree of the President of the Council of Ministers in agreement with the Minister for Finance upon favourable recommendation of the Commission for personnel matters.

The personnel reinstated in service shall, for the period of service receive such allowances as fixed by R. Decree-law No. 34 of 31 Jan 1944.

ART. 3

ART. 2

In order to meet the temporary and urgent requirements of the service arising out of the present war emergency the regular functionaries and employees of the Avvocatura dello Stato who distinguished themselves by their diligence, zeal and efficiency, may be retained in service beyond the ordinary limits until six months after the cessation of the present state of war and not beyond the completion of the 75th year of their age.

Furthermore on account of the same requirements of service regular functionaries and employees who have been retired for not more than two years, may be temporarily reinstated in their functions until they have completed their 75th year.

The relative provisions shall be enacted by a decree of the President of the Council of Ministers in agreement with the Minister for Finance of the Council of Ministers upon recommendation of the Commission for Personnel

Matters.

The personnel reinstated in service shall, for the period of service receive such allowances as fixed by R. Decree-law No. 34 of 31 Jan 1944.

ART. 3

The personnel thus retained or reinstated in service in accordance with the preceding article may be dismissed from active service by a decision of the President of the Council of Ministers without right of appeal.

The services rendered by said personnel in accordance with this decree shall not be considered in the computation of the pension nor do they give rise to any claim for payment of allowances upon retirement.

ART. 4

This decree shall become effective on the date subsequent to the date of its publication in the Gazzetta Ufficiale of the Kingdom - special series.

We order, etc.....

Given at Naples, the 3rd of July 1944, etc.
Transl. 21 Oct. 44.

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

/rlp.
4 October 1944.

ACC/404/L.

SUBJECT : Penalties under Italian law.

TO : Regional Legal Officer, SICILIA, SOUTHERN, LAZIO, ABRUZZI-MARCHE,
SARDEGNA, TOSCANA, EMILIA, LIGURIA, PIEMONTE, LOMBARDIA and VENEZIA.

1. Art. 14, par. 3 of Consolidated Instructions for Allied Military Courts deals with trials in Allied Military Courts in which the charge is laid under Italian law and provides that in such cases the offence is punishable only as provided by Italian law."

2. In this connection your attention is drawn to the Penal Code, Art. 71 et seq and particularly to the following points:

a. Concurrent sentences do not exist under Italian law;

b. Where an accused is convicted of more than one offence and each of such offences carries a detentive punishment of the same kind, the Court must impose one term covering all charges on which he has been found guilty (see Art. 73);

c. Clearly, such term must be not less than the aggregate of the minimum penalties, and not greater than the aggregate of maximum penalties, provided for such offences; nor must it exceed the limits laid down in Art. 78;

d. Where an accused is similarly convicted, but the offences carry detentive punishments of a different kind (e.g., reclusioni, reclusioni militari, arresto and ergastolo), the Court must impose penalties of the different kinds separately and in full (see Art. 74). 61

3. Sufficient copies hereof are forwarded for distribution to FLOs.

for / *Ampt 1507*
RICHARD H. WILMER,
Colonel, CAC,
Chief Legal Advisor.

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

GCH/pa.
18 Sept 44.

ACC/4082/8/L.

SUBJECT : Fascist Republican Legislation - (Tribunale Speciale).

TO : Regional Legal Officers (THRU: Regional Commissioner) Regions I, IV,
V, VI, VIII, IX, XI and XII, Southern, ~~Piemonte~~ and Liguria Regions.

1. The attached circular from the Ministry of Justice which was sent to all Italian Courts deals exclusively with one aspect of the question, the nullity or rather non existence of sentences pronounced by the various special "tribunali" created or restored during the Fascist Republican Administration.

2. The above referred legislation was not repealed by legislative decree because of the many problems entailed affecting not only the administration of a number of ministries but in many cases third party interests also - (as for example forced sale of property and moratoria of bankers promissory notes).

3. Each problem will be dealt with separately by the Italian Government and you will be kept regularly informed of the progress achieved in relation thereto.

1 Incl.

Richard H. Wilmer

RICHARD H. WILMER,
Colonel, CAC,
Chief Legal Officer.

gani illegalmente costituiti nel territorio nazionale.

Tra questi organi è il tribunale speciale per la difesa dello Stato che fu soppresso con il R. decreto legge 29 luglio, n. 688; ma il pseudo governo fascista repubblicano lo ripristinò con provvedimento del 3 dicembre 1943, n. 794, stabilendo altresì sezioni regionali dello stesso tribunale. Inoltre quel governo istituì un tribunale speciale straordinario e dei tribunali speciali straordinari.

Ora, attesa l'assoluta illegittimità del predetto governo, appare senz'altro manifesto che la sentenza emanata dagli accennati organi giurisdizionali da esso illegalmente costituiti si devono considerare prive di qualsiasi effetto giuridico, e così pure i decreti penali emessi dal tribunale speciale a norma del decreto 22 marzo 1944 n. 95, e le sentenze pronunziate a seguito di revisione, di cui al decreto legislativo 22 gennaio 1944, n. 5.

Occorre quindi procedere prontamente alla scarcerazione di coloro che si trovano illegalmente detenuti in virtù degli accennati provvedimenti di condanna. Pertanto il Procuratore del Regno presso il Tribunale del luogo in cui il condannato espia la pena, qualora nel fatto per il quale fu pronunciata la sentenza o il decreto di condanna non ravvisi gli estremi di un reato preveduto dalle leggi italiane, deve immediatamente ordinare la liberazione del condannato, se non detenuto per altra causa.

Se invece il procuratore del Regno ritiene che sussistono gli estremi di un reato, promuove l'azione penale, disponendo parimenti la liberazione del condannato non detenuto per altra causa, se riguardo al reato per cui intende promuovere l'azione penale non sia obbligatorio il mandato di cattura o, se questo è facoltativo, non ritenga di emettere ordine di cattura. Il procuratore del Regno del luogo in cui il condannato espia la pena, qualora non sia competente a promuovere l'azione penale, richiede il procuratore del Regno competente affinché provveda nei sensi innanzi accennati.

Se infine il Procuratore del Regno competente si trova in zona dell'Italia ancora occupata, i provvedimenti circa la liberazione o la custodia preventiva del condannato espia la pena.

Regno del luogo in cui il condannato espia la pena.

Ciascun procuratore del Regno dovrà dare sollecita comunicazione al rispettivo procuratore generale del Regno dei provvedimenti adottati, ai sensi della presente circolare.

IL MINISTRO
Tupini

TRANSLATION

MINISTRY OF PARDON AND JUSTICE

File No. 75
Circular

Rome, 9 Aug 1944.

TO : Excellencies Procurators General of the Kingdom
and for information
Excellencies First Presidents of Court of Appeal of the Kingdom.

SUBJECT : Invalidity of sentences rendered by judicial bodies reconstituted
or created by the republican pseudo-government.

Pending the contemplated general revision of the existing legislation in order to settle definitely the present conditions resulting therefrom it is however requisite to take forthwith the necessary steps in order to remedy such situations as may have been created through obvious illegality. This action shall apply especially to the legal effect of sentences delivered by judicial bodies illegally constituted during the period which preceded the liberation of the national territory.

Among these bodies is prominent the Tribunale Speciale per la Difesa dello Stato suppressed by RDL No. 668 of 29 July 1943, but re-established by an enactment of 3 Dec 1943 No. 794, which also set up regional divisions of this Tribunale. Furthermore, this government organized also a (central) "Tribunale Speciale Straordinario" and (local) "Tribunali Speciali Straordinari". Therefore, in view of the indisputable illegality of this government, it appears evident that all sentences pronounced by the above reformed illegally constituted judicial bodies must be considered void of all judicial effect, and consequently all penal decrees pronounced by the Tribunale Speciale under the provisions of the decree No. 95 of 22 Mar 44, and the sentences delivered on review under the legislative decree of 22 Jan 44 No. 6 fall under the same nullity.

In order to proceed rapidly with the liberation of prisoners illegally detained as a result of the above the Procuratore del Regno of the Tribunale of the place where the sentenced person is incarcerated, shall immediately take the necessary steps to free them, unless such person had been sentenced for an offence falling under the common law of Italy or if detained for some other reasons.

If the Procuratore is of the opinion that evidence exists of an offence he shall initiate the required penal proceedings; he shall also order the sentenced person released if the offence for which the proceeding is initiated does not require an obligatory warrant of arrest or if a warrant of arrest may be issued for such offence at discretion and he does not intend to issue the order for arrest; provided, of course, that the sentenced person is not held for another reason.

In cases where the Procuratore del Regno of the place where the sentenced

State suppressed by RDL No. 666 of 29 July 1943, and by Decree of 3 Dec 1943 No. 794, which also set up regional divisions of this Tribunale. Furthermore, this government organized also a (central) "Tribunale Speciale Straordinario" and (local) "Tribunali Speciali Straordinari". Therefore, in view of the indisputable illegality of this government, it appears evident that all sentences pronounced by the above referred illegally constituted judicial bodies must be considered void of all judicial effect, and consequently all penal decrees pronounced by the Tribunale Speciale under the provisions of the Decree No. 95 of 22 Mar 44, and the sentences delivered on review under the legislative decree of 22 Jan 44 No. 6 fall under the same nullity.

In order to proceed rapidly with the liberation of prisoners illegally detained as a result of the above the Procuratore del Regno of the Tribunale Speciale shall immediately take the place where the sentenced person is incarcerated, shall immediately take the necessary steps to free them, unless such person had been sentenced for an offence falling under the common law of Italy or if detained for some other reasons.

If the Procuratore is of the opinion that evidence exists of an offence he shall initiate the required penal proceedings; he shall also order the sentenced person released if the offence for which the proceeding is initiated does not require an obligatory warrant of arrest or if a warrant of arrest may be issued for such offence at discretion and he does not intend to issue the order for arrest; provided, of course, that the sentenced person is not held for another reason.

In cases where the Procuratore del Regno of the place where the sentenced person is incarcerated is not competent to initiate the penal action, he shall request the competent Procuratore to take the necessary steps according to the above provisions.

If the competent Procuratore del Regno is located in that part of Italy which is still occupied, the Procuratore del Regno of the place where the sentenced person is incarcerated shall take the necessary steps to effect the liberation or order preventive custody. (NOTE: by "occupied" part of Italy is obviously meant the part occupied by Germans).

Each Procuratore del Regno shall forward a speedy communication to the respective Procuratore Generale del Regno in respect to the steps taken in pursuance to this circular.

THE MINISTER
Tupini

NOTE: In Italian Law mandato di cattura (arrest) may be either compulsory or left at the discretion of the judge, according to the type of offence. (see Art. 253 and 254 of C.P.P.).

MINISTERO DI GRAZIA E GIUSTIZIA

Roma, li 9 Agosto 1944

Prot. N° 75

CIRCOLAREALLE LL.EE. I PROCURATORI GENERALI DEL REGNO
e, per conoscenza:ALLE LL.EE. I PRIMI PRESIDENTI DELLE CORTI DI
APPELLO delREGNO

OGGETTO : Inefficacia delle sentenze pronunziate dagli organi giurisdizionali ricostituiti o creati dal pseudo governo repubblicano.

In attesa che si proceda ad una revisione generale della legislazione per sistemare in modo definitivo i rapporti sorti in questi ultimi tempi, è necessario non indugiare a provvedere senz'altro in quelle materie, per cui, specialmente a causa di evidente illimità, è più agevole rimuovere situazioni che non devono protrarsi, come per ciò che riguarda gli effetti di decisioni pronunziate da organi illegalmente costituiti durante il periodo anteriore alla liberazione del territorio nazionale.

Tra questi organi è il tribunale speciale per la difesa dello Stato che fu soppresso con il R. decreto legge 29 luglio, n. 668; ma il pseudo governo fascista repubblicano lo ripristinò con provvedimento del 3 dicembre 1943, n. 794, stabilendo altresì sezioni regionali dello stesso tribunale. Inoltre quel governo istituì un tribunale speciale straordinario e dei tribunali speciali straordinari.

Ora, attesa l'assoluta illegittimità del predetto governo, appare senz'altro manifesto che le sentenze emanate dagli accennati organi giurisdizionali da esso illegalmente costituiti si devono considerare prive di qualsiasi effetto giuridico, e così pure i decreti penali emessi dal tribunale speciale a norma del decreto 22 marzo 1944 n. 95, e le sentenze pronunziate a seguito di revisione, di cui al decreto legislativo 22 gennaio 1944, n. 6.

Occorre quindi procedere prontamente alla scarcerazione di coloro che si trovano illegalmente detenuti in virtù degli accennati provvedimenti di condanna. Pertanto il Procuratore del Regno presso il Tribunale del luogo in cui il condannato espia la pena, qualora nel fatto per il quale fu pronunziata la sentenza o il decreto di condanna

gani illegalmente costituiti al di fuori della giurisdizione del territorio nazionale.

Tra questi organi è il tribunale speciale per la difesa dello Stato che fu soppresso con il R. decreto legge 29 luglio, n. 668; ma il pseudo governo fascista repubblicano lo ripristinò con provvedimento del 3 dicembre 1943, n. 794, stabilendo altresì sezioni regionali dello stesso tribunale. Inoltre quel governo istituì un tribunale speciale straordinario e dei tribunali speciali straordinario, epistolare senza altro manifestò che le sentenze eminate dagli accennati organi giurisdizionali da esso illegalmente costituiti si devono considerare prive di qualsiasi effetto giuridico, e così pure i decreti penali emessi dal tribunale speciale e norma del decreto 22 marzo 1944 n. 95, e le sentenze pronunziate a seguito di revisione, di cui al decreto legislativo 22 gennaio 1944, n. 6.

Occorre quindi procedere prontamente alla scarcerazione di coloro che si trovano illegalmente detenuti in virtù degli accennati provvedimenti di condanna. Pertanto il Procuratore del Regno presso il Tribunale del luogo in cui il condannato espia la pena, qualora nel fatto per il quale fu pronunciata la sentenza o il decreto di condanna non ravvisi gli estremi di un reato preveduto dalle leggi italiane, deve immediatamente ordinare la liberazione del condannato, se non detenuto per altra causa.

Se invece il procuratore del Regno ritiene che sussistono gli estremi di un reato, promuove l'azione penale, disponendo parimenti la liberazione del condannato non detenuto per altra causa, se riguardo al reato per cui intende promuovere l'azione penale non sia obbligatorio il mandato di cattura o, se questo è facoltativo, non ritenga di emettere ordine di cattura. Il procuratore del Regno del luogo in cui il condannato espia la pena, qualora non sia competente a promuovere l'azione penale, richiede il procuratore del Regno competente affinché provveda nei sensi innanzi accennati.

Se infine il Procuratore del Regno competente si trova in zona dell'Italia ancora occupata, i provvedimenti circa la liberazione o la custodia preventiva del condannato espia la pena.

Ciascun procuratore del Regno dovrà dare sollecita comunicazione al rispettivo procuratore generale del Regno dei provvedimenti adottati, ai sensi della presente circolare.

IL MINISTRO
Tapini

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4039/4/L.

/rlp.
26 August 1944.

SUBJECT : Appointments of Judicial Officials in Military Government Territory.

TO : Regional Legal Officers (THRU: Regional Commissioners),
Regions III, IV, V, VIII, IX, "2";
for info: Regions I, II, VI, VII and H q AMG 5th and 8th Army.

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

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

(51)

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4010/2/L.

/rlp.
29 July 1944.

SUBJECT : Implementation of Italian Legislation in Military Government Territory.

TO : See Distribution List.

1. In the past sub-commissions after perusal of each issue of the Gazzetta Ufficiale filed a return showing which decrees they recommend should be included in the endorsement of the Executive Commission. In the future and specifically beginning with No. 40 of the Gazzetta Ufficiale the sub-commissions will show in their returns which decrees should not be included in the endorsement.

2. It will be the responsibility of each sub-commission when making the above returns to insure that no Italian legislation is extended to AMG territory which is in any way inconsistent with AMG provisions or incompatible with AMG policies in the particular field of the respective sub-commission.

(Signature of Richard H. Wilmer)

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

DISTRIBUTION:

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C O P Y

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION

28 July 1944:

ACC/4011/12/L.

SUBJECT : Conditional suspension of penalty in cases of offences
against Allied personnel and property.

TO : See Distribution List.

1. The enclosed circular addressed to all Procuratori Generali, Avvocati Generali and Procuratori del Re has been forwarded by the Minister of Justice at the request of this H/. Sufficient copies are provided for distribution to RIOS, PLOs and IOs.

2. Its main object is to restrict as much as is permitted under Italian law, the granting of conditional suspension of sentence in cases affecting Allied interests.

3. If followed closely, the terms of this document should meet the requirements of the Allied authorities in this connection and it will be the duty of IOs to see that all Italian officials concerned follow the spirit as well as the letter of the ministerial directive.

(signed) RICHARD H. WILMER, 55
Colonel, CAC,
Acting Chief Legal Officer

C O P Y

MINISTRY OF PRISON AND JUSTICE
Office of the Director General
for penal matters

Rome, July 1944

OMVIGI 1

Prot. No.

SUBJECT : Offences to the prejudice of the Allies and conditional suspension of the penalty.

TO : E. Procuratori Generali
Avvocati Generali at Court of Appeal Sections
Sig. Procuratori del Re,

and for information:

TO : E. First Presidents of the Courts of Appeal
Ministry of War
Ministry of Navy
Ministry of Air.

In my circular of 5 March 1944, No. 250022 I had already an opportunity to advise the competent offices of the Pubblico Ministero of the necessity to ensure a speedy and most rigorous repression of offences which are committed to the prejudice of the Allied Government, their Armed Forces or persons belonging to them and which in the light of the present war emergency must be considered as hampering the war effort directed against the common German enemy.

I have now received information from authoritative sources that some judicial authorities are granting the benefit of conditional suspension of penalty also in respect to the aforesaid offences with an excessive breadth and frequency.

For this reason I deem it necessary to direct your attention to the principle underlying the combined provisions of Art. 133 and 164 of the Penal Code according to which the power to grant conditional suspension of penalty, although within the broad discretion of the judge, must in the practical application be guided by the criterion of the seriousness of the type of the offence; the latter in turn must be carefully appraised case by case with due consideration being given among others to the nature of the offence and general circumstances of the time and place at which the criminal act took place; it is obvious

THE MINISTER

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

CC/4002/L

26 July 44

Subject: Judgment of Court in Cases under Italian Law.

To : FLO's (thru R G's) Regions 1,2,3,4,5,6,7,8, & Rome Region.
SLO's AMG, 5th and 8th Army
FLO (thru PC) Foggia Province.

1. When any person is convicted by an Allied Military Court of an offence under Italian law, it is imperative that the Court should annex as part of the Record a short judgment setting out briefly

- (a) the findings of the Court on questions of fact which may amount to mitigating or aggravating circumstances
- (b) the provision of law under which the accused was convicted including any aggravating or mitigating circumstances which have been taken into consideration in deciding the sentence of the Court.

2. Unless the above is complied with it is impossible to carry out a proper review: a case recently came up for Review, accompanied by a petition alleging that the sentence was above the permitted maximum in view of the existence of certain mitigating circumstances. The existence (or otherwise) of these mitigating circumstances was a pure question of fact: but the record on its face did not show that the Court had addressed its mind to, or decided on, this question of fact.

3. Please ensure that this is communicated to all officers concerned. It applies equally to trials in Military Government Territory and to any trials which may be ordered by this H. Q. in Italian Government Territory.

Richard H. Milner

54

RICHARD H. MILNER
Colonel, G.C.
Acting Chief Legal Officer

LEGAL SUBCOMMISSION
 LEGAL SUBCOMMISSION
 DEC 191

100/4039/1/1

21 Jul 44

SUBJECT: Appointment of Judicial Officials in AIG Territory.

TO : RJOs (then 30) Regions 3, 4, 5, 8, 9, Rome Region.
 Regions 1, 2, 6, 7 & RJOs 5th & 6th Army for information.

In partial notification of this Subcommission's directive 100/4039/L of 3 May 1944 and of previous directives on this subject

1. AIG territory administered by Regions.

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

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

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

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

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

(1) The Minister will direct his request (copy to Legal Subcommission) to the competent Procuratore Generale and if the proposed movement of an official involves offices subject to different Procuratori Generali, the Minister will contact all Procuratori Generali concerned.

(ii) The Procuratore Generali will relay the request of the Minister to their respective RJOs for their recommendation.

C. Whenever the seat of the competent Procuratore Generale is in an army area or enemy occupied territory his functions in this respect will devolve upon the competent Procuratore del Regno.

D. All provisions contained in the directive 100/4039/L of 3 May 1944 Section A Parts (III), (IV), (V), (VI) and Section B and C remain in full force

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

(i) The Minister will direct his request (copy to Legal Subcom mission) to the competent Procurement Generale and if the proposed movement of an official involves offices subject to different Procurementi Generali, the Minister

(ii) The Procuratori Generali will reply the request of the Minister to their respective RION for their recommendation.

C. whenever the seat of the competent Procuratore Generale is in an army area or enemy occupied territory his functions in this respect will devolve upon the competent Procuratore del Regno.

D. All provisions contained in the directive CC/4039/I of 3 May 1974 on the competent procedures in the following cases shall force

2. As in the past all communications between Italian authorities in the C and Army territory on one side and those in Italian administered territory on the other will be forwarded thru the usual HQ/EC channels (PIO-PIO-Subcommission).

2. In territory administered by the U.S.S.R. The procedure set out in the Executive Order of May 1944 will be followed without change.

Richard B. Roberts

WILLIAM D. C. WINTER
Colonel, C.O.
Captain, Chief Dental Officer.

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 294

AKS/MS

48

REFERENCE : ~~ACC/4062/L.~~

5 July 44

SUBJECT : Change of Titles .

TO : RSCs (thru ACC) Regions 1, 3, 3, 4, 5, 6, 7
SLOs 426 34th and 31st Armies.

1. The Minister of Justice advises that as a result of the institution of the Legislative Decrees under the new form of Government the titles of the "Procuratori Generali del Re" and the "Procuratori del Re" are modified respectively to

" Procuratore Generale del Regno "

and

" Procuratore del Regno "

A. B. THALSON,
Lt. Colonel,
for Chief Legal Officer.

Copy to: ACC/4062/L. —

52

47
REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

SECRET

ACC/4086/1/L

30 Jun 44

SUBJECT: Italian Military Deserters.

TO : RIOs (thru EC) Regions 1, 2, 3, 4, 5, 6, 7, 8.
SIOs AMG 5th & 8th Armies.

1. Appended hereto is the text of the agreement arrived at with the Italian Government on the 9th May 44 for the handling of Italian military deserters.

2. It will be the duty of RIOs by Inquiry of Italian Military Tribunals sitting in their locality to see that these terms are observed.

G. R. UPJOHN, Colonel
Chief Legal Officer.

Copy to Executive Commissioner.

TEXT OF AGREEMENT WITH ITALIAN GOVERNMENT ON HANDLING OF ITALIAN
MILITARY DESERTERS.

1. The position of all members of the Italian Armed Forces, who have been or will be accused of having deserted such forces within the period July 10th - September 8th 1943 inclusive, will be settled by the Italian Authorities by the choice in each case of one of the following ways so that no punishment which is consequential to such desertion be undergone by the said members of the Italian Armed Forces:

- (a) "archiviazione degli atti" (nolle prosequi) according to art. 74, para 3 Italian code of penal procedure;
- (b) "revoca dell'azione penale" (revocation of criminal action) according to article 245, para 4, Italian military penal code of war;
- (c) acquittal at any stage;
- (d) conviction followed by "grazia" (pardon) or "condono" (general pardon).

2. In the case of members of the Italian Armed Forces who have deserted within the period July 10th - September 8th 1943, inclusive, and who have not answered subsequent requests to return to the Italian Armed Forces, included in ordinances or proclamations issued by Italian military authorities after September 8th 1943 and duly published, the desertion perpetrated between July 10th and September 8th 1943, inclusive, shall not be punished as such and by itself but it

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

TEXT OF AGREEMENT BETWEEN ITALIAN GOVERNMENT ON HANDLING OF ITALIAN MILITARY DESERTERS.

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- 51
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 - (c) acquittal at any stage;
 - (d) conviction followed by "grazia" (pardon) or "condono" (general pardon).

2. In the case of members of the Italian Armed Forces who have deserted within the period July 10th - September 8th 1943, inclusive, and who have not answered subsequent requests to return to the Italian Armed Forces, included in ordinances or proclamations issued by Italian military authorities after September 8th 1943 and duly published, the desertion perpetrated between July 10th and September 8th 1943, inclusive, shall not be punished as such and by itself but it shall be taken into account, if and whenever necessary, so as to punish as crime of desertion the failure to answer the requests to return to the Italian Armed Forces included in ordinances or proclamations subsequent to September 8th 1943.

3. The above will not apply to those who deserted to the Germans or to other armies or military formations hostile to the Allied Forces.

No publicity shall be given to the present agreement.

Salerno, May 9th 1944.

(s) BADOGLIO

/s/ NOEL MACPHERLANE

LG

Chief Commissioner

ACC

4662
NEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

ACC/4082/4/L

5 June 1944

SUBJECT: Defascistization.

TO : RLOs Regions 1, 2, 3, 6 & 7 (thru RCOs).

1. Enclosed is a copy of a translation of the message of the Minister of Justice dated 27 May 1944 to the judiciary in Italian Government Territory in connection with the enforcement of the RDL No. 29/B 23 December 1943 as amended.

2. It will be appreciated if you will advise this Subcommittee of the results of this message.

Richard H. Widener
R. H. WILMER
Colonel, GAC
Deputy Chief Legal Officer.

Copies to RLOs Regions 4 & 5
to SLOs 5th & 8th Armies for information.

TRANSLATION

MINISTER OF GRACE & JUSTICE

Salerno - 27 May, 1944.

Subject: Defascistization.

TO: Primi Presidenti Corte Appello, Bari - Palermo - Messina -
Catania - Catanzaro - Cagliari - Napoli -
Procuratori Corti Appello ditto.
Presidenti di Sezione, Corti Appello - Lecce - Potenza - Caltanissetta
Avv. Generali Sezione Corti Appello ditto.
Procuratore del Re Salerno
Presidente Tribunale Salerno
Allied Control Commission.

50

This is to inform you that, by telegram dated 6 May 1944, His Excellency the Chief of the Government has made known that the issuing is in progress of rules conferring on administrations the power to suspend, in more serious cases, officials subject to defascistization and, furthermore, he has ordered that, in the meantime, the various administrations must forthwith make arrangements, where they meet with extreme cases, for the suspension and substitution of such official.

In calling the attention of Your Excellencies to this important direction, you are asked to indicate at your earliest convenience all those employees whose political past is in open and glaring contrast with the political atmosphere and ideals of the new era and, further, renders their retention in the positions they

MINISTER OF GRACE AND JUSTICE
Salerno - 27 May, 1944.Subject: Defascistization.

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In calling the attention of Your Excellencies to this important direction, you are asked to indicate at your earliest convenience all those employees whose political past is in open and glaring contrast with the political atmosphere and ideals of the new era and, further, renders their retention in the positions they now occupy incompatible; and demonstrates the advisability of proceeding, without further delay, with their suspension or, at the least with their transfer, to another center.

This Ministry has learnt that to retain such officials in service in the same center as that in which they are said to have made their contributory political action of the suppressed regime and in which their political history is well known, creates in public opinion a strong sense of dissatisfaction and discontent and sometimes, even more, may be criticized in terms openly hostile.

However it is scarcely necessary for me to emphasize the seriousness of such a state of affairs and the necessity for avoiding it by energetic and timely measures. It not only compromises the dignity, prestige and authority of the official and thus aggravates the position but disturbs and bears the shadow of inefficient running of the judicial office, casting a reflection on it, a shadow of discredit and distrust, and finally would directly shake the public faith in the Government. Any indulgence towards the interests and hopes of single individuals would result therefore in an ill-conceived and considerable harm to the Government. Any indulgence towards the interests and hopes of single individuals would result therefore in an ill-conceived and considerable harm to the Government. Any indulgence towards the interests and hopes of single individuals would result therefore in an ill-conceived and considerable harm to the Government.

most conscientious attention is necessary in the carrying out of the administrative of justice.

Awaiting your acknowledgment, with confidence in the delicate political feeling of Your Excellencies and in the certainty that with your judgment in the various particular situations will be brought to bear a prudent and strict understanding of the peculiar and urgent necessities of the present time.

45

2 June 1944

TO See distribution list.

2. It is hardly necessary to point out that none of the aforesaid appointments has any legal effect in A.M.C. territory unless implemented by Executive Commissioner's endorsement published in the G.U. or otherwise made effective by the competent A.M.C. authority. It is for the individual Subcommissions to bring this fact to the attention of their respective'soprite numbers in the Italian Government and to initiate whenever necessary the procedure for implementation in regard to Decrees containing appointments which concern their respective field of control.

49

File *Spec. 4062* *(44)*

REAR HEADQUARTERS
ARMED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4011/10/L.

/rlp.
28 May 1944.

SUBJECT : Possession of Firearms by Italian civilians.

TO : Regional Commissioners, Regions 1, 2, 3, 6 and 7.

1. Further to letter of this sub-commission reference ACC/4011/10/L of 18 May 44 and to para 2 thereof, please substitute the attached copy of Prefectoral Order for the one previously sent.

2. The Ministry of the Interior having pointed out that Article II of the order as originally drafted would have the effect of inflicting hardship on a numerous class of farmers who are already in possession of licences which have been adequately controlled and properly renewed, an amendment has been made accordingly.

4 R. 4062
G. R. UPJOHN,
Colonel,
Chief Legal Officer.

Copies to: Chief Commissioner,
Executive Commissioner,
HQ, FBI (CSIB) - Attn: Col Gibson,
Regions IV, V for info,
Interior Sub-Commission,
Public Safety Sub-Commission.

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

C
O
P
Y
rlp

ACC/4030/1/L.

/rlp.
23 May 1944.

SUBJECT : Instructions to legal officers on transfer of territories.
Court Records.

TO : Regional Legal Officers (THRU: Regional Commissioners),
Regions I (separate letter), II, III, VI and VII.

1. Reference Executive Memorandum No. 7, paras, 2 (a) and (f) (i) and (iii) (and your letter WIE 013.29/HD of 14/3/44, para 3. - to Reg I only)

2. You will already have received Memorandum ACC/4030/1/L of 21/4/44 and Memorandum ACC/4030/1/L of 28/4/44, both issued from this Hq, concerning the grant of conditional (not provisional) liberty.

3. Enclosed herewith are copies in English and Italian of an instruction dated 24/4/44 issued by the Ministry of Justice to all Procuratori del Re on the same subject.

4. It has been agreed with the Italian authorities that no AMG records shall be handed over to them or examined by them. You will please ensure that this instruction is understood by Provincial Legal Officers.

5. It has, however, been decided that in all cases in which sentence of over one year's imprisonment was imposed, the Italian authorities shall be provided with the following particulars:

- a. name of accused
- b. address
- c. age
- d. place where trial held
- e. offense
- f. date of conviction
- g. sentence
- h. place of confinement.

47

6. Will you please issue any necessary instructions to Provincial Legal Officers accordingly?

GERALD R. URJOHN,
Colonel,
Chief Legal Officer.

(42)

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 894

/rlp:
18 May 1944.

ACG/4011/10/L.

SUBJECT : Possession of firearms by Italian civilians.

TO : Regional Commissioners, Regions I, II, III, VI and VII.

1. The Chief Commissioner has directed that the law relating to the carrying of firearms by Italian civilians in unoccupied Italy is to be strictly enforced and that full use is to be made of the existing powers in this respect.

2. Accordingly, the Ministry of the Interior has been requested by the Interior Sub-Commission to order all Prefects in unoccupied territory to publish an order, a copy of which with translation is attached which is self-explanatory.

3. For your consideration and information there is also enclosed a synopsis of the Italian law with relation to arms.

G. R. UPJOHN,
Colonel,
Chief Legal Officer.

Copy to: Chief Commissioner,
Executive Commissioner,
Hq. AAI (GSU) - Attn: Col Gibson,
Regions IV, V for info,
Interior Sub-Commission,
Public Safety Sub-Commission.

THE PREFECT of the Province of
 (41)

Considering the necessity, for reasons of public order, of having an exact knowledge of all arms in the possession of citizens and of forbidding their being carried ;

Having consulted with the Questore of the Province ;

Referring to Art.38 and following of the consolidated text of the Law of Public Security as approved by Royal Decree No.773 of 18 June 1931 and also Art.44 and following of the regulations for the putting into execution of the aforesaid sole Title as approved by Royal Decree No.635 of 6 May 1940.

O R D E R S

1.- That all persons having in their possession fire_arms and all other arms the natural use of which is to inflict personal injury are bound to declare them, irrespectively of any other declaration made heretofore, before the to the local office of public security or if there be none to the Carabinieri.

2.- Persons contravening the provisions of this order will be 5
 punished, under the provisions of Art.17 of the Law of Public Security, by detention for not more than three months or by a fine of not more than two thousand lire.

Those persons who, without licenses, carry arms outside their own homes or the appartenance thereof, shall be punished according to the provisions under Arts. 699 and 700 of the penal Code.

0 1 2 5

ORDERS

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Those persons who, without licenses, carry arms outside their own homes or the appartenance thereof, shall be punished according to the provisions under Arts. 699 and 700 of the penal Code.

IL PREFETTO della Provincia di

Ritenuta la necessità, per ragioni di ordine pubblico, di avere esatta conoscenza delle armi in possesso dei cittadini e di vietarne il porto;

Sentito il Questore della Provincia ;

Visti gli Articoli 38 e segg del T.U. delle leggi di pubblica sicurezza approvato col R.D. 18 giugno 1931 n. 773, nonché gli Art. 44 e segg. del Regolamento per l'esecuzione del detto T.U. approvato con R.D. 6 maggio 1940 n. 635 ;

O R D I N A :

- I. - Tutti i detentori di armi da sparo e di tutte le altre la cui destinazione naturale é l'offesa della persona sono obbligati a farne denuncia, indipendentemente da ogni altra denuncia fatta precedentemente, entro il giorno, all'Ufficio locale di pubblica sicurezza o, se questo manchi, al Comando dei Reali Carabinieri.
- II. - I contravventori della presente ordinanza sono puniti, a norma dell'Art. 17 della legge di pubblica sicurezza, con l'arresto fino a tre mesi o con l'ammenda fino a lire duemila⁴ 4. Colui che, senza licenza, portino armi fuori della propria abitazione o delle dipendenze di essa, sono puniti a norma degli Art. 699 e 700 del Codice Penale.

Data a il

cui destinazione naturale é l'offesa della persona sono obbligati a farne denuncia, indipendentemente da ogni altra denuncia fatta precedentemente, entro il giorno, all'Ufficio locale di pubblica sicurezza o, se questo manchi, al Comando dei Reali Carabinieri.

II. - I contravventori della presente ordinanza sono puniti, a norma dell'Art.17 della legge di pubblica sicurezza, con l'arresto fino a tre mesi o con l'ammenda fino a lire duecento⁴⁴ 54 la. Colore che, senza licenza, portino armi fuori della propria abitazione o delle dipendenze di essa, sono puniti a norma degli Art.699 e 700 del Codice Penale.

Data a il

IL PREFETTO

.....

Il TRIBUTTO della Provincia di.....

Ritenuta la necessita', per ragioni di ordine pubblico, di avere esatta conoscenza delle armi in possesso dei cittadini e di vietarne il porto;
Sentito il Questore della Provincia;
Visti gli art. 38 e segg. del T.U. delle leggi di pubblica sicurezza approvato col R.D. 18 giugno 1931 n. 773, nonche' gli art. 44 e segg. del Regolamento per l'esecuzione del detto T. U., approvato con R.D. 6 maggio 1940 n. 635;

ORDINA:

I - Tutti i detentori di armi da sparo e di tutte le altre la cui destinazione naturale e' l'offesa della persona son obbligati a farne denuncia, indipendentemente da ogni altra denuncia fatta precedentemente, entro il giorno....., all'ufficio locale di pubblica sicurezza o, se questo manchi, al comando dei Reali Carabinieri.

II - Tutte le licenze di porto d'armi precedentemente concesse sono revocate dalla data di pubblicazione della presente ordinanza. I contravventori al disposto del n. 1 della presente ordinanza sono puniti, a norma dell'art. 17 della legge di Pubblica Sicurezza, con l'arresto fino a tre mesi o con l'ammenda fino a lire duemila. Coloro che, nonostante la revoca della licenza di cui al n. 2 della

I - Tutti i detentori di armi da sparo e di tutte le altre la cui destinazione naturale e' l'offesa della persona son obbligati a farne denuncia, indipendentemente da ogni altra denuncia fatta precedentemente, entro il giorno....., all'ufficio locale di pubblica sicurezza o, se questo manca, al comando dei Reali Carabinieri.

II - Tutte le licenze di porto d'armi precedentemente concesse sono re- 43

vocate dalla data di pubblicazione della presente ordinanza. I contravventori al disposto del n. 1 della presente ordinanza sono puniti, a norma dell'art. 17 della legge di Pubblica Sicurezza, con l'arresto fino a tre mesi o con l'ammenda fino a lire duemila. Colui che, nonostante la revoca della licenza si cui al n. 2 della presente ordinanza, portino armi fuori della propria abitazione o delle appartenenze di essa sono puniti a norma degli art. 699 e 700 del Codice Penale.

Data a il

IL PREFETTO

THE SUBJECT of the Province of

Considering the necessity, for reasons of public order, of having an exact knowledge of all arms in the possession of citizens and of forbidding their being carried;

Having consulted with the Justices of the Province;

Referring to Art. 58 and following of the consolidated text of the Law of Public Security as approved by Royal Decree No. 773 of 18 June 1931 and also Art. 44 and following of the Regulations for the putting into execution of the aforesaid sole title as approved by Royal Decree No. 635 of 6 May 1940.

ORDERS:

1. That all persons having in their possession fire-arms and all other ^{arms} the natural use of which is to inflict personal injury are bound to declare them, irrespectively of any other declaration made heretofore, before the.....to the local office of public security or if there be none to the Carabinieri.
2. That all licenses to carry arms heretofore granted are revoked as from the date of the publication of this order.

Persons contravening the provisions of item 1 of this order will be punished, under the provisions of Art. 17 of the Law of Public Security, by detention for not more than three months or by a fine of not more than two thousand lire.

ORDERS:

1. That all persons having in their possession firearms and all other/the natural use of which is to inflict personal injury are bound to declare them, irrespectively of any other declaration made heretofore, before the.....to the local office of public security or if there be none to the Capitán.

2. That all licenses to carry arms heretofore granted are revoked as from the date of the publication of this order.

Persons contravening the provisions of Para. 1 of this order will be punished, under the provisions of Art. 17 of the Law of Public Security, by detention for not more than three months or by a fine of not more than two thousand lire.

Those persons too, notwithstanding the revocation of licenses under Para. 2 of this order, carry arms outside their own homes or the apartments thereof shall be punished according to the provisions under Arts. 699 and 700 of the Penal Code.

Dated:

THE PRESIDENT

JOINT HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
AIO 394

GCH/af

40

9 May 1944

AIO/1011/L

SUBJECT: Retention of stolen Allied property.

TO : RLOS Regions 1, 2, 3, 5, 6, 7
 RLOS 5th & 8th Armies, LC (Apulia).

The enclosed circular in English and Italian from the Minister of Justice to all Procuratori Generali is forwarded to you for information and necessary action.

*(necessary action suppressed
 for 3, 5, 6 Regions and 5 and 8 Armies.)*

Copy to: Public Safety Subcom.

G. C. HANSTON, Major
 Officer i/c Italian Branch
 for Chief Legal Officer.

TRANSLATIONMINISTRY OF PARDON AND JUSTICE

Central Office for Penal Matters

SUBJECT: Confiscation of stolen Allied Property.

TO : E. PROCURATORE GENERALE DEL RE.

The Allied Control Commission has informed the Ministry of the following:

It has become^a generally established custom for the Allied police to retain stolen Allied property, which they have confiscated, with view of returning it to the unit or member of the Allied Forces or authorities to whom such property belongs, rather than to transmit it to judicial authorities.

The aforesaid Commission added that such practice does not hamper the regular administration of justice because whenever it is necessary that the confiscated objects be exhibited in court, the judicial authorities may apply to the Allied Legal Liaison officer who will make the necessary arrangements with the Allied police or unit concerned that the above objects be made available with every possible speed.

Having stated the above the said Commission has requested that the Italian judicial authorities be instructed to consider it to be a proper and legal procedure which not only permits a ready restitution of stolen property to the Allied legal owners, but also, on the other hand, does not in any way hamper the actions of judicial authorities.

This Ministry cannot but comply with the request of the Allied Commission. In this respect it is pointed out that one of the principles of our procedural system, which may easily be deduced from the last subparagraph of Art. 622 Code of Penal Procedure, directs to facilitate the type of cases under consideration, there is no need for retaining such property in custody for the purposes of penal proceeding and when such property may easily be obtained if its exhibitions should be required.

On the other hand it is the practice of not only the Italian judicial authorities but also the Italian judicial police to restore in accordance with the proper interpretation of the combined provisions of Arts. 222, 344² and 622 last para, Code of Penal Procedure, the stolen property directly to the owner, whenever they are satisfied that such property is of no interest for the penal proceeding, without requesting any bail or guarantee where as in cases under consideration, such security measure is not necessary; the owner, however, is advised that he shall have to produce the property whenever so requested by the judicial authority.

Would Your Excellencies please bring this circular to the knowledge of judicial authorities under your control so that the latter consider the above procedure as being fully within limits of the prevailing law in addition to fitting the requirements of the Allied authorities; this procedure will be followed by the Allied police in respect to the restitution of stolen property and the aforesaid judicial authorities should apply to the Allied Legal Liaison Officer, whenever such property is needed.

Please acknowledge receipt of this letter.

for the Minister
(Sgd) De Villa

MINISTERO DI GRAZIA E GIUSTIZIA
Direzione Generale Affari Penali

No.

Salerno, li

OGGETTO: Sequestro di refurtiva di proprietà degli Alleati.

ALLE LL. EE. I PROCURATORI GENERALI DEL RE

La Commissione Alleata di Controllo ha fatto presente a questo Ministero che, per uso ormai generalmente invalso, la polizia alleata, allorché proceda al sequestro di refurtiva di proprietà degli Alleati, non trasmette la detta refurtiva all'autorità giudiziaria, ma la trattiene, per la restituzione al reparto od alla persona, faciente parte delle forze armate o dei governi alleati, cui essa appartiene.

Ha aggiunto che tale uso non ostacola il regolare corso della giustizia, in quanto l'autorità giudiziaria, nei casi in cui occorra la presentazione degli oggetti sequestrati, potrà sempre rivolgersi all'ufficiale legale alleato di collegamento, che si interesserà presso la polizia od al reparto per la sollecita presentazione degli oggetti stessi.

E, ciò posto, ha chiesto la detta Commissione, che sia rivolto invito alla Autorità Giudiziaria perché sia ritenuto legittimo il suseposto adottato procedimento che, mentre consente la pronta restituzione ai legittimi proprietari alleati degli oggetti agli stessi sottratti, non ostacola, d'altra parte, in alcun modo, l'attività dell'autorità giudiziaria.

Questo Ministero, non può non aderire alla richiesta della Commissione Alleata. All'uopo osserva che è principio del nostro ordinamento processuale, facilmente desumibile dall'ultimo comma dell'art. 622 C.P.P., di agevolare la restituzione della refurtiva al derubato, quando, come nei casi in oggetto, non è necessario che essa rimanga in regolare custodia ai fini del procedimento penale, e quando, occorrendo, la presentazione di essa può essere facilmente ottenuta.

D'altra parte, non solo l'autorità giudiziaria, ma anche la stessa polizia giudiziaria italiana, in base ad una legittima interpretazione del combinato disposto degli Art. 222, 344, e 622 u.p. C.P.P., provvede direttamente alla restituzione della refurtiva al proprietario, ove accerti che essa non ha interesse per il procedimento penale, invitando, peraltro, la parte a presentarla ad ogni richiesta dell'autorità giudiziaria, senza imporre, ove, come nel caso in oggetto, non sia necessaria, alcuna cauzione o malleveria.

E, pertanto, si pregano le EE.LL. di voler portare la presente circolare ⁴¹ a conoscenza di tutti i dipendenti uffici giudiziari, in modo che, ritenuto come del tutto consentito dalla legge oltreoceano corrispondente alla necessità dei Governi Alleati, il suseposto procedimento seguito dalla Polizia Alleata nei riguardi della restituzione della refurtiva in oggetto, vogliano rivolgersi per l'eventuale necessaria presentazione di essa all'Ufficiale Legale Alleato di collegamento.

Si prega accusare ricezione della presente.

per IL MINISTRO

Fir/to DE VILLA

4062

(39)

REAR BRANCHES
ARMED CONTROL, SCIENTIFIC
LEGAL, SIG-COMM, DIT
AND 39.

6 May 1944.

accy/accy/1.

REAR BRANCHES
1. Directorate and Head of Ministry of Justice.

2. Regional Legal Officers (REAR: Regional Commissioner).
Regions 1, 2, 3, 4, 5, 6, and 7.
and Senior Legal Officers, 5th and 6th Army.

is agreed at the meeting of REAR and 5th Army held at Naples on 1st of May, translations of the latest Directive and Memorandum issued by the Ministry of Justice are forwarded herewith.

copy

40

G. C. HARRISON,
Major,
Officer i/c Italian Branch,
for Chief Legal Officer.

TRANSLATION

29 April 1944

MINISTRY OF GRACE AND JUSTICE

No. 27032

To : To all Procuratori and Avvocati Generali.

Subject: Instructions for cooperation to prevent the spreading of venereal diseases among Allied Troops.

With reference to Circular No. 25046 of the 28th of this month on the above subject, the Allied Control Commission has brought to our notice the necessity that arrested prostitutes should not be given provisional liberty unless in the most exceptional circumstances, with the principal aim of preventing these women from circulating in the towns and closing off another source of infection from the Allied troops.

In fact, together with the procedure of the circular above referred to, every way must be eliminated whereby prostitutes, infected and for any reason whatever set free from prison, may be able to carry on their shameful trade, so the prison authority, before letting them out of prison, must communicate their names to the Public Security Authority, who, in turn, must accompany these prostitutes to the centers for examination and medical care, where they must remain until they have no longer any sign of suspicion of venereal disease.

In any case, in view of the legitimate desire of the Allied Commission, justified by the necessity of combatting, in every way the spread of venereal disease which is adversely affecting the duties of many Allied soldiers, it is considered proper that this shall be brought to the attention of the judicial authorities so that they may bear it in mind when in those cases where the concession of provisional liberty is optional, they make use of their discretionary powers in that respect as granted by the law.

Please acknowledge receipt of this letter after bringing it to the attention of all your subordinate judicial officers.

The Minister.

MINISTRY OF GRACE AND JUSTICE

39

No. 27031

Salerno 29 April 1944

SUBJECT: Venereal disease and Prostitution.

With reference to the letter on the above subject this Ministry has communicated to the judicial authorities the request put forward by the Commission with regard to arrested prostitutes, in order that this request may be borne in mind when they make use of the discretionary powers, granted to the judge by law, to

Please acknowledge receipt of this letter.
 Principal officers.

90

7161 Tiddy 62

No. 2701 Venereal disease and prostitution.

It would appear however that even if the judicial authorities deny provisional liberty in every case, the result that is intended in the letter referred to, will not always be obtained, namely that provisionally liberated prisoners are tried thus avoiding the possibility of their being released in the letter referred to, until they are tried as correct healthy men. And the

The Minister, being well aware of the danger that lies in infected prostitutes being free to circulate in the town, thinks that he has anticipated, in a better way, the will of Your Commission; having laid down, in the last three lines of Circular No. 25046 of 28th of this month, that the names of all prostitutes released from jail for any reason whatsoever, shall be sent by the competent Authority to the Public Security authorities, if the Public Security Authorities find it convenient without anything else.

The Minister, being well advised, thinks that as prostitutes being free to circulate in the town, in the last three lines better way, the will of Your Commission; having laid down, in the names of all prostitutes prison of Circular No. 25046 of 28th of this month, that the names of all prostitutes shall be sent by the competent prison released from jail for any reason whatsoever, shall be sent by the competent prison in the letter authority to the Public Security authorities, and the desired result in the letter referred to will be obtained without anything else, if the Public Security Authorities, in accordance with the appropriate provisions for confinement for reasons of Public Security, make provision for the recovery of these prostitutes in the centers for inspection and medical care until they are declared free from any form whatsoever of venereal disease, even suspected, and moreover, after this shall make provision, if such be the case, that they be sent back to their respective communes in accordance with art. 157 of the Public Security Law No. 775 of 18 June 1931.

38
 RUMR HEADQUARTERS
 ALLIED CONTROL COMMISSION
 Legal Subcommittee
 APC 394

AC3/4039/L

3 May 1944

SUBJECT: Appointment of Judicial Officials in Occupied and Unoccupied Territory

TO : RJOs (thru RJOs) Regions 1, 2, 3, 4, 5, 6 & 7.
 SJOs RJO 5th & 8th Armies.

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

1. Occupied Territory.

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

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

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

(iii) Order appointing Italian State or Provincial personnel, judicial or otherwise, must be signed by the SMO, RJO or RJO as the case may be, not by the SJO.

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

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

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

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

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

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

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

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

(iii) Order appointing Italian State or Provincial personnel, judicial or otherwise, must be signed by the SIO, RO or HC as the case may be, not by the SIO.

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

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

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

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

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

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

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

2. Unoccupied Territory.

See Para. 9 of Directive on Legal Liaison Officers in unoccupied territory ACC/4135/L dated 1 May 44.

C. R. UZZO, Colonel
Chief Legal Officer.

DEAR BROTHERS
ALLIED COMMISSION
Legal Subcommission
APO 394

28 April 1944.

ACC/KSO/1/L

SUBJECT: Jurisdiction for granting of conditional liberty and pardon.

TO : RSCs Regions 1, 2, 3, 4, 5, 6 & 7 (for attn ALO).
SCLOs 5th & 8th Armies (for attn ALO).

1. The Chief Commissioner having delegated to the Chief Legal Officer the power to grant or deny any petition for conditional liberty or pardon in regard to offences tried by Italian Courts which are within the competence of the Allied authorities according to the rules set out in the subsequent paragraphs, the following arrangement has been reached with the Italian Minister of Pardon and Justice in connection therewith.

2. Petitions for conditional liberty and pardon concerning offences which were tried by Allied Military Courts whether in occupied or in unoccupied territory will be dealt with exclusively by A.C.C.

3. Petitions in regard to offences which were tried in Italian Courts during the Allied occupation will be dealt with as follows:

(a) Where such courts are in territory which is still occupied by the Allied Forces the petition will be dealt with exclusively by A.C.C.

(b) Where such courts are in territory restored to the Italian Administration the petitions will be within the competence of the Italian Government; but where the offence is in any way connected with Allied property or personnel, A.C.C. will be first consulted.

4. Petitions concerning offences in which sentences were imposed by Italian Courts before the Allied occupation will be dealt with as follows:

(a) Where the territory in which the court is located has been restored to Italian Administration the petition will be within the competence of the Italian Government.

(b) Where the territory in which the court is located is still occupied or the sentenced person is in territory still occupied the petition will be dealt with by A.C.C.

5. In paras 3(a) & 4(b) above the following machinery for transmittal of

37

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(b) Where the territory in which the court is located is still occupied or the sentenced person is in territory still occupied the petition will be dealt with by A.C.C.

5. In paras 3(a) & 4(b) above the following machinery for transmittal of petitions for pardon or conditional liberty will be adopted:

(a) Petitions from prisoners will be forwarded by Procuratori del Re or Directors of Prison to the Provincial Legal Officer with the opinions in writing of the merit of the case.

(b) Such petitions will be transmitted in turn by the Provincial Legal Officer to the Legal Subcommittee A.C.C., HQ, through the usual channels (Regional Legal Officer).

(c) After consulting the Minister of Justice the Chief Legal Officer will grant or reject the prisoner's application and communicate his decision to the Regional Legal Officer.

(a) If the pardon or conditional freedom is granted, the Regional Legal Officer will issue the necessary order. If it is rejected the prisoner will be informed through the Procuratore del Re. No reason will be given for the decision taken.

6. Cases falling within para. 3(b) will be dealt with by the Minister of Justice in consultation with the AGO and the latter will ask for such recommendations or reports from the RLO concerned as may be necessary.

7. This directive cancels para 3 of Executive Memo No. 4 dated 7 Feb. 1944.

G. R. URBIGNY

Colonel

Chief Legal Officer.

Copy to: Executive Commissioner
V.P. Admin. Section

36

ART/gmf

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 384

12 April 1944

ACC/LONO/z/L

SUBJECT: Directive on Promulgation of Italian Decrees in Occupied Territory.

TO : Provincial Commissioners (thru HCs).

1. Italian legislation in unoccupied territory is promulgated by publication of Decrees in the Gazzetta Ufficiale, Special Series, issues of which have already been distributed to Italian officials in occupied territory for information.

2. So that such decrees may be implemented in occupied territory, when so desired, this Subcommittee has arranged as follows:

3. That as necessity arises issues of the Gazzetta Ufficiale will have a space left at the end of the ordinary text to allow of an endorsement to be added by the Executive Commissioner, AOC, ordering that certain decrees printed either in the current or previous issues of the Gazette shall become operative in each Province within occupied territory as of the date when the Prefect thereof shall first receive from the Allied Control Commission a copy of the issue containing the said endorsement.

4. In order to make the operative date certain, every issue of the Gazzetta Ufficiale containing the said endorsement will be accompanied by a form of receipt on which each Prefect concerned will record at the request of the Provincial Commissioner the date of receipt of the relevant issue of the Gazzetta, together with his confirmation that each copy will be stamped, or otherwise marked, with the said date.

5. The Gazzetta containing such endorsements will be sent out to each Provincial Commissioner in packets containing sufficient quantities and with the necessary indication to enable the Prefect to effect distribution to Italian officials and to all whom it concerns. Accompanying the overall packet will be a triplicate form of receipt in Italian and English, the copy of which bearing the Prefect's signature will be returned by the Provincial Commissioner to this Subcommittee at once.

6. It is not proposed to circulate the endorsed Gazette to Provincial Commissioners in Army areas.

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CUP J. L. ...
G. R. UPJOHN
Colonel
Chief Legal Officer.

Distribution:

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" " 3	-	10 "
" " 4	-	10 "
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" " 6	-	10 "

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To the Provincial Commissioner, ACC.
Al Commissario Provinciale, ACC.

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Provincia di

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la data di cui sopra, che ha valore di data effettiva di pubblica-
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IL PREFETTO DELLA PROVINCIA DI.....
(Signature - F/to).....

R E C E I P T - R I C E V U T A

To the Provincial Commissioner, ACC.
Al Commissario Provinciale, ACC.

35

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speciale disposizione di cui all'ultima pagina della Gazzetta
medesima.

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(Signature - F/to).....

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35

HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 304

GGH/gmf

SEC/4064/1

15 March 1944.

SUBJECT: Agricultural Tenants.

TO : RC Region 1, 2, 3, 4, 5, 6, 8.

1. As the question has been raised as to the rights of farming tenants with regard to the renewal of tenancies, many of which are falling due for renewal at this time of year, the following notes on the legal position may be found useful.

2. Though the ordinary farm tenancy contract or "affitto" is used in agricultural Italy, according to the regions concerned, land is generally rented under agreements known as "Mezzadria", "Masseria", "Colonia", etc.

3. The most popular form, the "Mezzadria" contract (French "metayage") is an agreement by which landlord and tenant undertake to divide in certain proportions the products of the land tilled by the latter. It is more a partnership than contract between landlord and tenant.

4. The rules governing the Mezzadria are embodied in Articles 2141 to 2163 of the New Civil Code of 1942. It must be remarked, however, that local customs are always taken into consideration in drawing up such agreements and they vary considerably. Nevertheless the provisions set out hereunder appear to be common throughout Italy, bearing in mind that all agricultural agreements were in pre-invasion days subject to the provisions of the Labour Charter and Corporation Regulations (Carta della Mezzadria) now extinct.

(i) The number or composition of groups of tenants cannot be altered without the consent of the landlord (Art. 2142).

(ii) A "Mezzadria" agreement for an unlimited period of time is understood to be for one agricultural year, usually commencing the month of April, and is tacitly renewed from year to year, if notice is not given by either party of the intention to terminate the contract, at least six months in advance (Art. 2143).

(iii) A "Mezzadria contract" for a limited period of time does not expire automatically at the end of the period. It continues to be valid for one year if no notice is given as in para. 2, and from year to year until such notice is given.

(iv) The Mezzadria agreement dealing with rental in kind is not affected by the rise of market prices. The landlord will always receive

the same proportion of agricultural products as specified between the parties.

(v) The above is not true of government subsidies or allowances. They are only payable to the farmer or tenant who tills the land to encourage greater production. The landlord's share is not affected.

(vi) There exist no provisions in the Code in regard to absentee landlords. Art. 2158 provides, however, that the death of one of the parties does not terminate "ipso facto" the contract of Mezzadria.

(vii) To summarise the position, whether the tenancy be yearly or for a fixed term which is now expiring, the tenant if he has not received the usual notice to quit may if he so desires continue in occupation for one year certain at the least, and is therefore safe in sowing his land this April.

5. Absentee Landlords under Mezzadria Contracts.

The Director of Property Control has approved a procedure annexed hereto for the appointment of "curatori" to abandoned property or where there is no landlord in derogation of the provisions of the Italian Codes dealing with such emergencies, in order to speed up a form of proceedings which would be somewhat cumbersome under present conditions. This method served a useful purpose in Sicily and you may consider advisable to take advantage of it.

(sgd) C. G. HANNFORD
C. R. UPJOHN, Colonel
Chief Legal Officer

33

ANNEXURE

COPY

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

GCH/gmf

16 March 1944.

ACC/4064/L

SUBJECT: Appointment of "Curatori" for abandoned property or absentee landlords.

1. The following procedure will be adopted in derogation of the usual Italian provisions in regard thereto and on the initiative of any interested party or of an official of the Allied authorities in agreement with the President of the local Tribunale in every case when movable or unmovable property is left uncared for by its lawful owner or in all cases of absentee landlord having no available legal representative.

2. All persons who for valid reasons request the appointment of a curatore to take charge of property deemed to be uncared for may present a petition to the senior notary of the town or district where the said property is situated.

3. The notary will issue a recommendation as to the necessity of appointing a "curatore" and forward it to the Regional Property Controller or the RLO for his approval. The RPC or RLO may on their own initiative, whenever they deem it necessary to protect the interests of absentee landlords, direct the senior notary to issue such recommendation. The RC may decentralise his powers hereunder if he so desires.

4. The petition, if approved, shall be forwarded to the President of Tribunale, who will appoint a "curatore" from the list of notaries practicing in the district where the property is situated. 32

5. The curatore will be entitled to the usual honorarium determined by Italian Law, and all monies received by him, on behalf of the absent, shall be deposited in a special bank account.

6. The activities of the "curatore" shall be regulated by the provisions of Italian Law in this respect.

33
/gnt

IN A HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 594

12 March 1944.

LOC/ACIL/1.

SUBJECT: Directive from the Minister of Justice in regard to offences against Allied Forces and Property.

TO : See Distribution List.

1. Enclosed are copies of the translation of a directive from the Minister of Justice to Procuratori Generali and Procuratori del Re dated 8 March 1944 for the purpose of expediting and making effective trials of Italians for offences against Allied personnel and property.

2. All personnel in your organization having to do with the arrest and subsequent trial of offenders in the Italian courts should be advised of the contents of the directive.

3. In order that the best results may be obtained from this effort Allied personnel should give the Italian law enforcement officials their fullest cooperation. It has sometimes happened that offenders are turned over to the Carabinieri without sufficient data on which charges can be based and without the names and addresses of the prospective witnesses. Also there have been delays in handing over offenders to the Carabinieri. This should be avoided.

4. A further directive in respect of proceedings before Italian Military Courts in the same connection will be forwarded to you as soon as received from the President of the Italian Supreme Military Court, General Morelli.

31

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Richard H. Witter
RICHARD H. WITTER
Lt. Col., GAC
Deputy Chief Legal Officer.

31

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Richard H. Wither
 RICHARD H. WITHER
 Lt. Col. CAC
 Deputy Chief Legal Officer.

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Translation: By Maj. Harry [redacted]

Salerno, 8 March 44

MINISTRY OF JUSTICE.

Central Office for Criminal Affairs.

SUBJECT: Directive in regard to proceedings for offences of any description committed against the Allied Governments, Allied forces and property.

To all Procuratori Generali -
Procuratori del Re.

Attention has been drawn on previous occasions by circular directive from this Ministry to the Procuratori Generali to the fact that offences of theft especially to the detriment of Allied Forces were on the increase and it was recommended not only that the police be given strict instructions in relation to the necessity of preventing such thefts by exercising the greatest watchfulness, but also that pre-trial investigations be carried out with care and solicitude, always bearing in mind the gravity of the offence when having to take a decision with regard to the personal freedom of the accused.

It was also requested at the time that this Ministry be kept informed, as soon as the charges were known, of any theft of correspondence and other serious crimes affecting the Allied Forces, and also of the result of the inquiries and proceedings.

Now, at the request of the Allied authorities, the general instructions hereunder, (in addition to and in partial modification of previous directives) shall be followed for any offence committed against the Allied Governments, Allied Forces and property.

In this respect, it must be remembered, that the Allied Military Police will inform at the same time the Allied Control Commission, the Royal Carabinieri (to whom prisoners shall be handed) and the Procuratore del Re of the names of the accused and of their offence.

As soon as such information is received, Procuratori del Re shall decide whether the offence committed falls within the jurisdiction of the Italian Military Courts or the ordinary Civil Courts, bearing in mind the provisions of Article 15 of the Italian Military Code of War, which this Ministry considers applicable in this connection.

As soon as the competence of the Civil Courts has been established the Procuratori del Re shall initiate penal proceedings forthwith and if necessary shall request from the Carabinieri a copy of the charge sheet (denuncia). The provisions of Article 31 of the Penal Code of Procedure shall be applied whenever the gravity of the offence renders it undesirable that such case be tried before a Pretorian Court and when possible the pre-trial proceedings shall be cut down to the minimum, the Procuratore availing himself of the

55/44

as soon as the charges were known, of any theft of correspondence and other serious crimes affecting the Allied Forces, and also of the result of the inquiries and proceedings.

Now, at the request of the Allied authorities, the general instructions hereunder, (in addition to and in partial modification of previous directives) shall be followed for any offences committed against the Allied Governments, Forces and property.

In this respect, it must be remembered, that the Allied Military Police will inform at the same time the Allied Control Commission, the Royal Carabinieri (to whom prisoners shall be handed) and the Procuratore del Re of the names of the accused and of their offence.

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Furthermore, the Procuratore shall make certain that these proceedings be given absolute priority during pre-trial investigations (istruttoria) and also in the lists, and that the findings be accurate and comprehensive, always remembering the gravity of such crimes which by interfering with the smooth running of the Allied services delays the achievement of the principal aim of the Italian State to drive the Germans out of Italy.

All decisions taken by the Procuratori as to proper jurisdiction, the results of pre-trial investigations and of the Court proceedings shall be communicated forthwith to the local Allied Legal Officer, to whom the Procuratori del Re may refer whenever they deem it useful during the investigations and trial, especially in regard to the actions of the police and the examination of their evidence.

Furthermore, the Allied Control Commission have expressed the wish that provisional liberty (except under special circumstances) should not be granted for the offences in question or, that proper security be obtained in order to ensure that defendants shall not escape the law.

This request is perfectly legitimate because not only is the Commission personally interested in the punishment of such offenders but also it corresponds with the views of this Ministry in regard to the gravity of these crimes. Procuratori del Re are therefore urged, in cases when the granting of provisional liberty is optional, to make full use of their discretionary powers in this connection.

Finally in modification of previous instructions Procuratori Generali are requested to forward to this Ministry at the end of every month, a list of such cases, which have been tried in their district indicating the result of each proceedings and also a nominal roll of matters pending, either before the examining judge or the Court, giving the reasons why specific cases have not reached finality within the maximum time limit of two months after the notification from the Allied police has been received.

The Minister.

E. CASATI.

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

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E. CASATI.

- 2 -

HEADQUARTERS,
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

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ACC/4113/L.

5th March 1944.

SUBJECT: Italian Legislation.

TO : Distribution Below.

1. In the course of meetings between Sub-Commissions and their opposite numbers in the Italian Government and discussions on matters of policy it frequently becomes necessary for Sub-Commissions to consider the initiation and preparation of decree laws by the Italian Government and this directive lays down the procedure to be followed.

2. The method of preparation of decrees by the Italian Government is as follows:

Under the present Italian system of administration all legislative proposals emanating from the several Ministries of State are drafted by the originating department itself for submission to the legal adviser to the Cabinet of Ministers as a preliminary to consideration by that body. The draft bill or administrative decree when approved in principle by the Council of Ministers is examined as to its final legal form by the Minister of Justice before presentation to the King or Chief of Government for signature and publication in the Official Gazette.

3. When a Sub-Commission and a Ministry are agreed on a joint policy which necessitates a decree law it is the duty of the Ministry concerned to prepare the decree and not ACC. When considering the terms of the draft decree with the Ministry concerned the Sub-Commission should AT THIS STAGE consult the Legal Sub-Commission to see that the draft decree in fact carries out what the Sub-Commission has in mind.

4. It is then the duty of the Italian Ministry concerned to carry through the draft in accordance with the procedure outlined above. If any changes are made in the draft at a latter stage the Ministry concerned should be asked to inform the Sub-Commission concerned and if any difficulty arises therein the latter should consult the Legal Sub-Commission.

5. The decree only becomes effective in law on the date of its

Legal Sub-Commission
32X

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Under the present Italian system of administration all legislative proposals emanating from the several Ministries of State are drafted by the originating department itself for submission to the legal adviser to the Cabinet of Ministers as a preliminary to consideration by that body. The draft bill or administrative decree when approved in principle by the Council of Ministers is examined as to its final legal form by the Minister of Justice before presentation to the King or Chief of Government for signature and publication in the Official Gazette.

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4. It is then the duty of the Italian Ministry concerned to carry through the draft in accordance with the procedure outlined above. If any changes are made in the draft at a latter stage the Ministry concerned should be asked to inform the Sub-Commission concerned and if any difficulty arises therein the latter should consult the Legal Sub-Commission.

5. The decree only becomes effective in law on the date of its publication in the Gazette Officialle and is NOT operative in territory still occupied by the Allied Forces. If the Sub-Commission concerned desires to make such decree operative in occupied territory the Legal Sub-Commission should be so informed in writing BEFORE, if possible, the date of publication in the Gazette.

6. Apart from the foregoing the Italian Government may initiate and prepare decrees on their own and not as the result of a common or agreed policy. The relationship between Sub-Commissions and Ministries should be such that Ministries will as a matter of course inform their composite members of their intentions in this respect at the earliest stage so that any defects may be remedied and that any appropriate action may be taken thereon sooner rather than later.

7. Contrariwise when a Sub-Commission is considering the submission to the Executive Commissioner of proposals which involve the preparation of a new General or Regional Order, they should normally consult the Italian Government and ascertain their views so that continuity of policy may be established. This does not apply, of course, where the proposed Order is intended to deal only with a short term local situation in occupied territory and does not affect any question of overall or long term (post occupation) policy.

8...../

-2-

8. In order that co-ordination of views and requirements of Sub-Commissions can be handled, Sub-Commissions will, at the earliest practical time, advise the appropriate VP of any proposed decree. This decree may be initiated either by Sub-Commissions or by one of the Ministries of the Italian Government, the VP will then decide whether or not it is necessary for him to deal primarily with the appropriate Minister. The latter course will be adopted when a decree involves several Sub-Commissions and will avoid Italian Government being required to deal with several branches of the Control Commission over one decree.

By Command of Lieut. General HAZON: HOWARD.

M. S. LUSH,
Brigadier,
Executive Commissioner.

DISTRIBUTION:

Vice President, Administrative Section (8) - For distribution
Vice President, Economic Section (10) to Sub-Commissions
Army Sub-Commission.
Navy Sub-Commission.
Air Force Sub-Commission
Tele-communications Sub-Commission.
War Materials Sub-Commission.
Displaced Persons Sub-Commission.
Civil Affairs Branch.
Italian Refugees Branch.
Security Branch.
Public Relations Branch.
Political Section.

CONFIDENTIAL

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
ALV 394

Administrative Section

28/13

5- Mar 44.

SUBJECT: Italian Legislation

TO: Executive Commissioner
VI Sections
Independent Sub-Commissions.

- 1 Italian legislation in unoccupied territory is promulgated by publication of Decrees in GAZZETTA UFFICIALE, the latest copy of which No 9 has already been distributed.
- 2 In order to avoid duplication and to have legislation in occupied territory when so desired in line with decrees so published, the Legal Sub Comm have made the following arrangements with the Ministry of Justice:
 - a That when the GAZZETTA UFFICIALE is published, a space will be left at the end to allow an endorsement to be made stating which of the decrees set out are also to be effective in occupied Territory.
 - b That the printing blocks will be kept set up for a short period to allow for perusal by ACC and the addition of the endorsement.
- 3 To implement this it is necessary to decide rapidly which of the decrees shall be effective in occupied territory; the following procedure has been agreed:
 - a The Legal Sub Comm will prepare a translation of the titles and import of the Decrees.
 - b The translation at 3 a above together with copies of each number of the GAZZETTA will be forwarded to the Executive Commissioner and to each Section by the Legal Sub Comm.
 - c Upon receipt, Sub Comms will at once peruse and forward as at 3 d below a return showing which decrees they recommend should be included in the endorsement together with their reasons.
 - d i The return as at 3 c above will be made by Sub Comms at Salerno to the Adm Sec, and by Sub Comms at Naples to the Executive Commissioner

28

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b That the printing blocks will be kept set up for a short period to allow for perusal by ACC and the addition of the endorsement.

3 To implement this it is necessary to decide rapidly which of the decrees shall be effective in occupied territory; the following procedure has been agreed:

a The Legal Sub Comm will prepare a translation of the titles and import of the Decrees.

b The translation at 3 a above together with copies of each number of the GAZZETTA will be forwarded to the Executive Commissioner and to each Section by the Legal Sub Comm.

c Upon receipt, Sub Comms will at once peruse and forward as at 3 d below a return showing which decrees they recommend should be included in the endorsement together with their reasons.

28

d i The return as at 3 c above will be made by Sub Comms at Jaleruo to the Adm Sec, and by Sub Comms at Naples to the Executive Commissioner through their Section.

ii The date by which returns will be made will in future be notified by the Legal Sub Comm when forwarding the GAZZETTA UFFICIALE.

e The Executive Commissioner and the VP Adm Sec will consolidate the returns and forward them to the Legal Sub Comm for inclusion in the endorsement.

4 Attached is a translation of GAZZETTA No 9 referred to in para 1, returns regarding this will be made by 1800 hours, Tues 7 Mar 44.

Distribution to Sections to allow:

Sections (2)
Sub-Comms (1)

ELERY W. STONE,
Capt. USNR,
Deputy Chief Commissioner.

Elery W. Stone

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REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

/gar

21 February 1944.

ACC/4039/L

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

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

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

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

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

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

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

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

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

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

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G. R. UPJOHN
Colonel
Chief Legal Officer.

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HEADQUARTERS
ALLIED CENTRAL COMMISSION
APO 394

229
14th February 1944

29

EXECUTIVE MEMORANDUM }

NUMBER 16 }

TO : Regional Commissioners,
Regions III, IV & V.

COMMITTEE ON REGIONAL MILITARY COURTS.

MILITARY COURTS.

1. The Regional Commissioner shall have the authority and is responsible for the establishment of Superior and Summary Military Courts in his region. He will request HQ, ACP to appoint a General Military Court whenever necessary.
2. Reviews of the decisions of Allied Military Courts will be in accordance with Proclamation No. 24, 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 Chief Legal Officer of the Region a petition addressed to the Chief Commissioner 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 Chief Legal Officer of the Region for examination and file. The record in any case may on the recommendation of the Chief of the Legal Sub-Commission, and shall, in the event of a sentence exceeding two years imprisonment or a fine of £. 50,000 be reviewed by the Chief Commissioner or by an officer of the Allied Military Government not below the rank of Lieutenant Colonel who may be appointed by the Chief Commissioner for that purpose. Where there has been no petition of appeal as above provided and the sentence does not exceed two years imprisonment or fine of £. 50,000 the Chief Legal Officer of the Region shall review the case and may appoint a judicial officer not be

the Region a petition for a writ of habeas corpus should be submitted to the Regional Court or the sentence should be modified.

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

3. By recommendation No. 14 referred to above the Chief Commissioner may order an Allied Military Court to sit in any Office Legal Officer of the Region may also perform the function assigned to the Chief of the Legal Sub-Commission (CLO) in connection with the detention of suspects. See recommendation 2, Article 11.

ITALIAN COURTS AND JUDICIAL

4. The Regional Commissioner may remove Italian judges connected with the Italian courts and on a temporary basis during any full existing vacancies. He may also appoint judges who may fill the vacancies of the Italian Council of the Region when the reasons of the Italian Council of the Region are exhausted. For the purpose of securing maintenance and order vacancies exist.

Italian legal and judicial matters, he may appoint a legal committee of Italian officers. The Regional Commissioner will work 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 Regional Commissioner.

ITALIAN MILITARY MATTERS.

6. The Regional Commissioner acting on the advice of the Chief Legal Officer of the Region will be responsible for permitting Italian Military Tribunals to function within his region in accordance with the directives issued in that regard.

PRISON.

7. The Regional Commissioner shall be responsible for investigating the circumstances of all prisoners held in jail without trial and for investigation all cases of complaint by prisoners that they have been unjustly condemned for their political views. The Regional Commissioner shall forward to HQ, ACC 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 HQ, ACC.

TRIAL INVESTIGATION AND JURY.

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

GENERAL.

9. HQ, ACC will issue orders and directives binding upon judges, to assign, attach, relieve or recall regional legal personnel, and to decisions of Allied Military Courts in accordance with paragraph 3 above.

10. The Chief Legal Officer of the Region will not issue any opinion or opinion dealing with matters of general legal policy not

concerned for their political views. The Regional Commission will not abrogate or amend laws in the ground that they are discriminatory or of a fascist nature and this matter is reserved to HQ, AGC. The Regional Commissioner may, however, temporarily amend Italian rules of procedure for the more expeditious hearing of trials and only in accordance with directives already issued.

ITALIAN INVESTIGATION AND LAW.

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

GENERAL.

9. HQ, AGC will issue orders and directives binding upon regions, to assign, attach, relieve or re-attach regional legal personnel, and to decisions of Allied Military Courts in accordance with paragraph 2 above.

10. The Chief Legal Officer of the Region will NOT issue or render opinions dealing with matters of general legal policy with reference to HQ, AGC. He will NOT fix penalties for prescribed crimes it is his duty to ensure reasonable uniformity of sentences commensurate with the prevalence of any particular type of crime in his region, and with the particular crime itself.

By the command of Major-General HASTEN RAYMOND, MC.

/s/ H. S. LARSEN
H. S. LARSEN,
Executive Secretary

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

12 February 1944.

EXECUTIVE MEMORANDUM)

NUMBER

7)

TO: Regional Commissioners, Regions I, II, and VI.

INSTRUCTIONS TO LEGAL OFFICERS IN
REGIONS TRANSFERRED TO THE ITALIAN
GOVERNMENT

1. GENERAL.

(a) As stated in Memorandum dated 23 January 1944, to which this directive is supplemental, upon the restoration of territory to the Italian Government subject to control by ACC all powers of military government cease within the restored territory and the relationship between ACC and the Italian Government depend entirely on contract. Such contract is contained in the Armistice Terms, and forms the charter of ACC.

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

(c) It will continue to be the duty of the Chief Legal Officers in the Regions to advise the Regional Commissioners (R.C.'s) on all legal matters affecting the region. This directive is intended in part to assist the Chief Legal Officers in the Regions in giving advice to the R.C.'s in connection with the newly acquired powers and duties of ACC 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.'s cease to be executive and become purely advisory and supervisory. Orders are no longer given by the R.C.'s, but by the Italian Administrative officials and it is the duty of the R.C.'s within his region to see that the Italian Administration carries out the orders received from higher Italian authority (as to which the R.C.'s will be duly informed) and to report to Hq. ACC any failure to do so. It will no longer be within the province of the R.C.'s 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. ACC, but in matters of urgency Chief Legal Officers will be permitted to exercise their judgement and common sense in

Supplemental, upon the restoration of military Government cease within the 100 days

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

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(d) Initially the Chief Legal Officer in a Region 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 Chief Legal Officer in a Region will prepare and forward to the Hq. ACC, through the RC, 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 Chief Legal Officer in the Region.

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

- 2 -

- (1) 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 Chief Legal Officer in the Region a petition addressed to the Chief Commissioner submitting reasons why the conviction should be set aside or the sentence should be modified.
- (11) Every record of trial by an Allied Military Court shall be transmitted to the Chief Legal Officer in the Region for examination and file. The record in any case may on the recommendation of the Chief of the Legal Sub-Commission, and shall, in the event of the sentence exceeding two years imprisonment or a fine of 1,50,000 be reviewed by the Chief Commissioner or by an ACC Officer not below the rank of Lieutenant Colonel who may be appointed by the Chief Commissioner 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 1,50,000 the Chief Legal Officer in the Region 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 HC, if still functioning; otherwise by Hq, ACC. A General Military Court may be established only by Hq, ACC.
- (d) If Allied Military Courts are to be set up in any other part of unoccupied territory, the requisite Military Court, will be established by Hq, ACC at the request of the HC 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 (d) above, will be reviewed solely by Hq, ACC until further orders.
- (f) In closing 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 Chief Legal Officer in the Region, or as he shall direct:
- (1) 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 HC & MG Section, ACC, for the Legal Sub-Commission, with reasons therefor. All cases in which severe sentences were originally passed and subsequently confirmed, because of military

ated to him or by the HC, if still functioning; otherwise by Hq, ACC. A General Military Court may be established only by Hq, ACC.

(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 Hq, ACC at the request of the HC 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 (d) above, will be reviewed solely by Hq, ACC until further orders.

(f) In closing 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 Chief Legal Officer in the Region, 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 HC & MG Section, ACC, for the Legal Sub-Commission, 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 Chief Legal Officer in the Region with the advice, where possible, of the presiding officer who tried the case, and the Chief Legal Officer in the Region should forward his recommendation to the Legal Sub-Commission, Hq, ACC. 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 those 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 Chief of the Legal Sub-Commission at Hq, ACC.

- 3 -

(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 Chief Legal Officer of the Region for disposition on orders from Chief of the Legal Sub-Commission, Hq, ACC.

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 the Chief Legal Officers of Regions I and II on 6 January 1944, this will be immediately brought to the notice of the Chief of the Legal Sub-Commission, Hq, ACC, and a report in the manner set forth in such directive shall be made to the Chief of the Legal Sub-Commission, Hq, ACC. 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 Chief of the Legal Sub-Commission, Hq, ACC.

4. ITALIAN LEGISLATION AND LAWS.

The Chief Legal Officers in the Regions, acting through RC's, 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 Hq, ACC. Any suggestions for abrogation, revision, or amendment of any Italian legislation will be transmitted to Hq, ACC.

Amendments to rules of procedure which have been initiated during AMB, will, however, be continued by the Italian Administration and any departure from such amendments will forthwith be reported to Hq, ACC.

5. DETAINERS.

No persons detained under Article VII of Proclamation No. 2 will be released without further orders from Hq, ACC, but Chief Legal Officers in the Regions will prepare lists of persons so detained. Such lists will show places of detention, and the Chief Legal Officers in the Regions will forward them with his comments to Hq, ACC, within 14 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 Law (Codice Penale Militare di Guerra) and the restrictions laid down by Directive with regard to the holding of these Courts under AMB will be disregarded.

Amendments to rules of procedure which have been initiated during AMO, will, however, be continued by the Italian Administration and any departure from such amendments will forthwith be reported to Hq, ACC.

5. DETAINERS.

No persons detained under Article VII of Proclamation No. 2 will be released without further orders from Hq, ACC, but Chief Legal Officers in the Regions will prepare lists of persons so detained. Such lists will show places of detention, and the Chief Legal Officers in the Regions will forward them with his comments to Hq, ACC, within 14 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 Law (Codice Penale Militare di Guerra) and the restrictions laid down by Directive with regard to the holding of these Courts under any 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 Hq, ACC.

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, ACC.

If any Criminal 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 Hq, ACC.

- 4 -

The above does not apply to any Corte di Cassazione which will only be reconstituted under the orders of Hq, ACC.

The Chief Legal Officer in the Region 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.

4. JUDGES AND OFFICIALS OF COURTS.

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

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

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

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

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

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

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

26

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

(iii) To notify immediately HQ, ACC (through Regional HQ) of any reported appointments, promotions or removals not sanctioned by HQ, ACC. If any Judge or official appointed by ACC is proposed to be removed without the sanction of HQ, ACC he will advise the First President against taking any action without the consent of HQ, ACC.

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

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

(c) Chief Legal Officers in the Regions will inform HQ, ACC of the officers appointed as Liaison Officers to First Presidents as soon as possible.

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

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

9. ORGANIZATION OF MOTION OF LEGAL OFFICIALS.

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

- 5 -

(b) When Legal Officers have completed all cases and have performed all other duties assigned to them, they will so report to the Chief Legal Officer in the Region and he in turn will so report to the Legal Sub-Commission, HQ, AGC. If then so ordered they will close their offices and report in person to the Chief Legal Officer in the Region 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.

By Command of Lieutenant General HANSEN MacFarlane.

M. S. LUTER,
Brigadier,
Executive Commissioner.

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394

EXECUTIVE MEMORANDUM)

NUMBER 4)

Ref/45/7/CA.

7 February 1944.

RIGHT OF PARDON IN OCCUPIED TERRITORY

1. During the period of Military Occupation the exercise of the powers of the Crown of Italy are suspended and all powers of government and jurisdiction in the Occupied Territory and final administrative responsibility are vested in the Military Governor (Proclamation I). Accordingly the power of pardon vested in the King of Italy is suspended during the period of Military Occupation, and in consequence petitions for pardon, should be addressed through channels to the Military Governor and not to the King.
2. The Military Governor may deal with petitions for pardon whether the offence and/or sentence were before or after occupation.
3. The procedure and channels to be pursued are the same as under usual Italian Practice save only that the documents will be forwarded to the Regional Commissioner in lieu of the Minister of Justice, and the Regional Commissioner, acting upon the advice of the R.C.L.O., will forward the same to the C.L.O. HQ. ACC for transmission to the Military Governor.
4. The subject of provisional or conditional liberty pending consideration of petition of pardon is fully covered by previous directives (see memorandum on Italian Courts and Legal Set Up, Appendix A).
5. For your information the following is the Italian Procedure in connection with application for pardons and is to be followed subject, however, to the foregoing (i.e. Pardons will be addressed to the Military Governor and forwarded to the Regional Commissioner.)

The request for Royal Pardon is addressed to the King but forwarded to the Minister of Justice. It must be signed by the prisoner, a near relative, his guardian or his legal attorney.

The request on stamped paper, can be presented to the competent Procuratore del Re' or Pretore, as the case may be for transmission to the Minister, with all information available about the case and comments.

It can be also done through the Director of the Prison where the prisoner

acting upon the advice of the R.C.L.O., will forward the same to the C.L.O. M.
ACC for transmission to the Military Governor.

4. The subject of provisional or conditional liberty pending consideration of petition of pardon is fully covered by previous directives (see memorandum on Italian Courts and Legal Set Up, Appendix A).

5. For your information the following is the Italian Procedure in connection with application for pardons and is to be followed subject, however, to the foregoing (i.e. Pardons will be addressed to the Military Governor and forwarded to the Regional Commissioner.)

The request for Royal Pardon is addressed to the King but forwarded to the Minister of Justice. It must be signed by the prisoner, a near relative, his guardian or his legal attorney.

The request on stamped paper, can be presented to the competent Procuratore del Re' or Pretore, as the case may be for transmission to the Minister, with all information available about the case and comments.

It can be also done through the Director of the Prison where the prisoner is serving his sentence.

The King acts on the Formal recommendation of the Minister.

6. It is the duty of the R.C.L.O. to bring the contents of this directive to the notice of all Directors of Prisons, Procuratore del Re' and Pretore in his Region.

By Command of Lieut. General MACFARLANE.

M.S.LUSH,
Brigadier,
Executive Commissioner.

DISTRIBUTION:

R.C. Region I (Copy for RCLO)
" " " " " "
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R.C. IV (Copy for RCLO)
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S.C.A.O. 5th Army (Copy for CLO)
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Army " " " "

26

ALGOT/4064/L

ALGOT HQ. SICILY

16th October 1943.

Subject:- Notarial Councils

To:- All S.L.Os. (through S.C.A.Os)

1. A draft order in regard to the creation of Notarial Councils is forwarded herewith for necessary action.

2. Please take the required steps to fill in Article II with the names of five or seven notaries as the case may be, selected by each district and issue the order once completed in the form set out in the draft.

3. There are 13 Notarial Districts in Sicily as follows :-

Notarial DistrictResponsibility

Palermo (1), Termini, Lucrrese (1)	..	..	..	S.C.A.O. Palermo
Catania (1), Caltagirone (1)	..	..	..	S.C.A.O. Catania
Caltanissetta and Enna ..	..	..	..	(S.C.A.O. Caltanissetta.
Micosia (1) ..	..	..	..	(S.C.A.O. Caltanissetta.
Ragusa and Modica ..	..	..	..	S.C.A.O. Ragusa
Messina (1), Patti (1) ..	..	..	..	S.C.A.O. Messina
Agrigento (1), Sciacca (1) ..	..	..	..	S.C.A.O. Agrigento
Siracusa (1) ..	..	..	..	S.C.A.O. Siracusa
Trapani (1) ..	..	..	..	S.C.A.O. Trapani

17

4. The names of the senior or most qualified notary in each district whom you should consult as to the appointment of the other members to the Council are enumerated hereunder :-

Palermo (7 members)	-	Dott. Salvatore Stella.
Termini (5 members)	-	" Ignazio Candiote.
Agrigento (7 members)	-	" Oreste Sciascia.
Sciacca (5 members)	-	" Salvatore Scaglione.
Catania (7 members)	-	" Mirone Eusebio.
Caltagirone (5 members)	-	" Periconio Libertini.
Messina (7 members)	-	" Filippo Chiofalo.
Patti (5 members)	-	" Francesco Ricca.

17

Palermo {1}, Termini, Iacurso (1) S.C.A.O. Palermo
 Catania {1}, Caltagirone (1) S.C.A.O. Catania
 Caltanissetta and Enna S.C.A.O. Caltanissetta
 Nicosia (1) S.C.A.O. Ragusa
 Ragusa and Modica S.C.A.O. Messina
 Messina (1), Patti (1) S.C.A.O. Agrigento
 Agrigento (1), Sciacca (1) S.C.A.O. Siracusa
 Siracusa (1) S.C.A.O. Trapani
 Trapani (1) S.C.A.O. Trapani

4. The names of the senior or most qualified notary in each District when you should consult as to the appointment of the other members to the Council are enumerated hereunder :-

Palermo (7 members)	Dott. Salvatore Stella.
Termini (5 members)	" Imaio Cardiotto.
Agrigento (7 members)	" Oreste Sciascia.
Sciacca (5 members)	" Salvatore Scapellato.
Catania (7 members)	" Mirone Tuscio.
Caltagirone (5 members)	" Periconio Libertini.
Messina (7 members)	" Filippo Chiofalo.
Patti (5 members)	" Francesco Ricca.
Caltanissetta -	
Enna (5 members)	" Rosario Radinondi.
Nicosia (5 members)	" Salvatore Bontempo
Ragusa - Modica	
(5 members)	" Giuseppe Cavalieri..
Siracusa (7 members)	" Giuseppe Monteforte
Trapani (5 members)	" Giuseppe Triolo

5. Please report to this H.Q. as soon as the order has been issued.

W. C. CHAMBERLAIN,
 Lt. Col. (AUS),
 Chief Legal Officer.

ALLIED MILITARY GOVERNMENT OF OCCUPIED TERRITORY

ORDER NO. _____

CREATION OF A NOTARIAL COUNCIL FOR THE
DISTRICT OF _____

WHEREAS the Statutes of the Fascist Syndicates of Notaries was approved by Royal Decree of 4 June 1942 (embodying the Law of 27 May 1940 suppressing Notarial Councils)

WHEREAS such syndicates have ceased to function.

AND WHEREAS the notaries of the District of _____ have expressed the wish to reorganize their associations on lines more in harmony with their ancient traditions

THEREFORE, I, _____ Senior Civil Affairs Officer, in pursuance of powers conferred in me, hereby order as follows :-

ARTICLE I. A Council of Notaries for the Notarial District of _____ is hereby created.

ARTICLE II. It will be composed of the notaries hereinafter designated:-

ARTICLE III. The seat of the Notarial Council will be at _____

ARTICLE IV. The functions of the Council will be :-

16

16

- ARTICLE I. A Council of Notaries for the Notarial District of _____ is hereby created.
- ARTICLE II. It will be composed of the notaries hereinafter designated:-

ARTICLE III. The seat of the Notarial Council will be at _____

- ARTICLE IV. The functions of the Council will be :-
- (a) To submit to the Allied Military Government any amendments to the Laws regulating the functions of notaries as may be considered desirable or necessary in the interests of the public or the profession of notaries;
 - (b) To supervise the professional activities of all notaries in the Notarial District of _____ and whenever possible to arbitrate in disputes between notaries and their clients;
 - (c) To propose candidates for the offices now vacant in the notarial District of _____;
 - (d) To exercise the powers and observe the regulations conferred and imposed upon the Notarial Councils by the Law of 16th February 1913;
 - (e) To organize elections for a new Council as soon as the general meeting of the notaries of the District

/of _____ can be convened.

C
O
P
Y/rlp

Subject: Re-establishment of Prefects Council and
Provincial Giuntas.

AMGOT/376/Hq

AMGOT HQ, SICILY

To : All SCAOs.

15 October 1943

1. Several requests for authority to re-establish the Prefect's Council and the Provincial Giunta have been received by these Headquarters.
2. You are advised that each SCAO may authorize or direct the re-establishment of these bodies or either of them if he considers it wise in his particular province to do so.
3. However, as in the case of other important political posts, prominent Fascists will not be permitted to serve.
4. In accordance with General Administrative Instructions No. 19 (AMGOT/4037/L) dated 21 Sept. 1943, the functions of these bodies, if re-established, will be purely advisory and not legislative.

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

Copies to: All Divisions

23

AMGOT/4001/L.
AMGOT HQ., SICILY
11 October 1943

SUBJECT: Fines under Italian Penal Code.

TO : All SIO's (Through SCAG's).

1. Articles 163 to 168 of the Italian Penal Code give the right to Judges and Magistrates to suspend pecuniary penalties for two to five years. However this suspension must be granted when pronouncing the sentence and cannot be canceled after the latter has become executive.

2. Certain cases of hardship have been reported to this Division by SIOs in the Provinces concerning persons sentenced to imprisonment and fines by Italian Courts prior to our occupation, who had served their sentence in gaol but could not pay the amount of the fine.

3. Italian Legislation provides no means of redress for such contingencies, with the exception of the pardon or condonation which were the privileges of the King or Minister of Justice.

4. To meet this situation, SIO's are hereby authorized, in such cases of hardship as may from time to time be brought to their notice to instruct Italian Judges and Magistrates to extend the time for the settlement of "multe and ammende" over a longer period and to accept small installments at regular intervals as part payments of the amount involved.

14

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

Distribution:

Agrirento	3	Angot Liaison	1
Caltanissetta	2	Angot 8th Army Reg. 2.	10
Catania	2	Angot 5th Army Reg. 3.	10
Enna	2	Files 4001	1
Palermo	4	" 4034	1
Ragusa	3	Flout	1
Syracuse	2	M.C.S. - A.F.H.O.	12
Messina	3	Spares	16
Trapani	3		

jd

ALLIED MILITARY GOVERNMENT OF OCCUPIED
TERRITORY.

(SICILY)

GENERAL ORDER NO. 12.

REORGANISATION OF THE BAR ASSOCIATION.

WHEREAS by a Royal Decree of 27 November, 1933 No. 1578 (embodied in the law of 22 January, 1934 No. 36) the profession of Avvocati and Procuratori was reorganised into Fascist Syndicates; and

WHEREAS the great majority of Avvocati and Procuratori in Sicily have requested that the Fascist Syndicates be abolished and that the liberal traditions of their profession be re-established as provided by this Order;

NOW, therefore, in pursuance of such request, I, FRANCIS BARON REMELL OF RODD, Major-General, Chief Civil Affairs Officer hereby ORDER as follows:-

Article I.

ABROGATION OF EXISTING LAW.

The Royal Decree and Law of 27th November, 1933 No. 1578 and the Law of 22nd January, 1934 regulating the activities of "Avvocati and Procuratori" are hereby abrogated. The provisions of the Law of 25th March, 1926 No. 453 and of the Royal Decree of 26th August, 1926 are formally restored except for the amendments set out hereunder.

Article II.

EXAMINATIONS FOR AVVOCATI.

The examination for the nomination to the Bar Association which under the provisions of Article 13 of the Law of 1926 took place every two years at the seat of the Court of Appeal, will be held at a date fixed by the Council of the Association under the rules and regulations prescribed by the Law. There will be a written and an oral examination. The four subjects to be treated in writing will be:-

Civil Law and Procedure;
Criminal Law and Procedure;

Article I.

ABROGATION OF EXISTING LAW.

The Royal Decree and Law of 27th November, 1935 No. 1576 and the Law of 22nd January, 1934 regulating the activities of "Avvocati and Procuratori" are hereby abrogated. The provisions of the Law of 25th March, 1926 No. 453 and of the Royal Decree of 26th August, 1926 are formally restored except for the amendments set out hereunder.

Article II.

EXAMINATIONS FOR AVVOCATI.

13

The examination for the nomination to the Bar Association which under the provisions of Article 15 of the Law of 1926 took place every two years at the seat of the Court of appeal, will be held at a date fixed by the Council of the Association under the rules and regulations prescribed by the Law. There will be a written and an oral examination. The four subjects to be treated in writing will be:-

- Civil Law and Procedure;
- Criminal Law and Procedure;
- Commercial Law;
- Administrative Law.

The Board of Examiners will be composed of five members:-

- (a) The Councillor of the Court of Cassation appointed by the First President of the Court of appeal at the request of the Council of the Association, who will act as President;
- (b) The Professor of Law of the University selected as above;
- (c) The President of the Council of the Association;
- (d) Two members of the Association chosen from among the Avvocati.

Article III.

EXAMINATIONS FOR PROCURATORI.

The limitation of the number of "Procuratori" in each Court of Appeal district and the competitive examination for vacancies as provided by Articles 21, 22 and 23 of the Law of 1926 are hereby abrogated. The examination for the inscription on the List of Procuratori will take place as per Article 20 of the said Law every year and on its result will be

- 2 -

determined the suitability of each candidate. This examination, of a more practical nature, will take place at the seat of the Court of Appeal at a date to be fixed by the Council of the Association and will be both written and oral.

Written subjects will be:-

Civil Law and Procedure;

Penal Law and Procedure;

Commercial Law;

Administrative Law.

Oral subjects will also include financial legislation. The Board of Examiners will be composed as set forth in Article II but the two members from the Association will be Procuratori.

Article IV.

QUALIFICATION WITHOUT EXAMINATION.

"Procuratori Legali" having exercised their practice for five years will have the right to have their names inscribed on the list of the Avvocati without further examination and without having practised as Avvocati for the appropriate number of years.

"Avvocati" having exercised their profession for two years will have the right to have their names inscribed on the list of the Procuratori Legali without further examination or period of practice, provided that they have complied with all requirements of the law.

Article V.

CREATION OF ASSOCIATION OF AVVOCATI AND PROCURATORI AND ESTABLISHMENT OF COUNCIL.

No other distinction will exist between Avvocati and Procuratori other than the inscription on a different list. They will form one association and their representation will be entrusted to one Council of seven, eleven or fifteen members as prescribed by the Law of 1926.

All Avvocati and Procuratori will be eligible for election to the Council five years after their inscription in their respective lists, with the following exception:- Any person having held offices or exercised functions in the Fascist party or in corporative institutions or in organisations of a politico-administrative nature. If such person were elected by error, this election would be automatically cancelled and the candidate having received the second largest number of votes elected.

Article 7.

CREATION OF ASSOCIATION OF ATTORNEYS AND PROSECUTORS AND
FOR GOVERNMENT OF COUNCIL.

No other distinction will exist between Advocati and Procuratori. They will form one family of a different list.

association and their representation in the Law of 1920, seven, eleven or fifteen members as prescribed by the Council will be eligible for election to the Council all *Avvocati* and *Procuratori* in their respective lists, with the at their inscription in their respective lists, with the sectors or exercised

Article VI.

ACTION OF COURT OF APPEALS

Until the Upper Council of the Association can be elected as provided in Articles 41, 42 and 43 of the Law of 1926, all its functions as set forth in Article 44 of the said law, will be exercised by the Court of Appeal of the District. Such decisions as may be necessary will be taken in the Council Chamber in the presence of the Procureurs Generals.

Article VII.

MONOMER AND FEES.

Advoceti's honoraria and Procuratori's fees will be calculated on the basis established by the Law of 15th June, 1942. In cases where the law does not provide, the Council will determine the amounts due in respect of legal and even extra-judicial services. Any regulation in this respect will have to be renewed every three years, bearing in mind as far as possible the text of the law.

- 3 -

Article VIII.SCALE OF HONORARIA AND FEES.

All rules and regulations set out in accordance with the terms of the preceding article will take into consideration the amounts involved and the position occupied by Counsel in his profession. A maximum and minimum fee will be determined in accordance with the provisions of the Law of 1942. In penal procedure, the duration of the case will also be taken into account. In certain cases, even those covered by the provisions of the Law of 1942, the client may be requested to pay a larger fee than the one for which the losing party is responsible, if the result or the amount concerned justify such increase in view of the work actually entailed.

Article IX.SETTLEMENT OF DISPUTES IN RESPECT OF HONORARIA AND FEES.

Any further dispute in respect of fees and honoraria will be settled by the authority of justice. The Court will have to give the reasons for its decision to reduce the fees claimed and, taking into consideration the provisions of Article VIII will not grant an amount inferior to the minimum fixed by the Council of the Association, except in the cases determined in Article 4 of the Law of 13 June, 1942.

12

Article X.CONSTITUTION OF PROVISIONAL COMMITTEES.

Provisional Committees of Avvocati and Procuratori appointed by the Allied Military Government at each seat of a Tribunale and Corte d'Appello will represent the Association temporarily and take over the offices and property of the former syndicates hereby dissolved. The said Committees will undertake the revision of the existing lists of Avvocati and Procuratori and ascertain the regularity of the nominations effected since the Law of 27th November, 1933.

Article XI.CONVENING OF GENERAL MEETING.

When the revision of the existing lists has been completed, the

lay further dispute in respect of fees and honoraria settled by the authority of justice. The Court will have to give the reasons for its decision to reuse the fees claimed and, taking into consideration the provisions of Article VIII will not grant an amount inferior to the minimum fixed by the Council of the Association, except in the cases determined in Article 4 of the Law of 13 June, 1942.

Article IX.

CONSTITUTION OF PROVISIONAL COMMITTEES.

Provisional Committees of Avvocati and Procuratori appointed by the Allied Military Government at each seat of a Tribunale and Corte di Appello will represent the Association temporarily and take over the offices and property of the former syndicates hereby dissolved. The said Committees will undertake the revision of the existing lists of Avvocati and Procuratori and ascertain the regularity of the nominations effected since the Law of 27th November, 1933.

Article XI.

CONVENING OF GENERAL MEETING.

A month after the revision will have been completed, the Provisional Committee will take the necessary steps to convene the first general meeting for the election of the new Council in accordance with the provisions set out heretofore. Members elected to the Council will remain in office until 31st December 1947. However, at the end of the year 1945 the candidatures for the vacancies left by outgoing members will be examined and partial elections will be proceeded with at the end of 1946 as provided in Article XI of the Law of 1926.

Article XII.

EFFECTIVE DATE.

This Order will become operative throughout each Province of the Occupied Territory of Sicily on the 25th day of October, 1943.

Dated: 10 October, 1943.

KERRELL OF RODD, Major-General,
Chief Civil Affairs Officer.

NOTE: This General Order will not be printed for posting. It will appear in "Sicily Gazette" No. 4.

Temporary Amendments to Civil and Penal
Procedure.

- ART I. The Procuratore della Legge shall have the right to order that an accused whether under arrest or at liberty be brought before the Court without further investigation, as set forth in Articles 502 to 505 of the C.P.P. and he shall not be bound by the provisions specified in Article 502 in connection with legal delays.
- ART II The course of prescription in regard to the entries to be effected in the mortgage register is suspended from July 10th until further notice.
- ART III The course of prescription in civil, penal and financial actions already started on July 10th is hereby suspended and legal terms extended until further notice.
All other terms in connection with cases of the competence of the Corte di Cassazione, Council of State, Court of Accounts and the High Court of Public Water Supply or any other Court sitting outside Sicily, are hereby suspended until new regulations have been instituted to reorganise such procedure.
- ART IV Civil actions already on the roll for which a date of hearing has been fixed after 1st October, 1943 or adjourned to a specific date after October 1st by order of the Court will follow their normal course. The judge will determine if one or both parties are not represented or their legal representatives have failed to appear, that the hearing be adjourned and the parties duly notified of the new date of hearing.
- ART V. Civil actions already on the roll for which no date of hearing is fixed or for which a previous adjournment was granted, before October 1st, will be heard in successive sittings starting from October 1st as soon as the Court Registrar will have been able to notify the parties' legal representatives of the exact date, or, in their absence, the parties personally.
- ART VI. Copies of the original summons will have to be served again at the request of the most diligent party, when the date fixed for the hearing of the case fell due after 15th April, 1943 and the civil action therein referred to was not already on the roll.
- ART VII. In all actions, civil or penal, when service of summons may

ART IV Civil actions already on the roll for which a date of hearing has been fixed after 1st October, 1943 or adjourned to a specific date after October 1st by order of the Court will follow their normal course. The judge will determine if one or both parties are not represented or their legal representatives have failed to appear, that the hearing be adjourned and the parties duly notified of the new date of hearing.

ART V. Civil actions already on the roll for which no date of hearing is fixed or for which a previous adjournment was granted, before October 1st, will be heard in successive sittings starting from October 1st as soon as the Court Registrar will have been able to notify the parties' legal representatives of the exact date, or, in their absence, the parties personally.

ART VI. Copies of the original summons will have to be served again at the request of the most diligent party, when the date fixed for the hearing of the case fell due after 15th April, 1943 and the civil action therein referred to was not already on the roll.

ART VII. In all actions, civil or penal, when service of summons may legally be effected by post, a duplicate service will be made by judicial process server three days after the date of the posting of the first service.

ART VIII. In civil actions when the absence of one or both parties is due to the fact that no summons can be served on them, or if appearance cannot be entered owing to the present new conditions, a special curator may be appointed to represent the absent party or parties under the provisions of Articles 78, 79 and 80 of the Code of Civil Procedure, whenever such absence would be prejudicial to the party or parties concerned.

ART IX. In all cases where the law provides that judicial decisions or other notices be published in the official Gazette or the official Bulletin of the Province, such publication will be made in the local newspaper two days in succession.

ART X. All newly appointed officials will take the following oath:-
"I swear to observe the Law and to fulfil my duties with conscience."

21

ALLOT/6006/EC
 ALLOT HQ., SICILY
 30 September 1943

SUBJECT: Appointment of "Curatore" for abandoned property.

TO : All S. C. A. O.'s.

1. The following procedure will be adopted in all matters concerning movable or immovable property at present left uncared for by its lawful owners, after agreement has been reached with the President of the Tribunale.

2. All persons who for valid reasons request the appointment of a "Curatore" to take charge of property deemed to be left uncared for will present their petition to the senior notary (notaio) of the town or district where the said property is situated.

3. The notary will issue a recommendation as to the necessity of appointing a "Curatore" and forward it to the competent Assistant Property Controller or the S. L. O. of the Province for his approval.

4. The petition, if approved, will then be transmitted to the competent "Presidente del Tribunale" who will appoint a "Curatore" chosen from the list of notaries exercising their functions in the district in which the property is situated.

5. It will be specified in the order appointing the "Curatore" that for his services he will be entitled to the usual honorarium determined by Italian Law. All monies received by him will be deposited in a special bank account.

6. Notice that such procedure is coming into force should be published in the local newspapers and through any means of official publicity at your disposal.

DISTRIBUTION

S.C.A.Os.	Palermo.	1
	Ragusa	1
	Trapani	1
jd	Siracusa	1
	Enna	1
	Messina	1
	Agrigento	1
	Catania	1
	Caltanissetta	1
Spares.		10

Charles M. Spofford
 CHARLES M. SPOFFORD
 Colonel, GSC
 Chief Staff Officer

20

AMGOT/4039/L.
AMGOT HQ., SICILY
5 October 1943

SUBJECT: Judicial Officials.

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

1. Your attention is directed to instructions AMGOT/4039/L. of 12 September 1943 by which you were requested to forward at your early convenience a list of Judicial vacancies in the Provincial set up, and the names of suitable nominees to these posts.
2. To date only four Provinces have sent their report and recommendations thus delaying the appointment of officials who would help to relieve the present congestion of local Courts.
3. Could the required information be forwarded by return.
4. If no adequate personnel is available in your Province please state so as steps will be taken by this HQ to fill the remaining gaps in the local organizations as much as possible.

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

9

17

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

SUBJECT: Salaries and Indemnities of Judicial Officials.

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

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

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

(a) The equivalent of four months salary paid in advance by the Italian Government prior to the Allied occupation is not to be considered as a bonus but as salary.

(b) All indemnities payable under the old regime will be continued, and Pensions to all State, Provincial and Communal Officials will also be maintained.

(c) Any official appointed by the Allied authorities will receive exactly the same amount of salary and indemnities as his predecessor.

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

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

8

16

Subject:- Corte d' Assise.

To:- All Senior Legal Officers
(through S.C.A.Os.)

AMGOT/4034/L

AMGOT H.Q. SICILY.

19 September, 1943

1. S.L.Os. in all provinces should instruct local Italian Judicial Authorities to hold assizes at the earliest convenient date.

2. In towns where assizes sit normally and both Assessors and "Consigliere" are available, such arrangements as may be necessary should be made forthwith to enable the sessions to take place early in October. (It is understood that both Agrigento and Catania can do so).

3. S.L.Os in Provinces where no "Consigliere" are present owing to the War conditions, should notify this H.Q.forthwith, so that instructions may be given to the President of the Corte d' Appello to send two or more "Consigliere" on circuit in order that the Corte d' Assise may sit as early as possible in October.

4. As soon as they have consulted with the local officials, S.L.Os. will report on the position to the C.L.O., stating at the same time the approximate dates when such sessions may be held in their respective districts.

5. The number of cases to be tried during the session and a list of prisoners awaiting trial in gaols situated outside the Province should also be furnished.

6. A calendar will then be published in order to regularise the sittings of the "Court of Assize" throughout the island for the coming year.

(11/10/43)

7

W.C.CHANLER, Lt. Col.(A.U.S.)
Chief Legal Officer.

Subject:- Temporary Amendments to Italian Penal Procedure. AMGOT/4001/L.
AMGOT H.Q. SICILY.

785014

The author or person to be tried outside the 12 years
prison term which he has served in order to regularize the
situation outside.

6. A certain number of articles were
 sitting on the "Count of Articles" page.

W.C. CRISTIAN, Lt. Col. (A. U. S.)
Chief Inspector

Subject: Emergency Amendments to Italian Civil Code
WCOY/1001/L
WCOY H.C. STOW
19 Sept. 1943

Through 5.04.03.
 All 5.4.03.
 The 5.04.03.

This provision that
 It has now been decided that
 liberty in cases of prisoners
 Courts refuse our organization
 provisions that be submitted to and approved by the S.C.O. of the province.
 W.O. CHAMBER, Lt. Col. (A.)
 Chief Legal Officer.

14

SUBJECT: Regolamenti Comunali.

REG/1007/A

ANNO 1907, SECT. 1

15th September, 1943.

TO: All S.C.A.Os

1. According to Italian law (L.D. 3 Marzo 1934) Regolamenti Comunali are required in all cases to be submitted to the Prefect for approval. In certain categories of cases, Regolamenti Comunali are also submitted to the Council of the Prefettura and the Provincial Giunta for advice, and in others the approval of the Central Government has also to be obtained.

2. To enable Regolamenti Comunali to be made by the Communes at the present time, the accompanying Administrative Instruction has been issued. Notice thereof should be given to the Prefect and Communes.

Charles E. Spofford
CHARLES E. SPOFFORD,
Colonel, G.S.C.
Chief Staff Officer.

6

13

HEADQUARTERS AMGOT

AMGOT/4057/L

SICILY

21st September 1943

GENERAL ADMINISTRATIVE INSTRUCTION NO. 19.

The following instructions have been issued:-

As from the date hereof until further notice, Regolamenti Comunali shall be made in accordance with the following procedure:-

1. Regolamenti Comunali will be submitted to the Prefect of the Province for approval after being made.
2. The Prefect will not submit Regolamenti Comunali to the Council of the Prefettura or to the Provincial Giunta for advice or to the Central Government for approval.
3. The Prefect will after considering Regolamenti Comunali received by him for approval submit the same to the Senior Civil Affairs Officer of the Province with his recommendations.
4. The Senior Civil Affairs Officer, after considering the Regolamenti Comunali together with the recommendations of the Prefect and of the Civil Affairs Officer (if any) for the Comune, issue directions to the Prefect to approve or refuse approval of the Regolamenti.
5. Regolamenti Comunali, after approval by the Prefect as above mentioned shall be of full force and effect.

Charles H. Spofford
CHARLES H. SPOFFORD,
Colonel, G.S.C.
Chief Staff Officer.

DISTRIBUTION:

S.C.A.O. AGRIGENTO	6
S.C.A.O. CALTANISSETTA	6
S.C.A.O. CATANIA	6
S.C.A.O. ENNA	4
S.C.A.O. PALERMO	35
S.C.A.O. RAGUSA	6
S.C.A.O. SIRACUSA	10
S.C.A.O. TRAPANI	6
S.C.A.O. MESSINA	8

AMGOT Liaison	1
AMGOT Eighth Army Region 2	10
AMGOT Fifth Army Region 3	10
File 266 and Original	2
Float	1
Division	6
M.C.S., A.F.H.Q.	12
Spares	10

7

HEADQUARTERS AMGOT.

Subject:- Opening of Italian Civil Courts in Sicily. AMGOT/4004/L.

To:- All Senior Civil Affairs Officers. 31st August, 1943.

1. Further to my instructions of 13th and 19th instant you are now authorized to open all Italian Civil Courts in your Province (Conciliatori, Preture, Tribunale Civili), the civil Chambers of the Court of Appeal at Caltanissetta (Section of Palermo) and the Court of Appeal at Catania. The following is a list of the Courts to be re-opened:-

(a) Court of Appeal of Palermo. Court of Appeal of Catania.

(b) The following Tribunale subject to the jurisdiction of the above Court:

Agrigento
Palermo
Sciacca
Termini Imerese
Trapani
Caltagirone
Catania
Modica
Ragusa
Siracusa

(c) All Preture subject to the jurisdiction of the above Court.

2. Will you, therefore, communicate these instructions to the Italian Judicial Officials responsible and ensure that necessary steps are taken by them to effect their re-opening at the earliest possible date.

3. The following Courts will remain closed until further instructions:

(a) The Court of Appeal of Messina (now at Castrolibate)
(b) The following Tribunale subject to the jurisdiction of the above Court:

Messina
Reggio Calabria (Italy)
Patti

4

4

subject to the jurisdiction
of the above Court:

Agrigento
Palermo
Sciacca
Termini Imerose
Trapani

Caltagirone
Catania
Modica
Ragusa
Siracusa

(c) All Preture subject to
the jurisdiction of the
above Court.

All Preture subject to
the jurisdiction of the
above Court.

2. Will you, therefore, communicate these instructions to the Italian Judicial Officials responsible and ensure that necessary steps are taken by them to effect their re-opening at the earliest possible date.

3. The following Courts will remain closed until further instructions:

- (a) The Court of Appeal of Messina (now at Castrolibate)
- (b) The following Tribunali subject to the jurisdiction of the above Court:
Messina
Reggio Calabria (Italy)
Patti
- (c) All Preture subject to the jurisdiction of the above Court.

If, however, any Preture or other Courts in the Province of Messina have already been re-opened or have remained open, they should continue to function.

By order of the Chief Civil Affairs Officer:

NICOT H.Q.
15 Army Group.

Charles M. Spofford
CHARLES M. SPOFFORD,
Lt. Colonel, GSC.
Chief Staff Officer.

Subject: - Temporary Amendments to Italian Penal Procedure.

To: - The President of the Court of Appeal, Palermo. AMCOT/4004/L.

From: - The Chief Legal Officer, AMCOT, H.Q. 19th Aug. 1943.

1. I have studied with interest your memorandum of 13th August, and as a result of your recommendations, I agree that notwithstanding the provisions of the Italian Penal Code and Code of Penal Procedure, the following forms of procedure will be adopted to meet present emergencies:-

(a) The legal delay between date of service and date of trial to be reduced to 5 days.

(b) Articles 462 and 463 of the Code of Penal Procedure to be modified so that whenever witnesses or injured parties are absent or cannot be served by reason of the state of war, the Court may have power to dispense with their presence and to order that the evidence given by them before the examining magistrate should be read instead.

(c) Article 459 (requiring joint trial of joint defendants) and Article 444 (permitting separation during trial) to be amended to permit separate trial of joint defendants now in custody when it is impossible to produce all the joint defendants.

(d) The Court and Prosecution to have the right to grant provisional liberty even in cases set forth in Article 253 of the Code of Penal Procedure, whenever the offence is not serious or the circumstances in which the act has been committed do not justify the continuous detention of the accused. **3**

(e) If in any case before it the Court is of the opinion that the minimum sentence for the offence charged is excessive under the circumstances of the particular case, it will forward the record to the Chief Legal Officer of AMCOT with its recommendations.

Please have prepared forthwith and submit to me as soon as possible a draft of the amendments required to carry out the above.

2. It is also agreed that Italian Civil Courts may proceed with the following urgent procedures:-

"Appointment of receivers 'pendente lite' (absent persons and creditors)."

"Declaration of absence or of presumed death."

"Judicial Sequestration of Goods."

(c) Article 439 (requiring joint trial of joint defendants) and Article 444 (permitting separation during trial) to be amended to permit separate trial of joint defendants now in custody when it is impossible to produce all the joint defendants.

(d) The Court and Prosecution to have the right to grant provisional liberty even in cases set forth in Article 253 of the Code of Penal Procedure, whenever the offense is not serious or the circumstances in which the act has been committed do not justify the continuous detention of the accused.

(e) If in any case before it the Court is of the opinion that the minimum sentence for the offense charged is excessive under the circumstances of the particular case, it will forward the record to the Chief Legal Officer of AMROJ with its recommendations.

Please have prepared forthwith and submit to us as soon as possible a draft of the amendments required to carry out the above.

2. It is also agreed that Italian Civil Courts may proceed with the following urgent procedures:-

- "Appointment of receivers 'pendente lite' (appointed persons and creditors)."
- "Declaration of absence or presumed death."
- "Judicial Separation of Spouses."
- "Measures to protect the interests of minors."
- "Rights of Married Women."
- "Interment or release of Lunatics."
- "Orders concerning absent and beneficiaries betrayed or lost."

Will you also submit in draft your proposals as to the Order to be issued by the Allied Military Government to carry this into effect.

3. In future all judgments will be given "in the name of the Law". Please issue the necessary instructions to that effect to all judges throughout the Occupied Territory.

4. In conclusion, I wish to draw your attention to the fact that in regards to both criminal and civil courts, the following powers are reserved to the Allied Military Government:-

(a) The right of attendance by a Civil Affairs Officer or Legal Officer at any court session:

(f).

- 2 -

- (b) The right to revise any sentence or verdict;
- (c) The right of recourse to the Military Governor by all defendants under petition by any party, when the claim is made that the judgment was affected by hostility towards the Allied Forces or was prejudicial to their interests;
- (d) The confirmation of death sentences and the power of clemency being vested in the Military Governor.

I agree with you in regard to the opening of Civil Courts and hope to be able to give the necessary instructions to that effect shortly.

ALGOT, H.Q.

W. C. ...
Lieut. Col.,
Chief Legal Officer,
ALGOT.

4
19 August, 1943.HEADQUARTERS AMGOT.

Subject: - Italian Legal Advisory Committee.

To: - All concerned.

AMGOT/4001/L.

1. CREATION OF COMMITTEE.

A Committee to be known as the "Italian Legal Advisory Committee" (hereinafter called "the Committee") is hereby created.

2. COMPOSITION OF THE COMMITTEE.

The Committee will consist of not more than seven and not less than four members appointed from those who have held high positions as judges, legal officials or members of the bar in Sicily.

3. The power of appointing and removing members of the Committee is vested in the Chief Legal Officer, AMGOT.

4. FUNCTIONS OF THE COMMITTEE.

The powers and duties of the Committee, which may be modified from time to time by the Chief Legal Officer, AMGOT, are as follows:-

- (1) To advise the Chief Legal Officer, AMGOT on any points of Italian Law or Procedure or other points connected therewith which may be submitted to it;
- (2) To advise the Chief Legal Officer, AMGOT on the functioning of Italian Courts, Judges, Judicial officials, legal practitioners or other legal personnel throughout Sicily, at any time occupied by Allied Troops and to make recommendations regarding the same particularly with a view to procuring increased speed and efficiency throughout the Italian legal system;
- (3) To advise AMGOT on any suggestions, complaints, claims or requests emanating from any Judge, Judicial official or legal practitioner addressed to the Legal Division of AMGOT;
- (4) To make recommendations for the removal or appointment of any Judge or Judicial official as may be necessary, but without prejudice to removals or appointments of any member of the Judiciary being made by AMGOT without reference to or contrary to the

4. FUNCTIONS OF THE COMMITTEE.

The powers and duties of the Committee, which may be modified from time to time by the Chief Legal Officer, ALGOT, are as follows:-

- (1) To advise the Chief Legal Officer, ALGOT on any points of Italian Law or Procedure or other points connected therewith which may be submitted to it;
- (2) To advise the Chief Legal Officer, ALGOT on the functioning of Italian Courts, Judges, Judicial officials, legal practitioners or other legal personnel throughout Sicily, at any time occupied by Allied Troops and to make recommendations regarding the same particularly with a view to procuring increased speed and efficiency throughout the Italian legal system;
- (3) To advise ALGOT on any suggestions, complaints, claims or requests emanating from any Judge, Judicial official or legal practitioner addressed to the Legal Division of ALGOT;
- (4) To make recommendations for the removal or appointment of any Judge or Judicial official as may be necessary, but without prejudice to removals or appointments of any member of the judiciary being made by ALGOT without reference to or contrary to the recommendations of the committee;
- (5) To appoint for each province a local representative previously approved by ALGOT, whose duties shall be:-
 - (a) To act as the provincial representative of the Committee;
 - (b) To advise the Senior Legal Officer of the Province on any points of Italian Law or Procedure which he may request and generally to act as intermediary between the Senior Civil Affairs Officer and the Italian Courts, Judges, Judicial officials, legal practitioners and other legal personnel in the province.
- (6) Generally to perform such other functions as ALGOT may from time to time request.

By Order of the Chief Civil Affairs Officer:

A. J. S. J.
 CHARLES M. STOFFORD,
 Lt. Colonel, G.S.C.
 Chief Staff Officer.

HEADQUARTERS - ROME.

SECRET/4004/L.

Subject:- Opening of Italian Courts.

To: All Senior Civil Affairs Officers.

1. Further to the Chief Staff Officer's instructions of the 13th instant with regard to the re-opening of Italian Courts, Provincial Senior Civil Affairs Officers are now directed to re-open all "preture" wherever they have not so far been re-established. The competence of these Courts will be exclusively criminal and specific directions will be forwarded shortly in connection with Civil Procedure.

2. The opening of Tribunale Penale, being a matter now under consideration, Senior Civil Affairs Officers and Legal Officers should take steps to prepare their re-establishment at short notice. They should contact judges and judicial personnel immediately available, ascertain that they are politically suitable to undertake their functions, instruct them to collect their archives forthwith and whenever necessary new premises will have to be found to enable them to pursue their activities.

All judicial personnel having left the district for "reasons of war" should be made to return to their posts at the earliest possible date under penalty of dismissal. Payment of their salaries will have to be assured and amounts agreed by the Financial Section.

3. As seen as these steps are taken an Provincial Senior Civil Affairs Officers are satisfied that Tribunale Penale can be re-opened without delay, an order will be issued to that effect setting forth rules and regulations under which they will be allowed to carry out their legal functions.

Temporary assignments to the Italian Penal Procedure may also be decided upon by the Chief Legal Officer in order to speed up the hearing of trials and judicial investigations, so as to relieve the present congestion of local prisons.

4. The "Tribunale Civile" will not be re-opened until further notice but this step is also under consideration. In the meantime the "Prossimato del Tribunale" will be allowed to deal with the following urgent procedures under Legal Officers' supervision:-

"Appointment of Receivers "pendente lite" ("pending persons and creditors)."

"Declarations of absence or of presumed death."

"Judicial Separation of Spouses."

Measures to protect the interests of minors (appointment

whenever necessary new premises will have to be found to enable them to pursue their activities.

All judicial personnel having left the district for "reasons of war" should be made to return to their posts at the earliest possible date under penalty of dismissal. Payment of their salaries will have to be assured and amounts agreed by the Financial Section.

3. As soon as these steps are taken an Provincial Senior Civil Affairs Officer are satisfied that Tribunale Penale can be re-opened without delay, an order will be issued to that effect setting forth rules and regulations under which they will be allowed to carry out their legal functions.

Temporary assignments to the Italian Penal Procedure may also be decided upon by the Chief Legal Officer in order to speed up the hearing of trials and judicial investigations, so as to relieve the present congestion of local prisons.

4. The "Tribunale Civile" will not be re-opened until further notice but this step is also under consideration. In the meantime the "Tribunale del Tribunale" will be allowed to deal with the following urgent procedures under Legal Officers' supervision:-

"Appointment of Receivers "pendente lite" (absent persons and creditors)."
 "Declarations of absence or of presumed death."
 "Judicial Separation of Spouses."
 "Measures to protect the interests of Minors (appointment of Guardians etc.)."
 "Rights of Married Women."
 "Intervent or Release of Lunatics."
 "Orders concerning Shares or Bonds destroyed or lost."

5. Senior Civil Affairs Officers will report on the situation in their province as soon as they are in a position to do so.

By order of the Chief Civil Affairs Officer:

Charles H. Seymour
 CHARLES H. SEYMOUR,
 Lt. Colonel, GSC.
 Chief Staff Officer.

0209