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Reclassified K.O. 12356 Section 3.3/MND No.

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10000/142/543

REMOVAL
CONVIC
JULY -

10000/142/543

REMOVAL OF CIVIL DISABILITIES RESULTING FROM AMG
CONVICTIONS
JULY - NOV. 1946

MEMO TO THE CHIEF COMMISSIONER :

1. Letter from A.F. Headquarters, "Flag A" is for your information.
2. A copy of a letter from the Minister of Justice referred to in paragraph 1 of "Flag A" is set out in "Flag B".

COMMENT :

3. The powers authorized in paragraph 3 of "Flag A" to be exercised by the Italian Government marks the third major step in our program of adjusting the stern administration of occupational law to the level of normal judicial standards. The three major steps successively taken are :

- a) Review of cases.
- b) Grant of power to Italian Government to grant Conditional Liberty in AMG cases.
- c) Removal of Italian civil disabilities resulting from AMG convictions.

4. Now that (c) supra, has been authorized, as suggested by the Minister of Grace and Justice in his letter to me (Flag B) it is in order that the Minister and I agree on a system for the promulgation of the powers granted in paragraph 3 of Flag A.

5. Before approaching the Minister on this matter, because of the great importance which the Italian Government will undoubtedly attach to this third concession, it has occurred to me that for reasons of policy the announcement might be formally made by you as Chief Commissioner, or by you and the Prime Minister jointly. As we have put multiplied thousands in

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4. Now that (c) supra, has been authorized, as suggested by the Minister of Grace and Justice in his letter to me (Flag B) it is in order that the Minister and I agree on a system for the promulgation of the powers granted in paragraph 3 of Flag A.

5. Before approaching the Minister on this matter, because of the great importance which the Italian Government will undoubtedly attach to this third concession, it has occurred to me that for reasons of policy the announcement might be formally made by you as Chief Commissioner, or by you and the Prime Minister jointly. As we have put multiplied thousands in jail for offences against Proclamation Law, the announcement will be far reaching.

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6. Candidly, I do not know if it would be wise or otherwise for you to make such announcement. You know the answer to that question better than I. The point I here make is, should you desire to make a formal announcement, in working out the system with the Minister of Grace and Justice, I would want it understood that no publicity was to be given our discussions until you had acted thereon.

7. What are your wishes?

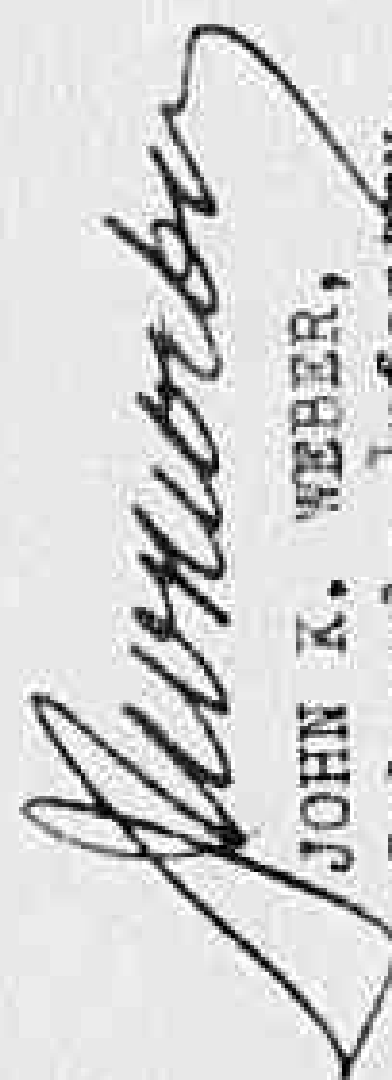
8. Two further steps remain in our program. One is now underway: We are checking the status of every person in Italian jails held under any color of Allied authority. I hope to be able to say to the Italian

Government that any person not undergoing lawful sentence of an Allied Court, or any person not held for security reasons, who are being detained, cannot be held in prison under color of Allied authority.

9. The last major premise are those cases of long term sentences for espionage and sabotage convictions. You will recall that at your special instance, I brought this matter to the attention of G-5. As you know, I got nowhere fast. I say now as I said then, this issue should be met with the same courage we have met the three major premises above set out.

10. Personally, I am gratified with the approval in Flag A which the Military Governor has given the review program. That the Italian Government has likewise been impressed with our program is evidenced by the statement contained in Flag B. There can be no doubt that the step now authorized in paragraph 3 of Flag A is a solid step in the right direction.

1 6 NOV 1946



JOHN A. WEBER,
Colonel, Infantry,
Chief Legal Advisor.

2.
At a conference held with the Ministry, it was agreed that the program of review has accomplished all that was desired by the Ministry.

15 NOV 1946

Wm Weber

JOHN K. WEBER,
Colonel, Infantry,
Chief Legal Advisor.

2.

At a conference held with the Ministry, it was agreed that the program of review has accomplished all that was desired by the Ministry when the request referred to herein was originally made. The reduction of deterrent sentences resulting from the reviews have removed the need for amnesty on civil status. The Ministry has sent out the circular (a copy which is attached is self-explanatory) which makes the final review sentence the only one to be specially considered.

This file may be closed.

JW

5 - JAN 1947

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C O P Y

HEADQUARTERS ALLIED COMMISSION

APC 704

FILE

6079/2

6 July 1946.

SUBJECT : Italian Amnesty.

TO : AFHQ (G-5 Section).

1. My advisors and I have given full consideration to the Italian Government's Presidential Decree No 4 of the 22nd June 1946 which grants a wide measure of amnesty and pardon for common, political and military offences and of which a version in English is enclosed. I have also received from the Prime Minister a letter dated 24th June 1946 on this subject, a copy of which is enclosed.

2. I am of opinion that there is nothing in the above mentioned decree which transgresses the long armistice terms or the Moscow Declaration. This view is shared by my political advisors and Chief Legal Officer.

3. Attention is drawn to the interpretation of Article 3 of the decree. Read together with the explanatory notes which accompanied the decree, as submitted to the Council of Ministers, this Article excludes from any benefits under the decree those persons who, possessed of high functions of a civil, political or military nature, committed certain specified offences. It means, moreover, that the persons concerned need not necessarily be of high rank, but that the provisions can be applied to a subordinate officer who held an appointment normally granted to an officer of high rank.

4. The only other article of the decree which calls for comment is Article 13 which deals with offences committed to the detriment of the Allied Forces. Under this Article, according to the Italian Government's interpretation, with

mentioned decree which transgresses or the Moscow declaration. This view is shared by my political advisors and Chief Legal Officer.

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4. The only other article of the decree which calls for comment is Article 13 which deals with offences committed to the detriment of the Allied Forces. Under this Article, according to the Italian Government's interpretation, with which I agree, persons who committed offences to the detriment of the Allied Forces or to members of the said Forces who have been tried by Allied or Italian Courts are excluded from the provisions of the decree.

In making my recommendations concerning this category of persons, I have borne in mind the legal distinction between amnesty and pardon. Shortly put, amnesty is the act of forgiveness of the offence and acts as a bar to trial. Pardon is a forgiveness of the punishment and may carry a restoration of civil rights.

- 2 -

5. Persons convicted of offences to the detriment of the Allied Forces can be divided into two classes:

- (a) those tried and convicted by A.M.G. Courts.
 - (b) those tried and convicted by Italian Courts.
- It is the Italian practice to consider all such person to be at the disposal of the Allies. The Prime Minister includes this category in the words "at the disposal of Allied Authorities" in the fourth paragraph of his letter.

6. As regards persons convicted by A.M.G. Courts, sentences imposed are at present being reviewed at this Headquarters and in many instances reductions of sentences have been ordered. The review is carried out with a view to determining that the evidence is sufficient to warrant the conviction and that the sentence is fair, reasonable and uniform. No action is taken by the Review Board to reduce sentences merely on the grounds of clemency. In this connection reference is made to your Headquarters letter 4-7:014.5 of 28th February 1946 and in particular to paragraph 4 of that letter.

Your Headquarters has never agreed to amnesty being applied to offences triable in A.M.G. or Italian Courts affecting Allied interests or personnel but by letter 4-5:014.5 of 30th April 1946 has agreed to the Italian Government applying 'provisional liberty' to the cases specified in para 5 of this letter.

I am not in favour of applying amnesty to these offences, as such offences are probably even now being committed against Allied interests, e.g. in Rome, but am of opinion that amnesty could be applied in the case of convictions as set out in the decree.

In so far as the cases in para 5 (a) are concerned, I strongly recommend that amnesty be applied through the medium of the Review Board who would be given directions to apply the same on lines similar to those set out

particular to paragraph 4 of this letter.

Your Headquarters has never agreed to amnesty being applied to offences triable in A.M.F. or Italian Courts affecting Allied interests or personnel but by letter G-5:014.5 of 30th April 1946 has agreed to the Italian Government applying 'provisional liberty' to the cases specified in para 5 of this letter.

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In so far as the cases in para 5 (a) are concerned, strongly recommend that pardon be applied through the medium of the Review Board who would be given directions to apply pardon to all A.M.F. cases on lines similar to those set out in the Italian Decree of 22nd June 1946.

I would also recommend that so far as the cases in 5 (b) are concerned, pardon should be applied. This could be done by the issue of an amendment by the Italian Government to Art. 13 of the Decree.

7. With regard to Article 16 the Decree will automatically come into operation within the A.M.F. territory of Udine, and it is not proposed to take any action to prevent this.

It will not have effect in Venezia Giulia, but it may be

politic to consider how far a modified application might be made in Zone "A". My Deputy Chief legal advisor is visiting Venezia Giulia this week and will discuss this question with the authorities on the spot.

8. In order to make clear the Allied policy to date, I recommend for consideration the publication of a statement explaining the action being taken by the Allies as regards the review of cases tried by A.A.G. Courts. If approval is given to apply pardon to A.A.G. cases, this statement could also explain the proposal which I should make to the Prime Minister for the issue of an amendment to Article 13 regarding pardon in respect of cases tried by Italian Courts as recommended in para 6.

9. A separate communication has been sent to you on the subject of Italian officers interned in concentration camps who are mentioned in the Prime Minister's letter paragraphs 4, 5 and 6.

10. I should be grateful for an early and sympathetic consideration of the recommendations made in paragraphs 6 and 8 above.

MILLY W. STONE,
Rear Admiral, USNR
Chief Commissioner

Distribution

Copy to : C.O.
E.O.

4, 5 and 6.

10. I should be grateful for an early and sympathetic consideration of the recommendations made in paragraphs 6 and 5 above.

MILLY W. STONE,
Rear Admiral, USNR
Chief Commissioner

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Distribution

Cpy to : C.C.
A.C.
AC/4079/=/1

4079/1

8A

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 934.43P

13 November 1946

SUBJECT: Clemency.

TO : Chief Commissioner,
Allied Commission,
APO 794.*for this letter see
original file*

Reference your letter AG/4079/1/L of 8 July.

1. The Supreme Allied Commander has noted with interest the Crime statistics with your letter AG/4079/1/L of the 30 September and notes that the Minister of Justice expresses the view that the revision of sentences by the Allies which is now nearing completion has had practically the same effect as of the Amnesty decree had been extended to all those convicted for offenses against the Allies.

2. No further action on the Prime Ministers letter (73387/50077. 4.2.4.2.) of the 24th June would appear necessary. Will you please, therefore, inform the Prime Minister that the Supreme Allied Commander, although not prepared to extend the Amnesty Decree to persons convicted by AMG Courts, has caused the sentences of such persons to be reviewed, thereby achieving the same result.

3. With regard to the removal of civil disabilities resulting from conviction to which you refer in para 3 of your letter AG/4079/1/L of the 30 September, you may inform the Minister of Justice that the Supreme Allied Commander has no objection, if the Italian Government consider such a course desirable, to persons sentenced for offenses against the Allies being relieved, after their release from prison, from any civil or other disabilities which would otherwise attach to them as a result of their conviction.

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

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A. L. HAMBLEY
Colonel, G.S.C.
Assistant Chief of Staff, G-5

C O E Y

HEADQUARTERS ALLIED COMMISSION
APO 894
LEGAL SUB-COMMISSION

w/A

AC/1079/2/1

WJG/rm
30 September 1946

Subject: Clemency.

To: Assistant Chief of Staff
G-5 AFHQ.

1. Reference is made to letter G-5 : 934,43P dated 23 August, 1946, subject as above.

2. As requested there are forwarded herewith a tabulation covering persons at this time remaining under AMG sentences, showing sentences of one year or less separately from sentences of over one year. As will be observed all of these cases fall within the first classification mentioned of offences which might endanger Allied security or operations. Sentences in the other class of cases, for crimes no longer of moment such as curfew offences, have expired. This table does not include 5 out of an original number of 150 cases of persons in confinement under AMG sentences whose names could not be reconciled with those appearing in our records, owing to various causes such as giving wrong names etc, or, in the cases of women, the use rather than marriage names. It is expected that eventually these remaining five cases will be fully accounted for. For any use which may be made of this record it should be borne in mind that all of the persons included therein do not now remain in gaol. Operation of Conditional Liberty, of course, is causing the liberation of a number of them by the Italian Government on the expiration of half of the sentence being served.

3. There is also enclosed for such action, if any, as may be deemed appropriate, letter received from the Minister of Pardon & Justice, with translation, regarding mitigation of of legal disabilities attendant upon sentences of AMG courts. Inasmuch as legal disabilities deriving from such sentence are established by Italian Law the opinion is held that no action concerning them should be taken by Allied authorities, but that in case the Italian government is willing to decree cancellation of such disabilities no objection should be interposed. In reading this letter it now becomes clear that the amnesty suggested by the Italian Government for these cases is in the nature of the forgiveness of the civil consequences of offences committed which, under our law, is accomplished only by pardon.

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For the Chief Commissioner,

G.G. HANNAFORD,
Lt. Colonel,
Deputy Chief Legal Advisor.

Incls.

Mod. 1347 M.G.

Ministero di Giustizia

DIREZIONE GENERALE AFFARI PENALI

UFFICIO VI.
N. _____

Roma, addì _____

AI PRIMI PRESIDENTI DI CORTE DI APPELLO
AAI PROCURATORI GENERALI PRESSO LE CORTI APP.
AI PRESIDENTI DI SEZIONE DI CORTE DI APPELLO
AGLI AVVOCATI GENERALI PRESSO LE SEZ. C. APP.

e per conoscenza:

ALLA COMMISSIONE ALLEATA
ALL'UFFICIO DI COLLEGAMENTO

OGGETTO: Condanne delle Autorità militari alleate a carico di cittadini italiani.

Richiamo l'attenzione delle SS.LL. sul disposto dell'art. 2 del R.D.L. 11 febbraio 1944, n. 31, per il quale le sentenze pronunciate dai tribunali militari alleati hanno valore come se pronunciate da Tribunali italiani.

Ciò importa che, appena ne sia data comunicazione alle Autorità Italiane, le dette sentenze debbono essere tenute presenti a tutti gli effetti e particolarmente per dare esecuzione alle pene inflitte e per provvedere alla formazione delle schede penali, cui dovrà attendere il Casellario Centrale.

E' però da tenere presente che, per il disposto dell'articolo succitato l'efficacia delle sentenze dei tribunali militari alleati può venire meno o essere modificata dalla Commissione Alleata di Controllo o col consenso della Commissione Alleata.

Quindi la esecuzione delle sentenze revocate deve cessare e quella delle sentenze modificate deve limitarsi in relazione alla

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Queste osservazioni hanno una particolare importanza perchè la Commissione Alleata di controllo, anche per la considerazione che alle condanne dei Tribunali militari Alleati non sono applicabili i decreti di amnistia emessi dal Governo Italiano, sot-

./.

topongono le condanne stesse a periodiche revisioni, appor-
tando loro, di solito, sensibili riduzioni.

Si prega richiamare su quanto sopra è esposto l'at-
tenzione degli Uffici dipendenti e particolarmente degli
addetti alla esecuzione delle sentenze e ai Casellari lo-
cali, e si resta in attesa di un cenno di assicurazione.

IL MINISTRO

Handwritten signature

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T-H-A-N-S-I-A-T-I-O-N

Ministry of Pardon and Justice
 General Department of Penal Affairs
 Office No.

Rome,

To : The First Presidents of the
 Courts of Appeal,
 Procuratori Generali, Courts
 of Appeal,
 Presidents of Sections, Courts
 of Appeal,
 Avvocati Generali, Sections,
 Courts of Appeal

and for information

To : The Allied Commission,
 Liaison Officer with the Allied
 Commission.

SUBJECT : Sentences passed by the Allied Military Authorities
 against Italian citizens.

Your attention is drawn to the provisions under Art. 2
 of A.M.L. No. 11 of 11 February 1944 establishing that judgments
 passed by Allied Military Courts have the same effects as if they
 were passed by Italian Tribunals.

The above purports that, as soon as the Italian
 authorities are advised, the judgments passed shall have full
 effects particularly in regard to the enforcement of the penalties
 imposed as well as for the penal index cards to be prepared by
 the Central Penal Recording Office.

It should be borne in mind, however, that as far as
 the provisions under the aforesaid article are concerned, the
 effects of the judgments passed by the Allied Military Courts
 may be modified or annulled by the Allied Commission or upon consent
 of the Allied Commission.

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Mod 1347 M.G.

Ministero di Grazia e Giustizia

4A

GABINETTO DEL MINISTRO

P R O M E M O R I A

ALLA SEGRETARIA PARTICOLARE DEL SIG. MINISTRO

ALLA DIREZIONE GENERALE PER GLI AFFARI PENALI

All' Ufficio Legislativo

S E D E

I condannati delle Corti Militari Alleate sono stati, come è noto, esclusi sia dall'amnistia del 5 aprile 44, sia dalla recente amnistia, per disposizione della Commissione Alleata. La situazione di costoro è stata inoltre aggravata dalla circostanza che le Corti Militari Alleate hanno esaminato i relativi processi in relazione alle necessità dello sforzo bellico, le quali hanno imposto condanne particolarmente dure a titolo di esemplio.

Per queste ragioni già nel giugno scorso la Commissione anzidetta prese accordi con questo Ministero per mitigare gli effetti di tali condanne.

Fu deciso infatti che i condannati dalle Corti Alleate (non che quelli giudicati da Tribunali italiani per reati in danno

Acc. Ufficio Leg. Penale

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Fu deciso infatti che i condannati delle Corti Alleate (non che quelli giudicati da Tribunali italiani per reati in gennaio degli alleati) potessero essere ammessi con decreto ministeriale al beneficio della liberazione condizionale, previa informazioni della materialità del reato da parte della Commissione Alleata, in base alle norme attualmente vigenti per tale istituto.

Ed effettivamente in esecuzione di quanto sopra sono state concesse numerose liberazioni condizionali ed altre sono attualmente in corso di esame presso la Direzione Generale per gli Istituti di Prevenzione e di Pena.

Ministero di Grazia e Giustizia

2.

Inoltre la Commissione Alleata ha da tempo provveduto a sottoporre a periodica revisione, in conformità alla particolare procedura seguita, le condanne anzidette e a parte alcune più gravi che, malgrado tale esame sono rimaste immutate, in genere è stata apportata una riduzione sensibile alle pene inflitte.

Il lavoro di revisione è tuttora in corso, sebbene la maggior parte dei processi sia già stata riesaminata.

Pertanto la Commissione Alleata, in base ai criteri summenzionati, è venuta parzialmente incontro all'invito del Ministero per mitigare gli effetti detentivi di tali pene, malgrado la negazione dell'ammnistia.

Ora però, la Commissione, in armonia di vedute con quanto fatto presente dal Sig. Ministro con lettera UC/4589/5, che si allega, desidera ancora migliorare la condizione dei condannati dalle Corti alleate per quanto riguarda i riflessi giuridici delle condanne anzidette.

A tale scopo il Colonnello Weber ha comunicato al sottoscritto in via riservata, che quanto prima la Commissione inviterà il Governo italiano a predisporre un provvedimento legislativo, qualora necessario, affinché i condannati per reati meno gravi ottengano una specie di riabilitazione.

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Tale esigenza sembra particolarmente sentita per i partigiani che sono stati spesso duramente colpiti per reati di natura politica (la maggiore parte dei partigiani risulta condannata per detenzione di armi in violazione ai proclami alleati) nonché per coloro che, pure avendo commesso reati in base ai bandi alleati, non sarebbero perseguibili per gli stessi fatti dallo nostre leggi penali.

Ministero di Grazia e Giustizia

3.

Comunque lo stesso Colonnello Weber ha chierito che con tale mitigazione nei riguardi dei condannati anzidetti la Commissione Alleata intende venire incontro a un interesse esclusivamente italiano e che pertanto il nostro Governo è pienamente li-bero di prendere qualsiasi provvedimento nell'ambito menzionato, come di non prendere alcun provvedimento.

In attesa pertanto di tali comunicazioni che si prevedono prossime, sembrerebbe opportuno che il Ministero esamini il problema formulando eventuali proposte concrete.

In proposito osservo che, a parte un eventuale provvedimento legislativo (che potrebbe forse prevedere la non menzione del reato nei certificati a richiesta dei privati per le condanne minori, e l'estinzione delle eventuali pene accessorie, salvo a considerare addirittura una specie di riabilitazione per i condannati meritevoli di particolare considerazione secondo i criteri accennati precedentemente) sembrerebbe adeguato un provvedimento di carattere amministrativo, con il quale, previ accordi con la Commissione Alleata, si comunicasse a tutti gli uffici del Casellario, nonché alle Autorità giudiziarie che esercitano su di questi la sorveglianza, che a tutti gli effetti in caso di condanne inflitte dalla Corti Alleate si debba ritenere

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Roma, 22.11.1946

Giuseppe Bonelli

IL GUARDASIGILLI
MINISTRO DI GRAZIA E GIUSTIZIA

Roma, 12.9.1946

Pregiatissimo Col. Weber,

La situazione in cui vengono attualmente a trovarsi i condannati dalle Corti Militari Alleate si è grandemente ravvicinata a quella di coloro che sono stati giudicati dai Tribunali Italiani, come è stato sempre costante desiderio del Governo Italiano per evidenti ragioni di uniformità e di giustizia.

A tale situazione si è addivenuti vincendo notevoli difficoltà in quanto, come Lei ben sa, non è stato mai possibile per costoro applicare un provvedimento di amnistia.

E debbo dirLe, innanzi tutto, che grande merito di quanto sopra spetta alla Sottocommissione Legale, sulla cui collaborazione questo Ministero ha potuto sempre fare ampio affidamento e, in particolare, sulla Sua personale comprensione dei nostri problemi e delle nostre necessità.

Io sto seguendo, con vivo interesse, il Suo intenso lavoro giudiziario ed ho potuto, attraverso questo, apprezzare in sommo grado il senso di equità da Lei costantemente dimostrato. Particolarmente attraverso le Sue numerose revisioni dei processi Alleati, che spesso hanno condotto a una notevole mitigazione della pena, si è raggiunta una situazione abbastanza simile a quella dei condannati dai Tribunali Italiani, che hanno potuto usufruire sia dell'amnistia del 5 aprile 1944, sia della recente amnistia.

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A tale situazione si è addivenuti vincendo notevoli difficoltà in quanto, come Lei ben sa, non è stato mai possibile per costoro applicare un provvedimento di amnistia.

E debbo dirLe, innanzi tutto, che grande merito di quanto sopra spetta alla Sottocommissione Legale, sulla cui collaborazione questo Ministero ha potuto sempre fare ampio affidamento e, in particolare, sulla Sua personale comprensione dei nostri problemi e delle nostre necessità.

Io sto seguendo, con vivo interesse, il Suo intenso lavoro giudiziario ed ho potuto, attraverso questo, apprezzare in sommo grado il senso di equità da Lei costantemente dimostrato. Particolarmente attraverso le Sue numerose revisioni dei processi Aleati, che spesso hanno condotto a una notevole mitigazione della pena, si è raggiunta una situazione abbastanza simile a quella dei condannati dai Tribunali Italiani, che hanno potuto usufruire sia dell'amnistia del 5 aprile 1944, sia della recente amnistia.

Inoltre, con la possibilità di applicare con Decreto Ministeriale la liberazione condizionale, secondo i recenti accordi, a

Freg. Colonnello WEBER
Capo della Sottocommissione Legale

R O M A

IL GUARDASIGILLI
MINISTRO DI GRAZIA E GIUSTIZIA

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coloro che particolarmente se ne rendono meritevoli, si può affermare che, per quanto riguarda gli effetti detentivi di queste condanne, si è compiuta opera di pacificazione sociale e di vera giustizia.

Tuttavia scopo di questa lettera non è soltanto quello di affermare la gratitudine del Governo Italiano e quella mia personale per la sua costante e preziosa collaborazione nella graduale risoluzione di questo delicato problema, ma ancora quello di chiederle di studiare, di comune accordo, un sistema che mitighi anche le conseguenze giuridiche (e cioè la menzione delle condanne nel certificato penale, le pene accessorie, le misure amministrative di sicurezza ecc.) di queste penali in modo da raggiungere una situazione analoga a quella che il Governo Italiano ha ottenuto con l'amnistia, che, ha portato a un'ampia riabilitazione dei condannati.

I mezzi per raggiungere questa giusta finalità, particolarmente sentita per quanto riguarda i partigiani che hanno commesso dei reati per fini soltanto politici, formalmente potrebbe concretarsi in un provvedimento della Commissione Alleata o del Governo Italiano.

Comunque, qualora Lei sia d'accordo su questa esigenza, non sarà difficile trovare insieme il sistema più idoneo in proposito.

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su questo problema e gradisca i miei saluti più cordiali

IL MINISTRO

P/to Fausto Gullo

T-R-A-M-S-L-A-T-I-O-N

Ministry of Pardon and Justice
Cabinet of the Minister

To the : Private Secretary of the Minister,
General Direction of Penal Affairs,
Legislative Office

ROME

MEMORANDUM

Persons sentenced by the Allied Military Courts were, as you are aware, excluded from the Amnesty of 5 April 1944, as well as from the recent Amnesty, by a provision of the A.C.

Moreover, the situation of these persons was aggravated by the circumstance that the Allied Military Courts have passed their sentences bearing in mind that the cases were being tried in time of war, and have therefore imposed particular deterrent sentences, with the purpose of giving an example.

For the above mentioned reasons, the A.C. made arrangements in last June with this Ministry to provide for a mitigation of such sentences.

In fact, it was agreed upon that persons sentenced by Allied Courts, (as well as those, who were tried by Italian Tribunals for offences to the detriment of the Allies), should be entitled to lodge a petition for conditional liberty for consideration by the Ministry, who, after having obtained appropriate information from the Allied Commission in regard to the offence committed, could act upon it, in accordance with the Italian rules in force governing such matter.

In compliance with such procedure, numerous persons have been released on conditional liberty, and many petitions are at present being considered by the General Direction of Penal Affairs.

Moreover, the A.C., in considering such cases under review, in accordance with the special procedure adopted, and notwithstanding the fact that some of these sentences - the most serious ones - have

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Moreover, the A.C., in considering such cases under review, in accordance with the special procedure adopted, and notwithstanding the fact that some of these sentences - the most serious ones - have been affirmed, has granted a sensible reduction of penalty imposed in each case.

The review is actually being carried out, notwithstanding the fact that the most part of cases have already been considered.

Therefore, the A.C., on the cases of the above mentioned judgments, has partially met with the request of the Ministry to mitigate the effects of such penalties, despite the contrary provision included in the Amnesty Decree.

Further, the Commission, in harmony with the opinion given

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by the Minister in his letter UC/4589/5 herewith enclosed, is now desiring to improve the conditions of all persons sentenced by the Allied Courts, as far as the legal consequences of the aforesaid sentences are concerned.

With such aim in mind, Col. Weber confidentially informed the undersigned that the Commission will invite as soon as possible the Italian Government to issue a legislative provision, if necessary, in order that persons sentenced for less serious offences could obtain some sort of rehabilitation.

Such exigency is particularly felt by the partisans, who have often been seriously punished for offences of political character, (the great part of partisans appears to be sentenced for possession of arms, in violation of Allied Proclamations), as well as for other persons, who have committed offences against Allied Proclamations, not punishable according to the Italian Penal Code.

However, Col. Weber himself, has cleared that the A.C. intends with such mitigation to meet the exclusive interests of the Italians, and that therefore our Government remains absolutely free to take any action it deems necessary in this regard, as well as to take no action at all.

In anticipation of such advice, which is expected to be transmitted at an early date, it would be desirable for the Ministry to look into the matter, in order to make appropriate suggestions.

I wish to point out in this regard that, apart from an eventual legislative provision to be passed, (which could provide that offences of slight importance should not be mentioned in the penal certificates issued to private persons, and that all accessory penalties be considered extinguished, or which could also provide, if it is so desired, for a rehabilitation of certain accused person, who is found worthy of a special consideration in accordance with the aforesaid procedure), an adequate provision of administrative character is deemed necessary, by which, prior approval of the A.C., all the officials of the Penal Recording Office, as well as the Judicial Authorities, who supervise it, should be informed, that in cases tried by the Allied Courts the date of release, as ordered on the latest review, shall be considered as the effective penalty imposed by such Courts.

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(Sgd)

Dr. Giorgio BONELLI

Rome, the 22nd November 1946.

TRANSLATION

Rome, 16 Sept 46.

The keeper of the Seals.
Minister of Grace and Justice

AC/4589/5/L.

Dear Col. Weber,

The present position of persons sentenced by Allied Military Courts is almost the same as that of persons found guilty by Italian Courts, as has always been the constant desire of the Italian Government for obviously reasons of uniformity and justice.

This situation has been reached by overcoming notable difficulties because, as you are aware, it has never been possible to apply a provision of amnesty.

In the first place I must say that great merit in securing the above result is due to the Legal Sub-Commission, upon whose collaboration this Ministry has been always able to fully rely, and especially to your personal understanding of our problems and needs.

I am following with keen interest your judicial activity and greatly appreciate the sense of equity that you have constantly shown.

Due largely to your numerous revisions of Allied cases frequently resulting in a notable reduction of sentences, a situation has been reached very similar to that of persons found guilty by Italian Courts who enjoyed the amnesty of 5th April 1944 and the recent one.

Further, according to recent agreements proposed by you, the possibility of applying by means of a Ministerial Decree Conditional Liberty to those particularly deserving it; allows me to declare that as far as the prison situation is concerned, a work of social pacification and real justice has been achieved.

However, in order to continue our work in this direction, I think it will be opportune to examine together a system that may mitigate also the legal disabilities of those sentences viz. the mention² of the sentence in the criminal record (Penal Procedure Code Art. 608 No. 6), the accessory penalties (Penal Code Art. 28-38), security measures (Penal Code 199-240).

In this way we can arrive at a situation analogous to that reached by Italian Government by granting amnesty which, with regard to crimes already tried, has brought about a full rehabilitation of the convicted persons.

This end, especially desirable as regards the partisans who have committed crimes solely for political reasons, could be achieved by means of a provision issuing either from the Allied Commission or the Italian Government.

In any event, if you agree to this necessity, we shall try to find a plan the more suitable to the matter.

I beg you to let me know your view on this problem.

Cordially yours

(sgd) Fausto Gullo.

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