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

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DIRECTIVES, MISCELLANEOUS
AUG. 1943 - AUG. 1945

FILE CLOSED 11 August 1945

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4063 file

C O N F I D E N T I A L

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

/rlp.
11 August 1945.

AC/4076/L.

SUBJECT : Detention of neo-fascist personnel.

TO : See distribution.

1. This directive is issued to clarify the status of neo-fascist personnel who are now in custody in Italian prisons in AMG territory.
2. Certain regions are understood to desire the release without qualification of some or all neo-fascist personnel now held in custody against whom it is not intended to bring any criminal charge.

Other regions desire that for reasons either of security or public safety neo-fascist personnel now in custody should remain in custody.

3. Subject to para. 4 below, it is entirely a matter for the discretion of Regional Commissioners, to be decided upon consideration of local circumstances whether such personnel should be released or further detained, or whether some should be released and some retained.
4. So far as concerns the release of neo-fascist personnel who may have been returned to Italian custody from Allied custody it is the declared policy of Combined Chiefs of Staff that no neo-fascist who is or has been in Allied custody should be set at liberty before all cooperator personnel have been released. This latter event has not occurred. This Commission has therefore requested the Italian Government to ensure that any neo-fascist personnel handed back to the Italians from Allied custody will, unless sentenced to death or executed, remain in Italian custody until after the release of all cooperator personnel by the Allies.

5. With the exception indicated in para. 4 above, all neo-fascist personnel whom it is desired to release may be set at liberty forthwith.
6. They should not be retained in a common jail but should be transferred to an internees camp. It is appreciated, however, that in many areas this will not be possible and in such areas personnel may be temporarily retained in common jails pending removal.

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Other regions desire that for reasons either of security or public safety neo-fascist personnel now in custody should remain in custody.

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5. With the exception indicated in para. 4 above, all neo-fascist personnel whom it is desired to release may be set at liberty forthwith.

6. They should not be retained in a common jail but should be transferred to an internment camp. It is appreciated, however, that in many areas this will not be possible and in such areas personnel may be temporarily retained in common jails pending removal.

For your information, arrangements are now being discussed with ANAG whereby a large internment camp at Modena will, it is hoped, be made available for reception of all such personnel, and they may be retained in common jails until such internment camp is available.

For the Chief Commissioner:

DISTRIBUTION:

- AFHQ, C-5 Section
- RG, Liguria Region (12) (Attn: RLOs and RPSOs)
- " Piemonte (24)
- " Lombardia (24)
- " Veneto (36)
- " Venezia Giulia (24)

For distribution to PLOs and RPSOs.

- SCAO AHC 5 Army
- C-2 5 Army
- Executive Commissioner
- Land Forces S/C
- Navy S/C
- Air Forces S/C

G. Ruby
 Cl. R. UPOLI, Brig.,
 VP CA Section.

- Public Safety S/C
- Public Health S/C
- Local Govt S/C
- Legal S/C
- Education S/C
- Monuments, Fine Arts & Archives S/C
- Displaced Persons S/C

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HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

/rlp.
10 June 1945.

AG/4076/2/L.

SUBJECT : Status of neo-fascist personnel.

TO : See distribution.

1. Certain confusion appears to exist as to the status of neo-fascist military personnel who have been taken into custody by the Italian authorities or who may be apprehended in the future by either Allied or Italian authorities. It has been suggested that these personnel are entitled to treatment as prisoners of war, and in this connection reference has been made to AFHQ directive AG-383-6/121 GII-O of 6 March 1945.

2. In order to clarify the position certain questions were addressed to AFHQ and this letter is based upon the answers received. AFHQ have stated that the problem has been referred for final decision to the Combined Chiefs of Staff, and the terms of this letter are accordingly subject to any further instructions which may be issued hereafter by the Combined Chiefs of Staff.

3. In September 1944 the Italian Government agreed that Italian neo-fascists, in uniform and organized under the provisions of international law, captured by the Allies, should be treated as prisoners of war in accordance with the Geneva Convention in the same manner as German prisoners of war.

The term "neo-fascists" includes all Italian fascists who fought for the Republican Italian Government since the Italian Armistice.

4. From the point of view of the Italian Government the purpose of this agreement was, undoubtedly, to secure reciprocity of treatment for soldiers of the (official) Italian Army when captured by the Germans. It would seem to follow from this agreement that the Italian Government should not now seek to prosecute neo-fascists on the sole ground that, by fighting on the side of the Germans, they are guilty of treachery or collaboration with the Germans.

5. It is no part of this agreement that neo-fascist personnel who are now either at large or in Italian custody should be taken into Allied custody or control. On the contrary, they should be left in Italian custody and, if the Italian authorities desire to institute criminal proceedings against them, they should be allowed to remain subject to trial or other disposition in accordance with Italian law. In this connection, however, it may be desirable

fascists, in any case, should be treated as prisoners of war, captured by the Allies, in the same manner as German prisoners of war, with the Geneva Convention in the same manner as German prisoners of war.

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6. It follows from the above that where such neo-fascists have already been removed from Italian custody to prisoners of war or concentration camps and the Italian authorities desire to try them for serious crimes (and not solely on account of their neo-fascist status) they should be handed back to the Italian authorities for trial.

7. It is accordingly requested that the military authorities issue the necessary orders to prevent the further removal from Italian prisons of neo-fascist personnel now incarcerated, and to enable any such personnel who have already been removed and are required for trial as above, to be returned.

8. In certain cases in Lombardy Region persons who have been brought to trial before the Italian Courts have claimed to be outside the jurisdiction of these courts by virtue of their prisoner of war status. In such cases the court should be informed that the question is a matter solely of Italian law, to which perhaps the agreement mentioned in paragraph 3 may have some relevance, and that the Allies have no cause to intervene.

9. It is however possible that among the neo-fascists in Italian custody there may be found Italians who are listed as war criminals by the United Nations War Crimes Commission. If any such case comes to light this Commission should be informed forthwith.

10. So far as concerns neo-fascist personnel who are still at large and have not yet been taken into custody by either Allied or Italian authorities, there is no obligation on the Allies to arrest such personnel or make them prisoners of war. The decision as to the action to be taken concerning them must be the responsibility of the Italian Government, subject always to the right of the Allies to require, even in Italian Government Territory, that such personnel as may be desired shall be handed over to the Allies for internment on security grounds.

All high ranking officers of the neo-fascist navy, army and air force will be arrested, if still at large, and handed over to the Allies for internment.

BY command of Rear Admiral STONE.

G. R. UPJOHN, Brig.,
VP CA Sec, Hq AO.

DISTRIBUTION.

- RCS (Attn. FLOs)
 - TOSCANA, EMILIA, LIGURIA, PIEMONTE, LOMBARDIA, VENEZIA AND VENEZIA
 - GIULIA Regions (for distribution down to FLOs);
 - Zone Commissioners, NAZIS, ANCONA.
 - SCAOs, 5th and 8th Armies;
 - Hq, IV Corps, G-5;
 - Hq, 15th Army GP, G-5;
 - Hq, 15th Army GP, G-2;)
 - 5th Army, G-2;)
 - 8th Army, G-SI (b);)
 - AFHQ, G-5;
 - AFHQ, AG;
 - AFHQ, G-2;
 - PAAC;
 - Executive Commissioner;
 - Public Safety Sub-Commission;
- request action as in Para. 7

DISTRIBUTION.

Rcs (Attn. HLOs)
 TOCC.NL, EMILIA, LIGURIA, PIEMONTE, LOMBARDIA, VENEZIE AND VENEZIA
 GIULIA Regions (for distribution down to PLOs);
 Zone Commissioners, NAPLES, ANCONA.
 SCALOs, 5th and 8th Armies;
 HQ, IV Corps, G-5;
 HQ, 15th Army GP, G-5;
 HQ, 15th Army GP, G-2; }
 5th Army, G-2; }
 8th Army, G-SI (b); }

request action as in para. 7

- AFHQ, G-5;
- AFHQ, AG;
- AFHQ, G-2;
- RLAC;
- Executive Commissioner;
- Public Safety Sub-Commission;
- Land Forces Sub-Commission (MILIA);
- Navy Sub-Commission;
- Air Forces Sub-Commission;
- AC Liaison Officer, RLAC
- " " BARI
- " " PALERMO
- " " CAGLIARI
- " " CATANIA
- " " Questura, ROME.

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File 4883

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

11 April 1945.

AC/4159/L.

SUBJECT : Prosecutions of Partisans.

TO : Regional Commissioners, TOSCANA, EMILIA, LIGURIA,
PIEMONTE, LOMBARDIA, VENEZIA (Attn. Regional
Legal Officers)
SCAO, 5th and 8th Armies, HQ, IV Corps.

1. A problem has arisen in Umbria-Marche Region over the prosecution of partisans for offences committed during German occupation. Many of such offences e.g. taking by force of arms food and other property - were committed for genuine battle necessity, while others were committed for personal gain.

2. The solution adopted in Umbria-Marche is as follows. A committee of 3 patriots has been formed whose members have been specially selected and vetted by P.S.S. and an Italian Patriot Officer. Whenever a person claiming to be a patriot is denounced to the Procuratore del Regno, the Procuratore calls upon the committee for a dossier of the accused. On the basis of this dossier the Procuratore will decide whether the act complained of was one which was manifestly performed in course of duty and under orders, whether it was one which would be likely to fall within the ambit of the Italian amnesty decree (RDL No. 96 of 5 Apr 44) when it becomes operative in the territory, or whether it was committed for personal reasons. In the first case the Procuratore is authorized by A.M.C. to reject the denunciation; in the second to suspend action temporarily thereon in the third to proceed with the case.

3. This system is proving satisfactory in Umbria-Marche and is brought to your notice in case you wish to apply a similar solution if circumstances require.

4. It should be observed that the Minister of Justice is preparing a decree to give protection to patriots who commit offences of this nature in course of duty. The terms of the decree are not yet firm, however, and it is not possible to say whether it can be extended to A.M.C. territory.

5. The Minister of Justice is also proposing to extend for the same to the terms of the amnesty decree above mentioned, to cover

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3. This system is proving satisfactory in Umbria-Marche and is brought to your notice in case you wish to apply a similar solution if circumstances require.

4. It should be observed that the Minister of Justice is preparing a decree to give protection to patriots who commit offences of this nature in course of duty. The terms of the decree are not yet firm, however, and it is not possible to say whether it can be extended to A.M.C. territory.

5. The Minister of Justice is also proposing to extend for the benefit of patriots the terms of the amnesty decree above mentioned, to cover offences committed by patriots between 5 Apr 44 and the present time. While no final decision has been taken, the present intention is to exclude this decree from operation in A.M.C. Territory.

By command of Rear Admiral STONE.

for *W. E. Berrens Col*
 W. E. BERRENS,
 Colonel,
 Deputy Chief Legal Advisor.

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HEADQUARTERS ALLIED COMMISSION
APO 394
OFFICE OF THE EXECUTIVE COMMISSIONER

/rlp.
31 March 1945.

AC/4010/9/L.

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/E of 7 Dec 43
- DLL No. 303 of 2 Nov 44
- DLL No. 307 of 9 Nov 44
- DLL 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 FORLI 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 the 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, DLL No. 303 of 2 Nov 44, DLL No. 307 of 9 Nov 44 and DLL 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 these decrees may recom-

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3. In the provinces of FOGGIA and FAVENNA, 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. RDL No. 18/B of 6 Dec 43 will be implemented in A&S 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 Ho 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. DLL 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 FORLI 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
- 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
- DM 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

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.

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- 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 PAVENNA 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/B, DLL 303, DLL 307 and DLL 328.

c. Form of Provincial Order to be used if this Hq on the recommendation of the SC40 or Regional Commissioner authorizes the implementation of RDL No. 23/B, 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 40/4039/5/L of 2 January 1945 concerning the implementation of DLL No. 328.

Handwritten signature

NEWMAN 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)
 GA 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	

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

Copies to: Chief Commissioner (2)
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Piemonte Region	-	45 copies	
Lombardia Region	-	50 copies	
Venezia Region	-	60 copies	

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I, ERIC S. UPHAM, 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 Perugia, 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 of 2 Dec 43
- RDL No. 18 of 6 Dec 43
- RDL No. 23 of 7 Dec 43
- RDL No. 6 of 3 Jan 44
- RDL No. 11 of 13 Jan 44
- RDL 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 13 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

which implementation order/in ^{appeared} 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 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 26 Sept 44 which implementation order appeared in Gazzetta Ufficiale No. 75 dated 31 Oct 44;

- RDL No. 15 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 25 Apr 44
- RDL No. 122 of 5 Apr 44
- RDL No. 129 of 13 Apr 44
- RDL No. 131 of 9 May 44

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 Governo Italiano dall'8 settembre 1943 all'8 luglio 1944":

and in respect of:-

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 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. 76 dated 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. 65 dated 23 Nov 44;
- DLL No. 301 of 19 Oct 44 which implementation order appeared in Gazzetta Uf-
 ficiale No. 87 dated 28 Nov 44;
- DLL No. 305 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;

- 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;
- DL No. 454 of 22 Nov 44 which implementation order appeared in Gazzetta Ufficiale No. 24 dated 24 Feb 45;
- DIL No. 15 of 25 Jan 45 which implementation order appeared in Gazzetta Ufficiale No. 25 dated 27 Feb 45;
- DIL No. 58 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;

- DL No. 454 of 22 Nov 44 which implementation order appeared in Gazzetta Ufficiale No. 24 dated 24 Feb 45;
- D.L. No. 13 of 25 Jan 45 which implementation order appeared in Gazzetta Ufficiale No. 25 dated 27 Feb 45;
- D.L. No. 38 of 22 February 1945 which implementation order appeared in Gazzetta Ufficiale No. 26 dated 1 March 1945;
- D.L. No. 28 of 4 Jan 45 which implementation order appeared in Gazzetta Ufficiale No. 35 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 Mar 44;
- RDL No. 122 of 5 Apr 44;
- RDL No. 131 of 9 May 44;
- RD No. 156 of 2 Jun 44;
- D.L. No. 301 of 15 Oct 44;
- D.L. No. 276 of 20 Jul 44;
- D.M. of 28 September 44;
- D.L. No. 351 of 19 Oct 44;
- D.L. No. 360 of 19 Oct 44;
- D.L. 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 Forli' 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 43;
- DIL No. 305 of 2 Nov 44;
- DIL No. 307 of 9 Nov 44;
- DIL No. 328 of 16 Nov 44.

67

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.

0 2 3 3

And I further order that D.L. 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

- D.L. No. 23/B of 6 Dec 45;
- D.L. No. 303 of 2 Nov 44;
- D.L. No. 307 of 9 Nov 44;
- D.L. No. 328 of 18 Nov 44.

67

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. UPJOHN, 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 25 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.I. 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. 434 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, 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 from 1945 and that in the province of from 1945 and that for the dates of 1 Nov 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 there 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, D.L. No. 507 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 1945 appearing in D.L.L. No. 505, D.L.L. No. 507 and D.L.L.
 No. 528 there shall be substituted the date of
 aforesaid. 1945

(TOP HALF OF ABOVE DEFS. SEE OVER)

In conformità con le ordinanze della Commissione Alleata, 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 nella 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 della Commissione Alleata 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 nelle Province 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 5 Novembre 1944 N. 307 e nel DLL 18 Novembre 1944 N. 328 siano sostituite con la predetta data 1945.

4063

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

59A

AC 4131/L.

/pa.
10 February 1945.

SUBJECT : Burials.

TO : AFHQ, C - 5 .

1. With reference to your C-5, 293.2 of 6 Feb 45, enclosing copy of Brig. McHair's letter of 18 Jan, the question of burials in Italy is regulated by the Acta No. 148 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.W.G. Commission.

7. Considering this helpful attitude, the I.W.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

..//

Secure such provisions as will meet the difficulties set out in Brig. Hallair's letter.

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

For the Chief Commissioner :



C. R. WALKER, Brig.
VP SA Sec
Dep. Chf., AC

Incls: Copies of Decree & Agreement.

0 2 3 9

58A

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

WEE/pa.
26 Jan 45.

AC/4028/D.

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 16 June 1931, No. 775 Ch VII Arts 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 :

G. R. URJOHN, Brig.
VP. CA Sec

is not an act of the... 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.s 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 :

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

TO : S/MAGs 5th and 8th Armies.
BCs (for RMOs) 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 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

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 perquisition at any time by PS authorities - and also of execution 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 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 to offer means of procuring.
- Penalty up to six months.

5-7A

25 / Pa.
Jan 45.

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HEADQUARTERS ALLIED COMMISSION
ABO 39A
LEGAL SUP. COMMISSION

AC/HQ/L.

SUBJECT : Execution of Death Sentences.
TO : See Distribution List.

1. AFHQ has laid down the procedure for procuring the carrying out of death sentences imposed by Allied Military Courts.

2. The procedure as between this HQ and Regions or AIC of Armies will be as follows :-

- (a) As soon as possible after imposition of any sentence of death, RLO will inform this HQ by signal of :-
 - (i) The name of person convicted
 - (ii) The date of sentence
 - (iii) The place of trial (where thought necessary, specifying province)
 - (iv) The place where person convicted is held in custody at time of trial.
 - (b) On receipt of this information, this HQ will arrange for a formation to be designated to carry out the sentence if confirmed.
 - (c) Upon expiry of the period for due presentation of a Petition for Review or upon earlier receipt of a Petition for Review, the RLO will forward the record to this HQ for review by the Chief Commissioner.
 - (d) Immediately a sentence has been confirmed or commuted, this HQ will notify all concerned, including the Region in which the trial took place and the AIC of the Army concerned.
 - (e) If the sentence is confirmed, this HQ will make all necessary arrangements with the formation designated (see (b) above) and, when the execution has been carried out, will forward the record to the Region concerned for safe custody.
3. It will be seen that the responsibility of Regions is virtually confined to supplying the information required under para 2 (c) : without this information this HQ cannot make the necessary arrangements and therefore RLOs will please ensure that such information is supplied accurately, fully and promptly.

- (i) The name of person convicted
 - (ii) The date of sentence
 - (iii) The place of trial (where thought necessary, specifying province)
 - (iv) The place where person convicted is held in custody at time of trial.
- (b) On receipt of this information, this HQ will arrange for a formation to be designated to carry out the sentence if confirmed.
 - (c) Upon expiry of the period for due presentation of a Petition for Review or upon earlier receipt of a Petition for Review, the RIO will forward the record to this HQ for review by the Chief Commissioner.
 - (d) Immediately a sentence has been confirmed or commuted, this HQ will notify all concerned, including the Region in which the trial took place and the AAG of the Army concerned.
 - (e) If the sentence is confirmed, this HQ will make all necessary arrangements with the formation designated (see (b) above) and, when the execution has been carried out, will forward the record to the Region concerned for safe custody.

3. It will be seen that the responsibility of Regions is virtually confined to supplying the information required under para 2 (a) : without this information this HQ cannot make the necessary arrangements and therefore HQs will please ensure that such information is supplied accurately, fully and promptly.

By command of Rear Admiral STONE :

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

DISTRIBUTION :

SCAO 5th Army	(5)
SCAO 8th Army	(3)
R.C. (for R.L.O.) Sicilie Region	(1)
" " " " Southern Region	(3)
" " " " Lazio-Umbria Region	(3)
" " " " Abruzzi-Marche Region	(3)
" " " " Sardegna Region	(1)
" " " " Toscana Region	(3)
" " " " Emilia Region	(3)
" " " " Liguria Region	(3)
" " " " Piemonte Region	(3)
" " " " Lombardia Region	(3)
" " " " Venesia Region	(3)

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HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ART/pa.
21 Sept 44.

ACC/4007/L.

SUBJECT : Marriages.
TO : Regional Legal Officers (thru:Regional Commissioners)
Regions 1, 4, 5, 6, 8, 9, 11 & 12 .
Southern, Liguria and Piemonte Regions .

1. The attached copies of War Office letter, 110/General/7024 (AG 3B) of 31 July, received through AFHQ, relating to the giving of advice on questions of the solemnization of marriage by legal officers in ACC/AMG to members of H.M.Forces, are forwarded for information and necessary action. Copies of the above mentioned letter should be distributed to all legal officers in your Region.

2. Please acknowledge receipt.

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

Enclos. : Copy letter.

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COPY

THE WAR OFFICE
London, S.W.I.

110/General/7024 (A.G.3.B.)

31st July, 1944

Sir,

I am commanded by the Army Council to inform you that in a Command abroad in which the most detailed orders have been published regarding the solemnisation of marriages under S.22 of the Foreign Marriage Act of 1892, a difficult legal situation seems to have been created for the parties to a marriage who acted upon the mistaken advice given to them by a legal adviser to the Allied Military Government in the Command in question, on the steps to be taken to ensure the solemnisation of a valid marriage.

I am to request you to ensure that when the marriage of a member of H.M. Forces is in question the legal adviser of an Allied Military Government should, unless they have been specially authorised by you to do so, in future refrain from advising on the nature of the ceremony or on the conditions in which it should take place except perhaps in the case in which a ceremony under the local law is required, and has been duly authorised by the military authorities.

I am,
Sir,
Your obedient servant,

(sgd) 2222

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The Commander in Chief Middle East.
The Commander in Chief 21 Army Group.
The Commander in Chief 11 Army Group.
The Commander in Chief A.A.I.
The Supreme Allied Commander,
Mediterranean Theatre.

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HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

/rlp.
15 September 1944.

ACC/4066/L.

SUBJECT : Officers Promotions - British.

TO : Regional Legal Officers (THRU: Regional Commissioners),
Regions I, IV, V, VI, VIII, IX, XI and XII, SOUTHERN REGION,
PIEMONTE and LIGURIA Regions.

1. G-1 B/51/A of 12 Sept 44 alters the procedure for the recommendation of British officers for promotion.

2. Under the new procedure, the quarterly return does not itself constitute a recommendation for promotion; it is merely a record of those officers in respect of whom a recommendation on AFB 194 D has already been submitted, but who have not been promoted since that submission.

3. Will RLOs make sure that in respect of all British legal officers whom they consider to be fit for promotion on AFB 194 D has been submitted. If not, will they arrange for one to be submitted as soon as possible.

4. It is pointed out that all previous recommendations for promotions which have been made on the quarterly return and have not been supported by AFB 194 D are regarded as cancelled.

5. In accordance with existing procedure recommendations must be made by Regional Commissioner.

for *WSEB* *Edwards* *Car*
RICHARD H. WILMER,
Colonel, CAC,
Chief Legal Officer.

Copy to: ACC/4066/1/L.

357A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

/rlp.
15 September 1944.

ACC/4066/L.

SUBJECT : Officers Promotions - British.

TO : Regional Legal Officers (THRU: Regional Commissioners),
Regions I, IV, V, VI, VIII, IX, XI and XII, SOUTHERN Region,
PIEMONTE and LIGURIA Regions.

1. G-1 B/51/A of 12 Sept 44 alters the procedure for the recommendation of British officers for promotion.
2. Under the new procedure, quarterly return does not itself constitute a recommendation for promotion; it is merely a record of those officers in respect of whom a recommendation on AFB 194 D has already been submitted, but who have not been promoted since that submission.
3. Will RLOs make sure that in respect of all British legal officers whom they consider to be fit for promotion on AFB 194 D has been submitted. If not, will they arrange for one to be submitted as soon as possible.
4. It is pointed out that all previous recommendations for promotions which have been made on the quarterly return and have not been supported by AFB 194 D are regarded as cancelled.
5. In accordance with existing procedure recommendations must be made by Regional Commissioner.

for
W.E. Behrens Col
RICHARD H. WILMER,
Colonel, CAC,
Chief Legal Officer.

Copy to: ACC/4066/1/L.

(S/A)

HEADQUARTERS
 ALLIED CONTROL COMMISSION
 LEGAL SUB-COMMISSION
 APO 394

ACC/4067/L.

WEB/pa.
8 Sept 44.

SUBJECT : Requisitioning of Italian Government Vehicles assigned to Court Officials and Courts.

TO : RLOs (Regional Commissioners) Regions I, IV, V, VI, VIII, IX, XI and XII.
 Southern, Piemonte and Liguria Regions.

1. Under HQ, ACC Establishment Memorandum 21, Para 12, it is provided that civilian vehicles belonging to the Italian Government will not be requisitioned.

2. For the purpose of this Memo the term " the Italian Government " includes all Court Officials while acting in the course of their duty.

3. Please take steps therefore to ensure that no car is requisitioned which is being used by any court officials or other officers of the Ministry of Justice in your Region. If there is any doubt whether a particular vehicle is being so used a certificate should be obtained from the Ministry .

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

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HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APD 394

ACC/4089/3/L.

/ra.
26 Aug 1944.

SUBJECT : Legal Work in Army Areas.
TO : Regional Legal Officers, (thru Regional Commissioners) Regions 5,
8, 9, 10, 11 & 12.

1. The following instructions, which have been agreed with AMC 5th and 8th Armies, are issued to define your responsibilities in respect of provinces which are geographically within your region but portions of which may lie within an Army Area.
2. SCAO of the Army is responsible for the administration of law in such provinces : this responsibility the SCAO discharges through the appropriate Provincial Legal Officer, who will be working under command of the SCAO.
3. The review of cases tried in such provinces (except cases the review of which is reserved to the Chief Commissioner) will be carried out at Regional HQ : and for this purpose any such trial will be deemed to have been held within a Region (see Consolidated Instructions for AM Courts Art. 32, 3(b).)
4. Regional Legal Officers will be responsible for the storage and safe custody of Court Records of trials held in such provinces in accordance with the Consolidated Instructions Art. 31 .
5. Regional Legal Officers may communicate with their respective Provincial Legal Officers on purely legal matters eg. advice on legal questions, acting as the channel of communication between the Legal Sub-Commission and Legal Officers in the field. They will refrain from interfering with the normal work of the Provincial Legal Officers who, so long as their respective provinces remain in Army Areas, are working under command of the SCAO.
6. To give effect to the above SCAO's of both Armies have issued instructions as follows :
 - To CAOs : to consult with the Provincial Legal Officer on legal matters: and to pass to the Provincial Legal Officer Court Records and Petitions for Review.
 - To PLOs : to cooperate with CAOs on the above : to consult with the Regional Legal Officer on purely legal matters: and to pass to the Regional Legal Officer cases for review and records for storage and safe custody.

Richard H. Wilmer

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

Copy to : 5th and 8th Armies .

4119 spare
✓ *[Signature]*

5-2A

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

Ref : 773/25/CA. 26 August 1944
SUBJECT : War Crimes
TO : S.C.A.O. 5 & 8 Armies.
R.C.s Regions I, II, III, IV, V, VI, VII, VIII, IX and "Z"

The procedure in future for the reporting of War Crimes or suspected war crimes will be as follows:-

(a) For Armies.

Information received or which comes to the notice of AMG Officers with the British Armies will be passed immediately through their S.C.A.O's to the H.Q. of the Army with which they are serving. The Army concerned will thereafter pass the information direct to G-5 AMHQ. Similar instructions will be issued in due course dealing with American Armies.

(b) For Regions.

Reports received by Officers of A.C.C. in Regions should (as in the past) be passed through their Regional Commissioner to this HQ who will forward to G-5 AMHQ.

36

[Signature]
fv

NORMAN E. DISKE
Colonel,
Deputy Executive
Commissioner.

Copy to: AMHQ (your G-5, 010-2 of 20 Aug refers).
Adm. Section

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB COMMISSION
APO 394

(51A)

ACC/4034/8/L.

/rlp.
19 August 1944.

SUBJECT : Allied war supplies as abandoned property.
TO : RLOs (THRU: RCOs), Regions I, II, III, IV, V, VI, VII, VIII, IX & Z;
PIO (THRU: PC), Foggia Province.

1. The question has recently arisen whether Allied war supplies lying about the countryside are abandoned property which a civilian may legally take for his own use.
2. Property is not abandoned unless the owner intends to relinquish title thereto and so far as Allied war supplies are concerned, the owner is the War Department. A unit or formation may move and either intentionally or accidentally leave certain articles behind. These articles are not abandoned. They may still be salvaged, and they remain the property of the War Department until an official decision to abandon them has been made on behalf of the War Department by the appropriate salvage or other authority.
3. It follows that it is no defense to a charge of wrongful possession for the accused to say that he thought goods were abandoned. To substantiate his defense he must show an official act of abandonment by the appropriate authority. If he cannot show this he must be convicted and the property restored to the War Department. The general circumstances will, of course, be taken into account in fixing the appropriate punishment.
4. The position is different in relation to enemy war supplies. An occupying force does not automatically acquire title to enemy war supplies in the occupied territory; it only acquires the right to take possession of any public movable property of which it can directly or indirectly make use for military operations. It follows that war supplies left behind by the enemy become the property of the Allied Forces when, but only when, some act is done by the Allied Forces to reduce them into possession. In areas where the new proclamations are posted the interests of the Allies are protected by Proc I, Art V, para 28.
5. Sufficient copies of this instruction are enclosed for distribution to all legal officers in your region: they should bring the contents to the notice of other officers sitting on courts within their respective provinces.

55

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

Copies to: ROCMC Sec (6).

50A

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
AP O 394

ACC/4002/L

4 AUG 44.

SUBJECT : Powers of FLOs for release of prisoners pending review.

TO : Regional Legal Officers, Regions 3, 4, 5, 8, 9 & "Z"

1. At the conference of FLCs held at HQ ACC on 1 August 44 the point was raised that in cases where a short term of imprisonment is imposed, the term (or at least a substantial part of it) is frequently served before the Decision on Review can be communicated and thereby an injustice is caused if the reviewing authority considers the conviction wrong or the sentence excessive.

2. The point is one of substance, but it is not the policy to delegate the power of review below Regional H.Q. To meet the point Regional Legal Officers are authorised to instruct Provincial Legal Officers as follows :

3. (a) In any case in which a sentence of imprisonment of three months or less has been imposed by a Summary Military Court, a Provincial Legal Officer may order the release of the accused pending receipt of the Decision on Review if he is of opinion:-

- (i) that the accused has been wrongly convicted; or
- (ii) that the term of imprisonment will be reduced on Review to a period less than the time necessary to obtain a Decision on Review.

(b) Any such release will be on such terms and subject to such conditions as, in the opinion of the Provincial Legal Officer, are adequate to ensure the availability of the accused upon receipt of the Decision on Review.

(c) This power is discretionary; it will be used sparingly and only in cases where the opinion of the Provincial Legal Officer it is necessary to avoid a substantial injustice.

(d) In any case in which this power is exercised the Provincial Legal Officer will endeavour to forward the Record with any Petition for

Authority considers the conviction wrong or the sentence excessive.

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 - (ii) that the term of imprisonment will be reduced on review to a period less than the time necessary to obtain a Decision on Review.
- (b) Any such release will be on such terms and subject to such conditions as, in the opinion of the Provincial Legal Officer, are adequate to ensure the availability of the accused upon receipt of the Decision on Review.
- (c) This power is discretionary; it will be used sparingly and only in cases where the opinion of the Provincial Legal Officer it is necessary to avoid a substantial injustice.
- (d) In any case in which this power is exercised the Provincial Legal Officer will endeavour to forward the Record with any Petition for Review as soon as possible and, in so forwarding it, he will specifically inform Regional HQ of the action taken by him so that the case may be promptly reviewed.

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

Copy to : FLOs Regions 1, 2, 6, & 7.

0 2 5 5

49A

C O N F I D E N T I A L

HEADQUARTERS
ALLIED CONTROL COMMISSION
IS & IIC REGION
APO 594.

ACC/4016/5/L.

/rlp.
29 July 1944.

SUBJECT : Trial and possible involvement of accused in connection with security offences.

TO : Regional Legal Officers (TRIG: Regional Commissioners),
Regions I, II, III, IV, V, VI, VII, VIII, IX, Z, REE Region and
FIO Pacific (TRIG: PC).

1. When persons are brought to trial on charges of some serious security offence such as espionage, sabotage or major subversive activities, it must be clearly understood by all concerned that all evidence required to support the prosecution's case must be given in court (a closed court may be ordered) and that full right of cross examination of witnesses on all relevant matters in the presence of the accused and their counsel must be permitted.
2. In the event that a substantial number of persons are involved in one particular offence and it does not appear that a reasonably strong case can be made against some of them or if they were found guilty sentences would likely be light, generally only the ring-leaders should be tried, the remainder being interned, if this is required by the security agencies, and not tried. The reason for this is that, where there are many accused each with his own counsel, the trial is unduly prolonged and complicated with no real substantial end accomplished as to the doubtful or minor offenders; with the limited personnel now available for Allied Military Courts it is obvious that long trials must be avoided whenever possible.
3. When such persons are brought to trial for such an offence, it is frequently necessary for reasons of security that such persons should be interned after the conclusion of the trial even in the event of their acquittal.
4. In such cases, the fact that the accused is not set at liberty when acquitted is liable to create an unfortunate impression. It is realized, however, that the requirements of security must override this consideration, and in order to dispell or forestall any misunderstanding or undue criticism, the following procedure should be followed:
 - a. When the Iq or security agency which is responsible for bringing the case to trial considers that the accused should be interned even in the event of acquittal, this fact will be notified before the commencement of the trial to the President of the Court and to any other ACC/IKG officers who may be directly concerned with the case. It will then be made quite clear to the

that it is to be permitted of the charges

2. In the event that a substantial number of persons are involved in one particular offense and it does not appear that a reasonably strong case can be made against some of them or if they were found guilty sentences would likely be light, generally only the ring-leaders should be tried, the remainder being interned, if this is required by the security agencies, and not tried. The reason for this is that, where there are many accused each with his own counsel, the trial is unduly prolonged and complicated with no real substantial end accomplished as to the doubtful or minor offenders; with the limited personnel now available for Allied Military Courts it is obvious that long trials must be avoided whenever possible.

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a. When the IC or security agency which is responsible for bringing the case to trial considers that the accused should be interned even in the event of acquittal, this fact will be notified before the commencement of the trial to the President of the Court and to any other AGC/IKG officers who may be directly concerned with the case. It will then be made quite clear to the accused, at the opening of the Court, that, if he is acquitted of the charges preferred against him, he will nevertheless be interned immediately after the trial, as he is considered a danger to Allied security. It will be explained to him that internment is distinct from imprisonment.

b. At the conclusion of the trial it will be the responsibility of the IC or security agency concerned to arrange for the accused, after his acquittal, to be moved under escort from the Court to the nearest PW Camp or Camp for evacuation to 371 PW Camp. He should NOT be returned to prison.

5.8. He M.I under date of 19 July 1944 has issued a memorandum covering the contents of paras 3, 4 and 4 fore going.

Richard H. Wilmer

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

CONFIDENTIAL

48A

MINISTRY OF PARDON AND JUSTICE
DIRECTOR GENERAL FOR PENAL MATTERS

OFFICE NO. 1

ACC/4160/L.

ROME, July 1944.

SUBJECT : Penal Proceedings regarding violations of the regulations governing the consigning of wheat and barley.

- To the Procuratori Generali
- To the Avvocati Generali at the Courts of Appeal Sections
- To the Procuratori del Re

And for information

- To the First Presidents of the Courts of Appeal and
- To the Ministry for Agriculture and Forestry.

The complete and absolute necessity, in the present state of affairs, to secure the supply of foodstuffs indispensable to the Armed Forces and to the Italian civilian population, renders it urgent that the most rapid and exemplary lawful punishment should be meted out by the judicial authorities in penal proceedings for rationing offences which involve violations of the recent Ministerial Decree of 2 May 1944 published in the Official Gazette No. 24 - Special Serie concerning the control of consigning wheat and barley of the harvest now in progress.

It is absolutely indispensable, above all, for the purpose of example for preventative effect, that every evasion of this control should be dealt with immediately with the most effective repressive measures and thus avoid fresh and still graver damage to our martyred and suffering country.

In full agreement with the competent Allied authority, I, therefore, recommend Your Excellencies' most strongly, to dispose, and to watch scrupulously, the proceedings for violations of the duty to consign wheat and barley shall, if at all possible, be dealt with by the "direttissima" process (speedy trial) or if that is absolutely impossible, by a summary investigation to be conducted with the greatest speed and that such proceedings shall be brought to trial by the immediate dispatch of the "richiesta" (Trans. Note:- i.e., the request for trial from the Pubblico Ministero to the giudice) in summary investigation proceedings and of the "decreto di citazione" (T. N.:- i.e., the summons for trial issued by the giudice), and to ensure that they are set down for trial and tried in precedence to all other penal proceedings with the sole exception of the absolute precedence that must be accorded, as set out in the instructions given by circular No. 25022 of 8 March 1944, to all proceedings concerning offences committed to the prejudice of the Allies. You should also supervise closely that in addition to

0 2 5 8

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It is absolutely indispensable, above all, for the purpose of example for preventative effect, that every evasion of this control should be dealt with immediately with the most effective repressive measures and thus avoid fresh and still graver damage to our martyred and suffering country.

In full agreement with the competent Allied authority, I, therefore, recommend Your Excellencies' most strongly, to dispose, and to watch scrupulously, the proceedings for violations of the duty to consign wheat and barley shall, if at all possible, be dealt with by the "direttissima" process (speedy trial) or if that is absolutely impossible, by a summary investigation to be conducted with the greatest speed and that such proceedings shall be brought to trial by the immediate dispatch of the "richiesta" (Trans. Note:- i.e., the request for trial from the Pubblico Ministero to the giudice) in summary investigation proceedings and of the "decreto di citazione" (T. N.:- i.e., the summons for trial issued by the giudice), and to ensure that they are set down for trial and tried in precedence to all other penal proceedings with the sole exception of the absolute precedence that must be accorded, as set out in the instructions given by circular No. 25022 of 8 March 1944, to all proceedings concerning offences committed to the prejudice of the Allies. You should also supervise closely that in addition to the exact, exhausting and rapid collection of evidence by the judicial police authorities, notifications of the investigation proceedings preliminary to the trial are executed with the greatest diligence and care, thereby excluding as far as possible any grounds for adjournment of the hearings and you should require every judge to endeavor in regard to sentences, even where the grant of some benefit of law is involved, to be inspired by those standards of severity which the character of the infringement makes fully legitimate in this present most exceptional state of affairs.

I expect an immediate confirmation and intend to provide for a direct snap control of procedural records on the spot through officials of the Ministry sent out on special missions for this purpose.

In the meantime the Procuratori Generali and Avvocati Generali shall forward to me a summary report on the course, outcome and duration of every proceeding of this type indicating any irregularity which may have occurred.

THE MINISTER

Army 8th Army 95A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APQ 394

/rlp.
27 July 1944.

ACC/4160/L.

SUBJECT : Instructions to P.G. and Adv. Gen. and Proc. del Regno in connectio
with offences under the Ministerial Decree of 2 May 44 (ARRASSI).

TO : See Distribution List.

1. A copy of a circular from the Minister of Justice to all Pubblici Ministeri is enclosed. Sufficient copies are provided for distribution to legal officers.
2. It stresses the necessity of speeding proceedings and urges the officials concerned to keep a strict control on all proceedings initiated in connection with the above type of offence.
3. It is hoped that this document will serve a useful purpose, and it will be the duty of legal officers to see that all Pubblici Ministeri keep to the letter and the spirit of the directives therein contained.

Richard H. Wilmer

RICHARD H. WILMER,
Colonel, G.I.C.,
Acting Chief Legal Officer.

DISTRIBUTION:

Region 1	-	17 copies
" 2	-	12 "
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" 8	-	15 "
" 9	-	15 "
RCIE Region	-	20 "
5th Army	-	8 "
8th Army	-	13 "

) To SLOs (TIRO: SCAGs)

RLOs (TIRO: RCs) for distribution to legal officers.

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Acting Chief Legal Officer.

RLOs (THRU: RCOs) for distribution to legal officers.

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Region 1	- 17 copies	} To SLOs (THRU: SCAOs).
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8th Army	- 13	



12 copies held in Register

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ACC/4011/12/L.

MINISTRY OF PARDON AND JUSTICE
OFFICE OF THE DIRECTOR GENERAL
FOR PENAL MATTERS

478

Prot. No.

OFFICE 1

ROME

July 1944.

SUBJECT : Offences to the prejudice of the Allies and conditional suspensior 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 8 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 Military 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 circumstance of the time and place at which the criminal act took place; it is obvious that the same illegal act may assume a different degree of seriousness according to the varying general social and political situation prevailing at the time of its perpetration and also according to the different type of the offence and according to the collective interests connected at a certain moment with such type of offence.

Thus there does not seem to be any doubt that in the exceptional circumstances existing at present in our country any offence committed to the prejudice of the interests of the United Nations assumes a particularly serious character in that it reveals a conspicuous criminal tendency which can only seldom be reconciled with the assumption that the guilty person will be deterred from committing further crimes and thus the fundamental juridical supposition that is the basis for applying conditional suspension of penalty is lacking.

I, therefore, ask Your Excellencies, kindly, to provide along the general lines of the above considerations, that the aforesaid restrictive rule shall be applied as strongly as possible by all the organizations of the Pubblico Ministero before the competent judicial authorities, also where suitable by contesting decisions.

THE MINISTER.

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HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4011/12/L.

/rlp.
28 July 1944.

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 Hq. Sufficient copies are provided for distribution to RLOs, PLOs and LOs.

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 LOs to see that all Italian officials concerned follow the spirit as well as the letter of the ministerial directive.

Richard H. Wilmer

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

DISTRIBUTION:

Region 1	- 17	copies	} To RLOs (THRU: RCOs) for distribution to PLOs and LOs.
" 2	- 12	"	
" 3	- 15	"	
" 4	- 25	"	
" 5	- 15	"	
" 6	- 10	"	
" 7	- 10	"	
" 8	- 15	"	
" 9	- 15	"	
ROME Region	- 20	"	} To SLOs (THRU: SCROs).
5th Army	- 8	"	
8th Army	- 13	"	

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Legal
8/11/44
46A



HEADQUARTERS,
ALLIED CONTROL COMMISSION,
APO 394.

Regional Control and Military Government Section.

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Ref: 17/43/CA.

4 July, 1944

EXECUTIVE MEMORANDUM

NUMBER.....68

RELATION BETWEEN ALLIED CONTROL COMMISSION
HEADQUARTERS AND REGIONS. REGIONAL ORDERS.

1. The powers delegated to Regional Commissioners are set out in Paragraph 1 of Executive Memorandum No. 30, to which this Memorandum is supplemental.
2. This Memorandum is issued with the intention of clarifying the principles which should govern the publication of Regional Orders in whatever form or by whatever description promulgated.
3. Regional Orders must not deal with over-all policies, such as censorship and defascistization.
4. Matters involving long term policy (i.e. extending beyond occupation) should be done by Italian decree, or by General Order (where it will take too long to await the issuance of an expected Italian decree), and not by Regional Order. A simple machinery has been established whereby Italian decrees can be made effective in Military Government Territory by endorsement signed by the Executive Commissioner and published in the Gazzetta Ufficiale. The above procedure should be followed whenever possible and HQ. ACC should be approached to make the necessary arrangements.
5. It is important that Regional Orders should not contravene

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5. It is important that Regional Orders should not contravene Proclamations or General Orders. It is not permissible for a Regional Order to purport to amend or construe a Proclamation or General Order, and any attempt to do so is legally ineffective. Further it is not permissible for a Regional Order to purport to transfer to Italian Courts the trial of offences which would normally be heard before Allied Military Courts. Whenever it is desired to make any such transfer, the matter must always be referred to HQ ACC.
6. Every Regional Order is to be submitted before signature to the Regional Legal Officer, who should sign a certificate that the Order conforms with the principles laid down above and is in proper form for signature.



Brigadier,
Executive Commissioner.

GWIS/JG.

DISTRIBUTION:

"A"

NEW SERIES

30 June 44

USA

ACC/4027/3/L

Analogy of offences established by the Proclamations of Allied Military Government with corresponding offences under Italian Law.

PROCLAMATION NO. 1

ARTICLE IV

No. 1. Cases under this Section may be either:

e. Serving (aiuto) the enemy as a spy. This corresponds to the offence of espionage, provided for by Art. 257 of the Penal Code if committed by a civilian and by Art. 59 of the Military Penal Code of War if committed by a soldier. That these articles may be applied to espionage to the prejudice of the Allied forces now that the status of cobelligerency has been conceded is shown by Article 268 P.C. and Art. 15, M.P.C.W.

Jurisdiction in every case lies with the Military Tribunal.

or, b. Harboring or aiding an enemy spy. This corresponds to Art. 62 M.P.C.W. Jurisdiction lies in every case with the Military Tribunal.

No. 2. Classification of this type of offence will be according to the different facts of individual cases. If it is a matter of giving intelligence or of corresponding with the intention of helping the enemy Art. 54 of the M.P.C.W. applies as regards military personnel and Art. 247 P.C. as regards civilians; both come within the jurisdiction of the Military Tribunal. If there is no intention of assisting the enemy, the following articles apply according to the facts of individual cases and to the status, whether military or civilian of the accused: Art. 56 M.P.C.W. (unlawful communication with the enemy by a soldier), Art. 78 M.P.C.W. (communicating information by means of correspondence by any person) and Art. 93 M.P.C.W. (Violation of orders and other provisions made by the military authorities by any person); all these cases are within the jurisdiction of the Military Tribunal.

No. 3. The first part of this Section is as for number 2. But the second part is akin to omitting to denounce crimes, provided for by Arts 361 to 363 P.C. as regards public officials or persons employed in the public service, and by Art. 364 P.C. as regards ordinary citizens; all cases being within the jurisdiction of the Pretor or the Tribunale, with penalties established by law by Art. 30 et seq. of the Code of Penal Procedure. Furthermore, Arts. 85, 86 and 90 of M.P.C.W. may be applied where appropriate; such cases being within the jurisdiction of the Military Tribunal.

No. 4. If committed by a civilian, Art. 242, P.C. If committed by military personnel, Art. 77 M.P.C.P., together with Art. 50 M.P.C.W.

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- No. 3. The first part of this Section is as for number 2. But the second part is akin to omitting to denounce crimes, provided for by Arts 561 to 563 P.C. as regards public officials or persons employed in the public service, and by Art. 564 P.C. as regards ordinary citizens; all cases being within the jurisdiction of the Pretor or the Tribunale, with penalties established by law by Art. 30 et seq; of the Code of Penal Procedure. Furthermore, Arts. 85, 88 and 90 of M.P.C.V. may be applied where appropriate; such cases being within the jurisdiction of the Military Tribunal.
- No. 4. If committed by a civilian, Art. 242, P.C. If committed by military personnel, Art. 77 M.P.C.P., together with Art. 47 M.P.C.V. Where these do not meet the case, Art. 50 M.P.C.V. Jurisdiction in every case lies with the Military Tribunal.
- No. 5. Art. 698 P.C. within the jurisdiction of the Pretor. Then with the failure to surrender arms there is in addition the act of carrying arms outside one's own home, Arts. 17 and 42 of the Consolidated Text of the Law of Public Security 18 June 1951 or Art. 699 P.C. will also apply; all cases are within the jurisdiction of the Pretor. Moreover, if the case so warrants, Art. 93 M.P.C.V. may apply.
- No. 6. Art. 93 M.P.C.V. as it concerns provisions regarding military defense. Jurisdiction lies with the Military Tribunal.
- No. 7. Art. 247 P.C., if the deceit has been effected with the intention of aiding the enemy. Jurisdiction lies with the Military Tribunal.
- No. 8. Art. 127 M.P.C.V. for cases provided for therein, within the jurisdiction of the Military Tribunal.
- No. 9. Art. 51 M.P.C.V. for military personnel. Art. 247 C.P. for civilians.

- No. 10 As regards civilians and according to the reason for the entrance being made, Art. 260, P.C. within the jurisdiction of the Military Tribunale or Art. 682 P.C. within the jurisdiction of the Pretor. In other cases Art. 63 M.P.C.W. may also apply and lies within the jurisdiction of the Military Tribunale. As regards military personnel, Art. 90 M.P.C.P. together with Art. 47 M.P.C.W. or Art. 65 M.P.C.W. will apply.
- No. 11 Art. 624 P.C. (theft (furto semplice)) within the jurisdiction of the Pretor or when accompanied by aggravating circumstances (furto aggravato) (as set out in Arts. 61 or 625 of P.D.) within the jurisdiction of the Tribunale. As regards military personnel Art. 230 et seq. M.P.C.P. (theft) may also be applied, within the jurisdiction of the Military Tribunale; (Art. 158 M.P.C.W. within the jurisdiction of the Tribunale (sabotage) or Art. 345 M.P.C.W. within the jurisdiction of the Tribunale. Also Art. 643 P.C. (receiving) or 712 P.C. (wrongful possession). Art. 158 M.P.C.W. within the jurisdiction of the Military Tribunale (sabotage) or Art. 545 R.D. No. 1415 of 8-7-1938 within the jurisdiction of the Tribunale.
- No. 12 As preceding paragraph.
- No. 13 As No. 12.
- No. 14 Art. 575 et seq: within the jurisdiction of the Court of Assize. The Italian Law, in fact, does not consider it an especially aggravating circumstance or as a different category of the main offence when the victim of the homicide is of military status except when the soldier is on duty (Art. 140 M.P.C.W.; applying to other persons not of the armed forces by Art. 14 M.P.C.W.), or except when the facts of the case amount to insubordination in accordance with Art. 186 et seq. M.P.C.W. or to abuse of authority (abuso di autorita) in accordance with the rules in Art. 195 M.P.C.W. Such cases are within the jurisdiction of the Military Tribunale.
- No. 15 Attempted homicide (Arts. 575 et seq; and 56 of P.C.) or attempted injury (Art. 582 and 56 of P.C.) being within the jurisdiction respectively of the Court of Assize or of the Pretor except where the rules set out in the preceding paragraph may be applied for offences against military personnel, insubordination or abuse of authority.
- No. 16 Art. 285 P.C. (against the security of the State) - Art. 419 P.C. (Saccheggio)
- No. 17 In appropriate cases Art. 193 or 197 of M.P.C.W.; within the jurisdiction of the Military Tribunale, otherwise the law of theft (Arts. 624 and 625 P.C.) within the jurisdiction of the Pretor or of the Tribunale with penalties fixed by law. (Art. 30 et seq. C.P.P.).
- No. 18 Art. 519 P.C.; jurisdiction of Tribunale. In cases of attempting to commit the offence, Art. 56 P.C. together with Art. 519 will apply.

Italian law, in fact, does not combine the category of the main offence when the victim circumstance or as a different category of the main offence when the soldier is on duty of the homicide is of military status except when the soldier is on duty (Art. 140 M.P.C.M.; applying to other persons not of the armed forces by Art. 14 M.P.C.M.), or except when the facts of the case amount to insubordination in accordance with Art. 186 et seq. M.P.C.W. or to abuse of authority (abuso di autorità) in accordance with the rules in Art. 195 M.P.C.W. Such cases are within the jurisdiction of the Military Tribunale.

- No. 16 Attempted homicide (Arts. 575 et seq. and 56 of P.C.) or attempted injury (Art. 582 and 56 of P.C.) being within the jurisdiction respectively of the Court of Assize or of the Pretor except where the rules set out in the preceding Article may be applied for offences against military personnel, insubordination or abuse of authority.
- No. 17 Art. 285 P.C. (against the security of the State) - Art. 419 P.C. (Saccoheggio)
- No. 18 In appropriate cases Art. 195 or 197 of M.P.C.W.; within the jurisdiction of the Military Tribunale, otherwise the law of theft (Arts. 624 and 625 P.C.) within the jurisdiction of the Pretor or of the Tribunale with penalties fixed by law. (Art. 50 et seq. C.P.P.).
- No. 19 Art. 519 P.C.; jurisdiction of Tribunale. In cases of attempting to commit the offence, Art. 56 P.C. together with Art. 519 will apply. See also Art. 521 P.C.
- No. 20 Art. 476 et seq. P.C.; within the jurisdiction of Tribunale or the Pretor according to the penalties fixed by law (Art. 51 et seq. C.P.P.) when, moreover, it is a case of the using of a false document Art. 489 P.C. applies.
- No. 21 as regards military personnel recourse must be had, according to the individual case, to Art. 220 M.P.C.P. or for cases not provided for by this Article to the regulations of the ordinary P.C. (Art. 476 et seq) for offences of fraud (also) - Jurisdiction as regards military personnel lies with the Military Tribunale.
- Instigation not followed by commission of the offence urged may be dealt with under Art. 78 M.P.C.P. for military personnel or Art. 302 P.C. for civilians; in both cases jurisdiction lies with the Military Tribunale. Where armed insurrection follows, Art. 284 P.C. applies for civilians. Art. 77 M.P.C.P. for military personnel. In trivial cases (seditious shouting or displays at a public gathering) Art. 654 P.C. may apply. Jurisdiction lies with the Pretor. See also Arts 174 et seq. M.P.C.P.

No. 22. Art. 453 et seq. Jurisdiction lies with the Court of Assise.
 No. 23. Title IV M.P.C.M. Jurisdiction lies with Military Tribunal, -or Book II, Chap. 1 P.C.

ARTICLE V

No. 24. Art. 93 M.P.C.M. Jurisdiction with Military Tribunal.
 No. 25. As No. 24.
 No. 26. As for cases of false evidence (Art. 372 P.C.). Jurisdiction lies with Pretor except in cases of aggravating circumstances as set out in Art. 375 P.C.

No. 27. Art. 156 M.P.C.M. (scholares) within the jurisdiction of Military Tribunal or Art. 345 PD 1415, 6-7-1958 within the jurisdiction of the Tribunal.
 Art. 624 P.C. (ibid). Jurisdiction lies with Pretor. In cases of aggravating circumstances as set out in Art. 61 P.C. or 625 P.C. Jurisdiction lies with Tribunal. For military personnel in other cases Art. 230 (Theft) et seq. M.P.C.M. also will apply. Art. 648 P.C. (receiving) if the accused is aware of the illegal origin of the article. Jurisdiction lies with the Tribunal. If the accused is not aware that the origin was illegal Art. 712 P.C. Jurisdiction lies with the Pretor.

No. 28. Art. 93 M.P.C.M. - Jurisdiction lies with the Military Tribunal.
 No. 29. Art. 640 P.C. applies. Jurisdiction lies with the Tribunal if act to prejudice of the State; with Pretor if to the prejudice of a private interest.

No. 30. May be variously dealt with. Such a case may indeed, sometimes come within the scope of Art. 67 M.P.C.M., sometimes may be classified as political dissatisfaction according to Art. 265 P.C., sometimes it may be an offence against the honor of the Heads of the Allied States or of their respective representatives or against their flags or other emblems (Art. 297 et seq. P.C.). Jurisdiction for all the above offences lies with the Military Tribunal.

No. 31. As for No. 30.
 No. 32. See No. 16.

No. 33. Generally Art. 93 M.P.C.M. will apply, but if the reacting or demonstration is seditious Art. 655, P.C. applies.

No. 34. For general cases: Art. 347 P.C. Jurisdiction lies with Pretor. But there may be circumstances for applying Art. 346 P.C. and also if necessary Art. 348 P.C. Jurisdiction lies with Tribunal.

- No. 28. Art. 93 H.P.C.W. - Jurisdiction lies with the Military Tribunal.
- No. 29. Art. 640 P.C. applies. Jurisdiction lies with the Tribunal if act to prejudice of the State; with Pretor if to the prejudice of a private interest.
- No. 30. May be variously dealt with. Such a case may indeed, sometimes come within the scope of Art. 67 H.P.C.W., sometimes may be classified as political dissatisfaction according to Art. 265 P.C., sometimes it may be an offence against the honor of the Heads of the Allied States or of their respective representatives or against their flags or other emblems (Art. 297 et seq. P.C.). Jurisdiction for all the above offences lies with the Military Tribunal.
- No. 31. As for No. 30.
- No. 32. See No. 16.
- No. 33. Generally Art. 93 H.P.C.W. will apply, but if the meeting or demonstration is seditious Art. 655, P.C. applies.
- No. 34. For general cases: Art. 347 P.C. Jurisdiction lies with Pretor. But there may be circumstances for applying Art. 346 P.C. and also if necessary Art. 348 P.C. Jurisdiction lies with Tribunal.
- No. 35. Offences of this nature may be classified as corruption (Art. 319 and 321 P.C.) Normal jurisdiction of the Tribunal.
- No. 36. Art 336 P.C. - Within jurisdiction of Tribunal. Arts 138 et seq. H.P.C.W.
- No. 37. Art. 648 P.C. (receiving) if the accused is aware of the illegal origin of the article. Jurisdiction lies with the Tribunal. If the accused is not aware that the origin is illegal Art. 712 P.C. Jurisdiction lies with the Pretor.
- No. 38. Art. 265 P.C. Jurisdiction lies with the Military Tribunal; if military personnel Art. 77 H.P.C.W.
- No. 39. According to each particular case Art. 493 P.C. or Arts. 495 or 496 P.C. all within the jurisdiction of the Pretor. Also if the case so warrants, Art. 375 P.C.
- No. 40. Art. 664 P.C. Jurisdiction lies with the Pretor.
- No. 41. Art. 93 H.P.C.W. Jurisdiction lies with the Military Tribunal.
- No. 42. Art. 650 P.C. within the jurisdiction of Pretor. If cases so warrant Art. 93 H.P.C.W.

No. 43. Each separate case must be assessed, whether it may flow from the particular way in which it was performed be included in the judicial conception of anti-national associations, (the fascist party has become such a one) or as a consequence of its abolition) within the scope of Art. 27. I. . . or whether in that of anti-national propaganda and its defense within the scope of Art. 272 P.C., both offences coming within the jurisdiction of the Military Tribunal. Also, there may be the case of a person not being a member of the fascist party or of one of its affiliated associations attending a meeting of that party, a meeting without doubt seditious, thereby contravening the provisions of Art. 655 P.C.; Jurisdiction lies with Pretor. See also Art. 10 et seq Law of Public Security.

No. 44. According to individual cases e. g. TDL 245 of 22-4-43 may apply (control of certain prices) or 650 P.C. or 63 H.P.C.V.

No. 45. Art. 93 H.P.C.V., Jurisdiction lies with the Military Tribunal.

No. 46. Art. 93 H.P.C.V.

PROCLAMATION No. 2

ARTICLE IV

In appropriate cases Art. 347 et seq. PD No. 1415 8-7-38 within jurisdiction of Pretor. Art. 326 et seq 624, 625, 640 & 61, and 483 P.C. Or otherwise Art. 650 P.C. or in within jurisdiction of Pretor.

ARTICLE VII

Any person contravening the provisions of this Article can be punished only in accordance with Art. 630 P.C. as it is not concerned with military defense. Jurisdiction lies with the Pretor. Except where the case is such as is provided for by Art. 336 PD No. 1415 8-7-38 (unlawfully introducing or disseminating notes, etc.).

ARTICLE VIII & IX

The regulations set out in the law No. 245 of 22 April 1943 concerning the control of consumable goods must be applied, in the various cases therein set out (crimes or contraventions), coming within the jurisdiction of the judicial authority as prescribed by Arts. 30 et seq of G.P.P. ARTICLES 650 P.C. PROCLAMATION No. 3

Article 1. (Regulations concerning private means of communication). Infringement may be punished under Art. 93 H.P.C.V.; Jurisdiction with Military Tribunal.

Article 2. (Forbidding photography and the declaration of photographic material) Art. 65 H.P.C.V. In other cases of this offence also Art. 93 H.P.C.V.;

Not otherwise Art. 650 P.C. or in within jurisdiction of Proctor.

ARTICLE VII

Any person contravening the provisions of this article can be punished only in accordance with Art. 650 P.C. as it is not concerned with military defense. Jurisdiction lies with the Proctor. Except where the case is such as is provided for by Art. 536 AD No. 1415 8-7-38 (unlawfully introducing or disseminating notes, etc.).

ARTICLE VIII & IX

The regulations set out in the law No. 245 of 22 April 1945 concerning the control of consumable goods must be applied, in the various cases therein set out (crimes or contraventions), coming within the jurisdiction of the judicial authority as prescribed by Arts. 30 et seq of C.P.P.

ARTICLE X 650 P.C.
ARTICLE XI NO. 5

- Article 1. (Provisions concerning private means of communication).
Infringement may be punished under Art. 93 P.C.; Jurisdiction with Military Tribunal.
- Article 2. (Prohibiting photography and the declaration of photographic material) Art. 65 P.C. In other cases of this offence also Art. 93 P.C.
- Article 3. (Proclamation of newspapers and printed matters). Art. 6 RDL No. 13, 14 January 1944, on the control of printing during the present state of war as regards the first section; for the second section Art. 650 P.C. within the jurisdiction of Proctor. For any offence against the first section jurisdiction lies instead with the Tribunal.
- Article 4. Meetings and assemblies - See Proc. 1 Nos. 33 and 43.

PROCLAMATION NO. 14

as Proclamation No. 2 Art. VII.

NOTE: RDL No. 13, 14 January 1944 has not yet been implemented in AIG territory.

CORRISPONDENZA DEI REATI PREVISTI NEI PROCLAMI DEL
GOVERNO MILITARE ALLEATO E REATI PREVISTI DALLA LEGISLAZIONE ITALIANA.

PROCLAMA No.1

ARTICOLO IV

No.1 Ipotesi del reato va scissa in :

a) aiuto al nemico come spia. Corrisponde al delitto di spionaggio, previsto dall'Art.257 C.P. se commesso da civili e dall'Art.59 C.P. militare di guerra, se commesso da militare.

L'applicabilità di detti articoli allo spionaggio in danno delle Forze Alleate si può evincere, dopo la concessione della cobelligeranza anche dalle norme di cui agli articoli 268 C.P. e 15 C.P.M.G.

Competenza in ogni caso del Tribunale Militare.

b) rifugio od appoggio ad una spia nemica. Corrisponde all'art.62 C.P.M.G.- Competenza in ogni caso del Tribunale Militare.

No.2 L'ipotesi di reato va scissa a seconda delle diverse fattispecie. Se, infatti, si tratta di intelligenza o corrispondenza per favorire il nemico sono applicabili per i militari l'Art.54 C.P.M.G. e per i civili l'Art. 247 C.P., entrambi di competenza dei Tribunali Militari. Se manca il fine di favorire il nemico potranno essere applicati, a seconda delle diverse fattispecie e della qualità di militare o civile del colpevole, gli articoli : 56 C.P.M.G. (comunicazione illecite con il nemico da parte del militare), 78 C.P.M.G. (comunicazioni di notizie mediante corrispondenza da parte di chiunque) e 93 C.P.M.G. (violazione di ordinanze da parte di chiunque) dell'autorità militare da parte di chiunque), tutti di competenza dei tribunali militari.

No.3 La prima parte del numero può rientrare nel numero due. Per la seconda parte si rientra nel campo delle omissioni di denuncia di reati, previsti per i pubblici ufficiali o gli incaricati di pubblico servizio dagli articoli 361 e 363 C.P. e per i cittadini dall'Art.364 C.P., tutti di competenza dei Pretori o dei Tribunali a seconda della pena prevista dalla legge e norma degli Art.30 e segg: C.P.P.-

Competenza in ogni caso del Tribunale Militare.
b) rifugio od appoggio ad una spia nemica. Corrisponde all'art.62 C.P.M.G.- Competenza in ogni caso del Tribunale Militare.

No.2 L'ipotesi di reato va scissa a seconda delle diverse fattispecie. Se, infatti, si tratta di intelligenza o corrispondenza per favorire il nemico sono applicabili per i militari l'Art.54 C.P.M.G. e per i civili l'Art. 247 C.P., entrambi di competenza dei Tribunali Militari. Se manca il fine di favorire il nemico potranno essere applicati, a seconda delle diverse fattispecie e della qualità di militare o civile del colpevole, gli articoli : 56 C.P.M.G. (comunicazione illecita o n il nemico da parte del militare), 78 C.P.M.G. (comunicazione di notizie mediante corrispondenza da parte di chiunque) e 93 C.P.M.G. (violazione di ordinanze di altri provvedimenti dell'autorità militare da parte di chiunque), tutti di competenza dei tribunali militari.

No.3 La prima parte del numero può rientrare nel numero due. Per la seconda parte si rientra nel campo delle omissioni di denuncia di reati, previsti per i pubblici ufficiali o gli incaricati di pubblico servizio dagli articoli 361 a 363 C.P. e per i cittadini dall'Art.364 C.P., tutti di competenza dei Pretori o dei Tribunali a seconda della pena stabilita dalla legge a norma degli Art.30 e segg: C.P.P.- Possono essere, altresì, applicati, ove ne ricorra rispettivamente il caso, gli Art.83, 88 e 90 C.P.M.G., di competenza dei Tribunali Militari.

No.4 Art.242 C.P. se commesso da civile, Art.77 C.P.M.P. in relazione all'Art.47 C.P.M.G. se commesso da militare. Ove ne ricorre l'ipotesi anche l'Art.50 C.P.M.G.- competenza in ogni caso del Tribunale Militare.

No.5 Art.698 C.P. di competenza del Pretore. Ove alla mancata consegna si accompagni il porto d'arma fuori della propria abitazione saranno applicabili anche gli art.17 e 42 T.U. leggi di P.S. giugno 1931 o l'art.695 C.P., tutti di competenza del Pretore. Comunque, del caso, può applicarsi

anche l'Art.93 C.P.M.G.

No.6 Art.93 C.P.M.G., poichè si tratta di disposizione relativa alla difesa militare. Competenza del Tribunale Militare.

No.7 Art.247 C.P. se l'inganno è stato effettuato al fine di favorire il nemico. Competenza del Tribunale Militare.

No.8 Art.127 C.P.M.G., per i casi previsti ivi, di competenza del Tribunale Militare.

No.9 Art.51 C.P.M.G. se militare e Art.247 C.P. se civile.

No.10 Per i civili a seconda dello scopo per cui è avvenuta l'introduzione, l'Art.260 C.P. di competenza del Tribunale Militare o Art.682 C.P. di competenza del Pretore. Ove ne ricorrano gli estremi può applicarsi anche l'Art. 63 C.P.M.G., di competenza del Tribunale Militare. Per i militari vanno applicati gli Art.90 C.P.M.G. in relesione all'Art.47 C.P. M.G. o 63 C.P.M.G.

No.11 Art.624 C.P. furto semplice- competenza del Pretore- o quando accompagnato da circostanze aggravanti (di cui agli Art. 61 e 625 C.P.) competenza del Tribunale. Nei riguardi di militari possono eventualmente applicarsi gli Art.230 e seguenti C.P.M.P.- competenza Tribunale Militare. In caso di danneggiamento : Art.158 C.P.M.G.-competenza Tribunale Militare - o Art.445 R.D. No.1415 del 8-7-1938 competenza Tribunale. Ricettazione : Art.646 C.P. - Possesso illegale Art. 712 C.P.

No.12 Art.158 C.P.M.G., di competenza del Tribunale Militare (sottaggio),ovvero Art.445 ... 8-7-1938 No.1415 competenza Tribunale.

No.13 Come al numero che precede.

No.14 Come al numero 12.

No.15 Art.575 e segg., di competenza della Corte di Assise. La legislazione Italiana non prevede, infatti, alcuna speciale aggravante o ipotesi diversa di reato per la qualità di mi-

- No. 11 Art. 624 C.P. furto semplice- competenza del Fretore- o quando accompagnato da circostanze aggravanti (di cui agli Art. 61 e 625 C.P.) competenza del Tribunale. Nei riguardi di militari possono eventualmente applicarsi gli Art. 230 e seguenti C.P.M.P.- competenza Tribunale Militare. In caso di danneggiamento : Art. 158 C.P.M.G.-competenza Tribunale Militare - o Art. 345 R.D. No. 1415 del 3-7-1938 competenza Tribunale. Ricettazione : art. 546 C.P. - Possesso illegale Art. 712 C.P.
- No. 12 Art. 158 C.P.M.G., di competenza del Tribunale Militare (sottaggio), ovvero art. 345 R.D. 8-7-1938 No. 1415 competenza Tribunale.
- No. 13 Come al numero che precede.
- No. 14 Come al numero 12.
- No. 15 Art. 575 e segg., di competenza della Corte di Assise. La legislazione Italiana non prevede, infatti, alcuna speciale aggravante o ipotesi diversa di reato per la qualità di militare nel soggetto passivo dell'omicidio, salvo che il militare non sia in servizio (Art. 140 C.P.M.G. applicabile anche agli estranei alle Forze Armate per l'Art. 14 C.P.M.G.) ovvero il fatto non concreti l'ipotesi d'insubordinazione a norma degli Art. 186 e segg: C.P.M.G. e dell'abuso di autorità a norma dell'Art. 195 C.P.M.G.- Tali casi di competenza del Tribunale Militare.
- No. 16 Tentato omicidio (Art. 575 e segg: e 56 C.P.) o tentata lesione (Art. 582 e segg: e Art. 56 C.P.) di competenza rispettivamente della Corte di Assise o del Fretore. Salvo l'applicabilità delle norme di cui all'Articolo precedente per i reati contro i militari in servizio, l'insubordinazione e l'abuso di autorità.
- No. 17 Art. 285 C.P. se allo scopo di attentare alla sicurezza dello Stato. Per gli altri casi Art. 419 C.P.

- o.18 Nei congrui casi Art.193 o 197 C.P.M.G. di competenza del Tribunale Militare, altrimenti norme sul reato (Art.624 o 625 C.P.), di competenza del Pretore o del Tribunale, a seconda della pena stabilita dalla legge (Art.30 e segg: C.P.P.).
 - o.19 Art.519 C.P. Competenza del Tribunale. Nel caso di tentativo di reato si applica l'Art.56 in relazione all'Art.519 C.P.- Vedi anche Art.521 C.P.
 - o.20 Art.476 e segg: C.P. di competenza del Tribunale o del Pretore a seconda della pena stabilita dalla legge (Art.31 e segg: C.P.P.). Per i militari si dovrebbe far ricorso, a seconda delle varie ipotesi, all'Art.220 C.P.M.P. ovvero alle norme (Art.476 e segg:) del C.P. comune sul falso. Competenza per i militari del Tribunale Militare. Per l'uso del documento falsificato Art.489 C.P.
 - o.21 L'istigazione non seguita da commissione del reato istigato potrebbe concretare per il militare l'Art. 78 C.P.M.P., per il civile l'Art.302 C.P., entrambi di competenza del Tribunale Militare. Ove l'insurrezione armata sia eseguita, Art. 204 C.P. per il civile, 77 C.P.M.P. per il militare. Nei casi lievi (grida o manifestazioni sediziose in riunioni pubbliche) si potrebbe però applicare l'Art. 654 C.P. di competenza del Pretore. Vedi anche Art.174 e 175 C.P.M.P.
 - o.22 Art.453 e segg: C.P. competenza della Corte di Assise.
 - o.23 Titolo I C.P.M.G.- competenza Tribunale Militare o Libro II Cap.I C.P.
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- o.24 Art.93 C.P.M.G. competenza Tribunale Militare.
 - o.25 Come al numero che precede.
 - o.26 Falsa testimonianza (Art.372 C.P.) Competenza del Pretore, o del Pretore in caso di concorso della aggravanti di cui all'Art.

o.21 L'istigazione non seguita ed commissione potrebbe concretare per il militare l'Art. 78 C.P.M.P., per il civile l'Art. 302 C.P., entrambi di competenza del Tribunale Militare. Ove l'insurrezione armata sia eseguita, Art. 204 C.P. per il civile, 77 C.P.M.P. per il militare. Nei casi lievi (grida o manifestazioni sediziose in riunioni pubbliche) si potrebbe però applicare l'Art. 654 C.P. di competenza del Pretore. Vedi anche Art. 174 e 175 C.P.M.P.

o.22 Art. 453 e segg: C.P. competenza della Corte di Assise.

o.23 Titolo IV C.P.M.G. - competenza Tribunale Militare o Libro II Cap. I C.P.

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ARTICOLO V

o.24 Art. 93 C.P.M.G. competenza Tribunale Militare.

o.25 Come al numero che precede.

o.26 Falsa testimonianza (Art. 372 C.P.) Competenza del Pretore, salvo il caso di concorso delle aggravanti di cui all'Art. 375 C.P.

o.27 Art. 158 C.P.M.G. (sabotaggio). Competenza del Tribunale Militare ovvero Art. 345 ED 8-7-1938 No. 1415 competenza del Tribunale.

Art. 624 C.P. - competenza del Pretore. In caso di concorso di aggravanti di cui all'Art. 61 C.P. o 625 C.P. competenza del Tribunale. Per i militari, ove ne ricorrano gli estremi, anche l'Art. 230 e segg: C.P.M.P.

Art. 648 C.P. (ricettazione) se il colpevole conosceva la provenienza illegittima della cosa. Competenza del Tribunale. Se il colpevole ignorava tale illegittimità Art. 712 C.P. di competenza del Pretore.

o.28 Art. 93 C.P.M.G. - Competenza del Tribunale Militare.

o.29 Si applica l'Art. 640 C.P. - Competenza del Tribunale se in danno dello Stato, del Pretore se in danno di privati.

- 0.30 E' suscettibile di diverse applicazioni. Il fatto può, invero, talvolta rientrare nei limiti dell'Art.87 C.P.M.G. talvolta concretare l'ipotesi di disfattismo politico a norma dell'Art.265 C.P., talvolta vere offese all'onore dei Capi degli Stati Alleati o dei rispettivi rappresentanti ovvero alle bandiere o altri emblemi (Art.297 e segg:C.P.). Competenza per tutti i suddetti reati è il Tribunale Militare.
- .31 Come il No.30
- .32 Vedi il No.16.
- .33 In generale si applica l'Art.93 C.P.M.G. ma se l'adunanza o la dimostrazione è sciziosa si applica l'Art.655 C.P.- Competenza del Pretore.
- 0.34 Caso generico: Art.347 C.P.- Competenza del Pretore. Possono però ricorrere motivi per l'applicazione dell'Art.346 C.P. ed anche eventualmente dell'Art.348 C.P. competenza del Tribunale.
- 0.35 Corruzione (Art.319 o 321 C.P.) di competenza normale del Tribunale.
- 0.36 C.P.Art.336. Competenza del Tribunale. Art.138 e segg: C.P. M.G.
- 0.37 Art.648 C.P. (ricettazione) se il colpevole conosceva la provenienza illegittima della cosa. Competenza del Tribunale. Se il colpevole ignorava tale illegittimità Art.712 C.P., di competenza del Pretore.
- .38 Art.265 C.P. competenza del Tribunale Militare, se trattasi di militare Art.77 C.F.M.G.
- .39 A seconda delle particolarità del fatto Art.483 C.P. ovvero 495 e 496 C.P., tutti di competenza del Pretore. Eventualmente anche l'Art.373 C.P.
- .40 Art.664 C.P. Competenza del Pretore.

- 0.36 C.P. Art. 336. Competenza del Tribunale. Art. 138 e segg: C.P. M.G.
- 0.37 Art. 648 C.P. (ricettazione) se il colpevole conosceva la provenienza illegittima della cosa. Competenza del Tribunale. Se il colpevole ignorava tale illegittimità Art. 712 C.P., di competenza del Pretore.
- 0.38 Art. 265 C.P. competenza del Tribunale Militare, se trattasi di militare Art. 77 C.P.M.G.
- 0.39 A seconda delle particolarità del fatto Art. 483 C.P. ovvero 495 e 496 C.P., tutti di competenza del Pretore. Eventualmente anche l'Art. 373 C.P.
- 0.40 Art. 664 C.P. Competenza del Pretore.
- 0.41 Art. 93 C.P.M.G. competenza del Tribunale Militare.
- 0.42 Art. 650 C.P., competenza del Pretore. Eventualmente Art. 93 C.P.M.G.
- 0.43 Sarà da esaminare di volta in volta se i singoli casi possono, per le loro modalità specifiche di esecuzione, essere compresi nei concetti giuridici di associazione antinazionale (tale è divenuto il partito fascista nell'attuale situazione in conseguenza anche della sua abolizione) a norma dell'Art. 271 C.P. ovvero di propaganda ed apologia antinazionale a norma dell'Art. 272 C.P., delitti entrambi di competenza del Tribunale Militare. Potrebbe anche concretarsi, per chi non partecipi comunque al partito fascista o sue filiazioni, ma abbia fatto parte di una radunata dello stesso, senza dubbio sediziosa, la contravvenzione di cui all'Art. 655 C.P. di competenza del Pretore. Vedi anche Art. 18 T.U. Legge P.S. 18-6-1931.

o.44 E' suscettibile di diverse applicazioni. R.D.L. 22.4.43 cv-
vero Art.93 C.P.M.G. e art.650 C.F.

o.45 Art.93 C.P.M.G., competenze del Tribunale Militare. La fat-
tispecie può concretizzare diverse ipotesi di reati da con-
siderare caso per caso.

o.46 Art.93 C.P.M.G.

PROCLAMA. No.2

ARTICOLO IV

Nei congrui casi Art.347 e segg: R.D. 8.7.1938 n.1415 di com-
petenza del Pretore, Art.336 e segg:; 624 e 625, 640 e segg:;
61 e 483 C.F., altrimenti art.650 C.F. pure di competenza
del Pretore.

ARTICOLO VII

Le contravvenzioni alle disposizioni del presente articolo
possono essere punite soltanto a norme dell'Art. 650 C.F.
non riguardando il proclama suddetto la difesa militare. Com-
petenza del Pretore. Salvo che non si tratti dell'ipotesi
di cui all'Art.356 R.D. 8-7-1938 n.1415 (illecita introduzio-
ne o spedizione di titoli ecc.).

ARTICOLO VIII e IX

Si dovrebbero applicare le norme previste nella legge 22
aprile 1943 sulla disciplina dei consumi, nelle varie ipo-
tesi (delittuose o contravvenzionali) ivi provviste, perti-
nenti alla competenza delle singole autorità giudiziario a
norma degli Articoli 30 e segg: C.F.P.

ARTICOLO X

Articolo 650 C.F.

PROCLAMA N.3.

rt.1 (Regolamento di mezzi privati di comunicazione) L'infrazione
può essere punita a norma dell'Art.93 C.P.M.G., competenza
del Tribunale Militare.

possono essere punite soltanto a norma dell'Art. 650 C.P. non riguardando il proclama suddetto la difesa militare. Competenza del Pretore. Salvo che non si tratti dell'ipotesi di cui all'Art. 356 R.D. 8-7-1938 n. 1415 (illecita introduzione o spedizione di titoli ecc.).

ARTICOLO VIII e IX

Si dovrebbero applicare le norme previste nella legge 22 aprile 1943 sulla disciplina dei consumi, nelle varie ipotesi (delittuose e contravvenzionali) ivi previste, pertinenti alla competenza delle singole autorità giudiziarie a norma degli Articoli 30 e segg: C.P.P.

ARTICOLO X

Articolo 650 C.P.

PROCLAMA No. 3.

rt. 1° (Regolamento di mezzi privati di comunicazione) L'infrazione può essere punita a norma dell'Art. 93 C.P.M.G., competenza del Tribunale Militare.

rt. 2° (divieto di fotografie e dichiarazione di materiale fotografico); Art. 65 C.P.M.G.; ove non ricorrano gli estremi di tale reato, Art. 93 C.P.M.G., competenza del Tribunale Militare.

rt. 3° (regolamento di giornali e materie stampate): Art. 6 R.D.L. 14 gennaio 1944 n. 13 sulla disciplina della stampa nell'attuale stato di guerra per la sezione I°, per le altre sezioni Art. 650 C.P. di competenza del Pretore. Per il reato della I° sezione la competenza spetta invece al Tribunale.

rt. 4° (Riunioni ed essemblee) Vedi Proclama No. 1, Art. 33 e 43.

PROCLAMA No. 4

Come per il Proclama No. 2, Art. VII.

* Non in vigore in territorio AMG.

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SECRET

File 4063

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

ACC/4086/1/L

30 Jun 44

SUBJECT: Italian Military Deserters.

TO : RIOs (thru RC) 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
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) "archivazione 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 Sep-

TEXT OF AGREEMENT WITH THE 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 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 5th 1944.

/s/ NOEL MACFARLANE
LC
Chief Commissioner
iCC

(s) BADOGLIO

Bobz file

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Leg 7198

JUN 21 1944

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

Rcf/349/28/CA

20 June 1944.

SUBJECT: Opening of Consulates.

TO : Distribution below.

You are informed that the Netherlands Consul General, Mr. D.G.E. Middelburg, opened on 15 June 1944 a consulate General at Via Santa Brigida 18, NAPLES. Mr. Middelburg has indicated that he is prepared to perform normal consular functions on behalf of Netherlands Nationals, and Regional Commissioners should submit any communications from subjects of the Netherlands to him.

Norman E. Fiske

NORMAN E. FISKE
Colonel
Deputy Executive
Commissioner

DISTRIBUTION:
"A"

JSR/JR

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Under file
4063

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COPY.

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

Ref/700/11/CA.

24 May 1944.

SUBJECT : Arming of Tele. Com. Linemen.

TO : R.C.'s Regions I, II, III, IV, V, VI, VII, VIII and IX.
S.C.A.O.'s 5th & 8th Armies.

1. Representations have been made by the Italian Government for permission to re-issue ~~wires~~ to telephone and telegraph linemen in order to prevent sabotage, theft of wire, etc. which is causing serious threat to communications.

2. In AMG territory, Regional Commissioners should give favourable consideration to issuing permits to carry firearms for such duties, subject to local conditions.

3. In Italian Government territory the Italian Government has given similar instructions to Prefects.

M. S. LUSH,
Brigadier,
Executive Commissioner.

Copy to :

Admin Section (3) (for Public Safety Sub-Commission)
Communications Sub-Commission.

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100/4029/1

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16 May 1944

HEAD HEADQUARTERS
ALLIED MILITARY COMMISSION
Legal Commission
APO 374

SUBJECT: Rome Sub-Region.

TO : Regional Legal Officer (thru Regional Commissioner) Region 4.
Senior Legal Officer, 5th Army.
Senior Legal Officer, CAS.

1. The question has been raised by Regional Legal Officer, Region 4 (R4/LR/reg/S/1 dated 8 May 44) as to the relationship of SLO, Rome Sub-Region with legal officers Region 4 and 5th and 8th Army, and the following defines their relationship:

- a. SLO, Rome Sub-Region will be responsible to SCAC, 5th Army and NOT to RLO, Region 4 until Rome Sub-Region is taken over by Region 4 (see Exec Memo No. 33).
 - b. SCAC, 5th Army may appoint SLO, Rome Sub-Region (if of rank of major or above) to review cases in Rome Sub-Region in his behalf in accordance with Article 32 (4) of Consolidated Instructions for Allied Military Courts.
 - c. Rome Sub-Region being within an Army area until taken over by Region 4, Article 32 3 a will apply.
 - d. In cases where under Article 32 3 a the case has to be reviewed by the Chief Commissioner the record will be sent direct by SLO, Rome Sub-Region and NOT through SLO, 5th Army, and will be returned direct.
 - e. The SLO, Rome Sub-Region may dispose of the record in accordance with Article 31.5 if he so desires.
 - f. The allotment, control and responsibilities of personnel between Region 4 and Rome Sub-Region is entirely a matter for arrangement between Region 4 and Rome Sub-Region and should only be submitted to this HQ in the event of some difficulty arising.
2. It will be for RLO, Region 4 to notify this HQ and RLO, Region 3 as soon as practicable of his requirements of personnel so that RLO, Region 3 may have as long notice as possible of the impending removal of officers assigned to Region 4 who are temporarily attached to him.
3. In this connection it is understood that the first persons who will be required by Region 4 (for CAS) from Region 3 are:

Major MacFadyen
Major Stump
Capt. Falk
and Capt. Geriano

Copy to: ACC/4058/1

G. R. UPJOHN, Colonel
Chief Legal Officer

4063

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File

HEAD QUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUBCOMMISSION
APO 304

WJG/ya

4 May 1944

~~ACC 4122/R~~
~~ACC 4122/R~~

SUBJECT : Use of military vehicles by Italian Government.
TO : RCAs (thru SOs) Region 1,2,3,4,5,6,7.

1. Request to understand at meeting of RCAs held on 1 May enclosed for your information draft of proposed agreement covering use of military vehicles for movement of civilian supplies.

MARC J. CRITCHFIELD ,
Major ;
Air Chief Legal Officer .

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(18-17)
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ARMY HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

TO : H. E. the Minister of Communications.

Your Excellency :

Pursuant to prior conversations, the Allied Control Commission will make available for the use of your government the motor vehicles listed in Exhibit A, attached hereto upon the following terms and conditions.

1. A fixed monthly depreciation charge for each vehicle in the amount specified in Exhibit A following the description of each, shall be payable on the first of each and every month in advance to the Allied Financial Agency or as may be directed by the Allied Control Commission; provided however that if this arrangement shall become effective on a day other than the first day of the month, there shall be paid on the effective date thereof, a sum equivalent to 1/30 of the monthly fixed depreciation charge multiplied by the number of days intervening until the first day of the succeeding month. Thereafter the fixed monthly depreciation charge shall be paid in advance on the last day of each and every month as aforesaid.
2. Your government, prior to the delivery of the vehicles shall deposit with the Allied Financial Agency a sum equivalent to the Allied Control Commission a sum equivalent to one half of the total value of said vehicles as set forth and specified in Exhibit A. As and when each vehicle is returned to the Allied Control Commission under the terms hereof, there shall be refunded to your government a sum equivalent to one half of the said value thereof; provided that such vehicles with all tools, equipment and accessories shall be certified by the officer in charge of Allied Control Commission ordinance to be in as good condition and repair as when delivered to your government, ordinary wear and tear only excepted, and provided further that all depreciation charges due hereunder shall have been paid and your government be not otherwise in default.
3. Your government unconditionally guarantees the return of each of said vehicles together with all tools, equipment and accessories to the Allied Control Commission upon the expiration or sooner termination of arrangement, as herein provided, in as good condition and repair as when received by your government, ordinary wear and tear only excepted. In its failure or inability so to do, whatever the cause, your government at the option of the Allied Control Commission shall either (1) forthwith pay the Allied Control Commission an amount equivalent to the value of such such vehicle not so returned, as set forth and specified in Exhibit A, less the total of depreciation charges paid by your go-

vernment, the amount of the deposit held by

2. Your government, prior to the delivery of the vehicles shall deposit with the Allied Financial Agency or as may be directed by the Allied Control Commission a sum equivalent to one half of the total value of said vehicles as set forth and specified in Exhibit A. As and when each vehicle is returned to the Allied Control Commission under the terms hereof, there shall be refunded to your government a sum equivalent to one half of the said value thereof; provided that such vehicles with all tools, equipment and accessories shall be certified by the officer in charge of Allied Control Commission ordinance to be in as good condition and repair as when delivered to your government, ordinary wear and tear only excepted, and provided further that all depreciation charges due hereunder shall have been paid and your government be not otherwise in default.

3. Your government unconditionally guarantees the return of each of said vehicles together with all tools, equipment and accessories to the Allied Control Commission upon the expiration or sooner termination of arrangement, as herein provided, in as good condition and repair as when received by your government, ordinary wear and tear only excepted. In its failure or inability so to do, whatever the cause, your government at the option of the Allied Control Commission shall either (1) forthwith pay the Allied Control Commission an amount equivalent to the value of each such vehicle not so returned, as set forth and specified in Exhibit A, less the total of depreciation charges paid by your government as to each such vehicle, and less the amount of the deposit held by the Allied Control Commission with respect thereto, in which event that part of said deposit shall become the property of the Allied Control Commission and each such vehicle upon the payment of the aforesaid sum shall become the property of your government or (2), return each such vehicle in its then condition to the Allied Control Commission and forthwith pay to the Allied Control Commission such sum as the officer in charge of the Allied Control Commission shall determine is necessary to place the vehicle in that condition and state of repair in which it should have been returned by your government under the terms hereof, less the amount of the deposit held by the Allied Control Commission applicable to each such vehicle. The excess if any of said deposit over the cost of said repairs as so filed shall be returned to your government.

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(2)

4. The said vehicles shall be used exclusively for the government of civilian supplies, but only in such places and in such manner as shall be directed by the Regional Transportation Officer of the Allied Control Commission or such other officer as may be designated by it, and charges and tariffs for such use shall be only at the rates specified in Exhibit B attached hereto.

5. Your government shall at its own expense maintain the said vehicles in good condition and repair, replacing all missing or damaged parts, tools, equipment and accessories. For the purpose of providing adequate time for maintenance and repairs as aforesaid, each vehicle shall be kept off the road one day out of each fifteen. Spare parts, tools, equipment and accessories will be made available to your government by the Allied Control Commission therefor, and the surrender of the item or items which such purchase or purchases are intended to replace, or a certificate in form satisfactory to the Allied Control Commission as to your government's inability so to do.

6. The Allied Control Commission shall have the right at all times to inspect said vehicles, arranging schedules for that purposes when the drivers of the vehicles to be inspected shall be present.

7. Your government will keep and maintain such records in connection with the use and maintenance of said vehicles as shall be directed by the Allied Control Commission.

8. Your government will indemnify and save harmless the Allied Control Commission from all claims of every kind and description asserted against the Allied Control Commission arising or growing out of the use or operation of said motor vehicles.

9. Your government may contract with independent companies for the operation of said motor vehicles provided all the terms and conditions hereof are observed and performed by such independent companies and provided further that your government shall continue bound by the terms and conditions hereof to the same extent as if it were itself operating said motor vehicles.

10. This arrangement may be terminated by the Allied Control Commission as to any or all of said vehicles without prior notice if required for operational needs ; otherwise upon 5 days prior notice.

Dated :
accepted and agreed to :

for the Allied Control Commission

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

Ref/343/22/CA.

29 April 1944.

SUBJECT: Marriage Regulations.

TO : RC's Regions II, III, IV, V, VI, VII, VIII, & IX.
SCAO's 5th and 8th Armies.

1. Reference this HQ letters 343/2/CA of 25 March and 343/5/CA of 3 April 1944, and G.R.O. 162/44, you will be required to make certain enquiries and report on those cases where the non-British party to the marriage resides within your region.
2. Under G.R.O.162/44 a 'Form C' has to be completed by the applicant for permission to marry giving the particulars of the non-British member of the marriage, and this form will be forwarded to you for verification where possible. It will be necessary to check the antecedents of the party and to ensure that there is no objection from either a security, moral or social point of view, and the report should cover these points.
3. Attention is drawn to para.10 of G.R.O.162/44 which lays down the policy.

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Norman E. Fiske
Norman

NORMAN E. FISKE,
Colonel,
Deputy Executive
Commissioner.

Copy to: HQ. A.C.C.
Admin Section.

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CONFIDENTIAL (S)

WAR WILD BURNERS
ARMED SERVICES COMMISSION
Federal Subcommittee
APO 394

4663

28 April 1944

ACC/4132/L

SUBJECT: Italian Soldiers of Yugoslav Origin.

TO : I/Os Regions 1, 2, 3, 4, 5, 6 & 7.
S/Os 5th & 8th Divisions.

1. Staff Officers are frequently consulted as to the legal position there:

(a) Members of the Italian armed forces, including G.I.B., whether of Yugoslav or other racial origin are enticed into desertion from their units usually for the purpose of joining a Yugoslav unit.

(b) Members of the Italian armed forces seek permission to leave their units to join Yugoslav units.

2. The whole question of policy has been referred to higher authority but in the meantime the policy of A.C.C. in handling these matters which are extremely delicate is as follows:

(a) No member of the Italian armed forces, whatever his racial origin, may be approached with a view to his leaving or deserting the Italian armed forces for any purpose.

(b) No member of the Italian armed forces, whatever his racial origin, may be permitted to leave his unit for the purpose of joining a Yugoslav unit.

(c) The only Italian personnel who may be recruited by the Yugoslav authorities are Italians of Slav origin who are NOT in the Italian armed forces and then subject to permission from HQ ACC (thru R.C. & M.C. Section and not this Subcommittee).

G.P. [Signature] 37
G. E. UPJOHN

1. Field Officers are frequently consulted as to the legal position where:

(a) Members of the Italian armed forces, including GOM, whether of Yugoslav or other racial ori in are enticed into desertion from their units usually for the purpose of joining a Yugoslav unit.

(b) Members of the Italian armed forces seek permission to leave their units to join Yugoslav units.

2. The whole question of policy has been referred to higher authority but in the meantime the policy of A.C.C. in handling these matters which are extremely delicate is as follows:

(a) No member of the Italian armed forces, whatever his racial origin, may be approached with a view to his leaving or deserting the Italian armed forces for any purpose.

(b) No member of the Italian armed forces, whatever his racial origin, may be permitted to leave his unit for the purpose of joining a Yugoslav unit.

(c) The only Italian personnel who may be recruited by the Yugoslav authorities are Italians of Slav origin who are NOT in the Italian armed forces and then subject to permission from HQ ACC (thru R.O. & M.C. Section and not this Subcommission).

G.R. URBACH

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

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ALLIED MILITARY COURTS
ALLIED COMMERCE COMMISSION
Legal Subcommittee
APG 394

ACC/4050/1/L

25 April 1944.

SUBJECT: Jurisdiction for granting of conditional liberty and pardon.

TO : ESC Regions 1, 2, 3, 4, 5, 6 & 7 (for attn ILO).
SCIOs 5th & 8th Armies (for attn SIO).

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 petitions for pardon or conditional liberty will be adopted:

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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 Government 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 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 Subcommission 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.

- (c) 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 Procurators 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 HC AGC and the latter will ask for such recommendations or reports from the PLO concerned as may be necessary.
- 7. This directive cancels para. 3 of Executive Memo No. 4 dated 7 Feb. 1944.

G. R. URJEN

G. R. URJEN
Colonel
Chief Legal Officer.

Copy to: Executive Commissioner
V.P. Admin. Section

0298

Colonel
Chief Legal Officer.

Copy to: Executive Commissioner
V.P. Admin. Section

WAR ZONE UNITS
ARMED CONTROL COMMISSION
Legal Subcommission
APO 534

ACC/4028/2

19 April 1944

SUBJECT: Prostitution and V.D.

TO : LIOs Regions 1, 2, 3, 4, 5 & 6 (THU EOs)
SIOs 5th & 6th Armies (THU SMOs).

1. The military authorities are constantly requesting assistance from the various subcommissions of ACC concerned (Public Health, Public Safety, Legal, etc.) in order to secure from the Italian authorities all cooperation in their endeavors to minimize the diffusion of venereal diseases among Allied troops.
2. The Legal Subcommission in turn has made strong recommendations 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 LIOs 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 officials ample means to fight prostitution and the various activities connected therewith. LIOs should see that the "Publico Ministro" and the JUVs 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 are enclosed in order that LIOs may be in a position to supervise the activities of the Italian officials concerned.
6. Such supervision will obviously be easier in ACC territory where LIOs can give direct instructions to all Italian officials. In restored territory particularly, however, LIOs should resort at once to their Subcommission 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.

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2. The Legal Subcommittee 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 ICS 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 officials ample means to fight prostitution and the various activities connected therewith. ICS should see that the "Pubblica Assistenza" and the "ASL" 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 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 the territory where ICS can give direct instructions to all Italian officials. In restored territory particularly, however, ICS should be alert at once to this Subcommission 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.

Appendices:

- A - Synopsis of Law.
- B - Compulsory Report of Doctors. (Ministry of Interior).
- C - Instructions to Judges and Prosecutors (Minister of Justice)
- D - Memorandum for Allied Authorities.
- E - Rights of Appeal and Provisional Freedom.

G. G. M. J. P. Major
 Officer in Charge Italian
 Chief Legal Officer.

Smith

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APPX 4

2 March 1944

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
A.P.O. 394

ACC/4006/L

SUBJECT: Venereal Disease, Brothels, Pimps, etc.

TO : Deputy Provost Marshall, W 3 District

Re: your PRO/33/43; dated 26 Feb. 44.

1. Licensed prostitution is not allowed in England, but there is no federal law in the U.S. - in this respect each State issuing its own legislation on the matter.

2. In Italy licensed prostitution is regulated by the provisions of the law of Public Safety of 26 June 1931 No. 773, Chapter VII, Articles 190 to 205.

3. As far as the law is concerned the above referred to articles provide:

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 utilized without the authorization of the P.S. authorities. List of persons who exercise prostitution in licensed premises must be supplied to the authorities. If through negligence exorbitant measures are taken for the

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1. Licensed prostitution is not allowed in the U.S. - in this respect each State issuing its own legislation on the matter.

2. In Italy licensed prostitution is regulated by the provisions of the law of Public Safety of 16 June 1931 No. 773, Chapter VII, Articles 190 to 208.

3. As far as the law is concerned the above referred to articles provide:

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 Licence 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 opened without the authorization of the P.S. authorities. List of persons who exercise prostitution in licensed premises must be notified to the P.S. 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 applied.

Art.195: hours of opening are determined by the P.S. 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.

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- Art. 197: Full rights of deprivation at any time by P.S. 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.
- Art. 200: Prostitution premises shall be closed when:-
1. Venereal diseases are prevalent.
 2. Minors are found among the inmates.
 3. Sundry visits are not properly organized.
 4. The keeper tries to prevent such visits.
 5. The keeper becomes an habitual offender under art. 198 & 199.
 6. The lease if any ends.
- Art. 201: All such premises can also be closed for general hygienic motives or other reasons left at the discretion of P.S. authorities.
- Art. 202: The keeper who maintains the premises open after the date of closing is liable to one year's imprisonment and 5000 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: P.S. authorities can at any time order sanitary visits of the inmates or send them to special cura 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 P.S. authority action can be made to 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.

hygiene motives or other reasons left to the discretion of P.S. Authorities.

Art. 202 : The keeper who maintains the premises open after the date of closing is liable to one year's imprisonment and 5000 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 : P.S. 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 P.S. Authority action can be made to 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 expressly forbidden :
(a) to solicit by deeds or words in the streets
(b) to stand in public places in an indecent attitude.

(c) to expose any 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 signs of prostitution.

Penalty up to six months.

4. It is noted that this short synopsis of Italian legislation on the subject will answer most of the legal questions you are interested in. As prostitution control is entirely a police responsibility your letter has been passed to the Public Safety Sub-Commission together with a copy of our reply for their comments thereon and their observations on the question of fact.

COPY to: P.S. Commissioner
Officer i/c It. Leg. Section, Legal Sec-Com.
G. J. MATTHEW

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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 adoption 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 1940, it is compulsory for the doctors to report all cases of syphilis, gonorrhoea 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.

33

The Minister.

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10/22/46

Instructions to the following effect have been issued to all Procuratori Generali - Avvocati Generali - Procuratori del Re - Salerno.

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

A.C.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 created in town to increase the possibilities of curing venereal disease and of detecting symptoms of a suspicious character (diseased persons may be kept at these centres until cured).

It has been reported that the system in fact of centralized prostitutes, who have been either apprehended (fermati) or arrested (arrestati), and who have not been separated from the city 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 Pretori 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 especially, the judicial police will be instructed to take all necessary steps to prevent prostitutes exercising their shameful trade away from the special authorized houses.

Furthermore, in cases of prostitutes either apprehended for reasons of public safety or arrested for following rules shall apply:

(1) Prostitutes apprehended for reasons of public safety in pursuance of Article 15 of Legge di Pubblica Sicurezza shall be sent to the observation and treatment centres. They shall not be returned to the prisons unless the doctors at the centres have declared them to be free from disease or even from suspected disease.

(2) Prostitutes apprehended pursuant to Art. 236 of the Code of Penal Procedure, or prostitutes arrested (arrestate) shall be carefully examined by the doctors at the prisons. 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. If any "incurabili" prison (i.e. a prison where persons are detained temporarily as distinct from one in which long-term prisoners serve sentences) is not equipped for such treatment, the prostitutes shall be transferred to a judicial prison.

(3) The names of all prostitutes released from jail, for any reason whatsoever, shall be communicated by the Director concerned to the Italian Public Safety authorities who shall observe the relevant regulations of Public Safety.

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It has been reported that the so-called "fact" of contaminated prostitutes, who have been either apprehended (arrestati) or arrested (arrestati), 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 Pretori 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 especially, the judicial police shall be instructed to take all necessary steps to prevent prostitutes exercising their shameful trade away from the special authorized houses.

Furthermore, in cases of prostitutes whose apprehension for reasons of public safety or arrested in following places shall apply:

(1) Prostitutes apprehended for reasons of public safety in pursuance of Article 15 of Legge di Pubblica Sicurezza shall be sent to the observation and treatment centres. They shall not be returned to the prisons unless the doctors at the centres have declared them to be free from disease or even from suspected disease.

(2) Prostitutes apprehended pursuant to Art. 238 of the Code of Penal Procedure, or prostitutes arrested (arrestate) shall be carefully examined by the doctors at the prisons. 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. If any "indivisibili" prison (i.e. a prison where persons are detained temporarily as distinct from one in which long-term prisoners serve sentences) is not equipped for such treatment, the prostitutes shall be transferred to a judicial prison.

(3) The names of all prostitutes released from jail, for any reason whatsoever, shall be communicated by the Director concerned to the Italian Public Safety authorities who shall observe the relevant regulations of public safety in their cases.

(4) Care shall be taken to supervise both venereal 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.

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Appendix "D"

MEMORANDUM FOR ALLIED INTELLIGENCE CONCERNING AS OBTAINED BY
MINISTRY OF JUSTICE

(A) 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 conceptions of arrest and is regulated by rules laid down in the Code of Penal Procedure Arts. 243 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. 215, 216, 217, 255 and following and these cases are mainly those where persons are caught in the act of committing an offence (flamante delicto).

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. 217, - 218 Code of Penal Procedure).

(2) Perquisizione. The distinction between this method of arrest and "arresto" above lies not in its 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.

(a) "Arresto" is regulated by Art. 238 of C.P.P. modified by a Royal Decree No. 45 of 20 January 14, 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 ground for suspecting as 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.

(b) Under Art. 157 of the "Legge di Pubblica Sicurezza" a person may be apprehended by the police without being accused or even insolated of committing an offence, simply because he leads a suspicious or immoral life and when questioned by the police refuses to give them any explanation. By Art. 157 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 (Regio di via obliigatoria).

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.

(B) It is to be observed that, in so far as prostitutes are concerned, many more are apprehended by...

In all cases however the person arrested must be placed by the police at the disposal of the judicial authorities within 24 hours of the arrest unless a longer period of detention shall be ordered by the Procurators or the (Arts. 211 - 218 Code of Penal Procedure).

(2) Form. The distinction between this method of arrest and "arresto" above lies not in its in 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.

(a) "Arresto" is regulated by Art. 218 of C.P.P. modified by a Royal Decree No. 45 of 20 January 14 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 ground for suspecting as 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.

(b) Under Art. 157 of the "Legge di Publico Sicurezza" a person may be apprehended by the police without being accused or even his coted of committing an offence, simply because he leads a suspicious or immoral life and when questioned by the police refuses to give them any explanation. By Art. 157 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 (obbligo di via obbligatoria).

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

(B) It is to be observed that, in so far as prostitutes are concerned, many more are apprehended by police patrols operating in town during the hours of darkness for security reasons 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. Persons persons arrested (arrestati), 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 gaol.

MINISTRY OF JUSTICE

APPENDIX "E"

20

PROVISIONAL

OBJECT AND RIGHT OF APPEAL AND PROVISIONAL LIBERTY IN CASES OF PROSECUTION

When a prostitute arrested, tried and sentenced lodges an appeal or a recourse in Cassation, the provisions of Art. 277 and following of the Code of Penal Procedure shall apply. These articles concern provisional freedom granted in order to protect the interests of the sentenced person.

Provisional freedom may be granted at any time during the proceedings and also (in accordance with the terms of R.D.L. of 31.1.1944 No. 42) pending recourse in Cassation, but cannot be granted in cases set out in Art. 255 of the Code of Penal Procedure.

The order of Provisional Liberty can be contested by the Pubblico Ministero. Liberty may be granted under bail.

In conclusion, the detainee has no right to be liberated pending appeal unless her preventive detention exceeds the amount of the sentence. Provisional Freedom falls within the discretionary powers of the judge, except in cases under Art. 255 of Code of Penal Procedure as stated above.

On the other hand the granting of Conditional Liberty under Art. 176 of the Penal Code is not applicable, as the sentence is not final (if an appeal is lodged).

Note: "Provisional Liberty" is freedom granted by a judge before sentence is actually pronounced.

"Conditional Liberty" is probationary freedom granted after pronouncement of sentence which has imposed imprisonment under a final judgment.

SEV.

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SECRET equals British Source

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Rules for the Establishment of Italian Military Tribunals

Italian Military Tribunals may be established in accordance with the Military Penal Code of War dated 20 February 1941, in areas occupied by the Allied Forces upon the following terms and conditions:

- (a) Italian Military Tribunals may try cases in respect of offenses committed before or after the commencement of occupation.
- (b) No ordinary civilians, ex prisoners of war, members of the Police Forces, Carabinieri or civilians employed by the Military, Naval or Air Forces Authorities shall be charged before any Italian Military Tribunal without the consent of the Military Governor.
- (c) If any person is arrested by any Italian Military Authority for the purpose of being tried before a Military Tribunal then within 3 days of such arrest charges shall be served on such person and a copy thereof shall be transmitted to the Military Governor. If such person is not brought to trial within 25 days from the date of service of such charges a report setting forth the reasons for such delay shall be transmitted to the Military Governor.
- (d) The Military Governor may at any time withdraw a case from the Italian Military Tribunal and may order that such case shall be heard and determined by such Tribunal as he may direct.
- (e) Italian Military Tribunals will follow the procedure set forth in Book 4 of the Military Penal Code for War. Any amendment affecting this procedure as may have been from time to time promulgated in various decrees issued after the date of publication of the Code will not be enforced.
- (f) The Military Governor may appoint one or more officers of the Allied Forces to sit on any Italian Military Tribunal.
- (g) Until it is possible to constitute the Tribunale Supremo Militare all appeals from an Italian Military Tribunal shall be addressed to the Military Governor who may set aside any conviction or suspend, reduce or commute the sentence or order a new trial.
- (h) The Italian Military Tribunal shall within 7 days of the imposition of sentence forward to the Military Governor the record of every trial and the Military Governor may set aside any conviction or suspend, reduce or commute, the sentence or order a new trial.
- (i) (1) Where the offence charged is also an offence against any proclamation or Order issued or to be issued by the Military Governor or under his authority, OR
- (11) is also an offence against the laws and usages of war, OR

- (e) Italian military tribunals will follow the procedure set forth in Book 4 of the Military Penal Code for war. Any amendment affecting this procedure as may have been from time to time promulgated in various decrees issued after the date of publication of the Code will not be enforced.
- (f) The Military Governor may appoint one or more officers of the Allied Forces to act on any Italian Military Tribunal.
- (g) Until it is possible to constitute the Tribunale Supremo Militare all appeals from an Italian Military Tribunal shall be addressed to the Military Governor who may set aside any conviction or suspend, reduce or commute the sentence or order a new trial.
- (h) The Italian Military Tribunal shall within 7 days of the imposition of sentence forward to the Military Governor the record of every trial and the Military Governor may set aside any conviction or suspend, reduce or commute, the sentence or order a new trial.
- (i) (1) Where the offence charged is also an offence against any proclamation or order issued or to be issued by the Military Governor or under his authority, OR
- (ii) is also an offence against the laws and usages of war; OR
- (iii) is also an offence triable under the provisions of the Italian Penal Code then in such cases the name and rank of the accused, the offence with which he is charged and short particulars of the facts supporting such charge shall be submitted to the Military Governor at least 14 days before the date fixed for trial.
- (j) No sentence of death imposed by an Italian Military Tribunal shall be executed until confirmed in writing by the Military Governor or by a specified officer not below the rank of Brigadier General or Brigadier to whom he may have delegated such power in writing. The confirmation of the Italian Unit Commander as set forth in Article 291 of the Military Penal Code for War will not be required.
- (k) The Military Governor may at any time appoint an officer or officers of the Allied Forces to execute all or any of the above mentioned powers.
- (l) The Military Governor may at any time repeal, suspend or amend any of these rules.

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

GRU/gmf

ACC/4065/L

28 March 1944.

SUBJECT: Legal Advice.

TO : H.Q. Regions 1, 2, 3, 4, 5, 6.
S.L.C. 5th & 8th Armies.

1. All officers are reminded that no legal advice may be given in their official capacity either to members of the Allied Forces or to civilians upon any private matter or matters of any such person or persons.

2. This in no way restricts the right of any legally qualified officer to give any such person or persons advice unofficially and in his private capacity.

3. For the private information of officers conversations are at present in progress with the Italian Government with the hope of being able to formulate a scheme to facilitate the marriage of members of the Allied Forces inter se in Italy and also with Italians.

G. R. UPJOHN
Colonel
Chief Legal Officer.

Copy to: ACC/4063/L

~D

CONFIDENTIAL

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

Ref/125/18/CA.

SUBJECT : Powers and Rights of Allied Forces and Allied
Military Government in Unoccupied Italy.

TO : See Distribution Below.

1. HQ. A.A.I. (Admin. Echelon) C.M.F. has issued an Administration Instruction to all Military Formations outlining the situation in general terms and substantially as stated in memoranda from this HQ dated 23 Jan and 31 Jan already in your possession.

2. The following extracts are quoted for your information:

(a) Although there will be officers of the Allied Control Commission in unoccupied ITALY-they will be there to advise and control the Italian Government and not as Governors. One of the most important functions of the Regional and Provincial Officers of the Commission will be liaison between Allied Military Formations in the area and the Italian administrative officials. All but the most routine dealings between the Italian administration and the Allied Military authorities must be conducted through the Commission. When the Italian Government is directly represented on a control board or committee, the Military may, of course, deal directly with that organization without the intervention of the Commission.

(b) Requisitioning.

The Allied Forces have retained the power and right to requisition private and public property and services in unoccupied ITALY - this right must be exercised sparingly and only for reasons of genuine military necessity. This right will be exercised through the Italian authorities. If, for example, a building is needed by the military it should be requisitioned through the Sindaco of the town where the building is situated, with the assistance of the Provincial Officer of the Commission. The usual formalities of requisitioning used in occupied territory should be strantly followed in unoccupied ITALY. The property of dissolved fascist societies must not be seized without giving a receipt and then only if required for reasons of military necessity.

(c) Allied Military Courts.

COPY rlp
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23 March 1944.

Government and not to the Regional and Provincial Officers of the Commission will be liaison between Allied Military formations in the area and the Italian administrative officials. All but the most routine dealings between the Italian administration and the Allied Military authorities must be conducted through the Commission. When the Italian Government is directly represented on a control board or committee, the Military may, of course, deal directly with that organization without the intervention of the Commission.

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(c) Allied Military Courts.

As the Proclamation of the Military Governor ceases to operate in unoccupied ITALY, all crimes will normally be tried under Italian law and in Italian courts. The Allied Forces, however, have reserved to themselves the right to hold Allied Military Courts in unoccupied ITALY for the trial of civilians who commit acts seriously hostile to the Allied Forces and to punish them in accordance with the Italian Penal Codes.

The reservation of this right is not intended to encourage the trials of civilian offenders by Allied Courts but only to deal with the most serious offences against Allied personnel or property which cannot be properly dealt with by the Italian Courts. If such an offence has been committed the Military Authorities should give a full statement of the facts to the local representative of the Commission with the request that an Allied Military Court be convened to hear the charges. It will be the responsibility of the Commission to frame the charges and constitute the Court.

Consequent on reservation of the power to try such offenders there is reserved to the Allied Forces the power to arrest persons who are believed to have committed such offences. High ranking Italian officials and officers of the Italian Armed Forces should, however, only be arrested in collaboration with the appropriate Italian official (e.g. the Prefect or the Commanding Officer of the officer concerned). In all cases of arrest the agreement of the local officer of the Allied Control Commission will be obtained beforehand, except in an emergency, when he should be informed immediately after the arrest.

(d) The right is reserved by the Commander-in-Chief to declare specific areas in unoccupied ITALY to be Military Zones. Should the situation in any area become such as to convince the District Commander that such action is necessary, he should, after consulting the Regional Commissioner, report accordingly to Hq, A.A.I. giving full reasons to justify his view. It may happen that the local Italian authorities may ask for the assistance of Allied troops in quelling civil disturbances. If such request is made the local commander will point out that the quelling of civilian riots or disturbances is a matter for the Italian Administration and he will refuse such assistance unless he is of the opinion that it is necessary for the protection of Allied Military interests. Before rendering such assistance the local commander will warn the local official requesting his assistance that the territory in question will be made forthwith an Allied Military Zone. If time permits the local commander will consult the local officer of the Commission before giving assistance.

(e) Prisoners of War and Civilian Internees.

The Allied Forces may continue to hold or require the Italian Government to hold in custody military or civil prisoners of war in unoccupied ITALY. If the Allied Forces require to arrest any person for security or other reasons such arrest should be carried out in collaboration with Italian officials unless in any particular case it is thought that a request to the Italian police to arrest a suspect would be ineffective. In all cases, except in emergency, the local officer of the Commission must be informed of the intention to make any such arrest, whether by the Allied or Italian authorities. If he is not in agreement the matter will be referred to higher authority. Normally such persons will be detained in 371 P.W. Camp.

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(f) Process in Italian Courts.

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

such assistance unless he is of the protection of Allied Military interests. Before rendering such assistance the local commander will warn the local official requesting his assistance that the territory in question will be made forthwith an Allied Military Zone. If time permits the local commander will consult the local officer of the Commission before giving assistance.

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(f) Process in Italian Courts.

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

(g) The agreement now reached with the Italian Government makes the rights of the Allied Forces in the Provinces of Apulia identical with their rights in the areas recently transferred from Allied Military Government to Italian Government.

3. The instruction emphasizes that except where, in emergency, immediate action is required by the Allied Forces for their own protection and security, all action required from the Italian Administration should invariably be taken through the medium of the Regional or Provincial Commissioner.

It is further notified that where immediate action is taken without previous reference to the Allied Control Commission for emergency reasons, the appropriate officer of the Commission will be informed as soon as possible.

4. It will thus be appreciated that HQ, A.A.I. are seeking to obtain the fullest co-operation between military commanders and the Allied Control Commission. It should be your constant endeavour to reciprocate.

ds
 NORAN E. FISKE
 Colonel,
 Deputy Executive
 Commissioner.

DISTRIBUTION:

All Regional Commissioners.
 SCAO's 5th and 8th Armies.
 Distribution "C".

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HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

CRU/gmf

ACC/4009/L

20 March 1944.

SUBJECT: Publicity and Propaganda.

TO : I/Os (thru RO) Regions 3, 4, 5.
S/Os (thru SCAG) 5th & 6th Armies.

1. The Legal Subcommittee is anxious to arrange for a systematic supply of information to the Public Relations Officer to form a basis on which the P/O can launch a campaign of deterrent publicity against black market activities through the newspapers and FWB. For this purpose the P/O asked for the following returns from all Regional legal divisions:

(a) Weekly summaries of the number of cases tried for black market violations, the number of convictions and the length of the average sentence and amount of goods confiscated;

(b) Particulars of outstanding cases of big violators whose crimes are more sensational and whose capture and subsequent conviction reflects credit on the law enforcement machinery of the Allied Control Commission.

2. While I am anxious to give all possible assistance to the P/O on this important matter, it is not my wish to add to the work of legal divisions by calling for additional returns, but I ask you to treat this matter as important and to make from time to time such returns as may be possible without placing an undue strain on your existing facilities and staff. If you cannot make the returns under (a) please at any rate do so under (b).

3. Please send the returns direct to Major L. Fielden, Public Relations Officer, ACC, Naples, as from the week ending 1 April 1944, who will arrange for their dissemination in Allied and Italian newspapers and through FWB.

4. Apart from the special class of black market cases, any trials of interest and importance, with particulars containing the name of the accused, a short description of the facts, verdict and sentence should from time to time be communicated to Major Fielden for publication in the most suitable manner. Please bear in mind the following principles:

(a) It is a good plan from the point of view of publicising the fairness and impartiality of Anglo-American justice to ask the P/O from time to time to insert an account of a trial which ends in acquittal, showing by

(b) Particulars of outstanding cases of big violators whose crimes are more sensational and whose capture and subsequent conviction reflects credit on the law enforcement machinery of the Allied Control Commission.

2. While I am anxious to give all possible assistance to the P.A.O. on this important matter, it is not my wish to add to the work of legal divisions by calling for additional returns, but I ask you to treat this matter as important and to make from time to time such returns as may be possible without placing an undue strain on your existing facilities and staff. If you cannot make the returns under (a) please at any rate do so under (b).

3. Please send the returns direct to Major L. Fielden, Public Relations Officer, ACC, Naples, as from the week ending 1 April 1944, who will arrange for their dissemination in Allied and Italian newspapers and through IWB.


4. Apart from the special class of black market cases, any trials of interest and importance, with particulars containing the name of the accused, short description of the facts, verdict and sentence should from time to time be communicated to Major Fielden for publication in the most suitable manner. Please bear in mind the following principles:

(a) It is a good plan from the point of view of publicising the fairness and impartiality of Anglo-American justice to ask the P.A.O. from time to time to insert an account of a trial which ends in acquittal, showing why the accused was acquitted.

(b) While there is no objection to publicising a forthcoming trial, it is on the whole better to concentrate on trials which have been held. In this connection publicity should not be withheld until the case has been reviewed. If, for instance, a death sentence is imposed, this might be reported first at the conclusion of the trial and secondly when the accused is executed.

5. P.W.B. has at its disposal a mobile loudspeaking unit in addition of course to broadcast facilities and they are anxious to arrange for propaganda to combat crime and disorder in various parts of Italy. Will P.A.O. and SIOs Army please transmit to the P.A.O. particulars of any special crime problems with which they are faced in any particular area (e.g. Black Market in Naples, wire cutting in army areas, breach of permit regulations in Poggia) so that P.W.B. can arrange for suitable propaganda to combat the most prevalent crimes in particular localities. The P.A.O. will then arrange with P.W.B. for appropriate propaganda in the particular locality.

6. Generally, in publicity matters, RIOs & SIOs Army will deal directly with the P.R.O., but on no account will cinematograph or sound recordings of actual court proceedings be permitted.


G. R. UPJOHN
Colonel
Chief Legal Officer.

Copy to: HIO (thru NC) Regions 1, 2, 6 (to note para 5).
2 Copies HIO (1 for Col. Warren PWB)
Your HEB is dated 16 March is acknowledged.

20 APR 1954

RECEIVED
15 APR 1954

Copy to: IIC (thru IC) Regions 1, 2, 6 (to note para 5);
2 Copies IIC (1 for Col. Warren PWB)
IC or IIB to be dated 18 Dec 61 or 19 Dec 61

20 JAN 1962

SECRET

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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

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supplemental, upon the restoration of territory to the Italian Government, 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.

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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:

(ii) 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.

(ii) 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 L. 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 L.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 RC, 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 RC 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 RC & Mr 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,

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- (ii) A careful check of outstanding fines will be made, steps will be taken to collect unpaid fines and a report will be made to the Chief of the Legal Sub-Commission at Hq, ACC.

(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 AMG, will, however, be continued by the Italian Administration and any departure from such amendments will forthwith be reported to Hq, ACC.

5. DETAINEES.

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 AMG 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

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7. ITALIAN COURTS GENERALLY.

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

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.

8. JUDGES AND OFFICIALS OF COURTS.

(a) All judges and Italian legal officers will be appointed, promoted or removed by the Italian Government with the consent of Hq, ACC and the RC will 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 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 prisoner of unfair treatment by an Italian Court, and if the complaint appears to be well founded to forward a report and recommendation to Hq, ACC (through Regional Hq).
- (v) Generally to keep Regional Hq and Hq, ACC advised of all relevant matters in the Court of Appeal District such as the reorganization of the Bar Association, the holding of examinations for advocates or procuratori, the reorganization of Notarial Councils and so forth.

(c) Chief Legal Officers in the Regions will inform Hq, ACC of the

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

(c) Chief Legal 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 offices.

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

9. CONCLUSION OF DUTIES OF LEGAL OFFICERS.

(a) Any Legal Officer in the Region who has completed his work may be ordered by the PC 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. ACC. 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 MASON MacFarlane.

M. S. LUSH,
Brigadier,
Executive Commissioner.

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CONFIDENTIAL.

Allied Forces H.Q.,

6 Feb 44.

WAR CRIMINALS.

The following procedure will be adopted by British forces in this theatre in order to implement the directive of the Combined Chiefs of Staff of 29 Oct 43 and Allied Force Headquarters Circular 'War Criminals' under reference AG 000 5-1 G.A.P. - A.G.M., dated 27 Nov 43.

For the purpose of this directive war crimes are defined as violations of the laws and customs of war, examples of which are set out in paragraph 443, chapter XIV, Manual of Military Law.

As soon as any circumstances suggesting the commission of a war crime come to the notice of any officer he will immediately notify his commanding officer who will cause an investigation to be made and if necessary, apply through the usual channels for the assistance of the Field Security Police. Statements will be obtained from any available witnesses.

When the investigation has been completed a brief report together with any statements obtained from witnesses will be forwarded through the usual channels to DJAG, AFHQ, who will advise G-1 (B) whether a court of inquiry should be assembled. Its terms of reference and the witnesses to be summoned. If a court of inquiry is ordered to assemble, it will do so, when practicable, at or near the scene of the alleged crime. It will consist of two officers the president being a member of the Deputy Judge Advocate staff of the Judge Advocate General and the convening officer will order that the evidence be taken on oath.

Whenever practicable the accused will be present and will have the right to be represented by a military officer as counsel.

The court will record all relevant evidence whether for or against the accused and will receive any evidence which in their opinion has probative value.

The evidence will be recorded in narrative form except that the cross-examination of witnesses, will, upon the request of the accused, be recorded in the form of question and answer.

Each witness will sign his name at the foot of the record of his evidence.

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Whenever practicable the accused will be present and will have the right to be represented by a military officer as counsel.

The court will record all relevant evidence whether for or against the accused and will receive any evidence which in their opinion has probative value.

The evidence will be recorded in narrative form except that the cross-examination of witnesses, will, upon the request of the accused, be recorded in the form of question and answer.

Each witness will sign his name at the foot of the record of his evidence.

The examination and cross examination of witnesses will normally be conducted by a military officer, termed military counsel (when practicable a member of the JAG's legal staff) and by a military officer, termed defense counsel (when practicable an officer with legal qualifications).

The president may question any witness in order to supplement the information adduced by counsel.

The following certificate will be signed by the President and member at the foot of the proceedings :-

CERTIFICATE

The above witnesses appeared in person before us this.....day of1944 at and (in the presence of the accused, who was afforded the opportunity to cross-examine) gave evidence upon oath as set out above.

* If the accused was not present the words in brackets will be omitted.

The president will forward the proceedings together with the convening order, under secret cover to the convening officer who will forward them to DJAG, AFHQ.

G.1B/3305/A3

C O P Y .

Document "A"

HEADQUARTERS
 ALLIED CONTROL COMMISSION
 Legal Subcommittee

2 February 1944

In reply
 refer to : ACC/L/101

SUBJECT : Italian Deserters.

TO : Chief Legal Officers, Regions 3 & 4.
 SLOs, 5th and 8th Armies.

Members of the Italian Armed Forces who deserted between 10 July and 9 September 1943, inclusive, shall not be punished for desertion except those who deserted to the German or other host file army.

However, the foregoing does not preclude trial and punishment by an Italian Military Tribunal of those who so deserted between the dates above mentioned, for their failure to return to the Italian Armed Forces after October 6 1943, provided they were given due and proper notice to return by that date. In such cases the deserters may be tried and punished for failure to return and not for the original desertion.

The Italian Commanders in your region should be advised accordingly.

Colonel
 Chief Legal Officer, ACC

Copy to AMO HQ 15th Army Gp.

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The above also sent to Regions 1 & 2 on 30 Dec 1943.

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rlp

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

8 March 1944

Ref/31A/16/CA

SUBJECT: Release of Prisoners Held for Trial
by Allied Military Courts.

TO : Commanding General, ACMG

1. I am directed by the Chief Commissioner to make known to you the confusion that has resulted from the release of prisoners from jails or prisons by members of the Military Police without knowledge or approval of the Commission's officials. Cases are frequently called for trial in the Military Government Courts only to find that the accused have been released. If there is no case against the prisoner he should of course not be detained, but it is important that the release be ordered by a competent Military Government officer.

2. It is suggested that a prisoner held for trial before an Allied Military Court be released only on written order of the Court or, if none is sitting, of a Provincial Commissioner or a Civil Affairs Police Officer. It would be of great assistance if you should see fit to issue instructions to the above effect.

NORMAN E. FISKE
Colonel, Cavalry
Deputy Executive Commissioner

Copy to:
R.C. All Regions
SCAGs 5 & 8 Armies

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

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HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394

EXECUTIVE MEMORANDUM

NUMBER 18

TO : Regional Commissioners,
Regions III, IV & V.

14th February 1944

COPY

POWERS OF REGIONAL LEGAL OFFICERS.

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, ACC to appoint a General Military Court whenever necessary.
2. Reviews of the decisions of Allied Military Courts will be in accordance with Proclamation No. 14, as it amends Proclamation No. 4 which provides for reviews substantially in the following manner:-

Any person convicted by a Military Court may, within thirty days after 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 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 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 a fine of L. 50,000 the Chief Legal Officer of the Region shall review the case and may appoint a judicial officer not below the rank of Major for that purpose.

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3. By Proclamation No. 14 referred to above the Regional Commissioner may order an Allied Military Court to sit in camera. The Chief Legal Officer of the Region may also perform the functions previously assigned to the Chief of the Legal Sub-Commission (CIO) in connection with the detention of suspects. See Proclamation No. 2, Article VII, Section 2.

ITALIAN COURTS AND PERSONNEL.

4. The Regional Commissioner may remove Italian Judges and connected with the Italian Courts and on a temporary basis during absence may fill existing vacancies. He may appoint Notaries when vacancies exist upon the recommendation of the Notarial Council of the district in which vacancies exist. For the purpose of securing assistance and advice

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Italian legal and judicial matters, he may appoint a General Committee of Italian Citizens. The Regional Commissioner will report in detail to Hq, ACC on any proposed appointment, promotion or transfer of judges and court officials except in an emergency when an appointment, promotion or transfer may be made subject to confirmation by Hq, ACC. Any removal will be reported to Hq, ACC as soon as possible.

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

ITALIAN MILITARY TRIBUNALS.

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 Directive issued in that regard.

PRISONERS.

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.

ITALIAN LEGISLATION AND LAWS.

8. The Regional Commissioner shall not abrogate or amend any laws on the ground that they are discriminatory or of a fascist nature and this matter is reserved to Hq, ACC. The 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 regions; to assign, attach, relieve or replace regional legal personnel, and to review decisions of Allied Military Courts in accordance with paragraph 3 above.
- 10. The Chief Legal Officer of the Region will NOT issue directives on matters dealing with matters of general legal policy without previous

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.

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GENERAL.

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

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

By the command of Ident-General MASON MACFARLANE.

/s/ M. S. BUSH
M. S. BUSH,
Brigadier,
Executive Commissioner.

0341

RESTRICTED

HEADQUARTERS
NORTH AFRICAN THEATER OF OPERATIONS
UNITED STATES ARMY
APO 534

31

COPY
rlp

CIRCULAR)
NUMBER 11)

26 January 1944

INVESTIGATION OF WAR CRIMES

1. The following procedure is established to effect the purposes of the directives concerning war crimes of the Combined Chiefs of Staff of 29 October 1943 and Allied Force Headquarters Circular of 27 November 1943.

2. For the purpose of this directive war crimes are defined to be violations of the laws and customs of war, examples of which are set forth in paragraphs 347 and 355 of the Rules of Land Warfare, U. S. Army.

3. In order that the testimony of witnesses may be recorded in such form that it shall be admissible in their absence before legal tribunals in accordance with generally accepted rules, the following procedure is prescribed:

a. Whenever practicable, witnesses will be examined and cross-examined under oath on oral interrogatories in the presence of the accused and before a military officer termed a commissioner, who, for the purpose of such examination, shall have authority to administer oaths as an officer detailed to conduct an investigation within the purview of Article of War 114, U. S. Army.

b. The accused shall be entitled to be represented by counsel.

c. The oral examination of witnesses shall normally be conducted by military officer termed military counsel and by a military officer termed defense counsel, if the accused desires counsel. The commissioner before whom a witness is being examined may interrogate the witness in order to supplement the information adduced by counsel.

d. The examination of witnesses will take place when practicable at the scene of the alleged crime and as soon thereafter as circumstances permit.

4. a. The Commanding General of each Army shall designate, from officers of his command, one officer of field grade with legal qualifications as commissioner, one officer as military counsel and one officer as defense counsel.

b. Each Army Commander shall refer to the commissioner designated by him all cases involving war crimes in which the accused is in the custody of the Army Commander. He may also refer to such commissioner cases involving war crimes if witnesses are available in his command through the accused may not be in custody or even identified.

5. a. The commissioner to whom cases are referred is responsible for their prompt investigation and reduction of the available evidence to permanent form,

30

as prescribed herein. To accomplish this result he is authorized to give necessary instructions to the military counsel and the defense counsel in the preparation of interrogatories and cross-interrogatories and take such action with respect to time and place for conducting the taking of testimony as circumstances warrant.

b. The commissioner is responsible for the taking of all available testimony and for submitting the same in due form to the Army Commander by whom he was designated. He will authenticate the testimony of each witness at the end of the transcript by certificate as follows:

"I certify that _____ personally appeared this _____ day of _____ 1944, at _____ before me, a Commissioner duly designated by competent orders and in the presence of the accused, who was afforded the opportunity of cross-examination, and testified under oath in the matter of _____ in the manner above set forth.

"Place _____ Name _____

"Date _____ Rank _____"

6. The Army Commander will transmit to this Headquarters the reports of commissioners designated by him.

7. Commissioners, military counsel and defense counsel will be designated by this Headquarters to take testimony and make report in respect of the investigation of war crimes when either witnesses or the accused are not under the command of an Army Commander or for any other reason investigation by direction of an Army Commander is not practicable. Commissioners designated by this Headquarters will conform to the procedure set forth herein except that their reports will be submitted directly to this Headquarters.

8. Commissioners are authorized to receive any evidence which would have probative value to a reasonable man.

9. Officers may be detailed as investigators to assist commissioners. (AG OCO.5/367)

12

By command of Lieutenant General DEVERS:

OFFICIAL:

E. L. FORD,
Brigadier General, GSC.
Chief of Staff.

/s/ H. V. Roberts,
H. V. Roberts,
Colonel, AGD,
Adjutant General.

Reproduced, Hq Peninsular Base Section,
APO 782, 5 February 1944 ?

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"A" & "E"

R E S T R I C T E D

(29)

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
A.S.C. 512
LEGAL SUB-COMMISSION

AMS/4409/L

Subject:- Office of Director of Special Prosecutions.

To :- E.C.L.Cs (thru RCACs) Regions I and II. 6th December 1943.

1. In order to achieve uniformity in prosecution and, as far as possible, uniformity in the imposition of punishments for all crimes deemed directly to affect special interests of the Allied Military Government, there has been established within the Legal Sub-Commission, this Headquarters, the Office of the Director of Special Prosecutions, Legal Sub-Commission.

2. The function of the office of the Director of Special Prosecutions is to advise and, whenever necessary, to assist in or conduct all prosecutions, within the occupied territory, of crimes within the category described in paragraph 1.

3. Crimes within the category described in paragraph 1 are :-

- (a) All criminal acts of any kind or nature whatever, that are committed with the purpose or intent of aiding or assisting the enemies of the United Nations or of interfering with the operations of the Allied Forces.
- (b) All criminal acts which tend to bring about a substantial interference with the operations of the Allied Forces within the occupied territory, irrespective of the specific interest with which they are committed.
- (c) All acts of organized or mass violence or terrorism or of organized or mass resistance or opposition to the Allied Military Government or other lawfully constituted Government or its representatives or agents.
- (a) Violation of Article V of Proclamation No. 7 of July 1943.
- (c) All violations of applicable laws, decrees, Proclamations, orders and regulations (hereinafter referred to as "black market cases") which constitute :-
 - (i) a diversion of essential commodities from legal channels by hoarding, transportation or sale through other than

- (a) All criminal acts of any kind or nature whatever, that are committed with the purpose or intent of aiding or assisting the enemies of the United Nations or of interfering with the operations of the Allied Forces.
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- (c) All acts of organized or mass violence or terrorism or of organized or mass resistance or opposition to the Allied Military Government or other lawfully constituted Government or its representatives or agents.
- (d) Violation of Article V of Proclamation No. 7 of July 1943.
- (e) All violations of applicable laws, decrees, Proclamations, orders and regulations (hereinafter referred to as "black market cases") which constitute :-
- (i) a diversion of essential commodities from legal channels by hoarding, transportation or sale through other than legal means;
- (ii) an unlawful purchase or sale of such commodities at prices in excess of legally proscribed maximums.
- (f) All other substantial violations which in the judgment of the C.A.O., Legal Officer or C.A.P.O. having jurisdiction thereof are of such a nature or extent as to fall within the category described in paragraph 1.
4. Whenever cases of the kinds mentioned in paragraph 3, sub-items (a), (b), (c), (d) and (f), or major black market cases arise, it shall be the duty of the C.A.O., C.A.P.O. or Legal Officer having jurisdiction :-
- (a) to report the case immediately through Regional Headquarters to the Director of Special Prosecutions;
- (b) whenever practicable in view of existing communication and transportation difficulties, to withhold prosecution of the offenders until advice is received from the Director of Special Prosecutions through Regional Headquarters to proceed with the prosecution.

(c) To give all such cases special preferred and expeditious treatment, including to the maximum extent possible special investigative attention to make certain that all available evidence of the offence has been secured and all available individuals involved in the offence have been discovered and apprehended.

5. It shall be the duty of each Regional Headquarters to forward as soon as practicable all reports of the type described in paragraph 4 hereof to the Director of Special Prosecutions and, in any event, to render such assistance to the investigation and prosecution of offences so reported as the Regional Chief Legal Officer deems necessary.

Where, however, in view of the nature of the case so reported and the state of transportation and communication facilities, it is not deemed practicable to withhold prosecution until advice is received from the Director of Special Prosecutions, it shall be the duty of Regional Headquarters to take all necessary steps to ensure prosecution of the case in accordance with the policy defined in this directive.

6. All prosecutions for crimes that affect the interests of A.M.C. as defined in para. 3 hereof shall be brought before A.M. Courts.

7. The procedure described in para. 4 hereof shall be followed in all cases of any nature whatsoever, if it seems likely that the prosecution is to be brought before a General A. M. Court. The duties of Regional Headquarters with respect to such cases shall be as set forth in para. 5 hereof.

8. Major black market cases as distinguished from other black market cases are subject to the procedure set forth in para. 4 hereof. No hard and fast rule can be laid down defining a major black market case. Illustrative of the type of case falling into this category are the following types of cases. These are examples only for they by no means exhaust the category :-

- (a) Violations which are the result of the operation of any organized group, ring or conspiracy;
- (b) Violations which involve a breach of trust such as violations by law enforcement officers or other public officials charged with the suppression of black market practices or with the administration of supplies or rationing;
- (c) Violations whose extent is such as to indicate a black market operation on a major scale.

9. Success of the current drive against black market cases is of especial interest to the A.M.C. Hence the greatest emphasis should be laid upon the prosecution and investigation of major cases. Other black market cases should also be subject of an intensive law enforcement drive by C.A.C., Legal

cases of any nature whatsoever, if it seems likely that the prosecution is to be brought before a General A. M. Court. The duties of Regional Headquarters with respect to such cases shall be as set forth in para. 5 hereof.

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9. Success of the current drive against black market cases is of especial interest to the A.M.C. Hence the greatest emphasis should be laid upon the prosecution and investigation of major cases. Other black market cases should also be subject of an intensive law enforcement drive by C.A.O.s, Legal Officers or C.A.P.O.s. The greatest available concentration of time, effort and enforcement personnel should be made upon this type of violation. The steps to be taken in pursuance of this policy will depend on a large extent upon the resourcefulness of the C.A.O., Legal Officer or C.A.P.O. having jurisdiction and his knowledge of local conditions. The following measures, however, should be put into effect whenever they are applicable:-
- (a) Imposition of uniform punishments for this type of violation within the limits set forth in the directive of the Chief Judicial Officer on the subject;
 - (b) A special effort to discover and apprehend major violators, suppliers, transporters of grain on a large scale and individuals connected with organized black market activity;
 - (c) In connection with the above a policy of leniency to minor offenders who aid the enforcement authorities by giving information concerning their sources of supply, their confederates, or other matters;
 - (d) Dissemination by whatever means available of publicity as to cases actually tried, the names of the offenders and the punishments imposed.

- 3 -

(e) Establishment of road blocks and the use of such other special investigative devices as may be warranted by conditions obtaining in any particular locality.

10. Communications from Regional Headquarters will be transmitted to the Legal Sub-Commission for the office of the Director of Special Prosecutions.

Richard H. Wilmer

RICHARD H. WILMER

Lt. Colonel,
Acting Deputy Chief Legal Officer.

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Auth: CIND AF
Initials

27 November 1943

52

CIRCULAR

WAR CRIMINALS

1. The ultimate disposition of persons charged with the commission of war crimes is a matter for consideration by the governments of the Allied nations.

2. Trials by military courts of persons suspected of war crimes will not be held unless directed by this headquarters. Such persons will be held in custody pending decision as to their disposal. While suspects are under detention all available information about them and about war crimes of which they are suspect will be collected and forwarded to this Headquarters.

3. The following procedure will govern:

a) Secret reports, through command channels, will be made to this headquarters containing all possible information concerning the specific individual held under detention as a war criminal suspect and concerning the time, place, character and details of the alleged war crime. It is imperative that each report include not only the names and addresses of witnesses but also the gist of the evidence which each may reasonably be expected to give in any proceedings which may later be resorted to to perpetuate such testimony for trial purposes. In order that these investigations may be kept strictly within command channels, they will be made by persons subject to the direct orders of the Commanding Officer making the report.

b) Reports submitted to this headquarters shall pertain only to persons then being held in detention.

c) For the purpose of the directive, war crimes are acts committed by persons in violation of the laws and customs of war. Should any doubt exist as to whether reported acts constitute war crimes, the case will be reported as above directed for consideration by this headquarters.

d) When reports are received at this headquarters and further investigation is considered advisable, either unit commanders will be directed to make the supplementary investigation or the supplementary investigation will be carried on directly from this headquarters.

e) When any change in the place of detention of a person upon whom a report has been made is directed by any authority other than this headquarters, an immediate report of such change will be made to this headquarters, in order

X |

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e) When any change in the place of detention of a person upon whom a report has been made is directed by any authority other than this headquarters, an immediate report of such change will be made to this headquarters, in order that any supplementary investigation may be expeditiously carried on.

4. Situations may come to the attention of Commanding Officers in which the alleged war criminal is not in detention or may even be performing duties not incompatible with the Allied cause. In order that orderly procedure with respect to such situations may be followed, Commanding Officers will report such cases to this headquarters with all available information.

5. Italians who commit crimes against Italian Nationals are not to be considered as war criminals and such persons will be handed over to Italian Government representatives for trial.

6. Persons who commit crimes against members of the Allied Command during the period of occupation of Italian Territory may be charged and tried before military tribunals in accordance with established practice.

7. It is enjoined upon all persons or this command to refrain from giving any publicity whatever to war crimes or war criminals or to any act taken by the military forces with respect thereto.

The release of any information concerning war crimes or war criminals is specifically reserved to this headquarters. (AF 000.5-1 WAR. ADM)

U.S. SECRET EQUALS BRITISH MOST SECRET

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
AFG 512
LEGAL SUB-COMMISSION

AMG/4096/L.

22nd November, 1945.

SUBJECT: War Criminals.

TO : Regional Chief Legal Officers
(through RCAGs).

1. Imperative orders have been received in this Headquarters from the AFHQ, regarding trials of War Criminals and directing that the Allied Military Courts will not try cases of the type specified in paragraph 2 below.
2. It is essential that no War Criminals be tried in your Region by Allied Military Courts. All reports of Italians or others accused of committing war crimes, e.g. of abducting in any way, prisoners of war or internees, or committing other offences of this general nature, will be immediately investigated and full and complete reports, including nature and places of alleged crimes, names and addresses of the alleged offenders, of the victims and of the witnesses, will be forwarded to the Chief Legal Officer, AFHQ.
3. Such investigations will not include the holding of any formal hearings but will be limited to the gathering of the necessary facts for the preparation of a proper report for submission by this HQ to higher authority. The utmost secrecy will be observed in making these investigations.
4. The foregoing does not apply to current crimes such as those committed against Allied Forces (wire cutting, sniping, stealing etc., or black market activities, curfew violations etc.) which will be tried as now by Allied Military Courts.


 GERALD P. JOHN,
 Colonel,
 Deputy Chief Legal Officer.

DISTRIBUTION :

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 RCAG Region II (For action) 25

committing war crimes, e.g., of...
internees, or committing other offenses of this general nature,
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A.G.

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4. The foregoing does not apply to current crimes such as those
committed against Allied Forces (wire cutting, sniping, stealing etc., or
black market activities, curfew violations etc.) which will be tried in law by
Allied Military Courts.

G R L Hayes
~~SECRETARY~~
Colonel,
Deputy Chief Legal Officer.

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U.S. SECRET EQUALS BRITISH MOST SECRET

AMCOT/4006/L.
AMCOT HQ., SICILY
12 October 1943

SUBJECT: Administrative Instruction on Construction of Proclamations.
TO : All Legal Officers (through SCAO).

Reference this HQ letter AMCOT/4006/L. dated 10 Oct 1943, please amend Par. 1 to read as follows:

"1. Proclamation 2, Article I, Section 17:

While an ordinary minor theft of property by one civilian from another is not to be considered an act of "plunder or pillage" looting of houses and buildings is an offense under this section. If mere possession of looted goods is presented it would be a violation of article III, section 1 which provides that anyone "assisting in" the commission of an offense is guilty. If the goods stolen are those of the Allied Military Government or enemy property entitled to be taken by the Allied Forces the prosecution should be under article I Section 11, article II Section 26, or article II section 39 as the case may be.

Minor thefts and larcenies of civilian property by civilians should be prosecuted in the Italian Courts under Italian law."

W. C. Chamber
W. C. CHAMBER,
Lt. Col., AMB,
Chief Legal Officer.

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0353

22

AMC09/4006/L.
ALFCEI HQ., SICILY
10 October 1943

SUBJECT: Administrative Instruction on Construction of Proclamations.

TO : All Legal Officers (through SOAO).

Some questions relating to the interpretations of provisions of Proclamations has arisen in the administration of Military Courts. For the purpose of assisting all officers presiding over Courts and those prosecuting offences the following interpretations have been made:

1. Proclamation 2, Article I, Section 17:

While an ordinary minor theft of property by one civilian from another is not to be considered an act of "plunder or pillage" looting of homes and buildings is an offense under this section. If mere possession of looted goods is presented it would be a violation of Article III, Section 1 which provides that anyone "assisting in" the commission of an offense is guilty. If the goods stolen are those of the Allied Military Government or enemy property entitled to be taken by the Allied Forces the prosecution should be under Article I Section 2, Article I Section 26, or Article I Section 39 as the case may be.

Minor thefts and larcenies of civilian property by civilians should be prosecuted in the Italian Courts under Italian law. 6

2. There have been instances of public demonstrations against Italian public officials. These officials are carrying out their duties under the Military Government, and are acting on military authority. For the purpose of Section 20 of Article I, Proclamation No. 2, the words "military authority" may be held by all Allied Military Courts to include such Italian public officials.

5. It is to be noted that Section 20 of Article I, Proclamation No. 2, does NOT apply to persons participating in insurrections or demonstrations unless they are also guilty of incitement, organization or leadership. Furthermore, there must be an insurrection or intended insurrection. This is more serious than ordinary riot. If all the requirements of the above section are not present, persons concerned in public disturbances should be charged under Sections 30 or 31 of Article 2 of Proclamation No. 2.

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Minor thefts and larcenies of civilian property by civilians should be prosecuted in the Italian Courts under Italian law. 6

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4. Any theft of property in the custody or under control of the Controller of Property should be prosecuted under Proclamation No. 6, Article X, Sections (c) and (b).

5. Attention is likewise called to the provisions of Proclamation No. 6, Articles I and V which make it an offense in the Military Courts to violate Italian nation laws, including Black Market offenses.

6. Proclamation No. 9, Article I refers only to General Orders of the Allied Military Government to be published in the Sicily Gazette. Local orders need not be so published.

W. C. O'BANIER,
Lt. Col., AUS,
Chief Legal Officer.

Copy to files AFOT/4027/L.
AFOT/4034/L.

12

Subject:- Prosecutions - Orders to Civilian Enemy Subjects

AMGOT/4034/L

AMGOT HQ. SICILY

To: All Senior Legal Officers
(through S.C.A.Os.)

11th Sept. 1943

1. An order given orally to an enemy civilian subject by any Officer of the Allied Forces acting in the course of his duties and within the scope of his authority is a proper order, and failure to observe it is an offence punishable under para. 43 of Proclamation No.2.

2. If an order given orally is the basis of a prosecution under the above para., the prosecution should be in a position to prove that the order was definite and concise and that accused appeared to understand it. The order must not, of course, be one to do an illegal act.

3. Where civilian employees are concerned, they should be only prosecuted for failure to obey an order if there has been wilful neglect or disobedience in carrying out their duties in accordance with instructions. It is not desirable that incompetency or the usual trivial failures of civilian clerks should be made the subject of criminal proceedings.

5

Lieut. Colonel,
Chief Legal Officer.

0358

Prisoners Provincial Gaols

11

ALGOT/4018/L.

7 Sep 1943

Subject:-

To: All S.C.A.O.s
All S.L.O.s

This memorandum sets out the action to be taken in respect of prisoners in provincial gaols. It is based on experience gained in Palermo.

1. Prisoners duly charged and convicted by Italian Criminal Courts.

ALGOT will ensure that no political bias affects or has affected the case. Any suspect cases are to be reported.

2. Prisoners charged with an offence and awaiting trial.

This class has been found to be numerous. The list will be scrutinised carefully in conjunction with the Italian authorities and in any case where it is found that a prisoner charged with any offence has already been in gaol for a period equal to the full sentence if found guilty, the prisoner will be released immediately. In other cases every effort will be made to expedite the hearing by the appropriate Italian Tribunal.

3. Prisoners held at the disposition of the Questor "Motivo Publica Sicurezza".

This class was numerous in Palermo, the former occupants of USTICA having been brought here. Each prisoner of this category was interviewed by a legal officer. It was found that they nearly all had criminal records, varying in gravity. They had been sentenced to "Confino", normally for two or five years, by a Questor or Provincial Commission, without trial or for no particular offence; in some cases it was admittedly because of their previous records.

Those without too bad a record have been freed on the following conditions:-

- (i) An entry to that effect to be made on their identity card,
- (ii) Registration with Police,
- (iii) Weekly reporting to the Police,
- (iv) Limit of travel to be 10 km.

4

Those with a really bad record are being held pending further consideration. If it is determined that the safety of the Allied Forces or the order and tranquility of the Occupied Territory require their further detention, they will be transferred to an internment camp: otherwise they will be released.

A copy of the Form filled in by the interviewing officer in respect of those attached at Appendix "A".

Prisoners held at the... This class was numerous in Palermo, the former occupants of USTICA having been brought here. Each prisoner of this category was interviewed by a legal officer. It was found that they nearly all had criminal records varying in gravity. They had been sentenced to "Confino", normally for two or five years, by a Questor or Provincial Commission, without trial or for no particular offence; in some cases it was additionally because of their previous records.

Those without too had a record have been freed on the following conditions:-

- (i) An entry to that effect to be made on their identity card,
- (ii) Registration with Police,
- (iii) Weekly reporting to the Police,
- (iv) Limit of travel to be 10 km.

4

Those with a really bad record are being held pending further consideration. If it is determined that the safety of the Allied Forces or the order and tranquility of the Occupied Territory require their further detention, they will be transferred to an internment camp; otherwise they will be released.

A copy of the Form filled in by the interviewing officer in respect of each case is attached at Appendix "A".

4. Prisoners held at the disposition of the former Italian Military Tribunal
The Italian Military Tribunal was occupied by cases such as improper use of Italian Government patrol for private gain and printing and selling forged travelling warrants.

An "ad hoc" tribunal was set up to investigate and to give directions in appropriate cases for speedy trial by the normal Italian Courts and in other cases (e.g. where the offence alleged was not serious and the prisoner had already been held in prison for a long time, or where, owing to absence of witnesses or other reasons a speedy trial was not possible) to give directions for the release of the prisoner.

A copy of the order served on the Questor is attached at Appendix "B".

5. Prisoners detained by the Military or IMCOT as dangerous Fascists.
Instructions covering the arrest and detention of this class will be (cont'd...& review...)

- 2 -

issued separately.

A review of the prisoners held in the goals of your province will be made on the above lines and action taken as indicated.

In some goals there are a number of Arabs who were sent to Sicily from North Africa. S.C.A.O.s will take steps to return these Arabs to North Africa as soon as possible and inform this H.Q. of the action taken. If it is not found possible to arrange their return, this will be reported to this H.Q. with a statement showing:-

- (a) Their numbers,
- (b) In what goal they are,
- (c) Names and place of origin, and,
- (d) Copies of any available records.

7/16/66

MGOT HQ
15 Army Group.

Major General,
Chief Civil Affairs Officer,

16

Appendix A

Date of Interview: _____ 1943. Prison Record Number _____

Surname _____

Christian Names _____

Sex _____ Married or Single _____

Particulars of Personal Identity Card _____

Date of Birth _____

Place of Birth _____

Residence during last 5 years _____

Address _____

Occupation _____

Brief Description _____

Previous Criminal Record _____

Political Tendencies _____

Remarks by Detainee _____

0360

Residence during last 5 years _____

Address _____

Occupation _____

Brief Description _____

Previous Criminal Record _____

Political Tendencies _____

Remarks by Detainee _____

Remarks by Interviewing Officer _____

Action to be Taken _____

0361

9

Appendix B

To: Al Signor Questore
Questura di Palermo

Take notice that a Tribunal constituted for that purpose by the Allied Military Government will sit at 9.0 o'clock on Friday, the 27th of August, 1945, at the Ball Room, The Prefecture, Palermo, and on such later days as the Tribunal may direct to consider the cases of the prisoners whose names are set out in Annexure A hereto being prisoners held in Palermo gaols at the disposition of the former Italian Tribunale Militare, and all other, if any, the prisoners there held on the like grounds and that you are required to bring before the Tribunal on the said day or days all the said prisoners.

And also take further notice that you or a proper representative will attend at all sittings of the Tribunal and will be prepared to inform the Tribunal in respect to each prisoner (a) whether any lawful charge has been made against him, and (b) whether it is wished to withdraw, or any additional, lawful charges against him, and if so, to state the charges and the facts on which it is proposed to found them.

The Tribunal is authorized to give all necessary directions for obtaining a speedy trial or release of all the said prisoners.

COPY TO:-

Chief Legal Officer, A.M.G.C.T.

Il Direttore Delle Carceri Giudicarie Centrali, Palermo

Il Direttore Del Carcere Fominile

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Chief Legal Officer, A.M.G.O.F.

CCPI TO:-

Il Direttore Delle Carceri Giudiziarie Centrali, Palermo

Il Direttore Del Carcere Femmine Palermo.

Sen. Car. A.M.H.M. Diccio; Prefettura

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COPY,
File No. 266/HQ.
AMCOT H. Q., SICILY.
27th August 1943.

SUBJECT:- Powers of Local Legislation.

TO:- All S.C.A.Os.

1. While it is essential that all provincial or regional S.C.A.Os have full responsibility for the administration of the area under their charge, and have the power to fulfil such responsibilities, it is equally essential to preserve as far as possible uniformity of government throughout the occupied area and to avoid the issuance of any local ordinances in one locality which might have a harmful effect on a neighbouring area or which are inconsistent with Proclamations or General Orders issued from this Headquarters.

2. Accordingly, except in emergencies, S.C.A.Os are authorised to issue local ordinances only in relation to the following matters:-

- (a) Curfew.
- (b) Extent to which inhabitants may be permitted to circulate during daylight hours. In this connection S.C.A.Os. are authorised to issue such orders from time to time as they may deem necessary extending the 10 kilometre restriction contained in para 42 of Proclamation No.2 within the limits of their own provinces.
- (c) Prescribing forbidden areas where all circulation is prohibited.
- (d) Prescribing hours and days during which trade or business may be carried on.
- (e) Restricting street pedlars.
- (f) Control of the sale of intoxicating liquors.
- (g) Regulating the use of public streets and highways in the district.
- (h) Restrictions on local use of water and electricity.
- (i) Care and preservation of ancient monuments.
- (j) Restricting the use of buildings which are unsafe or unsanitary.
- (k) Local health and sanitation regulations.
- (l) Air Raid Protection.
- (m) Any matter necessary for the preservation of Law and Order.

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- (f) Control of the sale of intoxicating liquors.
- (g) Regulating the use of public streets and highways in the district.
- (h) Restrictions on local use of water and electricity.
- (i) Care and preservation of ancient monuments.
- (j) Restricting the use of buildings which are unsafe or unsanitary.
- (k) Local health and sanitation regulations.
- (l) Air Raid Protection.
- (m) Any matter necessary for the preservation of Law and Order.

3. There will also be many situations where instructions will be issued from this H.Q. requiring the issuance of local ordinances for particular purposes such as, the fixing of maximum prices for various commodities; requirements that certain businesses be licensed; While requirements for the declaration of certain commodities, etc. While such ordinances may differ in various provinces, such differences must be directed from this H.Q. so as to avoid unjustified differences between various localities. As such ordinances are only effective in a given locality, they should be issued by the S.C.A.O. as a local ordinance.

4. If any other subject arises which appears to require a local ordinance S.C.A.Os should, except in the case of emergency, report the facts and circumstances to this H.Q. and request authority to issue the proposed ordinance.

5. In cases of emergency a S.C.A.O. may issue any ordinances which the situation may require but must in such case immediately send full particulars to this H.Q.

6. S.C.A.Os are authorised to delegate to C.A.Os power to issue local ordinances having application only within the region under the control of the C.A.O. dealing with the subjects herein provided.

7. This memorandum is intended to deal only with local ordinances intended to be published and binding on all persons within the area under the control of the S.C.A.O. or C.A.O. issuing the ordinances or such portions thereof as he may direct. It is not intended to affect in any way the power of S.C.A.Os or C.A.Os to issue such special orders or administrative instructions or regulations either to officers under their command or to other persons in the area under their jurisdiction as may from time to time be necessary in the discharge of their duties.

8. Local ordinances will be made in the following forms:-

" ALLIED MILITARY GOVERNMENT OF OCCUPIED TERRITORY.

PROVINCE (OR COMUTE) OF.....

Text of the ordinance which will be subscribed as follows:-

BY ORDER OF THE ALLIED MILITARY GOVERNMENT

Senior Civil Affairs Officer (or Civil Affairs Officer)

DISTRIBUTION:-

- S.C.A.O. Agrigento.
- S.C.A.O. Caltanissetta.

RENELL OF RODD Major General,
Chief Civil Affairs Officer.

ALLIED MILITARY GOVERNMENT OF OCCUPIED TERRITORY.

PROVINCE (OR CONTINUE) OF.....

Text of the ordinance which will be subscribed as follows:-

BY ORDER OF THE ALLIED MILITARY GOVERNMENT

Senior Civil Affairs Officer (or Civil Affairs Officer)

"

RENNEILL OF RODD Major General,
Chief Civil Affairs Officer.

DISTRIBUTION:-

- S. C. A. O. Agrigento.
- S. C. A. O. Caltanissetta
- S. C. A. O. Catania
- S. C. A. O. Enna
- S. C. A. O. Messina
- S. C. A. O. Palermo
- S. C. A. O. Ragusa
- S. C. A. O. Siracusa
- S. C. A. O. Trapani

All Heads of Divisions

AMGOT Liaison 15 Army Group

File.

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