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Classified E.O. 12356 Section 3.3/RND No. 785016

ACC

10000/142/559

DEFASCI
AUG. - 0

DEFASCISTIZATION OF SENIOR OFFICIALS, GRADES I TO IV
AUG. - OCT. 1944

/559

1384

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

FILE CLOSED

31 October 1944

4002/7
✓

Legal L/C

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

12/5.9/CA

31 Oct 44

SUBJECT : Defascism.

TO : See Distribution.

Herewith two copies of the translation referred to in para 3
of DF/5.9 of 26 Oct 44.

3A

H. WHITE Lt Col.
for VP CA SectionDISTRIBUTION :-

LEGAL SUB-COMMISSION	
CLO	
DCLO	✓
Chief Counsel	
CJO	
Italian Section	✓
CLERKS	
2 NOV 1944	

CA Sec
 Econ Sec
 Polit Sec
 Local Govt S/C
 Legal Sec ✓
 Educ S/C
 Commerce S/C
 Public Works S/C
 Finance S/C

Agric S/C
 Air S/C
 Army S/C
 Naval S/C
 Communications S/C
 Transportation S/C
 SDAO 3 Army
 SDAO 8 Army
 R.C. Abruzzi Marche Reg.

R.C. Emilia Region
 R.C. Toscana Region
 R.C. Sardinia Region
 R.C. Venezia Region
 R.C. Piemonte Region
 R.C. Liguria Region
 R.C. Lombardia Region
 R.C. Lazio Region
 R.C. Sicilia Region
 R.C. Southern Region

RFP 102/5.9/ea

1 NOV 44

A

Decree

for providing for

The Rapid Promotion of Senior Officials.

The Italian version of this decree is the only authoritative text. The version below is not a literal translation; its object is to inform officers conveniently of the provisions contained in the decree.

Officers are referred to the Italian text for all points of detail or matters of procedure or dispute. The brackets indicate additions to the original text made to clarify the meaning.

1 The time limit (for the commencement of promotion proceedings) against civil or military employees of the first four grades or against officials of corresponding rank in the employ of the State Railways shall in lieu of that contained in Art 25 of Dec 153/44 be 30 days from the coming into force of this decree.

The Commission (of first instance) to which an application proceeding concerning any such person (has been referred) shall communicate its decision to the High Commissioner and to the "defendant" within 30 days from the day on which the case was referred to it. An appeal under Art 20 of Dec 153/44 from any such decision shall be lodged by the High Commissioner within 10 days and by the defendant within 3 days of the communication (to them respectively) of such decision. The Central Commission shall give priority of hearing to appeals concerning such persons.

The President of the Council of Ministers (FCM) may on the application of the President of the Promotion Commission on being satisfied that the exceptional complexity of the investigation (or any particular case) so requires extend the time limit (for hearing) contained in the last preceding paragraph as may be requisite up to (a maximum of) a further 30 days.

the time limit (for the commencement of operation proceedings) against civil or military employees of the first four grades or against officials of corresponding rank in the employ of the State Railways shall in line of that contained in Art 25 of ML 159/44 be 30 days from the coming into force of this decree.

The Commission (of first instance) to which an operation proceeding concerning any such person (has been referred) shall communicate its decision to the High Commissioner and to the "Defendant" within 30 days from the day on which the case was referred to it. An appeal under Art 23 of ML 159/44 from any such decision shall be lodged by the defendant within 10 days and by the defendant within 3 days of the communication within 10 days and by the defendant within 3 days of the communication (to them respectively) of such decision. The Central Commission shall give priority of hearing to appeals concerning such persons.

The President of the Council of Ministers (PM) may on the application of the President of the Operation Commission on being satisfied that the exceptional complexity of the investigation (of any particular case) so requires extend the time limit (for hearing) contained in the last preceding paragraph as may be requisite up to (a maximum of) a further 30 days.

Within 60 days from the coming into force of this decree the PM having heard the appropriate Minister or on the request of the person concerned may place any civil or military State employee of the first four grades or an official of corresponding rank in the employ of the State Railways in retirement. Such power shall be exercisable even if the official belongs to an "irremovable" class or after expiration proceedings have been commenced.

The military personnel to whom this article applies shall be given the status provided for by the laws in force.

All persons retired under the last preceding article shall, if they are "irremovable", be entitled to add a period of ten years and other personnel so retired five years to their service to count for pension purposes. Provided nevertheless that the service to count for pension purposes shall not exceed forty nor be less than twenty years.

For the purpose of this article, the following personnel shall be considered to be "irremovable": members of the Judiciary; of the Council of State; of the Court of Accounts and professors of Universities. When the last paragraph of this article is not applicable the provisions of law 137/40 shall apply.

The High Commissioner for Defence (HCD) shall be notified of every order for retirement made under Art 2 and where he is of opinion

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that (a case is grave and that) para 2 of Art 22 of MIL 159/44 may apply by way of the case to the (appropriate) Expiration (extension for decision on to whether or not the "definitive" decision shall be forfeited.

An Expiration commission may, as an alternative, (to its powers under Art 22) order forfeiture of any increase to which the "definitive" could otherwise be entitled under Art 3 hereof.

An order as to loss of position or of any increase shall take effect on the first day of the month following the decision of the Central Commission (in the case of an appeal) or (where there is no appeal) the first of the month following the day on which the decision of the Commission of First Instance becomes unappealable.

The hearing (of any case referred hereunder) shall be (conducted) in accordance with the provisions contained in MIL 159/44 and Art 4 hereof.

As regards State employees residing in any territory which, on the date on which this Decree comes into force, has not been restored to Italian Administration, the time limits contained in para 1 of Art 1 and in Art 2 shall run from the date on which MIL 159/44 and this Decree become effective in such territory.

When, following the liberation of any territory not now liberated, any important evidence is discovered against any State employee which could not (previously) have come to the knowledge of the Expiration Commission, the RCM may, provided that the time limits contained in para 1 of this Art are not exceeded, by Decree order that Art 1 of this Decree shall apply to such case even though the time limits prescribed (in that Art) have expired.

In similar circumstances the RCM may within the time limits of the para 1 of this Art submit for decision cases to which Art 4 hereof applies.

That employees residing outside the National Territory the time limits referred to in para 4 hereof shall run from the cessation of hostilities.

Where there is obvious evidence that employee, within the provisions of para 1 and 4 of this Art has actively collaborating or have collaborated with the so-called republican fascist government, proceedings for forfeiture or for forfeiture of pension under Art 4 may be commenced before the time limits of this Article expire to run and without allowing the time for the preparation of the defence which is allowed by para 1 of Art 19 of MIL 159/44.

Appeals through neither administrative nor judicial channels shall be allowed against decisions under Art 2 hereof or an award of forfeiture or extension under Art 4 hereof except on grounds of incompetence of the (hearing) commission.

as this Art. is not extended, the decree order that Art. 1 of this decision shall apply to such case even though the time limits prescribed (in that Art.) have expired.

In similar circumstances the HEP may within the time limits of the part 1 of this Art. submit for decision cases to which Art. 4 hereof applies.

When employees reside outside the National Territory the time limits referred to in part 1 hereof shall run from the cessation of hostilities.

Where there is obvious evidence that employees, within the provisions of parts 1 and 4 of this Art. are actively collaborating or have collaborated with the so-called republican fascist government, proceedings for suspension or for forfeiture of pension under Art. 4 may be commenced before the time limits of this Article commences to run and without allowing the time for the preparation of the defence which is allowed by part 1 of Art. 4 of Dec. 15/44.

Appeals through neither administrative nor judicial channels shall be allowed against decisions under Art. 2 hereof or an order of forfeiture of pension under Art. 4 hereof except on grounds of incompetence of the (issuing) commission.

Until the expiration of the Public Administration has been completed, the HEP shall be notified of all proposals as to promotions and appointments to the first four grades of State employees or to offices of corresponding rank in the State Railway Service.

The HEP may, within ten days of receiving such notification state his reasons for opposing the aforesaid promotion or appointment. When any Minister does not propose to accept the view of the HEP, the matter shall be referred to the Council of Ministers for decision.

Except where part 2 of Art. 5 applies personnel appointed in accordance with the provisions of this Article shall not be subject to further separation.

This decree shall come into force on the 1 Nov 44.

REF ID: A5910A

Tigress - 1/11

1998

Discussion

For providing for

The Board President or Senior Officer.

The Italian version of this decree is the only authoritative text. The version below is not a literal translation; its object is to inform and not to convince of the provisions contained in the decree.

Ordinances are referred to the Italian text for all points of detail on matters of procedure or dispute. The brackets indicate additions to the original text made to clarify the meaning.

The time limit (for the commencement of execution proceedings) against civil or military employees of the first four grades or against officials of corresponding rank in the employ of the State Railways shall in lieu of that contained in Art 25 of Dec 159/44 be 30 days even the expiry into force of this Decree.

from the coming into force of this order.

The Commission (or first instance) to which an application proceeding concerning any such person (has been referred) shall communicate its decision to the High Commissioner and to the "defendant" within 30 days from the day on which the case was referred to it.

An appeal under Art 20 of P.L. 153/44 from any such decision shall be lodged by the High Commissioner within 10 days and by the defendant within 2 days of the communication (to them respectively) of such decision.

The Central Commission shall give priority of hearing to appeals concerning such persons.

The President of the Council of Ministers (you) may on the application of the President of the Espionage Commission on being satisfied that the exceptional complexity of the investigation (of any particular case) so requires extend the time limit (for hearing) contained in the last receding paragraph as may be requisite up to (a maximum of) a further 30 days.

The time limit (for the commencement of proceedings) against civil or military employees of the first four grades or against officials of corresponding rank in the employ of the State shall be 30 days from the coming into force of this decree.

The Commission (of first instance) to which an application proceeding from the Commission (of first instance) shall communicate its proceedings may such person (has been referred) shall communicate its proceedings to the High Commission and to the "Commission" within 30 days from the day on which the case was referred to it. An appeal under Art 20 of D.L. 159/44, from any such decision shall be lodged by the High Commission within 10 days, and by the defendant within 3 days of the communication (to them respectively) of such decision. The Central Commission shall give priority of hearing to appeals concerning such persons.

The President of the Council of Ministers (R.M.) may on the application of the President of the Examination Commission in being satisfied that the exceptional complexity of the investigation (of any particular case) so requires extend the time limit (for hearing) contained in the last preceding paragraph as may be requisite up to (a maximum of) a further 30 days.

Within 60 days from the coming into force of this decree the R.M. having heard the appropriate Minister or on the request of the persons concerned may place any civil or military State employee of the first four grades or an official of corresponding rank in the employ of the State railways in retirement. Such power shall be exercisable even if the official belongs to an "irremovable" class or after cessation of proceedings have been commenced.

The military personnel to whom this article applies shall be given the status provided for by the law in force.

All persons retired under the last preceding article shall, if they are "irremovable", be entitled to add a period of ten years and other personnel so entitled five years to their services to count for pension. Provided nevertheless that the service to count for pension hereunder shall not exceed forty nor be less than twenty years.

For the purpose of this article, the following personnel shall be considered to be "irremovable": members of the Judiciary; of the Council of State; of the Court of Accounts and Professors of Universities. Where the first paragraph of this article is not applicable the provisions of Law 567/40 shall apply.

The High Commissioner for Defensions (R.M.) shall be notified of every order for retirement made under Art 2 and where he is of opinion

- 2 -

that (a) same is given and that) part 2 of Art 22 of Decree 159/44 may apply to any case for the first time (appropriate). Provision Commission for decision as to whether or not the "definitive" pension shall be forfeited. An expiration commission may, as an alternative, (to its powers under Art 22) order forfeiture of any benefits to which the "definitive" would otherwise be entitled under Art 3 hereof.

An order as to loss of pension or of any benefits shall take effect on the first day of the month following the decision of the Central Commission (in the case of an appeal) or (where there is no appeal) the first of the month following the day on which the decision of the Commission of first instance becomes unappealable.

The hearing (or any case unappealed hereunder) shall be (conducted) in accordance with the provisions submitted in Decree 159/44 and Art 4 hereof.

5. An employee who is employed in any territory which, on the date on which this decree comes into force, has not been restored to Italian administration, the time limits contained in part 1 of Art 1 and in Art 2 shall run from the date on which Decree 159/44 and this decree become effective in such territory.

Then, following the liberation of any territory not yet liberated, any important evidence is discovered against any State employee which could not (previously) have come to the knowledge of the expiration Commission, the Commission may, provided that the time limits contained in part 1 of this Art are not exceeded, by decree order that Art 1 of this decree shall apply to such case even though the time limits prescribed (in that Art) have expired.

In similar circumstances the Commission may within the time limits of the part 1 of this Art submit for decision cases to which Art 4 hereof applies.

When employees reside outside the National territory the time limits referred to in part 1 hereof shall run from the cessation of hostilities.

Where there is obvious evidence that employee, within the provisions of parts 1 and 4 of this Art are actively collaborating or have collaborated with the so-called republican Fascist government, proceedings for expiration or for forfeiture of pension under Art 4 may be commenced before the time limits of this Article expires to run and without allowing the time for the presentation of the evidence which is allowed by part 1 of Art 12 of Decree 159/44.

6. Appeals through neither administrative nor judicial channels shall be allowed against decisions under Art 2 hereof or an award or forfeiture of pension under Art 4 hereof except on grounds of incompetence of the (providing) commission.

any important evidence is discovered, the Commission could not (previously) have come to the knowledge of the Commission, in fact may, provided that the time limits contained in paragraph 1 of this article are not exceeded, by a decree order that art 1 of this decree shall only be applied through the time limits prescribed in that art) have expired.

In similar circumstances the Commission may within the time limits of paragraph 1 of this article submit for decision cases to which art 4 hereof applies.

When employees receive outside the National Security the time limits referred to in paragraph 1 hereof shall run from the commission of the offence.

Where there is obvious evidence that employee, within the provisions of paragraphs 1 and 4 of this article, actively collaborating or has collaborated with the so-called republican fascist government, proceedings for repression or for forfeiture of pension under art 4 may be commenced before the time limits of this article commence to run and without affecting the time for the preparation of the defence which is allowed by paragraph 4 of art 19 of the Law 152/44.

6. Appeals through neither administrative nor judicial channels shall be allowed against decisions under art 2 hereof or an award of forfeiture of pension under art 4 hereof except on grounds of incompetence of the (receiving) commission.

7. Until the creation of the Public Administration has been completed, the RCD shall be notified of all personnel as to promotions and appointments to the first four or five of state employee or to offices of corresponding rank in the State Railway Service.

The RCD may, within ten days of receiving such notification state his reasons for opposing the proposed promotion or appointment.

When any Minister does not propose to accept the view of the RCD, the matter shall be referred to the Council of Ministers for decision.

Except when paragraph 2 of art 5 applies personnel appointed in accordance with the provisions of this article shall not be subject to further promotion.

8. This decree shall come into force on the 1 May 44.

4082/2 file
A decree for providing or

DRAFT

The Royal Decree of Senior Officials.

The Italian version of this decree is the only authoritative text. The version below is not a literal translation; its object is to inform officers conveniently of the provisions contained in the decree.

Officers are referred to the Italian text for all points of detail or matters of procedure or dispute.

The time limit for the commencement of separation proceedings against
with respect to the first four grades of civil and military employees of

the officials of corresponding rank in the employ of the State Rail-
ways the time limit (for the commencement of proceedings) contained
in Art 25 of R.L. 153/44 shall be 30 days from the coming into force of
this decree.

separation proceedings
In any case in which any such persons are concerned the Commission
(of first instance) shall communicate its decision to the High Com-
missioner and to the defendant within 30 days from the day on which the case
was referred to it and any appeal from such decision under Art 20 of
R.L. 153/44 shall be lodged by the High Commissioner within 10 days and
by the defendant within 3 days of the communication of such decision.
to them respectively

The Central Commission shall give priority of hearing to appeals concern-
ing any such persons.

The President of the Council of Ministers (RCH) may on the applica-
tion of the President of the Separation Commission or being satisfied that

Supra-mentioned

In any case in which any such person are concerned the Commission (of first instance) shall communicate its decision to the High Commissioner and to the defendant within 30 days from the day on which the case was referred to it and any appeal from such decision under Art 20 of the 159/44 shall be lodged by the High Commissioner within 10 days and by the defendant within 3 days of the communication of such decision.

The Central Commission shall give priority of hearing to appeals concerning any such persons.

The President of the Council of Ministers (COM) may on the application of the President of the Arbitration Commission on being satisfied that the exceptional complexity of the investigation (of any particular case) so requires extend the time limit (for hearing) contained in the last preceding paragraph as may be requisite up to (a maximum of) a further 30 days.

2 Within 60 days from the coming into force of this decree the COM having heard the appropriate Minister or on the request of the person concerned may place any civil or military State employee of the first four grades or an official of corresponding rank in the employ of the State railways in retirement. Such power shall be exercisable even if the official belongs to an irremovable class or if ^{after} retirement no days have been accumulated.

- 2 -

The military personnel to whom this article applies shall be given the status provided for by the laws in force.

3 All persons retired under the last preceding article shall, if they are "irrevocable", be entitled to add a period of ten years and other personnel so retired five years to their service to count for pension.

Provided nevertheless that the service to count for pension hereunder shall not exceed forty nor be less than twenty years.

For the purpose of this article, the following personnel shall be considered to be "irrevocable": members of the Judiciary; of the Council of State; and of the Court of Accounts and professors of Universities where the first paragraph of this article is not applicable the provisions of NLL 155/40 shall apply.

4 The High Commissioner for Pensions (HEP) shall be notified of every order for retirement made under Art 2 and where he is of opinion that (a case is grave and) para 2 of Art 22 of NLL 159/44 may apply he may refer the case to the (appropriate) Pension Commission for decision as to whether or not the "definitive" pension shall be forfeited. An Appraisal Commission may, as an alternative (to its powers under Art 22) order forfeiture of any increase to which the "definitive" would otherwise be entitled under Art 3 hereof.

An order as to loss of pension or of any increase shall take effect on the first day of the month following the decision of the Central Com-

of MIL 157/40 shall apply.

The High Commissioner for Refugees (HCR) shall be notified of every order for retirement made under Art 2 and where he is of opinion that (a case is grave and) para 2 of Art 22 of MIL 159/44 may apply he may refer the case to the (appropriate) Migration Commission for decision as to whether or not the "defendant's" pension shall be forfeited. An Migration Commission may, as an alternative (to its power under Art 22) order forfeiture of any increase to which the "defendant" would otherwise be entitled under Art 3 hereof.

An order as to loss of pension or of any increase shall take effect on the first day of the month following the decision of the Central Commission (in the case of an appeal) or (where there is no appeal) the first of the month following the day on which the decision of the Commission of first instance becomes irrevocable.

The hearing (of any case referred hereunder) shall be in accordance with the provisions contained in MIL 159/44 and Art 4 hereof.

As regards ~~state employees residing in any territory which, on the date on which this decree becomes effective, have not been returned to Italian Administration, the time limits contained in para 1 of Art 4 and in Art 2 shall run from the date on which MIL 159/44 and this decree~~ ^{comes into force}

- 5 -

becomes effective in such territory.

When, following the liberation of any territory not now liberated, any important evidence is discovered against any State employee which could not (previously) have come to the knowledge of the Reparation Commission, the ICJ may by a decree order that Art 4 of this Decree shall apply to such case even though the prescribed time limits have expired; provided that the time limits contained in para one of this Art are not exceeded.

In similar circumstances the ICJ may within the time limits of the first para of this Art submit for decision cases to which Art 4 hereof applies.

When employees reside outside the National Territory the time limits referred to in the first para hereof are deferred until after the cessation of hostilities.

Where there is obvious evidence that employees, within the provisions of paras 1 and 4 of this Art are actively collaborating or have collaborated with the so-called republican Fascist Government, proceedings for expatriation or for forfeiture of pension under Art 4 may be commenced before the time limits of this Article commence to run and without allowing the time for the preparation of the defense as prescribed in para 1 of Art 19 of M.L. 159/44.

Appeals through neither administrative nor judicial channels shall

- 3 -

become effective in such territory.

When, following the liberation of any territory not now liberated, any important evidence is discovered against any State employee which could not (previously) have come to the knowledge of the Reparation Commission, the RCM may by a decree order that Art 4 of this Decree shall apply to such case even though the prescribed time limits have expired; provided that the time limits contained in para one of this Art are not exceeded.

In similar circumstances the RCM may within the time limits of the first para of this Art submit for decision cases to which Art 4 hereof applies.

When employees reside outside the National Territory the time limits referred to in the first para hereof are observed until after the cessation of hostilities.

Where there is obvious evidence that employees, within the provisions of para 1 and 4 of this Art are actively collaborating or have collaborated with the so-called republican French government, proceeding for execution or for forfeiture of pension under Art 4 may be commenced before the time limits of this Article commence to run and without allowing the time for the presentation of the defence as provided in para 1 of Art 49 of RML 159/44.

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When employees reside outside the national territory, the provisions referred to in the first paragraph hereof are deferred until after the cessation of hostilities.

Where there is obvious evidence that employees, within the provisions of paragraphs 1 and 4 of this Art are actively collaborating or have collaborated with the so-called republican fascist government, proceedings for expatriation or for forfeiture of pension under Art 4 may be commenced before the time limits of this Article commence to run and without allowing the time for the preparation of the defence as provided in paragraph 1 of Art 19 of R.L. 1924/44.

6 Appeals through neither administrative nor judicial channels shall be allowed against decisions under Art 2 or on account of forfeiture of pension under Art 4 except on grounds of incompetence of the commission.

7 Until the operation of the public administration has been completed, the IED shall be notified of all proposals as to promotions and appointments to the first four grades of State employees and of officials of corresponding rank in the employ of the State railways.

The IED may, within ten days of receiving such notification, state its reasons for opposing the afore-said promotion or appointment. When any Minister does not propose to accept the view of the IED, the

- 4 -

member

~~Decisions of the point~~ shall be referred to the Council of Ministers

Except where para 2 of Art 5 applies personnel appointed in accordance with the provisions of this article shall not be subject to further examination.

8 This source shall come into force on the 1 Nov 44.

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HEADQUARTERS
ALLIED COMMISSION
APO 394
CA SECTION

DF/5.9/CA

26 Oct 44

SUBJECT : Defascism.

TO : See Distribution.

- 1 A new decree with regard to defascism has been issued. Its object is to expedite the removal of senior officials so that non fascists can be promoted to take charge of their new departments, get hold of them, reorganize and get their staffs to settle down.
- 2 The new decree introduces a special procedure for expurgating officials of Grades I - IV (and of the corresponding grades of the State Railways), as regards all other officials Part II of ELL 159/44 will continue to apply unchanged and as regards those officers to whom the new decree applies those provisions of Pt II which are not inconsistent with the new decree continue to apply.
- 3 Translations of the decree will be issued to Sub-Commissions who will remain responsible for supervising central defascising. Regions and Armies, who are not concerned with the procedure but only with results, will however be sent translations for their information.
- 4 The new decree requires, in effect, that any expurgation proceedings against officers of the first four grades (or equivalent ranks of railway officials) shall be commenced before the 30 Nov; that the Expurgation Commissions shall give their findings before the 30 Dec and that appeals by an employee shall be lodged within 3 days of a decision. There is power to extend the time for hearing up to a further 30 days in cases of exceptional difficulty.
- 5 The Government has also taken power to retire officers of the first four grades (and of corresponding railways grades) even if they do not come within the provisions for dismissal, if they are considered unsuitable for retention. Such retirement can take place before purging and persons retired may be expurgated and lose the whole or part of their pensions. "Irremovable" officers retired may if they are not fascist be compensated for loss of their office by addition of service to count for pension.

- 6 Promotions to fill vacancies in the first four grades must be cleared by the appropriate separation commission before being made.
- 7 In territory now in enemy occupation the various time limits contained in this decree commences as for any from the date the decree comes into effect in that area.

BY COMMAND OF COMMODORE STONE :

G.R. UTCHER M.L.S.
I.P. C. Section
1943

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JOS

LEGAL SUB-COMMISSION

CLO

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Chief Counsel

CLO

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CL RKS

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HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4082/7/1.

/rlp.
24 August 1944.

SUBJECT : Defascistization of Magistracy.

TO : Admin Sec.

1. Working hours. - This is a problem many times discussed. The word success may not be entirely justified, i.e., Courts in Sicily, Bari, Lecce, etc. It is felt that the question of purse does not enter in the argument; it is merely a question of stomach. No judge can do good justice if starving, as is the case for many of the junior ones, who are, no doubt, much more aware of the urgency of the present times than other more fortunate categories of persons.

2. The percentage referred to in para. 2, should be considered very moderate, if the criteria by which a person is pronounced a fascist are based on the provisions of various draft decrees submitted to this sub-commission for observation.

3. If both questions of increase of salary and working hours could be discussed together with the extent to which defascistization will be allowed to proceed, it is believed that a conference would be indicated. If not, it would serve no useful purpose.



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

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P.S. I should like to explain para 3. more fully
whenever possible.

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APC 394

1A

ACC/4082/9/L

GGH/pa.
23 Aug 44.

SUBJECT : Defascistization of Magistracy.

TO : Admin. Section.

1. In 1942 the number of judicial officials sitting in the various high courts of the capital was 335, of which approximately ten per cent were absent for reasons of health, holiday etc.

2. Between 8 Sept. 1943 and the entry of the Allies in Rome, 21 judges followed the fascists to Brescia and an equivalent number (20) left the town to escape persecution - a number of those have come back.

3. 36 officials from Courts situated South of Rome who had taken refuge in the city have been reappointed to their previous seats.

On the other hand the 65 judges dismissed by the fascists have or are being reinstated if politically suitable.

4. The present position is roughly as follows :-

For all intents and purposes 250 judges are now available in Rome. From this number must be deducted 4 who resigned, 38 who have been "separated", 78 who are on the next list; furthermore a nucleus of officials is being formed to fill in the gaps left by fascist judges in Northern Italy and the Minister of Justice has been asked to provide 20 judges at least to cope with the situation in Sicily.

5. Therefore if the programme set out in the preceding paragraph is fully carried out, the total number of officials left to administer justice in the Capital will be less than 100.

6. Is it necessary to stress that bearing in mind the average salary of £.8 or \$ 32 earned by these officials, it will be impossible to ask them to increase their working hours. Furthermore in view of the fact that more and more cases heretofore tried by AMG Courts will from now on revert to the Italian Courts, the number of pending instances is bound to increase out of all proportion and the prison situation will again become acute.

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7. Considering the new "separation" decrees which are about to be published and the lack of qualified personnel for replacement purposes - Considering further that the probable situation set out above may affect other Ministries or Sub-Commissions, may a general discussion be held on the advisability of the early implementation of certain proposed legislation and more generally on the probable administrative chaos which would result from the purge of over 50% of Italy's civil service and their substitution by untrained personnel in a period of crisis.

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

1406