

0193

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

785016

ACC

10000/142/532
(VOL. 1)

0194

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

32

PRISONERS OF WAR
MAY 1943 - JAN. 1945

0195

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

785016

FILE CLOSED 31 January 1945

See Vol II

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

94A

AC/4076/L.

GGH/ap.
31 January 1945.

SUBJECT : Case of PISANO - Witness POW.
TO : Regional Commissioner, SARDINIA Region
(Attn: Regional Legal Officer).

1. Reference your L/1477 of 27 Jan 45. as there is little likelihood of POW PILIA Francesco being returned to Sardinia in the near future, it is agreed that the proposal set out in your para 4 be implemented.

2. Would you therefore request the Procuratore Generale to prepare an agreement with the defence, what is known in Italian procedure as a "Rogatoria" (evidence taken on commission) and forward it to the Minister of Justice, who will then approach this sub-commission in order that the required evidence may be obtained from the POW concerned.

3. It is pointed out, however, that such evidence on commission may have to be taken through diplomatic channels. Italy having at present no representation in South Africa, it might be necessary to request a consular representative of the protecting nation (Switzerland) to act. On the other hand it may well be that the Minister of Justice may accept evidence taken by a South African Commission under the procedure in force in the Union.

4. In order to avoid unnecessary delays will you please expedite matters at your end. In the meantime, this sub-commission will endeavour to ascertain ways and means.

By command of Rear Admiral STONE:

102

G. G. HANNAPORD, Lt. Colonel,
Officer i/o Italian Branch,
for Chief Legal Advisor.

93A

HEADQUARTERS
ALLIED COMMISSION
SARDEGNA REGION

JJS/bcg

L/1477

27 January 1945

SUBJECT: Return of Prisoner of War

TO : Chief Legal Advisor, Hqs Allied Commission, APC 394

1. The case of one PISANU Vittorio and others, held for murder and other crimes has been pending before the Court of Assize for Sardinia since 1940.

2. The reason for the delay has been due to the absence of a vital witness in the case. The witness is one Pilla Francesco currently held as Prisoner of War #67012, at Italian Prisoners of War Company #6, Campo 43, Blocco II, Union of South Africa.

3. While it is appreciated that there is little likelihood of this Prisoner of War being returned to Sardinia in the near future, it would be helpful to the Procuratore Generale to know definitely if there is any possibility of his return.

4. If the answer to paragraph 3 is negative, it has been suggested to the Procuratore Generale, that a series of questions be framed by both prosecution and defense which could be forwarded to the prisoner to answer. These could be used in conjunction with a deposition that was apparently taken in 1942 prior to the capture of the subject witness.

For the Regional Commissioner:

John J. Scanlan
JOHN J. SCANLAN
1st Lt., JMF
Regional Legal Officer

7 101

action plan

LEGAL SUBCOMMISSION

CLO

DCLO

Chief Counsel

CJO

Italian Sec

CL RKS

21 JAN 1945

HEADQUARTERS ALLIED COMMISSION
APO 394

RBD/anc.

WAR MATERIALS DISPOSAL AND
ITALIAN PRISONERS OF WAR SUB COMMISSION

IPW/1/3/256B

21 December 1944

TO: Legal Sub-Commission
Attention Lt.Col. G.G. HANNAFORD

SUBJECT: News from Italian POW.

Reference your letter ACC/4076/L dated 13 September 1944, subject as above, we have received a letter from GHQ 2nd Echelon, Middle East Forces, stating that Italian PW No. EAF/60040 Ten. ~~CAF~~ PISSE Pio is still interned in No.366 PW Camp East Africa Command and is in good health.

J. A. CAMPBELL
Lieut.-Colonel
Director
WMD & IPW Sub-Comm.

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26 DEC 1944

file

91A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

IC/4076/L.

/r.p.
23 November 1944.

SUBJECT : Case of Sgt ANDERER Ludwig.

TO : Regional Commissioner (attn: Regional Legal Officer),
APRUZZI-MARCHES Region.Forward to CA for
as War Crime

1. Reference your IC/511/38 of 20 Nov 44, if Sgt ANDERER has been taken prisoner by the Allied Forces he is entitled to the benefits of the Geneva Prisoners of War Convention 1929 unless he has committed a war crime.
2. If he committed the alleged offence, he has committed a war crime; if he is innocent he cannot be handed over to the Italians for trial.
3. Apart altogether from the Anglo-American presumption of innocence, it would obviously be impossible to hand over a prisoner of war for investigation and trial since he might be found to be not guilty and the detaining power would then have committed a breach of the Geneva Convention.
4. For these reasons the trial of Sgt ANDERER must take place either in the courts of the detaining power during his captivity or under arrangements made for the trial of war criminals at a later date. See Oppenheim, International Law, 6th Edition, Vol II, p. 451.
5. In any event the Allied Commission is neither a private enquiry agent nor a firm of process servers and the Armed Forces would not be disposed to accept or act upon such orders as are contained in the Mandato di cattura. The documents are accordingly returned.
6. If the Italian authorities are disposed to put forward the necessary evidence the matter can be referred to the appropriate authorities so that either ANDERER's case can be tried in the Allied Courts or his case can be listed as a war crime for action at a future date.

By command of Commodore STONE:

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

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

39A

ACC/4076/L.

RHW/ap.
6 October 1944.

SUBJECT : Prisoners of War.

TO : V.P. Civil Affairs Section.

1. Reference your letter 11/1.B./A.S. of 5 Oct 44.
2. By Art. 32 of the Geneva Convention of 27 July 1929 it was provided :

"It is forbidden to employ prisoners of war on unhealthy or dangerous work."

3. It can hardly be said that clearance of mines is not dangerous. It might be argued that to prisoners of war experts in mine clearance such work would not be dangerous. I feel that the work is inherently dangerous and German prisoners of war can not legally be compelled to engage in it. Any such compulsion would clearly and directly infringe the Geneva Convention.

7 98
RICHARD H. WILMER,
Colonel, CAC.,
Chief Legal Advisor.

4076

88A

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394

Ref: 11/1.P./A.S.

5 Oct, '44.

SUBJECT:- Prisoners of War.TO:- C.I.A.

Can you please advise me whether German Prisoners of War
in Allied hands in Italy ^{can} be legally compelled to do work in clearing
mines from liberated territory or does this infringe the Geneva
Convention?

GRC/yab.

G. R. Wagoner

G. R. WAGONER, Brigadier.
V.P. Civil Affairs Section

7 97

OCT 10 1944

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

87A

ACC/4076/L.

ES/ap.

13 September 1944.

SUBJECT : News from P.O.W.

TO : War Material Disposal and P.O.W. Sub-Commission.

1. The Ministry of Justice requested this Sub-Commission to obtain news from Lieutenant of Artillery CAFISSE Pio, P.O.W. Camp no. 365 Sec.B Central Post Office, East Africa Command. No news have been received from this P.O.W. for more than one year despite repeated inquiries through the Vatican and the Red Cross.

2. Your cooperation in this matter would be appreciated.

see 86A

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



MINISTERO DI GRAZIA E GIUSTIZIA
GABINETTO
DI SE IL SOTTO SEGRETARIO DI STATO

Roma, 12 Settembre 1944

36A

Freg.mo Colonnello,

mi permetto rivolgermi a Lei trattandosi
di un mio nipote, figlio di una mia sorella.

Il Ten.di Artiglieria CAFISSE Pio è prigio-
niero di guerra con il seguente indirizzo:

P.O.W. - Campo n.365 Sez. B. Central Poste
Office - East Africa Command.

Egli dal 12 luglio 1943 non ha dato più sue
notizie.

La famiglia si è rivolta al Vaticano ed al-
la Croce Rossa, ma finora nessuna comunicazione
ha ricevuta.

Le sarei molto grato se potesse Lei assun-
re qualche informazione nei riguardi del detto
mio nipote.

La ringrazio vivamente moltissimo e La prego
di gradire i miei più distinti ossequi.

Lt. Colonel G.G. HANNAFORD
Allied Control. Commission

R O M A

Int. Ser. 95

Enrico Guerin

4036
 HEADQUARTERS
 ALLIED CONTROL COMMISSION
 Public Safety Sub-Commission
 APO 394

Legal
 85A
 21 August 1944.

ACC/14029/1/PS

SUBJECT : Release from 371 P. of W. Camp.

TO : Security Branch.

1. Information has been requested regarding the present position of COSTABILE Guido, formerly a Director of the Bank of Naples at Campobasso.
2. On 25th March 1944 COSTABILE was sent to 371 P. of W. Camp and was subsequently released.
3. It is understood that he was ordered to go to Benevento and not to reside at Campobasso. It will be appreciated if this can be confirmed or information supplied as to any conditions imposed at the time of his release.

PAUL G. KISK, USA
 Colonel, Inf.
 Director Public Safety
 Sub-Commission.

APW/ngd

3 94

LEGAL SUB-COMMISSION	
CLG	
→ DCLO	RM
Chief Counsel	
CJO	
Italian Section	
CL RKS	

let. Admin ✓
 legal

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

(84A)

Tel. 478525

ACC/4076/L

GGH/ap

5 Aug 44

SUBJECT : Request for Repatriation of Capt. MOREA,
P.O.W.

TO : Army Subcommittee.

1. Enclosed a request for repatriation addressed to the Minister of Justice and referred by him to this Subcommittee.

2. The Minister wishes to point out that should Capt. Morea, a victim of fascist persecution, be repatriated he would be glad to use his services in the Ministry if the Italian Army would release him.

3. May this Subcommittee please be informed what, if any, action has been taken on the request?

cf. am

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

40/b file *Regul* *(83A)*
 2224

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

Ref/58/20/CA

22 June 1944

SUBJECT: Allied Ex-B.O.W's Alleged ill-treatment.
 TO : Admin Section (for Public Safety, Legal and
 Interior Sub-Commissions.)

Reference is made to this Headquarters letter
 58/14/CA of 6 June 44. Can any information be supplied
 now re the alleged ill-treatment?

Not covered *Stearns May*

MURRAY E. FISKE
 Colonel
 Deputy Executive
 Commissioner

Copy to:

AAI (Your 5063/42/A(PB) of 20 June refers)

Public Safety
dealing with this
matter

92

regal.

6876

FILE

82

You may have had this in before - but we have
 day received from RCMG a request for a formal report in
 triplicate as to the truth (to) if true - as to action taken
 of Italian Govt. We have asked Safety to draw the
 report as to the action taken against the Carabinieri.

The attached was a spare copy attached to the request
 for a report. If you will say from when you received your
 copy in and take up why the request was then duplicated. It seems

To: P. Ad.

has been kept
 in file - no
 action taken

8381016

SUBJ: Allied Ex PW/H.

CORR.

RS. has original and has been asked to take into consideration for return necessary.

ALLIED ARMIES IN ITALY

AAI/5063742/A(PG)

7 JUL 1944

Admin.

2 JUN 44.

Executive Commissioner A.O.C.

On the contrary!! The original passed thru this place some days ago & is now being handled by R.H.O. Regt 2

Reference this HQ letter AAI/5063742/A(PG) of 26 May and your letter 58/8/BA dated 30 May.

Herewith, for your information, copy of letter A2/431 dated 16 May received from Greek Representative to the Allied PW Repatriation Unit and copy of letter from GSDIS (Sub Centre East) No. 2 District No. GSDIS/E/2/3/644 dated 15 May.

LEGAL SUB-COMMISSION

CLO

DCLO

Chief Counsel

CL

Italion Section

CL RKS

Brigadier
D.A.G.

90

AH/IM.

Bari 16 May 1944

80

COPY

Greek Representative

D.P. Sub-Commission

A2/431

TO: PG and DP Sub-Commission

SUBJECT: - Escaped Greek PW arrested by the Italian Police

I have the honour to bring to your knowledge that on 3 instant CHRISTODULOU PAULOS, escaped Greek PW was travelling on the train running from NAPLES to BARI. He had been instructed by the AOC to report at BARI to the Greek representative. At a station near BRINDISI an incident occurred following which Carabinieri who were travelling on the same train intervened and handcuffed CHRISTODULOU, had him arrested and escorted him handcuffed (CHRISTODULOU was in uniform) to the Carabinieri. A warrant of arrest was made out and signed by an MCO (copy is herewith attached) and CHRISTODULOU was placed in the local jail where he remained until 12 May 1944.

On 9 inst the LO I & DP sub-commission informed me that a Greek subject was detained in the local jail and showed me the documents which were in his hands i.e.

(a) Movement order issued in CHRISTODULOU's name by the AOC
(b) CHRISTODULOU's identity document.

7 59

(These documents have been handed to the LO by an American civilian who had visited the above named detainee at the jail).

Major SINDOCK (the LO) communicated immediately with the local Allied Authorities and the Prosecutor (Procuratore del Re) and for four days exhausted all endeavours to have CHRISTODULOU released from jail. In the meantime, the detainee seeing that he was not allowed to communicate with either the Allied Authorities or the local Greek representative, went on hunger strike. In any other place or country even an ordinary prisoner would have been allowed to communicate with his lawyers.

The prosecutor stubbornly refused to give way to Major SINDOCK's demand although the latter pointed out that:-

- (a) The detainee was travelling with a proper movement order issued by the Allied Forces to which he belonged.
- (b) The detainee was in uniform.
- (c) He had been ill-treated by members of the Italian Police Force.
- (d) No interrogation had been carried out for five whole days after CHRISTODULOU had been imprisoned, which is contrary to any principles of any civilized country.
- (e) His arrest was not notified to any Allied Authority.
- (f) He (The Prosecutor) had forbidden to the Greek representative to communicate with the detainee.

(These documents have been handed to the LO by an American civilian who had visited the above named detainees at the jail).

Major SIMONE (the LO) communicated immediately with the local Allied Authorities and the Prosecutor (Procuratore del Re) and for four days exhausted all endeavours to have CHRYSTODULOU released from jail. In the meantime, the detainee seeing that he was not allowed to communicate with either the Allied Authorities or the local Greek representative, went on hunger strike. In any other place or country even an ordinary prisoner would have been allowed to communicate with his lawyers.

The prosecutor stubbornly refused to give way to Major SIMONE's demand although the latter pointed out that:-

- (a) The detainee was travelling with a proper movement order issued by the Allied Forces to which he belonged.
- (b) The detainee was in uniform.
- (c) He had been ill-treated by members of the Italian Police Force.
- (d) No interrogation had been carried out for five whole days after CHRYSTODULOU had been imprisoned, which is contrary to any principles of any civilized country.
- (e) His arrest was not notified to any Allied Authorities.
- (f) He (The Prosecutor) had forbidden to the Greek Representative to communicate with the detainee.
- (g) The detainee was interrogated in an office, in Italian, without any interpreter being present, whilst detainees hardly understood or spoke Italian.

The Prosecutor stated that it was not in his competence to release the detainee but it seems it was in his competence to keep him in jail.

The attitude adopted by the Bari Prosecutor transgressed every principle of justice and his obligations towards the Allied Authorities. His attitude towards an escaped PW who had just crossed the lines can only be explained by the fact he personally as well as the local Italian Authorities have tried to ignore the instructions and showed their hatred against individuals who ought to have the respect and good treatment.

The attitude adopted by the Italian Authorities, undermining the order by the Allied Authorities, may hamper the endeavour to trace any Greek or displaced persons in future.

This attitude is also contrary to the principle for which the Democracies are fighting. Freedom and Justice, which can only be achieved if the Allied Authorities made an example of this case to prevent it becoming precedent and to take action against the Bari Prisoner, the ROO who signed the warrant of arrest and those who kept the escaped Greek PW in jail for over the normal 24 hours without allowing him to communicate with anyone.

...of the Greek Representative to the PW Sub-Commission and I & PW Sub-Commission (aged) 7 7 7 7 7 7 7 7 7

Copy to Greek Representation to the Advisory Council for Italy. COMMANDER JOHN MELISSINOS

attached

- 1) Copy of special report of CUPRO
- 2) Warrant of the arrest of the Italian Carabinieri

...of the Italian Carabinieri

...of the Italian Carabinieri

SUBJECT: Special ReportSECRETONLYOSD/C (Sub Centre East)
No. 2 District CEF

OSD/C/E/2/6/05A

To: Major SIMON DRC

Copy to: Greek Representative PW Sub-Commission
Yugoslav Representative PW Sub-Commission
HQ OSD/C CEF

The following information has been obtained from interrogation of:-

- (a) Pavlos CHRISTODOULOU (Greek)
(b) Vojislav TATIG (Yugoslav)
who were interrogated at your request on 12 May 44.

1. PRELUDE

Both sources were former PW who had escaped and crossed over to Allied occupied territory. The Allied Authorities in Naples gave them a movement order, placed them on a train and instructed them to travel to BARI and report to the representatives of their respective governments there. During the voyage the incident described below occurred and both sources were arrested by the Italian authorities, handcuffed and placed in BARI jail, where they remained from 3 to 12 May 44.

2. STATEMENT

Sources left NAPLES on 2 May 44 by the 1600 hrs train, which was crowded. They had to stand in the corridor. A few kms from BARI, while CHRISTODOULOU was conversing with a young Italian woman, both leaning out of the window, a Carabinieri pushed past him, without apologising or asking to be allowed to pass.

CHRISTODOULOU was annoyed and said liberally: "no buono, perche non fare così", expressing with his hands that the Carabinieri ought first to have asked him (CHRISTODOULOU) to make way. The Carabinieri did not reply and went away. A few moments later he returned and again pushed his way through. CHRISTODOULOU protested this time in Greek. They came to words, each speaking his own language, which the other did not understand. Suddenly and without provocation, the Carabinieri delivered CHRISTODOULOU a kick in the stomach. CHRISTODOULOU doubled up in pain. TATIG who during these proceedings was standing on the other side of the young woman came to rescue. The Carabinieri kicked him too, and drew his pistol.

In the meantime several other OSRs and Italian civilian policemen attracted by the altercation, intervened and manhandled both sources. CHRISTODOULOU was thrown on the floor. He was hit with the handle of a bayonet, and some one hit him on the back of the head (according to TATIG, CHRISTODOULOU was hit with a piece of an earthenware spittoon which the offender broke under his heel), causing a wound which started bleeding. TATIG too was pushed and kicked.

The fight eventually came to an end. CHRISTODOULOU lit a cigarette when a

Sources left NAPLES on 2 May 44 by the 1600 hrs train, which was crowded. They had to stand in the corridor. A few are from BARI, while CHRISTODOULOU was conversing with a young Italian woman, both leaning out of the window, a Carabinieri pushed past him, without apologizing or asking to be allowed to pass.

CHRISTODOULOU was annoyed and said bitterly: "no meno, perché non fare così", expressing with his hands that the Carabinieri ought first to have asked him (CHRISTODOULOU) to make way. The Carabinieri did not reply and went away. A few moments later he returned and again pushed his way through. CHRISTODOULOU protested this time in Greek. They came to words, each speaking his own language, which the other did not understand. Suddenly and without provocation, the Carabinieri delivered CHRISTODOULOU a kick in the stomach. CHRISTODOULOU doubled up in pain. TATIS who during these proceedings was standing on the other side of the young woman came to rescue. The Carabinieri kicked him too, and drew his pistol.

In the meantime several other G.N. and Italian civil/military policemen attracted by the altercation, intervened and unhandled both sources. CHRISTODOULOU was thrown on the floor. He was hit with the handle of a bayonet, and some one hit him on the back of the head (according to TATIS, CHRISTODOULOU was hit with a piece of an earthenware spittoon which the offender broke under his heel), causing a wound which started bleeding. TATIS too was punched and kicked.

The fight eventually came to an end. CHRISTODOULOU lit a cigarette when a Carabinieri came over with a chain which he threw over CHRISTODOULOU's neck. CHRISTODOULOU said that he wanted to see the Greek representative on arrival and offered no resistance. He put out his hands and his wrists were chained. He left into an empty compartment. TATIS was also arrested taken to the same compartment and was chained to CHRISTODOULOU by the wrists. The young Italian woman who CHRISTODOULOU had spoken was also brought in, as well as a young Yugoslav girl during the fight had tried to shield TATIS and had been kicked. Three or four mounted guard outside the compartment.

On arrival at BARI the four prisoners were taken to the local jail. CHRISTODOULOU and TATIS were placed in the same cell. They asked to see the representative of respective governments but seeing that nothing of the sort was being done they made a hunger strike.

Four days after their imprisonment they were seen by an American civilian in uniform to them. When he left he carried away some of their documents. Only the day after were they taken out and interrogated in an office in town. The interrogation was conducted in Italian. They were then returned to jail where they remained until 12 May 44.

COPI.L.O.'s COMMENTS

- a) It is pointed out that when these two persons were arrested they were both in uniform and were travelling with proper documents, including identity cards and movement order.
- b) The two sources, although foreign nationals, were arrested by Italian authorities, who failed to hand them over to the local P.S.S. or to inform the representatives of their respective governments.
- c) Though the two Sources repeatedly asked to see their Government's representatives, their request was not granted and they were kept in jail for four days before anyone was allowed to see them.
- d) Their first interrogation took place only after they had been seen by the American.
- e) According to Sources, the interrogation was conducted in Italian, a language hardly understood by either of them, and without assistance of an interpreter.

(sgd) R. Glynn Faithfull Capt,

Officer i/c SODIC (Sub Centre East) C.M.F.

OFF.

HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.G. SECTION
APO 994

30 May 1944

Ref/58/8/8A

SUBJECT:- Allied Ex PW/W.

TO : MR. AAI (A(PB))

Reference letter AAI/5063/42/A(PB) of 26 May 44 may we be informed

- a) the nature of the alleged ill-treatment to which the persons named were subjected.
- b) where the alleged ill-treatment took place and some idea as to dates.

On receipt of this information it will be placed in the appropriate quarters for investigation.

56

sgt W. Driffield White Major,
for Brigadier,
Executive Commissioner,
For Chief Commissioner.

COPY.CONFIDENTIAL.

HQ ALLIED ARMIES IN ITALY.

AAI/5063/42/A(ps).

28 MAY 44.Executive Commissioner A.C.C.

Ref Allied P/W Repatriation Unit (N.A) letter 104/2/HQ dated 25 MAY 44 (copy to HQ., A.C.C.)

1. It is requested that the alleged ill treatment by the Italian authorities of the Greek NIKLOS CHRISTODOULOU and the Yugo-Slav VOJESLAV TATE may be investigated, and that if it is established that any person has acted improperly suitable action should be taken against him.

2. Will you please keep this H.Q. informed of the progress of the case.

Brigadier,
D.A.C.

JDP/IX.

Copy to:- P/W Repatriation Unit (N.A) C.M.F.

CONFIDENTIAL (75)

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

RHW/gmf

ACC/4076/L

1 June 1944

SUBJECT: Escaped Allied P.W. arrested by Italian Police.

TO : Internees and Displaced Persons Subcommittee.

1. Ref your IDP/234/106-2 dated 30 May 1944.
2. This Subcommittee will immediately take this matter up with the Italian officials regarding the actions of the Procuratore del Re and is asking Public Safety Subcommittee to do likewise in so far as the SRCE are concerned.
3. As soon as our work in this connection is completed we will write you the results.

R. H. WILMER
Colonel
Deputy Chief Legal Officer.

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

Ref/9/107/CA.

14 May 1944.

SUBJECT: Paroled Prisoners of War.

TO : Military Government Section, A.F.H.V.

1. Reference letter MGS 383.6 of 27 April 1944, it is considered that there are only three classes of POW :

- (a) POW on parole which includes classes (a) and (b) of your letter.
- (b) Interned POW, includes classes (c) and (d) of your letter.
- (c) Released POW - Italian soldiers on active duty - your class (e).

2. (a) The legal position in respect of class (a) above is that :

- (i) POW on parole who commit offences can have their paroles revoked and be returned to POW camp.
- (ii) There would appear to be nothing in the Geneva Convention or any other rule of International Law which renders it improper for a local court to try POW on parole for purely civilian offences (e.g. looting, rape) subject to the consent of the Detaining Power.
- (iii) Whether a paroled POW is tried before a civil court or a Tribunale Militare di Guerra depends upon the type of case.
- (b) POW who are interned or who work should be tried in accordance with Chap. 3, Geneva Convention.
- (c) Released POW as in (c) above are tried before their own tribunals. In exceptional cases in occupied territory, Italian soldiers are tried in ALC courts.

3. The procedure outlined in para. 3 is agreed as correct except that communication to the Italian authorities should be through this Commission, the Minister of Justice to be asked to issue the necessary directives to the Courts.

4. It is agreed that a forward release of all paroled prisoners would solve many difficulties.

WDS/RAC.

Brigadier,
Executive Commissioner,
For Chief Commissioner.

Copy to: Admin for Legal Sub-Commission.
Army Sub-Commission (Rear).

Legal
4076

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73
RECEIVED

HEADQUARTERS
ARMED CONTROL COMMISSION
R.O. & M.G. SECTION
APO 394

[Signature]

Ref/154/36/CA

10 May 1944

SUBJECT: Release of Prisoners of War.

TO : Distribution below.

Executive Memorandum No. 51

1. The above memorandum is shortly to be replaced by a memorandum now in draft embodying more recent instructions.
2. It should therefore be regarded as cancelled and any application for release in hand will be held until the publication of the new instructions.
3. Please inform all recipients.

52

All of them here

to D.H. is white

DISTRIBUTION:

"A" Less Group 3

LEGAL SUB-COMMISSION

CLO

DELO

Chief Counsel

CJO

Italian Section

CLERKS

NORMAN E. FISKE
Colonel
Deputy Executive
Commissioner

[Handwritten initials and marks]

40760 file 72

HEADQUARTERS
ALLIED CONTROL COMMISSION
FINANCE SUB-COMMISSION

1300H/F

Subject : Judicial Usher Lo Presti Sebastiano.

To : C.J.O. Legal Sub-Commission

1. With reference to the attached, with accompanying letter from the Minister of Grace and Justice relating to the wages and emoluments of a prisoner of war in Egypt. This refers to Richiamati and there is no reason why the request made should not be granted.
2. Payment of allowances to families of unparoled prisoners of war was originally stopped but the whole status of this class underwent a change after the signing of the Armistice and the applicant should now be permitted to receive the allowances.
3. The action attributed to the local Allied Command is not understood and is being referred to the Regional Commissioner for investigation.
4. It should be mentioned, however, that in any event the applicant is entitled to apply for communal relief where the normal income is interrupted as in the present case.

3

51

9 May 1944.-

for COLONEL
Joint Director
Finance Sub-Commission

BEL Timmons
Cpt

Finance To: Col Foley
Wapiti

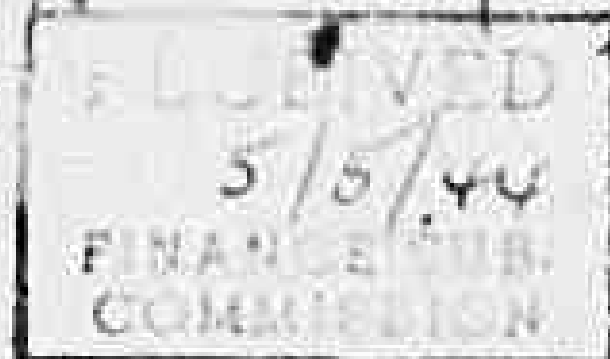
APOS	1800
E.H.F.	
SEVS	
the interest	

1/ Your observations on the interest are requested, please. (11)

2/ If true, then it seems a bit hard that payments to assignees of P.W. should be cut off. But why and how should the local Comando Alisato take such action, particularly for Feb & coming months — Feb being the month of "hand-back" to the Italians.

3/ I suspect that there must be a misunderstanding somewhere: but meanwhile, can some action be taken to permit payments to be made?

3 Mar



1/ Campbell
 Army C.I.O.

Transl. 544.

To his Excellency
the Minister of Justice
Salerno

The undersigned Insinga Maria, wife of the Head Usher of the Catania Appellate Court LoPresti Sebastiano, being quite unable to support her family, having eight children and nothing to live on, requests that she be provided with enough to live on as the wages of her husband a prisoner of war have not been remitted to her for February. His address is the following: Caporale Maggiore Lo Presti Sebastiano, P.O.W. No. 417734, Camp No. 31, c/o Chief P.O.W. Postal Centre Middle East, Egypt.

Respectfully
Insinga Maria
Via Crociferi No. 2, Catania, 10.5.44

L.B.Z. 5/44.

TRANSLATION No. 344.

Rough Copy.

Mapelli
(69)

Ministero di Grazia e Giustizia
Senior General Affairs and Personnel Department
Office VI.

Ref. No. 1,503.

Salerno, 1 May 1944.

Subject: Judicial Order to Presti Sebastiano.

Reur H.Q. A. C. C.
Legal Div - Commission, Salerno.

The General King's Prosecutor of Catania Appellate Court has forwarded the attached petition from the wife of the a.m., at present a prisoner of war, asking that the wages and emoluments for February 1944 and following months owed him be paid her.

The Intendenza di Finanza of Catania who took the matter up answered that the local Allied Command had arranged for the suspension of the payment of wages to prisoners of war; kindly inform me if a similar measure has ever been taken in respect of the petitioner, and if it has, for what reason?

For the Minister
Signed: *[Signature]* 78

Translator's Foot: L.B.Z
4/5/44.



MINISTERO DI GRAZIA E GIUSTIZIA

Ufficio Superiore del Personale e Affari Generali

Uff. VI

Colloc N. 13603.

Risp. al foglio N.

Salerno,

del

OGGETTO Usciere giudiziario Lo Presti Sebastiano.

COMANDO ARRETRATO = COMMISSIONE ALLEA
TA DI CONTROLLO (Sottocommissione Le
gale)S A L E R N O

Il Procuratore Generale del Re presso la Cor-
te di Appello di Catania ha trasmesso l'istanza -
che alligo in copia - avanzata dalla moglie del fun-
zionario in oggetto, attualmente prigioniero di
guerra, per ottenere la corresponsione dello sti-
pendio e degli emolumenti spettanti al marito per
i mesi di febbraio 1944 e successivi.

Poichè la Intendenza di Finanza di Catania in-
teressata in merito ha risposto che il locale Coman-
do Alleato ha disposto la sospensione del pagamento
degli assegni ai prigionieri di guerra, prego cote-
sto Ufficio di compiacersi comunicarmi se un tale
provvedimento è stato mai adottato nei confronti
della reclamante e, nel caso affermativo, per quale
motivo.

PEL MINISTRO

77

Flor

(67)

A SUA ECELLENZA

IL MINISTRO DI GRAZIA E GIUSTIZIA

S A L E R N O

La sottoscritta Insianga Maria, moglie dell'usciere capo giudiziario della Corte di Appello di Catania Lo Presti Sebastiano fu Giuseppe, trovandosi nella assoluta impossibilità di poter sopprimere ai bisogni della vita, avendo a carico otto figli e non possedendo nulla, chiede alla S.V.I. di volerli accordare di che vivere giacchè non le hanno dato lo stipendio del mese di febbraio spettante al proprio marito che trovasi prigioniero. Il suo indirizzo è questo : Cap. Magg. Lo Presti Sebastiano Brig. di Guerra N° 417734/Campo N° 313 c/o CHIEF P.O.W. Postal Centre Middle East. EGIPTO.

Con ogni osservanza

Insianga Maria

Via Crociferi N° 2

Catania, 10/3/1944

76

7

La sottoscritta Insianga Maria, moglie dell'usciere capo giudiziario della Corte di Appello di Catania Lo Presti Sebastiano fu Giuseppe, trovandosi nella assoluta impossibilità di poter sopprimere ai bisogni della vita, avendo a carico otto figli e non possedendo nulla, chiede alla S.V.I. di volerli soccorrere di che vivere giacchè non le hanno dato lo stipendio del mese di febbraio spettante al proprio marito che trovasi prigioniero. Il suo indirizzo è questo : Cap. MAGS. Lo Presti Sebastiano Prig. di Guerra N° 417734/Campo N° 31, c/o CHIEF P.O.X. Postal Centre Middle East. EGIPTO.

Con ogni osservanza

Insianga Maria

Via Crociferi N° 2

Catania, 10/5/1944

3 76

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

GRU/inf

ACC/4076/L

8 May 1944

SUBJECT: Paroled POW.

TO : Deputy Executive Commissioner.

1. Ref your 9/91/CA dated 3 May 44.

2. As a matter of law there are only 3 classes to be considered and not five as suggested in Para 1 of AFHQ letter 383.6 dated 27 April 44.

These classes are as follows:

- (i) POW on parole; this includes classes (a) & (b) of the a/m letter.
- (ii) Interned POW. This includes classes (c) & (d).
- (iii) Released prisoners of war. Presumably Italian soldiers who are on active duty (See para (e)) have been released.

3. The legal position of the 3 classes is as follows:

(i)(a) Prisoners on parole who commit offences can have their parole revoked and be returned to a POW Camp. 15

(b) The position under International law of POW on parole who commit purely civilian offences (e.g. looting, rape) in relation to the jurisdiction of local courts is but little discussed in the books. It is the opinion of this Subcommittee that there is nothing in the Geneva POW Convention or any other rule of International law which renders it improper for a local court to try POW on parole for such offences at any rate with the consent of the Detaining Power. The Minister of Justice concurs in this view.

Whether a paroled POW is tried before an Italian Civil Penal Court or a Tribunale Militare di Guerra depends on the exact type of the alleged offence.

(ii) POW who are interned or who work should be tried for offences in accordance with Chap. 3 of the Geneva Convention.

(iii) This class are tried before their own tribunals, penal or military, according to the circumstances of the case. In exceptional circumstances

in occupied territory Italian soldiers are also tried in MG Courts.

4. Subject to Para. 5 below this Subcommittee is of opinion that the course proposed by CG IBS in Para. 4 of AFHQ letter is correct.

5. With regard to Para. 4(a) of AFHQ letter this Subcommittee is strongly of opinion that any communication to Italian officials should be through CG, especially in this very difficult and important matter. Furthermore in detail it is not possible to inform the Italian Courts what jurisdiction they have because much depends on the type of offence and so on. This Subcommittee thinks that the best course would be to ask the Minister of Justice to issue a directive on the subject to the Courts. Please let me know if you desire that this course should be followed.

6. A consultation with the Army Subcommittee has been held and it was agreed that a formal release of all paroled prisoners would solve many difficulties but it is understood that this is a matter of policy which has been under consideration at the highest level and up to the present HQ AAI has only permitted the release of prisoners on parole in individual cases.

G. R. UNGER, Colonel
Chief Legal Officer.

Copy to: Army Subcommittee.

3 74

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

Ref/9/91/GA

3 May 1944

SUBJECT: Paroled P.O.W.

TO : Admin. Section (for Legal Sub-Comm.)

1. Attached copy of MGS AFHQ letter MGS 383.6 of 27 April 44 is forwarded.
2. Please submit your opinion to this Branch after consultation with Army Sub-Comm.
3. Copy of above mentioned document has been forwarded to Army Sub-Commission.
4. Above mentioned document was not received until 1st May. Could this matter, therefore be treated urgently to avoid further delay.

Capt here.

Please take

this over with Col

Quinn-Smith, + repeat

time 5:00 p.m. today.

I think the legal position is fairly clear but consult the Geneva POW Convention. It seems to me

Defiant White
NORMAN E. FISKE
Colonel

Deputy Executive
Commissioner.

5

13

ALLIED FORCES HEADQUARTER
Military Government Section.

63 807
CMS/CP/cage

27 April 1944.

MGS: 383.6

SUBJECT: Paroled Prisoners of War

TO : Hq. Allied Control Commission
(Attention: Executive Commissioner,
R.C. and M.G. Section.

1. There is now before the Commanding General, NATOUSA, a letter from the Commanding Officer, Island Base Section, seeking a comprehensive statement of policy on the status and treatment of paroled prisoners of war. This letter distinguishes between five different categories of Italian military personnel.

a. Non-interned personnel who presented themselves after the Armistice and who therefore were not interned but released on parole.

b. Paroled prisoners of war. "The parole system formerly was supervised by the Allied Military Government. Upon the assumption of jurisdiction by the Allied Control Commission, there apparently was no transfer of the control function to a Military Organization. For all practical purposes, the parole system no longer exist."

c. Interned prisoners of war - which group IBS has for the greater part assigned to Italian Service Units.

d. Italian service personnel - prisoners of war who have volunteered for duty with Italian Service Units.

e. Italian soldiers - on active duty with Italian Army Units.

2. The letter states that the immediate problem is the status of non-interned and paroled prisoners of war. These specific points are raised:

107 a. Extent of jurisdiction of Italian Police and Civil Courts.

Impassable? b. Revocation of paroles upon conviction for civil offenses.

108 c. Authority of Italian Army Officers to order paroles of certain military classes to report for army duty regardless of their status as parolees.

d. Exact status of non-interred personnel in paragraph la above.

3. Pending the receipt of a statement of policy, the Commanding Officer, IBS, states that the following action will be taken

a. Italian police and courts will be advised that they have authority to arrest and try parolees for civil offenses, and to pass and execute sentence, but that this Headquarters must be notified of each case.

b. Local police will be instructed that they may not arrest parolees for the purpose of returning them to the control of the Italian Army.

c. Local Italian Army Officers will be advised that at present parolees will not be released from their status as Prisoners of War for service in the Italian Army

4. The 1st Indorsement, for the C.G., S.O.S., NATOUSA, recommends that parolees be released to the Italian Government.

5. The above communication is being circulated to all Staff Sections concerned, for recommendations upon which a comprehensive reply may be prepared. In order that Military Government Section may have the benefit of the observations of the Allied Control Commission, it is requested that this Section be advised, as promptly as may be, what is the present situation as to the parole system, and what comments the ACC may wish to make upon it.

CHARLES M. SPOFFORD,
Colonel, G. S. C.
Chief of Section.

71

HEADQUARTERS ALLIED CONTROL COMMISSION

To	From	Date	To	From
	Dep. Pres.			Labor
	Chief of Staff			Education
	A.D.C.			Interior
	Secretary			Public Health
	P.R.O.			Public Safety
	Mil. Sec.			Public Utilities
	Comm. Sec.			Agriculture
	Pol. Sec.			AG
	Econ. & Admin. Sec.			Hq. Comdt.
	Pin. Sub-Sec.			Transportation O.
✓	Legal Sub-Sec.			Supply Officer
	G-2			Billeting O.
✓	Army			Stenographic Section
	Navy			File Section 70
	Air			
	P/W			
	War Material Disposal			
	Displaced Persons			
	Industry			

Approved

For your information

✓ For comment

Contents noted

For necessary action

For necessary action & return

For compliance

For file

This is a strong point - I think? High Commission for P.W. has very definite view on loyalty of people, P.W. units in Italy etc. I suggest interviews.

J.W.A.S.

041000

(initials)

5 May

(57)

Notes on Gen Spafford's letter re. POWs
From this letter:

1) There appear to be only two categories of Status Military.

A) - Various forms of POW grouping a. b. c. d.
(jurisdiction of providing authorities)

B) - Status soldiers in active service, not POW -
(These are within the jurisdiction of Status Courts)

2) - What are the channels through which IBS will
contact Status Courts & Civil Police.

3) - Status Courts will in all probability refer to the
proceedings? Who is to force them?

69

1) 3 (line) - What is the policy.

Are POWs more useful to us as such or
as members of the Status Forces

99A

COMANDO DELLE FORZE ALLEATE
SEZIONE GOVERNO MILITARE

MGS : 383.6

27 Aprile 1944.

OGGETTO : Prigionieri di guerra rilasciati sulla parola.

AL : Comando della Commissione Alleata di Controllo.
(all'attenzione del Commissario Esecutivo, Sezione R.C. e M.G.).

1. E' pervenuta al Comando Generale, NATOUSA, una lettera dall'Ufficiale Comandante la "Island Base Section" (Sicilia) con la quale vengono richieste esaurienti istruzioni circa l'atteggiamento da adottare nei riguardi dello stato e del trattamento dei prigionieri di guerra rilasciati sulla parola. Detta lettera distingue i militari italiani in cinque differenti categorie:

- a) Militari non internati che si costituirono dopo l'armistizio e che pertanto non furono internati ma rilasciati sulla parola.
- b) Prigionieri di guerra rilasciati sulla parola. Inizialmente la competenza del sistema del rilascio sulla parola fu attribuita al Governo Militare Alleato. Con l'assunzione dei poteri da parte della Commissione di Controllo, non ebbe luogo evidentemente nessun trasferimento di funzioni di controllo ad alcun organismo militare. Praticamente il rilascio sulla parola non ha ulteriormente più luogo.
- c) Prigionieri di guerra internati. Categoria che la "Island Base Section" ha per la maggior parte assegnato alle Unità Italiane addette ai servizi.
- d) Personale italiano addetto ai servizi. Prigionieri di Guerra che hanno volontariamente chiesto di lavorare con le Unità Italiane addette ai servizi.
- e) Soldati italiani, in servizio presso le unità del-

- a) Militari non internati che si costituirono dopo l'armistizio e che pertanto non furono internati ma rilasciati sulla parola.
- b) Prigionieri di guerra rilasciati sulla parola. Inizialmente la competenza del sistema del rilascio sulla parola fu attribuita al Governo Militare Alleato. Con l'assunzione dei poteri da parte della Commissione di Controllo, non ebbe luogo evidentemente nessun trasferimento di funzioni di controllo ad alcun organismo militare. Praticamente il rilascio sulla parola non ha ulteriormente più luogo.
- c) Prigionieri di guerra internati. Categoria che la "Island Base Section" ha per la maggior parte assegnato alle Unità Italiane addette ai servizi.
- d) Personale italiano addetto ai servizi. Prigionieri di Guerra che hanno volontariamente chiesto di lavorare con le Unità Italiane addette ai servizi.
- e) Soldati Italiani, in servizio presso le unità dello Esercito Italiano.

2. La lettera fa presente che il problema urgente è costituito dai prigionieri di guerra non internati e rilasciati sulla parola. Vengono al riguardo sollevati i seguenti punti:

- a) Estensione della giurisdizione della Polizia e dei Tribunali italiani.
- b) Revoca della concessione della liberazione sulla parola in seguito al riconoscimento di colpevolezza di reati civili.
- c) Poteri degli Ufficiali dell'Esercito Italiano di ordinare ai prigionieri di guerra rilasciati sulla parola, di determinate classi, di presentarsi per il servizio militare senza tener conto della loro condizione di prigionieri di guerra rilasciati sulla parola.
- d) Esatto stato dei militari non internati di cui al paragrafo 1 (a) sopracitato.

3. In attesa delle istruzioni circa l'atteggiamento da adottare, l'ufficiale Comandante la I.B.S., comunica che saranno

- 2 -

prese le seguenti misure:

- a) Sarà fatto presente alla Polizia ed ai Tribunali italiani che essi hanno il potere di arrestare e giudicare per reati civili i prigionieri di guerra rilasciati sulla parola, e di emanare e dare esecuzione alla sentenza, avvisando questo Comando per ogni caso.
- b) Alla polizia locale saranno impartite istruzioni nel senso che non può arrestare i prigionieri di guerra rilasciati sulla parola per riportarli sotto il controllo dell'Esercito Italiano.
- c) I locali ufficiali dell'Esercito Italiano saranno avvisati che, al momento, i prigionieri di guerra rilasciati sulla parola non perdono la loro qualità di prigionieri di guerra per prestare servizio con l'Esercito Italiano.

4. La 1.a annotazione del Comando Generale, S.O.S. NATOUSA esprime l'opinione che i prigionieri di guerra rilasciati sulla parola siano messi a disposizione del Governo Italiano.

5. La comunicazione suddetta è stata diramata a tutte le Direzioni delle varie Sezioni interessate, per il parere in base al quale sarà possibile redigere una esauriente risposta. Perchè la Sezione del Governo Militare possa valersi delle osservazioni della Commissione Alleata di Controllo, si chiede che siano fatti pervenire alla detta Sezione, al più presto, notizia dello stato attuale del sistema del rilascio dei prigionieri di guerra sulla parola, e tutti quei commenti che la Commissione Alleata di Controllo riterrà di fare al riguardo.

61

COLONNELLO G.S.C.
CHARLES N. STOPFORD
Capo-Sezione.

54

REAR HEADQUARTERS
 ALLIED CONTROL COMMISSION
 Legal Subcommittee
 APO 394

GRU/gmf

31 March 1944.

ACC/4076/L

SUBJECT: Prisoners of war on parole in Sicily.

TO : Chief Commissioner, ACC.

1. With reference to our conversation on Wednesday, the number of paroled prisoners of war in Sicily runs, I am informed, into many tens of thousands, so that I understand you will not be prepared to release them without a directive from higher authority. For your information, however, I set out below a short summary of the facts.

2. These men were members of the Italian Army whose homes are in Sicily. When taken prisoner there in July and August, they were released on parole and returned to their own homes. At first they reported at regular intervals to the CAO in their town or village, but later the records were turned over to the Carabinieri and it is unlikely that they now report to anyone.

3. Many of the men belong to age groups which are now being called up by the Italian Government and receive orders through the local Carabinieri to report to centers in the mainland. As they are forbidden under the terms of their paroles to leave the island, they are referring to IPS for instructions.

4. Difficulties also arise when these men commit ordinary criminal offences, for which the Italian Courts are not prepared to try them. IPS do not want to revoke their paroles and take the men back into POW camps as they have no means of enforcing disciplinary action against them and the prisoners now remaining in the camps are enjoying a position of privilege rather than the opposite. In practice the situation is that the paroled prisoner of war lives exactly the same existence as any other citizen but can commit crimes with impunity as nobody is in a position to punish him effectively.

7 06

5. IPS are very anxious to be relieved of the responsibility in respect of these paroles.

G. R. UPRICHN, Colonel
 Chief Legal Officer.

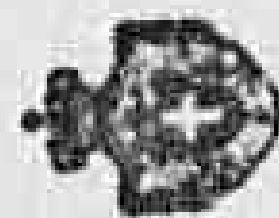
Extract File 125/18/CA dated 23 Mar 44 from 93 & MG Sect.

(c) Discussion of the Italian Situation

The Allied Forces may continue to hold or require the Italian Government to hold in custody military or civil prisoners of war in unsecured areas. 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 571 P. P. Camp.

4076

65



MINISTERO DI GRAZIA E GIUSTIZIA

Gabinetto

Protoc. N. 5309

Disp. al foglio N.

del

Valentino, 29 marzo 1944

OGGETTO: Detenzione del Caporale Maggiore Del Negro

ALLA COMMISSIONE ALLEATA DI CONTROLLO
SOTTOCOMMISSIONE LEGALE

46

Con riferimento alla nota ACE/4076/L del 10 corrente, mentre si restituisce l'unito promemoria del Commissario Provinciale G.A.C. di Brindisi, si ringrazia vivamente per il premuroso interessamento e l'esauriente indagine circa lo argomento in oggetto.

11 MAR 1944

64

ALLA COMMISSIONE ALLEGATA DI CONTROLLO
Sottocommissione legale

46

Con riferimento alla nota AGC/4070/L del 16
corrente, mentre si restituisce l'unità promesso-
ria del Commissario Provinciale U.A.C. di Brin-
disi, si ringrazia vivamente per il premuroso
interessamento e l'esauriente indagine circa lo
argomento in oggetto.

L L M N I S T R O

64

[Handwritten signature]

[Handwritten signature]

4076 132
ALLIED CONTROL COMMISSION.
PROVINCE OF BRINDISI.

Office of Provincial Commissioner,
 10th March, 1944.

Subject:- Alleged Violation of
Geneva Convention.

Ref. B.ACC.PG/13

To:- Rear H.Q. A.C.C., Legal Sub-Commission. ✓

Copy to:- Regional Commissioner,
 HQ. Region 2, A.C.C.

1. Referring to letter No. ACC/4076/L dated 29 Feb 44, from Legal Sub-Commission, Rear H.Q., A.C.C., investigation into the circumstances had previously been made by H.Q. 71 Sub-Area, and the following facts were disclosed.

2. On 23 Jan 44 it was reported to C.C. 91 Port Security Section that DEL NEGRO was in Brindisi Prison without charges having been preferred. DEL NEGRO'S story was that he had been taken prisoner by the Americans in Sicily and was allowed by them to proceed to Milazzo (Messina) where he obtained work at 158 Transit Camp as a cookhouse assistant. From there he accompanied the unit to Brindisi. A few days later he informed a Corporal of the unit that he was without identification documents and would like some in order to regularise his position. On 13th December the Commandant of the Transit Camp asked him for documents of identification and as he was unable to produce any, he was placed in the civil prison at Brindisi, being taken there by Sergt. Baron A.R., who told him that an Italian Army Officer would come to the prison on the following day to 63
 interrogate him and give him new documents. No Italian Officer came to the prison to see him until 20th Jan 44.

3. The Officer Commanding 91 P.S.S. then caused DEL NEGRO to be interrogated in prison and, finding no grounds upon which the detention could be continued, informed Capitano Vitale, Italian Army Liaison Officer, HQ. 71 Sub-Area, that DEL NEGRO could be released. He was released from prison on 27 Jan 44.

4. The only document authorising the imprisonment was a slip of paper worded as follows, which was handed to the Prison Commandant by Sergt. Baron, at the time of DEL NEGRO'S entry into prison. "Il Capoguardia delle Carceri Giudiziarie di Brindisi riceverà e terrà a disposizione di questo Comando inglese il nominato DEL NEGRO sino di Attilio per misure di Polizia. Brindisi li 13.12.1943 Sgd. A.R. Baron Sgt; PP. P; il Comando Inglese

4076

This document is in possession of HQ. 71 Sub-Area. SD

5. No. 71 Sub- Area Commander, on receipt of the above facts, asked 57 Area Commander that enquiries be made of the Commandant, 198 Transit Camp to explain the following points:-

- (a) Why it was considered necessary to place DEL Negro in jail.
- (b) Reason and authority for bringing him to the mainland from Sicily.
- (c) Reason why the incident was not reported to the proper authority.
- (d) Were Italian authorities contacted on the matter, and if not, why not.

6: In response to this, on 8th February 1944, Major J.G. Stephens, R.T.R., Commandant 198 Transit Camp, reported as follows:- "During the period that this unit was operating at Milazzo in Sicily this man was found to be assisting the Cooks as an odd job man.

On questioning he said that he was a native of Northern Italy who had been working in Sicily and was waiting until his own town was freed.

He was allowed to continue working in the cookhouse, until this unit moved to Brindisi on 17th November 1943.

Later he was found in the camp at Brindisi. He had obviously been smuggled on to one of the lorries with the connivance of some member or members of the camp staff and so brought to the mainland.

On 13th December 1943, DEL NEGRO made a voluntary statement that he was a deserter from the Italian Army. Until he made this statement there had never been any suspicion that he was a released E. of W. or even a member of the Italian Forces.

The D.A.P.M. 71 Sub-Area was consulted by 'phone and on his advice this man was handed over to the Civilian Authorities for investigation by them.

He was taken by the Camp Provost Sergeant, Sgt. Baron A.R. Goldstream Guards, to the Civilian Prison, Brindisi. Sgt. Baron reported to the Italian Prison Chief in his office with DEL NEGRO. As there were no documents accompanying him the Prison Chief was reluctant to accept him, but when DEL NEGRO made a statement that he was a soldier and deserted from his regiment in Sicily, he was detained pending interrogation in the Military Section of the Prison.

The Police Chief asked if Sgt. Baron would get in touch with some Italian Officer and Interpreter for the purpose of interrogation. Sgt. Baron went to Paradise Camp where there were Italian Troops. He asked for an Italian Officer and Interpreter and showed the Italian Officer the receipt received from the Prison Authorities. The latter stated, through the Interpreter, that the matter would be attended to by the prison authorities.

So far as this unit was concerned there was no charge against

him and as it was thought that the Civil Authorities would investigate and if necessary hand him over to the Italian Military Authorities or release him; no further action was taken by me.

(sgd) J.G. Stephens, Major RTR.

Commandant 198 Transit Camp, C.M.F. "

7. There the matter rests for the time being at 71 Sub-Area Headquarters, and a copy of this letter has been forwarded to there for inclusion in their file on the case.

W. J. G. Stephens

Major,
Provincial Commissioner, A.C.C.

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 324

4076 GGH/gmf

48

ACC/4076/L

25 february 1944

SUBJECT:- Incarceration in a Civilian Jail of a POW
and violation of Geneva Convention.

To:- ACC Liaison Officer, Palazzo del Governo, Brindisi.

1. There appears from the contents of the enclosed letter that a serious breach of the Geneva Convention has been committed by British NCO.
 2. Would you please see that the necessary investigation ~~on~~ into the alleged facts is made and let this H.Q. have a report at your early convenience.
- 2 Enclosures.

G.G. HANNAPORD, Major
Officer i/c Italian Section
for Chief Legal Officer.

60

MINISTERO della GUERRA

Sabine

M. 2169/I di prot.
10/8/53

Lecce, 9 Febbraio 1944

C O C C E T T O : Carcerazione cap. magg. DEL NEGRO Cino di Attilio.
476 47

AL MINISTERO DI GRAZIA E GIUSTIZIA

P. M. 151

Si informa che il 27 gennaio 1944 l'Ufficio di collegamento con la 71^a Sabarea di Brindisi ha potuto ottenere la liberazione dalle carceri giudiziarie di Brindisi del cap. magg. DEL NEGRO Cino, che vi era stato tradotto il 13 dicembre 1943 per ordine del comando alleato.

Dalle dichiarazioni fatte dal militare al Capo dell'ufficio di collegamento è emerso quanto segue:

Il Del Negro il 27 luglio 1943 venne fatto prigioniero da una unità americana la quale l'8 ottobre successivo lo passò al 189^o Transit Camp che lo impiegò, in qualità prima, ed in continente poi, come cuo- niere.

Giunto a Brindisi con il 189^o Transit Camp cinese che venisse re- solata la sua posizione presso le autorità militari italiane, e que- sta sua richiesta fu risposto con l'immediato internamento nelle car- ceri giudiziarie di Brindisi, dove venne accettato su semplice presen- tazione di un biglietto, a firma illegibile, di un sergente inglese, così concepito: "Il capo guardia delle carceri giudiziarie di Brindisi riceverà e terrà a disposizione di questo Comando inglese il nominato Del Negro Cino di Attilio per misure di polizia". Brindisi 11/3/44

Si informa che il 27 gennaio 1944 l'Ufficio di collegamento con la 71^a Subarea di Brindisi ha potuto ottenere la liberazione dalle carceri giudiziarie di Brindisi del cap. magg. DEL NEGRO Gino, che vi era stato tradotto il 13 dicembre 1943 per ordine del Comando alleato.

Dalle dichiarazioni fatte dal militare al Capo ed all'Ufficio di collegamento è emerso quanto segue:

Il Del Negro il 27 luglio 1943 venne fatto prigioniero da una unità americana la quale l'8 ottobre successivo lo passò al logg. Transit Camp che lo impiegò, in Sicilia prima, ed in continente poi, come cuoio niere.

Giunto a Brindisi con il logg. Transit Camp chiese che venisse re solata la sua posizione presso la autorità militari italiane; a questa sua richiesta fu risposto con l'immediato internamento nelle carceri giudiziarie di Brindisi, dove venne accettato al semplice presentazione di un biglietto, o firma illegibile, di un sergente inglese, così concepito: "Il capo guardia delle carceri giudiziarie di Brindisi riceverà e terrà a disposizione di questo Comando inglese il prigioniero Del Negro Gino di Attilio per misure di polizia - Brindisi 15/12/43".

Riesisterebbe pertanto che il Del Negro è stato incarcerato senza regolare biglietto di carcerazione e che della sua detenzione nessuna autorità militare italiana è stata informata.

Infatti l'Ufficio di collegamento con la 71^a Subarea è venuto a conoscenza dopo 45 giorni dell'incarcerazione del Del Negro, soltanto per mezzo di un biglietto che questi riuscì a far pervenire al Comando Tappia N. 9.

Si segnala il fatto a codesto Ministero per i provvedimenti cheCrt+ terrà di adottare.

d'ordine
IL CAPO DI CABINETTO
(Col. R. Fiore - Vernazza)

Si informa che il 27 gennaio 1944 l'Ufficio di collegamento con la 71^a Subarea di Brindisi ha potuto ottenere la liberazione dalle carceri giudiziarie di Brindisi del cap. magg. DEL NEGRO Gino, che vi era stato tradotto il 13 dicembre 1943 per ordine del comando alleato.

Dalle dichiarazioni fatte dal militare al Capo dell'Ufficio di collegamento è emerso quanto segue:

Il Del Negro il 27 luglio 1943 venne fatto prigioniero da una unità americana la quale l'8 ottobre successivo lo passò al 189^o Transit Camp che lo impiegò, in Sicilia prima, ed in continente poi, come cuoiaiere.

Giunto a Brindisi con il 189^o Transit Camp olandese che venisse re solute la sua posizione presso le autorità militari italiane, a questa sua richiesta fu risposto con l'immediato internamento nelle carceri giudiziarie di Brindisi, dove venne accettato ex semplice presentazione di un biglietto, a firma illeggibile, di un sergente inglese, così concepito: "Il capo guardia delle carceri giudiziarie di Brindisi riceverà e terrà a disposizione di questo Comando inglese il prigioniero Del Negro Gino al Attello per misure di polizia - Brindisi 15/12/43".

Risulterebbe pertanto che il Del Negro è stato incarcerato senza regolare biglietto di carcerazione e che della sua detenzione nessuna autorità militare italiana è stata informata.

Infatti l'Ufficio di collegamento con la 71^a Subarea è venuto a conoscenza dopo 45 giorni dall'incarcerazione del Del Negro, soltanto per mezzo di un biglietto che questi riuscì a far pervenire al Comando Tappa N. 9.

Si segnala il fatto a codesto Ministero per i provvedimenti che terrà di adottare.

d'ordine
IL CAPO DI CABINETTO
(Col. R. Fiore - Vernazza)

46

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

rip.
16 March 1944.

ACC/4076/L.

SUBJECT : Detention of Corporal Maggiore del Negro.

TO : H.E., the Minister of Justice.

1. The enclosed memorandum from the Provincial Commissioner, ACC, Br-india is communicated to Your Excellency for the information of the parties concerned.

2. It appears that some misunderstanding took place between the British and Italian authorities, and it is regretted that a number of the Italian Forces had to suffer for it.

C. G. HUGHESFORD, 3 58
Major,
Officer i/c Italian Section,
for Chief Legal Officer.

1 Incl: Memo - kindly return.

383.6

6 March 1944

Subject: Trial of Prisoners of War.

To: Allied Force Headquarters (Military Government Section)
APO 512

Army Sub Comm

1. Reference your MGS 383.6 dated 17 January 1944. I enclose copies of a letter addressed by the Deputy Chief Commissioner to the Italian Government and a translation of their reply. 43

2. I am advised that as a matter of law the status of co-belligerency, which is not a phrase of any defined legal meaning, does not in any sense terminate the war between the Allies and Italy and that the Italian Government are entirely within their legal rights and have in fact correctly interpreted the position in their reply. 41

3. Apart from the foregoing I am of the opinion that little is to be gained by endeavouring to persuade the Italian Government to agree to any alteration in their rights with regard to prisoners of war and in the absence of further instructions I do not propose to pursue the matter.

at this juncture
and regarding
the point raised
isue.

N. M. MacFarlane

NOEL MASON MACFARLANE
Lieutenant General
Chief Commissioner

SECRET

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394

44

3 March 1944.

SUBJECT: Trial of Prisoners of War.

TO : AFHQ (MDS).

1. Ref your MDS383.6 dated 27 Jan. 44 I enclose copies of a letter addressed by the Deputy Chief Commissioner to the Italian Government and a translation of their reply.

2. I am advised that as a matter of law the status of cobelligerency, which is not a phrase of any defined legal meaning, does not in any sense terminate the war between the Allies and Italy and that the Italian Government are entirely within their legal rights and have in fact correctly interpreted the position in their reply.

3. Apart from the foregoing I am of the opinion that little is to be gained by endeavouring to persuade the Italian Government to agree to any alteration in their rights with regard to prisoners of war and in the absence of further instructions I do not propose to pursue the matter.

Not used
for files 45

Lieutenant-General 56
Chief Commissioner,
Allied Control Commission.

Original copy
and papers sent
to Chief Commissioner thru D.C.C. (for approval)
by bank slip 3/2/44

43

2 February 1944

SUBJECT: Maintenance of Discipline among Prisoners of War.

The Excellency Marshal of Italy Messe
Chief of the Supreme General Staff

Your Excellency:

1. The Commission desires to bring to your attention that in the event of a charge brought against a Prisoner of War for trial by a military court, notification has to be made by the Detaining Power to the Protecting Power that a court has been constituted.

2. It would appear that as Italy is now a co-belligerent, there is no Protecting Power to whom notification can be made in regard to the trial of Italian nationals. The Commission requests that you obtain from the Italian Government their wishes as to which body shall take the place of the Protecting Power as referred to in Articles 60, 62, 65 and 66 of the International Convention of 1929.

3. It has been suggested that these functions could be occasionally performed by the Italian Military Mission now in Algiers.

For the Deputy President, Allied Control Commission:

WALTER F. SMITH
Captain, USAF
Adjutant General of Staff

35

29 Feb 44

Col Upjohn
Legal

Would you please
talk to Captain
Stone Monday

Feb 29 re the
attached. Thank you
Gene more

27 Feb 44

Col Upjohn
Legal

Would you please
talk to Captain
Stone - Monday

Feb 29 re ltr
attached - Thank you
Gensmore

26 Febr.

R. Grillo.

Secy. to.

Ministry of Foreign

affair - Tel 1272

Called.

Wants to know

who, in Salerno

they are to deal

with re P.O.W.

PDT

R. MINISTERO
DEGLI
AFFARI ESTERI

NOTA VERBALE

253

(42)

Il Comando Supremo ha trasmesso, per competenza, al R. Ministero degli Affari Esteri la Nota in data 2 febbraio indirizzata da codesta Commissione Alleata di Controllo a S.E. il Maresciallo Messe, relativamente ai prigionieri di guerra italiani.

1. In tale nota codesta Commissione Alleata di Controllo esprime l'avviso che, della cobelligeranza italiana conseguirebbe l'esaminazione della missione della Potenza Protettrice, alla quale non sarebbe in conseguenza possibile fare le notifiche relative alla citazione in giudizio dei prigionieri di guerra italiani. Essa chiede quindi di concessione del desiderio del Governo italiano circa l'ente cui possano essere devolute le funzioni attribuite alla Potenza Protettrice dagli artt. 60, 62, 65 e 66 della Convenzione di Ginevra del 29.7.1929 relativa al trattamento dei prigionieri di guerra e suggerisce che la 104^a divisione potrebbe venire convenientemente affidata alla Missione Militare Italiana in Algeri.

2. Il R. Ministero degli Affari Esteri, dopo attento esame della questione, fa anzitutto presente che il punto di vista secondo il quale non esiste Potenza Protettrice, non esiste.

venute ai prigionieri di guerra italiani.

1. In tale nota codesta Commissione Alleata di Controllo espone l'avviso che, dalla collaborazione italiana conseguirebbe l'assunzione della missione della Potenza Protettrice, alla quale non sarebbe in conseguenza possibile fare le notifiche relative alla citazione in giudizio dei prigionieri di guerra italiani. Essa chiede quindi di conoscere il desiderio del Governo italiano circa l'Ente cui possono essere devolute le funzioni attribuite alla Potenza Protettrice dagli artt. 50, 52, 55 e 56 della Convenzione di Ginevra del 29.7.1929 relativa al trattamento dei prigionieri di guerra e suggerisce che l'Ente **FO4** potrebbe venire convenientemente affidato alla Missione Militare Italiana in Algeri.

2. Il R. Ministero degli Affari Esteri, dopo attento esame della questione, fa anzitutto presente che il punto di vista secondo il quale, essendo l'Italia attualmente collaborante, non esiste Potenza Protettrice, è certamente il punto di vista più logico e ragionevole, e, come tale potrebbe senz'altro essere auspicato ed accolto. Esso non può, almeno in base alle portate che fino ad oggi è stata attribuita dalla Potenza Alleata allo "status" di collaborante, essere tuttavia condiviso dal Governo Italiano, sopra tutto in quanto, secondo le dichiarazioni formulate a suo tempo dai Governi britannici, sovietici e degli Stati Uniti, in occasione della dichiarazione di guerra dell'Italia alla

R. MINISTERO

DEGLI

AFFARI ESTERI

- 2 -

Germania, il "rapporto di collaborazione tra il Governo Italiano e i Governi delle Nazioni Unite, non può di per sé modificare le condizioni (di amnistia) recentemente firmate, che mantengono la loro piena forza e solo possono essere modificate da una intesa tra le Nazioni Unite".

Stando così le cose, e cioè sino a quando non intervenga una modifica di tale "status", o uno specifico accordo che regoli la particolare materia dei prigionieri di guerra italiani, è opinione del Governo Italiano che la Convenzione Internazionale di Ginevra rimane in pieno vigore.

Questo punto di vista trova del resto conferma nel fatto che da un lato i Governi Alleati hanno rifiutato necessario farsi iniziatori di un speciale accordo col Governo Italiano per l'organizzazione e l'impiego dei prigionieri di guerra italiani, e che, dall'altro lato, nel progetto di detto accordo, figura appunto all'art. 4 la proposta che "le disposizioni di Ginevra del 29.7.1929 circa i prigionieri di guerra, concernente le funzioni della Potenza Protettrice e dei suoi agenti sententi, sono sostituite da relazioni dirette tra il Governo degli Stati Uniti e i Governi del Commonwealth britannico da un lato, ed il Governo Italiano dall'altro".

La proposta di modifiche è un'ipotesi di riconoscimento del fat-

Stando così le cose, e cioè sino a quando non intervenisse una modifica di tale "status", o uno specifico accordo che regoli la particolare materia dei prigionieri di guerra italiani, è opinione del Governo Italiano che la Convenzione Internazionale di Ginevra rimane in pieno vigore.

Questo punto di vista trova del resto conferma nel fatto che da un lato i Governi Alleati hanno rifiutato necessariamente l'assai inattuistica di un eventuale accordo col Governo Italiano per l'organizzazione e l'impiego dei prigionieri di guerra italiani, e che, dall'altro lato, nel progetto di detto accordo, figura appunto all'art. 4 la proposta che "Le disposizioni di Ginevra del 29.7.1929 circa i prigionieri di guerra, concernente le funzioni della Potenza Protettrice e del suoi esecutori, sono sostituite da relazioni dirette tra il Governo degli Stati Uniti e i Governi del Commonwealth britannico da un lato, ed il Governo Italiano dall'altro".

Tale proposta di modifiche è un implicito riconoscimento del fatto che la Convenzione e, pertanto, la tutela da parte della Potenza Protettrice, rimangono per ora in pieno vigore.

Il R. Ministero degli Affari Esteri, a questo proposito, ha l'onore di riferire alla Nota Verbale consegnata il 29 gennaio u.s. dal Capo del Governo al Presidente Delegato della Commissione Alleata di Controllo nella quale venivano fra l'altro esposte le considerazioni generali

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R. MINISTERO
DEGLI
AFFARI ESTERI

--: 3 :-

e particolari del Governo Italiano in merito al citato progetto di accordo, e, soprattutto, ai punti 5 e 7 in cui venivano illustrate le ragioni che impedivano al Governo Italiano di convenire nel dichiarare la condotta delle disposizioni della Convenzione di Ginevra e di consentire anch'è i prigionieri di guerra perdessero la protezione loro garantita dalla predetta Convenzione Internazionale ed il Regno Governo ogni possibilità di decisione nel loro confronti.

3. Per quanto riguarda lo specifico suggerimento che le funzioni previste dagli art. 60, 62, 65 e 66 della Convenzione di Ginevra potrebbero venir affidate alla Missione Militare Italiana in Algeri, desidero d'altra parte sottoporre alla considerazione della Commissione Alleanza di Controllo il fatto che la protezione da parte della predetta Missione, con la sua attuale organizzazione e limitata possibilità, non potrebbe convenientemente sostituire quella infinitamente più larga e di più vaste risorse prevista dagli art. 60, 62, 65, 66 della Convenzione di Ginevra.

Tali articoli, posti nella dovuta relazione con le disposizioni generali della Convenzione, contemplano, in sostanza, la possibilità di contatti diretti e continui, in ogni località dove esistano prigionieri di guerra, tra questi ed i rappresentanti della Potenza Protettrice, e la possibilità, per quest'ultima, di esercitare una tempestiva

navra e di consentire anche i prigionieri di guerra perdessero la protezione loro garantita dalla predetta Convenzione Internazionale ed il Regno Governo ogni possibilità di decisione nel loro confronto.

3. Per quanto riguarda lo specifico suggerimento che le funzioni previste dagli art. 60, 62, 65 e 66 della Convenzione di Ginevra potrebbero venir affidate alla Missione Militare Italiana in Algeri, decisa da d'altra parte sottopone alla considerazione della Commissione Altaga di Controllo il fatto che la protezione da parte della predetta Missione, con la sua attuale organizzazione e limitata possibilità, non potrebbe convenientemente sostituire quella infinitamente più larga e di più vasta risorse prevista dagli art. 60, 62, 65, 66 della Convenzione di Ginevra.

Tali articoli, posti nella dovuta relazione con le disposizioni generali della Convenzione, contemplano, in sostanza, la possibilità di contatti diretti e continui, in ogni località dove esistano prigionieri di guerra, tra questi ed i rappresentanti della Potenza Protettrice, e la possibilità, per quest'ultima, di esso citare una tempestiva protezione.

La Missione Militare Italiana in Algeri, invece, non ha possibilità analoghe, e le sue comunicazioni sono limitate a quelle col Regno Governo.

Il R. Governo pertanto è d'avviso che la citazione in giudizio di

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R. MINISTERO

DEGLI

AFFARI ESTERI

- 4 -

di un prigioniero italiano presso una Corte Militare debba essere notificata alla Potenza Protettrice degli interessi italiani, sino a quando, come vivamente si augura, tutta la complessa e delicata questione dei prigionieri non possa trovare una più adeguata soluzione, attraverso accordi specifici fra l'Italia e le Potenze interessate, in vista di integrare, col loro apporto, lo sforzo bellico italiano nell'interesse della causa comune.

R.V.



Salerno 24 febbraio 1944.

61

R. MINISTERO
DEGLI
AFFARI ESTERI

(Translation)

41

NOTE VERBALE

The Italian High Command has forwarded to this Ministry a Note the Allied Control Commission directed to Marshal Messe on February 2nd concerning Italian P.O.W.'s:

1° - In said Note the Allied Control Commission expresses the opinion that in view of the fact that Italy is at present a co-belligerent the purposes of the Protective Power have come to an end. Consequently, it would not henceforth be feasible to notify to the same Power judicial summons concerning Italian Prisoners of War. The Allied Control Commission therefore requests the Italian Government to state what body they wish should take upon itself the duties attributed so far to the Protective Power by Articles 60, 62, 65 and 66 of the Geneva Convention of July 29, 1929, concerning the treatment of Prisoners of War, and suggests that said duties might be usefully entrusted to the Italian Military Mission in Algiers.

2° - The Royal Italian Ministry of Foreign Affairs having carefully examined the matter, wish to state that the point of view according to which, in consideration of Italy's present status of co-belligerency, the Protective Power has no further standing, is the most logical and reasonable one, and, as such, could

1° - In said Note the Allied Control Commission expresses the opinion that in view of the fact that Italy is at present a co-belligerent the purposes of the Protective Power have come to an end. Consequently, it would not henceforth be feasible to notify to the same Power judicial summons concerning Italian Prisoners of War. The Allied Control Commission therefore requests the Italian Government to state what body they wish should take upon itself the duties attributed so far to the Protective Power by Articles 60, 62, 65 and 66 of the Geneva Convention of July 29, 1929, concerning the treatment of Prisoners of War, and suggests that said duties might be usefully entrusted to the Italian Military Mission in Algiers.

2° - The Royal Italian Ministry of Foreign Affairs having carefully examined the matter, wish to state that the point of view according to which, in consideration of Italy's present status of co-belligerency, the Protective Power has no further standing, is undoubtedly the most logical and reasonable one, and, as such, could forthwith be upheld and accepted. However the Italian Government can not, in the present situation share such a point of view because of the purport that, up to the present at least, the Allied Powers have attributed to the status of co-belligerency; particularly so, in relation with the statements formulated by the British, American and U.S.S.R. Governments on the occasion of Italy's war declaration to Germany, to the effect that the "relationship of co-belligerency between the Government of Italy and the United Nations' Governments can not of itself affect the terms recently signed, which retain their full force and can only be adjusted by agreement between the Allied Governments".

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R. MINISTERO
DEGLI
AFFARI ESTERI

-2-

Under these circumstances and until the status of co-belligerency should be modified, or a special agreement reached to deal with the problem of Italian Prisoners of War, the Italian Government are of the opinion that the International Convention at Geneva retains its full force.

This opinion is moreover corroborated by the fact that on the one side the Allied Governments have found it necessary to propound a special agreement with the Italian Government for the organization and occupation of Italian Prisoners of War while, on the other, by article 4 of the provisional scheme of said agreement it is proposed that "the provisions of Geneva of July 29, 1929 concerning P.O.W.'s and dealing with the attribution of the Protective Power and their Representatives are substituted by direct relations between the U.S. Government and the Government of the British Commonwealth on one side and the Italian Government on the other".

This proposal implicitly recognizes that the Geneva Agreement and, consequently, the action of the Protective Power, remain in full force for the time being.

In this connection the Ministry of Foreign Affairs have the honour to draw attention on their Note Verbal handed on January 29 by Marshal Badoglio to the Deputy President of the Allied Control

0 2 6 5

This opinion is moreover corroborated by one side the Allied Governments have found it necessary to propound a special agreement with the Italian Government for the organization and occupation of Italian Prisoners of War while, on the other, by article 4 of the provisional scheme of said agreement it is proposed that "the provisions of Geneva of July 29, 1929 concerning P.O.W.'s and dealing with the attribution of the Protective Power and their Representatives are substituted by direct relations between the U.S. Government and the Government of the British Commonwealth on one side and the Italian Government on the other".

This proposal implicitly recognizes that the Geneva Agreement and, consequently, the action of the Protective Power, remain in full force for the time being.

In this connection the Ministry of Foreign Affairs have the honour to draw attention on their Note Verbal handed on January 29 by Marshal Badoglio to the Deputy President of the Allied Control Commission which sets forth the Italian Government's remarks, from a general and particular standpoint, on the above mentioned scheme. These remarks dealt specifically with paragraph 5 and 7 and gave the reasons why the Italian Government are unable to agree in declaring void the provisions of the Geneva Convention and in accepting that both the P.O.W. be deprived of the protection accorded by said Convention and the Italian Government of the possibility of taking whatsoever decision in their regard.

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R. MINISTERO

DEGLI

AFFARI ESTERI

-3-

3° - As to the specific proposal that the duties envisaged by articles 60, 62, 65 and 66 of the Geneva Convention be turned over to the Italian Military Mission in Algiers, the Ministry of Foreign Affairs desire to call the attention of the Allied Control Commission on the fact that a protection exercised by said Mission, in view of its present organization and limited scope, could not conveniently take the place of the much broader and more efficient protection provided for in the above mentioned paragraphs of the Geneva Convention.

In fact these paragraphs, duly considered in relation to the general provisions of the Agreement, envisage the possibility of direct and continuous contacts, wherever the Prisoners of War may be, between the former and representatives of the Protective Power. Moreover they provide the possibility that the Protective Power should be in a position to exercise its duties in a timely way.

The Italian Military Mission in Algiers, on the other hand, has no such possibilities while its communications are limited to those with the Royal Government.

The Italian Government express therefore the opinion that summons of Italian P.O.W. at a Military Court should be duly notified to the Power in charge of Italian interests, until such a moment when, as it is sincerely hoped, all the complex and difficult

Commission on the fact that a protection exercised by said Mission, in view of its present organization and limited scope, could not conveniently take the place of the much broader and more efficient protection provided for in the above mentioned paragraphs of the Geneva Convention.

In fact these paragraphs, duly considered in relation to the general provisions of the Agreement, envisage the possibility of direct and continuous contacts, wherever the Prisoners of War may be, between the former and ^{the} representatives of the Protective Power. Moreover they provide the possibility that the Protective Power should be in a position to exercise its duties in a timely way.

The Italian Military Mission in Algiers, on the other hand, has no such possibilities while its communications ^{are} limited to those with the Royal Government.

The Italian Government express therefore the opinion that summons of Italian P.O.W. at a Military Court should be duly notified to the Power in charge of Italian interests, until such a moment when, as it is sincerely hoped, all the complex and difficult problem of the P.O.W. shall find its solution in an appropriate agreement between Italy and the Powers concerned, with a view to implementing, with the P.O.W.'s contribution, the Italian war effort in the interest of the common cause.

Salerno, February 25, 1944.

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 334

COM/SA

40

29 February 1944.

ACC/AC76/L

SUBJECT: Incarceration in a Civilian Jail of a POW
and violation of Geneva Convention.

TO : ACC Liaison Officer, Palazzo del Governo, Brindisi.

1. There appears from the contents of the enclosed letter that a serious breach of the Geneva Convention has been committed by a British WGO.
2. Would you please see that the necessary investigation into the alleged facts is made and let this HQ have a report at your early convenience.

2 Enclosures.

G. G. HANNAFORD, Major
Officer i/c Italian Section
for Chief Legal Officer.

See Encls 36/39

3 47

TRANSLATION0
MINISTER OF WAR
CabinetTranslated
by P. S.

39

N. 2269/1 di prot.
18/8/53

Lecce, 9 February 1944.

SUBJECT: Imprisonment of ^{Cpl.} cap. magg. (Staff Sgt.) DEL NEGRO, Gino di Attilio.

TO THE MINISTER OF PARDONS & JUSTICE.

P. N. 151

We inform you that on 27 January 1944 the ^{Liaison} Sub-office ^{will} of the 71st Subarea of Brindisi has been able to obtain the release of ^{Cpl.} cap. magg. DEL NEGRO Gino from the judicial prison of Brindisi, where he had been brought on 13 December by order of the Allied Command.

From statements made by the soldier to the Chief of the Sub-office the following facts have been obtained:

On 27 July 1943, DEL NEGRO was made a prisoner by an American unit which transferred him on the 18th of October to the 189th Transit Camp where he was employed, first in Sicily, and then on the continent as a cook.

Arriving in Brindisi with the 189th Transit Camp, he requested that his position be ^{known} ~~made known~~ to the Italian Military authorities; as a result of such request he was immediately interned in the judicial prison of Brindisi, where he was accepted on the presentation of a certificate, with illegible signature, of an English sergeant, which ^{was} ~~was~~ construed as follows: "The Chief Guard of the judicial prison of Brindisi will receive and hold at the disposition of this English command the said DEL NEGRO Gino, di Attilio for police measures - Brindisi, 13/12/1943."

It appears however that DEL NEGRO has been imprisoned without the proper certificate of imprisonment and that no Italian military authority has been informed of his detention.

In fact, the ^{Liaison} ~~Sub-office~~ ^{will} of the 71st Subarea has been notified only after 45 days of imprisonment of DEL NEGRO through a notification to that effect which succeeded in reaching the Tappa Command No. 9.

The above facts have been stated to this Ministry for action which it may wish to adopt in the matter.

BY order of
CHIEF OF THE CABINET
(Col. R. Fiore Vernazza)

MINISTERO della GUERRA

Gabinetto

N. 2169/I di prot.
10/3/53

Lecce, 9 Febbraio 1944

O G G E T T O : Carcerazione cap. magg. DEL NEGRO Gino di Attillio.

AL MINISTERO DI GRAZIA E GIUSTIZIA

P. M. 151

Si informa che il 27 gennaio 1944 l'ufficio di collegamento con la 7^a Subarea di Brindisi ha potuto ottenere la liberazione dalle carceri giudiziarie di Brindisi del cap. magg. DEL NEGRO Gino, che vi era stato tradotto il 13 dicembre 1943 per ordine del comando alleato.

Dalle dichiarazioni fatte dal militare al Capo dell'ufficio di collegamento è emerso quanto segue :

Il Del Negro il 27 luglio 1943 venne fatto prigioniero da una unità americana la quale l'8 ottobre successivo lo passò al 189^o Transit Camp che lo impiegò, in Sicilia prima, ed in continente poi, come cuo-
niere.

Giunto a Brindisi con il 189^o Transit Camp inglese che venisse re-
golata la sua posizione presso le autorità militari italiane : a que-
sta sua richiesta fu risposto con l'immediato internamento nelle car-
ceri giudiziarie di Brindisi, dove venne accettato su semplice presen-
tazione di un biglietto, a firma illegibile, di un sergente inglese,
così concepito : "Il capo guardia delle carceri giudiziarie di Brindisi
riceverà e terrà a disposizione di questo Comando inglese il nominato
Del Negro Gino di Attillio per misure di polizia - Brindisi 11/13/1943".

R. M. 157

Si informa che il 27 gennaio 1944 l'ufficio di collegamento con la 7^a Subarea di Brindisi ha potuto ottenere la liberazione dalle carceri giudiziarie di Brindisi del cap. magg. DEL NEGRO Gino, che vi era stato tradotto il 13 dicembre 1943 per ordine del comando alleato.

Dalle dichiarazioni fatte dal militare al Capo dell'ufficio di collegamento è trascritto quanto segue:

Il Del Negro il 27 luglio 1943 venne fatto prigioniero da una unità americana la quale l'8 ottobre successivo lo passò al 159^o Transit Camp che lo impietò, in diciannove giorni, ed lo contenne poi come cuoli niere.

Giunto a Brindisi con il 159^o Transit Camp olandese che venisse regolata la sua posizione presso le autorità militari italiane; a questa sua richiesta fu risposto con l'immediato internamento nelle carceri giudiziarie di Brindisi, dove venne accettato su semplice presentazione di un biglietto, a firma illegibile, di un sergente inglese, così concepito: "Il capo guardia delle carceri giudiziarie di Brindisi riceverà e terrà a disposizione di questo Comando Inglese il nominato Del Negro Gino di Attilio per misure di polizia - Brindisi li 13/12/943".

Risulterebbe pertanto che il Del Negro è stato incarcerato senza regolare biglietto di carcerazione e che della sua detenzione nessuna autorità militare italiana è stata informata.

Infatti l'ufficio di collegamento con la 7^a Subarea è venuto a conoscenza dopo 45 giorni dell'incarcerazione del Del Negro, soltanto per mezzo di un biglietto che questi riuscì a far pervenire al Comando Tappa N. 9.

Si segnala il fatto a questo Ministero per i provvedimenti che riterrà di adottare.

d'ordine
IL CAPO DI CASERMO
(Col. R. Fiore - Vernazza)

(31)

1. Subject: Presumably is a member of a group and vice president of General Committee.
2. These appear from the contents of the enclosed letter that a serious breach of the General Convention has been committed by a Member N.E.
3. Would you please ^{as that is necessary investigation into} ~~investigate~~ the alleged facts and make out let them N.E. have a report of your findings.

Palazzo del Governo

To: ACC Liaison Office, Burundi.

2 Encl.

4076

4/4

TRANSLATION

~~XXXXXXXXXXXXXX~~MINISTRY OF WAR
CabinetNo. 2169/1 of prot.
16/8/35

Lecce, 5 Feb 1944.

SUBJECT: Arrest of cap. magg. DEL NEGRO Gino (son of Attilio).

TO The Ministry of Grace and Justice.

APO 151

I wish to inform you that on Jan. 27, 1944 the Liaison Office in cooperation with the 71st Subarea of Brindisi succeeded in effecting the release from the judicial prisons at Brindisi of Cpl Maj. DEL NEGRO Gino, who has been committed thereto on 13 Dec. 1943 by order of the Allied Command.

The following transpired from the statements made by the soldier to the head of the Liaison Office:

Del Negro was captured on 27 July 1943 by an American unit which handed him over to the 189th Transit Camp on the 8th of October 1943. He was employed as cook in this camp, first in Sicily and then on the mainland.

After his arrival at Brindisi with the 189th Transit Camp he requested that his status be taken up with the Italian Military authorities; in reply to this request he was immediately interned in the judicial prisons of Bari where he was accepted simply upon the presentation of a note with an illegible signature written by an English sergeant. The note read as follows: "The chief guard of the judicial prisons at Brindisi will receive and hold at the disposal of this English Command Del Negro Gino, son of Attilio, for police purposes, Brindisi, 13 Dec. 1943."

Thus it appears that Del Negro was imprisoned without a regular note of incarceration and no Italian authority has been informed of his incarceration.

In fact, the Liaison Office with the 71st Subarea learned about the incident only after 45 days of imprisonment of Del Negro and then only from a note which he succeeded in forwarding to the Comando Tapa no. 9.

This case is communicated to the Ministry of Justice for any action they deem advisable.

By Order
Head of the Cabinet
Col. R. Fiore - Vernazza

Trans: ES - 27 Feb 44

TRANSLATIONTransl. by P. S.
(36)

MINISTER OF WAR

Cabinet

N. 2162/1 di prot.
10/6/53

Lecce, 9 February 1944.

SUBJECT: Imprisonment of cap. magg. (Staff Sgt.) DEL NEGRO Gino di Attilio.

TO THE MINISTER OF PARDONS & JUSTICE.

R. L. 151

We inform you that on 27 January 1944 the ^{Liaison with} Sub-office of the 71st Subarea of Brindisi has been able to obtain the release of Cap. magg. DEL NEGRO Gino from the judicial prison of Brindisi, where he had been brought on 13 December by order of the Allied Command.

From statements made by the soldier to the Chief of the Sub-office the following facts have been obtained:

On 27 July 1943, DEL NEGRO was made a prisoner by an American unit which transferred him on the 18th of October to the 169th Transit Camp where he was employed, first in Sicily, and then on the continent as a cook.

Arriving in Brindisi with the 169th Transit Camp, he requested that his position be ^{taken up with} the Italian Military authorities; as a result of such request he was immediately interned in the judicial prison of Brindisi, where he was accepted on the presentation of a certificate, with illegible signature, of an English sergeant, which ^{was} ~~was~~ considered as follows: "The Chief Guard of the judicial prison of Brindisi will receive and hold at the disposition of this English command the said DEL NEGRO Gino di Attilio for police measures - Brindisi, 13/12/1943."

It appears however that DEL NEGRO has been imprisoned without the proper certificate of imprisonment and that no Italian military authority has been informed of his detention.

In fact, the ^{Liaison officer} Sub-office of the 71st Subarea has been notified only after 45 days of imprisonment of DEL NEGRO through a notification to that effect which succeeded in reaching the Tappa Command No. 9.

The above facts have been stated to this Ministry for action which it may wish to adopt in the matter.

BY order of
CHIEF OF THE CABINET
(Col. R. Fiore Vernazza)

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MINISTERO della GUERRA

Gabinetto

M. 2153/I al prot.
10/8/53

Lecce, 9 febbraio 1944

OGGETTO : Carcerazione cap. magg. DEL NEGRO Gino di Attilio.

AL MINISTERO DI GRAZIA E GIUSTIZIA

P. M. 151

Si informa che il 27 gennaio 1944 l'Ufficio di collegamento con la 7^a Subarea di Brindisi ha potuto ottenere la liberazione dalle carceri giudiziarie di Brindisi del cap. magg. DEL NEGRO Gino, che vi era stato tradotto il 13 dicembre 1943 per ordine del comando alleato.

Dalle dichiarazioni fatte dal militare al Capo dell'Ufficio di collegamento è emerso quanto segue :

Il Del Negro il 27 luglio 1943 venne fatto prigioniero da una unità americana la quale l'8 ottobre successivo lo passò al 169^o Transit Camp che lo impiegò, in Sicilia prima, ed in continente poi, come cuo-
niere.

Giunto a Brindisi con il 169^o Transit Camp olandese che veniva sgolata la sua posizione presso le autorità militari italiane ; a sta sua richiesta fu risposto con l'immediato internamento nelle carceri giudiziarie di Brindisi, dove venne accettato su semplice pres-
tazione di un biglietto, a firma illegibile, di un sergente inglese.
così concepito : "Il capo guardia delle carceri giudiziarie di Brindisi
risponderà e terrà a disposizione di questo Comando."

Si informa che il 27 gennaio 1943 l'ufficiale della 71^a Subarea di Brindisi ha potuto ottenere la liberazione dalle carceri giudiziarie di Brindisi del cap. magg. DEL NEGRO Gino, che vi era stato tradotto il 13 dicembre 1943 per ordine del comando alleato.

Dalla dichiarazione fatta dal militare al Capo dell'ufficio di collegamento è emerso quanto segue:

Il Del Negro il 27 luglio 1943 venne fatto prigioniero da una unità americana la quale l'8 ottobre successivo lo passò al 189^o Transit Camp che lo impiegò, in Sicilia prima, ed in continente poi, come cuo-
niere.

Giunto a Brindisi con il 189^o Transit Camp danese che veniva assog-
golata la sua posizione presso le autorità militari italiane; a questa sua richiesta fu risposto con l'immediato internamento nelle car-
ceri giudiziarie di Brindisi, dove venne accettato su semplice presen-
tazione di un biglietto, a firma illeggibile, di un sergente inglese.
così concepito: "Il capo Guardia delle carceri giudiziarie di Brin-
diceverà e terrà a disposizione di questo Comando Inglese il nomin-
Del Negro Gino di Attilio per misure di polizia - Brindisi il 13/1

Risulterebbe pertanto che il Del Negro è stato incarcerato sul
regolare biglietto di carcerazione e che della sua detenzione nella
autorità militare italiana è stata informata.

Infatti l'ufficio di collegamento con la 71^a Subarea è venuta
noscenza dopo 45 giorni dell'incarcerazione del Del Negro, soltanto
mezzo di un biglietto che questi riuscì a far pervenire al Comando
pa N. 9.

Si segnala il fatto a codesto ministero per i provvedimenti che ri-
terra di adottare.

d'ordine
IL CAPO DI CABINETTO
(Col. R. Fiore - Vernazza)

HEADQUARTERS
ALLIED CONTROL COMMISSION ON
APO 394

Administrative Section

4076
AOC/383.6/40

11 Feb 44

SUBJECT: Thereabouts Enquiries.

TO : RC AND MD SECTION, HQ. ACC. APO 394.

1. In my view, the best and most convenient instruction which can be issued with regard to the ~~handling~~ of enquiries about Italian Nationals is that enquiries respecting

(a) Italian CIVILIANS believed to be located in Allied controlled territory should be addressed to the Public Safety Sub-Commission here, and

(b) that ALL other enquiries should be addressed to the RC and MD Section.

2. If this is done the enquiries which may be addressed to you are,

(a) in respect of Italians located in enemy controlled areas (which may be passed to the International Red Cross) or

(b) in respect of members of the Italian Forces either serving or P.O.s. (which may be passed to the Military Section).

3. Where a question of release of a P.O. arises because his services are required I think that the Sub-Commission requiring his services should have the handling of the question of release. (For example, the case of a legal Government official should be dealt with by the Interior Sub-Commission; the case of a member of the judiciary by the Legal Sub-Commission and similarly for other technical experts).

(Sgd) S.

STANISLAF,
Vice President, Administrative Section,
Allied Control Commission.

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Copy to: Education Sub-Commission.
Monuments, Fine Arts and Archives Sub-Commission.
Legal Sub-Commission.
Public Safety Sub-Commission.
Public Health Sub-Commission.
Interior Sub-Commission.
Property Control Sub-Commission.
File AOC/DIA. 3/40.

COPY

SECRET

AFHQ JAW Adm Ech, CMF

9150/9/41

21 Feb 42

ADMINISTRATIVE INSTRUCTION NO. 20STATUS AND TERMS AND CONDITIONS OF EMPLOYMENT
OF ITALIAN PRISONERS OF WAR IN CMF.1. GENERAL

As a result of the Armistice, and in order to effect the maximum economy of British personnel, it has been decided to form from Italian PW in NORTH AFRICA a number of Italian units similar in War Establishment to British units but with the addition of a small British liaison element. Italian PW will also be used in PW units in dilution of BV personnel.

Such units now being employed in CMF at present on a limited scale and comprise:

- (a) Italian units formed in North Africa District.
- (b) British units where no provision for the employment of Italian PW.
- (c) Units authorized to employ Italian PW within or in excess of WL.

2. STATUS

The status of the Italian personnel employed in such units will continue to be that of PW, but on signing the form of Declaration attached at Appendix A, each individual will be regarded as released on parole. No British guard element will, therefore, be required.

The Declaration, when completed, will be kept with the individual's AZ 83000 Pt I.

3. EMPLOYMENT

Italian personnel who have signed this Declaration may be employed on any type of non-combatant work, and such employment will no longer be subject to the restrictions contained in Articles 31 and 32 of the International Convention relative to the Treatment of Prisoners of War.

4. DISCIPLINE

Regulations for the maintenance of discipline among Prisoners of War

32

39

2. *Secondary sector*—businesses found in North Edge district.

- (a) Italian units formed in North Africa and Syria.
(b) British units also be provided for the employment of Italian II.
(c) Units authorized to employ Italian PW within or in excess of 75.

20. STATUS
The status of the Indian personnel employed in such units will be determined by the Government in the form of Declaration.

continue to be that of 27, but on signing the form of Declaration, each individual will be regarded as released and the form will be regarded as released.

on (pre)s. No British guard was set up, therefore, to meet with the individual's

the Declaration, when completed, will be
 around it.

DISCLOSURE: The authors have nothing to disclose.

3. EMPLOYMENT
It is ten percent and also signed this Declaration may be employed
It is ten percent and also signed this Declaration may be employed

on any type of non-combatant work, and such regulations shall be subject to the restrictions contained in articles 22 and 23 of the International Convention relative to the Treatment of Prisoners of War.

4. DISCUSSION

4. Opportunities for the main
operation continue to arise.

5. Amusements and rewards will only be made by the CC British unit or the British officer included in the liaison element, but the Italian officers of the unit will be responsible to the British officer for the disciplines of the Italian personnel under their command.

6. In the case of deserters, absentees, or recalcitrant offenders, the parole given by them still be revoked and they will be sent to the nearest suitable PG Camp.

7. D. H. Fowler and H. J. Gold of Stanford

7. D. N. Pashkov
Italian personnel will not be entitled to leave, but those of proved good conduct may, at the discretion of the local Commander, be given any license to visit the nearest town.

B. DOCUMENTATION

The User Service, under whose supervision an Italian unit is employed, will be responsible for the maintenance of all necessary records, and for the reporting of all casualties, for which detailed instructions have been issued by JHQ 2nd Echelon. The PW numbers allotted to Italian personnel will continue

to be used for all purposes.

9. ACCOUNTING ON TRANSFER TO ITALY

On transfer from ordinary PW status to parole status under this scheme, the prisoners' AF #3488 is balanced to the date of transfer and the original forwarded to the OC User Service. In addition, a nominal roll is prepared in duplicate at the time of transfer, which details the name and number of the transmitting camp, the rank, full name and number of each prisoner and the amount of the balance on his AF #3488, showing whether debit or credit. One copy is forwarded to the OC User Service and the other retained, with the duplicate (FO #3488) at the camp from which the PWs are transferred.

The OC User Service will open a new duplicate AF #3488 for each prisoner which should record against the balance notified in the nominal roll referred to above, and all transactions occurring after transfer.

10. PAY

Ordinary pay will be credited at rates set out in Appendix 'B'.

11. Working Pay will be credited to Italian personnel as under:-

Skilled Hourly Rate	Unskilled Hourly Rate	Skilled Max Daily Rate	Unskilled Max Daily Rate
1/-	7/43	1/-	6d

Payment will only be made in respect of actual hours worked, and will not be admissible in respect of the weekly rest day, absence in hospital, or detention, etc. To receive benefit of a full day's working pay, a prisoner must have worked for 8 hours.

12. Both ordinary pay and working pay will be credited monthly to the case of officers, and weekly in the case of other ranks, to and incl the last Friday in each month, at AF #3488 (maintained in duplicate). Entries on AF #3488 will be supported by a schedule as set out in Appendix 'C' in the case of ordinary pay, and Appendix 'D' in the case of working pay. AF #3488 and schedules will be retained and be available for audit.

13. CURRENT SUPPLIES

The issue of ITI supplies on the same current conditions as for British troops is authorized for all ranks employed in Italian units. Those supplies will be purchased by payments from the interest account of the User Service under whose supervision the Italian unit is employed. All issues will be carried out in accordance with Appendix 'E'.

Unskilled	Unskilled	Skilled
Hourly Rate	Hourly Rate	Hourly Rate

14d

3/4d

1/-

6d

Payments will only be made in respect of actual hours worked, and will not be payable in respect of the weekly rest day, absence in hospital, or detention, etc. To receive credit of a full day's working pay, a prisoner must have worked for 8 hours.

12. Both ordinary pay and working pay will be credited monthly in the case of officers, and weekly in the case of other ranks, up to and including the last Friday in each month, or if 31st (as indicated in Appendix).

Working pay will be supported by a schedule on set out in Appendix 'C' in the case of ordinary pay, and Appendix 'D' in the case of working pay. If 31st and scheduled will be retained and be available for audit.

13. CURRENT SUPPLIES

The issue of RFI supplies on the same current conditions as for British troops is authorized for all ranks employed in Italian units. These supplies will be purchased by vouchers from the current account of the War Service under whose supervision the Italian unit is employed.

This will be carried out in accordance with Appendix 'E'.

Purchases of RFI supplies on behalf of Italian personnel, and separate receipts will be kept entirely separate from those for British personnel, and carried in the form attached at Appendix 'F' will be forwarded to the Command Paymaster with the current account.

14. RATIONS

The ration book will be that applicable to working pay.

Italian officer personnel are charged 4/- a day for messing and will be debited on 17% W3488 with the cost monthly. If 31st, in addition, on working days and months, will be rendered to the Command Paymaster and will be numbered serially.

A certificate will be endorsed on the vouchers to the effect that the 17% W3488 of the individuals concerned have been debited. The Command Paymaster, after examination, will return one form to the OC User Service.

Other rank personnel receive five messings. In addition they receive free weekly 35 cigarettes or 35 grams of tobacco.

15. CLOTHING

The issue of clothing set out at Appendix V of War Clothing Regulations will continue to apply, and the essential clothing now issued to PW will continue to be issued to Italian personnel in PW units.

16. WELFARE FUNDS

Instructions with regard to the provision of reinforcements for PW units will be issued later.

17. MEDICAL

Italian Medical personnel may be attached to Italian units on a scale of 2 Medical Officers and 6 Medical Orderlies per 1000 Italian personnel. Where the size of an Italian unit is so small as to make it impracticable for any Italian Medical personnel to be attached to it, arrangements will be made by the District, Area or Sub-Area concerned, for the Italian personnel to receive Medical care and attention from the Italian Medical personnel of the nearest Italian unit or PW Camp.

18. Italian personnel requiring hospital treatment will be admitted to the nearest British General Hospital. Italian wings are to be established later.

19. British units, under whose supervision Italian units are employed, will be responsible for ensuring that adequate arrangements are made for the health and well being of Italian personnel.

20. POSTAL

Full instructions as to the Postal facilities for PW employed in PW units will be issued shortly. In the meantime, the personnel of PW units will be restricted to the use of one AF 73493 (Postcard) per week, and should continue to use the same address as they now use until further instructions are issued.

21. WELFARE FUNDS

On the formation of Italian units, sums will be transferred from the Welfare Funds of the PW Camp or PW Labour Coy from which Italian personnel are posted to form the nucleus of the Welfare Fund of the Italian unit. The amount so transferred will depend upon the amount standing to the credit of the Welfare Fund of the PW Camp or Labour Coy, and will be worked out on a per capita basis with the consent and co-operation of the Italian Camp leader concerned.

Amounts transferred should be forwarded in cash to the OC User Service and a receipt for the money obtained to support the transactions in the Welfare Account maintained on AF 73493 by the transmitting camp.

19. British units, under whose supervision Italian units are employed, will be responsible for ensuring that adequate strong units are made for the health and well being of Italian personnel.

20. FOITAL

Full instructions as to the postal facilities for PW employed in PW units will be issued shortly. In the meantime, the personnel of PW units will be restricted to the use of one AF 10403 (Postcard) per week, and will be restricted to the use of the same address as they now use until further instructions are issued.

21. WELFARE FUNDS

On the formation of Italian units, sums will be transferred from the welfare funds of the PW Camp or PW Labour Coy from which Italian personnel are posted to form the nucleus of the Welfare Fund of the Italian unit. The amount so transferred will depend upon the amount standing to the credit of the Welfare Fund of the PW Camp or Labour Coy, and will be worked out on a per capita basis with the amount and operation of the Italian Camp leader concerned.

Amounts transferred should be forwarded in cash to the OC User Service and a receipt for the money obtained to support the transactions in the Welfare Account maintained on AF 83458 by the transmitting camp.

The User Service will open a welfare Account on AF 83458, showing the amount received as a credit, and there shall be a debit in this account in accordance with the instructions contained in Appendix 'A'.

In the event of the User Service's report to AFHQ (G-1/AF) the amount of welfare funds in hand in order that appropriate instructions for the accounts and cash in hand may be given.

22. DEFINITION

OC User Service will be:-

(a) OC Unit in the case of a British unit by which PW are employed either within or in excess of PL.

(b) In the case of an Italian unit, the local controlling unit or establishment of the employing Service concerned, or Head of the Service at District, Area or Sub-Area.

Major-General,
5010.

DECLARATION

PS No.

Rank.

Name.

Christian Name

ENGLISH

As a result of the Armistice concluded between the Allied Forces and the Kingdom of ITALY, I DECLARE that I am willing to work as directed on behalf of the Allied Forces in NORTH AFRICA and to assist them to the best of my ability in the war against GERMANY.

I UNDERTAKE not to abuse any liberty or privileges which may be granted to me as a result of making this Declaration.

I UNDERTAKE to obey any orders or regulations issued by the Allied Military Authorities, and I understand that if I do not do so my liberty and privileges may be taken away.

ITALIAN

Come risultato dell' Armistizio tra l'ESERCITO ALLIATO e il Regno che desidero lavorare come per conto delle FORZE ALLIEE settentrionali, e aiutarle guerra contro la GERMANIA. Mi impegno di non abusare di un privilegio che mi verrà dato di aver fatto questa dichiarazione. Mi impegno di osservare tutti regolamenti emanati dalle A. Alleate, e di sapere che non posso averli, se non li osservo. Altrimenti la mia libertà e i miei privilegi

Signature of P.

ACCEPTED

Issuing Officer.

ARATION

ANNEXE "A"

Name..... Christian Noras.....

ITALIAN

Come risultato dell' Armistizio concluso fra
 le FORZE ALLEATE e il Regno D'ITALIA, DICHIARO
 che desidero lavorare come mi si può dirigere
 per conto delle FORZE ALLEATE nell'AFRICA
 settentrionale, e aiutarlo al mio meglio nella
 guerra contro la GERMANIA.
 Mi impegno di non abusare qualsiasi libertà
 o privilegio che mi verrà dato per ragione
 di aver fatto questa dichiarazione.
 Mi impegno di osservare tutti gli ordini e
 regolamenti emanati dalle Autorità Militari
 Alleate, e capisco che nel caso di non
 osservarli, si potrà ritirarmi la mia
 libertà e i miei privilegi.

Signature of P..... Date.....

ACCEPTED

Issuing Officer.....

APPENDIX "B" TO AFHQ JIV AND ECH
AFM INSTR. NO. 28.

MONTHLY RATES OF PAY FOR PERSONNEL OF WAR

ITALIAN - OFFICERS.

Majoriello D'Italia, Generale D'Armata, and Generale Deo D'Armata	L48 - 12 - 3 monthly	*
Generale 4 Corpo D'Armata	L41 - 13 - 4	*
Tenente Generale including Generale 5 Divisione	L36 - 2 - 3	*
Magliore Generale including Generale 3 Brigata	L27 - 15 - 7	*
Colonnello	L22 - 4 - 6	*
Tenente Colonnello	L19 - 6 - 11	*
Majori	L18 - 1 - 2	*
Capitano	L15 - 5 - 7	*
Tenente	L11 - 3 - 11	*
Sotto Tenente	L10 - 8 - 4	*

ITALIAN EUROPEAN OTHER RANKS

Sgt and above	2 - 9 (SSL) monthly
Cpl and below	1 - 11 (181)
extra 1d each third week.	

ITALIAN NON-EUROPEAN OTHER RANKS

Libyans	1 - 4 } weekly	35
East Africans	10 }	

Pay due and credited on Army Form #. 3488 by No. Unit to each Italian
 Officer Prisoner of War and each Italian other rank Prisoner of War for the period and

P.W. No.	Rank	Name	Period From To	OFFICERS		Pay			Messing			S.O.
				No. of days	Rate	L	S	d	L	S	d	
TOTAL												

Certified that the amounts in respect of pay have been credited, and in
 Army Form #. 3488 to the prisoners concerned.

Date.....194.

No.....

* - an explanation should be given in this column when the period for which pay is
 than the monthly period.

APPENDIX "C" TO "PMQ ADV ADM SCH AIN"
INSTR NO. 28.

194.

By No. Unit to each Italian
other rank Prisoner of War for the period ended

OFFICERS		OTHER RANKS						Pay		REMARKS
of	Rate	Pay	Messing	C.O.	S.O.	C.O.	S.O.	C.O.	S.O.	
		L	a	d	L	a	d	L	a	d

TOTALS

TOTALS

in respect of pay have been credited, and messing charges debited, on
prisoners concerned.

.....CC

No.....Unit

in this column when the period for which pay is credited is more or less
a monthly period.

0 2 8 9

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

785016

WORKING PAY CREDITED AND RFI SUPPLIES DEBITED ON AF FORMS OF ITALIAN PERSONNEL OF
 For the period ended 194.

AF No	Rank	Name	Period		No of Working Days	Rate	Working Pay Credited	Value of RFI supplies debited
			From	To				
							1- 0 4	1- 0 4

23
 23
 TOTAL

APPENDIX 'D' TO AFM ADV AFM ECH
AFM INSTRUCTION NO 28

DESIGNED ON AF 73488 of ITALIAN PERSONNEL OF

(Designation of Unit)

period ended

1944.

No of Working Days	Rate	Working Pay Credited	Value of EPI supplies debited	Remarks	NOTE
		1- 5 'd	1- 5 'd		1. An explanation will be given in the "Remarks" column when the period for which pay is credited is more or less than the monthly period.

CERTIFICATE

Certified that the amounts in respect of working pay have been credited and in respect of EPI supplies debited, on the AFs 73488 (in duplicate) of the individuals concerned.

Date.....

.....CO

.....
 Designation

33
 TOTAL

APPENDIX 2 to Adm. Inst. No. 28

P.F. - ZFI Contain Supplies.

1. In order to avoid the accumulation of a balance of stock, inventories on ZFI will be based on the actual requirements of the prisoners.

2. The gross amount of the ZFI bill will be shown as two payments in the present account:

(a) Net payment to ZFI, supported by ZFI receipt.

(b) Rebate payment to CC User Service, supported by his receipt.

3. The amount of ZFI rebate will be credited to the Welfare Account maintained on AF #3488 headed "WELFARE ACCOUNT", supported by all relevant vouchers and balanced monthly. This account must be available for audit at all times.

APPENDIX 2 to Adm. Inst. No. 28

CERTIFIED:

1. That ZFI supplies to the value of L : L have been sold to the Italian personnel of..... (Designation of unit) during the week ending.....

2. That the value of the goods purchased by each individual has been debited on his A.F.# 2488 and signed for by him.

3. That no individual has purchased goods to a value greater than the sum standing to the credit of his account.

C.C..... (Designation of Unit).

Date.....

SECRET

FARGO 599

FARGO

SECRET

PRIORITY

PATIMA (REAR)

3 FEBRUARY 1944

10090 MACFARLANE

WITH REFERENCE YOUR NUMBER TWO FIVE ONE
 POINT TWO OF THREE ZERO JANUARY PD PERBACE PAREN FARGO FROM
 MACFARLANE PAREN TO PATIMA REAR FOR CAPTAIN STONE PD CITY FARGO SIX
 NINE NINE PD INFORM PETER WILLIAM AND DISPLACED PERSONS SUB
 COMMISSION AND ALSO HARCOURT OF SUGAR ORCHARD EASY THAT RECRUITING OF
 YUGO DASH SLAVS FOR PARTISAN ARMY MUST REPEAT MUST BE CONFINED TO
 EXPRISONERS OF WAR OR INTERMERS PD UNDER NO CIRCUMSTANCES ARE
 SOLDIERS OF THE ITALIAN ARMY TO BE APPROACHED PD WITHOUT REFERENCE
 TO MAIN HEADQUARTERS ACC NO EXCEPTIONS TO THIS RULING WILL BE
 TOLERATED

TOLERATED

WITH REFERENCE YOUR NUMBER TWO FIVE ONE
 POINT TWO OF THREE ZERO JANUARY PD PERBASE PAREN PARGO FROM
 MACYARLANE PAREN TO PATINA REAR FOR CAPTAIN STONE PD CITE PARGO SIX
 NINE NINE PD INFORM PETER WILLIAM AND DISPLACED PERSONS SUB
 COMMISSION AND ALSO HARGOURT OF HUGAR OBOS EASY THAT RECRUITING OF
 YUGO DASH SLAVE FOR PARTISAN ARMY MUST REPEAT MUST BE CONFINED TO
 EXTRISCHERS OF WAR OR INTERNERS PD UNDER NO CIRCUMSTANCES ARE
 SOLDIERS OF THE ITALIAN ARMY TO BE APPROACHED PD WITHOUT REFERENCE
 TO MAIN HEADQUARTERS ACC NO EXCEPTIONS TO THIS RULING WILL BE
 TOLERATED

12/17
 31

Political Section.
 Legal Sub-Commission.
 Land Forces Sub-Commission.
 Brigadier Lush.
 Brigadier Duchenne.

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

SECRET

~~SECRET~~

30

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

3 February 1944

ACC/4076/L

SUBJECT : Status P.O.W. Italian.

TO : Military Section.

Reference your letter headed "War Materials Disposal Sub-Commission" but signed on behalf of the Military Section and dated 22 January 1944 (no reference), the letter you enclosed has been forwarded to the Vice-President of the Administrative Section as questions of policy rather than law are thereby raised.

BERNARD R. WATSON,
Colonel,
Chief Legal Officer.

P.S. As requested in your letter I return
herewith draft POW agreement.

GRM

30

WAR MATERIALS DISPOSAL SUB COMMISSION,
ALLIED CONTROL COMMISSION.

29

22 JAN 44

100
Informal Memorandum for : Legal Section, A.C.C.

→ SUBJECT: Status P.O.W. (Italian)

4076

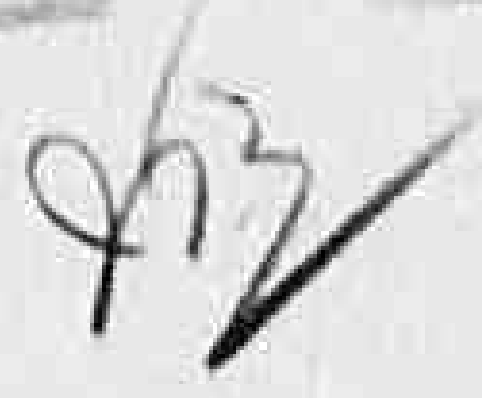
Letter M.M.I.A., G/6/16 of 21 JAN 44, attached.

Request comment.



JOHN T. ZELLARS.
Col. Inf.

Act. Chief Mil. Section.

- ① Please see draft of
POW agreement
which ACC is requesting
Italian Govt to accept.
- ② Please return draft agreement to
C/S - 

29

654

U. S. SECRET
EQUALS BRITISH SECRET

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C
P
Y

SPECIAL AGREEMENT CONCERNING THE ORGANIZATION AND EMPLOYMENT OF
MEMBERS OF THE ITALIAN FORCES UNDER CONTROL AS PRISONERS OF WAR OF THE
GOVERNMENTS OF THE BRITISH COMMONWEALTH OF NATIONS AND THE UNITED STATES.

GENERAL SIR HENRY MAITLAND WILSON, COMMANDER IN CHIEF OF THE ALLIED
FORCES, acting by authority of the Government of the United Kingdom of
Great Britain and Northern Ireland, the Government of Canada, the Government of
the Commonwealth of Australia, the Government of New Zealand, the Government
of the Union of South Africa, and the Government of India (hereinafter referred
to as the Governments of the British Commonwealth of Nations), and the
Government of the United States, and in the interests of the United Nations,
and

MARSHAL PIETRO BADGLIO, PMHA ACTING BY AUTHORITY OF THE
ITALIAN GOVERNMENT, taking note of the Declaration of War by Italy and of
the expressed intention of the Italian Government to cooperate with the
United Nations in the defeat of Germany;

Having decided to make arrangements whereby members of the
Italian Forces who are Prisoners of War under the control of the respective
Governments of the United Nations named above, may be able to assist in the
War against the common enemy;

Recognizing that for the realization of these aims it is
desirable to modify the treatment now accorded to these members of the
Italian Forces;

And confirming the arrangements already made by General DWIGHT
D. EISENHOWER with Marshal PIETRO BADGLIO;

Have agreed as follows:

ARTICLE I

All members of the Italian Forces who from time to time are
under control as Prisoners of War of the Government of the United States
or and of the Governments of the British Commonwealth of Nations, say,
pending repatriation, be given the opportunity at the discretion of the
Government under whose control they are to volunteer to serve in units or
formations organized on a Military Basis, or to be otherwise employed under
United States, British, or other United Nations Command, in any part of the
world, in such duties as may be considered appropriate in the interests of
the Common Cause by any of the said Governments. While so serving or employed
they will retain their status of Prisoners of War, but their treatment will
be ameliorated so far as circumstances permit. Italian Prisoners of War who
are not willing to volunteer, or whose service as volunteers is considered
impracticable or undesirable by any of said Governments shall be liable to
be employed wherever and in such duties as the Government by which they are
detained may determine. The treatment of these last mentioned members of the

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ARTICLE I (continued)

Italian Forces shall be generally on the same basis as prior to the Armistice signed on 8 September 1943, between General EISENHOWER and Marshal BADOLLO, except as otherwise provided in this agreement.

ARTICLE II

As far as is deemed possible, by the Government of the United States or the Government of any member of the British Commonwealth of Nations, these units and formations shall bear the character of Italian Units and Formations under Italian Officers and noncommissioned officers, and may be distinguished by Italian uniforms and badges of rank with their own language.

ARTICLE III

While the Government of the United States and the several Governments of the British Commonwealth of Nations, respectively, will retain the final control in all matters of discipline, promotion, and internal administration, and all members of these units and formations will be subject to such orders and regulations as the said Government may consider necessary, it is intended that whenever Legal and Military considerations in its judgment permit discipline, promotion, and internal administration shall be exercised by competent Italian Authorities. The extent to which these units and formations may exercise their own discipline, promotion and internal administration must depend upon the circumstances in which they are serving.

ARTICLE IV

The provisions of the GENEVA Prisoners of War Convention of 27 July 1929, concerning functions of the Protecting Power and its representatives are replaced by direct relation between the Government of the United States and the Governments of the British Commonwealth of Nations, respectively, on the one hand, and the Italian Government on the other.

ARTICLE V

The Italian Government shall give such orders and directions to members of the Italian Forces and shall take such steps to give effect to this agreement as may be required by the Government of the United States or any of the Governments of the British Commonwealth of Nations.

ARTICLE VI

Detailed arrangements required to give effect to this agreement, as determined from time to time by the appropriate authorities of the United Nations Government concerned, may be made administratively by such authorities with the appropriate authorities of the Italian Government.

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EQUALS BRITISH SECRET

26

ARTICLE VII

This agreement shall come into force on signature. It may be terminated at any time without notice by the Government of the United States or by one of the Governments of the British Commonwealth of Nations so far as its own rights and obligation thereunder are concerned without prejudice thereby to its continued validity as regards its rights and obligations of any other of the Governments of the United Nations who are parties to this agreement.

ARTICLE VIII

The application of all provisions of the GENEVA Prisoners of War Convention of 27 July 1929, inconsistent with the foregoing is, as between the contracting parties, hereto suspended.

ARTICLE IX

In view of the desirability for the personnel protected under the International Convention for the amelioration of the condition of sick and wounded or airmen in the field of 27 July 1929, to be able to continue to perform their present services for the members of the Italian Forces under the control as Prisoners of War of the Government of the United States or any of the Governments of the British Commonwealth of Nations, any provisions of that convention which might be understood as in any way hindering the continued performances of such services shall, as between the contracting parties, be suspended. Where, however, such personnel are NOT required to continue to perform their present services, they may be employed on such other duties as may be considered appropriate.

26

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4076 ✓

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394.

(45)

Administrative Half Section.

MCS/383.6/AD.

28 January 1944.

SUBJECT: Trial, Italian Prisoners of War.

TO: Chief Commissioner,
Allied Control Commission,
BRINDISI.

1. The attached correspondence received in the office of Legal Sub-commission is forwarded for appropriate action, as the matter appears to be one for the attention of the Military Section.



R. R. CHIPPS,
1st Colonel.

for the Vice President Administrative Half Section.

Incls: (2) 1. MCS, A.F.R.G. letter MCS 383.6 dated 17 January 1944.
11. Letter 01/3/2252/43 dated 15 January 1944.

45

Copy to Legal info.

4076.

PARCO - 1068

24

SEARS FOR WARGO

7th December 1943

SECRET

PRIORITY

FROM: FOR HQS. NETH. MILITARY FOR AND FOR HQS.

SOLDIER IN CIVILIAN DRESS NOT ENTITLED TO STATUS AS PRISONER OF WAR AND
 SHOULD BE TRIED BEFORE ALLIED MILITARY COURT X PARCO TO DETERMINE FOR HQS
 RPTD MILITARY FOR AND FOR HQS FROM SEARS FOR PARCO MILITARY SIGNAL P A
 THESE SEARS DIX DATED FROM DECEMBER 1943 CITE PARCO CDS NUMBER SIX EIGHT
 PARCO X UNDER STATES AS STATED IN MILITARY SIGNAL MEDIA PAGE CASE ESTABLISHED
 FOR TRIAL IN ALLIED MILITARY COURT OF SOLDIER IN PARTIAL UNIFORM WHERE
 QUESTION OF RIGHT TO BE TRIED AS PRISONER OF WAR CAN BE RAISED X WE HAVE
 CONSIDERED ONLY QUESTION OF PUNISHMENT AND HAVE NOT ATTEMPTED TO DETERMINE
 MATTER OF SUCH POINT TO BE PURSUED IN SUCH CASES

Action on 4110/L

24

Originator: Richard H. Wilbur,
 A.D.C. L.C.
 Legal Sub-Commission.

Legal

23

4076

Classified

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

EXCEPT WHERE SHOWN OTHERWISE. DATE 10/15/2011 BY 60322

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EXCEPT WHERE SHOWN OTHERWISE. DATE 10/15/2011 BY 60322

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FARGO 946

SEARS FOR FARGO 946

CONFIDENTIAL

30 NOVEMBER 1943

PRIORITY

(22)

PRISON FOR 200

SEVENTY THREE CIVILIAN INTERRED PRISONERS ARE NOW IN
 REFORMATORY BUILDING PALMER UNDER CIVILIAN GUARDS AND IN
 RECEIPT CIVILIAN RATIONS x IT IS PROPOSED TO TRANSFER THREE
 FURTHER TWO HUNDRED FIFTY CIVILIAN PRISONERS FROM SYRACUSE x
 LATTER HAVE BEEN HELD UNDER MILITARY GUARDS AND HAVE HAD MILITARY
 RATIONS x PARAN TO FREEDOM FOR 400 FROM SEARS FOR FARGO SITE
 FARGO SITE FOUR SIX PARAN x IT IS CONSIDERED THAT ALL THREE
 HUNDRED TWENTY THREE SHOULD HAVE MILITARY GUARDS AND RATIONS
 BUT MILITARY GUARDS NOT AVAILABLE x IT IS CONSIDERED INADVISABLE TO
 GIVE MILITARY RATIONS IF GUARDS ARE CIVILIANS WITH CIVILIAN RATIONS
 x PROPOSE THEREFORE TO USE CIVIL GUARDS AND RATIONS ON GROUNDS OF
 MILITARY NECESSITY x PLEASE ADVISE WHETHER YOU AGREE OR IF YOU
 THESE MILITARY RATIONS AND GUARDS ESSENTIAL x IF THE LATTER PLEASE
 ARRANGE FOR PROVISION OF GUARDS x PARAN x PLEASE INSTRUCT THIS

2

PAGE NO. 1

PAGE 946

(21)

HQ BELLINI THAT ARRIVED TO BE LATE IN
DISPATCH OF THESE INTERVIEWS IS TRANSFER OF TERRITORY
TO ITALIAN GOVERNMENT

BRAND UPON
OFFICIAL
INVESTIGATIVE LEGAL OFFICER

Copy to Region I (DRLO)

1 21

File: RLE 013.09/HD 2nd. Ind. 20

ALLIED MILITARY GOVERNMENT SICILY REGION HQ. 29 November 1943

TO: C.I.C., AMG HQ.

1. Herewith are submitted two memoranda from the Superintendent of Prisons and the Director of Public Security Region I raising certain practical questions regarding the treatment of civilian internees, now under detention at the Malaspina Institution in Palermo.

2. The questions are set out in para. 4 of the letter from the Superintendent of Prisons, the most immediate being:

- (a) Is the guarding of these civilian internees the responsibility of AMG working through civilian wardens or of the military authorities?
- (b) Are the internees, who have the same status as Prisoners of War, entitled to receive Army instead of civilian rations? It will be appreciated that this point is of considerable importance in the present food situation.
- (c) What further rights (if any) do these persons have beyond the general right to just and humane treatment?

3. Attention is directed to the facts referred to in para. 5 of the Superintendent's letter. While the majority of the internees are held because of their political record, there are also a number in detention on account of their criminal activities. In cases where specific charges could be brought against these latter, it was at first proposed to detain them under Proclamation No. 2, Article VII as ordinary prisoners but it was ruled by Lt. Col. Chanler that this was not proper unless there was reason to believe that a case could ultimately be prepared against them. His recommendation to deport these prisoners to North Africa has been found not to be feasible on practical grounds, and the problem therefore arises as to how such persons are to be dealt with.

4. If the reply to para. 2 (b) is that civilian internees should receive Army rations, the anomalous result will be that a man detained because of his bad criminal record, but against whom no specific charge can be proved, will be enjoying a far higher standard of living than another who has been given a prison sen-

19
tence on account of some small offense. Moreover the guarding of common criminals must of necessity give rise to problems different to those connected with the detention of purely political prisoners.

5. It is requested that this problem be examined as soon as possible as the matter is urgent, and it is suggested that consideration be given to the possibility of dealing with the two types of internee on different lines.

jd

2 Incl.

H. M. Dickie
H. M. DICKIE,
Squadron Leader,
D. R. L. C.

ALLIED MILITARY GOVERNMENT SICILY REGION HQ APO 512 17/11/43

File BPS 014.5

1st Ind.

TO - SENIOR LEGAL OFFICER, No. 1 REGION.
 SUBJECT - Political Prisoners

18

(1)

With reference to the attached memorandum from Superintendent of Prisons: the question arises directly as a result of a proposal to transfer Civilian Internees from Prisoner of War Camps in No. 1 District to premises at Malaspina, Palermo. It should be here noted that at present Political Internees in the Eastern part of the Region are detained in Military Establishments where they are guarded by Military Personnel and fed from Army Rations. In the Western part of the Island, until quite recently, they were confined in the Civilian Prison, a part of which was segregated for their use. They were guarded by Civilian Warders and fed from civilian sources. Recently these Internees were transferred to more suitable premises at Malaspina, Palermo, in order to improve conditions and avoid their contact with common criminals. They are, however, still guarded by Civilian Warders and fed from civilian sources.

(2)

As regards the specific points raised in (4) of basic report, the status of prisoners of war and civilian internees is defined in 'Manual of Military Law, Ch. XIV'. Para. 56 (c) appears to cover the point at issue, viz. -

"(c) Private enemy individuals and enemy officials whom a belligerent thinks it necessary to make prisoners. Although the Hague Rules and Prisoners of War Convention do not contain anything regarding the treatment of these individuals, they are not civil prisoners, because they are taken into captivity for military reasons and are therefore prisoners of war. While in captivity they are classified either as persons of status equivalent to that of an officer, or as equivalent to persons below the rank of an officer, and are treated accordingly."

If it is agreed that Civilian Internees are in fact Prisoners of War it follows that the conditions governing P.O.W. Camps as regards camp installations; food, clothing, guards, etc, must equally apply.

(3)

I do not agree with the point raised in para. 5 of basic report. I appreciate that Political Internees comprise persons from all walks of life. Once we have established the legal position of these persons as a whole we can make adequate arrangements to segregate them in their particular groups.

(4)/ PTO.

1st Ind continued.

(5)

Will you please therefore consider the position and let me have your observations in order that necessary steps, if any, can be taken to regularize the position.

By Order of Charles Poletti RAO

R. Snook
RUSSELL A. SNOOK.

LT. COLONEL.

CHIEF, PUBLIC SAFETY DIVISION.

Allied Military Government
Region 1, Sicily.

16

Subject: Political Prisoners.

To: D. P. S. Region 1, Sicily.

(1) At the present moment there are 73 prisoners detained in the Malaspina, Palermo for political reasons.

This place, formerly a reformatory was taken over for the purpose, is well appointed and can house 500.

(2) Instructions have now been received to transfer there a further 250 now in the custody of the Military at Syracuse.

These internees have been guarded by the Military and during the time of their detention have received the same rations as given to the guards and to all intents and purposes have been treated as prisoners of war.

(3) Arrangements have been completed for their transfer and provision made for their food etc.

There is no difficulty in effecting the transfer but before their reception it is desired that the position of all these internees, arrested by Military Personnel because of, in the main, their political beliefs and the fear, that should they remain at liberty may harm the Allied cause, be clarified.

16

(4) It is asked on behalf of this Office if such internees can:

1. Claim prisoner of war rights.
2. If so, are they the responsibility of the Military, should they be in a proper prisoner of war camp.
3. Receive the same food as their guards, i.e. Army rations.
4. Be segregated according to the position they formerly held.
5. Be usefully employed and receive allowances as agreed between the signatories to the Convention and many other facilities.

(2)

15

(5)

Among the number to be taken over are some who are interned, not because of their political beliefs but by reason of harm they may do the Allied cause by their criminal activities.

This latter group are men with criminal records but at the time of their arrest no charge could be preferred against them. It is indeed wise that they be kept out of harms way but it would be ironic to include them in the same category as the before mentioned people, dangerous only by reason of their, in our opinion, mistaken belief in the political party of their country with the intent to further its ends.

(6)

I would point out that all these people can well be housed at the Malaspina, in accordance with the directions laid down by the Military Manual with this difference:

1. The guarding of such persons would be by Italian personnel of the Prison Service.
2. Liberty will be restricted.
3. Food supplied would be that given to ordinary civil prisoners which is considerably less than that of the Military.

(7)

Complaints have already been received by influential Italian gentlemen on their treatment in a prisoner of war camp and it is feared that a reduction of their rations to bring them in a life with criminals will produce many more.

Every effort is being made to make of this camp a suitable place within the limits of the AMG Prison Service and no complaints has been made in respect of the amenities.

It is respectfully asked that legal opinion be sought to define the correct definition of the "Internees" before they cease to be the Military responsibility.

H. J. Brown

15

H. J. Brown Capt.
Supt. Prisons
Region 1, Sicily.

1st Ind.

File on

4076

See Bolles

Director

14

Military Govt Sec
AFHQ

Subject: Civilian Internees

Civilian Internees (otherwise known as civilian prisoners of war) arrested for security reasons by the Armed Forces are being kept in civilian jails in the area of 7 Army. This is in accordance with 1415 (Holt) (G) (S) dated 27 Jan 43 from G-2 (S).

2. ~~This~~ It is considered by the Chief Legal Officer of this Administration that, whilst the treatment of the above persons ~~should~~ need not be in accordance with the terms of the Geneva Convention relating to prisoners of war,

they are entitled under International Law
to be treated ~~as~~ differently from criminals
and that they should be lodged in a
proper internment camp, instead of in the
local jails as at present.

3. In area of 8th Army, a civilian
internment camp ^{with military guards} has been established
and it is considered that the same course
should be adopted in the area of 7th Army
& may the necessary discretion ~~be~~
be given.

C.S.O.

0

Subject: Missing Prisoners of WarTo : All S.C.A.O.s

AMCOT/204/RQ

AMCOT HQ. SICILY

18 October 1943

1. Reference addendum to Administrative Instruction No. 2, ID/6/13A, of 12 October 1943, issued by No. 1 District of which each S.C.A.O. should have received a copy.

2. It is requested that each C.A.F.O. be instructed to cooperate fully through the civil police with the program of No. 1 District for apprehending missing prisoners of war. It is understood that in each case AMCOT provincial H.Q. will be supplied with a description of the missing man before its action is required.

Distribution:

S.C.A.O. Agrigento (5)
 " Caltanissetta (6)
 " Catania (5)
 " Enna (4)
 " Palermo (35)
 " Ragusa (6)
 " Siracusa (10)
 " Trapani (6)
 " Messina (8)
 " Pantellaria (3)
 AMCOT Liaison (1)
 AMCOT 5th Army (6)
 S.C.A.O. Region 2 (6)
 AMCOT 5th Army } (10)
 Region 3 }
 S.C.A.O. Region 4 (5)
 AMCOT 15 Army Gp. (2)

Divisions:

Finance (5)
 Public Safety (4)
 Legal (1)
 Public Health (2)
 Public Relations (2)
 Controller of Prop. (1)
 Trans. Comm. & Util. (1)
 Labor (1)
 Economics & Supply (1)
 Agriculture (1)
 Education (1)
 Mon. and Fine Arts. (1)

MGS, AFHQ (12)
 File 266 & 204 (2)
 Float (1)
 Spares (10)

See
 W.C. H.W.
 270

4576

212

MIAMI Angelo.

ADOT/1076/13

S.O.A.O. CALTANISSETTA.

16 October 3

On 20th September 1943 the above named was arrested by Pte. GWAH, 727th Ry. Cmg. Bn. for attempting to steal petrol from a military gas dump where the soldier was then employed on guard duty in the vicinity of CALTANISSETTA.

MIAMI was given into custody of Military Police and taken to the United States Seventh Army Prisoner of War Enclosure, PALERMO and on 11th October 1943 was transferred to Carceri Sancioario, PALERMO.

Legal opinion has been obtained and it would appear that the case should be heard by a Superior Court at CALTANISSETTA where the offence was committed (copy attached).

The papers are sent you to arrange for the hearing and transfer of prisoner when he is required to appear.

LESLIE L. BONES,
Colonel, Infantry,
Commissioner of Public Safety.

18 Oct 43
mrg. 12

6/2
 AMXOT/4076/L
 AMXOT HQ., SEXTON
 15 October 1943

SUBJECT: Case of MIAMI, Angelo, paroled P.O.W.

TO : Director of Prisons.

1. Reference your inquiry how the above named prisoner shall be tried.
2. Offenses committed by a P.O.W. before parole are triable only by Courts Martial. Proclamation offenses committed by P.O.W.'s after parole may be tried by AMXOT courts. Accordingly this case should be tried in an AMXOT Court.
3. The only evidence in the file is the statement of Pvt. Cowan, 21 Sept. 43, and that of Sgt. Jablonski, same date. They indicate that three other men were implicated. No report has been received whether any of them has been arrested.
4. It is directed that the case be tried by a Superior Court convened by order of the S.C.A.C. at Caltanissetta. The S.A.P.C. should investigate further if necessary and this prisoner should be tried jointly with the other offenders if possible. From the evidence in the file, the following charges appear appropriate:
 - (a) Violation of Proc. 2, Art. I, Sec. 10, entering a prohibited area. Entering area of the 727th Pz. Spgr. Bn. protected by barbed wire at Caltanissetta at about 0300 hours 20 Sept. 43.
 - (b) Violation of Proc. 2, Art. II, Sec. 26; Art. III, Sec. 2, attempting to steal property of the Allied Forces. Attempted to steal gasoline at time and place stated under charge (a).
5. It will be necessary to return the prisoner to custody of the S.A.P.C. Caltanissetta.
6. Papers returned herewith.

WILLIAM R. JORDAN,
 Lt. Col., U. S. A.,
 Chief Judicial Officer.

Copy to S.A.P.C., Caltanissetta,
 through S.C.A.C.

WRF

Offences committed by P.O.W.

.I.C., Catania (through S.C.A.O.)

MEOT/4079/L

14 October 3

File 9
In reply to your letter of 8 Oct. on above subject, it is agreed that the decisions taken by you, as set out, are correct.

[Signature]
R. M. MOSE,
Lt. Col.,
D. C. I. O.

CATANIA

8 October 1943

SUBJECT: Offenses Committed by P.O.W.

TO : C.L.O., AMGOT Hq.



1. This office has been called upon to pass on jurisdictional questions on subject and has given following opinions and decisions:

- a. Offenses committed by a P.O.W. before parole can be tried only by Courts Martial.
- b. Proclamation offenses committed by P.O.W. after parole may be tried by AMGOT courts.

2. Review and advice of his office is requested.

Edwin J. Mercer
EDWIN J. MERCER
Maj. Ord., S.I.O.

ERK/JPD

See for 1+2

jurisdictional questions on subject and has given following opinions and decisions:

a. Offenses committed by a P.O.W. before parole can be tried only by Courts Martial.

b. Proclamation offenses committed by P.O.W. after parole may be tried by AMGOT courts.

2. Review and advice of his office is requested.

Edwin J. Mercer

EDWIN J. MERCER

Maj. Ord., S.I.O.

EJM/JPD

See for 1-2

1/2/50

Handwritten: PWS File
Memorandum to Commissioner of Public Safety

Handwritten: Auct/1101/PS
5th Oct. 1943

Subject:- Bomb and Mine Disposal - Employment of Prisoners of War

The treatment of P.O.W. is governed by Geneva Convention dated 27 July 1929.

2. The work on which P.O.W. are not allowed to be employed is defined in Arts 31 and 32 of the Convention. Under Art. 31, "work done by P.O.W. shall have no direct connection with the operations of the war. In particular, it is forbidden to employ prisoners in the manufacture or transport of arms or munitions of any kind or on the transport of material destined for combat units". In my opinion, this restriction applies only to the employment described when the employment amounts to an act against the interests of the prisoner's own army or country. I consider it does not prevent the use of P.O.W. for the removal of land mines or bombs after the tide of war has left the locality and the removal is required only for the safety of the prisoners' own countrymen. Furthermore, the removal could not now be against the interests of the prisoners' own army or country when general armistice has taken place.

3. Under Art. 32, it is forbidden to employ P.O.W. on dangerous work. In my opinion if the P.O.W. employed are trained bomb and mine disposal personnel and they consent to the employment, there is no objection to it.

4. As P.O.W. are the responsibility of "A" Branch in the British Army and of G-1 in the American Army, I think that the actual decision on the use of P.O.W. for the work of moving bombs and mines should be taken by that Branch acting on J.I.C.'s advice. It will be desirable, however, to send a copy of this opinion to the H.Q. concerned as indicating our views.

Handwritten signature
 Lt. Colonel.
 D.C.M.C.

NOTES ON STATUS OF CIVILIAN PRISONERS OF WAR

I have read Col. Jones' memorandum of May 6, 1945 on prisoners of war entitled "Notes on Military Jurisdiction." In my opinion, even without the agreement with Germany and Japan, civilian internees are in fact prisoners of war, under international law. This is so stated in U.S. PI 27-10, "Rules of Land Warfare," paragraph 72, e, f. and g, and, in British "Manual of Military Law," paragraphs 56, 57. While paragraph 57 merely says "prisoner," the argument in paragraph 56, "not all prisoners, *because they are taken into custody*" would seem to paragraph 56 c, that enemy civilians and officials are P.O.W., would seem to apply, and the suggestion to the contrary in "Notes on R.S. of G.I.T.", part II, paragraph 46, is in my opinion erroneous. *And see Hyde, International Law, Volume 2, page 345, last sentence and footnote no. 3.*

Being P.O.W., they are clearly to be tried by Courts Martial for all acts done while in confinement, just as any other P.O.W., and by Military Courts for all acts done before they were taken into custody. *Ultimately, they have no immunity ~~such~~ as attaches to soldiers, etc., before they are taken into custody.*

It follows that civilians may be divided into 3 categories: 1 - those who are judged harmless and are not molested; 2 - those who are judged dangerous but have committed no war crime or other offense; *and are taken into custody* 3 - those who are charged with a war crime or other offense; *and are arrested as criminals and tried by Military Courts.*

Is there a forth status of persons either as dangerous, or suspected of crime, who may be held indefinitely as prisoners (and not P.O.W.); *they should be* I think not, except in special cases *convicted by court-martial* suggested by Col. Young? *They are taken into custody*

Being P.O.W., they are clearly to be tried by Courts Martial for all time while in confinement, just as any other P.O.W., and by Military Courts for all acts done before they were taken into custody. ~~Continuity~~, they have no

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It follows that civilians may be divided into 3 categories: 1 - those

who are judged harmless and are not molested; 2 - those who are judged dangerous but have committed no war crime or other offense; ~~and are taken into custody~~

or interned as P.O.W.; and 3 - those who are charged with a war crime or other

offense; and ~~are~~ arrested as criminals and tried by Military Courts. ~~They~~

~~They should be~~ ~~are~~ arrested as criminals and tried by Military Courts. ~~They~~

Quere: Is there a forth status of persons either as dangerous, or

suspected of crime, who may be held indefinitely as prisoners (and not P.O.W.);

without trial, as requested by Col. Young? I think not, except in special cases

with consent of G.L.O. and right to review every 3 months, and when really suspected

of a crime.

In regard to the statement on page 2 that a prisoners of war does not

"escape from confinement by deserting." ~~But~~ to escape is not unlawful;

attention ~~is~~ called to the provision of Article 30 of the Geneva Convention of

1929, reading as follows:

"Excepted prisoners of war who are re-captured before they have been able to rejoin their own armed forces or to leave the territory occupied by the armed forces which captured them shall be liable only to disciplinary punishment."

"Prisoners who, after succeeding in rejoining their armed forces or in leaving the territory occupied by the armed forces which captured them, are again taken prisoner shall not be liable to any punishment for their previous escape."

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In other words, it is not a "war crime" for a prisoner of war to escape or attempt to escape, but it is an offense against the rules and regulations governing the detention of prisoners of war. He can be disciplined after trial by ~~the Camp Commandant~~ ^{the Camp Commandant}, but he may not be punished as a war criminal.

MCC.

HEADQUARTERS I ARMED CORPS, REINFORCED
A.P.O. #758

6 May 1943

NOTES ON MILITARY JURISDICTION

State Department advises that on the outbreak of the present war the United States and Germany, in an exchange of telegrams through the Swiss Government, agreed that civilian nationals of either State interned by the other shall be treated according to the provisions of the Geneva Convention of July 27, 1929, relative to the treatment of prisoners of war, insofar as those provisions may be applied to civilians. Similar agreements were made with Italy and Japan. Accordingly, to determine the position of German civilian internees we look, in principle, to the rights and liabilities of a German prisoner of war charged with the same unlawful act.

Article 45 of the Geneva Convention (FM 27-10) states:

"Prisoners of War shall be subject to the laws, regulations, and orders in force in the armies of the detaining power."

"Any act of insubordination shall justify the adoption towards them of the measures provided by such laws, regulations, and orders."

Article 63, (FM 27-10, paragraph 136) provides:

"Sentences may be pronounced against a prisoner of war only by the courts and according to the same procedure as in the case of persons

German civilian internees with the same unlawful act. It is the policy of the United States to treat the civilian internees of a German prisoner of war charged with the same unlawful act.

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Article 63, (FM 27-10, paragraph 136) provides:

"Sentences may be pronounced against a prisoner of war only by the same courts and according to the same procedure as in the case of persons belonging to the armed forces of the detaining power."

Turning to the Articles of War we find A. W. 12, which enacts:

"General courts-martial shall have power to try any person subject to military law for any crime or offense made punishable by these articles, and any other person who by the law of war is subject to trial by military tribunals ***." (Underscoring supplied)

It results that a prisoner of war, charged with an act punishable by our military law (so far as the law may be applied to prisoners of war), is subject to trial by General Court-Martial. And a civilian enemy internee is also embraced within the clause of Article of War 12: "the law of war," as understood by our law, includes "that part of the law of nations which

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prescribes, for the conduct of war, the status, rights and duties of enemy nations as well as of enemy individuals." (Ex parte Duirin (1942) 63 S.Ct. 1, 10).

My conclusion is that an internee may be tried by general court-martial. International agreement confers the jurisdiction, and Article of War 12 gives to general courts-martial authority to exercise it.

However, not all of the Articles of War are applicable; one must look to the reason behind each. A prisoner of war is incapable of "deserting the service of the United States" (A. W. 58), nor does he "escape from confinement" (A. W. 69) by escaping. For him to escape is not unlawful. (Article 50, Geneva Convention 1929; FM 27-10, paragraph 123). On the other hand Articles of War 92 and 93, denouncing common-law crimes, are universally applicable.

I am of the opinion that it is preferable to lay charges under Article of War 92 or Article of War 93, or as a disorder or neglect to the prejudice of good order under Article of War 96, rather than under Articles of War whose rational basis lies in the necessity of preserving loyalty and military subordination within our own Army.

There are cogent reasons why an enemy internee should be tried by general court-martial, rather than by a military commission or provost court. This will be in exact compliance with Article 63 of the Geneva Convention. The procedure of military commissions and provost courts, on the other hand, may depart, especially as to rules of evidence and mode of review, from some of the safeguards prescribed for general courts-martial.

- 3 -

over enemy nationals in occupied territory. Par. 7, PM 27-10 (Rules of Land Warfare) provides that general courts-martial have concurrent jurisdiction with military commissions and provost courts to try any offender who by the law of war is subject to trial by military tribunals. In practice, however, offenders who are not subject to the Articles of War, but who by the law of war are subject to trial by military tribunals, are tried by military commissions or provost courts.

HOMER W. JONES
Colonel, J.A.G.D.

In my opinion, even without the agreement with Germany, Japan, or the Axis, the law of war is subject to trial by military tribunals. In practice, however, offenders who are not subject to the Articles of War, but who by the law of war are subject to trial by military tribunals, are tried by military commissions or provost courts.

A.

- 2 -

2. Section 136 quoting Article 63 of the Geneva Convention, provides as follows:

Encl. 3. Sub. 7. Jan. 9. 107

"That courts to pronounce sentence; procedure. - Sentence may be pronounced against a prisoner of war only by the same courts and according to the same procedure as in the case of persons belonging to the armed forces of the detaining power (G. P.W., art. 63).

C. WHEN PRISONERS OF WAR MAY BE TRIED BY COURT MARTIAL OR BY MILITARY COMMISSIONS.

1. Regarding the courts in which offenders are to be tried, Section 7 of the same manual provides in part as follows:

"In the armies of the United States, military jurisdiction is exercised through the following military tribunals:

- a. Courts martial.
- b. Military commissions.
- c. Provost courts.

"While general courts martial have concurrent jurisdiction with military commissions and provost courts to try any offender who by the law of war is subject to trial by military tribunals, it has generally been held that military commissions have no jurisdiction of such purely military offenses specified in the Articles of War as those articles expressly make punishable by sentence of court martial (except where the military commission is also given express statutory jurisdiction over the offense (A.R. 80, 81, 82). In practice, offenders who are not subject to the Articles of War, but who by the law of war are subject to trial by military tribunals, are tried by military commissions of provost courts."

2. It would thus appear that a prisoner of war, for violating one of the Articles of War, should be tried by court martial, but if violating the laws of war (such as the proclamations, etc.) he should be tried by military commission.

3. The sections quoted from the U.S. Basic Field Manual are almost identical with similar provisions in the British Manual of Military Law."

Wm. C. CHANTLER
Lt. Col., A.U.S.
Civil Affairs

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MA. G. CHAMPLER
Lt. Col., A.U.S.
Civil Affairs

HQ Force 141
Field

Memorandum by Col. Chamler.

"Answer to question is 'Civilian Internees', although no date is given. On these grounds are not subject to Geneva Convention. According to Geneva Convention, Lt. Col. Chamler is British War Office must that they be not called Civilian Internees but Civilian Internees."

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1 May 1943

Memorandum for: Lt. Col. A. T. Maxwell

Subject: Political Prisoners of War

A. WHO MAY BE PRISONERS OF WAR.

1. Both English and American text books indicate that civilian offenders against military government in an occupied territory may be made prisoners of war.

2. U. S. Basic Field Manual 27-10 entitled Rules of Land Warfare in paragraph 76 - e, f, and g - provides that high civil functionaries, civil officials and diplomatic agents, and inhabitants "whose services are of a particular use to the hostile army or its government" and also "all persons who may be harmful to the opposing state while at liberty, such as prominent and influential political leaders, journalists, local authorities, clergymen, and teachers, in case they incite the people to resist, may be made prisoners of war." 1578

3. Notes on the Military Government of Occupied Territory (British - Part II), page 19, after stating that enemy government and local officials should be retained in office where possible, provides as follows:

"Such offenses or wrongful acts of officials as constitute ordinary crimes are punishable according to the law of the land, and any act to the disadvantage or damage of the occupying army may be dealt with as war treason. If the official is considered dangerous to the interests of the occupant, he may, according to the merits of the case, be removed, be made a prisoner of war, or be expelled from the occupied territory."

4. Section 70 of the Rules of Land Warfare in U. S. Field Manual 27-10 provides under the heading of Prisoners of War:

"Except as otherwise hereinafter indicated, every person captured or interned by a belligerent power because of the war is, during the period of such captivity or internment, a prisoner of war, and is entitled to be recognized and treated as such under the laws of war."

5. Section 82 of the same chapter reads in part as follows:

"Internment. - Prisoners of war may be interned in a town, fortress, or other place, and bound not to go beyond certain fixed limits. They may also be interned in enclosed camps; they may not be confined or locked up except as an indispensable measure of safety or sanitation, and only while the circumstances which necessitate this measure continue to exist."

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B. PRISONERS OF WAR ARE TRIABLE BY THE SAME COURTS AND FOR THE SAME OFFENSES AS MEMBERS OF THE ARMED FORCES OF THE OCCUPYING POWER.

1. U. S. Basic Field Manual 27-10 provides in Section 118, "Geneva Convention, Article 45," as follows:

"Prisoners subject to laws and regulations of detaining power. - Prisoners of war shall be subject to the laws, regulations, and orders in force in the armies of the detaining power."

"Any act of insubordination shall justify the adoption towards them of the measures provided by such laws, regulations, and orders."

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