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

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EPURATION OF COLONIAL JUDGES
SEPT. 1944 - AUG. 1945

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HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

Ref DE/5.14/CA

31 August 45

SUBJECT : Defascism

TO : See Distribution

Herewith translation of DL 472 disqualifying proved fascists from holding certain managerial appointments in private companies.

[Handwritten Signature]

S. H. WHITE Lt Col
for VP CA Section

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Copy for info : RGS Piemonte, Lombardia, Liguria, Venetia Regions
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1 SEP 1945

D.L. 472 OF 4 AUG 45

DISABILITIES OF DIRECTORS AND STATUTORY
CONTROLLERS OF PRIVATE ENTERPRISES

The Italian version of this decree is the only authoritative text. This version 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 texts for all points of detail or matters of procedure or dispute.

Words in brackets are explanatory and are not included in the original text.

Civil Disabilities of Directors	Art 1-2
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CIVIL DISABILITIES OF FASCISTS

1 The unmentioned are hereby disqualified from holding the office of director or manager or receiver of a company limited by shares or whose responsibilities are limited in any other way, which has a capital of more than 5 million lire, or an insurance company having a nominal capital or assets exceeding 1 million lire

a) any person who has been convicted for any of the offences referred to in first part of DL 159 of 27 July 1944 notwithstanding that the sentence (which may have been imposed upon him in respect of such offence) does not include exclusion from public office;

b) any person who has suffered confiscation under Art 9 of DL 159 aforesaid;

c) any person who has been subjected to any of the sanctions contained in the first para of Art 1, or the first or second para of Art 3 of DL 149 of 26 Apr 45;

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- d) any person who
- (i) has been deprived of the right to vote on having held one of the fascist offices mentioned in the decree of the President of the Council of Ministers dated the 2 Feb 45 and published in the Official Gazette No 20 of 15 Feb 45, or who
 - (ii) has been a member of the fascist government after 3 Jan 45, or having been a militant member of the fascist party subsequent to that date, has held the office of deputy or national councillor, or being a senator has been removed from office under the last para of Art 8 of DL 159 of 27 Jul 44; or
 - (iv) has suffered forfeiture of profits derived from the regime under DL 56 of 31 May 45;
 - (v) who by final judgment under Art 22 of DL 159 of 27 Jul 44 has

The undermentioned are hereby disqualified from holding the office of director or manager or receiver of a company limited by shares or whose responsibilities are limited in any other way, which has a capital of more than 5 million lire, or of an insurance company having a nominal capital or assets exceeding 1 billion lire:

a) any person who has been convicted for any of the offences referred to in the second part of Art. 159 of 27 July 1944 notwithstanding that the sentence (which may have been imposed upon him in respect of such offence) does not include exclusion from public office;

b) any person who has suffered confiscation under Art 9 of Dec. 159 aforesaid;

c) any person who has been subjected to any of the sanctions contained in the first para of Art 1, or the first or second para of Art 2 of Dec. 159 of 26 Apr 45;

d) any person who

- (i) has been deprived of the right to vote as having held one of the fascist offices mentioned in the decree of the President of the Council of Ministers dated the 2 Feb 45 and published in the Official Gazette No 20 of 15 Feb 45, or who
- (ii) has been a member of the fascist government after 3 Jan 45, or having been a militant member of the fascist party subsequent to that date, has held the office of deputy or national councillor, or being a senator has been removed from office under the last para of Art 8 of Dec. 159 of 27 Jul 44; or
- (iii) has suffered forfeiture of profits derived from the regime under Dec. 364 of 30 May 45;

e) any person who by final judgement under Art 22 of Dec. 159 of 27 Jul 44 has been deprived of his right to pension;

f) any person within any of the above description who at the date of this decree was in force in an office as a director manager or receiver is hereby relieved from such office of appointment.

2. No contract for public works and no public utility concession shall be granted to any company not within the provisions of Art 1 hereof nor to any private concern whose directors or owners are within any of the descriptions contained in Art 1 hereof. Contracts already in existence shall remain valid for a period of one year from the date of publication of this decree.

RELIEF FROM OBLIGATIONS

3. provided however that persons within the descriptions contained in subpara (d) of Art 1 who distinguished themselves in the fight against the Germans or, before the outbreak of the present war, took an open stand against fascism and acted to belong to the national fascist party may be relieved from such disqualification.

Such relief against which there shall be no appeal may be granted on the request of the persons concerned. The Commission to hear such requests shall be appointed by the Council of Ministers and constituted as follows:

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- a) the High Commissioner for sanctions against fascists or a person appointed by him;
- b) two citizens of acknowledged probity and of sound anti-fascist record so named (respectively) by employers and workers organizations. Two substitute members may be appointed on the nominations of the said organizations.

The Commission may in suitable cases limit the disqualification referred to in Art 1 to a definite period of time.

Such relief may also be granted by the Commission in cases involving only slight political activity or in the case of persons who are of acknowledged technical and administrative ability or who have shown substantial and effective opposition to fascism or to the German invader during the occupation.

Directors and owners of companies and concerns referred to in Art 2, who are within the description of subpara (d) of Art 1 hereof may apply for relief under this Art, for the purpose of excluding or limiting the sanctions contained in Art 2 hereof.

PENALTIES

4 Directors, Managers or Receivers of companies to which Art 1 applies, who are within any of the descriptions contained therein, who continue to exercise the functions of their office, shall be liable to one year's imprisonment and a fine of one hundred thousand lire. Persons within the above mentioned descriptions who (hereafter) take up a position referred to in Art 1 shall be liable to the same punishment.

The manager of any company who is aware of the fact that any person disqualified under Art 1 hereof continues to exercise in any such company the functions of his office and fails to notify the president or the tribunal which has jurisdiction over the district in question of such illegality, shall be liable to six months imprisonment and a fine of fifty thousand lire. A manager who, being aware that a person appointed director, manager or receiver of a company after this decree comes into force is disqualified under Art 1 hereof, fails to report such illegality to the tribunal having jurisdiction, shall be liable to the same punishment.

Directors or owners of companies or concerns within Art 2 hereof who are within the description contained in Art 1, who nevertheless enter into contracts for public works or receive concessions of public utilities, shall be liable to the penalties laid down in the first paragraph (hereof).

ADMINISTRATION

5 Within thirty days from the coming into force of this decree every company within the provisions of Art 1 hereof shall file at the Chancery of the Tribunal having jurisdiction a declaration containing the names of their directors, managers or receivers who have ceased to act as such under the provisions of para 2 of the said Art and shall serve notice of the said declaration on the person concerned by the present letter.

On the expiration of such period the High Commissioner for sanctions against fascists may issue a decree removing from office any director, manager or receiver.

plied under Art 4 hereof continues to exercise jurisdiction which has jurisdiction of his office and fails to notify the president of the tribunal which has jurisdiction over the district in question of such illegality, shall be liable to a fine of fifty thousand lire. A manager who, being aware of the illegality of the company, fails to report such illegality to the tribunal having jurisdiction, shall be liable to the same punishment.

Directors or owners of companies or companies within Art 2 hereof who are within the description contained in Art 1, who nevertheless enter into contracts for public works or receive concessions of public utilities, shall be liable to the penalties laid down in the first paragraph (hereof).

ADMINISTRATIVE

5. Within thirty days from the coming into force of this decree every company within the provisions of Art 1 hereof shall file at the Chancery of the Tribunal having jurisdiction a declaration containing the names of their directors, managers or receivers who have ceased to act as such under the provisions of para 2 of the said Art and shall serve notice of the said declaration on the persons concerned by the following letter.

Of the constitution of such period the High Commissioner for auctions against persons may issue a decree removing from office any director, manager or receiver whose name has not been reported under the preceding para as having vacated his office. Notice of the decree shall be served on the person concerned. For the above purpose, the High Commissioner may require any director, manager or receiver of any company within the provisions of Art 1 hereof to complete within a stated time a special questionnaire to show whether he is within any of the descriptions contained in the said Article.

Any person failing to complete and return such questionnaire within the said time limit or who makes a false or incomplete declaration shall be liable to the penalties prescribed for giving false or evasive testimony.

6. If the person concerned is of opinion that his removal has been unjustly ordered, he may within 10 days of receiving such notice appeal to the Tribunal referred under Art 3 hereof.

Decrees against which no appeal has been lodged within the prescribed time and decrees appealable against which have been rejected shall be transmitted to the Chancery of the Tribunal having jurisdiction.

LIABILITY OF MANAGERS TO STATE

7. Any person within the descriptions contained in Art 1 (hereof) who has been

deprived of his right to the position of director, manager or receiver in accordance with the preceding article, is hereby disqualified from holding the position of technical or administrative manager, departmental or office or office head, branch manager or any office in which he exercises powers delegated to him with respect to the companies in which he held any of the above mentioned positions or in any associated company which is within Art 1 hereof.

ARTICLE

- 8 Art 24 of the 159 of 1944 shall apply to the provisions of this decree.
- 9 This Decree shall come into force in the territories not restored to Italian Administration on such day as may be ordered by the Allied Military Government.

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DATE OF 4 APR 45

MEMORIAL OF DIRECTOR
AND
STATUTORY CONTINGENTS
OF
PRIVATE MEMBERS

1493

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

MEMORANDUM OF DECISION
AND
STATUTORY CONSTRUCTION
OF
BREVARD ESTATE

31 AUG 15 1964

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HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

MEMO

29 August 1945

TO : Chief Commissioner.

SUBJECT : Expunction of the Senate.

1. Under the Italian Constitution the two legislative assemblies are the Senate and the Chamber of Deputies. Of these, the members of the Senate are life members appointed by the King and the members of the Chamber of Deputies were, in pre-fascist days, elected for a 5 year term. (Statuto del Regno 1889, Arts. 33, 35 and 42).
2. Accordingly the Senate, as one of the principal elements of government, is an institution from which fascist personnel must be dismissed.
3. The present expunction decrees provide for the expunction of the Senate as follows:-

D.L. No. 159, Art. 8

As regards members of the legislative assemblies or other institutions who by their votes or actions contributed to the maintenance of the fascist regime and made war possible, they shall be dismissed from their office on decision of the High Court described in Art. 2, without prejudice to any of the other provisions set out in this Decree in so far as they may be applicable.

D.L. No. 194, Art. 8

The request of the High Commissioner to the High Court of Justice for the dismissal from office of members of the legislative assembly or of bodies and institutions who by their votes or actions contributed to the maintenance of the Fascist Regime and made war possible must be notified, through the Registry of the High Court, to each person interested with an invitation to present his arguments in defense within a fixed time which shall not be less than 15 days.

Within this time the persons interested may inspect the charges against them in the Registry.

Before giving a decision the High Court may make all necessary inquiries and may examine the person interested even if he has made no request for such examination.

Dismissal from office is decreed by an order issued in chambers.

4. The hearing of the High Court of Justice is held in secret. The accused may submit a written defense and may be called for examination if the High Court so desires. But he has no right of his own to be heard in evidence.

5. In general the High Court has always examined every Senator who has voted for the Fascist Government, however "passive" their votes have been. The decision of the Court has normally been very brief and has stated simply that X "supported Fascism and contributed in making war possible by his votes".

6. Up to a few days ago there were a certain number of Senators whose cases had not been examined, but it is believed that with the denunciation of the 77 Senators substantially the whole body will have been operated.

7. A small number of Senators has been examined and cleared. These Senators either consistently voted against Fascist laws or at least refused to vote for them.

8. The proceedings are purely for operation. They have nothing whatever to do with criminal charges. The content of the accusation and the decision are based solely on political considerations.

9. I know nothing of future "elective" appointments to the Senate, but as stated in para. 1 such procedure would be contrary to the existing Constitution.

W. E. WEBBERS,
Colonel,
Chief Legal Advisor.

4082/6

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HEADQUARTERS ALLIED COMMISSION
APC 39L
CIVIL AFFAIRS SECTION

EP/5.17/CA

11 AUG 45

SUBJECT : Defascism - Profits from the Regime.

TO : RCs Liguria, Lombardia, Piemonte, Venetie Regions.
(scale HQ (4) - POC (2))

- 1 Enclosed are copies of DL 36, which deals principally with the procedure for the recovery of "Profits from the Regime". The decree is not limited entirely to matters of procedure for it also adds to the classes of those liable to suffer forfeiture under DL 159.
- 2 While AIB is not concerned with the detail of the work of recovery of profits the contents of the decree are of interest to Legal, Finance and Expiration Officers as a person suffering a forfeiture may for that reason suffer certain other civil disabilities.
- 3 Finance Officers are also more particularly concerned as it is the responsibility of Intendenti di Finanza to "prosecute" forfeiture cases and for this reason they should be aware of the proper procedure to be followed.

BY COMMAND OF THE CHIEF COMMISSIONER :

[Handwritten Signature]

R. UPJOHN Brig,
VP CA Section.

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Copy for SDAO Venezia Giulia (4)
Finance S/C (20)

LEGAL SUB-COMMISSION	
CLO	
DCLO	
Chief Counsel	
CIO	
Italian Liaison	A ←
CL RKS	
13 AUG 1945	

6 copies

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ITALY TO PERMITTING

Workshops of Fascist Profits

The Italian version of this decree is the only authoritative text. This version is not a literal translation; its object is to inform officers conversant with the provisions contained in the decree. Officers are referred to the Italian text for all points of detail or matters of procedure or dispute. Words in brackets are explanatory and not in the original text.

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ITALY TO PERMITTING

1 The provision of art 9 of this law of 27 July 44, remaining in force, the property of those persons who have been convicted for any of the crimes set out in art 2 of the said decree shall be forfeited to the State.

The property of those persons who have been convicted for any of the crimes referred to in the 1st and 2nd paras of Art 3 and Art 5 of the said decree, shall be forfeited wholly or in part according to the gravity of the case and to the extenuating circumstances referred to in the 1st and 3rd paras of Art 7 of the foregoing decree.

Any such forfeiture shall be ordered by the Court which pronounced the sentence.

In the case of a sentence pronounced before this decree came into force,

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Reversion
 Prerogative
 Administration
 Acquisition of Assets
 Effect on other proceedings
 Final Minutes
 Miscellaneous

" 40
 " 41-42
 " 43-45
 " 46-48
 " 49-50
 " 51-54

LIABILITY TO SEIZURES

1 The provisions of art 9 of Decree 159 of 27 July 44, remaining in force, the property of those persons who have been convicted for any of the crimes set out in art 2 of the said decree shall be forfeited to the State.

The property of those persons who have been convicted for any of the crimes referred to in the 1st and 2nd paras of art 3 and art 5 of the said decree, shall be forfeited wholly or in part according to the gravity of the crime and to the extenuating circumstances referred to in the 1st and 2nd paras of art 7 of the aforesaid decree.

1.5

Any such forfeiture shall be ordered by the Court which pronounced the sentence.

In the case of a sentence pronounced before this decree came into force, the forfeiture may on the request of the High Commissioner for Sanctions against Fascism be ordered by the Court which pronounced sentence.

In the case of any penal proceeding becoming extinct, the forfeiture shall, upon the request of the High Commissioner for Sanctions against Fascism, be ordered by the penal Tribunal of the place in which the greater part of the property liable to forfeiture is located. The Tribunal shall act, after having cited the heirs; the latter may be assisted by an attorney. Judgment shall be in the form of an order of a Judge in chambers and be subject to appeal to Cassation. Appeals shall be heard by the section of the Supreme Court of Cassation referred to in art 6 of Decree 159 of 27 July 1944.

2 Without prejudice to the provisions of art 9 of Decree 159 of 27 July 1944, and of para 2 of the preceding art, all profits arising since 8 September 1943 from contracts, sales to or by other transactions with the Germans whether directly or through third parties are forfeited to the State.

Any transaction in which the contracting party has or had good reason for believing that the benefit of the contract would be received by the Germans is included in the description "transactions through third parties".

3 All increases of property acquired since 3 Jan 1925 by any person who has held any of the offices mentioned below are forfeited to the State;

- a) Member of the Grand Council of Fascists;
- b) Member of the Fascist Government;
- c) Secretary, Vice Secretary or Member of the Fascist National Directorate;
- d) President, Public Prosecutor or member of the Special Tribunal for the Defense of the State;
- e) Commanding General or Colonel of the Volunteers' Militia for National Security in permanent service, except those acting as assistants or belonging to special militias;
- f) Official or inferior of ONIA;
- g) Prefect or Justice appointed for party reasons;
- h) Head of a diplomatic mission or a colonial Governor appointed for party reasons;
- i) Federal Secretary of the Fascist Party;
- l) Fascist deputy who after 3 January 1925 has kept his registration in the Fascist Party or has registered therein during his appointment or after such date has voted for Fascist laws;
- m) National Councillors;
- n) Senator appointed after 3 January 1925 who has been reserved under art 8 of the 1925 law;
- o) President of Fascist Confederations.

Whenever any of the circumstances in favour of any of the above mentioned persons or of their heirs which are mentioned in the first and third paragraphs of art 7 of DPL 159 of 27 July 1944 exist, the evidence as to the executing circumstances referred to in art 7 of this decree may be given in respect of the said person or, within the limits of the rights respectively acquired, for his heirs.

The benefit of the provisions of art 7 hereof may, on the proposal of the special Section of the Provincial Commission for direct taxes, be allowed by the special Section of the Central Commission for direct taxes to those accused referred to in sub-para (g) to (o) above if, because of the little importance of their political activity or because they have been acquitted by the Special Commission or by other bodies for reactions against Fascism, they are found to be deserving. In such a case the special Section of the Central Commission for direct taxes shall transmit the reports for the hearing to the special Section of the Provincial Commission having jurisdiction.

An increase of property acquired since 3 January 1925 by any person mentioned below shall, unless the exonerating circumstances referred to in art 7 exist, be presumed to be profits derived from the regime;

- a) Members of the Italian Academy;
- b) The holder of any office mentioned in the decree of the President of the Council of Ministers dated 2 Feb 45 and published in the Gazzetta Ufficiale of 10 Feb 45, no 20 who is not included in the preceding article;
- c) Any person having charge of secret funds of the State with no obligation to account for the same;
- d) Any person who after 3 January 1925 has directed or substantially supervised the propaganda of his own or of others, the propaganda or

circumstances referred to in art 7 of this law, for his said person or, within the limits of the rights respectively acquired, for his heirs.

The benefit of the provisions of art 7 hereof may, on the proposal of the special section of the Provincial Commission for direct taxes, be allowed by the special section of the Central Commission for direct taxes to those persons referred to in sub-para (E) to (G) above if, because of the little importance of their political activity or because they have been acquitted by the Special Commission or by other bodies for reactions against Fascism, they are found to be deserving. In such a case the special section of the Central Commission for direct taxes shall grant it as before for the hearing jurisdiction, to the special section of the provincial Commission having jurisdiction.

- 4. An increase of property acquired since 3 January 1925 by any person mentioned below shall, unless the exonerating circumstances referred to in art 7 exist, be presumed to be profits derived from the regime:
 - a) Members of the Italian Academy;
 - b) The holder of any office mentioned in the Decree of the President of the Council of Ministers dated 2 Feb 45 and published in the Gazzetta Ufficiale of 15 Feb 45, to 20 who is not included in the preceding article;
 - c) Any person having charge of secret funds of the State with no obligation to account for the same;
 - d) Any person who after 3 January 1925 has directed or substantially supervised, whether by funds of his own or of others, the propaganda or political activity of the Fascist party;
 - e) Holders of provincial capitals and Provisi of Provinces.

- 5. In the absence of proof of any circumstances referred to in art 7, increases of property acquired since 3 Jan 1925 shall be presumed to be profits derived from the regime if they have been acquired by any person who, by holding political offices or by taking advantage of the work of professional advisers or brokers having influential positions in the political field, or by maintaining business relations or connections with fascist figures, or by taking advantage of realizations introduced by fascism, has acquired for himself, for relatives or companies in which he is interested contracts, supplies or concessions from the State, from provinces, counties or from State-controlled or supervised bodies and also such increases of property acquired by solicitors or agents who have acted for businesses in any such negotiations.

- 6. Increases of property acquired since 3 Jan 1925 by the following persons shall, in the absence of proof of the circumstances referred to in art 7, be presumed to be derived from the regime:
 - a) Husbands or descendants, the husband or wife of any of the persons indicated in the preceding articles or anyone who has had relations of cohabitation with any of the said persons;

6) Juridical persons and minor-graded bodies which have been associated or have had common interests with any of the persons indicated in (a) or (c) or in the preceding articles. The presumption shall be limited to the incomes acquired as the result of such association or co-interest;

c) by private juridical persons and by unincorporated bodies when within of whose shares or interests belonged on 31 Dec 1942 to any of the persons indicated in (a) and (b) of this paragraph or in the preceding articles.

7) Where it is conclusively proved that the office, the business relations, the activities or the investments referred to in the articles 4, 5 and 6 have had any influence, or only a partial one, on the acquisition of such incomes, the forfeiture of incomes of property referred to in such articles shall not be ordered or shall be ordered only to such partial extent.

Whenever the property in question exceeds the normal rate of increase to such an extent as to constitute evidence in itself of participation in the unproductive activities introduced during the fascist period, the evidence in question referred to in the preceding paragraph shall not be admitted and the incomes in excess of normal shall be forfeited.

8) Profits derived from fascist political activities or from a position acquired in the fascist regime, as well as those profits acquired through the activities of any party leader by any person other than those included in the categories referred to in the preceding articles shall be forfeited to the State.

9) In the case of the death of any person liable to a proceeding for forfeiture the proceeding shall be initiated or continued against his heir in his name and in which it would have been initiated or continued against his predecessor and with the same provisions and obligations due to the estate.

Of the predecessor's profits declared forfeited, the heir shall answer within the limits of the property received through his succession.

ARTICLE 10

10) In ordering any contribution or forfeiture in accordance with the preceding articles, the court of the Special Section of the Provincial and Central Commissions of taxes may except certain property or assign an allowance in the form of alimony to the person concerned or to the person who, in accordance with arts 433 and following of the Civil Code he is or was obliged to support.

ARTICLE 11

11) For the purpose of determining the amount of the profits derived from the regime the President of the Special Section of the Provincial Commission may on his own initiative or on the request of the High Commissioner or of the "Gonfaloniere del Comune", order any person believed to be within the provisions of Arts 4, 5, 6, and 8 or his heirs to report within 30 days:-

- a) the property owned on 31 Jan 1925 or on such date when he received the assignment or when the conditions referred to in the said articles arose;
- b) the property held in the name of a third person on 31 Dec 1942 and on the date of the coming into force of this decree;
- c) the property which during the period commencing from the date referred to in (a) above and ending on the date on which this decree comes into force at (a) above and from the estate of any person the estate of the person concerned

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and with the same character and obligations that are the basis of his predecessor's profits declared forfeited, the heir shall receive within the limits of the property received through his succession.

ARTICLE 32. G. HEIRSHIP

10 In order to ensure the publication or forfeiture in accordance with the preceding articles, the court of the Special Section of the Provincial Commission may, on application of heirs, may except certain property or assign an allowance in the form of alimony to the person concerned or to the person who, in accordance with Art 433 and following of the Civil Code he is or was obliged to support.

REVENUES

11 For the purposes of determining the amount of the profits derived from the goods the President of the Special Section of the Provincial Commission may, on his own initiative or on the request of the High Commissioner or of the "Intendant de la Succession", order any person believed to be within the provisions of Arts 44, 45, 46, and 6 of his heirs to report within 30 days:-
a) the property owned on 3 Jan 1925 or on such date when he received the report;
b) the property held in the name of a third person on 31 Dec 1912 and on the date of its coming into force of this decree;
c) the property which during the period commencing from the date referred to at (a) above and ending on the date on which this decree comes into force have been acquired by or disposed of from the estate of the person concerned or of such persons, specifying the origin or destination of such items of property and a statement of the value of the property on the date it was so acquired or disposed of.

All persons who on the date of publication of this decree are included within the provisions of Arts 3 and 4 shall submit the report referred to in the preceding paragraph within 30 days after the coming into force of this decree. This shall not apply to heirs.

The report shall be submitted in accordance with the procedure laid down by Art 24 for the lodging of objections.

12 Without prejudice to the penal proceeding contemplated by Art 36, para 3 of Art 133 of 27 July 1912, any person failing to submit the report referred to in the preceding article or submitting the same out of time or omitting therein any property covered by his or making any false statement as to the origin or destination of any such property shall be liable to a fine equal to

1/10 of the total assessed increase.

When the proposal for assessment of the Special Section of the Provincial Commission of Taxation is accepted without appeal, any fine for an omitted, late or false report shall be excused.

Notwithstanding the provisions of the preceding paragraphs, where the failure to report concerns property owned during the 5-years period prior to 25 Jul 1943, a fine equal to their full value shall be paid.

13 Any person holding any property belonging to any person referred to in Arts 3 and 4 shall within 60 days of the date on which this decree comes into force report in accordance with the Intendencia di Pinarua in whose district he resides.

Without prejudice to the penal proceeding contemplated by Art 3, para 3 of Decree 158 of 27 July 44, any person who fails to submit the report referred to in the preceding paragraph shall, unless he shows that he was reasonably prevented or that he was unaware of the title of the person concerned, be liable to a fine equal to 1/10 the value of the property which he failed to report.

The provision of the preceding paragraph shall not apply to banks and Credit Institutes except in the case of such persons as may be named to them by the High Commission, the Intendencia of Pinarua or by the Special Section.

FINANCIAL ORDER

14 In making a proposal for assessment under art 3 of Decree 159 of 27 July 1944 the Special Section of the Provincial Commission may, whenever there is clear evidence that foreseeable profits exist, order the persons against whom the proposal is being made to pay on account an amount not exceeding 25% of the profits indicated in the proposal, without prejudice to the settling of the balance as determined by the final assessment.

The order for payment shall be enforceable.

ASSESSMENT

15 In computing increases of property there shall be included all property which became part, even if through a third party, of the estate of the person concerned after 3 Jun 1925 or, where applicable, after the more recent date on which the appointment was made or the conditions referred to in arts 2, 3, 4, 5, 6, and 8 arose. Property derived from the conversion of other property or from the investment of money pre-existing in the estate of the person concerned shall be included. Where property has been acquired by succession or gift from relatives or kin, the income as well as the capital resulting from the conversion of such assets shall be included, provided that the property in question was not derived from profits of a predecessor which are liable to forfeiture.

The increase determined in accordance with the preceding paragraph shall be augmented by 15% for the presumed possession of jewels, money and valuable movables.

16 The Special Section of the Provincial Commission may on its own initiative

the Special Section of the Provincial Commission may on its own initiative evidence that forfeitable profits exist, order the persons against whom the proposal is being made to pay on account an amount not exceeding 25% of the profits indicated in the proposal, without prejudice to the settling of the balance as determined by the final assessment.
The order for payment shall be enforceable.

ASSESSMENT

15 In computing the assessable profits of property there shall be included all property which became part, even if through a third person, of the estate of the person concerned after 3 Jan 1925 or, where applicable, after the more recent date on which the appointment was made or the conditions referred in arts 2, 3, 4, 5, 6, and 8 above. Property derived from the conversion of other property or from the liquidation of money pre-existing in the estate of the person concerned shall be excluded, where property has been acquired by succession or gift from relatives or kin, the income as well as the capital resulting from the conversion of such assets shall be excluded, provided that the property in question was not derived from profits of a predecessor which are liable to forfeiture.

The increase determined in accordance with the preceding paragraph shall be augmented by 15% for the presumed possession of jewels, money and valuable movables.

16 The Special Section of the Provincial Commission may on its own initiative or on the request of the Department of Finance order property part of the estate of the person concerned to be forfeited directly to the State, determining its value and deducting it from the total of the assessed profits subject to forfeiture.

BANKRUPTCY

17 Any person liable to forfeiture of profits derived from the regime shall be considered a trader for the purpose of a declaration of bankruptcy. Such a declaration may be made by the competent tribunal upon application of the *liquidante de finances* if the person concerned is in arrears in the payment of the assessed profits.

The date of the cessation of payments shall be that on which the arrears began.

ASSESSMENT COMMISSIONS

18 In addition to the Special Section of the Provincial Commission of Taxation one or more sub-sections, each provided over by the President of the Tribunal or by another Magistrate of equal or next lower grade, and composed of

four commissioners shall be appointed in accordance with art 36 of Decree 159 of July 1944, and be formed by decree of the Minister of Finance.

By the same decree the Minister shall appoint the assistants of such sections, upon nomination submitted by the Minister of Justice.

A number of substitute members equal to the regular members of the section shall be appointed by decree of the Minister of Finance.

In addition to the Special Section of the Central Commission of Taxation, one or more sub-sections may be formed by decree of the Minister of Finance whose presidents and members shall be appointed according to art 32 of Decree 159 of July 1944.

The Special Section of the Central Commission shall also have four substitute members to be appointed, in the manner prescribed by art 32 herein, of the same category as the regular members.

The President of the Special Section shall preside over the proceedings of the Section or the Sub-Section; if one or more of the Commissioners of the Section or the Sub-Section is unable to act, a Commissioner of a Sub-Section or of the Section respectively may be appointed by the President of the Special Section to act in their place.

The Special Section of the Provincial Commission shall have jurisdiction over all persons concerned in the Province in whose district the person concerned has resources to use for the payment of fascist profits, and if his resources are not known or if he is dead, the Section in whose district the person concerned has his last known residence shall have jurisdiction.

The Special Section of the Provincial Commission of Taxation shall have jurisdiction over all extra-judicial or incidental questions connected with the assessment and liquidation of profits derived from the regime. The decision on such questions shall not be effective in respect to third parties.

Questions involving false statements, civil status and capacity, other than as to being party in the proceedings are excluded from the jurisdiction of the Special Section.

If any of these last questions arises, the Special Section may, if it deems it relevant for the settlement of the dispute, order the proceedings to be suspended until such time as the competent Judge has given his decision, but without prejudice to the power of the Finance Department to promote or prosecute any particular case.

POWERS OF OFFICERS

The powers indicated in the first paragraph of Art 34 of Decree 159 of July 1944 are, for the purpose of ascertaining the property of persons and interests, granted also to the Intendant of Finance, who may exercise them also upon third parties.

In addition to the powers referred to in the first paragraph of the said Art 34, the Special Sections of the Provincial and Central Commissions may, either themselves or through the judicial police, enter and search houses including those of third parties but shall conduct such searches in accordance with the Code of penal procedure.

The same powers are for the purpose of requisition granted to the President of the Provincial and, after they have been formed, to the Presidents of Special Sections.

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assessment and liquidation of profits derived from the regime. The decision on such questions shall not be effective in respect to third parties. Questions involving false statements, civil status and capacity, other than as to being party in the proceeding or excluded from the jurisdiction of the Special Section.

If any of these last questions arise, the Special Section may, if it deems it relevant for the settlement of the dispute, order the proceedings to be suspended until such time as the competent judge has given his decision, but without prejudice to the power of the Finance Department to prosecute or prosecute any particular case.

POWERS OF OFFICERS

24 The powers indicated in the first paragraph of Art 34 of Decree 159 of 1973 and 1974 may, for the purposes of ascertaining the property of presumed heirs, be granted also to the Intendencia de Panama, who may examine them upon third parties.

In addition to the powers referred to in the first paragraph of the said Art 34, the Special Sections of the Provincial and Central Commissions may, either themselves or through the judicial police, enter and search houses including those of third parties but shall conduct such searches in accordance with the Code of penal procedure.

The same powers are for the purposes of suspension granted to the President of the Tribunal and, after they have been formed, to Presidents of Special Sections.

III.

22 The proceedings or litigations shall be notified by the Special Section of the Government Commission in the proposed assessment which shall be communicated by registered letter with return receipt to the High Commissioner and to the Intendencia of Finance of the place in which the said Section has its seat.

Any objection to the proposed assessment must be submitted within the 30 days which in the case of the Finance Department starts within the time limit of 30 days which in the case of the former shall run from the notification and in the case of the latter from receipt of the communication.

An objection shall be made by filing in the Secretariat of the Special Section the original and four copies in ordinary paper. The secretariat shall deliver an acknowledgment of the objection which shall be the only proof of the filing and of the date of filing.

If the Respondent has his residence or abode in a town other than that in which the competent Special Section has its seat, the objection may be filed with the Secretariat of the nearest Special Section, which shall issue the substantive receipt, acknowledging the date of filing and shall forward the objection

Immediately to the appropriate Section.

The objection must state all the objections and defenses against the report, indicate specifically how the news will be proved and, whenever this will be by documentary evidence, the documents relied upon must be filed in the Secretariat within 30 days from the date of the objection.

On the expiry of such period, the President shall issue a decree ordering the hearing and shall appoint the reporter.

Unless the Special Section considers it necessary in order to arrive at a decision new objections, new evidence and new documents shall not be admitted in the proceedings.

23

Notice of the decree fixing the date of the hearing shall be given, at least 30 days prior to the said hearing to the respondent and shall be communicated, by registered letter with return receipt, to the Intendente of Finance of the place in which the Special Section has its seat, to the High Commissioner and to the Government of the State when the latter is authorized to represent the Administration.

The Government as well as the Administration or, on its behalf, the Intendente dello Stato may, not more than twenty days prior to the hearing, file in the Secretariat of the Special Section supplementary notes accompanied by 5 copies on duty-free paper.

In the hearing, which shall be public, after the opening by the President or the Commissioner delegated by him and after submission of the evidence, the counsel for the Administration shall be heard first and then the respondent or his attorney or legal representative.

The Special Section may authorize its President or one of its members to hear the evidence and if the evidence is to be given outside the seat of the Section, another Section or an ordinary judge may be authorized to receive it.

24

The Special Section shall come to its decision in secret session and by majority vote immediately after the hearing, and shall take an order also as to costs.

The reasons for the decision shall be set out in summary form by the President or by a Commissioner appointed by him. The original of the decision, signed by the President and by the Secretary, shall be filed in the Secretariat of the Special Section which shall within twenty days from the filing date notify the respondent thereof by registered letter with return receipt, and to the High Commissioner, to the Intendente of Finance and, if the latter takes part in the proceedings, to the "Arcofium dello Stato".

25

The time limits of 30 and 60 days within which the Respondent, the Finance Department and the High Commissioner respectively may, under Art 32 of Dec. 159 of 27 July 1944, appeal to the Special Section of the Central Commission of taxation, shall begin respectively from the notice of the decision and from the receipt of the said decision in accordance with the provisions of the preceding article.

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his attorney or legal representative.

The special Section may authorize its president or one of its members to hear the evidence and if the evidence is to be given outside the walls of the Section, another Section or an ordinary judge may be authorized to receive it.

24 The Special Section shall come to its decision in secret session and by majority vote immediately after the hearing, and shall make an order also as to costs.

The reasons for the decision shall be set out in summary form by the President or by a Commissioner appointed by him. The original of the decision, signed by the President and by the Secretary, shall be filed in the Secretariat of the Special Section within twenty days from the filing date and to notify the respondent thereof by registered letter with return receipt, and to the High Commissioner, to the Intendants of Finance and, if the latter takes part in the proceedings, to the "Servicium dello Stato".

ARTICLE

25 The time limits of 30 and 60 days within which the Respondent, the Finance Department and the High Commissioner respectively may, under art 32 of Decree 159 of 27 July 1944, appeal to the Special Section of the General Commission of taxation, shall begin respectively from the notice of the decision and from the receipt of the said decision in accordance with the provisions of the preceding article.

26 The rules of articles 20 to 24 shall be applicable as regards the jurisdiction and the powers of the special Section of the Central Commission, the lodging of the appeal and the proceedings on appeal in general.

PROTECTION OF PROPERTY

27 The protective measures indicated in the following articles may be ordered, wherever the property (proposed to be) subjected to such measures is situated, by the President of the Special Section or the competent Provincial Commission under Art 18, either on his own initiative or upon the request of the High Commissioner or the Finance Department.

In urgent cases the measures may be ordered by the President of the Special Section, in whose district they are to be put into effect, either on his own initiative, or upon the request of the competent Special Section, of the High Commissioner or of the Finance Administration.

Before the Special Section is formed, the said measures may when required be ordered by the President of the Tribunal of the district in which the suspected proprietor has or had his last residence either on his own initiative

at upon the request of the High Commissioner or the Missouri Administration, or
discreetly by the President of the National in whose District the property
to be protected is located.

- a) technical Committee shall be constituted in the High Commission which
shall:
- e) decide whether the post office which the appropriate authority wishes to
adopt should be in the form of control or, if it appears necessary, by
sequestration and state in such case the procedure to be followed for
issuing out the method chosen and for administering the property subse-
quently to such measures;
- b) decide whether, instead of control or sequestration, a security should be
decided who that, instead of control or by lodging of security specialties
taken by registering a legal mortgage or by lodging of security specialties
in the first case the amount to be secured and the property to be secured
and, in the second, the amount and nature of the security and the time
limit within which the sum shall be provided;
- c) nominate the persons who are to receive or control the sequestered property,
allocating them, preferably, for real estate, from the institutions of land and
savings banks, for movable property, banks, banks and values, from the
bank of Italy, the bank specified by law as being of public importance,
the regional and peoples banks and the savings banks for business concerns
and industrial banks, from the Institute for Industrial Reconstruction and
the bodies and companies controlled by the "Demanda Mobiliare";
- d) direct, supervise and control the activity of the receivers or controllers,
examine and approve the accounts and reports which they may make to it
periodically;
- e) pay sums due to the receivers or controllers as reimbursement of expenses;
orders as to which shall not be open to challenge through either judicial
or administrative channels;

29 The Committee shall be presided over by the High Commissioner or a delegate
of the Minister of Finance; two of the members shall belong to the Ministry of
Finance, one shall be nominated by the Minister of the Treasury and the other
particular knowledge of commerce, agriculture, industry and commerce.
The Committee shall have a secretary, an accounting officer and a techni-
cal officer with not more than twenty employees altogether, temporarily released
from the civil service. It shall have also a body of ten inspectors to be
chosen from teachers, industrialists, chemists, accountants, surveyors and other
experts employed temporarily during the period of the sequestration or in the
released by them.

The Civil Servants shall be released according to the proceed-
other officers or appointed inspectors shall be released in payment of their salaries shall
one of the "Corrado" and the money expended in payment of their salaries of these
one of the "Corrado" and the money expended in payment of their salaries of these

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personally;
e) pay sums due to the taxpayers or controllers as reimbursement of expenses;
orders as to which shall not be open to challenge through either judicial
or administrative channels.

29 The Committee shall be presided over by the High Commissioner or a delegate
chosen by him and shall be composed of six members to be appointed by decree
of the Minister of Finance; one of the members shall belong to the Ministry of
Finance, one shall be nominated by the Minister of the Treasury and the other
four shall be selected from persons who are either Civil Servants or have a
particular knowledge of economics, agriculture, industry and commerce.
The Committee shall have a secretary, an accounting officer and a techni-
cal officer with not more than twenty employes altogether, temporarily released
from the civil service. It shall have also a body of ten inspectors to be
chosen from engineers, industrialists, chemists, accountants, surveyors and other
experts employed temporarily during persons not belonging to the civil service.
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The Civil Servants serving on the Committee, or the Secretary or on the
other officers or appointed inspectors shall be released according to the proce-
dure of the "seconded" and the money expended in payment of their salaries shall
be reimbursed to the departments to which they belong. The salaries of these
persons who do not belong to the civil service and who are serving on the Com-
mittee or are appointed inspectors shall be fixed by decree of the Minister for
Finance, in agreement with the Minister of the Treasury.
For the execution of its tasks the Committee may call upon the legal, the
technical-accountant and police agencies of the State.

30 An authority empowered to institute or order protective measures shall,
before asking for its execution, report its proposals to the Committee and
carry out the instructions of that body as provided by art. 28.

In case of any such authority may order acquisition; any such
protective measure shall be changed for such other form of protection as the
Committee may determine; or, if the Committee approves of the acquisition, the
trustee may be replaced by such person as may be designated for such office by
the Committee.

As regards acquisition effected prior to the coming into force of this
Decree the Technical Committee, having considered the report of the authority
which proposed or effected the acquisition, shall decide upon the questions
referred to in sub-paragraphs b and d of art 28 and instruct the said authority
to carry out such decision.

31 In ordering a protective measure, the authority having jurisdiction under
art 27 may remove from office the Commissioners previously entrusted with the
administration of certain property or groups of property.
As regards acquisition already in effect the removal of the Commissioners

shall be carried out by the afore-said authority within 30 days from the coming into force of this decree.

The authority empowered under art 27 may order the protective measures referred to in sub-paragraphs a and b of art 28 to be taken in respect of real estate and movable property and, when it appears necessary, over concerns and other property in general belonging to any person referred to in arts 2, 3, 4, 5, 6 and 9 or to his heirs as well to:

- a) divided inheritances;
- b) legacies, success and other persons in whose favour any disposition referred to in art 29 of the 1939 of 27 (al) had been effected if the guarantee provided from the mortgaged realty and of his heirs is found to be insufficient.

SEQUESTERATION

33. A sequestration shall be carried out as laid down in arts 678 and 679 c.p.c. (code of civil procedure).

Arts 674, 675, 680 c.p.c. shall not be applied even if the sequestration is ordered "in rem". The property specified in art 520 c.p.c. shall be kept in such custody as the Technical Committee may decide.

Books, registers, documents, medals, samples and anything else from which evidence as to the origin of the profits may be obtained, may also be sequestered.

The sequestration of shares shall generally consist of possession of the shares and a notice thereof shall be served on the legal representative of the company leaving the shares.

It may also be executed by means of a garnishee notice to the legal representative of the company in which case the latter will call in the sequestered shares and within 30 days from the said notice, supply the authority ordering the sequestration with particulars of the shares not returned to it.

Reports from the right to propose the amortization of such shares, the said authority shall have the power to demand from the company in the place of the shares themselves fresh certificates in the name of the trustee which shall enable the latter to exercise the rights referred to in the following articles.

The transfer of any shares shall be void after this decree comes into force if at the time it was made a notice of sequestration of the share (proposed to be transferred) had been served on the company.

The rules of the preceding paragraphs shall so far as they are appropriate apply in respect of rights in concerns not covered by shares.

The trustee shall be entitled to vote as to ordinary administrative matters shall exercise such power in accordance with the directions he may receive from the Technical Committee.

The right to vote as to extraordinary administrative matters shall remain in the person whose property has been sequestered; the trustee is authorized by the Technical Committee, may contest the resolution in question, if the said vote

The acquisition of shares shall be subject to the legal representative of the company and notice thereof shall be served on the legal representative of the company...

It may also be required by means of a resolution of the board of directors of the company in which case the latter will call in the requested shares and within 30 days from the said notice, supply the authority ordering the acquisition with particulars of the shares not returned to it.

Notwithstanding the right to propose the acquisition of such shares, the said authority shall have the power to demand from the company in the place of the shares themselves such consideration as the board of directors shall determine. The latter is authorized to validly offer this consideration in full or by instalments if any shares shall be validly offered to the board of directors...

34) The trustee shall be entitled to vote as to ordinary administrative matters as shall be determined in accordance with the directions he may receive from the Technical Committee.

35) The trustee shall be entitled to vote as to extraordinary matters shall be determined in the person whose property has been sequestrated; the trustee is authorized by the Technical Committee, may contact the population in question, in the same way provided the prescribed majority.

36) The trustee shall also have the power to exercise in his place all the administrative rights.

37) Upon the application of the President the Technical Committee may authorize the trustee to exercise the right of redemption, to exercise options, to pay calls in respect of any shares, using for this purpose the available funds of the sequestrated property.

38) Sequestration against third parties may be effected under the same rules as the direct sequestration against the debtor, following notification to the third party of the assignment order, but without observing the other rules prescribed by art 343 and subsequent articles of the Code of Civil Procedure.

39) The sequestration shall remain in force until the Special Section pronounces their final decision.

40) The authority referred to in art 27 shall have jurisdiction to decide questions which arise during the execution of the protective measures.

The power of the Commission has been exercised may apply for its revocation, reduction or change to another form of guarantee. Such applications shall be addressed to the authority which ordered the concentration, which shall announce a decision after consulting the Technical Committee.

The authority may, on its own initiative, after consulting the Technical Committee, revoke, reduce or change the request to another form of guarantee.

After the Special Section has been formed, however, only its president shall have the power to order, after hearing the Technical Committee, the revocation, reduction or change of the concentration previously ordered by the president of the tribunal.

PRIORITY

40 a debt to the State in respect of profits derived from the register shall have general priority over all movable and real property of the debtor. As to movable property it shall have priority over the debts indicated in NO 15 of art 2778 c.c. and as to real property, over the debts indicated in No 5 of art 2780 c.c.

Debts guaranteed by mortgage before 25 July 1943 and back debts resulting from documents of certain date prior to 25 Jul 1943 shall be preferred to the State credit.

DELIBERATION

41 In the special section of the provincial Commissions and in the special Section of the Central Commission there shall be a secretariat composed of one or more secretaries and a suitable number of employees for filing, copying and serving deeds.

The secretaries shall be present at public hearings, shall help the president and the commissioners to obtain evidence, shall take part in enquiries, searches and inspections and shall sign, together with those who make them, decisions, draw and certify copies thereof as they shall for any other deed, and in general they shall discharge all the duties which are entrusted by law to the clerks of an ordinary judge.

One or more officers or non-commissioned officers of the judicial police and one or more technical and accountancy experts may also be attached to every special Section of the provincial Commission and to the special Section of the Central Commission.

The personnel indicated in the preceding paragraphs, if already regularly employed by the State, provincial or communal administration, will be transferred to the Commission, as 'attached personnel'.

The Minister of Finance, in agreement with the Minister of the Treasury, shall by decree fix the maximum number of persons belonging to the State Departments and of attached personnel.

Expenditure in the payment of salaries of attached personnel shall be reimbursed to the departments to which the said personnel belongs.

The Minister of Finance shall also be authorized to employ temporary personnel up to a maximum to be fixed by decree, in conjunction with the Minister of the Treasury.

... administration shall be

Section of the General Commission there shall be a secretariat composed of one or more secretaries and a suitable number of employees for filing, copying and serving deeds.

The secretaries shall be present at public hearings, shall help the president and the commissioners to obtain a final decision, shall take part in enquiries, searches and investigations and shall sign, together with those who make them, decisions, laws and certify copies thereof as they shall for any other deed, and in general they shall discharge all the duties which are entrusted by law to the secretaries of an ordinary judge.

One or more experts or non-commissioned officers of the judicial police and one or more technical and no-ontology experts may also be attached to every special section of the Provincial Commission and to the special section created by law.

The personnel indicated in the preceding paragraphs, if already regularly employed by the State, provincial or communal Administration, will be transferred to the Commissions, as attached personnel.

The Minister of Finance, in agreement with the Minister of the Treasury, shall by decree fix the maximum number of persons belonging to the State Department and of attached personnel.

Money expended in the payment of salaries of attached personnel shall be reimbursed to the departments to which the said personnel belong.

The Minister for Finance shall also be authorized to employ temporary personnel up to a maximum to be fixed by decree, in conjunction with the Minister of the Treasury.

The costs, fees and charges for carrying out a requisition shall be advanced by the Finance Department and reimbursed by the Department.

If the Commission upon the request of the Independent Assessor further investigations or reports further estimates or collections further evidence, the Assessor, if the section so orders, will advance the estimated cost thereof without prejudice to the payment of any balance, and will deposit such advance within the time limit to be fixed in each case.

An account shall be kept, in an appropriate book, of any other expenses, and stamp duties on behalf of the Commission as well as the costs for the preparation of the case, as in law with laws for actions, copies and such; such account shall be kept in the secretariat of the Special Section which, at the conclusion of the proceedings, shall provide for their recovery by the procedure for the liquidation and collection of expenses and judicial taxes entered as debts, from the respondent if contributions are ordered, or, jointly, from every other person who took part in the proceeding whose application was rejected.

Administrative Provisions

- 43. The bid amount of purchase may, either on his own initiative or on application of the bidder, or on that the payment of purchase profits be made directly to the treasury.
 - When the bidder does not pay the amount on the appointed day, the interests of the State shall be transferred to the proper tax-collector to collect together with the charges for arrears and collection. The State shall be entitled to retain the charges for arrears. The rules and the privileges established for the collection of the tax in other profits shall apply to the collection of interest profits by the collector of taxes but without responsibility for the uncollected amounts.
 - The number of shares shall be determined by the percentage to be paid to the collectors.
- 44. Auction of immovable property shall be by single auction and the price shall be the value given to each item of property as decided by the Commission. If the value does not exceed five thousand pesos, the Commission shall be authorized under the 25 and 29 shall fix the sum for each item of property.
 - If the single auction is abortive, the property shall be forfeited to the State.
 - As regards movable property, the rule set out in the first paragraph regarding the reserve shall apply and the law auction, in accordance with art. 33 of the Law on tax collection and subsequent amendments, shall be authorized by the Commission of Finance, who shall have the power to order the forfeiture to the State of any property under.
 - In any kind of auction the State shall have in each case a right of pre-emption on the property submitted in auction at the price reached in the bidding.
 - Such a right must be exercised strictly within a period of 30 days following the acceptance of the bid, by an application to be filed in the proper judicial authority.
 - In the case of shares, bonds and other rights, the right of pre-emption may be exercised under the executive procedure of course; in the case of shares, in the basis of the stock exchange value or, in the absence of such value, on the basis of a value fixed by exchange brokers; as regards other rights on the basis of the value to be determined by the Chamber of Commerce.
- 45. Acts performed to fulfill a legal obligation or for the public advantage shall be deemed not to be a transaction set within the meaning of para 1 of art 28 of Dec 199 of 27 July 44.
 - Payment of certain tax liquid debts not contracted to increase artificially the debtor's liabilities shall not be included within the acts referred to in para 2 of the same article.
 - Other transactions shall be void, in accordance with the first part of the same article, if it is shown that the owner of the property, which was formerly owned by the person whose profits were forfeited, knew or was in a position to know, at the time it acquired the ownership of the said property, that such

11. of the laws on the collection and subsequent expenditures, shall be authorized by the Intendente of Finance, who shall have the power to order the forfeiture to the State of any property used.

In any final auction the State shall have in each case a right of pre-emption in the property submitted on auction at the price reached in the bidding.

Such a right may be exercised strictly within a period of 30 days following the acceptance of the bid, by an application to be filed in the proper judicial circuit.

In the case of shares, bonds and other rights, the right of pre-emption may be exercised before the executive primary Government in the case of shares, on the basis of the stock exchange value or, in the absence of such value, on the basis of a value fixed by exchange brokers; in regards other rights on the basis of the value to be determined by the chamber of commerce.

45. Lots purchased by public or mixed collection or for the public advantage shall be deemed not to be a purchase but within the meaning of para. 1 of art 29 of Decree 130 of 27 July 61.

Payment of certain or limited debts not contracted to increase artificially the debtor's liabilities shall not be included within the acts referred to in para 2 of the same article.

Other dispositions shall be void, in accordance with the first part of the said article, if it is shown that the owner of the property, which was formerly owned by the person whose credits were forfeited, knew or was in a position to know, at the time he acquired the ownership of the said property, that among his predecessors there was such a person and that he had acquired the same assets.

The Finance Department shall institute proceedings for a declaration that such dispositions are void, before a competent judge according to the ordinary rules, against the debtor and the person in whose favour the debtor made the donation or acquisition.

The application for such a declaration may be registered, the action shall be commenced after the lapse of two years following the day on which a decision for the forfeiture became irrevocable.

ARTICLE ON OTHER PROVISIONS

46. Within six months from the day on which this decree comes into force the Special Sections of the Provincial Commissions shall draw up and communicate to the High Commission a list of persons who have been or are to be subjected to an order for forfeiture under articles 2, 3, 4, 5, 6, 8, and 9.

The High Commission, within the following month, shall prepare the publication of such lists in the Gazette Official and the filing of such lists with the offices of the real estate public register, of the public automobile register, public ship register, public notarial register, as well as with the stock exchanges.

Upon the filing of such lists, an action to set aside a disposition under the preceding article, shall not be initiated with regard to dispositions subsequently made if the name of the transferor or his predecessor in title is not included in the said lists.

After the time limit for assessment contemplated in art 49 has expired as after the readings for forfeiture or after the claims of the State have been satisfied, the High Commissioner shall issue a declaration, published and filed in the manner prescribed in para 2 above, removing from the list referred to in para 1 the names of those persons in respect of whom the reason for inclusion in the said list has ceased.

The High Commissioner, after consulting the Technical Commission, shall have the power to authorize at any time persons included in the lists to alienate specific property, laying down, if necessary, special conditions for safeguarding the State claims.

47 Upon the application of the High Commissioner, of the Finance Department or of the President of the Special Section, the competent judge shall order the suspension or any execution or bankruptcy procedure pending or undertaken against any person respondent to a proceeding for assessment of profit or against whom protective measures are being taken or were taken until a decision on such proceedings has been reached.

48 On application of the trustee or of any interested person and following the authorization of the Technical Committee, the payment of debts having priority over the State debts in accordance with the first paragraph of Article 40, may be allowed together with those contemplated by the second paragraph of the same Article and of others the payment of which is considered to be obviously useful for the Administration and conservation of the sequestered property.

TIME LIMITS

49 Action by the State for the assessment of profits derived from the regime shall be extinguished two years after the coming into force of this decree.

Any notice for a proposed for assessment suspends this period which shall not run during any proceeding before a Special Section of the Commissions of taxation.

50 A debt to the State on account of profits derived from the regime shall cease after a period of five years from the date in which the assessment becomes irrevocable.

This term shall be suspended by service of a demand for payment or receipt by the Treasury of a payment order.

MISCELLANEOUS

51 The expenses necessary for the operation of the Technical Committee referred to in Article 26, and of the Special Sections of the Commissions of taxation are to be charged to the account of the Ministry of Finance.

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over the State and these contemplated by the law shall be allowed together with those contemplated to be obviously useful Article and of others the payment of which is considered to be obviously useful for the administration and conservation of the sequestrated property.

TIME LIMITS

49 Action by the State for the assessment of profits derived from the regime shall be extinguished two years after the coming into force of this decree.

Any notice for a proposed for assessment suspends this period which shall not run during any proceeding before a Special Section of the Commissions of taxation. 120

50 A debt to the State on account of profits derived from the Regime shall cease after a period of five years from the date in which the assessment became irrevocable.

This term shall be suspended by service of a demand for payment or receipt by the Treasury of a payment order.

MISCELLANEOUS

51 The expenses necessary for the operation of the technical Committee referred to in article 23, and of the Special Sections of the Commissions of taxation are to be charged to the account of the Ministry of Finance.

The Ministry or the Treasury is empowered to order the necessary appropriations and makes the necessary changes.

52 Unless otherwise prescribed by the DL 159 of 27 July 1944 or by the present decree, the rules contained in DL 1632 of 7 August 1936 converted into Law No 1046 of 7 June 1937 and RD 1516 of 6 July 1938 and subsequent amendments shall apply.

53 All provisions contrary to or inconsistent with the present decree are hereby revoked.

54 The present decree shall become effective on the day after its publication in the Gazzetta Ufficiale. In the territories not yet restored to the Italian Administration, it shall become effective on the date of the restoration or on the date it comes into force by order of the Allied Military Government.

DL 264 OF 31 MAY 1949

PROSECUTION
OF
FASCIST FRONTIS

1520

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

NO. 11111

CA 1950

1521

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

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AC/4082/6/L.

9 July 1945.

SUBJECT : Dangerous fascists.
TO : The Minister of Pardon and Justice.

Your Prot. N. 8430/840 (Uff. Colleg.) of 6 July 1945 was passed to the Civil Affairs Section of this Commission.

G. C. HANNAFORD,
Lt. Col.,
Officer i/o Italian Branch,
for Chief Legal Advisor.

See 4082/12

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HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

109A

AC/4082/6/L.

ES/mt.
9 July 1945.SUBJECT : Dangerous fascists - Exclusion of DLL 149/1945 from
AMG territory.

TO : CA Sec.

Due to the fact that the above decree was excluded from AMG territory
at your request the enclosed communication of the Ministry of Justice
is passed to you for consideration.

Incl.

See 4082/12

G. C. HANNAPORD,
Lt. Col.,
Officer i/c Italian Branch,
for Chief Legal Adviser.

107A

4082/b Orlh

ALLIED MILITARY GOVERNMENT
OF OCCUPIED TERRITORY

GENERAL ORDER NO 35-B

REPEALING OF THE PROFESSIONS

WHEREAS it is desirable to amend certain former members of the Fascist Party from the members of their professions or callings

I, ELLERY WHEATON STONE, Rear Admiral, United States Naval Reserve, Chief Civil Affairs Officer, for and on behalf of the Supreme Allied Commander and Military Governor hereby order as follows:

ARTICLE I

Any person exercising such of the professions referred to in Article 23 of EMG 159 of 27 July 1944, as may be specified by order of the Regional Commander of the Allied Military Government shall be subject to proceedings under General Order No 35 of the Allied Military Government as modified by this Order and the provisions and principles of General Order No 35 shall apply by analogy to all such persons and proceedings.

ARTICLE II

For the purposes of this Order, Article IV, Section (c) of General Order No 35 shall be modified to read as follows:

Not later than 7 days after the ending of the operation of this Order the Keeper of the rolls in a Province of, or (as the case may be) the provincial authority exercising the provisions to which this Order applies or has been made applicable by order of the Regional Commander, shall, in accordance with Article I hereof, give notice to each member of the profession as may be specified by the Regional Commander that this Order has come into operation in that Province.

Provided that the omission to give such notice shall not afford a

ARTICLE I

any person exercising such of the professions referred to in Article 23 of DML 159 of 27 July 1944, as may be specified by order of the Regional Committee of the Allied Military Government shall be subject to proceedings under General Order No 35 of the Allied Military Government as modified by this Order and the provisions and principles of General Order No 35 shall apply by analogy to all such persons and proceedings.

ARTICLE II

For the purposes of this Order, Article IV, Section (a) of General Order No 35 shall be modified to read as follows:

Not later than 7 days after the coming into operation of this Order the keeper of the files in a Province of, or (as the case may be) the provincial authorities, shall give the profession to which this Order applies or has been previously applicable by order of the Regional Commission, mentioned in Article I hereof, notice to such members of the profession as may be specified by the Regional Commission that this Order has now come into operation in that Province.

Provided that the order to give such notice shall not afford a defence to a person charged with non-compliance with the provisions of General Order No 35 as modified by Article III of this Order.

ARTICLE III

(a) Members of professions are not divided into categories as provided in Article V, Section (a) of General Order No 35, but any member of a profession subject to Article 23 of DML 159 who may from time to time be ordered by or on behalf of the Regional Commissioner of Allied Military Government through the authority mentioned in Article II hereof to complete a schedule shall complete, sign and lodge the same with the aforementioned authority within 7 days of receiving notice of such order. The said authority shall, within 2 days of the receipt of any such schedule, cause a list of such schedules to be prepared and transmitted with the schedule personnel to the appropriate Commission established under General Order No 35.

(b) For the purpose of Article V, Section (b) and (c) of General Order No 35 the authorities specified in Article II hereof shall be substituted for the "head of the administration or undertaking".

ARTICLE IV

For the purpose of Articles VI and IX of General Order No 35 the authorities specified in Article II hereof shall be substituted for the "employer".

ARTICLE V

Effect of Suspension Order -- A Suspension Order made against any person suspends that person from the exercise of his profession as from the date of the Order.

ARTICLE VI

This Order shall come into effect in any Province or part thereof on the date of its first posting therein.

FOR THE SUPREME ALLIED COMANDER AND MILITARY GOVERNOR :

cc/

MILERY WHEELER STONE,
Rear Admiral,
United States Naval Reserve,
Chief Civil Affairs Officer.

Dated : - 9 LUG 1945

GOVERNO MILITARE ALLEATO
DEL TERRITORIO OCCUPATO

ORDINANZA GENERALE NO. 15-B

ESCLUSIONE DELLE PROFESSIONI

Tutto che conviene somministrare alcuni elementi che appartengono al Partito Fascista dall'esercizio della loro professione, arte o mestiere,

io, EMERY WALTER STONE, Contrammiraglio della Riserva della Marina degli Stati Uniti, Ufficiale Capo degli Affari Civili, in nome e per conto del Comandante Supremo Alleato e Governatore Militare, ordino quanto segue:

ARTICOLO I

Sono soggetti ai procedimenti previsti dall'Ordinanza Generale No. 35 del Governo Militare Alleato, salvo le modifiche apportate dalla presente Ordinanza, coloro che esercitano, tra le professioni di cui all'Art. 25 del DL 27 Luglio 1944, No 159, quelle che saranno specificate con ordinanza del Comandante Regionale del Governo Militare Alleato; alle persone ed al personale suddetti si applicheranno per analogia le disposizioni ed i principi dell'Ordinanza Generale No 35.

ARTICOLO II

Agli effetti della presente Ordinanza, la lettera (a) dell'Art. IV dell'Ordinanza Generale No 35 e' modificata come segue:

Nel 7 giorni successivi all'entrata in vigore della presente Ordinanza, l'elenco incaricato nella Provincia della tenuta della lista per l'adempimento delle professioni, arti e mestieri nel cui ambito la presente Ordinanza si applica e' reso applicabile l'ordine del Comandante Regionale menzionato all'Art. I 6, se del caso, l'elenco provvisorio di controllo sulle dette professioni, arti e mestieri, dara' avviso della entrata in vigore della presente Ordinanza nella Provincia stessa e coloro che esercitano una professione, arte o mestiere e siano specificati dal Comandante Regionale.

Resto comunque fermo che il mancato invio del suddetto avviso

Ordinanza, sciore che esordisce, ma le professioni di cui all'art. 23 del
 III 27 luglio 1944, No 159, quella che saranno speditate con ordinanze del
 Consiglio Regionale del Governo Militare Alleato; allo persone e ai procedi-
 menti suddetti si applicheranno per analogia le disposizioni ed i principi
 dell'Ordinanza Generale No 57.

ARTICOLO II

Agli effetti della presente Ordinanza, la lettera (a) dell'art. IV dell'
 l'Ordinanza Generale No 57 e' applicata con effetto:

Art. 7. Gli studi sono vietati all'artista in vigore della presente,
 Ordinanza, l'ordine di studio nella Provincia della tenuta
 degli studi per l'attuazione delle professioni, arti o mestieri
 nei cui confronti la presente Ordinanza si applica e e' resa
 applicabile d'ordine del Comitato Regionale nazionale emanato al-
 l'art. 1 e, se del caso, l'ordine regionale di controllo
 sulle dette professioni, arti e mestieri, dove' avviso della
 entrata in vigore della presente Ordinanza nella Provincia
 stessa e coloro che esercitano una professione, arte o mestie-
 re e siano specificati dal Comitato Regionale nazionale.

Resta comunque fermo che il suddetto avviso del suddetto avviso
 non potra' essere adotto e distribuito da chi sia imputato di
 trasgressione alle disposizioni dell'Ordinanza Generale No 57,
 sottoscritte dall'art. III della presente Ordinanza.

ARTICOLO III

(a) Gli esercenti una professione, arte o mestiere non sono ripartiti nelle
 categorie previste dall'art. 7, (a) dell'Ordinanza Generale No 57, se e' dunque,
 esercitando una delle professioni, arti o mestieri contemplati dall'art. 23
 del III 27 luglio 1944, No 159, riceve, tramite l'autorita' emanata alla
 art. II, dal Comitato Regionale del Governo Militare Alleato, o in suo no-
 me, l'ordine di ricevere una scheda personale, dove' riempita, firmato e
 presentata alla suddetta autorita' nei sette giorni dalla data di ricezio-
 ne dell'ordine stesso. Tale autorita', nei due giorni dalla ricezione di
 ciascuna scheda, si cura' l'iscrizione in una lista in essere trattenuta, con
 le schede personali, alla Commissione competente istituita a norma dell'Ordi-
 nanza Generale No. 57.

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(b) Agli effetti dell'art. I, (b) e (c) dell'Ordinanza Generale No. 35, "Il Capo dell'Amministrazione od Azienda" viene sostituito dagli organi specificati nell'art. II della presente Ordinanza.

ARTICOLO IV

Agli effetti degli art. VI e IX dell'Ordinanza Generale No. 35 "Il Direttore di lavoro" viene sostituito dagli organi specificati nell'art. II della presente Ordinanza.

ARTICOLO V

Effetti dell'ordine di sospensione. -- L'ordine di sospensione contro chiunque evitato sospende la persona dall'esercizio della sua professione, arte o mestiere a partire dalla data dell'ordine stesso.

ARTICOLO VI

La presente Ordinanza entra in vigore in ogni Provincia o parte di essa alla data della sua prima affissione nella stessa.

PER IL COMANDANTE GENERO ALLEATO E GOVERNATORE MILITARE :

SA

MILLEN WALTER STONE,
Contrammiraglio,
Riserva della Marina degli Stati Uniti,
Ufficiale Capo degli Affari Civili

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

106A

AC/4082/6/L.

9 July 1945.

SUBJECT : Defascism. Communication of Procura del Regno Siena.
TO : The Minister of Pardon and Justice.

Reference your Prot. N. 131.130.698 (Uff. A.P.) enclosed herewith
is the above communication.

Incl.

G. G. HANNAYD,
Lt. Col.,
Officer i/o Italian Branch,
for Chief Legal Advisor.

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4022/0  *1057*
 Ministero di Grazia e Giustizia
 DIREZIONE GENERALE DEGLI AFFARI PENALI
 DELLE GRAZIE, DELLA STATISTICA E DEL CASI
 Ufficio 1° A.P.
 Tel. 1° 131.13.598

Alto Commissariato
 178A
 Roma

Oggetto: Lettera del Procuratore del Regno di Siena - Defascistizzazione

o per conoscenza:
 ALL'UFFICIO COMPLETAMENTO
 CABINETTO

In risposta all'indicata nota, nel segnalare che ad essa non è stata allegata la lettera del Procuratore del Regno di Siena, che si desiderabile concedere, al contario che, a causa d'inconvenienti simili a quello lamentato dal suddetto Magistrato, questo Ministero ebbe già a rivolgersi all'Alto Commissariato per le sanzioni contro il Fascismo con note del 13 aprile scorso, di pari numero.

L'Alto Commissariato risponde il 25 successivo assicurando di avere, fin dal 22 marzo precedente, con la circolare n. 261/295, richiamata l'attenzione degli Alti Commissari assistiti, sulla venienza dei Delegati Provinciali ad esercitare nei precetti limiti, alle attribuzioni loro conferite dall'art. 17 D.L. 27 ottobre 1944, n. 285, costituendosi all'Alto Commissario, o all'Autorità Giudiziaria o all'Intendenza di Circondario, dando così luogo ad atti privi di qualsiasi valore giuridico e provocando le legittime proteste delle Autorità competenti e del danneggiato.

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HEADQUARTERS ALLIED COMMISSION
APO 304
CIVIL AFFAIRS SECTION

Ref : TH/5.20/CA

7 July 45

SUBJECT : Defascism - DL 179 of 22 Apr 45.

TO : See Distribution

Enclosed is translation of DL 179, amending DLs 159, 257 and 285 of 1944 and DL 44 of 1945, for your information.

[Signature]
G.R. UZZOHN Brig,
VP CA Section

DISTRIBUTION:

- | | | |
|--------------------|-------------------|---------------|
| VE CA Sec | Agri S/C (2) | Air S/C (2) |
| Educ S/C (2) | Commerce S/C (2) | Army S/C (2) |
| Local Govt S/C (2) | Labour S/C (2) | Naval S/C (2) |
| Legal S/C (2) | Finance S/C (2) | Comms S/C (2) |
| Pub Ser S/C (2) | Pub Works S/C (2) | HQ |
| Econ Sec (2) | Transpt S/C (2) | |

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RCs Piemonte, Lombardia, Emilia, Liguria, Venezia Regions (2)
For info : SIAOa 5 Army, 8 Army, IV Corps, XIII Corps

Planted
9/7/45

TRANSITION

DL 172 of 23 Apr 45
Amending DL 159, 257 & 285 of 1944
and DL 44 of 1945

The Italian version of this decree is the only authoritative text. This version is not a literal translation; its object is to inform officers consequently of the provisions contained in the Decree. Citations are referred to the Italian text for all points of detail or matters of procedure or dispute.

Presidents of Commissions	art 1
Sub-Commissions	" 2
Appeals	" 3-5
Retirement	" 6-8
Time limits	" 9-11

MEMBERS OF COMMISSIONS

- 1 Instead of magistrato as directed by art 18 of DL 159 of 27 Jul 44 the following are preside over Spurious Commissions of first instance:
 - a) Professors (di ruolo) of law of a University or of an institution of higher learning of the Kingdom;
 - b) Lawyers whose names appear in the special register created by art 33 of DL 172 of 27 Apr 45, embodied into law no 36 of 22 Jan 1934;
 - c) Retired administrative officials of State Departments, who, upon the cessation of their service, were of not less than fifth grade.

SUB-COMMISSIONS

- a sub-commission under art 16 of DL 285 of 23 Oct 1944 may be formed, whatever the circumstances mentioned in the said article exist. Such a sub-commission may also be formed for any body within sub-para 2 & 3 of art 11 of DL 159 of 27 July 1944.

ARTICLE

- 3 The time limits for an appeal to the central evaluation Commission, under arts. 40 and 41 of DL 159 of 27 July 1944, is extended to 6 days for the person concerned and to 30 days for the High Commissioner for functions against fascism. But this provision shall not apply to time limits which expired before this law came into force.

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- a) Proceedings (di noio) by law of a University
- b) Proceedings of the highest
- c) Proceedings of the highest
- d) Proceedings of the highest
- e) Proceedings of the highest

217-5311510

2. a sub-commission under art 16 of DL 285 of 23 Oct 1944 may be formed, when-
 ever the circumstances mentioned in the said Article exist. Such a sub-commission may also be formed for any body within sub-paragraphs 2 & 3 of art 11 of DL 159 of 27 July 1944.

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Article

3. The time limits for an appeal to the central arbitration Commission, under arts. 20 and 21 of DL 159 of 27 July 1944, is extended to 6 days for the person concerned and to 30 days for the High Commissioner for operations against Fascism, unaccompanied by this provision shall not apply to the limits which expired before this date in this case into force.

4. An appeal whether of the person concerned or of the High Commissioner for operations against Fascism, against the decision of an arbitration Commission of first instance, shall be filed at the Secretariat of the central Commission. Notice of the said appeal shall be served by the person concerned on the High Commissioner, the appeal has been filed by the High Commissioner on the person concerned, where the appeal has been filed by the High Commissioner of an appeal, where the Secretariat of the central Commission shall, upon receipt of an appeal, forthwith require the appropriate Commission of first instance to transmit to the Secretariat the papers relating to the proceedings against which the appeal is made.

- a) Secretariat of the central Commission for operations against Fascism;
- b) on the person concerned and
- c) on the Department employing him.

ARTICLE VII

6 When separation proceedings are contemplated an employee may nevertheless be placed in retirement either in the ordinary course or upon application if conditions contained in present legislation are fulfilled. The Department concerned must give immediate notice to the High Commission for sanctions against persons of any such action taken.

The latter may within thirty days of receipt of the said notice ask the appropriate Commission to initiate proceedings to decide whether any pension shall be forfeited. In the absence of any such request or if the High Commissioner expressly refuses to make such a request no proceedings shall be brought.

7 Discharged military personnel and civilian employees placed in retirement under art 2 of D.L. 257 of 11 Oct 1944 or art 6 of this decree shall not, under any circumstances, be employed or re-employed in any State Department, in any public body or any body controlled or subsidized in any way by the State.

8 Military personnel who cease to be on permanent active service in consequence of the application of art 2 of D.L. 257 of 11 Oct 1944, shall be placed in one of the categories of discharge under the appropriate regulation as to their status, and shall have the right to the same remuneration as those of equivalent rank, retired on account of age, to the same category of discharge.

TIME LIMITS

9 As regards the personnel retired under art 2 of D.L. No 257 of 11 Oct 1944, who on the day on which this decree came into force were in territory not yet restored to Italian Administration, the time limits contained in para 1 of art 4 of the said decree are extended to 6 months after the restoration of the said territory to Italian Administration.

10 As regards persons employed in the Ministry of ports and telecommunications itself, the time limits for the initiation of separation proceedings contained in the first paragraph of art 25 of D.L. 159 of 27 July 1944 are extended by art 1 of D.L. No 56 of 12 March 1945, and hereby extended to 15 May 1945. This provision shall be effective as from 15 April 1945.

As regards the civil personnel employed in any other Ministry the date of expiry of the time limit contained in para 1 of art 1 of D.L. No 56 of 12 March 1945 and, except for military personnel attached to a Ministry, as to the time limit contained in para 3 of the same article, shall remain unaltered.

As regards all other persons the time limit for initiating separation proceedings is extended to August 15 1945. The time limits referred to in the first paragraph of art 2 of D.L. No 44 of 23 Feb 1945 for the completion of the proceedings before the Commission of first instance shall be extended by 30 days.

TIME LIMITS

9 As regards the personnel retained under art 2 of D.L. No 237 of 13 Oct 1944, who on the day on which this decree came into force were in territory not yet restored to Italian Administration, the time limits contained in para 1 of art 4 of the said decree are extended to 6 months after the restoration of the said territory to Italian Administration.

10 As regards persons employed in the Ministry of posts and telecommunications itself, the time limits for the initiation of operation proceedings contained in the first paragraph of art 25 of D.L. 159 of 27 July 1944 as extended by art 1 of D.L. No 56 of 12 March 1945, are hereby extended to 15 May 1945. This provision shall be effective as from 15 April 1945.

As regards the civil personnel employed in any other Ministry the date of expiry of the time limit contained in para 1 of art 1 of D.L. No 56 of 12 March 1945 and, except for military personnel attached to a Ministry, as to the time limit contained in para 3 of the same article, shall remain unaltered.

As regards all other persons the time limit for initiating operation proceedings is extended to August 15 1945.

The time limits referred to in the first paragraph of art 2 of D.L. No 44 of 23 Feb 1945 for the completion of the proceedings before the Commissions of First Instance shall be extended by 30 days.

11 The present decree shall come into force on the day of its publication in the Official Gazette of the Kingdom (12 May 1945).

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THE
DECREE
AS TO

SANCTIONS AGAINST FASCISM

- Part I - Crimes
- Part II - Purging
- Part III - Enrichment
- Part IV - Fascist Funds
- Part V - The High Commissioner
- Part VI - Miscellaneous

Part II Pursuing

- Part III - Enrichment
- Part IV - Fascist Funds
- Part V - The High Commissioner
- Part VI - Miscellaneous

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PUNISHMENT OF CRIMES

PART I

- 1 All penal provisions issued to safeguard ~~national~~ ^{national} and political organisations created by fascism are hereby repealed.
Decisions already pronounced by virtue of such provisions are hereby annulled.
- 2 Members of the Government and high ranking members of fascist, guilty of annulling the guarantees given under the constitution, of destroying the liberty of the people, of creating the fascist regime, of compromising and activating the fortunes of the country bringing it to the present disaster shall be punished by penal servitude for life and, in cases where the responsibility is greater, by death.
They shall be tried by a High Court of Justice composed of a President and eight members, chosen by the Council of Ministers, from among high ranking judicial officials serving now or in retirement and from among other persons of unquestionable rectitude.
- 3 Those who organised fascist squads, committing acts of violence and pillage and those who promoted and directed the revolt of 28 October 1922 shall be punished according to Art 120 of the Penal Code 1889.
Those who promoted and directed the Coup d'Etat of 3 January 1925 and those who have since contributed by violent action to maintaining the fascist regime in power shall be punished in accordance with Art 118 of the aforesaid code.
Whoever has committed any other crime for fascist reasons or taken advantage of the political situation created by fascism shall be punished according to the laws obtaining at the time of the crime.
- 4 Those crimes described in the preceding Article shall be tried by the Court of Assize, by the Tribunali and by the Pretors according to their respective jurisdiction.
The Court of Assize shall be composed of two judicial officials as described in the law as to the constitution of the Courts of Assize, and of five lay judges chosen by lot from special lists of citizens of unblemished moral and political behaviour.
- 5 Whoever, whether a member of the armed forces or not, after 8 September 1913 has committed a crime against the State, and this military offence of collaboration, help or assistance given to the German invaders, shall be punished according to the provisions of the Military Penal Code of War.
Members of the armed forces shall be tried by military Courts (Civilians) by ordinary Courts.

of time with regard to the offence or the punishment prescribed in this

pillage and those who promoted and directed the same shall be punished according to Art 120 of the Penal Code 1839. Those who promoted and directed the Coup d'Etat of 3 January 1925 and those who have since contributed by their own action to maintain the fascist regime in power shall be punished in accordance with Art 113 of the reform-
 and code.

Whoever has committed any other crime for fascist reasons or taken advantage of the political situation created by fascism shall be punished according to the laws obtaining at the time of the crime.

4. These crimes described in the preceding articles shall be tried by the Court of Cassation, by the Tribunal and by the Proctors according to their respective jurisdiction.

The Court of Cassation shall be composed of two judicial officials as described in the law as to the constitution of the Courts of Cassation, and of five lay judges chosen by lot from special lists of citizens of unblemished moral and political behaviour.

5. Whosoever, whether a member of the Armed Forces or not, after 8 September 1943 has committed a crime against the military defence of the State, by any kind whatsoever of action, collaboration, help or assistance given to the German invader, shall be punished according to the provisions of the Military Penal Code of War.

Members of the Armed Forces shall be tried by Military Courts, Civilians by ordinary Courts.

6. Any limitation of time with regard to the offence or the punishment thereof shall not apply to any person guilty of any crime described in this decree, who because of the existence of the fascist regime has not been punished.

For the same reasons sanctions and penalties granted after 28 October 1922 in respect of any crime described in this decree shall be invalid, any already granted shall be revoked.

The High Commissioner may propose the revocation of any royal pardon already granted.

When a decision regarding any such crimes has been influenced by any moral coercion resulting from fascism, such decision may be declared to be legally non-existent. ^{proposed} In this respect shall be made by a Section of the Supreme Court of Cassation appointed by the Minister of Justice.

The provisions of this decree shall not apply to any crimes punishable by imprisonment for three years or less.

7. The punishment prescribed for any crime described in this part may be reduced ~~to~~ up to one quarter, and imprisonment ~~to~~ not less than five years, may be substituted for a sentence of death or of imprisonment for life, if:
 a. ~~the~~ the accused had before the outbreak of this war either retired from political life or had been openly opposed to fascism; ~~or~~

(10) Penal Decree

b ~~X~~ the accused has actively participated in the struggle against the ~~British~~ ^{prohibited by the provisions of 1933} ~~British~~ general exterminating circumstances exist, imprisonment ~~for~~ 30 years shall be substituted for penal servitude for life, and other penalties shall be reduced by one sixth.

The guilty party shall be declared not punishable if he distinguished himself by special acts of valor in the struggle against the Germans.

3 Any person who for fascist reasons or, by taking advantage of the political situation created by fascism, has committed acts ~~particularly serious~~ which while not being offenses in the eyes of the law are nevertheless contrary to the rules of social and political integrity shall be subjected to temporary disqualification from holding any public office, or to loss of political rights for a period of not more than ten years.

Whenever such a person is deemed to be a danger to society he may be sent to an agricultural colony or a labour institution for a period of not less than one or more than ten years.

The provisions contained in this article shall be administered by a Provincial Commission provided for by a judicial official and composed of two other members chosen by lot from among the lay judges described in Art. 4.

As regards members of the legislative assemblies or other institutions who by their votes or actions contributed to the maintenance of the fascist regime and made war possible, they shall be dismissed from their office on decision of the High Court described in Art. 6, without prejudice to any of the other provisions set out in this Decree in so far as they may be applicable.

9 Without prejudice to any legal action, the property of any citizen who has betrayed his country, placing himself voluntarily and actively at the service of the German invaders shall be forfeited to the State. ^{It}

In legal proceedings such forfeitures shall be pronounced by judicial authority ~~which shall be pronounced by the Tribunal~~ ^{in other cases, referred to, thereby the High Commission, by the Tribunal territorially competent to hear the case upon the proposal of the High Commission.}

10 In regard to any matter not specifically provided for by this part the rules of the Code of Penal Procedure shall obtain whenever they be applicable.

PART II PUNISHING OF THE ADMINISTRATION

- 11 Officials and employees of the following bodies shall be subject to special proceedings:-
- (1) civil and military State Administrations, even if autonomous;
 - (2) local authorities and other public bodies and institutions;
 - (3) special concerns operating under public authority or bodies of private concerns recognised by the State as controlling public utility.

who by their votes or actions contributed to the maintenance of the fascist regime and under war conditions, they shall be dismissed from their office on decision of the High Court referred in art 2, without prejudice to any of the other provisions set out in this Decree in so far as they may be applicable.

9 Without prejudice to any local action, the property of any citizen who has betrayed his country, placing himself voluntarily and actively at the service of the German invaders shall be forfeited to the State. *via*
In special circumstances such forfeitures shall be pronounced by ~~judicial authority~~ *the Tribunal territorialmente competente*. In other cases, referred to ~~the Tribunal~~ *by the Tribunal territorialmente competente* shall be pronounced by the Tribunal *competente* upon the proposal of the High Court.

10 In regard to any matter not specifically provided for by this part the rules of the Code of Penal Procedure shall obtain whenever they be applicable.

PART II REGIME OF THE ADMINISTRATION

11 Officials and employees of the following bodies shall be subject to special proceedings:-
(1) civil and military State Administrations, even if autonomous;
(2) local authorities and other public bodies and institutions;
(3) special concerns operating under public authorities or bodies and private concerns recognised by the State as controlling public utility undertakings or concerns having nation wide interests.

12 The following shall be dismissed from service:

- (1) any person, particularly if when holding high office, who has by participating actively in the political life of fascism or by showing himself as a consistent apologist of fascism, shown that he is unworthy of serving the State;
- (2) any person who has obtained an appointment or promotion through ~~preference~~ favouritism of the party or of fascist officials of high rank.

13 Any employee who has been guilty of fascist mis incompetency or corrupt practices such as have been introduced by fascism into public administration, shall be likewise dismissed.

Whenever evidence of an offence is found during an operation proceeding, such evidence shall be reported to the competent authority.

14. Any person who had held the position of "squadrato" or "gruppolista" or "antimilitare", "movista or Revo", "Solario littorio" or who has been an officer in the Fascist Militia if he has been guilty of Fascist partisanship or improper conduct shall be dismissed from his office or employment, but if not so guilty may be normal loss covers punishment.

15. Any person who has received undue protection or any preference in any competitive examinations because of his Fascist position may in lieu of dismissal be reduced in rank or be returned to his former position.

16. Any person who has after 8 September 45 distinguished himself in the struggle against the Germans may be exempted from dismissal or other disciplinary measure.

17. Any employee who, after 8 September 45, moved to North Italy with or has pledged allegiance to or has in any way collaborated with the (Republican) Fascist Government shall be dismissed.

Punishment of lesser degree may be awarded to such as show that he or his relatives were exposed to serious threats or danger.

Any person who by his acts has effectively aided the patriots or has undertaken the work of the Germans or of the (Republican) Fascist Government which they were apparently serving, may be exempted from punishment.

In every case on receipt shall be made of the allowances that were due under the original terms of employment and of any excess payment which may actually have been received, any special allowance or sum granted or paid on account of any transfer to the North will be deducted.

18. The Commission of first instance to hear variation proceedings will be a Commission to be established in every Ministry or autonomous authority or body. When personnel of different classes or functions is employed in a Ministry there then one Commission may be established in that Ministry.

Such Commissions will be appointed by the competent Minister and will be composed of a judicial or administrative magistrate either serving or retired, who will preside over them, and of the Chief of personnel or of an official of the administration, and of a third member nominated by the High Commissioner for the Functions against Fascism.

A Commission to be appointed by a Prefect composed of a judicial official, either serving or retired, an official of the prefecture, and a member to be nominated by the High Commissioner, will be instituted for Counties, provinces, Public Welfare Institutions and under the control of the local authorities.

According to the provisions set out in the preceding paragraphs suitable members may be appointed and the Commission may be divided into Sub-Commissions.

19. Not less than ten days shall be allowed to an employee whose dismissal is proposed to prepare his defence.

his relatives were exposed to serious threats or danger.

Any person who by his acts has effectively aided the patriots or has undermined the work of the Government or of the (Republican) Fascist Government which they were apparently serving, may be excused from punishment.

In every case in respect shall be made of the allowances that were due under the original terms of employment and of any excess payment which may actually have been received. Any special allowance or sum granted or paid in respect of any transfer to the North will be allowed.

18 The Commission of first instance to hear expiation proceedings will be a Commission to be established in every Ministry or autonomous authority or body. When personnel of different classes or functions is employed in a Ministry more than one Commission may be established in that Ministry.

Such Commissions will be appointed by the competent Minister and will be composed of a judicial or administrative magistrate either serving or retired, who will preside over them, and of the Chief of Personnel or of an official of the Administration, and of a third member nominated by the High Commissioner for the Sanctions against Fascism.

A Commission to be appointed by a Prefect composed of a judicial official, either serving or retired, an official of the Prefecture, and a member to be nominated by the High Commissioner, will be instituted for Cortinas, Provinces, Public Welfare Institutions and, under the control of the local authorities.

In addition to the provisions set out in the preceding paragraphs substitute members may be appointed and the Commission may be divided into Sub-Commissions.

E 109

19 Not less than ten days shall be allowed to an employee whose dismissal is proposed to prepare his defence.

The Commissions, or any member delegated by them, shall have the power to examine witnesses, to require the production of deeds and documents from judicial or administrative authorities and may personally hear the concerned party if he applies for such a hearing.

20 The finding of the Commission of the first instance shall be communicated to the High Commissioner and to the party concerned. The interested party may within three days, and the High Commissioner within twenty days appeal to a central Commission appointed by the President of the Council of Ministers and composed of a President, two officials of the central Administration, two judicial or administrative magistrates serving or retired and two other members nominated by the High Commissioner for Sanctions against Fascism.

In the same manner substitute members may be appointed and the Commission may be divided into sub-commissions.

21 Dismissed from office, in accordance with the findings of the Commission, shall be carried out by the authority which normally has such power. The same authority shall put into effect the punishments hereby authorized in accordance with the findings of the Commission.

22 Any employee dismissed from office shall be entitled to such pension privileges as may be due to him according to the provisions then in force.

In more serious cases forfeiture of pension privileges may be ordered. Any employee the subject of opposition proceedings may be suspended from office. In such cases he shall receive, for his support, his salary without any other further allowance. Suspension from office shall be ordered by the competent Minister, or in cases under item 3 of Art 18 by the Prefect.

23 Commissions responsible for inspecting the registers shall be set up in each professional association or other body responsible for keeping registers of professional men, artists and skilled workers shall apply the principles set out in the preceding articles.

Such Commissions shall be appointed by the competent Minister or by any authority designated by him, and shall be composed of a President, a member nominated by the body keeping the register in question and of a member nominated by the High Commission for Sanctions against Fascism.

An appeal against a finding of a Commission may be lodged within the time set out by Art 20, to a Central Commission, which shall be established, for each professional association or body, by the competent Minister and composed of a President, of two judicial or administrative judges, serving or retired, of four members nominated by the professional associations and of two other members nominated by the High Commissioner for Sanctions against Fascism.

In less serious cases a temporary suspension from the exercise of a profession, art or trade may be ordered in lieu of being struck off the register.

24 An employee dismissed from office may appeal to the State Council only on grounds of incompetence (i.e. of the Commission or officer concerned).

25 The proceedings set forth in this part shall be initiated within 6 months of this decree becoming effective.

Any proceedings before the Commission of First Instance shall be ended within three months after its initiation.

For the territory not yet liberated and for that part which has been liberated but not yet restored to the administration of the Italian Government, the time limit indicated in the first paragraph is extended to six months after the restoration of such territories to the Italian administration.

set out by Art 20, to a Central Council, by the competent Minister, each professional association or body, by the competent Minister, of two judicial or administrative judges, serving or retired, of a President, of two judicial or administrative magistrates and of two other members nominated by the President for service against Fascism, of four members nominated by the High Commissioner for Service against Fascism, members nominated by the High Commissioner for Service against Fascism, members nominated by the High Commissioner for Service against Fascism, members nominated by the High Commissioner for Service against Fascism.

In lost serious cases a temporary suspension from the exercise of the right of profession, art or trade may be ordered in lieu of being struck off the register.

- 24. an employee dismissed from office may appeal to the State Council only on grounds of incompetence (i.e. of the Commission or officer concerned).
- 25. The proceedings set forth in this part shall be initiated within 6 months of the decree becoming effective. Any proceedings before the Commission of First Instance shall be held within three months before the initiation, for that part which has been liberated but not yet restored to the administration of the Italian Government, the time limit indicated in the first paragraph is extended to six months after the restoration of such territories to the Italian administration.

PART III

Disposal of Profits derived from the Regime.

- 26. Profit derived from participation in or adherence to the fascist regime shall be forfeited to the State regardless whether or not a penal proceeding is instituted for acts constituting an offence.
 - a) income of property obtained after the 28 October by persons holding public offices or in any way engaged in political activity as a fascist shall be presumed to constitute a profit derived from the regime unless the party concerned shall show that such income was derived from a legitimate source and this shall be the case even if the property acquired has ceased to belong to the same person.
 - b) Such presumption shall likewise apply to increases in property of the ascendants, descendants and spouse of any person, who even if not a member of the fascist party, maintained relations as associate or client with the persons indicated in the first paragraph.
 - c) In assessing increases of property consideration shall be given to property in any way acquired or held through intermediaries.

27 Specific property constituting profit derived from the regime and owned by the debtor (Note: Without any explanation the decree uses the word "debtor" to denote the person who has acquired profit from the regime) may be forfeited to the State.

28 The entire property of the debtor is liable for the satisfaction of the assessed debt to the State as profit derived from the regime.

In cases contemplated by the 3rd para of Art 26 persons set out in first paragraph of the said Article shall be liable jointly with their spouse, associates or clients.

29 If the property of the debtor is not sufficient to pay the amounts owed to the State the following dealings with property (by the debtor) shall be considered void:

- (1) transfers made by the debtor without valuable consideration during the five years prior to 25 July 43;
- (2) any disposition made after such date.

As far as the State is concerned property acquired within the five year period prior to 25 July 43 by the spouse of the debtor shall for the purpose of satisfying the State's claim for profit derived from the regime be considered as belonging to the debtor.

30 The investigation and assessing of the amount of the profit derived from the regime shall be within the jurisdiction of a Special Section of the Provincial Commission for Taxation, comprised of the President of the Tribunal or a Judge delegated by him and of four Commissioners appointed by the Minister of Finance on the nomination of the Prefect from citizens of proven probity and competence.

The Special Section shall initiate the investigation on information by the High Commissioner or by a Finance or taxation officer or on one signed by a private citizen.

The said Section shall also adjudicate complaints of the debtor or of the finance office against the proposed assessment of the profit derived from the regime.

The hearing shall be open to the public and both the *Avventurieri dello Stato* and the person the subject of the investigation may adduce evidence in rebuttal; the latter may choose to be represented by a *procuratore legale* or by an advocate.

The decision shall be communicated to the debtor, to the *Ufficio* officer concerned and to the High Commissioner.

31 The Special Section of the Provincial Commission shall have all the powers of investigation, entry, search, control and inquiry, conferred upon the agents for direct taxation and upon the administrative commissions for invest-

As far as the State is concerned property acquired within the period prior to 25 July 43 by the spouse of the debtor shall for the purpose of satisfying the State's claim for profit derived from the regime be considered as belonging to the debtor.

30 The investigation and assessing of the amount of the profit derived from the regime shall be within the jurisdiction of a Special Section of the Provincial Commission for Taxation, comprised of the President of the Tribunal or a judge delegated by him and of four Commissioners appointed by the Minister of Finance on the nomination of the Prefect from citizens of proven probity and competence.

The Special Section shall initiate the investigation/information by the High Commissioner or by a financial or taxation officer or an one signed by a private citizen.

The said Section shall also adjudicate complaints of the debtor or of the financial office against the proposed assessment of the profit derived from the regime.

The hearing shall be open to the public and both the Avvocatura dello Stato and the person the subject of the investigation may adduce evidence in rebuttal; the latter may choose to be represented by a procuratore legale or by an avvocato.

The decision shall be communicated to the debtor, to the 105 offices concerned and to the High Commissioner.

31 The Special Section of the Provincial Commission shall have all the powers of investigation, search, control and inquiry, conferred upon the agents for direct taxation and upon the administrative commissions for investigation of extraordinary war profits.

The privilege to abstain from testimony in cases set out in Art 352 of the CFF shall not apply.

Any person summoned as witness or expert who does not faithfully carry out his duties or gives false evidence shall be punished in accordance with Articles 366, 372 and 373 of the CC.

Any person who fails to comply with other requests of the Section shall be punished by imprisonment up to six months or by fine from 300 to 5,000 lire.

Administrative or other bodies having knowledge of cases in which profit has been derived from the regime, shall immediately report the same to the High Commissioner. Any person responsible for making any such report who fails to do so shall be punished in accordance with the preceding paragraph.

Personnel of the judicial police or of other administrative or technical branches of the administration may be assigned to the Special Section for the execution of its duties.

6.

32 The debtor and the Avvocato dello Stato may within thirty days lodge an appeal against the decisions of the Special Section of the Provincial Commission. The High Commissioner may also appeal within 60 days. The appeal shall be adjudicated by a special section of the Central Commission for taxation comprised of a President, a judicial official holding a grade not lower than that of a first president of Court of Appeal, and of four commissioners, all to be appointed by the Council of Ministers. The provisions of the last two paragraphs of Art 30 and of Art 31 shall apply to the proceedings before the Special Section of the Central Commission.

33 The decisions of the Special Section of the Central Commission may be opposed before the Plenary Section of the Cassation solely on the ground of absolute lack of jurisdiction. An appeal must be lodged by the debtor or by the Avvocato dello Stato within 45 days; the High Commissioner may appeal within 6 months.

34 The High Commissioner may, even after the lapse of the above period but not after the lapse of two years, move that the decision, although final be amended on the ground that facts of considerable importance have been discovered always provided that the reasons set out in the decision disclose that such facts were not in evidence in the previous proceeding. Such amendment of the decision is in any case within the jurisdiction of the Special Section of the Central Commission.

35 Even before the Special Sections of Provincial Commissions are constituted, the President of the Tribunal may, upon request of the High Commissioner or of the finance administration, order by decree a protective attachment of chattels or realties belonging to persons set out in Art 26 although they may be held by third parties. Such power may be exercised by the Presidents of the Commissions by virtue of their office. Provisions of para 7 and 8 of Art 19 of the Consolidated text of laws on the extraordinary tax on excess war profits, approved by RD 3 June 1938, No 598, shall apply.

36 A decree of the High Commissioner shall be published in the Gazzetta Ufficiale of the Kingdom, listing persons who are considered profiteers of the regime; any person who may hold property belonging to such person or who may be indebted to him in any way whatever, shall be required to declare the same following the form and within the time limits established in the said decree; also he shall not return the property or fulfill his obligations to his credit-

such facts were not in evidence in the previous proceeding.
Such amendment of the decision is in any case within the jurisdiction of the Special Section of the Central Commission.

35 Even before the Special Sections of Provincial Commissions are constituted, the President of the Tribunal may, upon request of the High Commissioner or of the Finance Administration, order by decree a protective attachment of chattels or realties belonging to persons set out in Art 26 although they may be held by third parties.

Such power may be exercised by the President of the Commissions by virtue of their office.

Provisions of para 7 and 8 of Art 19 of the Consolidated text of laws on the extraordinary tax on excess war profits, approved by RD 3 June 1938, No 595, shall apply.

36 A decree of the High Commissioner shall be published in the Gazzette Ufficiale of the Kingdom, listing persons who are considered profiteers of the regime; any person who may hold property belonging to such person or who may be indebted to him in any way whatever, shall be required to declare the same following the form and within the time limits established in the said decree; also he shall not return the property or fulfill his obligations to his creditor. Any such blocking shall become void if an attachment is not ordered within 60 days after the lapse of the time limit for the above said declaration.

Any person who may fail to comply with the duties set forth in this Article shall be punished in accordance with Art 91 para 4; he shall also be liable for any consequential loss suffered by the State.

Any person who, for the purpose of withholding from the State, property belonging to a person considered to have made a profit derived from the regime, acquires, receives or conceals such property or effects their acquisition, receipt or concealment, shall be punished by imprisonment not exceeding 10 years and by a fine up to 100,000 lire.

37 The proposed assessment of the Provincial Commission if unopposed by the debtor, the decision of such Commission, even pending appeal to the Central Commission and the decision of the last named Commission shall constitute good authority for execution even for entry in the real estate and mortgage registry.

The collection of the amounts owed to the State as profits derived from the regime may be effected in accordance with the procedure and preference established for the collection of the extraordinary tax on excess war profits. The entire debt may be entered on a special roll and may be collected in a single instalment.

PART IV Confiscation of Fascist Property.

36 The property of the dissolved fascist national party and of organizations suppressed by P.D.L. 2 August 43, No 704, shall devolve upon the State. Such property shall be used for the public service or the public benefit, this shall be effected on the proposal of the High Commissioner by decree of the President of the Council, in agreement with the competent Ministers. If necessary such property may be transferred to another public body or organization preserving value, spent or the like.

39 The finance administration of the State shall provide for the collection of assets of the fascist national party and the suppressed organizations.

PART V The High Commissioner.

40 To supervise the carrying out of this decree the office of High Commissioner for Sanctions against Fascism is created.

The High Commissioner shall be nominated by the Council of Ministers and appointed (i.e. by the President) and shall for the duration of his term of office rank as a judicial officer of the first grade.

He shall be assisted by Assistant High Commissioners for each of the branches of his jurisdiction.

In the event of the High Commissioner being unable to act each of the Assistant High Commissioners may so far as his own branch is concerned act in his name.

The Assistant High Commissioners shall be appointed by the President of the Council of Ministers on the nomination of the High Commissioner and shall rank as judicial officials of the third grade.

Not more than two commissioners may be nominated for any one branch of the High Commission. They shall be appointed in the manner described in the preceding paragraph.

Sufficient judicial and other officials shall on request be assigned to the office of the High Commissioner and a nucleus of judicial police shall be placed at his disposal composed of personnel of the carabinieri of the public security or of the kinetic guards. Sergeants not members of the administrations may be employed in the secretarial offices.

The High Commissioner and his subordinate officers may call on the judicial police who will carry out their orders.

41 The High Commissioner shall direct and supervise the work of all organizations by which sanctions against Fascism are carried out.

The High Commissioner shall be bound by his own informed or on the demand of any public authority or on an information signed in full individual to continue proceedings in respect of any crime described in Art 2 and to carry out investigation as may be necessary and to remain the acc-

2 and to carry out investigation as may be necessary and to remain the acc- "Ministero pubblico".

He shall be assisted by Assistant High Commissioners for each of the branches of his jurisdiction.
In the event of the High Commissioner being unable to act each of the Assistant High Commissioners may do so for as long as his own branch is concerned not in his name.

The Assistant High Commissioner shall be appointed by the President of the Council of Ministers on the recommendation of the High Commissioner and shall have no judicial functions of the third grade.

Not more than two commissioners may be nominated for any one branch of the High Commission. They shall be appointed in the manner described in the preceding paragraph.

Sufficient judicial and other officials shall on request be assigned to the office of the High Commissioner and a nucleus of judicial police shall be placed at his disposal composed of personnel of the carabinieri of the public security or of the finance guards. Persons not members of the administrations may be employed in the secretarial offices.

The High Commissioner and his subordinate officers may call on the judicial police who will carry out their orders.

The High Commissioner shall direct and supervise the work of all organizations by which Sanctions against persons are carried out.

The High Commissioner shall be bound on his own initiative or on the demand of any public authority or on an information signed by a private individual to commence proceedings in respect of any crime described in Art 2 and to carry out investigation to any he deems necessary and to render the case used to the High Court in which he or his delegate act as "Ministers public".

In cases of exceptional gravity the High Commissioner may exercise the normal powers in that respect and refer to the High Court any person thus those referred to in Art 2 and for any crime whether or not such is mentioned in Art 2.

Without prejudice to the power of the Ministers Public, Public Authorities and other bodies or organizations the High Commissioner may on his own initiative or on the information of a private individual commence proceedings.

- (1) In respect of other crimes mentioned in Part I.
- (2) To apply the provisions set out in Art 2.
- (3) To forfeit property belonging to persons who have collaborated with the Germans in accordance with Art 9.
- (4) Before the appropriate commissions of first instance and before the Central Commission with regard to appeals, for issuing the administration and for dismissing officers or employees from their office or employment.
- (5) Before the Local and Central Commissions for taxation, for assessing and forfeiting as profit derived from the fascist regime, with power in exceptional cases to commence proceedings for rectification of any decision of the aforesaid Central Commission.

- He may also
- (6) make proposals for the correct and proper use of property previously belonging to the Fascist Party or to fascist organizations.
- (7) Exercise any other functions contained in this decree or in any other decree or regulation.

PART VI Transitory and Final Provisions.

- 42 For the application of this decree all prerogatives, including those set out in Arts 26, 37 and 47 of the Constitution, are hereby abrogated.
- 43 Any public official or any person engaged in the public service responsible according to the provisions of this law for punishing fascist crimes, for purging the administrations, for forfeiting any profit derived from the regime and for confiscating fascist property, who may commit any offense set out in and punishable by virtue of Arts 314, 316, 317, 318, 319, 320, 321, 322, 326 and 328 of the Penal Code shall be punished in accordance with the provisions of these articles but increased by five one third to one half.
- 44 Proceedings already initiated for the punishment of fascist crimes for purgation and for the forfeiture of profit derived from the regime shall be carried through in accordance with the provisions of this decree, without prejudice to any action already taken inexecutable with these rules.
Decisions already given shall be reviewed if they are in conflict with the provisions of this decree.
- 45 Successive decrees will be issued to provide what necessary for the execution of the rules established by the preceding parts. by
The Minister of the Treasury is hereby authorized to make his own decrees the necessary variations in the State budget occasioned by the functioning of the High Commissioner and the organizations established by this decree.
- 46 Royal Decree laws 9 August 43 No 720, of 28 December 43 No 29/B, of 26 May 44 No 134, are hereby abrogated.
The provisions contained in Royal Decree law 12 April 44 No 104, so far as they relate to the contents of this decree are also abrogated.
- 47 This decree will come into force etc. etc.

QUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

102A

AC/4082/G/L.

1 July 1945.

SUBJECT : Defascism - GO 35.

TO : Civil Affairs Sec.

1. In view of the fact that it is proposed, for reasons which were fully discussed in Milan with Italian Judges, HLOs, Hon. BOERI and Major PAMIERI, to discontinue operation of the magistracy under GO 35 it is not proposed at the moment to take any action on your WF/3.32/GA of 29 June 1945.

2. It is hoped to discuss the whole question with VP CA Sec and gain his approval to this policy.

1 106

S. E. HERRIS,
Colonel,
Chief Legal Advisor.

0 4082/6 ✓

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HEADQUARTERS ALLIED COMMISSION
APO 354
CIVIL AFFAIRS SECTION

Ref: DP/3.32/CA

29 June 45

SUBJECT : Defascism - GO 35

REF : See Distribution below

1 It is reported from Regions that some of the Ministries are sending to the North names of employees to be suspended. Action against such persons has to be taken under GO 35. It would greatly facilitate the work of these commissions if instead of receiving piecemeal application from various Ministries at various times Ministries would submit a complete list for each Region to this HQ for this HQ to forward to the Regional Commissioner, who is the responsible authority under GO 35.

2 Will you please instruct your Ministry that any such list should reach CA Section on or before the 1st Jul. If there are any further names later, a supplementary list may be submitted on or before Jul 28.

S.H. White
S.H. WHITE Lt Col
for VP CA Section 105

DISTRIBUTION:

CA Section
Local Govt S/C
Legal S/C
Pub Safety S/C
Education S/C
Econ Section
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Commerce S/C
Finance S/C
Pub Works S/C
Air S/C
Naval S/C
Land Forces S/C
Transport S/C
Communications S/C



HEADQUARTERS ALLIED COMMISSION
VP
Legal Counsel
EIC
Italian Section
CL RKS
29 JUN 1945

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*Exempt from
file*

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AS/4082/6/L.

21 JUNE 1945.

SUBJECT : Expatriation and Punishment of Fascists.

TO : Chief Commissioner, H., AC.

1. I have been instructed to advise you on the respective degrees of responsibility imposed upon the Allied Commission and the Italian Government for the supervision and execution of expatriation and the punishment of fascists.

2. In my opinion the possible responsibility of the Allied Commission falls under two heads :-

- (a) Responsibility to SAC and through him to the Allied Governments.
- (b) Responsibility to the Italian Government.

3. In the absence of any specific instructions the responsibility of Allied Commission to SAC is to ensure that the Italian Government is complying with the terms of the Armistice - in particular Arts. 29 and 30. These Articles cover the apprehension and surrender to the Allies of Chief Fascists and war criminals; the abolition of fascist institutions, the dismissal and internment of fascist personnel, the control of fascist funds and the suppression of fascist ideology and teaching. It is the responsibility of the Italian Government to take the necessary executive steps to comply with these articles; Allied Commission is required to exercise supervision and ensure that the Italian Government is taking the necessary action.

4. Allied Commission is under no responsibility to the Italian Government.

5. As stated above it is the full responsibility of the Italian Government to take the necessary action to comply with the Armistice conditions. In fact the measures passed by the Italian Government, in particular D.L. No. 159, go far beyond their armistice commitments, so that if these measures are honestly pursued there is no doubt that the Italians will have discharged their liabilities to the United Nations.

6. It follows therefore that unless General Sernagorri is suspected of being a war criminal or is included in the list of Chief Fascist associates there is no obligation upon Allied Commission to require the Italian Government to surrender him to the Allies. He may properly be left in the care of the Italian Government for expatriation, punishment or such other treatment as his case deserves. Allied Commission may, and I

- 2 -

think should, require a report on the final action taken.

7. A. V. H. Brodie informs me that in his opinion General Sternadori should be left with the Italian Government.

W. R. BEHRENS,
Colonel,
Chief Legal Advisor.

4082/6 ✓

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Leat 99A

MEMORANDUM

MEMOR/2 1/32

20 June 45

SUBJECT : Defacement - Disposal by CIP

TO : See Distribution below

1. A question has arisen as to the right to redress of a State Official who has been removed from office by the local CIP, if the Regional Commissioner is permitting his successor, also appointed by the CIP, to exercise the functions of the office.
2. The following action is appropriate. The official suspended should be served with a Scheda under GO 35 and the normal operation procedure under that Order should be carried out.
 - a) If he is found to be a fascist, his suspension will be partially expired, no difficulty about his salary will arise and in due course he will appear under DL 139.
 - b) If he is found to be no fascist, he has a claim for re-instatement and arrears of salary; but, if it is found for any reason inexpedient to re-instate him in that district, the appropriate procedure is to notify this HQ that he has been cleared, but that it is considered inexpedient to re-employ him locally. The appropriate Ministry will then be informed and he will be re-employed elsewhere. With the present shortage of officials the Government will be glad to use him.
3. Where the Regional Commissioner finally decides to permit the CIP appointed to carry on in the office to which he has been appointed by them, the Regional Commissioner should confirm the appointment in writing.
4. Powers expressed in this directive to be exercised by a Regional Commissioner may be delegated by him to a Provincial Commissioner.
5. Attention is also called to para 14 of Admin Instructions to GO 35. 102

BY COMMAND OF HER AIRMAIL LOGS

[Signature]
C. A. BRONK Brig,
75 CA Section

LEGAL SUB-COMMISSION	
CIO	
DCIO	
Chief Counsel	
CIP DISTRIBUTION:	
✓	
CL R. 35	
21 JUN 1945	

MR. BRILLIA, Lombardia, Liguria, Venezia, Piemonte Regione
 SOA 6 Army, 5 Army, 17 Corps, XIII Corps
 ✓ 15 Army Group
 Scale of Distribution : HQ and SOA (4); HQ (2)
 All Defacing Sub-Commissions

1992

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

98A

AC/4082/6/L.

20 June 1945.

SUBJECT : Epuration Commission for the Magistracy - Pres. VOGLIOTTI.
TO : Regional Commissioner (Attn: Regional Legal Officer),
LOMBARDIA Region.

Your 5074 of 18 June and AC/4082/6/L of 31 May refer.

1. With regard to VOGLIOTTI please refer to your Division letter Leg/5027 of 4 June, addressed to RIO FIDEMONTE. If no answer has been received kindly urge him on.
2. The fact that MENZI has been appointed High Commissioner may bring new elements to the epuration problem.
3. The case of Dott. DE MAIO has been brought to the notice of the Ministry. No doubt H. B. TOGLIATTI will deal with this matter adequately.
4. It is regretted that Sgt. PAFIS is now confined in hospital with pneumonia. Your observation on good order and military discipline is therefore noted and will be complied with.

By command of Rear Admiral STONE:

G. G. HUNNAPORD,
Lt. Col.,
Officer i/c Italian Branch,
for Chief Legal Advisor.

101

4082/6

97A

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LOMBARDIA REGION
APO 394
Legal Division

Ref.: LEG/5074

18 June 1945

SUBJECT : Epuration Commission for the Magistracy.
TO : HQ Allied Commission (Legal Sub-Commission)

1. With reference to your letter AC/4013/3/L of 12 June 1945 para 10, difficulties continue with regard to the Epuration Commission as Consigliere Bricchetti is reluctant to sit and Consigliere Natta asks to be excused on grounds of health. ~~As to~~ The objection put forth by the former that it is embarrassing for him to investigate the position of his superiors is removed by your direction that the cases of Pignatti and Leviani should not be investigated by this Commission, but it is felt that even so he is not enthusiastic about this work.

2. The first President indicates that one ground of the reluctance of the magistrates to sit in this Commission is the feeling that the epuration of the magistracy conducted in Rome has been extremely lenient. This point has already been mentioned in our letter regarding Dott. De Maio.

3. The First President has undertaken to speak ~~to~~ Bricchetti and Natta again and it is hoped that the difficulties will be overcome. He is also investigating the possibility of inviting a Piedmontese ^{an expert} by the name of Vogliotti who is now in retirement to undertake the presidency of the Commission as he is an independent person and highly regarded by everybody.

/4.

4. Cons. Ciuti, the Brescia representative, came to this office this morning and appears anxious to go on with the work as far as his District is concerned.

For the Regional Commissioner :

H.M. Dickie

H.M. DICKIE
W/CDR. RAF
Regional Legal Officer

SUB COMMISSION	
CEO	
DDO	
Chief Counsel	
CLJ	
Admin. Assistant	
PLS	
SV	

vb.

96A

HEADQUARTERS
LIGURIA REGION
ALLIED MILITARY GOVERNMENT
APO 394

WGE/sf
1 June 1945

Lig/Log/24

SUBJECT : Epuration of Judicial Administration.
TO : Headquarters, Allied Commission - APO 394.
(Attn: Legal Sub-Commission)

1. Attached hereto are the following self-explanatory documents:-

- (a) Copy of Memorandum dated 26 May 1945 (but executed on 30 May by parties) signed by Dett. Tenelli and the First President of the Court of Appeal, Genoa.
- (b) Copy of letter dated 30 May 1945 from First President to the Minister of Justice and the R.L.O. this Region.


2. On or about the 16 May Dett. Tenelli called at this HQ. with the certificate quoted in para 2 of said Memorandum. He asked for our approval to this work of the Committee. The answer of this HQ. was set further in a letter Leg/24 16 May 1945 to Dett. Tenelli a copy of which letter is attached.

3. The memo then unsigned by the Parties was discussed by the First President and Lt. Col. Mansford and at the latter's suggestion they are forwarded for your information and such direction as you may deem necessary.

4. G.O. 35 was published yesterday 31st in Genoa and it is reasonable to assume Dett. Tenelli knew of this as the C.I.N. were informed as early as the 26 May of our intention to Post. It would appear then as though this proposed Committee intends to function in conjunction with the present Commission appointed by P.C. under G.O. 35. Tenelli is not, I am informed by P.L.O., a member of such commission. Any improper interference will not be permitted. 99

For the Regional Commissioner:

CIO
 D.O.L.
 Chief Counsel
 CIO
 Italian Liaison


 W.G. ELDER,
 Lt. Col., Cdn. Prov. C.,
 Regional Legal Officer.

3 Incls-
 Incl 1 - Memo-26 May.
 Incl 2 - Letter-First President
 Incl 3 - Letter Hq. 16 May.
 Copy for information to - R.C.

B JUN 1945

968

T R A N S L A T I O N

COURT OF APPEAL OF GENOVA
Office of the First President

On the 26th of May 1945 Doctor Francesco Emilio Tonelli, Counsellor of this Court of Appeal and President of the Committee of Liberation within the same Court, "Procura Generale" included, came before Us, doctor Giuseppe Giudice, First President of the Court of Appeal of Genoa, along with the undersigned Secretary. He produced a document of identification and investiture by the Committee of National Liberation for Liguria.

This document reads as follows:

" Committee of National Liberation for Liguria - Genoa 10 May 1945 - C.L.N. for Liguria invests the Committee of Liberation within the local Court of Appeal, Procura Generale included, formed by the following Counsellor : Doct. Francesco Emilio Tonelli as President, Doct. Riso Leonida and Doct. Stanislao Carta as members, with all necessary powers to control, under the instructions which will be given, the judicial activity of the court and to collect all necessary data and information concerning epuration, including the right of access to the personal files of each magistrate."

C.L.N. for Liguria - Signed : Savoretti.

Counsellor Tonelli requests that the Constitution and the composition of the above mentioned committee should be publicly announced by affixing proper notice in the hall of the Court.

In addition he states, also on behalf of the other two members of the Committee, that the Committee intends to restrict its powers only to the collection of all data and information which are necessary for the work of epuration, renouncing, at the same time being, all powers of control over the judi

THIS DOCUMENT

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 composition of the above mentioned committee should be publicly
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In addition he states, also on behalf of the other two mem-
 bers of the Committee, that the Committee intends to restrict
 its powers only to the collection of all data and information
 which are necessary for the work of epuration, renouncing, at
 least for the time being, all powers of control over the judi-
 cial activity of the Court. With regard to the right of access
 to the personal files of every magistrate, he relies upon the
 free will and personal judgment of the First President, who by
 law is in charge of the said files.

The First President acknowledges and states that, as far as
 he is concerned, he will immediately report to the Minister
 of Pardon and Justice, pointing out that the epuration of the
 State administrations is ruled by L.L.L., 27/7/1944 No 159 as
 amended by subsequent laws, all of which have been implemented
 by the Allied authorities.

As the Committee will restrict itself to the collection of
 data to be submitted to the competent Ministerial Commission
 for epuration, he calls the Committee's attention to the fact
 that information concerning the political activity of all ma-
 gistrates and officials may be ascertained from the personal
 files existing at the Ministry of Justice, whilst from the fi-
 les existing at each judicial office there may be ascertained

./.

only, and even then not always, the fact of inscription in the Fascist Party, in some cases without indication of the date of inscription.

This verbale, signed by Counsellor Tonelli as President of the Committee of Liberation and by the First President, is drawn in three copies, one for the First President, one for the C.L.N. and the last for Counsellor Tonelli.

Read, confirmed and undersigned.

-----00000-----

7 37

1 5 6 6

COURT OF APPEAL OF GENOVA
Office of the First President

Subject: Epurations of Judicial Administration

30th, May, 1945.

To Colonel Elder
Chief of Legal Section of the Allied H.Q. Liguria Region.

To Excellency Minister of Pardon and Justice

R O M A

The Counsellor of this Court doct: Tonelli Francesco Emilio came before me and produced the documents and made the statement reported in the attached "Verbale".

As none of the DLLs issued by the Italian Government and implemented in this region by the Allied H.Q. provides for the constitution of local committees of epuration in the State Administration, the appointment of this Committee within the Court of Appeal is considered illegal.

The members of the said Committee were appointed by no assembly, except themselves; and, against the usual procedure no representative of the Public Prosecutor is in the Committee.

Although doct: Tonelli has declared that the Committee renounces, at least for the time being, every power of control over the judicial activity of the Court, it has still to be pointed out that such a power belongs only to the Allied H.Q. and to the Ministry of Pardon and Justice.

With regard to collection of data and "denunciato" to the High Commissioner for epuration, the Art. 2 of the D.L. 23rd October 1944 rules that this activity pertains to the administrations mentioned in Art. 11 of D.L.L. 27th July 1944 N. 159. Therefore the activity of such Committee appears neither necessary nor useful.

We feel it is necessary that the epuration in the State

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We feel it is necessary that the epuration in the State Administrations should be carried out in strict compliance with Law, in order to avoid **disorder** and confusion by upsetting the gerarchy. Specially a judicial administration would resent more than others the unfortunate consequences of illegal procedure.

signed: The First President (G. Giudice)

WRJ/gds

HEADQUARTERS

ALLIED MILITARY GOVERNMENT

LIGURIA REGION

APO 394

Ref. : Leg/24

16 May 1945

SUBJECT : Special Committee on Epuration

TO : Dott. Francesco Emilio Tonelli
Via Felice Cavallotti 15, Genova

1 - Reference is made to your letter of 11 May 1945, the certificate of your appointment issued by the Committee of National Liberation, dated 10 May 1945, as president of a committee dealing with epuration and the conversation with Lt. Col. Elder, Regional Legal Officer.

2 - Your attention is invited to the fact that on the 7th of May Italian Legislation was implemented in this region and the same became law. By that law provision was made for epuration by RIL 159 and subsequent amending decrees, and by a supplement to RIL 49/45 a Special Court was set up which has jurisdiction to legally enforce epuration proceedings. This Court is established in Genoa.

3 - Under International Law, an occupying Military Force seeks to interfere with existing law, only to the extent made necessary by military expediency.

4 - The policy adopted in this theater is to seek to re-establish law and order and to that end to aid the courts to function in a normal manner.

5 - The Special Court instituted, as stated in par. 2 hereof,

certificate of your appointment issued by
ional Liberation, dated 10 May 1945, as president of a committee
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4 - The policy adopted in this theater is ^{to} seek ^{to} re-estab=
lish law and order and to that end to aid the courts to function
in a normal manner.

5 - The Special Court instituted, as stated in par. 2 hereof,
is a court, and as such cannot have its functions supervised or
controlled by your committee.

6 - It therefore is impossible to grant the endorsement of
your committee or recognize the committee as a body empowered to
act with authority. The courts must function as provided by law.
You may, however, be able to render great assistance in the pro=
secution of cases by giving evidence or making witnesses available.

7 - The above ruling is made with full appreciation of the
outstanding contribution made by the members of C.I.M. to the wel=
fare of the people of Liguria and the justifiable interest in the
success of these courts and their proper functioning with fairness
and justice to all.

WILLIAM R. JORDAN
Colonel CAC
Deputy Regional Commissioner

40824

95A

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

Ref DF/3B/CA

4 June 45

SUBJECT : Defascism - Request for information

TO : MINISTERO DEI TRASPORTI
Gabinetto di S.E. Il Ministro
Ufficio Epurazione

93A

94A

- 1 Reference is made to the last paragraph of your letter of 24 May 1945 (N.M/DL/365.1/5068) and to the reply of the Legal Sub-Commission addressed to you under date of 1 June 1945.
- 2 The orders promulgated by the Allied Military Government and dealing with epuration in the Provinces mentioned by the Legal Sub-Commission are General Orders 35 and 35 A. Copies of these orders were furnished to the Prime Minister and to the High Commissariat for Sanctions against Fascism.



E.L. PALMIERI
Major,
CA Section

33
94

Copy for info to : Legal S/C (Attn. Lt Col THACKRAH)

File

1485

94

file

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4082/6/L.

ES/pa.
1 Jun 45.

SUBJECT : Effective date of DLL 159/1944 in Northern Provinces.
TO : Ministero dei Trasporti, Gabinetto di S.E. il Ministro, Ufficio Epurazione.

1. Reference your NPM/IX/365.1/5068 dated 24 May 1945.
2. Please find below a list showing the dates on which the above decree came into operation in the individual northern Provinces. No advice has been received from the remaining Provinces as yet:

Piacenza	10 May 1945
Parma	8 May 1945
Reggio Emilia	11 May 1945
Modena	17 May 1945
Bologna	8 May 1945
La Spezia	11 May 1945
Verona	18 May 1945
Treviso	22 May 1945
Vercelli	15 May 1945
Varese	19 May 1945
Como	19 May 1945
Sondrio	19 May 1945
Bergamo	19 May 1945
Brescia	19 May 1945
Milano	19 May 1945
Pavia	19 May 1945
Cremona	19 May 1945
Mantova	19 May 1945

7 93

3. Your letter ^{has} been passed to the Civil Affairs Section of this HQ for action on the last paragraph.

Copy
A. R. THACKRAH, Lt.Col.
Italian Branch,
For Chief Legal Advisor

Copy to : CA Sec (see para 3).

93A

4082/6 ✓

Roma, 24 MAG 1945



MINISTERO DEI TRASPORTI

GABINETTO DI S. E. IL MINISTRO

UFFICIO LEGERAZIONI

N. 27/IX/365.1/5068

Risposta al N.

OGGETTO Applicazione del D.L.I. 27/7/1944 N. 159, contenente le sanzioni contro il fascismo, nelle Province dell'Italia settentrionale.

ALLA SOTTOCOMMISSIONE LEGALE DELLA COMMISSIONE ALLEATA

R O M A

Con l'ordinanza del Governo Militare Alleato in data 29 luglio 1944 è stato stabilito che il Decreto Legislativo Luogotenenziale 27 luglio 1944 N. 159 riguardante le sanzioni contro il fascismo, nonché tutti gli altri provvedimenti legislativi adottati dal Governo Italiano e pubblicati nel n. 41 della Gazzetta Ufficiale del Regno in data 29 luglio 1944, "entrino in vigore ed abbiano piena forza ed effetto di legge in ogni Provincia del territorio sovrastato al Governo Militare Alleato a partire dalla data in cui il Prefetto di tale Provincia cederà alla Commissione Alleata una copia del suddetto numero della Gazzetta Ufficiale".

Per averne nome nell'applicazione del Decreto in oggetto nei confronti del personale dipendente da questo Ministero e residente nelle Province dell'Italia Settentrionale testè liberate, si prega compiacersi far conoscere la data in cui i Prefetti di dette Province hanno ricevuto dalla Commissione Alleata la Gazzetta Ufficiale N. 44.

Si gradirà altresì conoscere se e quali ordinanze siano state emanate dal Governo Militare Alleato nelle Province sopra citate relativamente all'attuazione...

OGGETTO Applicazione del D.L. 27/7/1944 N. 159, contenente le sanzioni contro il fascismo, nelle provincie dell'Italia settentrionale.

ALLA SOTTOCOMMISSIONE LEGALE DELLA COMMISSIONE ALLEATA

R O M A

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Per averne norme nell'applicazione del Decreto in oggetto nei confronti del personale dipendente da questo Ministero e residente nelle Provincie dell'Italia Settentrionale testè liberate, si prega compiacersi far conoscere la data in cui i Prefetti di dette Provincie hanno ricevuto dalle Commissioni Alleate la Gazzetta Ufficiale N. 44.

Si gradirà altresì conoscere se e quali ordinanze siano state emanate dal Governo Militare Alleato nelle Provincie sopra citate relativamente all'epurazione del personale dipendente delle pubbliche

Amministrazione.

CLO	
DCLO	
Chief Counsel	
CJO	
Relation Division	
CL Rpt	27 MAY 1945

d'ordine di S. E. il Ministro
IL CAPO DEL CABINETTO

File

92A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AG/4082/6/L.

/rip.
31 May 1945.

SUBJECT : Additional personnel for Special Section of Cassation - Expiration of Magistracy.

TO : Regional Commissioner (Attn: Regional Legal Officer),
LOMBARDIA Region.

1. Reference is made to the proposal of the First President, Court of Appeal, Turin to appoint to the above Section Dott. VOGLIOTTI Giuseppe and CARON Giovanni.

2. Intimation has now been received that neither of the two magistrates can be considered for the appointment. Sig. VOGLIOTTI was promoted to grade two on his retirement and could not be used in this grade at the Section. Sig. CARON was retired in grade 5 and would not appear to have any right to promotion to the required grade if recalled into service.

3. However, it occurs to me that the same Sig. VOGLIOTTI (now at Buenos Argentina, Turin Province) is suitable to preside over the section of the provincial Expiration Commission referred in your AG/5073 of 28 May 1945. As he was apparently willing to go to Milan to sit on the Court of Cassation Section, he might accept an appointment in connection with expiration.

4. Will you explore this avenue confident that we ourselves shall leave no stone unturned at this end.

By command of Rear Admiral [Signature]

3 91

W. L. HARRIS,
Colonel,
Deputy Chief Legal Advisor.

Copy to: AG (Attn: HLO), FLEMONTE Region (our AG/4092/1/L of 30 May refers);
File AG/4092/1/L.

91A

File 4082/6

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LOMBARDIA REGION
APO 394
Legal Division

Ref.: LMG/5073

28 May 1945

SUBJECT : Expiration of Magistracy in Lombardian Region

TO : HQ Allied Commission
(Legal Sub-Commission)

1. As you are aware there are two Courts of Appeal and fourteen Tribunali to be operated in Lombardian without counting the Preture.
2. It appears undesirable to have judicial officials and especially high ranking judges suspended by the local Provincial Commission, generally composed of young and ardent lawyers.
3. The expiration Commission in Milan has agreed with this point of view and it is therefore proposed to set up a section of the Central Provincial Commission to deal with the Courts in the Province of Milan.
4. This section shall be presided by a judge of grade 3, sitting with a professor of University and an advocate. It is proposed to set up a similar sub-section in every Province, the grade of the President varying in accordance with that of the officials to be operated.
5. As no judicial official of grade 3 is available for this purpose in Milan, could the High Commissioner and the Minister of Justice be requested to send one from Rome. Lodgings and meals will be provided by one of the Counsellors of the Court of Milan.
6. Could this Division be notified as soon as possible whether or not such official is available, as, if not, some other device will have to be worked out.

90

7. No difficulty is anticipated in the other Provinces.

For the Regional Commissioner:

G. S. Hammett
H.M. DICKIE
W/Comdr., R.A.F.
Regional Legal Officer.

LEG	DEPARTMENT
	CLO
→	DCLO
	Chief Counsel
	CIO
	Italian Section
	CL RKS
	31 MAY 1948

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HEADQUARTERS ALLIED COMMISSION
AFD 394
LEGAL SUB-COMMISSION

/rlp.
29 May 1945.

AC/4082/6/L.

SUBJECT : Translation of decrees.

TO : Regional Commissioner (Attn: Regional Legal Officer),
LIGURIA Region.

1. Reference your Lig/Leg/24 of 23 May 1945.
2. Civil Affairs Section of this Hq deals with separation and applications should be made to them direct for any copies of translations required on this subject.
3. In compliance with your request, herewith enclosed are six copies of translations of DLL 257 and 179.
4. Civil Affairs Section informed this sub-commission that six copies of DLL 235/44 were forwarded to your Hq under their reference No. OF/5.2/3A of 21 Nov 45. No further copies of this decree are available.

By command of Rear Admiral STONE:

ey
A. R. THAKRAN,
Lt. Col.,
Italian Branch,
for Chief Legal Advisor.

6 Incls: Translations of DLL 257 and 179.

HEADQUARTERS
VICORIA REGION
ALLIED MILITARY GOVERNMENT
APO 394

WGR/sf
23 May 1945

88A

Lig/Leg/24

SUBJECT : Translation of Decreases.

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

~~Ad 86A~~

1. Reference Headquarters letter Lig/Leg/24, dated 18 May 1945, may 6 copies of transmission of the following Decreases also be forwarded:-

DLL 257/44 - *78 - No copies available*
DLL 265/44

2. If an official translation of DLL 179/45 has been made this also would be very useful.

57

copy out

FOR THE REGIONAL COMMISSIONER:

W. G. Elber
W. G. ELBER, Lt. Col., Cdr. Prov. G.,
Regional Legal Officer.

LEGAL SUB-COMMISSION
SIO
OTIO
Chief Clerk
CL

56

WGR/sf/PA-1 21 May

1. Reference Headquarters letter ltr/Reg/24, dated 10 May 1945, may 6 copies of translation of the following Decrees also be forwarded:-

DLL 257/44 - 1st
DLL 255/44 7th - No copies available

2. If an official translation of DLL 179/45 has been made this also would be very useful.

57

Approved in

FOR THE REGIONAL COMMISSIONER:

W. S. Elden
W. S. ELDEN,
Lt. Col., Can. Prov. G.,
Regional Legal Officer.

IFCW SUBCOMMISSION
CIO
DCLO
Chief Clerk
CP

56

DE/S-4/PA 7 2/1/1/1

27 MAY 1945

4000/a 26

87A

DECLASSIFIED AND UNCLASSIFIED
DATE 10/1/00 BY SP-6/BJW/STW

1. The purpose of this regulation is to provide a uniform procedure for the review of military personnel records and to ensure that such records are accurate and complete. This regulation is necessary in order to carry out the intent of the provisions of the law which are referred to in the preceding section. Several transitional provisions have been included.

- 1. allow the review of law, order to submit to the review of the records of military personnel and to provide the necessary information to the review of the records of military personnel.
- 2. allow the review of law, order to submit to the review of the records of military personnel and to provide the necessary information to the review of the records of military personnel.
- 3. allow the review of law, order to submit to the review of the records of military personnel and to provide the necessary information to the review of the records of military personnel.
- 4. allow the review of law, order to submit to the review of the records of military personnel and to provide the necessary information to the review of the records of military personnel.
- 5. allow the review of law, order to submit to the review of the records of military personnel and to provide the necessary information to the review of the records of military personnel.
- 6. allow the review of law, order to submit to the review of the records of military personnel and to provide the necessary information to the review of the records of military personnel.

- 9. Extends for territory not yet returned to Italian Administration the time limits within which persons may be retired. A. 2 of DL 257
- 10. Extends the time limits for initiating separation proceedings against employees of the Ministry of Posts and telecommunications to 15 May. A. 25 of DL 139
 The time limit except for civil employees of other Ministries and for military personnel remain unaffected but the time limit for all other persons is extended to 15 Aug. A. 1 of DL 56
 The time limit for the completion of proceedings is extended by 30 days. A. 2 of DL 44

[Handwritten Signature]
 S.P. URJOH Brig,
 VP CA Section

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EC Lombardia Region	Education S/C	Land Forces S/C
PC Venetia Region	Econ S.ction	Transportation S/C
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SEAC 4th Army	Commerce S/C	JRF
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4082/6

File

86A

HEADQUARTERS
LIGURIA REGION
ALLIED MILITARY GOVERNMENT
APO 394

Lig/Leg/24

WGE/sf
18 May 1945

SUBJECT : Epuration.

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

1. It would be appreciated if this headquarters could be furnished with 6 copies of English translation of DLL 159.

W. G. Elder
W. G. ELDER,
Lt. Col., Cdn. Prov. C.,
Regional Legal Officer.

CA Sec

Can you oblige please to forward

1st IND

From: Legal Sub-Commission, HQ AC.

20 May 1945

TO : Regional Legal Officer, LIGURIA Region

54

6 copies DLL 159 (English) forwarded as requested.

Conf
A. H. THACKRAN,
Lt. Col.
Italian Branch.
for, Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION
APO 394
FINANCE SUB COMMISSION

13192/P

19 May 1945

SUBJECT : War Booty.

TO : Regional Commissioner,
Toscana Region.
(for R.F.O.)

1. The High Commissioner for Sanctions against Fascism has queried with this HQ. the course of action taken by the P.F.O. Livorno with regard, apparently, to the blocked accounts of Fascist Enti.

We enclose translation of a letter written by Capt. Hebb to the Banca d'Italia Livorno in this connection.

2. The P.F.O.'s action would seem to have originated in a misconception of the instructions given in our letter of March 26th, Ref. 13052/P. We attach copy of same and as you will see, this letter has reference solely to the seizure of "bank balances and other similar assets belonging to the German State".

3. In any event, the blocked accounts of Fascist Enti or Fascist Republican Government bodies are not subject to seizure, but should be turned over to the Regia Tesoreria Provinciale (see this HQ.'s letter B/73 of 13 August 1944).

4. Would you please instruct the P.F.O. Livorno to this effect.

By Command of Rear Admiral STONE

Copy to:

Legal Sub Commission ✓

Italian Branch - Ref. AC/4082/6/2

" Civil Affairs Section (Attn. Lt.Col. White).

[Signature]
Joint Director
Finance Sub Commission

83A

COPYHEADQUARTERS LIVORNO PROVINCE
ALLIED MILITARY GOVERNMENT

Ref. No. AMG/L/F/2

3 April 1945

SUBJECT : Frozen Accounts.

TO : Banca d'Italia, Livorno.

1. With reference to your letter No. 558 of 24 Feb. last, I wish to inform you that I have received a letter from the General Staff confirming the fact that the instructions issued by the Ministry of the Treasury in letter No. 400099 have no effect in the territory still under Allied Military Government.

2. All bank accounts in the name of fascist bodies are to be considered war booty and paid, therefore, to the Allied Military Government.

7 52

(sd) M.A. Hebb
Capt. R.A.
P.O. A.C.C.
Province of Livorno.

COPY

HEADQUARTERS ALLIED COMMISSION
APO 394
FINANCE SUB COMMISSION

13052/F

26 March 1945

SUBJECT : Blocked Accounts.

TO : Regional Commissioner,
Toscana Region.
(for R.F.O.)

1. Reference your R8/1704.D of 14th March, it is confirmed that bank balances and other similar assets belonging to the German State should be seized by A.M.G. as booty of war.

2. Ministry of Treasury Prot. 400099 was issued without authority and representations thereon are being made.

By Command of Rear Admiral STONE

51

(sd) Lt. Col. E.P. Waters
forJoint Director
Finance Sub Commission

EPW/pmf

1587

84A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/lc.
17 May 1945

~~AC/4082/6/L.~~

SUBJECT : Bank accounts of the dissolved fascist organizations.
TO : H.E. The Minister of Treasury.

Your Excellency's Prot. N°. 502921 of 14 May 1945 with enclosures has been referred to the Finance Sub-commission which will communicate directly with Your Excellency.

Copy 50
A. R. THACKRAH,
Lt. Col.
Italian Branch,
for Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

83A

/10.
17 May 1945.

AG/4082/G/L.

SUBJECT : Bank accounts of dissolved fascist organizations at Livorno.

TO : Finance Sub-Commission.

1. The enclosed copies of Prot. N° 502921 of the Ministry of Treasury of letter AMG/L/F/2 of the Finance Officer, Livorno Province are passed to you for any action you might deem necessary and the Minister of Treasury was informed accordingly.

2. The following observations on the legal aspect of the question might be of some assistance to you.

3. It is confirmed that D.L.L. n° 159 of 27 July 1944 (Sanctions against fascism) became operative and acquired full force of law in Livorno Province on 15 September 1944 by virtue of an order of the Executive Commissioner, Allied Commission.

4. Art. 38 and 39 of this decree provides as follows:
PART IV Confiscation of Fascist Property.

38 The property of the disbanded fascist national party and of organizations suppressed by RDL 2 August 43, N° 704, shall devolve upon the State.

Such property shall be used for the public service or the public benefit, this shall be effected on the proposal of the High Commissioner by decree of the President of the Council, in agreement with the Competent Ministers. If necessary such property may be transferred to another public body or organization promoting welfare, sport or the like.

39 The finance administration of the State shall provide for the collection of assets of the fascist national party and the suppressed organizations.

5. Consequently it would appear that if the bank accounts referred to in the above correspondence belonged to the Fascist National Party or to any other fascist organization suppressed by RDL 2 August 43 N°. 704 such accounts could hardly be considered as "booty of war" and as such claimed by the Allied Military Government.

79

Def
A. R. THACKRAN,
Lt. Col.
Italian Branch,
for Chief Legal Advisor.

Encls: 2



Ministero del Tesoro
RAGIONERIA GENERALE DELLO STATO

[Handwritten signature]

[Handwritten initials]

14

Maggio 1945

82A

AL COMANDO DELLA COMMISSIONE
ALLIATA - Sottocommissione Legale
R O M A

[Handwritten: Direzione XXI]

[Handwritten: Prot. N. 50221 Allegato tre 50225]

[Handwritten: Proposta in data del 24/2/45 n. AC/4082/61]

OGGETTO Valori di pertinenza delle sopprasse organizzazioni fasciste.

66A

In difformità della cortese comunicazione di codesto Comando, con la quale venne assicurato che il Decreto legislativo-luogotenenziale in data 27 luglio 1944, n. 159, ora entrato in vigore nella provincia di Livorno con decorrenza 15 settembre 1944, viene segnalato a questo Ministero che l'Ufficio finanziario Alleato per la predetta provincia, con nota 3 aprile u.s., n. A.M.G./L/R/2, della quale si unisce copia, ha fatto conoscere alla Banca d'Italia che "i conti bancari intestati nel nome di enti fascisti vengono considerati rottini di guerra e pagati, perciò, al Governo Militare Alleato."

Poiché, come noto, gli articoli 58 e 59 del decreto anzirichiamato determinano la devoluzione allo Stato Italiano di tutti i beni del soppresso P.n.f., demandando a questo Ministero il realizzo delle attività, al fine di porlo in grado di provvedere alla liquidazione delle notevoli passività del cesnato ante, si prega codesto Alto Comando

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In difformità della cortese comunicazione di questo Comando, con la quale venne assicurato che il Decreto legislativo-inaugurale in data 27 luglio 1944, n. 159, ora entrato in vigore nella provincia di Livorno con decorrenza 15 settembre 1944, viene segnalato a questo Ministero che l'Ufficio finanziario Alenteo per la predetta provincia, con nota 3 aprile u.s., n. A.M.G./17/2, della quale si unisce copia, ha fatto conoscere alla Banca d'Italia che "i conti bancari intestati nel nome di enti fascisti vengono considerati rottino di guerra e pagati, perciò, al Governo Militare Alenteo."

Ioiché, come noto, gli articoli 38 e 39 del decreto anzirichiamato determinano la devoluzione allo Stato Italiano di tutti i beni del soppresso F.n.f., demandando a questo Ministero il realizzo delle attività, al fine di porlo in grado di provvedere alla liquidazione delle notevoli passività del cessato ente, si prega questo Alto Comando affinché si compiacca chiarire all'Ufficio finanziario di Livorno i vigenti accordi, per effetto dei quali i conti intestati al nome degli enti fascisti vanno sbloccati, con l'autorizzazione del versamento al Tesoro Italiano dei relativi saldi attivi.

In tal senso si gradirebbe un cortese cenno di assicurazione.

I L M I N I S T R O

Alm.

<p> <input type="checkbox"/> C.D.O. <input type="checkbox"/> C.I.O. <input type="checkbox"/> Chief Clerk <input type="checkbox"/> C.F.O. <input type="checkbox"/> Station <input type="checkbox"/> 16 Mar 1945 </p>
--

Il primo fascista per ogni lettera o telegramma indirizzato al V.le. Alenteo e al Governo a cui si riferisce

R

82B

C O P I A

HEADQUARTERS
LIVORNO PROVINCE
ALLIED MILITARY GOVERNMENT

File: AMG/L/F/2

3 aprile 1945

Subject: Conti bloccati

To: Alla Banca d'Italia - Sede di Livorno -

- 1. Con riferimento alla Vs/ lettera n. 558 cb 24 febbraio u.s. vi informo che ho ricevuto una lettera dal Quartiere Generale che mi conferma che le istruzioni emesse dal Ministero del Tesoro con foglio n. 400099 sono senza forza nel territorio che trovasi sem-
pre sotto la gestione del Governo Militare Alleato.
- 2. I conti bancari intestato nel nome di Enti Fascisti veugo-
no considerati bottino di guerra e pagati, perciò, al Governo Milli-
tare Alleato.

M.A. Hebb
Capt. R.A.
F.O. A.U.C.

Provincia di Livorno

77

1. Con riferimento alla Vs/ lettera n.558 cb 24 febbraio u.s. vi informo che ho ricevuto una lettera dal Quartiere Generale che mi conferma che le istruzioni emesse dal Ministero del Tesoro con foglio n.400099 sono senza forza nel territorio che trovai sotto la gestione del Governo Militare Allento.

2. I conti bancari intestato nel nome di Enti Fascisti vengono considerati bottino di guerra e pagati, perciò, al Governo Militare Allento.

M.A. Hebb

Capt.R.A.

F.O. A.C.C.

Provincia di Livorno

77

per copia conforme

L'Aggiunto di Direzione ff.

F.to Illeg.

SIA

COMANDO COMMISSIONE ALLEATA
Sotto Commissione Legale

24 febbraio 1945

AC/4982/6/L

All'Alto Commissariato per le sanzioni contro il fascismo.

In risposta alla Sua lettera n. 2331 - AC del 13 febbraio 1945, si acclude un elenco delle date di entrata in vigore del D.L. 159 del 27 luglio 1944 nelle singole provincie del Governo Militare Allentato.

Ten. Col. G. G. Hannaford
per il Consigliere Legale

TERNI	14.8
PERUCIA	23.8
ASCOLI P.	11.9
MACERATA	2.9
ANCONA	6.11
PESARO	25.8
SIENA	21.9
GROSSETO	25.8
AREZZO	21.10
LIVORNO	15.9
PISA	18.10
PIRENZE	11.10
LUCCA	10.11
PISTOIA	11.11
NAPOLI	7.8

SOA

THE
DECREE
AS TO

SANCTIONS AGAINST FASCISM

- Part I - Crimes
- Part II - Purging
- Part III - Enrichment
- Part IV - Fascist Funds
- Part V - The High Commissioner
- Part VI - Miscellaneous

PUNISHMENT OF CRIMES

PART I

- 1 All penal provisions issued to safeguard institutions and political organisations created by fascism are hereby repealed.
Decisions already pronounced by virtue of such provisions are hereby annulled.
- 2 Members of the Government and high ranking members of fascism, guilty of annulling the guarantees given under the constitution, of destroying the liberty of the people, of creating the fascist regime, of compounding and betraying the fortunes of the country bringing it to the present disaster shall be punished by penal servitude for life and, in cases where the responsibility is greater, by death.
They shall be tried by a High Court of Justice composed of a President and eight members, chosen by the Council of Ministers, from among high ranking judicial officials serving now or in retirement and from among other persons of unquestionable rectitude.
- 3 Those who organised fascist squads, committing acts of violence and pillage and those who promoted and directed the revolt of 28 October 1922 shall be punished according to Art 120 of the Penal Code 1889.
Those who promoted and directed the Coup d'Etat of 3 January 1925 and those who have since contributed by any means to maintain the fascist regime in power shall be punished in accordance with Art 116 of the aforesaid code.
Whoever has committed any other crime for fascist reasons or taken advantage of the political situation created by fascism shall be punished according to the laws obtaining at the time of the crime.
- 4 Those crimes described in the preceding Article shall be tried by the Court of Assize, by the Tribunali and by the Pretors according to their respective jurisdiction.
The Court of Assize shall be composed of two judicial officials as described in the law as to the constitution of the Courts of Assize, and of five lay judges chosen by lot from special lists of citizens of unblemished moral and political behaviour.
- 5 Whoever whether a member of the Armed Forces or not, after 8 September 1943 has committed a crime against loyalty and the military defence of the State, by any kind whatsoever of action, collaboration help or assistance given to the German invader shall be punished according to the provisions of the Military Penal Code of War.
Members of the Armed Forces shall be tried by Military Courts, civilians by ordinary Courts.

plungo and those who promoted and directed the Coup d'Etat of 3 January 1925 and those who have since contributed by their action to maintain the Fascist regime in power shall be punished in accordance with Art 116 of the afore-said code.

Whoever has committed any other crime for fascist reasons or taken advantage of the political situation created by fascism shall be punished according to the laws obtaining at the time of the crime.

4. Those crimes described in the preceding Article shall be tried by the Court of Assize, by the Tribunal and by the Pretors according to their respective jurisdiction.

The Court of Assize shall be composed of two judicial officials as described in the law as to the constitution of the Courts of Assize, and of five lay judges chosen by lot from special lists of citizens of unblemished moral and political behaviour.

5. Whoever whether a member of the armed Forces or not, after 8 September 1943 has committed a crime against loyalty and the military defence of the State, by any kind whatsoever of action collaboration help or assistance given to the German invader shall be punished according to the provisions of the Military Penal Code of War.

Members of the armed Forces shall be tried by Military Courts, civilians by ordinary Courts.

6. Any limitation of time with regard to the offence or the punishment thereof shall not apply to any person guilty of, any crime described in this decree, who because of the existence of the fascist regime has not been punished.

For the same reason amnesties and pardons granted after 28 October 1922 in respect of any crime described in this decree shall be invalid, any already granted shall be revoked.

The High Commissioner may propose the revocation of any royal pardon already granted.

When a decision regarding any such crimes has been influenced by any moral coercion resulting from fascism, such decision may be declared to be legally non-existent.

Declarations in this respect shall be made by a Section of the Supreme Court of Cassation appointed by the Minister of Justice.

The provisions of this decree shall not apply in regard to any crimes punishable by imprisonment for three years or less.

7. The punishment prescribed for any crime described in this part may be reduced by up to one quarter and imprisonment for not less than five years may be substituted for a sentence of death or of imprisonment for life.

a. if the accused had before the outbreak of this war either retired from political life or had been openly opposed to fascism;

- b If the accused has actively participated in the struggle against the Germans
- c Where general extenuating circumstances exist imprisonment for 30 years shall be substituted for penal servitude for life and other penalties shall be reduced by one sixth.
The guilty party shall be declared not punishable if he distinguished himself by special acts of valour in the struggle against the Germans.
- 8 Any person who for fascist reasons or, by taking advantage of the political situation created by fascism has committed acts particularly serious which while not being offences in the eyes of the law are nevertheless contrary to the rules of social and political integrity shall be subjected to temporary disqualification from holding any public office or to loss of political rights for a period of not more than ten years.
Whoever such a person is deemed to be a danger to society he may be sent to an agricultural colony or a labour institution for a period of not less than one or more than ten years.
The provisions contained in this Article shall be administered by a Provincial Commission provided over by a judicial official and composed of two other members chosen by lot from among the lay judges described in Art 4.
In regards members of the legislative assemblies or other institutions who by their votes or actions contributed to the maintenance of the fascist regime and where war possible, they shall be dismissed from their office on decision of the High Court described in Art 4, without prejudice to any of the other provisions set out in this Decree in so far as they may be applicable.
- 9 Without prejudice to any legal action, the property of any citizen who has betrayed his country fleeing himself voluntarily and actively at the service of the German invaders shall be forfeited to the State.
In penal proceedings such forfeitures shall be pronounced by a judicial authority competent to pronounce sentence of condemnation. In other cases referred to thereby the High Commissioner, by the Tribunale territorially competent.
- 10 In regard to any matter not specifically provided for by this part the rules of the Code of Penal Procedure shall obtain whereever may be applicable.

PART II
ORGANIZATION OF THE ADMINISTRATION

- 11 Officials and employees of the following bodies shall be subject to operation proceedings:
 - (1) civil and military State Administrations, even if autonomous;
 - (2) local authorities and other public bodies and institutions;

positive and, where possible, they shall be dismissed and their names
deletion of the High Court described in art 2, without prejudice to any of
the other provisions set out in this section in so far as they may be applic-
able.

9 Without prejudice to any legal acts, the property of any citizen who
has betrayed his country during himself voluntarily and actively of the
services of the German Government shall be forfeited to the State.
In penal proceedings such forfeitures shall be pronounced by a judicial
authority competent to pronounce sentences of condemnation. In other cases
conferred to them by the Criminal Code, by the tribunals territorially
competent.

10 In regard to any matter not specifically provided for by this part the
rules of the Code of Penal procedure shall obtain whatsoever way be applicable.

PART II
STATUS OF THE ADMINISTRATION

11 Officials and employees of the following bodies shall be subject to
special provisions:-
(1) civil and military State Administrations, even if not in-
(2) local authorities and their public bodies and institutions;
(3) special concerns operating under public authority or bodies of
private concerns established by the State for controlling public utility
installations or concerns having a *fin* wide interests.

12 The following shall be dismissed from service:
(1) any person, particularly if discharging high office, who has by part-
icipating actively in the political life of Poland or by showing himself
as a consistent supporter of enemies, shown that he is unworthy of serv-
ing the State;
(2) any person who has committed a misdemeanor or punishment through
favouritism of the party or of State officials or high rank.

13 Any employee who has committed an offence of corruption or corrupt
practices such as have been introduced by Poland into public administration,
shall be likewise dismissed.
Whenever evidence of an offence is found during an investigation proceedings,
such evidence shall be reported to the competent authority.

- 14 Any person who has held the position of "ammirato" or "ammiratorista" or "antidirettore", "direttore", "vice direttore", "delegato letterario" or who has been an officer in the Fascist Militia if he has been guilty of Fascist participation or improper conduct shall be considered as in office or employment, but if not so guilty he may be punished less severe punishment.
- 15 Any person who has received such profits or any preference in any competitive examination because of his Fascist position may in lieu of dismission be reduced in rank or be returned to his former position.
- 16 Any person who has after 8 September 43 distinguished himself in the struggle against the Germans may be exempted from dismissal or other disciplinary measure.
- 17 Any employee who, after 8 September 43, served in North Italy with or has pledged allegiance to or has in any way collaborated with the (Republican) Fascist Government shall be dismissed.

Punishment of lesser degree may be awarded to such an alien that he or his relatives were exposed to serious threats or danger.

Any person who by his acts has effectively aided the patriots or has undermined the work of the Germans or of the (Republican) Fascist Government which they were apparently serving, may be excused from punishment.

In every case a request shall be made of the authorities that were due under the original terms of employment and of any excess present which may actually have been received. Any special allowance or sum granted or paid in advance of any transfer to the North will be included.

16 The Commission of five members to hear operation proceedings will be a Commission to be established in every Ministry or autonomous authority or body. When personnel of different classes of functions is employed in a Ministry more than one Commission may be established in that Ministry.

Such Commissions will be supervised by the competent Minister and will be composed of a judicial or administrative magistrate of their serving or retired, who will preside over them, and of the Chief of personnel or of an official of the administration, and of a third member nominated by the High Commissioner for the Fascist Anti-Fascist Commission.

A Commission to be appointed by a Prefect composed of a judicial official, another serving or retired, an official of the Prefecture, and a member to be nominated by the High Commissioner, will be instituted for Communes, provinces, Public Welfare Institutions and under the control of the local authority.

According to the provisions set out in the preceding paragraphs substitute members may be appointed and the Commission may be divided into Sub-Commissions.

which they were apparently serving, may be extended from termination. In every case no account shall be made of the allowances that were due under the original terms of employment and of any excess payments which may actually have been received. Any special allowance or sum granted or paid in respect of any transfer to the North will be disallowed.

18 The Commission of first instance to hear operation proceedings will be a Commission to be established in every Ministry or autonomous authority or body. When personnel of different classes of functions is employed in a Ministry etc. then one Commission may be established in that Ministry. Such Commissions will be appointed by the competent Minister and will be composed of a judicial or administrative magistrate either serving or retired, who will preside over them, and of the Chief of personnel or of an official of the administration, and of a third member nominated by the High Commissioner for the Sanctions against Russia.

A Commission to be appointed by a Prefect composed of a judicial official, another serving or retired, an official of the Prefecture, and a member to be nominated by the High Commission, will be instituted for Corsica, Provence, Public Welfare Institutions and under the control of the local authority.

According to the provisions set out in the preceding paragraphs substitute members may be appointed and the Commission may be divided into Sub-Commissions.

19 Not less than ten days shall be allowed to an employee whose dismissal is proposed to prepare his defence.

The Commission, or any member delegated by them, shall have the power to examine witnesses, to receive the production of deeds and documents from judicial or administrative authorities and may personally hear the concerned party if so applies for such a hearing.

20 The finding of the Commission of the first instance shall be communicated to the High Commissioner and to the party concerned. The interested party may within three days, and the High Commissioner within twenty days appeal to a central Commission appointed by the President of the Council of Ministers and composed of a President, two officials of the central administration, two judicial or administrative magistrates serving or retired and two other members nominated by the High Commissioner for Sanctions against Russia.

In the same manner substitute members may be appointed and the Commission may be divided into sub-commissions.

12

21 Dismissed from office, in accordance with the finding of the Commission, shall be carried out by the authority which normally has such power.

The same authority shall put into effect the punishments hereby authorized in accordance with the finding of the Commission.

22 Any employee dismissed from office shall be entitled to such pension privileges as may be due to him according to the provisions then in force.

In more serious cases forfeiture of pension privileges may be ordered. Any employee the subject of censure proceedings may be suspended from office.

In such case he shall receive, for his support, his salary without any other further allowance. Suspension from office shall be ordered by the competent Minister, or in cases under para 3 of Art 16 by the Prefect.

23 Commissions responsible for inspecting the registers shall be set up in each professional association or other body responsible for keeping registers of professional men, artists and skilled workers shall apply the provisions set out in the preceding articles.

Such Commissions shall be appointed by the competent Minister or by any authority designated by him, and shall be composed of a President, a member nominated by the body keeping the register in question and of a number nominated by the High Commissioner for Sanctions against Fascism.

An appeal against a finding of a Commission may be lodged within the time set out by Art 20, to a Central Commission which shall be established, for each professional association or body, by the competent Minister and composed of a President, of two judicial or administrative judges, serving or retired, of four members nominated by the professional associations and of two other members nominated by the High Commissioner for Sanctions against Fascism.

In less serious cases a temporary suspension from the exercise of a profession, art or trade may be ordered in lieu of being struck off the register.

24 An employee dismissed from office may appeal to the State Council only on grounds of incompetence (i.e. of the Commission or officer concerned).

25 The proceedings set forth in this part shall be initiated within 6 months of this decree becoming effective.

Any proceeding before the Commission of First Instance shall be ended within three months after its initiation.

For the territory not yet liberated and for that part which has been liberated but not yet restored to the administration of the Italian Government, the time limit indicated in the first paragraph is extended to six months after the restoration of such territories to the Italian Administration.

nominated by the body keeping the register in question against Fascism.
 initiated by the High Commissioner for Sanctions against Fascism.
 An appeal against a finding of a Commission may be lodged within the time set out by Art 20, to a Central Commission which shall be established, for each professional association or body, by the competent Minister and composed of a President, of two judicial or administrative Judges, serving or retired, or four members nominated by the professional associations and of two other members nominated by the High Commissioner for Sanctions against Fascism.

In less serious cases a temporary suspension from the exercise of a profession, art or trade may be ordered in lieu of being struck off the register.

24. an employee dismissed from office may appeal to the State Council only on grounds of incompetence (i.e. of the Commission or officer concerned).

25. The proceedings set forth in this part shall be initiated within 6 months of the decree becoming effective.
 Any proceeding before the Commission of First Instance shall be ended within three months after its initiation.

For the territory not yet liberated and for that part which has been liberated but not yet restored to the administration of the Italian Government, the time limit indicated in the first paragraph is extended to six months after the restoration of such territories to the Italian Administration.

PART III Disposal of Profits derived from the Regime.

26. Profit derived from participation in or adherence to the fascist regime shall be forfeited to the State regardless whether or not a penal proceeding is instituted for acts constituting an offence.

An increase of property obtained after the 28 October by persons holding public offices or in any way engaged in political activity as a fascist shall be presumed to constitute a profit derived from the regime unless the party concerned shall show that such increase was derived from a legitimate source and this shall be the case even if the property acquired has ceased to belong to the same person.

Such presumption shall likewise apply to increases in property of the ascendants, descendants and spouse of any person, who even if not a member of the fascist party, maintained relations as associate or client with the persons indicated in the first paragraph.

In assessing increases of property consideration shall be given to property in any way acquired or held through intermediaries.

27 Specific property constituting profit derived from the regime and owned by the debtor (Note: without any explanation, the decrees use the word "debtor" to denote the person who has acquired profit from the regime) may be forfeited to the State.

28 The entire property of the debtor is liable for the satisfaction of the assessed debt to the State as profit derived from the regime.

In cases contemplated by the 3rd para of Art 26 persons set out in first paragraph of the said Article shall be liable jointly with their spouse, associates or clients.

29 If the property of the debtor is not sufficient to pay the amounts owed to the State the following dealings with property (by the debtor) shall be considered void:

- (1) transfers made by the debtor without valuable consideration during the five years prior to 25 July 43;
- (2) any disposition made after such date.

As far as the State is concerned property acquired within the five year period prior to 25 July 43 by the spouse of the debtor shall for the purpose of satisfying the State's claim for profit derived from the regime be considered as belonging to the debtor.

30 The investigation and assessing of the amount of the profit derived from the regime shall be within the jurisdiction of a Special Section of the Provincial Commission for Taxation, comprised of the President of the Tribunal or a Judge delegated by him and of four Commissioners appointed by the Minister of Finance on the nomination of the Prefet from citizens of proven probity and competence.

The Special Section shall initiate the investigation/an information by the High Commissioner or by a finance or taxation officer or an one signed by a private citizen.

The said Section shall also adjudicate complaints of the debtor or of the finance office against the proposed assessment of the profit derived from the regime.

The hearing shall be open to the public and both the *Avvocatura dello Stato* and the person the subject of the investigation may adduce evidence in rebuttal; the latter may choose to be represented by a *procuratore legale* or by an advocate.

The decision shall be communicated to the debtor, to the finance officer concerned and to the High Commissioner.

31 The Special Section of the Provincial Commission shall have all the powers of investigation, entry, search, control and inquiry, conferred upon the agents for direct taxation and upon the administrative commissions for investigation of extraordinary war profits.

The privilege to abstain from testimony in cases set out in Art 352 of

1605

period prior to 29 July 45 by the spouse of the debtor shall for the purpose of satisfying the State's claim for profit derived from the regime be considered as belonging to the debtor.

30

The investigation and assessing of the amount of the profit derived from the regime shall be within the jurisdiction of a Special Section of the Provincial Commission for Taxation, comprised of the President of the Tribunal or a judge delegated by him and of four Commissioners appointed by the Minister of Finance on the nomination of the Prefect from citizens of proven probity and competence.

The Special Section shall initiate the investigation^{or} information by the High Commissioner or by a finance or taxation officer or anyone signed by a private citizen.

The said Section shall also adjudicate complaints of the debtor or of the finance office against the proposed assessment of the profit derived from the regime.

The hearing shall be open to the public and both the *avocats* *delle* Stato and the person the subject of the investigation may adduce evidence in rebuttal; the latter may choose to be represented by a *precuratore legale* or by an advocate.

The decision shall be communicated to the Debtor, to the finance officer concerned and to the High Commissioner.

31

The Special Section of the Provincial Commission shall have all the powers of investigation, entry, search, control and inquiry, conferred upon the agents for direct taxation and upon the administrative commissions for investigation of extraordinary war profits.

The privilege to abstain from testimony in cases set out in Art 352 of the CFF shall not apply.

Any person summoned as witness or expert who does not faithfully carry out his duties or gives false evidence shall be punished in accordance with Articles 366, 372 and 373 of the CP.

Any person who fails to comply with other requests of the Section shall be punished by imprisonment up to six months or by fine from 300 to 5,000 lire.

Administrative or other bodies having knowledge of causes in which profit has been derived from the regime, shall immediately report the same to the High Commissioner. Any person responsible for making any such report who fails to do so shall be punished in accordance with the preceding paragraph.

Personnel of the judicial police or of other administrative or technical branches of the administration may be assigned to the Special Section for the execution of its duties.

32 The debtor and the Avvocatura dello Stato may within thirty days lodge an appeal against the decisions of the Special Section of the Provincial Commissioner. The High Commissioner may also appeal within 60 days. The appeal shall be adjudicated by a special section of the Central Commission for taxation comprised of a President, a judicial official holding a grade not lower than that of a first president of Court of Appeal, and of four commissioners, all to be appointed by the Council of Ministers. The provisions of the last two paragraphs of Art 30 and of Art 31 shall apply to the proceedings before the Special Section of the Central Commission.

33 The decisions of the Special Section of the Central Commission may be opposed before the Plenary Section of the Cassation solely on the ground of absolute lack of jurisdiction. An appeal must be lodged by the debtor or by the Avvocatura dello Stato within 45 days; the High Commissioner may appeal within 6 months.

34 The High Commissioner may, even after the lapse of the above period but not after the lapse of two years, move that the decision, although final be amended on the ground that facts of considerable importance have been discovered always provided that the reasons set out in the decision disclose that such facts were not in evidence in the previous proceedings. Such amendment of the decision is in any case within the jurisdiction of the Special Section of the Central Commission.

35 Even before the Special Sections of Provincial Commissions are constituted, the President of the Tribunal may, upon request of the High Commissioner or of the finance administration, order by decree a protective attachment of chattels or realties belonging to persons set out in Art 26 although they may be held by third parties. Such power may be exercised by the Presidents of the Commissions by virtue of their office. Provisions of para 7 and 8 of Art 19 of the Consolidated text of laws on the extraordinary tax on excess war profits, approved by RD 2 June 1938, No. 598, shall apply.

36 A decree of the High Commissioner shall be published in the Gazzetta Ufficiale of the Kingdom, listing persons who are considered profiteers of the regime; any person who may hold property belonging to such person or who may be indebted to him in any way whatever, shall be required to declare the same following the form and within the time limits established in the said decree; also he shall not return the property or fulfill his obligations to his creditor, any such blocking shall become void if an attachment is not ordered within 60 days after the lapse of the time limit for the above said declaration. Any person who may fail to comply with the duties set forth in this Article shall be liable to the penalties provided in the above said declaration.

Such amendment of the decision is in any case within the jurisdiction of the Special Section of the Central Commission.

35 Even before the Special Sections of Provincial Commissions are constituted, the President of the Tribunal may, upon request of the High Commissioner or of the finance administration, order by decree a protective attachment of chattels or realties belonging to persons set out in Art 26 although they may be held by third parties.

Such power may be exercised by the Presidents of the Commissions by virtue of their office.

Provisions of pare 7 and 8 of Art 19 of the Consolidated text of laws on the extraordinary tax on excess war profits, approved by RD 3 June 1938, No 598, shall apply.

36 A decree of the High Commissioner shall be published in the Gazette officielle of the Kingdom, listing persons who are considered profiteers of the regime: any person who may hold property belonging to such person or who may be indebted to him in any way whatever, shall be required to declare the same following the form and within the time limits established in the said decree; also he shall not return the property or fulfil his obligations to his creditor. Any such blocking shall become void if an attachment is not ordered within 60 days after the lapse of the time limit for the above said declaration.

Any person who may fail to comply with the duties set forth in this article shall be punished in accordance with Art 31 para 4; he shall also be liable for any consequential loss suffered by the State.

Any person who, for the purpose of withholding from the State, property belonging to a person considered to have made a profit derived from the regime, acquires, receives or conceals such property or abets their acquisition, receipt or concealment, shall be punished by imprisonment not exceeding 10 years and by a fine up to 100,000 lire.

37 The proposed edecement of the Provincial Commission if unopposed by the debtor; the decision of such Commission, even pending appeal to the Central Commission and the decision of the last named Commission shall constitute good authority for execution even for entry in the real estate and mortgage registry.

The collection of the amounts owed to the State as profits derived from the regime may be effected in accordance with the procedure and preference established for the collection of the extraordinary tax on excess war profits. The entire debt may be entered on a special roll and may be collected in a single instalment.

PART IV Confiscation of Fascist Property.

38 The property of the disbanded Fascist national party and of organisations suppressed by MIL 2 August 43, No 704, shall devolve upon the State.
 Such property shall be used for the public service or the public benefit, this shall be effected on the proposal of the High Commissioner by decree of the President of the Council, in agreement with the Competent Ministers.
 If necessary such property may be transferred to another public body or organisation promoting welfare, sport or the like.

39 The finance administration of the State shall provide for the collection of assets of the fascist national party and the suppressed organisations.

PART V The High Commissioners.

40 To supervise the carrying out of this decree the office of High Commissioner for Sanctions against Fascism is created.

The High Commissioner shall be nominated by the Council of Ministers and appointed (i.e. by the President) and shall for the duration of his term of office rank as a judicial officer of the first grade.
 He shall be assisted by Assistant High Commissioners for each of the branches of his jurisdiction.

In the event of the High Commissioner being unable to act each of the Assistant High Commissioners may so far as his own branch is concerned act in his name.

The Assistant High Commissioners shall be appointed by the President of the Council of Ministers on the nomination of the High Commissioner and shall rank as judicial officials of the third grade.

Not more than two commissioners may be nominated for any one branch of the High Commission. They shall be appointed in the manner described in the preceding paragraph.

Superintendent judicial and other officials shall on request be assigned to the office of the High Commissioner and a nucleus of judicial police shall be placed at his disposal composed of personnel of the carabinieri of the public security or of the finance guards. Persons not members of the Administration may be employed in the secretarial offices.

The High Commissioner and his subordinate officers may call on the judicial police who will carry out their orders.

41 The High Commissioner shall direct and supervise the work of all organisations by which Sanctions against Fascism are carried out.

The High Commissioner shall be bound on his own initiative or on the demand of any public authority or on an information signed by a private

of office rank as a judicial officer of the

He shall be assisted by Assistant High Commissioners for each of the branches of his jurisdiction. In the event of the High Commissioner being unable to act each of the Assistant High Commissioners may so far as his own branch is concerned act in his name.

The Assistant High Commissioners shall be appointed by the President of the Council of Ministers on the nomination of the High Commissioner and shall rank as judicial officials of the third grade.

Not more than two commissioners may be nominated for any one branch of the High Commission. They shall be appointed in the manner described in the preceding paragraph.

Sufficient judicial and other officials shall on request be assigned to the office of the High Commissioner and a nucleus of judicial police shall be placed at his disposal composed of personnel of the carabinieri of the public security or of the Finanzo guards. Persons not members of the Administration may be employed in the secretarial office.

The High Commissioner and his subordinate officials may call on the judicial police who will carry out their orders.

44 The High Commissioner shall direct and supervise the work of all organizations by which Sanctions against Fascism are carried out.

The High Commissioner shall be bound on his own initiative or on the demand of any public authority or on an information signed by a private individual to commence proceedings in respect of any crime described in Art 2 and to carry out investigation as may be necessary and to request the aid used to the High Court in which he or his delegate act as "Ministaro pubblico".

In cases of exceptional gravity the High Commissioner may refer the normal powers in that respect and refer to the High Court any person that those referred to in Art 2 and for any crime whether or not such is mentioned in Art 2.

Without prejudice to the power of the Ministero Pubbico, Public authorities and other bodies or organizations the High Commissioner may on his own initiative or on the information of a private individual commence proceedings.

- (1) In respect of other crimes mentioned in Part 1.
- (2) To apply the provisions set out in Art 8.
- (3) To forfeit property belonging to persons who have collaborated with the Germans in accordance with Art 9.
- (4) Before the appropriate commissions of first instance and before the Central Commission with regard to appeals, for purging the administration and for dismissing officers or employees from their office or employment.
- (5) Before the Local and Central Commissions for taxation, for assessing and forfeiting as profit derived from the fascist regime, with power in exceptional cases to commence proceedings for rectification of any decision of the abovesaid Central Commission.

1609

- He may also
- (6) Make proposals for the correct and proper use of property provisionally belonging to the Fascist Party or to fascist organizations.
- (7) Exercise any other functions contained in this decree or in any other decree or regulation.

PART VI Transitory and Final Provisions.

- 42 For the application of this decree all prerogatives including those set out in Arts. 26, 37 and 47 of the Constitution are hereby abrogated.
- 43 Any public official or any person engaged in the public service responsible according to the provisions of this law for punishing fascist crimes, for purging the administration, for forfeiting any profit derived from the regime and for confiscating fascist property, who may commit any offence set out in and punishable by virtue of Arts 344, 346, 347, 348, 349, 320, 323, 324, 326 and 328 of the Penal Code shall be punished in accordance with the provisions of these articles but increased by from one third to one half.
- 44 Proceedings already initiated for the punishment of fascist crimes for purgation and for the forfeiture of profit derived from the regime shall be carried through in accordance with the provisions of this decree, without prejudice to any action already taken incompatible with these rules.
Decisions already given shall be reviewed if they are in conflict with the provisions of this decree.
- 45 Successive decrees will be issued to provide what necessary for the execution of the rules established by the preceding parts, by the Minister of the Treasury is hereby authorized to make his own decrees the necessary variations in the State budget occasioned by the functioning of the High Commissioner and the organizations established by this decree.
- 46 Royal Decree laws 9 August 43 No 722, of 28 December 43 No 29/E, of 26 May 44 No 134, are hereby abrogated.
The provisions contained in Royal Decree law 12 April 44 No 104, so far as they relate to the contents of this decree are also abrogated.
- 47 This decree will come into force etc, etc.

40876 file in Lawton against 79A

TRANSLATION NO. 727

BILL 149 OF 26 APRIL 1945

APPLICATION OF SANCTIONS AGAINST POLITICAL DANGEROUS PARTISANS

ART 1

Whoever, for fascist reasons or by availing himself of the political situation created by fascism, has committed acts of particular gravity which, although not constituting offences, are contrary to rules of rectitude or political probity, shall be subject to the suspension of the active and passive suffrage rights for a period not exceeding ten years, or to the temporary exclusion from public offices, or else to the loss of the political rights for a period not exceeding ten years.

In any case the persons who have held the executive positions in the fascist party indicated in pursuance of art 2 of M. NO. 2 of 4 Jan 1945, shall incur the suspension of the suffrage right.

ART 2

The sanctions contemplated in the preceding article shall be applied by Provincial Commissions presided by a magistrate and composed of two other members chosen by the first president of the Court of Appeal from the lay judges referred to in art 4 of M.L. 159 of 27 July 1944.

The Commission for the province within which the accused persons against whom proceedings are initiated has his residence or abode shall have the jurisdiction to take such measures. If the accused person has his residence or abode outside the Kingdom or if both are unknown, the measures shall be taken by the Commission for the province in which he last resided or had his abode or for the place in which he was born to reside or to have his abode.

The provisions of the third and fourth paragraphs of art 13 of M.L. 198 of 13 Sept 1944 shall be observed in the proceeding before the Commission.

Appeal may be lodged against the decisions of the Provincial Commission within five days from notification with a Central Commission, presided by a magistrate of grade not lower than the fourth and composed of four members, to be appointed under

The sanctions contemplated in the preceding article shall be applied by Provincial Commissions presided by a magistrate and composed of two other members chosen by the First President of the Court of Appeal from the lay judges referred to in art 4 of ILL 159 of 27 July 1944.

The Commission for the province within which the accused persons against whom proceedings are initiated has residence or abode shall have the jurisdiction to take such measures. If the accused person has his residence or abode outside the Kingdom or if both are unknown, the measures shall be taken by the Commission for the province in which he last resided or had his abode or for the place in which he was ^{born} to reside or to have his abode.

The provisions of the third and fourth paragraphs of art 13 of ILL 196 of 13 Sept 1944 shall be observed in the proceeding before the Commission.

Appeal may be lodged against the decisions of the Provincial Commission within five days from notification with a Central Commission, presided by a magistrate of grade not lower than the fourth and composed of four members, to be appointed under art 3 of the ILL No. 1 of 4 Jan 1945.

The appeal shall not be effective in suspending the proceeding.

The decisions of the Central Commission shall be final.

ART 3

Those persons who during the past political period have conducted themselves in accordance with the bad custom and practice of fascism or who continue said conduct in such way as to prove in either case dangerous to the exercise of democratic liberty, may be placed, for a period of not less than one year and not greater than 5 years, in farm colony, in a forced labor colony, in police "confining" contemplated by art 150 of the T.U. of Public Safety laws, approved by RD No. 773 of 18 July 1931 or in internment camps.

Similar measures may be taken against those who commit acts intended to favor the return, under any form or denomination, of the dissolved fascist party or credit publicly by any written or spoken demonstration the persons, institutes or ideologies representing fascism, even though the acts may not constitute an offense.

All the sanctions contemplated in the preceding paragraphs shall be ordered and their duration decided by the Commissions referred to in art 166 of the above-mentioned T.U. of P.S. Laws amended by art 2 of BILL NO. 419 of 10 Dec 1944. The Commissions shall observe the provisions of arts 167, 168 and 169 of the same T.U., amended by arts 3 and 4 of BILL 419 of 10 Dec 1944.

Appeal may be lodged against the order of the Provincial Commissions within the time limits and in the manner prescribed by art 184 of the T.U. of P.S. Laws, amended by art 2 of BILL 419 of 10 Dec 1944.

ART 4

The persons upon whom the sanctions referred to in the preceding article have been inflicted shall have their active and passive suffrage rights suspended, and no special order shall be required.

ART 5

The Provincial Commissions contemplated by arts 2 and 3 shall act on their own initiative or upon denunciation submitted to them by the High Commissioner for sanctions against fascism, his delegates or by the public safety offices, or upon reports from the Committees of National Liberation.

Only the above-mentioned Provincial Commissions, the High Commissioner for sanctions against fascism, the procurators of the Kingdom and the "Questori" may order the immediate arrest of persons upon whom it has been proposed to apply the sanctions prescribed by art 3.

Notice of the arrest must be given within three days to the Competent Provincial Commission which must pass a sentence within the following twenty days.

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ART 6

The measure contemplated by art 1 and 3 and of the present decree may be applied not later than one year from the effective date of the decree.

ART 7

ART 5

The persons upon whom the special order shall be required.

The Provincial Commissions contemplated by arts 2 and 3 shall act on their own initiative or upon deliberation submitted to them by the High Commissioner for sanctions against fascists, his delegation or by the public safety offices, of upon reports from the Committees of National Liberation.

Only the above-mentioned Provincial Commissions, the High Commissioner for sanctions against fascists, the procurators of the Kingdom and the "Questori" may order the immediate arrest of persons upon whom it has been proposed to apply the sanctions prescribed by art 3.

Notice of the arrest must be given within three days to the competent Provincial Commission which must pass a sentence within the following twenty days.

ART 6

The measure contemplated by art 2 and 3 and of the present decree may be applied not later than one year from the effective date of the decree.

ART 7

Directions for the organization of the internment camp referred to in art 3 shall be given by decree of the Minister of the Interior in conjunction with the Minister for the Treasury.

The Minister for the Treasury shall be authorized to issue decrees for the changes in the State budget required to maintain the internment camps.

ART 8

All provisions which are contrary or incompatible with those of the present decree are hereby annulled.

ART 9

The present decree comes into force on the day following its publication in the Official Gazette of the Kingdom.

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File

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HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

ES/mt.
24 April 1945.

AG/4082/6/L.

SUBJECT : Communication of Proc. del Regno, Siena - Defascism.
TO : H.E. The Minister of Pardon and Justice.

1. The enclosed communication of the Procuratore del Regno of Siena was forwarded to this Sub-Commission for onward transmittal to the Ministry.

2. It appears from this communication that the Provincial Delegate of the High Commissioner for Sanctions against Fascism has ordered the arrest of a Dott. RUGANI Remigio of Siena. This Sub-Commission is directed to point out that in so doing the Delegate has exceeded his powers in a most improper manner and acted in flagrant violation of the directive issued by the Deputy High Commissioner for the Epuration. A copy of the directive as reproduced in a note of the Vice President C A Sec of this HQ is appended herewith for your Excellency's information.

3. Your Excellency might wish to draw the attention of the High Commission for Sanctions against Fascism to this incident and ensure that appropriate steps be taken to prevent its repetition.

G. G. HANFORD,
Lt. Col.,
Officer i/c Italian Branch,
for Chief Legal Advisor.

Incl: Copy directive DE/AB/CA.

77A
2082/6
 Procura Generale del Regno
 di Firenze
 Firenze, li 17 aprile 1945 N. *5737*
 Allegati N. *I* Risposte e Note N.

OGGETTO: Avviso di reato - Procedimento penale c.
 RUGANI Dott. Remigio ed altri.

AL MINISTERO DI GIUSTIZIA
 Dir. Gen. Affari Penali - Uff. 1.^o
ROMA

Si trasmette copia del rapporto del procuratore
 del Regno di Siena, in data 25 marzo, di oggetto
 indicato.

p. IL PROCURATORE GENERALE DEL REGNO
 L'Avvocato Generale

76A

✓ 4002/6 74

HEADQUARTERS ALLIES COMMISSION
123 294
CIVIL AFFAIRS SECTION

19 April 45

Ref DE/3.11/44

SUBJECT : Provincial Expansion

TO : Six Provinces

- 1 Provincial Expansion Commissions (A. 16 of DL 459 and A. 15 of DL 285) have now been established in all Provinces except Ancona, Florence, Fiesole, Lucca, Terni, Pisa, Brindisi and as to these, arrangements are practically complete.
- 2 Divisions of Ministerial Commissions (A. 16 of DL 285) will be established by the following have already been set up about to be established

Ministry	Provinces
Agriculture	Palermo
Treasury	Piombino
Transport	Sassari
Public Works	Palermo
Public Works	Bari
Education	every province
Education	every province
Education	Salerno (3)
Education	Palermo
Education	Province of Calabria
Education	Piombino (3)
Education	Naples
Education	Bari
Education	Cagliari
Education	Ancona (2)
Education	Ancona
Education	Florence

Object

- Ente di Colonizzazione del Territorio Siciliano
- Istituto di Credito Agrario per la Toscana
- " " " " Sardegna
- Ente Acquedotti Siciliani
- Ente Autonomico Acquedotto Eugliese
- Elementary Schools
- Intermediate Schools
- State Railways
- Road Transport
- State Railways
- State Railways
- State Railways
- State Railways
- State Railways
- State Railways
- Road Transport

- a) Further similar Commissions will be established both in liberated Italy and in our zones in Northern Italy.
- b) Arrangements for constituting similar commissions to deal with 651 Tele-grams are being set up under discussion.
- c) Sub-Commissions will obtain from their Minister a full programme of the proposed work with provisionally by divisional com-

4052/B ✓

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HEARINGS ALLIED COMMISSION
400 104
CIVIL AFFAIRS SECTION

DP/S.59/CA

10 April 45

SUBJECT : Enumeration of the professions.

TO : See Distribution

1 The relevant law is contained in DL 159 (S.29) IL 205 (S. 10-24) IL 2 of 1945 (A.13)

2 The hearings are largely kept provincially and where this in the case commissions will sit provincially. The authority responsible for the supervision of the keeping of the register is the Ministry of Justice or the Ministry of the Interior and the "boards" authorized by the respective Ministries to make appointments are:-

<u>Profession</u>	<u>Body</u>
Notaries	Procurators General of the Court of Appeal
Chemists	
Doctors	
Veterinary Surgeons	
Opticians	
All other professions	Senior President of the Court of Appeal.

3 All Provincial delegations have been asked to submit to the Minister of Justice or of the Interior their proposals as to who shall represent the PC on the Commission. Some names have already been received, a few commissions have already been appointed. All are expected to be appointed shortly. Provincial commissions will arrange for the officials under the heading of "Body" above to keep them informed of what commissions are constituted.

4 These commissions are commissions of first instance and are distinct from the normal Provincial Commission for the Division of a Ministerial Commission sitting provincially.

BY COMMAND OF THE CHIEF COMMISSIONER :

04

[Signature]
L. R. UFFORD Esq.,
VP 3. Section

DISTRIBUTION :-

Deputy Secretary

Veterinary Surgeons
Scientists
All other professions

Senior President of the Court of Appeal

All Provincial delegates have been asked to submit to the Ministers of Justice or of the Interior their proposals as to the staff represent the BC on the Commissions. Some names have already been received, a few commissions have already been appointed. All are expected to be appointed shortly. Provincial Commissions will arrange for the officials under the heading of "body" above to keep them informed of their commissions as constituted.

These Commissions are commissions of first instance and are distinct from the normal Provincial Commission or the Division of a Ministerial Commission having provinciality.

[Handwritten signature]
S. R. LEITCH Brig.
VE Section

BY ORDER OF THE CHIEF COMMISSIONER:

DISTRIBUTION :-

- BC British Region
- BC Columbia Region
- BC Alberta Region
- BC Saskatchewan Region
- BC Ontario Region
- BC Quebec Region
- BC Maritime-Atlantic Prov.
- PPA

- 2nd Lt. Army
- 1st Lt. Army
- CA Section
- Local Govt S/O
- Legal S/C
- Pub Safety S/C
- Education S/O
- Zone Section

- Agric S/C
- Commerce S/C
- Finance S/C
- Pub Works S/C
- Air S/C
- Naval S/O
- Land Forces S/C
- Transport S/C
- Communications S/C

Scale of Distribution: - HQ (4), PMA (2)



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4082/8
✓
yde

CONFIDENTIAL

HEADQUARTERS ALLIED COMMISSION
APO 394
MIL. AFFAIRS SECTION

22/5.44/54

10 April 45

SUBJECT : Defascism - North Italy.

TO : See Distribution

1 - SEPARATION OF FASCISTS FROM STATE ADMINISTRATION, POLICE AND STAFF, AND RE-ESTABLISHMENT OF

CONCERNS :-

1 Separation will play an even more important role in the North than in areas already liberated. A quick and effective separation may be decisive in securing a peaceful administration.

a) In the same time, this does not mean that there will be wholesale dismissals, any plan for such would not only disorganize the administration but might work grave injustices. (e.g. It is believed from reliable sources that the Judges of Florence, Lombardy and Venetia have refused to take the oath of allegiance to the Fascist Republican Government).

2 Separation will therefore be conducted on the following plans:-

a) On first entry operation will be carried out in accordance with Executive Memorandum 67 (of which a revised edition has been issued).

b) This will be followed by the setting up of Italian Provincial Separation Commissions under the terms of GO 35. In provinces not yet liberated as of this date, GO 35 may be posted at any time after entry of the liberation of 20th Army or IV Corps, or the Regional Commissioner, without reference to Headquarters Allied Commission. This liberation may be delegated to Provincial Commissioners.

However, as the General Order sets up rigorous time limits, it should not be posted until suitable persons to sit on the Commissions have in fact been selected.

Supplies of GO 35, together with administrative instructions and books printed in Italian for the use of the Italian Commissions, have been distributed.

An amended GO 35(c) has been signed. It effects payments to be made

63

at the same time, this does not mean that the administration...
significance, any plan for such would not only disorganize the administration...
but might even prove injurious. (e.g. It is believed from reliable sources...
that the Judges of Piemonte, Lombardia and Venezia have refused to take the...
oath of allegiance to the Socialist Republican Government).

2. Exemption will therefore be requested on the following points:-
a) On first entry operation will be carried out in accordance with...
Executive Memorandum 57 (of which a revised edition has been issued).
This will be followed by the setting up of Italian Provincial Separation...
Commissions under the terms of GC 35. In provinces not yet liberated...
as of this date, GC 35 may be posted at any time after entry at the...
discretion of SACO Army or IV Corps, or the Regional Commissioner, without...
reference to Headquarters Allied Commission. This operation may be...
delegated to Provincial Commissioners.
However, as the General Order sets up rigorous time limits, it should...
not be posted until suitable persons to sit on the Commissions have in...
fact been selected.

63

Supplies of GC 35, together with administrative instructions and books...
printed in Italian for the use of the Italian Commissions, have been...
distributed.

an amounting GC 35(c) has been assigned. It effects payments to be made...
to suspended personnel for provision for the dismissal rather than...
resumption of temporary employees (eventual). Copies of GC 35(c) will...
be distributed as soon as possible, on the condition of GC 35 will not...
be held up by non arrival of copies of GC 35 (a).

a) The procedure will be followed up by the implementation under the usual...
provisions of GC 35 and remaining forces in all territory.
When these points are implemented it is the duty of the Government to...
appoint those concerned in each province to collect evidence, make...
investigations on behalf of the High Commissioner, and set up Provincial...
Commissions. Every assistance should be given to these Delegates.
However, it is not necessary to suspend the Commissions set up under (b)...
above until the Government Commissions are actually re-constituted and ready...
to commence work.

3. It may well be that the time and efforts will themselves have...
been put in operation of the administration before the arrival of GC 35...
and have placed new personnel in the period of those unemployed. This will...
render the task of separation that much easier.

If such is found to be the case it will be advisable to remove those people from office. There would be no objection to the same individuals being appointed by AAG if considered suitable but it must be fully realized by the Italian that AAG is the appointing authority, and not AIA or any other body.

4 In other cases it may be found that there has been a mass appointment and the vacant offices have not been filled. In this case, personnel will be recruited locally, or replacements must be requested from Headquarters Allied Commission. The former is to be preferred, as the number of minor officials who can be supplied by the Italian Government is not large, and even daily in their arrival is to be anticipated. If an acute shortage of personnel arises it is absolutely necessary, under circumstances, that they be temporarily substituted although they have previously been removed. Opportunity should be taken of ensuring the local populace of an immediate investigation of any persons thus nominated in accordance with the procedure outlined in part 2 above.

B - OPERATION OF BUSINESS CONCERNS :-

5 Paragraph "2" above does not deal with the operation of business concerns which are not stated as pre-essential. In the case of business concerns which:-
1) Owing to their importance it is desired to operate but have ceased to operate or operate ineffectively as the Fascist leaders have fled or
2) are operating under Fascist leaders and it is desired to continue operation and remove the Fascist leaders,
3) have become ineffective as the Fascist leaders have fled and the management has been "socialized" in the hands of the workers,
We should be made of the power to appoint a Receiver and Manager (see Directive A.2/4185/L dated 17 March 1943).

C - REINFORCEMENT OF FASCIST COURTS AND MILITARY COURTS :-

6 It is not legal for AAG to set up special Allied Courts to deal with Fascist criminals or collaborators with the Benito Mussolini Government or German. AAG Courts are confined to trying offences against provisions and General, Regional, or Provincial Orders or, in exceptional circumstances (see Article 14 of Consolidated Instructions for Allied Military Courts), offences against Italian Law. Officers are also reminded that AAG Courts may not try enemy prisoners of war or War Criminals.

7 On the other hand, it may be interpreted that local Courts may have set up local but illegal Courts to try such criminals and collaborators. It is their power to suppress these Courts

c) operations under Soviet hands and it is...
 but the former the present...
 d) his people...
 that has been...
 He should be...
 Yavostyva... dated 17 March 1943.

6 - IMPLEMENTATION OF SOVIET ORDERS IN THE MILITARY:

It is not legal for us to set up special military courts to deal with
 fascist criminals or collaborators with the Soviet Republic Government
 at Garmak. All courts are confined to trying offenses against the
 laws and General, Regional, or Provincial Orders etc. In exceptional circum-
 stances (see Article 14 of Consolidated Instructions for Allied Military
 Courts), offenses against military law.
 Officers are also reminded that all courts may not try enemy prisoners
 of war or war criminals.

On the other hand, it may be anticipated that local courts may have set
 up local but illegal courts to try such criminals and collaborators. It
 will be the duty of us to do all in their power to suppress these courts
 and to assist in this effort but essential duty, the following plan has
 been agreed with the Italian Government.

a) Courts will shortly be passed and will provide for the setting up of
 Special Popular Courts to deal with those who collaborated with the German
 since 26 September 1943.
 The scheme of the courts is that, in each Province the President
 will select 200 names from proved anti-fascists, from which the President
 of the Tribunal will select a panel of 30 names. From this panel 4 may
 be necessary will be selected in turn and will form a Court presided over
 by a judge appointed by the President of the Tribunal for the trial of
 these offenders. This judge, which also provides for very quick procedure,
 will be published in a special issue of the Official Gazette the following
 day and authorized by an implementing decree in the Official Gazette has been im-
 plemented will be put into operation immediately. If a Prefect has been im-
 plemented it will be implemented in the above way by heading the official
 Gazette to him. If there is no Prefect, SOAs or Regional Commissioners
 are advised to leave a short order bringing the courts into operation.

4. special advice to the Court officials and this might also be a
also prosecution.
it may be of interest to note that this Decree is based on the one
now operating in France which it has proved to be a considerable
success.

6) The Italian Government have already published a decree (No 65 of
1 Feb 45) setting up special Military Courts to deal with both
military and civilian offenders expeditiously. This decree will be
implemented in AMG territory in accordance with the usual procedure.

8 Provided that any illegal courts/tribunals ^{assist} from their activities on the entry
of the Allies, it is NOT imperative that the persons constituting such
courts should be apprehended. It is a matter for discretion in each case,
e.g. on the one hand members of the ILM may have constituted a Court in
good faith under a mistaken view of their rights, on the other hand a
regime of revenge and murder may have been set up under the guise of a
Court of Justice.

D - IMPRISONMENT OF FASCISTS AND COLLABORATORS:-

9 As formerly, this will continue to be a normal function of FSS/CIC
and only under the powers conferred on them in Part 10 of Executive Com-
mand 57 will AMG officers arrest and intern fascists who are not charged
with a specific offence.

10 It may be anticipated that in a large number of cases there will have
been wholesale arrests and imprisonments by Partisans and/or ILM before
the arrival of the Allies. Unless prison congestion becomes intolerable
it will probably be in the best interests of all concerned to leave such
persons in prison until a more settled state is reached and their individual
cases can be investigated by the appropriate authority. In retaining such
prisoners, AMG officers must be satisfied that (a) the prison officers can
provide an effective guard, and (b) the prisoners are being properly
cared for and fed, and are not the subject of malpractices by prison guards,
Partisans or others.

BY COMMAND OF THE CHIEF COMMISSIONER :

G. R. Weynton
62

G. R. Weynton
VF. G. Section

DISTRICTION :-

10 Charles-Mercure Reg. G. Sec
Army S/C

Paragraph 67 - All USG officers arrest and intern fascists and are not charged with a specific offence.

10 It may be anticipated that in a large number of cases there will have been wholesale arrests and imprisonments by Partisans and or LH before the arrival of the Allies. Unless prison congestion becomes intolerable it will probably be in the best interests of all concerned to leave such persons in prison until a more settled state is reached and their individual cases can be investigated by the appropriate authority. In retaining such prisoners, USG officers must be satisfied that (a) the prison officials can provide an effective guard; and (b) the prisoners are being properly cared for and fed, and are not the subject of mispractices by prison guards, Partisans or others.

G. R. Weynton
62
G. R. Weynton
V. G. Section

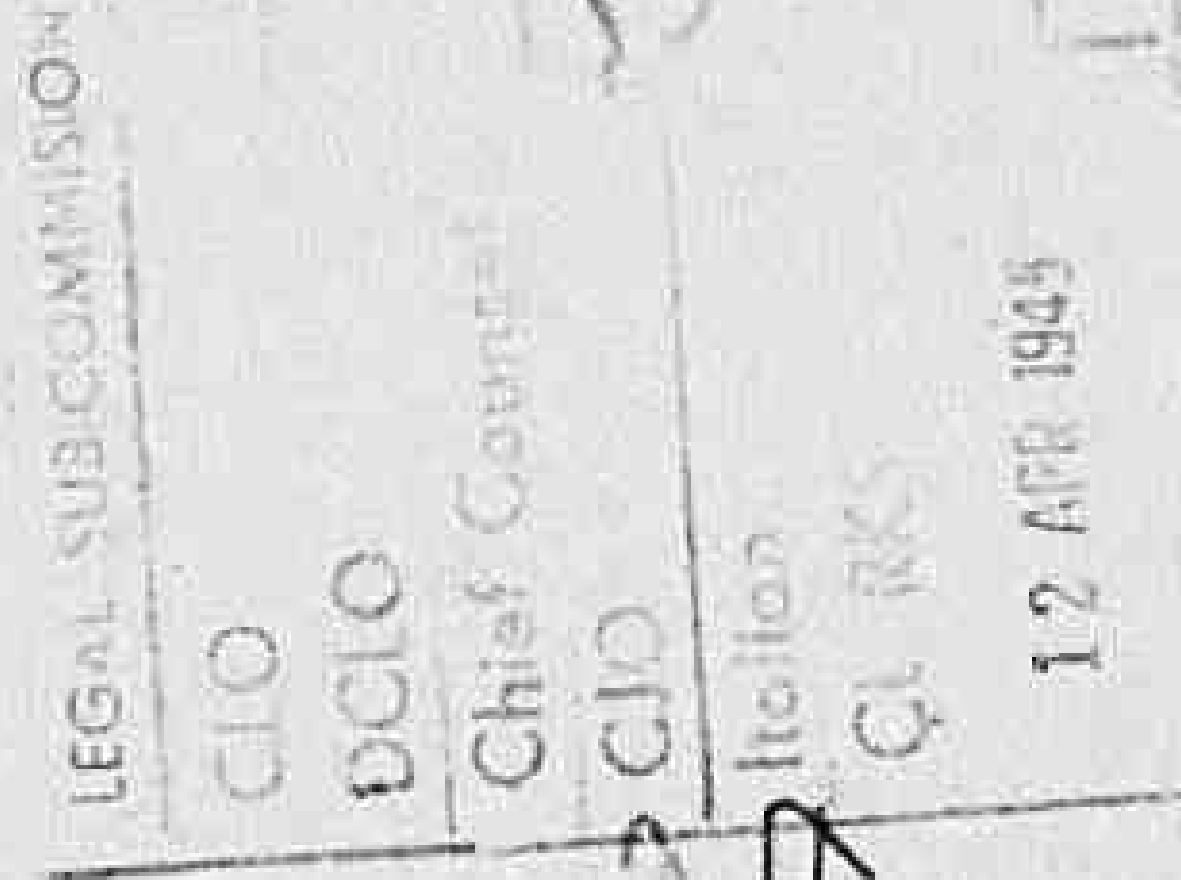
BY COMMAND OF THE CHIEF COMMISSIONER :

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- HC Umoria-Marche Reg.
- HC Toscana Region
- HC Emilia Region
- HC Liguria Region
- HC Piemonte Region
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- Army S/C
- Army S/C
- Naval S/C
- Const S/C
- Treasury S/C
- FRB

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 H. HQs (4)
 P. HQs (2)
 S/Cs (2)



1627

✓
4082/6

73A

HEADQUARTERS ALLIED COMMISSION
AIO 394
CIVIL AFFAIRS SECTION

DP/3.B/CA

9 April 45

SUBJECT : Defascism - North Italy.

TO : Economic Section ✓
Legal Sub-Comm ✓
Pub Safety Sub-Comm

It is proposed to issue the attached directive immediately.

If you have any comments will you please inform this Section by 1000 hrs tomorrow 10 April 45.

The attention of Economic Section is particularly drawn to sub-heading B.

A.D. Northam Carter
A.D. NORTHAM CARTER
Lt Colonel
for VP CA Section

LEGAL SUB COMMISSION	
	CO
→	DCLO
	Chief Counsel
	CID
→	Int. Affairs
	CLM

61

9 APR 1945

DRAFT

CONFIDENTIAL

HEADQUARTERS ALLIED COMMC IN
AFG 394
CIVIL AFFAIRS SECTION

73B

9 April 1945

SUBJECT: Defascism - Plan of Operation

TO:

A. EPURATION OF FASCISTS FROM STATE ADMINISTRATION AND STATAL AND PARASTATAL CONCERNS:

1. Epuration will play an even more important role in the North than in areas already liberated. A quick and effective epuration may be decisive in securing a peaceful administration.

At the same time, this does not mean that there will be wholesale dismissals, any plan for such would not only disorganize the administration but might work grave injustices. (e.g. it is believed from reliable sources that the Judges of FIMONTE have refused to take the oath of allegiance to the Fascist Republican Government).

Handwritten note:
Lombardy & Bergamo

2. Epuration will therefore be conducted on the following plan:

- a) On first entry epuration will be carried out in accordance with Executive Memorandum 67 (of which a revised edition has been issued).
- b) This will be followed by the setting up of Italian Provincial Epuration Commissions under the terms of GO.35. In provinces not yet liberated as of this date, GO.35 may be posted at any time after entry at the discretion of SCAO Army or IV CORPS, or the Regional Commissioner, without reference to Headquarters Allied Commission. This discretion may be delegated to Provisional Commissioners.

However, as the General Order sets up rigorous time limits, it should not be posted until suitable persons to sit on the Commissions have in fact been selected.

Supplies of GO.35, together with Administrative Instructions and books printed in Italian for the use of the Italian Commissions, have been distributed.

60

An amended GO.35(a) has been signed. It affects payments to

reliable sources that the judges of provinces have refused to take the oath of allegiance to the Fascist Republican Government).

2. Epuration will therefore be conducted on the following plan :

a) On first entry epuration will be carried out in accordance with Executive Memorandum 67 (of which a revised edition has been issued).

b) This will be followed by the setting up of Italian Provincial Epuration Commissions under the terms of GO.35. In provinces not yet liberated as of this date, GO.35 may be posted at any time after entry at the discretion of SOAO Army or IV CORPS, or the Regional Commissioner, without reference to Headquarters Allied Commission. This discretion may be delegated to Provincial Commissioners.

60

However, as the General Order sets up rigorous time limits, it should not be posted until suitable persons to sit on the Commissions have in fact been selected.

Supplies of GO.35, together with Administrative Instructions and books printed in Italian for the use of the Italian Commissions, have been distributed.

An amended GO.35(a) has been signed. It affects payments to be made to suspended personnel and provides for the dismissal rather than suspension of temporary employees (arventisti). Copies of GO.35(a) will be distributed as soon as possible, but the operation of GO.35 will not be held up by non-arrival of copies of GO.35 (a).

c) The foregoing will be followed up by the implementation under the usual procedure of D.L.159 and amending Decrees in AMG territory.

When these Decrees are implemented it is the duty of the Government to appoint three delegates in each province to collect evidence, make investigations on behalf of the High Commissioner, and set up Provincial Commissions. Every assistance should be given to these Delegates.

However, it is not necessary to suspend the Commissions set up under (b) above until the Government Commissions are actually nominated and ready to commence work.

/ 3.....

3. It very well may be that the CLEs and Partisans will themselves have carried out an epuration of the administration before the arrival of the Allies and have placed new personnel in the places of those dismissed. This will render the task of epuration that much easier.

If such is found to be the case, it will probably be wise to retain in office such new personnel as are not found to be incompetent. Nevertheless, the situation will require constant watching to see that in fact such personnel carry out the orders of the Allies and are not attempting to set up some administration of their own. If necessary, firm action must be taken and such officials removed.

4. In other cases it may be found that there has been a mass epuration and the vacant offices have not been filled. In this case, personnel will be recruited locally, or replacements must be requested from Headquarters Allied Commission. The former is to be preferred, as the number of minor officials who can be supplied by the Italian Government is not large, and some delay in their arrival is to be anticipated. If an acute shortage of personnel makes it absolutely necessary, minor officials may have to be temporarily reinstated although they have previously been removed. Opportunity should be taken of ensuring the local populace of an immediate investigation of any persons thus reinstated in accordance with the procedure outlined in para. 2 above.

B. EPURATION OF BUSINESS CONCERNS:

5. Paragraph "A" above does not deal with the epuration of business concerns which are not statal or para-statal.

In the cases of business concerns which:

- a) owing to their importance it is desired to operate; but have ceased to operate or operate effectively as the Fascist heads have fled; or
- b) are operating under Fascist heads and it is desired to continue operation and remove the Fascist heads;
- c) have become ineffective as the Fascist heads have fled and the management has been "socialised" in the hands of the workers

use should be made of the power to appoint a Receiver and Manager (see Directive... ALIAS/118/1).
AC/4183/L dated 17 March 1945)

B. PURIFICATION OF BUSINESS CONCERNS :

5. Paragraph "A" above does not deal with the epuration of business concerns which are not statal or para-statal.

In the cases of business concerns which :

- a) owing to their importance it is desired to operate; but have ceased to operate or operate effectively as the fascist heads have fled; or
- b) are operating under fascist heads and it is desired to continue operation and remove the fascist heads;
- c) have become ineffective as the fascist heads have fled and the management has been "socialized" in the hands of the workers

use should be made of the power to appoint a Receiver and Manager (see Directive... ALBANIA).
AC/4183/L dated 17 March 1945)

C. PURIFICATION OF FASCIST CRIMINALS AND COLLABORATORS:

6. It is not legal for AMG to set up special Allied Courts to deal with Fascist criminals or collaborators with the Fascist Republican Government or Germans. AMG Courts are confined to trying offences against proclamations and General Regional or Provincial Orders or, in exceptional circumstances (see Article 14 of Consolidated Instructions for Allied Military Courts), offences against Italian Law.

Officers are also reminded that AMG Courts may not try enemy prisoners of War or War Criminals.

7. On the other hand, it may be anticipated that local CIMs may have set up local but illegal to try such criminals and collaborators. It will be the duty of AMG to do all in their power to suppress these Courts and, to assist them in this difficult but essential duty, the following plan has been agreed with the Italian Government.

/ (a)

3.

a) A Decree will shortly be passed and will provide for the setting up of Special Popular Courts to deal with collaborators with the Germans since 26 September 1943.

Briefly, the scheme of this Decree is that, in each Province the CILM will select 200 names from proved anti-Fascists, from which the President of the Tribunal will select a panel of 50 names. From this panel 4 lay assessors will be selected in turn and will form a Court provided over by a Judge appointed by the President of the Tribunal for the trial of these offenders. This Decree, which also provides for very quick procedure, will be published in a special issue of the Official Gazette and will bear its own endorsement by AG implementing the Decree in AMG territory. It is recommended that this Decree be implemented by handing to the Prefect at the earliest possible moment. Sufficient copies of this official gazette will be dispatched to Armies and Regions directly they are available.

It may be of interest to note that this Decree is based on the one now operating in France where it has proved to be a considerable success.

b) The Italian Government have already published a decree (No. 65 of 16.8.43) setting up special Military Courts to deal with both military and civilian offenders expeditiously. This decree will be implemented in AMG territory in accordance with the usual procedure.

8. Provided that any illegal courts desist from their activities on the entry of the Allies, it is NOT imperative that the persons constituting such courts should be apprehended. It is a matter for discretion in each case, e.g. on the one hand members of the CILM may have constituted a Court in good faith under a mistaken view of their rights, on the other hand a regime of revenge and murder may have been set up under the guise of a Court of Justice.

38

D. DEFERMENT OF FASCISTS AND COLLABORATORS:

9. As formerly, this will continue to be a normal function of PSM/CIC and only under the powers conferred on them in para. 10 of Executive Memorandum 67 will AMG officers arrest and intern Fascists who are not charged with a specific offence.

10. It may be anticipated that in a large number of cases there will have been wholesale arrests and imprisonments by Partisans and/or CILM before the arrival of the Allies. Unless prison congestion becomes intolerable it will probably be in the best interests of all concerned to leave such

What is the
situation

b) The Italian Government have already published a decree (No. 65 of 1944) setting up special Military Courts to deal with both military and civilian offenders expeditiously. This decree will be implemented in AMG territory in accordance with the usual procedure.

8. Provided that any illegal courts desist from their activities on the entry of the Allies, it is NOT imperative that the persons constituting such courts should be apprehended. It is a matter for discretion in each case, e.g. on the one hand members of the CIM may have constituted a Court in good faith under a mistaken view of their rights, on the other hand a regime of revenge and murder may have been set up under the guise of a Court of Justice.

38

D. IMPRISONMENT OF FASCISTS AND COLLABORATORS:

9. As formerly, this will continue to be a normal function of PMS/CIC and only under the powers conferred on them in para. 10 of Executive Memorandum 67 will AMG officers arrest and intern Fascists, who are not charged with a specific offense.

10. It may be anticipated that in a large number of cases there will have been wholesale arrests and imprisonments by Partisans and/or CIM before the arrival of the Allies. Unless prison congestion becomes intolerable it will probably be in the best interests of all concerned to leave such persons in prison until a more settled state is reached and their individual cases can be investigated by the appropriate authority. In retaining such prisoners, AMG officers must be satisfied that (a) the prison officials can provide an effective guard; and (b) the prisoners are being properly cared for and fed and are not the subject of malpractices by prison guards, Partisans or others.

*What is the
situation
of a case ARE
fall on it
no people
in a
available?*

~~SECRET~~

- Distribution:
- All Sub-Commissions
- All Provincial Commissioners
- All Public Safety Officers
- All Legal Officers

ELBERT W. STONE
Rear Admiral, USNR
Chief Commissioner

4083/6

HEADQUARTERS ALLIED COMMISSION
LHQ 304
CIVIL AFFAIRS SECTION

72A

EXECUTIVE MEMORANDUM)
NUMBER 67 (REVISED))

April 45

TREATMENT OF ITALIAN OFFICIALS ENCOUNTERED IN ADVANCE POSSESSIONS.

1. This revised Executive Memorandum No. 7 is issued in the light of experience gained in the working of the original Memorandum No. 67 of 3 July 1944, which is hereby cancelled. The policy and the principle of operation remain the same.
2. Our object is to remove from territory, immediately on liberation, all leading fascists from important posts, especially those collaborationists put in office by the Republican Fascist Government. This Memorandum is intended as a guide for such an initial purge.
It will be followed by a more detailed purge under HQ 37 and ultimately by the procedure under HQ 159 and pending Decrees and therefore this Directive is not concerned with minor posts or minor fascist officials; they can be dealt with later. The allies must create a good impression by quickly removing the leading fascists from the important posts.
3. Many officials will have been placed in office by the Republican Fascist Government; others will have taken the oath of allegiance to the Fascist Government; on the other hand, others will be career officials who have considered it their duty to stick to their posts in the interests of the civil administration; others, again, (it is understood from reliable reports) have remained at their posts at great peril and have refused to take the oath of allegiance. Wholesale dismissals are, therefore, to be avoided as such a situation may be done quite apart from rendering it difficult to carry on the administration.
It is safe to assume that the worst fascists will be removed by GIs before arrival of the allies; the remainder of those in office will be dealt with in accordance with this directive.
4. Two lists attached to the original memorandum have been brought up-to-date and set out in a more convenient form.
Appendix 'A' to this Memorandum contains a list of important Italian governmental and municipal officials which should be cleared of fascist personnel as quickly as possible. Cases of officials of lower rank who are unimportant and too numerous to be dealt with in this stage should not be considered.
Appendix 'B' contains a list of purely fascist officials and serves as a guide to the type of fascist staff members who are particularly obnoxious.
These two lists will normally be used together. Thus if it is found that a person has occupied one of the offices in Appendix 'A' and also has had one of the party affiliations contained in Appendix 'B' he should be removed at once.
5. If there is any doubt as to the fascist background of any person holding an office included in Appendix 'A' he may be required to complete a Scheda Personale. The Provincial Commissioner may, if he considers it desirable, consult the Prefect or GIC on any particular case. No attention will be paid to anonymous communications.
7. Persons suspended under this Memorandum, except those mentioned in paragraphs 8 and 9, will be paid on the same basis as persons suspended under HQ 159. Temporary

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employees, whether employed on a day-to-day basis or on a fixed term basis, e.g. 6 months, will, however, be dismissed.

8 Lists of persons suspended under this Memorandum, specifying the offices from which they have been removed, will be submitted to HQ AC for attention of the appropriate Sub-Commission or where none is appropriate to the Civil Affairs Section.

9 In addition to the foregoing, all Italian administrative organizations whose continued existence is inconsistent with the sovereignty rights of the Italian National Government, or which have been abolished by decree thereof, are deemed no longer to exist; the holders of offices in such organizations will probably have fled, but if any such are found reporting to hold any office or to exercise any executive functions in connection therewith they will be removed from office.

Such bodies include:

- a) All Ministries and Departments of the Republican Fascist Government;
- b) National, Federal, Provincial and Communal organizations of the Fascist party; of the Chamber of Fasci and of Corporations; of Fascist Squads and Federations;
- c) The Fascist Militia, the National Republican Guard and GNR;
- d) Proconsul, Vice Proconsul and Rettorati of Provinces; Consuls of Consulates;
- e) the Tribunali Speciali, the Tribunali Straordinari provinciali and the "Breccia" Court of Cassation.

10 Officials (as well as any other persons) regarded as potentially dangerous will in addition to suspension be taken into custody immediately. They may be interned or on the request of the Italian Govt to HQ AC be handed over to the custody of that Government. Whenever a person is interned a report will forthwith be made to HQ AC.

11 It is emphasized that in carrying out the important duty of aiding the country or through other means is intended to deprive the right of SOAs and RCs to release any or intern individuals at their discretion without reference to their present official position or past Fascist office.

12 SOAs and RCs have discretion in most exceptional cases to retain as a purely temporary expedient a Fascist in office where the immediate administration of any locality renders this essential and no local replacement can be found. In all such cases the work of the individual should be closely supervised and a replacement should be made at once for replacement to the appropriate Sub-Commission. In the North, however, it should seldom, if ever, be necessary to exercise this discretion.

Walter Fisher

H. E. FISHER, Col.
Acting Executive Commissioner
for Chief Commissioner

Distribution:
Group I & II: List A plus serials 39/43 & 44/53
Group III : List B plus No 1 & No 2 District (2 copies)

ANNEX "A" TO EC NEWS No. 57 (REVISED)

Officials from which persons may be removed on evidence of Fascism in Annex "B"

- 1 As to Provincial Organizations, State and Para-State Societies
Presidents, Vice Presidents, Directors, Managers and Secretaries.
- 2 As to Local Government
Prefects, Vice Prefects and Chiefs of Cabinet of Provinces;
Mayors of cities and communes.
- 3 As to the Judiciary
First President, Procuratori and Avvocati Generali, Presidents of Sections,
Consiglieri and Giudici Istruttori of the Court of Cassation;
President, Presidents of Section, Procuratori del Regno (della Repubblica) and
Giudici Istruttori of the Tribunale;
Primo Pretore of towns of over 40,000 inhabitants.
- 4 As to Education
Rectors and Professors of Universities;
Provveditori agli Studi and Ispettori of Provinces;
Direttori Didattici and Presidi and Direttori of Schools.
- 5 As to Public Safety
Ispettori Generali, Questori and Vice-Questori of Provinces;
Comandanti of Pire Squadras.
- 6 As to Finance
Intendenti di Finanza and Regionali Capo of Provinces;
Senior Provincial Officers of Banks, Finance and Insurance concerns.
- 7 As to Transportation and Communications
Directors of Transport and Port Commandants;
Provincial Directors and Inspectors of Postal and Telegraph Services;
Divisional Directors and Engineers of Telegraph and Telephone Services.
- 8 As to Commerce, Food, Agriculture and Labour
Members of the Consiglio of Consigli Provinciali dell'Economia Cooperativa;
Direttori dell'Alimentazione, Direttori of Consorzi;
Directors of Social Insurance Agencies, Ispettori del Lavoro.

36

SUBCOMMISSION

→

→ Italian ...

GL RKS

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APPENDIX "B" TO EX 102'S No 57 (REVISED)Evidence of Fascism deemed to justify removal from offices in Appx "A"

- 1 If a "non career" employee, received an appointment after 14 Oct 43.
- 2 Held a Ministerial or senior Executive grade appointment in the Republican Fascist Government or any ministry or department thereof.
- 3 Held an office in any National Federal Provincial or Communal Organisation of:
 - i the Fascist Party;
 - ii the Offices of Fascist and Corporations;
 - iii the Fascist Syndicates and Federations;
 - iv the Fascist Militia (except officers of the Militia Contrarma, Costiera or Territoriale militia that are within some other provision hereof).
- 4 Held (except as an honorary distinction for some non-political reason) the title of:
 - Senepalerista, Squadrista, Antimarzio, Marzio su Roma, Salerna Littorio.
- 5 Was during the Fascist regime, a member of:
 - the Central Government, the Senate, the Chamber of Deputies, the National Council, the Grand Council, the Tribunali Speciali, the Tribunali Straordinari Provinciali.
- 6 Consistent public advocacy of Fascism whether over the radio, in the Press, or otherwise and whether as author, speaker, editor, director, or organizer.
- 7 Been decorated or granted or otherwise rewarded for political services by the Republican Fascist or Italian Governments.
- 8 Has taken the oath of allegiance to the Fascist republican Government.

NOTE :- All expressions referring to any Fascist organization include the equivalent Republican Fascist organizations.

4082/60

71A

HEADQUARTERS ALLIED COMMISSION
APR 30
CIVIL AFFAIRS SECTION

Ref DE/24/CA

3 April 45

SUBJECT : Cooperation of the Allies in Defascism
TO : See Distribution

- 1 All possible assistance will be given to Expiration Commissions consistent with care of Allied interests.
- 2 Documentary evidence as to the political past of individuals (including schools) in Allied possession should normally be handed to or made available to the High Commissioner for Defascism or his Provincial Delegate unless it contains matter which would endanger the national security of an Allied nation or cause serious injury to the interests or prestige of any such nation.
- 3 In the case of a document originating in an Allied agency the following additional provisions apply; that
 - a) it does not disclose the name of any informant, investigator or writer of any security report, nor the reason for, the extent of, or the procedure employed in any enquiry
 - b) that the evidence contained therein is not available from other sources.
- 4 As the Italian people are in general far better aware of the past political history of each other than we are likely to be, the production of any document which originated in an Allied office can only very exceptionally be justifiable. In any case no such document will be produced without the consent of the office in which the document originated.
- 5 It will be exceptional for Allied personnel to have personal knowledge of the pre-liberation activities of an Italian national. A request for Allied personnel to give evidence can therefore seldom be justified. In ~~no~~ ³⁵ case, no Allied personnel will give evidence, whether for or against an individual, without the prior sanction of this HQ.
- 6 Where it is considered that an individual by virtue of good service to the Allied cause deserves that such service shall be taken into consideration in mitigation of his sentence the record of such service and the Allied view of the value thereof may be submitted to the High Commissioner or his Delegate for inclusion with the papers to be submitted to the Commission. Any such record will not include any request to the Commission to take any particular course nor will it otherwise attempt to influence the Commission from arriving at a free decision. It will be signed by the Regional Commissioner or by the Director of a Sub-Commission.
- 7 Exemption under Art 16 of DL 159 is granted only where the individual has done some act which is particularly notable or useful to the Allied War Effort

and not merely for being incompetent. Competence can be taken into account in mitigation of punishment.

- Where a request for the suspension or removal of an individual for "fascism" is made by the appropriate Italian authority it shall be complied with, unless the Regional Commissioner or this HQ otherwise directs.
- In arriving at his decision the RC shall be guided by the following direction:
- a) Where it is believed that the loss of the services of a man almost unique in technical or administrative ability would have a reasonably direct and seriously adverse effect on the Allied War Effort the suspension or dismissal will be deferred and the matter referred to this HQ. The use of this procedure will be quite exceptional and confined to the cases of experts holding very senior and important appointments. In other cases:
 - b) Where essential work would be interrupted by the proposed removal the suspension or dismissal may be deferred but only for such minimum time as is reasonably necessary to appoint a successor whether or not that successor is as capable as the man to be removed.

FOR THE CHIEF COMMISSIONER

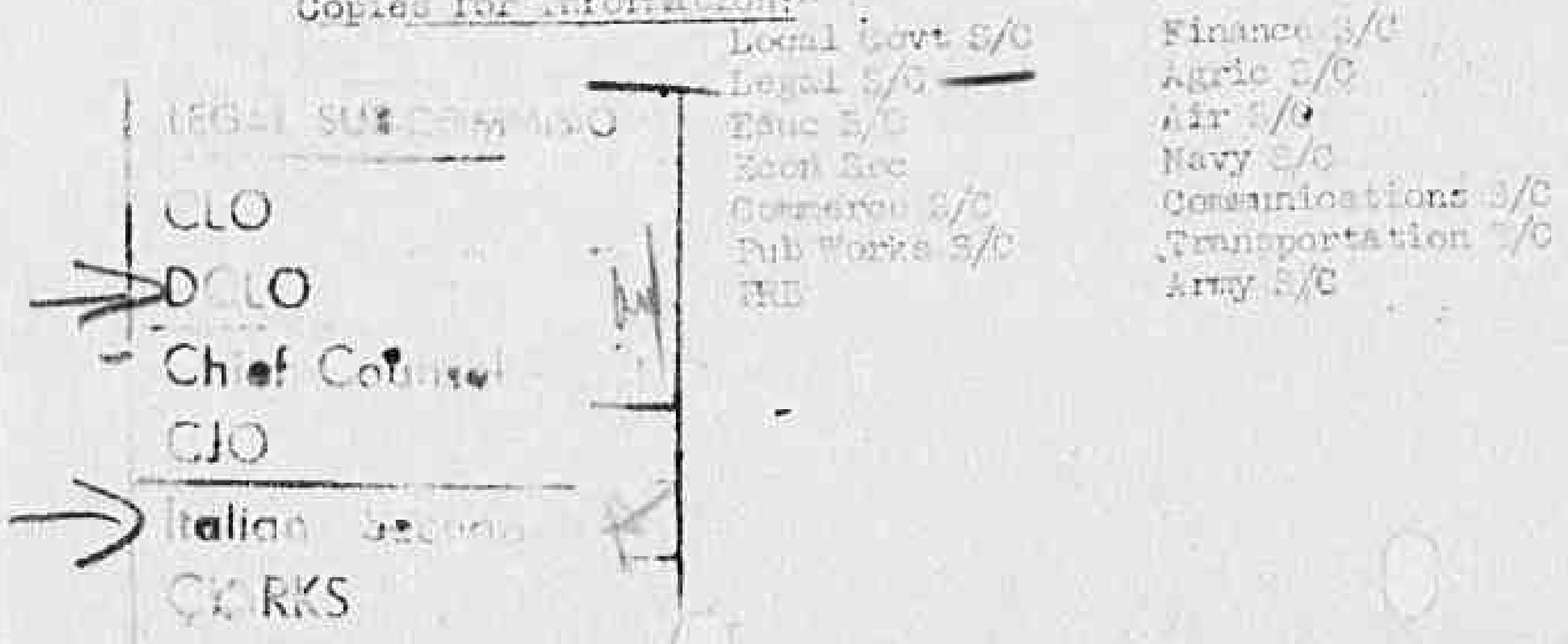
Handwritten signature
 G.R. URJON Brig
 VP Ca Section

Distribution:

- | | |
|-------------------------|--|
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| RC Toscana Region | SOAC 5 Army |
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| RC Liguria Region | DCCAO 15 Army Group |
| RC Lombardia Region | ASTHQ G-5 (refer AG.000.5/143
GBI-O 27 Mar) |

Scale of Distribution : HQ 4 - HQ 2)

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7 APR 1945

400/6-7-45

69A

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

22 Mar 45

Ref : DF/5.15/CA
SUBJECT : Defascism.
TO : See Distribution

Enclosed are translations of DL's 44 and 56, attending DL's 159, 257 and 265 of 1944, for your information.

[Signature]
S.R. URJOH Brig
VP C. Section.

DISTRIBUTION:

- | | | |
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| File CAS | Transpt S/C (2) | HRB |
| All Regional Headquarters (4) | | |
| All Provincial Commissioners (2) | | |

1 53

23 MAR 1945

69B

DL 44 of 23 Feb 45

DL 56 of 12 Mar 45

RULES OF PROCEDURE

ADDITIONAL AND NUMBERING

The Italian versions of these decrees are the only authoritative texts. These versions are not a literal translation; their object is to inform officers conveniently of the provisions contained in the Decrees.

Officials are referred to the Italian texts for all points of detail or matters of procedure or dispute.

DL 44 DL 56

Pay of Suspenses	Art 1	2
Time limits	" 2-7	1
Appeals	" 8	
Future Liberation	" 9	
Pensions	" 10-11	

DL 44

PAY OF SUSPENSES

- 1 Employees suspended from office in accordance with the last para of Art 22 of DL 459 of 1944 shall in addition to their salary be paid the family or high cost of living allowance at present authorized as well as the temporary increase granted by DL 16/3 of 1943 - as increased by DL 328 of 1944.

TIME LIMITS

- 2 Duration proceedings before a Commission of first instance against any employee suspended from office before this decree came into force shall if the employee belongs to a central State Department be completed within four months and in all other cases within five months from the date on which the proceedings commenced as laid down by art 25 of DL 285 of 1944.

But this provision shall not affect the time limits relating to officials of the first four grades which shall remain unchanged.

- 3 The time limit for the commencement of the execution proceeding against prisoners or internees, including those interned or imprisoned in Italy and against persons shown as missing but against persons resident outside the national territory, shall be three months commencing from the date of the cessation of hostilities or if such be earlier, from the day on which they resume service with

DL 44

PAY OF SUSPENDED

1 Employees suspended from office in accordance with the last para of Art 22 of DL 159 of 1944, shall in addition to their salary be paid the family or high cost of living allowance at present authorized as well as the temporary increase granted by DL 16/B of 1943 - as increased by DL 38/B of 1944.

TIME LIMITS

1 32

2 Expiration proceedings before a Commission of first instance against any employee suspended from office before this decree came into force shall if the employee belongs to a central State Department be completed within four months and in all other cases within five months from the date on which the proceedings commenced as laid down by art 25 of DL 233 of 1944.

But this provision shall not affect the time limits relating to officials of the first four grades which shall remain unchanged.

3 The time limit for the commencement of the expiration proceedings against prisoners or internees, including those interned or imprisoned in Italy and against persons shown as missing and against persons resident outside the national territory, shall be three months commencing from the date of the cessation of hostilities or if such be earlier, from the day on which they resume service with the Department employing them; or, if they are employed outside the national territory, from the day on which they resume duty in such territory.

4 The time limit for the commencement of expiration proceedings against civilian employees in military service shall be three months from the date of their discharge or being granted indefinite leave.

Expiration proceedings in progress against any person called or recalled to arms shall be suspended until such person is discharged or given indefinite leave.

5 For the purposes of the second para, of Art 25 of DL 159 of 1944, the expiration proceedings before any Commission of first instance shall be deemed to terminate when the decision is filed in the Secretariat of the said Commission.

6 The second paragraph of Art 1 of DL 277 of 1944 is amended to read as follows "In cases such as are referred to in the preceding paragraph, Commissions shall file their decisions in the Secretariat of their Commission within thirty days from the day on which the person was referred to trial; the period for lodging an appeal to the central Commission established by Art 20 of DL 159 of 1944 shall for the High Commissioner be ten and for the person concerned three days from the communication to them respectively of the said decision. The said appeals shall be dealt with by the Central Commission with absolute priority".

7 The time limit within which proceedings of first instance must be completed may, when the exceptional complexity of any case requires it, be extended by a maximum of thirty days.

The extension shall be granted on the request of the President of the Epuration Commission to the authority which was responsible for nominating the particular Commission concerned.

APPEALS

8 Whenever notice of any decision of a Commission of first instance is served outside the Province in which such Commission sits, the person concerned may in addition to the method of filing prescribed by art 9 of DL 285 of 1944 file his appeal to the Central Commission at the Prefecture or at the office of the Sindaco of the Province or Comune in which the said notice was served on him or at the local CCNR station.

Any appeal so filed shall be forwarded immediately to the Secretariat of the Commission of first instance for transmission to the Central Commission.

APPEALS

9 The following paragraph shall be added to Art 26 of DL 285 of 1944.
"If the discovery of any such evidence results from the restoration of normal communications with any colony or territory, it may be ordered, in the manner directed by the preceding paragraph, that the period within which the person concerned may be referred to extradition shall commence from the day of the cessation of the state of war".

PENSIONS

10 In the event of any retirement under art 2 of DL 257 of 1944 being ordered while operations proceedings are in progress, the High Commissioner for Sanctions against Mussolini may within thirty days from receiving notice of any such order, request the appropriate Commission of first instance - the Central Commission to continue the proceedings to decide whether the right to pension or to any increase of pension granted by Art 3 of the said law shall be forfeited.

In the absence of any such request (within the said time limit) or on an express refusal by the High Commissioner to make any such request the said proceeding shall cease and be of no effect.

11 The economic benefits granted to irremovable personnel by art 3 of DL 257 of 1944 and art 9 of DL 2 of 1945 shall as from the dates of their respective retirements be extended to regular Ministers of Military Courts and to Councillors of the National Research Council retired under DL 257 of 1944.

The time limit contained in the second paragraph of the aforesaid art 9 shall commence from the day on which this Decree comes into force.

12 The present Decree shall come into force the day after its publication in the Official Gazette of the Kingdom (9 Mar 1945)

of the state of war.

PENSIONS

10 In the event of any retirement under Art 2 of DL 257 of 1944 being ordered while court-martial proceedings are in progress, the High Commissioner for Sanctions against the offender may within thirty days from receiving notice of any such order, request the appropriate Commission of first instance or the Central Commission to continue the proceedings to decide whether the right to pension or to any increase of pension granted by Art 3 of the said Decree shall be forfeited.

In the absence of any such request (within the said time limit) or on an express refusal by the High Commissioner to make any such request the said proceedings shall cease and be of no effect.

11 The economic benefits granted to irremovable personnel by Art 3 of DL 257 of 1944 and Art 9 of DL 2 of 1945 shall as from the dates of their respective retirements be extended to regular Magistrates of Military Courts and to Councillors of the National Research Council retired under DL 257 of 1944.

The time limit contained in the second paragraph of the aforesaid Art 9 shall commence from the day on which this Decree comes into force.

12 The present Decree shall come into force the day after its publication in the Official Gazette of the Kingdom (9 Mar 1945)

DL 56

TIME LIMITS

- 1 The time limit for the initiation of operation proceedings under para. 1 of Art 25 of DL 159 of 1944 as extended by Art 6 of DL 2 of 1945 are further extended by:
 - (i) 30 days for civilian employees of any Ministry;
 - (ii) 60 days for civilian employees of any central Department of State other than a Ministry;
 - (iii) 60 days for members of the armed forces employed in any central Department of State.

PAY

- 2 Notwithstanding Art 362 of RD 827 of 23 May 1924, provincial offices of the Treasury, while waiting for the proper charges to be made in the account books, may as a matter of course order the payment of any remuneration owing to employees suspended under the last paragraph of Art 22 of DL 159 of 1944.
- 3 The present Decree shall become effective on the day of its publication in the Official Gazette of the Kingdom (16 Mar 1945).

1646

DIA 14 of 23 FEB 42

DIA 56 of 12 MAR 45

FILES OF ACCOUNTEE
ADDITIONAL AND ALIBIS

1647

RULES OF PROCEDURE
ADDITIONAL AND AMENDING

CL. SOC

22 MAR 45

✓ 4022/6

ore

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68A

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

DE/3.32/CA

17 Mar 45

SUBJECT : Defascism.

TO : See Distribution

Enclosed for your information are 2 copies of a handbook on the suspension of Fascist officials and employees, under GO 35 for use by Provincial Commissioners of North Italy if GO 35 is put into operation there.

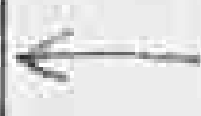
[Signature]
S.H. WHITE Lt Col,
for VF CA Section

51

DISTRIBUTION :-

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LEGAL SUB-COMMISSION
CLO
DCLO
Chief Counsel
CLO
Italian Section
CL RKS
18 MAR 1945



408216

408
DRAFT 67A

DL 44 of 23 Feb 45

RULES OF PROCEDURE

ADDITIONAL AND AMENDING

The Italian version of this decree is the only authoritative text. This version 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.

Pay of Suspendees
Time limits
Appeals
Future Liberation
Pensions

Art 1
" 2-7
" 8
" 9
" 10-12

7 50

PAY OF SUSPENSEES

1 Employees suspended from office in accordance with the last para of Art 22 of DL 159 of 1944 shall in addition to their salary be paid the family or high cost of living allowance at present authorized as well as the temporary increases granted by DL 18/B of 1943 - as increased by DL 328 of 1944.

TIME LIMITS

2 Expiration proceedings before a Commission of first instance against any employee suspended from office before this decree came into force shall if the employee belongs to the central State Department be completed within four months and in all other cases within five months from the date on which the proceedings commenced as laid down by art 25 of DL 285 of 1944.

But this provision shall not affect the time limits relating to officials of the first four grades which shall remain unchanged.

3 The time limit for the commencement of the expiation proceeding against prisoners or internees, including those interned or imprisoned in Italy even if they are not on foreign soil, and against persons shown as missing or cut off the national territory, shall be three months commencing from the date of the cessation of hostilities or from the day on which, prior to such date, they resume service with the administrative employing them; or, if they are employed outside the national territory...

1 Employees suspended from office in accordance with the last para of Art 22 of DL 159 of 1944 shall in addition to their salary be paid the family or High cost of living allowance at present authorized as well as the temporary increase granted by DL 47/B of 1943 - as increased by DL 328 of 1944.

TIME LIMITS

2 Expiration proceedings before a Commission of first instance against any employee suspended from office before this decree came into force shall if the employee belongs to the central State Department be completed within four months and in all other cases within five months from the date on which the proceedings commenced as laid down by art 25 of DL 285 of 1944.

But this provision shall not effect the time limits relating to officials of the first four grades which shall remain unchanged.

3 The time limit for the commencement of the expiration proceedings against prisoners or internees, including those interned or imprisoned in Italy even if they are not on foreign soil, and against persons shown as missing or outside the national territory, shall be three months commencing from the date of the cessation of hostilities or from the day on which, prior to such date, they resume service with the administration employing them; or, if they are employed outside the national territory, from the day on which they resume duty in such territory. ✓

4 The time limit for the commencement of expiration proceedings against civilian employees in military service shall be three months from the date of their discharge or being granted leave.

Expiration proceedings against any person called or recalled to arms shall be suspended until such person is discharged or given indefinite leave. ✓

5 For the purposes of the second para, of Art 25 of DL 159 of 1944, the expiration proceeding before the Commission of first instance shall be deemed to terminate when the decision is filed in the Secretariat of the said Commission. ✓

6 The second paragraph of Art 1 of DL 257 of 1944 is amended to read as follows

"In the cases referred to in the preceding paragraph, the Commission shall file their decisions in the Secretariat of their Commission within thirty days from the day on which the person was referred to trial; the period for lodging an appeal to the central Commission established by Art 20 of DL 159 of 1944 shall for the High Commissioner be ten and for the person concerned three days from the communication to them respectively of the said decision. The said appeals shall

be dealt with by the Central Commission with absolute priority.

7 The time limit within which proceedings of first instance must be completed may when the exceptional complexity of any case requires it be extended by a period up to a maximum of thirty days.

The extension shall be granted, on the request of the President of the Expiration Commission to such authority as was responsible for nominating the particular Commission concerned.

APPEALS

8 Whenever notice of any decision of a Commission of first instance is served outside the Province in which such Commission sits, the person concerned may in addition to the method of filing prescribed by Art 9 of DL 285 of 1944 file his appeal to the Central Commission at the Prefecture of the Province or at the office of the Sindaco of the Comune in which the said notice was served on him or at the local COER station.

Any appeal so filed shall be forwarded immediately to the Secretariat of the Commission of first instance for transmission to the Central Commission.

FUTURE LIBERATION

9 The following paragraph shall be added to Art 26 of DL 285 of 1944. "If the discovery of any such evidence results from the restoration of normal communications with any colony or Dominion, it may be ordered, in the manner directed by the preceding paragraph, that the period within which the person concerned may be referred to expiration shall commence from the day of the cessation of the state of war."

PENSIONS

10 In the event of any retirement under Art 2 of DL 257 of 1944 being ordered while expiration proceedings are in progress, the High Commissioner for Expiration against Fascism may within thirty days from receiving notice of any such order, request the appropriate Commission of first instance or the Central Commission to continue the proceedings to decide whether the right to pension or to any increase of pension granted by Art 3 of the said decree shall be forfeited.

In the absence of any such request (within the said time limit) or on an express refusal by the High Commissioner to make any such request the said proceeding shall cease and be of no effect.

11 The economic benefits granted to irremovable personnel by Art 3 of DL 257 of 1944 and Art 9 of DL 2 of 1945 shall as from the dates of their respective retirements be extended to regular Magistrates of Military Courts and to Councillors of the National Research Council who have retired under DL 257 of 1944. The time limit contained in the second paragraph of the aforesaid Art 9 shall commence from the day on which this decree comes into force.

"If the discovery of any such evidence results from the restoration of normal communications with any colony or dominion, it may be ordered, in the manner directed by the preceding paragraph, that the period within which the person concerned may be referred to court shall commence from the day of the cessation of the state of war"

PENSIONS

10 In the event of any retirement under Art 2 of DL 257 of 1944 being ordered while epuration proceedings are in progress, the High Commissioner for Functions against Fascism may within thirty days from receiving notice of any such order, request the appropriate Commission of first instance or the Central Commission to continue the proceedings to decide whether the right to pension or to any increase of pension granted by Art 3 of the said decrees shall be forfeited.

In the absence of any such request (within the said time limit) or on an express refusal by the High Commissioner to make any such request the said proceedings shall cease and be of no effect.

11 The economic benefits granted to irremovable personnel by Art 3 of DL 257 of 1944 and Art 9 of DL 2 of 1945 shall be from the dates of their respective retirements be extended to regular Magistrates of Military Courts and to Commissioners of the National Research Council who have retired under DL 257 of 1944. The time limit contained in the second paragraph of the aforesaid Art 9 shall commence from the day on which this decree comes into force.

12 The present decree shall come into force the day after its publication in the Official Gazette of the Kingdom. (from 1945)
No order.....

1653

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

66A

File

AG/4082/6/L.

/mt.
24 February 1945.

SUBJECT : Effective date of DLL No. 159 in Military Government Territory.
TO : High Commissariat for sanctions against Fascism (Attn: Assistant Commissioner for Liquidation of Fascist Property).

In compliance with your Prot. No. 2331-AG of 13 Feb 1945 please find enclosed a list showing the effective date of DLL 159 of 27 July 1944 in the individual Provinces of the Military Government Territory.

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

Incl: list.

48

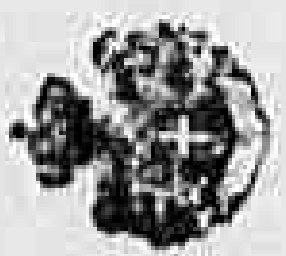
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66B

PERINI	14.8
PERUGIA	23.0
ASCOLI P.	11.9
MACERATA	2.9
ANCONA	6.11
PESARO	6.11
GROSSETO	25.8
SIENA	21.9
AREZZO	21.10
LIVORNO	15.9
PISA	18.10
FIRENZE	11.10
LUCCA	10.11
PISTOIA	11.11
NAPOLI	7.8

65A

ALTO COMMISSARIATO PER LE SANZIONI CONTRO IL FASCISMO
ALTO COMMISSARIATO AGGIUNTO PER LA LIQUIDAZIONE DEI BENI FASCISTI



2331-A G

Roma, 13 FEB 1945

Prot. N.
Allegati
Risposta al foglio N.
del

OGGETTO: Entrata in vigore nelle provincie soggette al governo
Militare Alleato del D.L.L. 27/7/1944, n.159.

Alla Sotto-commissione Alleata per gli
affari legali

R O M A

Allo scopo di poter impartire agli organi provinciali competenti le disposizioni in materia di applicazione del D.L.L. 27 luglio 1944 n.159, prego cedesta Sotto-commissione di voler cortesemente comunicare a questo Alto Commissariato Aggiunto la data di entrata in vigore del D.L.L. di che trattasi nelle singole provincie sottoposte al Governo Militare Alleato, giu- sta ordinanza del 29/7/1944 (suppl. ord. alla I.U. n.41 del 29 luglio 1944) che stabilisce che i decreti e gli altri provve- dimenti contenuti nel n.41 del 29/7/1944 della G.U. (fra cui il D.L.L. n.159) entrano in vigore ed hanno piena forza e ef- fetto di legge in ogni Provincia del territorio soggetto al Governo Militare Alleato a partire dalla data in cui il Pre- fetto della Provincia interessato riceverà dalla Commissione Alleata una copia del numero della G.U.

L'ALTO COMMISSARIATO AGGIUNTO

R O M A

comp. 246

Alle scopo di poter impartire agli organi provinciali competenti le disposizioni in materia di applicazione del D.L. n. 246 luglio 1944 n.159, prego questa Sotto-commissione di voler cortesemente comunicare a questo Alto Commissariato Aggiunto la data di entrata in vigore del D.L. n. 41 che trattasi nelle singole provincie sottoposte al Governo Militare Alleato, giu- sta ordinanza del 29/7/1944 (Suppl. ord. alla G.U. n. 41 del 29 luglio 1944) che stabilisce che i decreti e gli altri provve- nimenti contenuti nel n. 41 del 29/7/1944 della G.U. (fra cui il D.L. n. 159) entrano in vigore ed hanno piena forza e ef- fetto di legge in ogni Provincia del territorio soggetto al Governo Militare Alleato a partire dalla data in cui il Pre- fetto della Provincia interessato riceverà dalla Commissione Alleata una copia del numero della G.U.

L'ALTO COMMISSARIATO AGGIUNTO

(Pier Felice Stangeni)



64A
Kendal

4082/b
4/18/68

JK

HEADQUARTERS ALLIED COMMISSIONS
APO 374
CIVIL AFFAIRS SECTION

DE/3.11/04

10 Feb 45

SUBJECT: PROVINCIAL REORGANIZATION

TO : HQs Toscana, Abruzzi-Molise, Lazio-Umbria Regions
(see also 43 288 2)

1 From enquiries received, it is apparent that there is no clear conception of what is intended in "Provincial" Reorganization for which Regional and Provincial officers in AME territory are responsible.

2 The procedure as to organization is laid down in DL 479 as amended or added to by DL 257, 285, 420 and 1944 and 25.2 of 1945, all of which have been extended to AME territories. The officials and bodies appointed as laid down in these decrees are responsible for carrying out organization in accordance with those laws and the directives issued from time to time by the IC. It is these officials those working in AME territory have a dual responsibility. Just as a Prefect or Questore is responsible to AME for carrying out Italian Law in his jurisdiction, so are organization officers responsible to AME for carrying out the law as to organization.

3 It must be constantly borne in mind that Italian legislation sets up two forms of Reorganization Commissions (a) Central (b) Provincial. The broad distinction as to who is responsible by a Central AME who by a Provincial Commission in not always easy but the broad distinction is, that the cases of all Government servants (however low in grade and whatever employed) are decided centrally on the basis of employees of all concerns of national, as opposed to only local, importance. The only persons whose cases are decided by a provincial commission (in the strict sense) are employees of concerns of purely local interest. It should be noted that the distinction rests upon the standing of the employing body and has nothing to do with the location of the place of employment or where the employee resides. In case of doubt the view of the responsible Italian official should be accepted.

4 It is the responsibility of AME officers to see that the provincial commissions tackle the reorganization of the purely local concerns. This first problem is, that in any case, the commissions do not yet exist. When this is the case he will see that the investigatory work nevertheless goes on and that cases are prepared so that there shall be no delay or that errors when the commissions are appointed.

ii 43

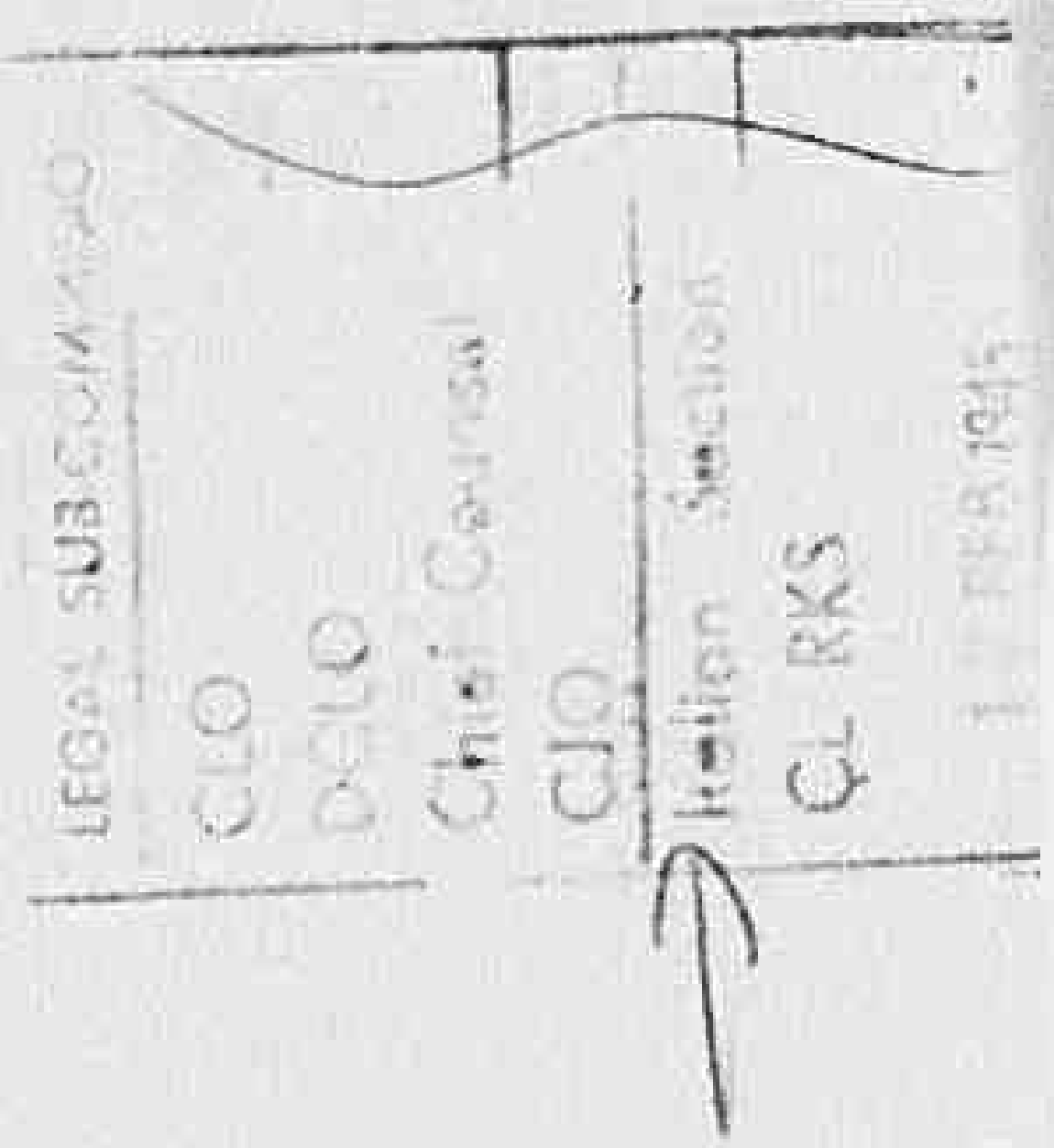
Officers in AME territory.

The procedure on to operation in Italy area, in DL 130 as amended or added by DL 257, 258, 220 all of 1944 and DL 2 of 1945, all of which have been extended to AME territory. The officials and fellows appeared as laid down in those orders are responsible for carrying out operation in accordance with those laws with the directives issued from time to time of the LE. But of those officials those working in AME territory have a dual responsibility. It must be noted that those responsible to AME for carrying out Italian law must also be responsible to AME for carrying out the law as to operation.

43

It must be constantly borne in mind that Italian legislation sets up two forms of Executive Commissions (a) Central (b) Provincial. The broad distinction is to be made in view of the broad distinction in that the cases of all government not always easy but the broad distinction is, that the cases of all government are the cases of employees of all categories of national, as opposed to only local, importance. The only persons whose cases are decided by a provincial commission (in the strict sense) are employees of concerns of purely local interest. It should be noted that the distinction rests upon the place of the employing body and not upon the nature of the work. In case of doubt the view of the employment or where the employment is public. In case of doubt the view of the responsible Italian official should be accepted.

It is the responsibility of AME officials to see that the provincial commissions handle the operation of the purely local concerns. This first problem is, that in many cases the commissions do not yet exist. Where this is the case he will see that the investigatory work nevertheless goes on and that cases are prepared so that there shall be no delay on that score that the commission is appointed.



5 The principal cause of the delay in appointing provincial commissions is the requirement that a judge shall sit on all commissions, nearly 150 commissions (mostly central) have already been appointed and so many magistrates have been withdrawn from normal work that the administration of justice is being interfered with, so a halt has had to be called. Nearly 100 more commissions are required to meet central and provincial requirements. It is hoped that the appointment of commissions will soon be resumed.

6 It should be noted that in addition to Provincial Commissions properly so called, Central Commissions have the power to sit in divisions which may sit provincially, (but still as part of the central machine). They have jurisdiction over one or more provinces for the purpose of dealing more conveniently with the operation of government departments which have in that area a large number of employees in scattered offices. This power is intended to exercise especially for the transportation, communication and education services. Where such divisions sit in AMG territory AMG is responsible for seeing that they do their jobs.

7 The HC is represented at the Provincial level by a Delegate who in addition to other duties is a liaison officer to keep the HC informed on local conditions. AMC officers can properly make representations to him as to the need for the appointment of commissions, the rate at which work is being done or the fact that certain persons have not been dealt with. The delegate is also responsible for supervising the work of the local commissions and for conducting local investigations. He stands to the work of operation in the same position as the Prefect does to the work of Local Government. So that his functions may be understood, a summary of the instructions under which he works is attached. Close liaison should be maintained with him.

[Signature]
 G.R. UFGOIN ERIG
 VP CA Section,
 ECOS AC.

BY COMMAND OF THE CHIEF COMMISSIONER :

DISTRIBUTION (for information) :

- EC Emilia Region
- EC Piemonte Region
- EC Sicilie Region
- EC Sardegna Region
- ECOS AC
- ECOS Section
- Agria S/c

educational services, more so than their jobs.

7 The HC is represented at the Provincial level by a Delegate who in addition to other duties is a liaison officer to keep the HC informed on local conditions. All officers can properly make representations to him as to the need for the appointment of commissions, the rate at which work is being done or the fact that certain persons have not been dealt with. The delegate is also responsible for supervising the work of the local commissions and for conducting local investigations. He stands to the work of operation in the same position as the Prefect does to the work of Local Government. So that his functions may be understood, a summary of the instructions under which he works is attached. Close liaison should be maintained with him.

RRB

BY COMMAND OF THE CHIEF COMMISSIONER :

G.R. UFGWIN Brig
VP CA Section,
DOOS AC.

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- SCAC AMG 5 Army
- PEB

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- RC Sardegna Region
- RC Southern Region
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- Local Govt S/C
- Legal S/C
- Public Safety S/C
- Educ S/C
- Communications S/C

- Keon Section
- Agric S/C
- Commerce S/C
- Finance S/C
- Public Works S/C
- Transport S/C
- Air S/C
- Land Forces
- Naval S/C

Circular No. 1 of 1961 from the Assistant Commissioner

TECHNICAL EDUCATION

1 The IC will be represented in all provinces by a Delegate responsible for conducting preliminary investigations and preparing cases for submission to the Provincial Commission. The Delegate should, where possible, have his office in the province and work in close collaboration with the Prefect. He will compile registers and lists of employees and the information available as to such employees with which the responsible heads of all services are responsible for supplying him.

2 The evidence collected will if it concerns persons ordinarily, be submitted to the IC (unless there is a division of an appropriate nature). If a provincial commission sitting provisionally, then it will be sent to that commission. If the evidence refers to persons ordinarily provisionally it will be forwarded to the appropriate provincial commission; but if a provincial commission has not been established, it will be retained for transmission when the commission has been set up.

3 The Delegate may recommend suspension; the Prefect does not agree to refer the matter to the IC (in his territory to the appropriate AS officer).

4 The Delegate shall be responsible for such degree of surveillance over the work of commissions as may be necessary to prevent interference, pressure or favour. If any such interference is reported to the IC (in his territory to the appropriate AS officer).

5 The Delegate will scrutinize decisions of Commissions sitting ⁴⁻⁴ and forward them to the IC with his comments. The period within which an appeal must be lodged will commence on the date on which the IC receives the decision concerned; but the Delegate will nevertheless give notice of appeal in all cases where he is of opinion that an appeal should be lodged, leaving the IC to withdraw the appeal if, in his opinion, it is not justified.

6 With the appointment of Delegates in the capitals of all provinces local operation may be said to have begun. If operation is to be effective it is necessary that the Delegate should be able to act, on the collaboration of the Prefect and the AS officer and on the assistance of the democratic parties and of the public. The Prefect will be responsible for placing himself above cooperation in operation cannot be relied upon. (In his territory it will be a good ground for making and to change a mind).

7 It is intended that party and public cooperation shall be channelled through the local ICs. The public must be instructed to the town of public responsibility. It may be channelled by means of meetings, articles in the press and public notices. All information received from the public must be signed. (AS attention will be paid to any requests or suggestions or instructions).

4 The Delegates shall be given the maximum degree of supervision over the work of each branch and may be necessary to prevent interference, pressure or favour. If any such is attempted it will be a crime to the US (in all territory to the appropriate of course).

5 The Delegates will maintain freedom of discussion until every 44th and forward then to the US with the same. The period within which an appeal must be lodged will be one on the date on which the US receives the decision concerned; but the Delegates will nevertheless give notice of appeal in all cases where no notice of appeal has been lodged, leaving the US to withdraw the appeal if, in his opinion, it is not justified.

6 With the establishment of Delegation in the context of all previous local operation may be said to have begun. It is essential to be effective it is necessary that the Delegates should be able to act on the collaboration of the Delegates and the US on the maintenance of the economic parties and of the public. The Project will be responsible for explaining and co-ordination in operation cannot be relied upon. (in all territory it will be a good ground for asking the US to change a policy).

7 It is intended that only the public cooperation shall be channelled through the local US. The public and the US are attached to the idea of public responsibility it will be encouraged by means of meetings, articles in the press and public notices. All information received from the public must be signed. Information will be sent to territory and demarcations or intrusions.

8 Working Committee will be given over by a magistrate and possessed of powers the have little or no connection with the locality but local citizens who are not local security of their territory and who can be relied upon for justice in irregularity and who are not controlled by a court or bodies may be appointed. Delegates and the US of the country will forward the names of any such persons they wish appoint to the US.

9 The object of having Provincial Education Commissions appointed by the President of the Council of Ministers is to increase their authority and authority. All previously appointed Provincial Commissions are dissolved but may be re-appointed by the President and advised if it is desirable to do so and the corresponding regulations.

10 The Delegates, through normally the representative of the US for the region, will also report to the other three branches of the US for the region.

HEADQUARTERS ALLIED COMMISSION
 AND 394
 LEGAL SUB-COMMISSION

CCM/ps.
 13 Feb 45.

SC/1082/6/L.

SUBJECT : Amendment of D.L.L. 159 of 27 July 1944.

TO : Regional Commissioner, TOSCANA Region.
 (Attn : Regional Legal Officer)

1. Reference your RTILL/19/2015 (FL 38) ^{8 Feb} the Italian Government is taking steps to clarify the position in so far as operation of private companies is concerned. In all probability a new decree will be promulgated dealing with this very subject.

2. In the meantime you have no doubt realized that the provisions of a decree must be construed according to the law and not to satisfy local conveniences, as PIO Florence appears to think.

3. It must be further remembered that Allied authorities have always taken the attitude that "operation" was a matter for the Italians to deal with and that they should be solely responsible for choosing ways and means to achieve their purpose.

By command of Rear Admiral STONE :

G. G. HENKSFORD,
 Lt. Colonel,
 Officer i/c Italian Branch,
 for Chief Legal Advisor.

62A

12 February 1945.

SUBJECT : Amendment of DLI No. 159.
 TO : Officer i/c Italian Branch.

1. Reference Major Glenn's letter of 6 February 1945.
2. When talking of "epuration" of members of the Board of Directors of a private concern, one should solve the preliminary problems: is DLI 159 in any way affected by DLI 420?

I personally think that DLI 420 does affect DLI 159 with this consequence, that in order to epurate a private business this must fulfil all the conditions set out in Art. 1, sub-para 1, 2, 3 of DLI 420.

But I also think that this consequence is absurd from a logical and moral point of view, and that par. 6 of Art. 4 of DLI 420 should be suppressed; in its stead a new paragraph should be added to Art. 10 of DLI 420, saying:

"Tutti gli appartenenti alle aziende previste nel presente articolo sono soggetti ad epurazione a norma del DLI 27 luglio 1944, n. 159 e successive disposizioni."

3. If one does not take into consideration DLI 420 and limits himself to consider only DLI 159, as Major Glenn does, I don't think that the construction of the H. C. is right.

The expression "dipendenti" used in Art. 13 of DLI 159 cannot be so far reaching as to prevent epuration of members of the Board of Directors of a private concern having nationwide interest.

Truly, the Directors of a company are not "dipendenti" in the sense that they are not employees of the company.

But, in order to determine who can be epurated one has to consider Art. 11 of DLI 159: this provision fixes the subjective limits of epuration. The subsequent provisions only set out the conditions which must be fulfilled in order to epurate those persons who are described in Art. 11.

The law--it must be conceded--could have been drafted more clearly and more properly; but if one wanted to pay too much attention to the drafting of all these "emergency" laws, one could never apply them.

P. CHICENTI

1665

HEADQUARTERS
FLORENCE PROVINCE
ALLIED MILITARY GOVERNMENT

61A

✓
4082/6

FL/38

6 February 1945

SUBJECT: Amendment of D.L.L. No. 159
of 27 July 1944 (Epurazione).

TO : HQ A.C. (through R.L.C.),

1. When consideration was recently given to the Epuration of a member of the Board of Directors of the FONDIARIA in Florence I was advised by the Provincial Delegate of the High Commissioner that D.L.L. 159 of 27 July does not provide, as construed by the Central Commission in Rome, for the epuration of members of the Board of Directors of a private concern having nation wide interests, as it does for managers and officers thereof. This is, of course, a ridiculous situation in view of the fact that members of the Board of Directors under the Italian law, as under ours, elect, and therefore control, the managers and officers of a corporation. It, of course, does not help very much to remove officers who may be replaced with others who are controlled by non-removable Fascists.

2. Avv. Gabrielli, the Provincial Delegate here **41** of the High Commissioner, fully agrees and intends to go to Rome to recommend to the appropriate Italian authorities the prompt amendment of the law so as to include members of the Board of Directors.

3. I am calling this to your attention so that the proposed amendment may be expedited and also so that the question may be discussed, if deemed appropriate, with a view to ascertaining if the Central Commission could not be prevailed upon to change its construction of the law, as this would be a much speedier remedy than amending the law. A possible construction of the law as it stands is that

- 2 -

Legal

"gli appartenenti," which is a general description of those subject to epuration as provided in Art. 11, includes members of the Board of Directors, notwithstanding the use of the word "dipendenti" in Art. 13.

Henry L. Glenn

HENRY L. GLENN,
Major, JAGD.,
Legal Officer for the
Province and City of
Florence

HIG/TV

4082/6

1st Ind.

RVIII/19/2013

Headquarters, Toscana Region, AMG, 8 February 1945.
To: LEGAL SUB-COMMISSION, Headquarters, AC.

1. The basic communication is forwarded without comment, for whatever ~~xxx~~ value it may have to you.

For the Regional Commissioner:

John K. Weber
JOHN K. WEBER
Colonel, Infantry
Regional Legal Officer

40

LEGAL SUB-COMMISSION	
CLO	
DCLO	
Chief Counsel	
AD	
Asst. Dir.	
Sec'y	
11 FEB 1945	

RECEIVED
10 FEB 1945
A. C.

60A

HEADQUARTERS ALLIED COMMISSION
APR 39
CIVIL AFFAIRS SECTION

1 Feb 45

REF DF/A. 52/CA

SUBJECT : Defacement - OO: 35

TO : Southampton

attached are submission of three directives which the HQ for Jerusalem has
issued as the subject of instructions which are issued for the information of
national and provincial officials and sub-commands so that they can ensure that
operation, for which they are responsible in IAC territory, proceeds along the
correct lines.

BY ORDER OF THE CHIEF COMMISSIONER

[Handwritten signature]

C.S. UNITED Bdy
VP Cx Section
TCMS AC

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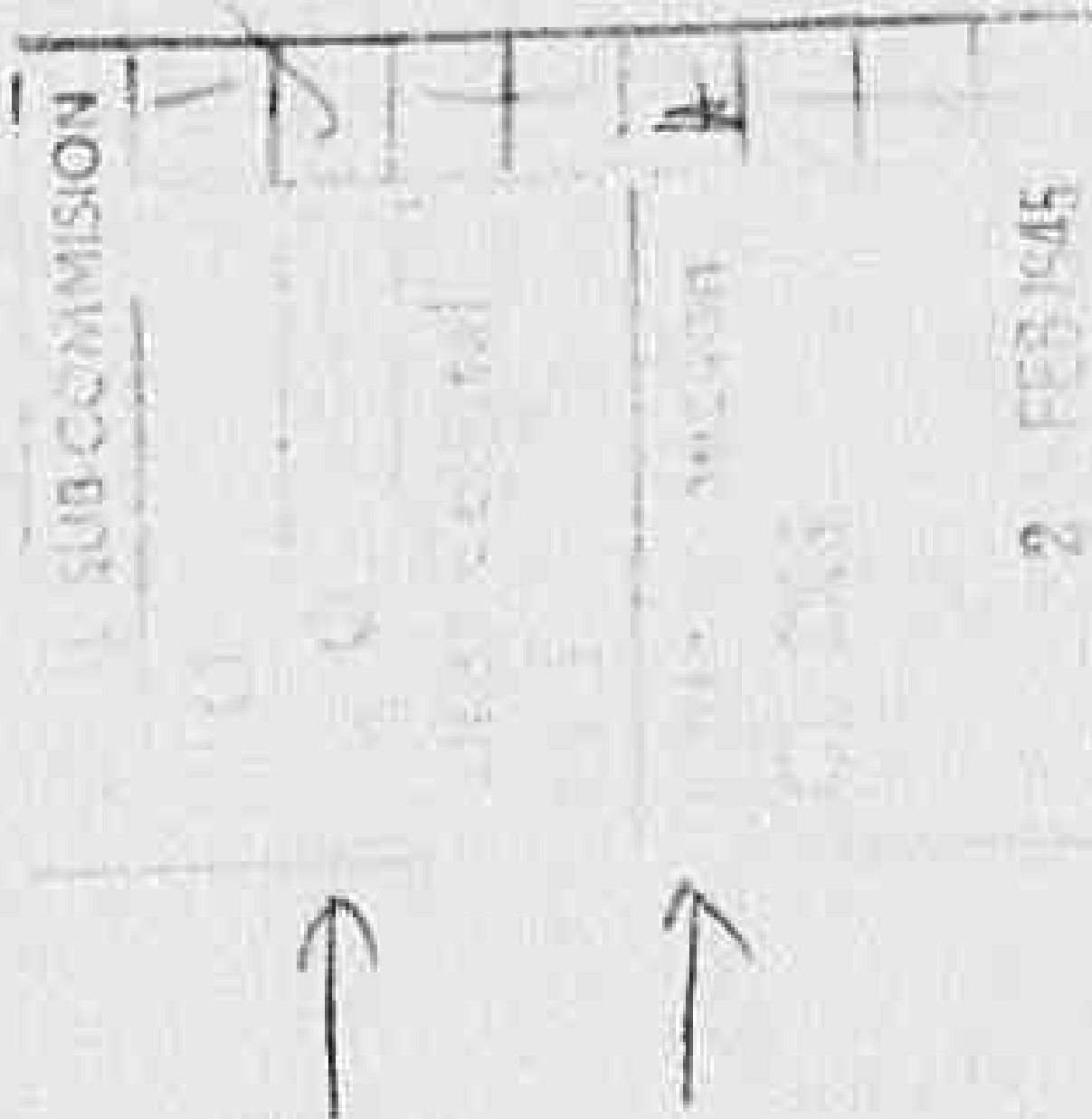
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608

ARTICLE I* is pp 1.32/1 of 1 300 45

Circular 1 of 20 Aug. From the HC is 1. Ministers
2. Embargo of Judging Commissions

Explains and explains difficulties and apparent inconsistencies in the text of
IL 159. References concerning 4 are to Articles of IL 159 those beginning 5 are in
the corresponding sections of 50 15.

1. 4. 12 (2) and 4. 15 - 5. 2(b). Two degrees of improper preference are recognized.
The first includes the more gross case of favoritism, where the preference is
personal and with no chance of justification, and the second where there may be
calculable justification and there is a preference rather because of membership of
a group than of the individual as such.

2. 4. 13-5 2(e) is intended to cover every form of bias incompetence and corrupt-
ion and several examples are given.

3. 4. 14-5 2(a) is intended to apply to those who are in fact "equestria",
"euhemerists" etc, and not to those to whom titles were awarded as honorary dis-
tinctions because they were notable athletes, sculptors, etc; but if an honorary
title was solicited, this exception does not apply. Nor is the article intended
to apply to persons who were transferred to the Militie for bias because the unit
to which they belonged was so transformed, except where the transfer was in accord
with a request made by them.

4. 4. 16-5 3(e) The expression "distinguished" is defined as having accomplished
something particularly notable and useful. The text is suggested of the honor the
word is of an honest type, who has done what he did in good faith and in accordance
his beliefs and not a mere time-server who will serve whomsoever may have a present
advantage.

4. Section 14. soundly against accepting too easily the claims of self styled
"patriots" in of being too easily satisfied by others that acts of little true
importance should excuse persons from punishment for a long period past.

4. Similar caution is soundly against accepting too readily the excuse of unord-
nated persons.

5. 4. 17-5 2(a) does not deal with collaboration with the German, that can only
be dealt with under Act 5; but if such collaboration leads to any collaboration
with the Republican Government, Art 17 will apply.

Collaboration does not include such cases as a civil servant remaining at his
post and carrying on with his job; the continuation of administration is a neces-
sary part of modern life. If universal demands had been intended, it simply means
city of modern life. If universal demands had been intended, it simply means
city of modern life. If universal demands had been intended, it simply means
city of modern life.

38

... because they were notably efficient, sculptors, etc. ... the article intended to apply to persons who were transferred to the military "en bloc" because the unit to which they belonged was so transferred, except where the transfer was in accord with a request made by them.

16-2 (B) The expression "disturbance" is defined as having accomplished something particularly notable and useful. The test is suggested of whether the person is of an honest type, and has seen that he did in good faith and is sincere in his beliefs and not a mere time-server who will serve whatever way have a present advantage.

Another is soundly equipped excepting too easily the claims of self styled "patriots" as of being for really anti-fascist. The test is suggested of whether the person should excuse persons from punishment for a long fascist past. A similar objection is soundly rejected concerning too readily the excuses of unscrupulous persons.

17-2 (a) does not deal with collaboration with the Germans, that can only be dealt with under 17-2 (b) but if such collaboration imports also collaboration with the Republican Government, 17-2 (b) will apply.

Collaboration does not include such cases as a civil servant remaining at his post and carrying on with his job, the substitution of administration is a necessity of modern life. If unscrupulous dismissed has been individual, a simple clause absolving all civil servants would have sufficed. Collaboration is those who have actively assisted the Republican Government, U.S. by the transfer of persons or property to the north or by propaganda.

The pleading of allegiance refers to the acts of fidelity and loyalty. These grades of activities, circumstances are recognized.

- c) Actual involvement, 17-2 (a) to 50 that it might be fairly assumed that there was coercion and the man not a free agent. In such cases no punishment at all should be awarded as a reward is proved, but the Ministry of actual threats of arrest, torture or other coercive measures. The degree of excuse would vary according to the ruthlessness of the threat both as to the type of danger threatened and the reason because of the fear that the target would actually be carried out;
- d) threats solely of dismissal, in which case the degree of excuse would vary with the degree of guilt in which the employee and his family might find themselves. Here follows a large number of paragraphs dealing with details of administration. They refer to arts 13-22 of IL 159 and are of no interest to any commissions.

600

MEMORANDUM FOR THE SECRETARY OF THE HOUSE OF REPRESENTATIVES

Circular No. 2 of 5 Sep. From the Asst Sec to the Ministers
2. Members of Judging Commissions

While the first circular dealt with the letter of the law, this one deals with its spirit. The general intention is to remove prominent fascists quickly (so that they left no legal feel) secure in their posts and the purged officials may commence to reconstruct on a stable foundation) and at the same time to cause as little bitterness as possible.

1 The law is political, unambiguous and severe. The spirit should prevail over the letter. The aim is not to punish (punishment is dealt with by part I of II 179) but to remove the corrupt and to build an honest working and efficient service. The expression "unworthy to serve the state" occurs more than once and in the text to be applied.

2 The persons to be removed are those who are corrupt and intolerant. Two classes are distinguished, those who served in office as a means of enrichment and who buy and sell (whether or not for money) favors and take improper profits or other advantages in corrupt and bribe. The second class are those who have been intolerant or repressive or violent, those who have shown extreme partisanship and have coerced or barred the liberty of others. Persons of both such classes should be removed even though their fascism is not obvious.

3 Other cases should be treated more tolerantly. The object is to set up a clean and honest administration. The argument that all fascists are tainted and should be removed is not tenable. Those who were unprincipled and honest are still such and may be worthy of retention. A converted fascist need not ipso-facto be removed if the conversion is honest and not pretended.

4 The types of persons to be tentatively dealt with are discussed. Schiedriste, autocrats etc who are still of use. A man who joined the party in its early days and is still of use should remain. A very ardent fascist. Cases of persons in receipt of small salaries should be carefully considered especially where dismissal will cause hardship to their families to complete destitution. It is considered better that a few unprincipled should accept their deserts rather than many should suffer more than is deserved. The officials not to be removed early in such, but only if such part in the corruption of the fascist regime.

5 A further list of the conduct of the individual after the 5 Sep 43. Those who then voluntarily associated themselves with the fascist regime must be dismissed, but those who only did so under direct pressure or because of the economic necessity of obtaining their appointments, may be awarded lesser punishment.

6 Suspension prior to trial shall not influence the hearing; suspensions are frequently ordered on evidence available at the time, which may later prove false or capable of explanation. Some of persons suspended should be given priority of hearing.

37

should be removed if not accepted, more and more of course. I am not sure if I am not sure - still such and say to party of retention. A converted subject must not pretend. It is not to be converted if the conversion is not to be pretended.

4 The types of X-factors to be handled will vary with the discussed, appropriate, extensive the who are still of low grade. I am not sure if I am not sure - still such and say to party of retention. A converted subject must not pretend. It is not to be converted if the conversion is not to be pretended.

5 Further that in the conduct of the individual after the 4th of July, those who then voluntarily associated themselves with an existing the Republican Party must be dismissed, but those who only did so under direct pressure or because of the economic necessity of retaining their appointments, may be treated as lesser punishment.

6 Suspension prior to trial shall not influence the hearings, suspensions are frequently ordered on evidence available at the time, which may later prove false or capable of explanation. Cases of persons suspended should be given priority of hearing.

7 The HC will not hesitate to suggest in suitable cases that no punishment be deferred and still justly present against detection of Espionage Commissions which do not observe, to the prejudice of the country, the spirit of the above instructions.

8 Commissions are urged to work expeditiously to reduce as quickly as possible that unattended period, when people do not see that the results of their efforts are being met with justice with mercy; that staff they still be retaining, while they should temper justice with mercy; by an absence of sound judgment and political understanding they will assist in the results of their country.

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Circular No 3 of 26 Oct. from the ... to members of Judging Commissions.
(This was originally circulated on 4 of 24 Oct.)

Disciplinary actions of leader members include deprivation of position and loss of rank or seniority. But, they should not be imposed without regard to the effect they will have. The intention is to hold up the service. It will inevitably be inevitable to order the reduction of retirement and pension. This but creates economic conditions and causes discontent and does not assist to stabilize the service. For the same reason, temporary suspension is unattributable delay of the service from returning to normal. (Suspension should only be ordered when ultimate discipline appears inevitable).

There is generally the most authority based reaction.

In many cases the pension may be the only source of income. It is inevitable to create a desperate situation by causing forfeiture of pension, which will create adversely today and will in the future complicate it. Such actions will not assist to restore the country. Deprivation of pension is justified in cases where there are heavy improper contributions and in the case of serious cases of collaboration with the puppet government. In other cases the economic result in the family must be considered. Some cases are so other means to be generally to avoid.

In considering cases of resignation policy for ... (1944-45) of ... whether it be as the Director of the ... or as private organization, whether by ... or a ... (1944-45) to be published. The decision ... of the course of conduct, not to use the committee ...

Collaboration 17-6-46) included not only ... and continued support or ... of the ... (1944-45) ... which ... or ... related to be ... to that ... the ... or ... only ... to ... the ... of ... or ... of ...

The ... of ... is therefore ... determining the ... with which the ... should be ...

Crime under ... (1944-45) that ... 36 excused or ... severe ... on the ground that ... apparently ... the ... in fact ... that effort, and particularly ... and ... of the documents ... to the ... of the ... the ... by individuals, ... other ... to be made worthwhile. The only body ... in the ... Committee ... by that body should be ...

Documents ... by ... as ... of their ... to ... that they are ... that this ... (1944-45) ... whether they ... or ... such

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1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60.

4 Distribution of (S) copies of the report to all concerned agencies, including the State Department, in order that they may be advised of the results of the investigation and the reasons therefor.

The Office of Security of the Department is to advise of the results of the investigation to the Bureau of Investigation and to the Bureau of Customs.

5 Claims under (S) (a)(1) and (b) that various persons, including those mentioned in the report, are or were members of the Communist Party of the United States of America, and that they are or were active in the work of the Party, should be referred to the Bureau of Investigation for their consideration.

6 Personnel removed from service by and/or contrary to regulations, the hearing of which would be expedient, should be referred to the Bureau of Investigation for their consideration, so that it may be determined whether they are to be reinstated or not. Any such personnel should be referred to the Bureau of Investigation for their consideration, and the Bureau of Investigation should be kept advised of the results of the investigation.

7 * * * Disposition of (S) copies of the report to all concerned agencies, including the State Department, in order that they may be advised of the results of the investigation and the reasons therefor.

The Office of Security of the Department is to advise of the results of the investigation to the Bureau of Investigation and to the Bureau of Customs.

8 * * * Disposition of (S) copies of the report to all concerned agencies, including the State Department, in order that they may be advised of the results of the investigation and the reasons therefor.

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The Office of Security of the Department is to advise of the results of the investigation to the Bureau of Investigation and to the Bureau of Customs.

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4082/6

59A

HEADQUARTERS ALLIED COMMISSION
LFC 374
CIVIL AFFAIRS SECTION

LP/5.13/04

27 Jan 45

SUBJECT : Defacement - Amendments to Decree's Nos 111, 159 - 257 - 265
TO : See Distribution

54A

Referenced this office LP/5.13/04 of 14 Jan.

Please destroy the copy of DL 2 of 1945 sent under cover of this office LP/5.13/04 of 14 Jan and substitute the attached. The letter itself should however be retained.

BY COMMAND OF THE CHIEF COMMISSIONER:

[Handwritten Signature]

G. E. BROWN, Brig.
74 C. Section
LFC 374

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- AC Sicilia Region
- AC Sardegna Region
- AC Southern Region
- AC Lazio Region
- AC Abruzzi-Marche Reg.
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- Political Section
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Pa
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after you have seen
destroyed all

See new version at 542

| | |
|---------------|---|
| CLO | |
| DCLO | |
| Chief Counsel | |
| LIC | |
| Legal Section | H |
| CLKS | |

28 JAN 1945

file 4082/6

Legal

58A

Notes of a Meeting of Sub-Commission Representatives

20 Jan 55

EE/3.10/CA

- 1 Attention was drawn to the new Decree No 2 of 1945 which extended the time for the completion of proceedings of the first four grades to 29 Jan and for the initiation of proceedings in other cases of persons separable centrally by one month to the 29 Feb 45 for those separable provincially by three months to the 29 Oct. Mr. WOODS stated that it did not seem likely that matters could be finished within the time limits in the new decree and that further extensions might be needed. Sub-Commissions should however make an effort, to get proceedings finished within these new time limits.
- 2 Mr. WOODS referred to SCOTLANDYARD's report on the whole six months and informed Sub-Commissioners that the report was interesting and was available for perusal but was too long to make copies of. He undertook to condense and issue it in the weekly Bulletin. The report contains certain statistics which had been extracted and circulated for information so that Sub-Commissions could see that the High Commissioner acts of their respective Ministries. Sub-Commissioners pointed out a number of inconsistencies compared to their returns. He also referred to the directives which had been sent by the H C to Sporting Commissions, which on the whole appeared excellent. A communication was being prepared and would be circulated.
- 3 Sub-Commissioners were informed that the new W/O who has replaced SCOTLANDYARD was H B WILSON and that an interview with him had taken place. A proposal which had been put forward by him was to set up sections of ministerial commissions to act provincially particularly to deal with employees engaged in the transport and communications and essential services. In effect this it might be necessary to amend article 2 of IL 109 so that time limits should run in all territories.
- 4 It was agreed that it was inadvisable to put GO 35 into operation in any area to which IL 109 had been extended. Objection should not be made to actions taken by the H C except in consultation with the Section. Where objection was proposed against an action which was taken for the war effort, the appropriate action was to request that his right be taken into consideration under article 16 of IL 109.
- 5 Most Sub-Commissions had found that they could only get the information required by the fortnightly return from their industry and not from the Education Commission. The original instruction had been that Education Commissions should

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provide the information. Sub-Commissions should not arrange for the personnel branch of the Ministry concerned to provide this information. A directive to this effect has been issued.

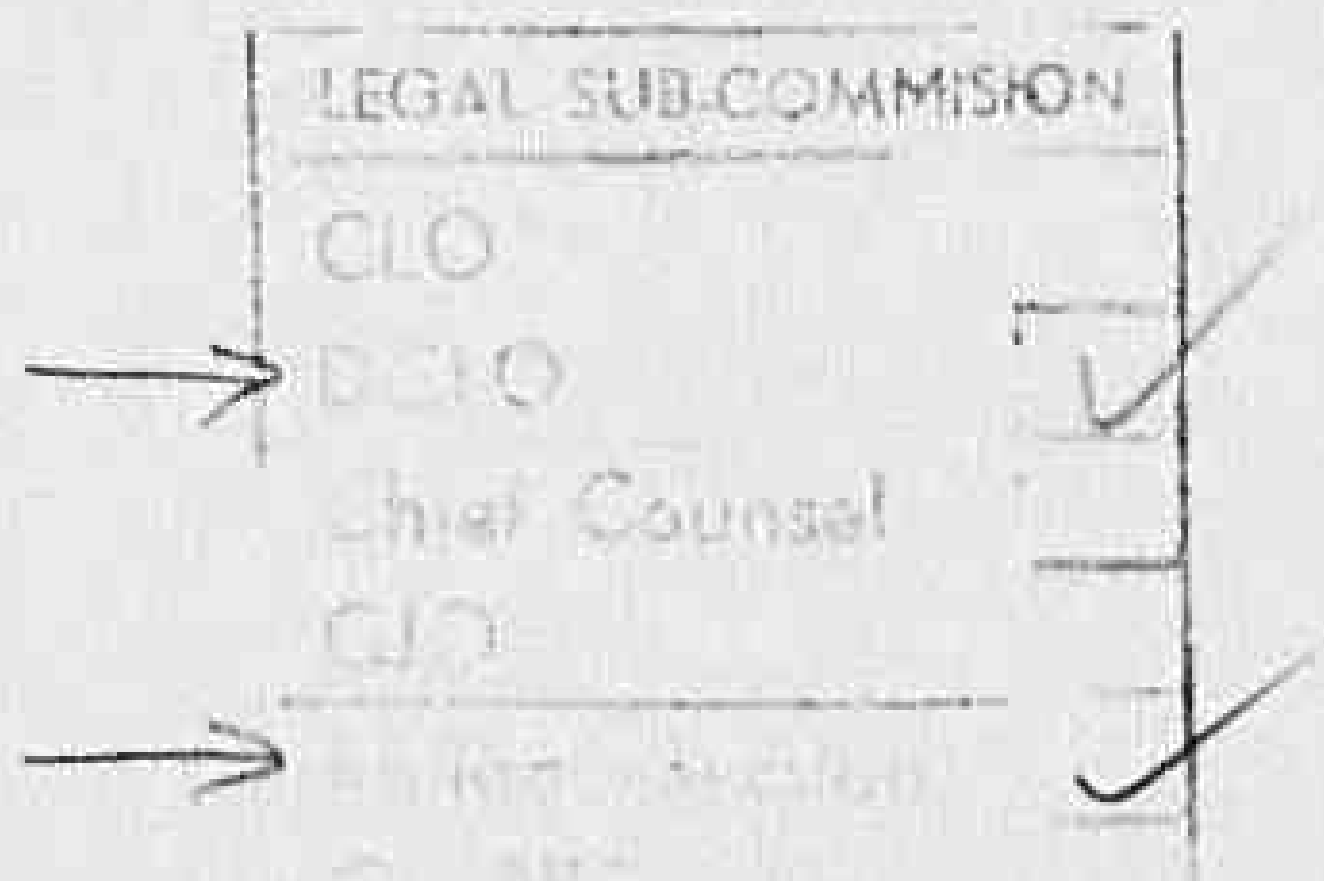
7 List "A", Executive Memorandum No 67 is under revision. It was noted that it contained no reference at all to senior personnel of services for which certain Sub-Commissions were responsible. Sub-Commissions should consider whether any appointments should be included. It was intimated that the list should be exclusive and apply only to the senior appointments which it was essential should be non-Fascist. Any amendments proposed should be submitted within 5 days.

8 The following points by Sub-Commissions were raised:-

- a) The proposed re-employment by the Italian Government of persons suspended by G.S. In some districts some persons have now been suspended for over 2 years and the Italian Government now desired to re-employ them, though it was considered desirable that such persons should appear before an enquiry commission before they were re-employed. This was a matter of high policy which would have to be decided at a higher level.
- b) Public Safety was instructed to see that its returns included figures for the senior grades of G.S. officers. Prison personnel should be aggregated with the Min. of Justice's figures. Col. WHITE to coordinate between Public Safety and Land Forces Sub-Commissions.
- c) It was suggested that a provincial commission was sitting in Naples and dealing with University professors contrary to the wishes of the Minister of Education. Education was instructed to make further enquiries.
- d) There was no objection to Finance Sub-Commission continuing to handle the figures relating to Insurance Companies.
- e) A further supply of revised job forms was required.

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23 JAN 1945

1678

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~~file~~

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

1 pa.
19 Jan 45.

AC/1002/6/1.

SUBJECT : Suggested amendment to D.L.I. 159.
TO : H.E. The Minister of Pardon and Justice.

The enclosed memorandum has been received from the Bar Association of Grosseto and is forwarded to Your Excellency for consideration.

7 33

Incl.

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

4082/6. C
Translation. (ACB).

56A

NY

Competence for crime of collaboration with the enemy.

Article 5 of the Decreto Legislativo (numbered) of the 27th July 1944 No. 150, relates to the punishment of crimes against fidelity to and military defence of the State with any form of collaboration with the German invader.

In the last paragraph of the said article there is established that military personnel will be judged by military courts.

Among the most frequent and most odious forms of collaboration is certainly that of participation in the ~~XXXXXX~~ squads detailed for the mop-up of partisans, the which squads committed and, unhappily, are still committing the most heinous crimes. Public opinion insists that these crimes be judged by the local Courts of Assizes.

Instead, the interpretation founded on Article 3 of the Military Penal Code it would appear that this should not be in the majority of cases, inasmuch as the participation in such squads of youths who were under arms at the date of 3 September 1943 and who never received a regular discharge, causes the competence to rest to the Military Courts.

This point against a just sentiment of the population and also against logic, because in the above cases one deals with political crimes which should be judged by popular juries.

To avoid these grave inconveniences it would be necessary to pass laws, which in a restrictive legislative sense, what has, almost certainly, been the intention of the legislator. That is, that

Courts of assizes.

Interpretation founded on Article 3 of the Military Penal Code it would appear that this should not be in the majority of cases, inasmuch as the jurisdiction in such cases of youths who were under age at the date of 3 September 1843 and who never reached regular discipline, should be competent to pass to the Military Courts.

This point having a just contentment of the Constitution and also against justice, because it had a few years and deals with political crimes which should be judged by regular judges.

To avoid some error in consequence it would be necessary to make clear, with an express legislative decree, what has, almost certainly, been the intention of the legislator. That is, that there be referred to the Military Courts only those crimes committed by military personnel in their particular quality and in the execution of a specific activity which was competence of each individual crime to the military rank held.

Of it might be made clear, if not with a legislative provision, that, in regards the competence of the ordinary of military judges, those be considered as discharged all military personnel in service on the 8th September 1843 who after that date no longer took part in regular units of the armed forces.

=====

*original
cleared pers.*

TO : CIVIL AFFAIRS (Ref. DE/3.10/CA of 30 Dec 44, DE 3.B/CA
DE/3.B/CA of 10 Jan).

file

40P21

OFFICIALS GRADE I TO IV
MINISTRY OF PARDON AND JUSTICE

| a | b | c | d | | |
|-----------------------------------|---|-------------------|----------------------|-----------|----|
| Grand total
in entire
Italy | Total in Italian
Government Terri-
tory and Allied
Military Govern-
ment Territory. | Total
examined | of the total under c | | |
| | | | cleared | dismissed | ti |
| 317 | 247 | 55 | 18 | 20 | |

31 December 1944.

NOTE : The total ⁱⁿ column C gives the number of officials of the first four grades referred to the Epuration Commission.

The first subdivision of column D indicates the number of officials cleared, punished less severe than dismissal as well as officials in respect of whom the Commission has to initiate any proceeding.

The second subdivision indicates the number of persons dismissed from service. ^{if} those in column C and D should be supplemented by information to be supplied by Superior C of the Ministry of Pardon and Justice which Department is competent for the procedure.

Finally it is noted that the proceedings against 12 officials have been suspended pending or because of the residence of the official concerned in territory occupied by and restored to Italian administration.

G.C. HANNING, Lt.
Officer i/o Italian
for Chief Legal Adv

Civil Affairs (Ref. DF/3.10/CA of 3 Dec 44, DF 3.B/CA of 6 Jan , DF/3.B/CA of 10 Jan).

file

4092/6

OFFICIALS GRADE I TO IV

MINISTRY OF PARDON AND JUSTICE

| | c
Total
examined | d
of the total under c | | |
|-------------------------------------|------------------------|---------------------------|-----------|---------------|
| | | cleared | dismissed | time extended |
| Italian
Territorial
Governors | 55 | 18 | 20 | 5 |

the number of officials of the first four grades referred for proceeding

column D indicates the number of officials cleared, punished by penalty as well as officials in respect of whom the Commission has decided not

indicates the number of persons dismissed from service. However, the figures be supplemented by information to be supplied by Superior Office of Personnel and Justice which Department is competent for the procedure of retirement. the proceedings against 12 officials have been suspended pending penal proceedings of the official concerned, in territory occupied by the enemy or not yet administration.

G.G. HAINFORD, Lt. Colonel,
Officer i/c Italian Branch,
for Chief Legal Advisor.

54A

6082 ✓
file

HEADQUARTERS ARMY COMMISSION
450 5th
CIVIL RIGHTS DIVISION

Ref 02/ 11/62

14 Jan 65

SUBJECT: Indefinite - Announcement to Deputy's Res 014 179 - 257 - 285

TO : See Distribution

The enclosed annex is almost purely administrative; it affects certain minor amendments to the principal annex, filed in certain gaps in the files of procedure. None of which need to be reviewed except to persons except the extension of time. All cases of time limits for the first four grades have been extended by 30 days to the end of January.

Art 6 extends the ordinary time limit by 3 months except for civil servants of the central government, in which case it is one month only.

Art 1 varies slightly the set up of the High Commission, various slightly of the local deposit at District offices. Art 2 directs the method of appointment of the Chairman of certain Commissions, points to lesser punishment than the usual in certain cases. Art 3 provides for the Central Commission sitting in four divisions. Art 4 extends the time limit for the examination of proceedings under Pt 159 by 3 months (except for civil servants of the central Govt, in which case the extension is 1 month only.)

Art 7 extends the time limit for completion of proceedings against the first four grades by 30 days to 29 Jan.

Art 8 extends the time limit for compulsory retirement of the first four grades by 30 days to 29 Jan.

Art 9 varies slightly articles 25 to 28 of the annex to provide for the absence of being claimed as inevitable.

Art 10 adds arrears to the articles for arrears to be paid in certain cases shall run.

Art 11 varies the date from which the arrears in certain cases shall run.

Art 12 varies slightly the responsibility for arrears to be paid in certain cases shall run.

Art 13 varies the date from which the arrears in certain cases shall run.

Art 14 varies return of money to the High Commission at the end of proceedings.

Art 15 date of commencement of proceedings: except art 7 - 30 Dec.

BY ORDER OF THE CHIEF COMMISSIONER
[Signature]

Art 6 Extension of the period for civil servants to be central govt. to 3 months (prev. 1 month) for extension of 1 month civil servants the time limit for completion of procedure of pay commission against the first four grades by 31 Dec. to 29 Jan.

Art 7 In the time limit for completion of the first four grades by 31 Dec. to 29 Jan. various matters relating to the investigation of being finished by 31 Dec. to 29 Jan.

Art 8 Various matters relating to the investigation of being finished by 31 Dec. to 29 Jan.

Art 9 Various matters relating to the investigation of being finished by 31 Dec. to 29 Jan.

Art 10 Various matters relating to the investigation of being finished by 31 Dec. to 29 Jan.

Art 11 Various matters relating to the investigation of being finished by 31 Dec. to 29 Jan.

Art 12 Various matters relating to the investigation of being finished by 31 Dec. to 29 Jan.

Art 13 Various matters relating to the investigation of being finished by 31 Dec. to 29 Jan.

Art 14 Various matters relating to the investigation of being finished by 31 Dec. to 29 Jan.

Art 15 Various matters relating to the investigation of being finished by 31 Dec. to 29 Jan.

BY ORDER OF THE CHIEF JUSTICE

[Signature]

J. A. HUGHES
 V. D. Section
 1955

DISTRIBUTION :

- 100 Foreign Region
- 100 British Region
- 100 Eastern Region
- 100 Western Region
- 100 Southern Region
- 100 Northern Region
- 100 Central Region
- 100 Eastern Region
- 100 Western Region
- 100 Southern Region
- 100 Northern Region
- 100 Central Region

- 100 Public Admin
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- 100 Public Admin

LEGAL SUB COMMISSION

- CIO
- D.C.I.O
- Chief Counsel
- CJO

Italian Section
 C. RKS
 17 JAN 1955

Office of Administration
 Building A (Law Office of Justice); Providence, R.I.

CLASSIFICATION

Decrease Existing Decrees Nos DL 159, 257 & 265

SUB

The Italian version of this decree is the only authoritative text. The version herein is not a literal translation; its subject 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 detail.

Amendments to DL 159
Amendments to DL 257
Amendments to DL 265
(Continued)

Arts 1- & 14
" 6-14
" 12-14
" 15

AMENDMENTS TO DL 159

- 1 Art 40 of DL 159 of 27 July 1944 shall be replaced by the following:-
 who provide for the operation of this decree a High Commission for functions against fascism is hereby created.
 The High Commissioner shall be appointed by resolution of the Council of Ministers; while so employed shall have as a judicial magistrate of the first grade. He shall be assisted by an Assistant Commissioner and by a Deputy Assistant Commissioner in each of the four branches of his jurisdiction.
 Whenever the office of the High Commissioner shall be vacant or he shall be absent or unable to carry out his duties the said functions shall be exercised by a board consisting of the four Assistant High Commissioners under the presidency of the President of the Council of Ministers.
 The Assistant High Commissioner and the Deputy Assistant High Commissioner shall be appointed by the President of the Council of Ministers; while so employed they shall rank respectively as magistrates of the third and fourth grades.
 Sufficient magistrates and officials are recruited by name shall be assigned to the office of the High Commissioner and judicial police including Carabinieri, Public Security, Officers and Finance Guards shall be placed at his disposal. The Secretariat shall be under the control of a Secretary General and persons not belonging to the Civil Service may be employed therein.
 The High Commissioner and his subordinate officers may call upon the judicial police for assistance and the latter will carry out their orders".
- 2 The first part of art 3 of DL 159 of 27 Jul 44 shall be replaced by the following:-
 "Any person who has forfeited reasons or, by taking advantage of the political situation created by fascism has committed acts of particular gravity which, while not constituting offences, are contrary to the rules of moral rectitude or of political probity, shall be subject to the loss of suffrage rights, active or temporary disqualification from

against Fascism is hereby created.

The High Commissioner shall be appointed by resolution of the Council of Ministers; while no employees shall be appointed by a Deputy Assistant Commissioner and by an Assistant Commissioner and by a Deputy Assistant Commissioner in each of the four branches of his jurisdiction.

Whenever the office of the High Commissioner shall be vacant or he shall be absent or unable to carry out his duties the said functions shall be exercised by a committee consisting of the four Assistant High Commissioners under the presidency of the President of the Council of Ministers.

The Assistant High Commissioner and the Deputy Assistant High Commissioner shall be appointed by the President of the Council of Ministers; while so employed they shall rank respectively as registrars of the third and fourth grades.

Sufficient regulations and officials as required by law shall be assigned to the office of the High Commissioner and judicial police including Carabinieri, Public Security, Officers and Finance Guardia shall be placed at his disposal.

The Secretariat shall be under the control of a Secretary General and persons not belonging to the Civil Service may be employed therein.

The High Commissioner and his subordinate officers may call upon the judicial police for assistance and the latter will carry out their orders.

- 2 The first part of art 3 of DL 159 of 27 Jul 44 shall be replaced by the following:

"Any person who for fascist reasons or, by taking advantage of the political situation created by fascism has committed acts of particular gravity which, while not constituting offences, are contrary to the rules of moral conduct or of political probity, shall be subject to the loss of marriage rights, active or passive, for a period not exceeding 10 years, or temporarily disqualification from holding public office or to loss of political rights for a period of not more than 10 years.

Any person who has held a leading position in the Fascist Party shall be subject to loss of marriage rights. The leading positions to which this shall apply will be notified by decree of the President of the Council of Ministers".
 - 3 Registrars directed to practice over the Provincial Commissions referred to in art 6 of DL 159 of 27 July 1944 shall be appointed by the President of the Council of Ministers after consultation with the Minister of Public Justice and the High Commissioner for Selections against Fascism.
 - 4 The following paragraph shall be added to art 15 of DL 159 of 27 Jul 44:

"Loss of legislative competence may also be awarded to fascist apologists under art 10 (1) when the offence has not been judicially proven to render the guilty person unworthy of serving the State".
 - 5 The Central Commission referred to in art 20 of DL 159 of 27 Jul 44 shall consist of four divisions, each of which shall consist of a Divisional President, two retired or serving judicial or administrative magistrates, two officials of the Central Administration and two members designated by the High Commissioner for Selections against Fascism.
- The President of the Central Commission shall provide for the allocation of work among the various divisions and may provide over the meetings of any of them.

AMENDMENTS TO DL 257

- 5 Without prejudice to the substance of the first paragraph of Art 1 of DL 257 of 11 Oct 44, the time limit contained in the first paragraph of Art 25 of DL 159 of 27 July 1944 shall be extended by three months for the territories restored to Italian Administration prior to the date of this decree, but in the case of articles of the State Central Administration the extension shall be for one month only.
- 7 The time limit laid down in the last para of Art 1 of DL 257 of 11 Oct 44 for amending decisions of the Special Commission may be extended to 60 days.
- 8 The time limit laid down by the 2nd para of Art 2 of DL 257 of 11 Oct 44 is extended to 90 days.
- 9 The personnel referred to by the last para of Art 3 of DL 257 of 11 Oct 44 may in lieu of the increase of pensionable service under the 1st para of Art 3, request the application of the law of 23 May 1940 No 587, according to the last part of the said article.
Any such request must be made within 15 days from the communication of the decree of retirement.
- 10 The advantages of an increase of pensionable service as stated by Art 3 of DL 257 of 11 Oct 44 and by Art 9 of the present decree shall be applied also to retired State Attorneys in accordance with the above-mentioned Decree No 587.
- 11 Where a case was referred to any Special Commission prior to DL 257 being into effect the time limit for the forwarding of the findings under the 2nd para of Art 1 of DL 257 of 11 Oct 44, shall run from the date the decree came into force.

28

AMENDMENTS TO DL 265

- 12 Art 17 of DL 265 of 27 Oct 44 shall be modified to read as follows:-
"In every province the Inspector, together with those delegates of the High Commission for operations against Fascism, shall be responsible for preparing for trial the cases against employees which are to be referred to an Expiration Commission".
- 13 The following para shall be added to the 2nd para of Art 20 of DL 265 of 27 Oct 44:-
"Moreover any agency charged with the duty of registering considers that it has sufficient evidence to justify operation proceeding against any person in the Registrar it shall immediately submit the case to the Expiration Commission which shall, before proceeding with processing, notify the High Commission thereof.
The High Commission may, if necessary, initiate such proceedings himself".

10 The advertisement of an investigation shall be printed by art. 3 of Decree 257 of Decree of 1944 and by art. 5 of the present decree shall be applied also to referred State attorneys in accordance with the above-mentioned Decree No. 27.

11 Where a case is referred to any other court in order to Decree 257 of Decree of 1944, the court shall be responsible for preparing for art. 1 of Decree 257 of 14 Oct 44, shall run from the date the source was into force.

28

12 The following provisions shall be added to the 2nd part of art. 20 of Decree 257 of Decree of 1944:

13 "Whenever any agency charged with the duty of registration considers that it has sufficient evidence to justify opening proceedings against any person in the register it shall immediately denounce the same to the appropriate jurisdiction which shall, before opening any proceedings, notify the High Commissioner thereof. The High Commissioner may, in such cases, initiate such proceedings himself."

14 The notification of its opening by the Egyptian Commission of First Instance to the High Commissioner for Refugees against persons, in accordance with art. 20 of Decree of 27 July 1944, shall be accompanied by all the papers and documents of the trial to which its opening refers.

COMMENTS

15 The present Decree shall become effective on the day of its publication in the Official Gazette of the Kingdom. The provision of art. 7 shall be effective on (from 30) December 1944.

26 Jan 45

WILLIAM P. C. A. JULI 1955

WENTING OFFICE

1000 B.L. 150, 257 A 285

1690

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

26 Jan 45

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4082/6
 Inter. Inter.



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Roma 17 GEN 1945

Ministero di Grazia e Giustizia

COMMISSIONE PER L'EPURAZIONE

Al la COMMISSIONE ALLEATA
 Sottocommissione Legale
 ROMA

Uff.

Prot. N. 2042-

Risposta al f. N. AC/4082/6/L.
 dal 1° gennaio 1945

OGGETTO Epurazione di funzionari - Grado 1° - 4°

In relazione al foglio sopra distinto, si trasmette
 l'accluso prospetto riflettente l'epurazione dei funziona-
 ri dei ^{quattro} primi/gradi alla data del 31 dicembre 1944.

27

IL PRESIDENTE

Tagliani

4082/p

under file

FUNZIONARI DEI PRIMI QUATTRO GRADI

| a | b | c | d | | |
|--|---|--------------------------------------|------------------------------|-------------------------------------|---|
| Totale generale
in tutto il ter-
ritorio italia-
no | Totale nel terri-
torio sotto l'am-
ministrazione
del Governo Ita-
liano e nel ter-
ritorio A.M.G. | Totale dei
casi presi
in esame | del totale di cui alla lett. | | |
| | | | numero dei
confermati | numero dei
collocati
a riposo | nume-
loro
qual
cess
roga
mini |
| 317 | 247 | 55 | 18 | 20 | |

31 dicembre 1944.

*Recd 17 Jan 44
personale
Rec*

N.B.- Il totale di cui alla colonna c) indica in numero di primi quattro gradi deferiti al giudizio di questa C prima fascia della colonna d) indica il numero dei pr ti con misure minori della dispensa nonché dei funz ti dei quali la Commissione ha deliberato di non far la seconda fascia indica il numero dei dispensati. Pertanto le cifre di cui alle colonne c) e d) dov tegrate con eventuali indicazioni fornite dall'Uf del Personale del Ministero di Grazia e Giustizia la procedura del collocamento a riposo.

Si fa presente infine che nei confronti di n. 12 f dizio è stato sceso in pendenza di procedura penal denti in territorio occupato dal nemico e non ancora Amministrazione Italiana.



Roma 17 gennaio 1945

IL PRESIDENTE

Pagani

2/6 *luter e filo*

538

FUNZIONARI DEI PRIMI QUATTRO GRADI

| c
Totale dei casi presi in esame | d
del totale di cui alla lettera c | | |
|-------------------------------------|---------------------------------------|-------------------------------|---|
| | numero dei confermati | numero dei collocati a riposo | numero di coloro per i quali era necessario prorogare i termini |
| 55 | 18 | 20 | 5 |

tale di cui alla colonna c) indica il numero dei funzionari dei quattro gradi deferiti al giudizio di questa Commissione. La cifra della colonna d) indica il numero dei prosciolti, dei punizioni minori della dispensa nonché dei funzionari nei confronti dei quali la Commissione ha deliberato di non far luogo a giudizio. La seconda cifra indica il numero dei dispensati dal servizio. Le cifre di cui alle colonne c) e d) dovrebbero essere integrate con eventuali indicazioni fornite dall'Ufficio Superiore Personale del Ministero di Grazia e Giustizia competente per la procedura del collocamento a riposo. È presente infine che nei confronti di n. 12 funzionari il giudizio è stato sospeso in pendenza di procedura penale o perchè residenti in territorio occupato dal nemico o non ancora restituito alla estrazione italiana.

Roma 17 gennaio 1945
IL PRESIDENTE

Paganini

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40845

fre

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

DF/3.B/CA

10 Jan 45

SUBJECT : Defascism - Grades I-IV Officials

TO : Legal S/C ✓
Land Forces S/C
Naval S/C

Letter to you

45A

46A

| |
|-----------------------|
| LEGAL SUB-COMMISSION |
| CIO |
| DCIO |
| Chief Counsel |
| CJO |
| Italian Section AB/1B |
| CL RKS |
| 10 JAN 1945 |

Reference DF/3.10/CA of 30 Dec and reminder DF/3.B/CA of 6 Jan.

Please say when the return asked for may be expected.

25

*Teleph. conversation
40845 transferred to
the Law and Order
Commission. 11/Jan*

S.H. WHITE Lt Col,
for VP CA Section

40845

10051A

TRANSLATION NO. 455

AS HAVE SANCTIONED AND FORMULATED AS FOLLOWS:

1. Art 40 of ILL 159 of 27 July 1944 shall be replaced by the following:-
 "To provide for the operation of this decree a High Commission for actions against fascism is hereby created. The High Commissioner shall be appointed by resolution of the Council of Ministers and for the duration of his office shall rank as a judicial magistrate of the first grade.

He shall be assisted by an Assistant Commissioner and by a Deputy Assistant Commissioner in each branch of his jurisdiction. The Assistant High Commissioner or, in his absence, the Deputy Assistant High Commissioner may, in his own branch, act for the High Commissioner for sanctions against fascism, should the latter be prevented from acting.

The Assistant High Commissioner and the Deputy Assistant High Commissioner shall be nominated by the High Commissioner and appointed by the President of the Council of Ministers for the duration of their office they shall rank respectively as magistrates of the third and fourth grades.

Sufficient registrars and officials, to be requested by name, shall be assigned to the office of the High Commissioner; a group of judicial police composed of carabinieri, Public Security Officers and Finanzé Guards shall be placed at the disposal of the Commission. Persons not belonging to the civil service may be employed in the secretariat.

The High Commissioner and his subordinate officers as well upon the judicial police for assistance and the latter will carry out their orders.

2. The first para of Art 8 of ILL 159 of 27 July 1944 shall be replaced by the following:-

"Any person who for fascist reasons or, by taking advantage of the political situation created by fascism has committed acts of particular gravity which, while not constituting offences, are contrary to the rules of civility, rectitude or political probity, shall be subject to the loss of suffrage rights, active or passive, for a period not exceeding 10 years, or to the temporary disqualification from holding public offices or to loss of political rights for a period of not more than 10 years.

Any person who has held a leading position in the fascist party shall be subject to loss of suffrage rights. The leading positions to which this shall apply will be notified by a decree of the President of the Council of Ministers.

3. Magistrates directed to preside the Provincial Commissions referred to in Art 8 of ILL 159 of 27 July 44 shall be appointed by the President of the Council

24

...tion, Public Security Officers and Finance Guards shall be placed at the disposal of the Commission. Persons not belonging to the Civil Service may be employed in the Secretariat.

24

The High Commissioner and his subordinate officers may call upon the judicial police for assistance and the latter will carry out their orders.

The first part of Art 5 of L.L. 159 of 27 July 1944 shall be replaced by the following:-
"Any person who for fascist reasons or, by taking advantage of the political situation created by fascism has committed acts of particular gravity which, while not constituting offences, are contrary to the rules of moral rectitude or of political probity, shall be subject to the loss of suffrage rights, active or passive, for a period not exceeding 10 years, or to the temporary disqualification from holding public offices or to loss of political rights for a period of not more than 10 years."

Any person who has held a leading position in the fascist party shall be subject to loss of suffrage rights. The leading positions to which this shall apply will be notified by a decree of the President of the Council of Ministers.

Art 5 of L.L. 159 of 27 Jul 44 shall be replaced by the following:-
"The following paragraph shall be added to Art 14 of L.L. 159 of 27 Jul 44:-
"Lesser disciplinary penalties may also be awarded to fascist propagandists under Art 12 (1) when the offence has not been sufficiently serious as to render the guilty person unworthy of serving the State."

The Central Commission contemplated by Art 20 of L.L. 159 of 27 Jul 44 shall be composed of four sections, each of which shall consist of a section President, two retired or serving judicial or administrative magistrates, two officials of the central administration and two members designated by the High Commissioner for sections against Fascism.

The President of the Central Commission shall provide for the division of work among the various sections and may preside over the meetings of any of them.

6 Without prejudice to the continued application of the first paragraph of Art 1 of L.L. 257 of 11 Oct 44, the time limit contained in the first paragraph of Art 25 of L.L. 159 of 27 Jul 44 shall be extended by three months for the territories restored to the Italian Administration prior to the date of this decree. But in the case of officials of the State Central Administration the extension shall be one month only.

7 The time limit laid down by the last para of Art 1 of L.L. 257 of 11 Oct 44 for announcing decisions of the epuration Commission may be extended to 60 days.

8 The period contemplated by the 2nd para of Art 2 of L.L. of 11 Oct 44 is extended to 90 days.

9 The personnel referred to by the last para of Art 3 of 11 Oct 44 may in lieu of the increase of pension able service under the last para of Art 3, request the application of the law of 23 May 1940 No 987⁴ according to the last part of the same article.

10 Any such request must be made within 15 days from the communication of the decree of retirement.

11 The advantages of an irremovable status granted by Art 3 of L.L. 257 of 11 Oct 44 and by Art 9 of the present decree shall be applied also to retired State Attorneys (Avvocati) in accordance with the above-mentioned decree No 257.

12 Where a case were referred to any Epuration Commission prior to L.L. 257 coming into effect the time limit for the announcing of the findings under the 2nd para of Art 1 of L.L. 257 of 11 Oct 44, shall run from the date the case came into force.

13 Art 17 of L.L. 265 of 27 Oct 44 shall be modified to read as follows:
 "In every Province the Prefect, together with three delegates of the High Commissioner for sanctions against fascists, shall be responsible for preparing for trial the cases against employees which are to be referred to an Epuration Commission"

14 The following para shall be added to the 2nd para of Art 20 of L.L. 265 of 27 Oct 44:-
 "Whenever any agency charged with keeping any register considers that it has ~~been~~ sufficient evidence to justify epuration proceedings against any person on the register it shall immediately announce them to the appropriate Commission which shall before commencing proceedings notify the High Commissioner thereof. The High Commissioner may, if he so wishes, initiate such proceedings himself."

Decree No 257.

11 Where a case were referred to any Epuration Commission prior to Art 257 coming into effect the time limit for the enouncing of the finding under the 2nd para of Art 1 of ILL 257 of 11 Oct 44, shall run from the date the case came into force.

12 Art 17 of ILL 205 of 27 Oct 44 shall be modified to read as follows: "In every province the Prefect, together with three delegates of the High Commissioner for sanctions against fascism, shall be responsible for preparing for trial the cases against employees which are to be referred to an Epuration Commission."

13 The following para shall be added to the 2nd para of Art 20 of ILL 205 of 27 Oct 44: "Whenever any agency charged with keeping any register can observe that it has ~~received~~ sufficient evidence to justify epuration proceedings against any person on the register it shall immediately announce them to the appropriate Commission which shall before suspending proceedings notify the High Commissioner thereof. The High Commissioner may, if he so wishes, initiate such proceedings himself."

14 The notification of ~~its~~ its finding by the Epuration Commission of first instance to the High Commissioner for sanctions against fascism, in accordance with Art 20 of ILL 159 of 27 Jul 44, shall be accompanied by all the papers and documents of the trial to which the decision refers.

15 The present decree shall become effective on the day of its publication in the Official Gazette of the Kingdom.

The provision of Art 7 shall be effective as from 30 December 1944.

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[Handwritten scribble]

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HEADQUARTERS ALLIED COMMISSION
APO 394
LEG. L. SUB-COMMISSION

AC/4082/10/L.

/rlp.
7 June 1945.

SUBJECT : Suspension of Italian Colonial Judges - Dr. Materazzo Carlo.
TO : H.E., the Minister of Pardon and Justice.

1. I forward to Your Excellency the attached petition which Giudice Dr. Materazzo desires to be considered by the appropriate Expiration Commission. You will recall that Dott. Materazzo was suspended by Ministerial Decree of 11 Sept 44.

2. The Chief Administrative, British Military Administration, Tripolitania desires me to bring to the notice of Your Excellency that Dr. Materazzo has always cooperated with the British Administration to the best of his ability, that his work has been entirely satisfactory and that so far as his conduct in Tripolitania is concerned, no reason is known why he should now be suspended.

Incl: Petition.

W. E. WHELAN,
Colonel,
Chief Legal Advisor

HB

SUBJECT: Suspension of Italian Colonial Judges -
Dr. Materazzo Carlo.

4082/10

No. 11476/223/CA

Civil Affairs Branch
G.H.Q., M.E.F.

Tel. M.E. "George" ext. 27

1st June 1945.

Headquarters,
Allied Commission,
Legal Sub-Commission,
A.P.O. 394.

3A

December

I am directed to refer to your letter on the above subject dated 22nd ~~January~~ 1945 reference No. AC/4082/10/L and to enclose an original petition to the Commission of Epuration which Dr. Materazzo requests may be sent to the Minister of Justice at Rome.

A copy of a covering letter which Dr. Valenzi Il Primo Presidente of the Corte D'appello-Tripolitania addressed to the British Military Admn. is also attached.

I am directed to state in this connection that in the opinion of the Chief Administrator Tripolitania Dr. Materazzo's work has always been completely satisfactory and he further states that he knows of no reason why he should now be suspended.

Thumpley Thackrah
(T.H. THACKRAH)
Lt. Col.,
for Chief Secretary.

Copy: To Chief Administrator
Tripolitania.
(Your Legal/IF/S/35 of 23rd May refers).

20

6 JUN 1945

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C O P I A

CORTE D'APPELLO - PRIMA PRESIDENZA

Tripoli, li 7 Maggio 1945
Nº. 1596

Oggetto: Ricorso del Giudice Dr. Materazzo Carlo

Sig. Consigliere Legale
TRIPOLI

In relazione a precedente conversazione, trasmetto alla S.V. l'acclusa nota del Dr. Carlo Materazzo, Giudice della Corte di Appello di Tripoli, diretta al Ministero Italiano della Giustizia e con la quale egli chiede che sia dichiarato esente da ogni misura disciplinare ai sensi dell'art. 16 del Decreto 27 Luglio 1944, n. 159 portante il provvedimento per l'epurazione.

Qualora V.S. creda di inoltrare la nota suddetta Vi prego di voler prendere cortese notizia di quanto segue:

1). Il Giudice Materazzo, durante la sua permanenza in Tripoli e cioè dal giugno 1936 non ha in nessun modo svolto attività alcuna nel disciolto Partito Nazionale Fascista nè per incarichi ricevuti nè come semplice Gregario.

Mi risulta anzi che egli non curò neanche il trasferimento della sua iscrizione dalla sede del fascio in Italia a quello locale.

2). Egli rimase in Tripoli al momento dell'occupazione Britannica e nelle sue funzioni di Magistrato in obbedienza ad ordini trasmessi a lui ed a tutti gli altri Magistrati e funzionari del Governo Italiano.

3). Il medesimo ha collaborato lealmente con la Amministrazione Militare Inglese essendo stato mantenuto da questa nelle sue funzioni che ha continuato ad esercitare con la sua nota intelligenza ed attività.

4). Io conto molto nella sua opera di Magistrato colto ed equilibrato per il funzionario della Giustizia presso questa Corte d'Appello e nelle contingenze attuali.

160

1). Il Giudice Materazzo, durante la sua permanenza in Tripoli e cioè dal giugno 1936 non ha in nessun modo svolto attività alcuna nel disciolto Partito Nazionale Fascista né per incarichi ricevuti né come semplice Gregario.

Mi risulta anzi che egli non curò neanche il trasferimento della sua iscrizione dalla sede del fascio in Italia a quello locale.

2). Egli rimase in Tripoli al momento dell'occupazione Britannica e nelle sue funzioni di Magistrato in obbedienza ad ordini trasmessi a lui ed a tutti gli altri Magistrati e funzionari dal Governo Italiano.

3). Il medesimo ha collaborato lealmente con la Amministrazione Militare Inglese essendo stato mantenuto da questa nelle sue funzioni che ha continuato ad esercitare con la sua nota intelligenza ed attività.

4). Io conto molto nella sua opera di Magistrato colto ed equilibrato per il funzionamento della Giustizia presso questa Corte d'Appello e nelle contingenze attuali.

IL PRIMO PRESIDENTE
F.to Valenzi

74

IMMEDIATE.

4082/10
C.A. Sect
HEADQUARTERS
11 MAR 1945
G.

OFFICE, COM (15A)
HOTEL VICTORIA,
NORTHUMBERLAND AVE.,
LONDON, W.C.2.

124/Italy/45.

5 March, 1945.

Sir,

I am directed to refer to your letter No. 12203/14/CA dated the 27th November, 1944, on the question of the validity of the present Italian Government's legislation in Italy's African Colonies.

As a result of discussions with the Foreign Office, I am to say that the view upon which we should act is that, under international law, legislation passed by the Italian Government since the commencement of our occupation of an Italian territory does not apply to that territory unless an enactment of the Military Administration provides that it shall.

I am to add that this rule has already been applied in Metropolitan Italy in areas under Allied Military Government. Therefore to suggest that it should not or does not apply in Tripolitania would be without foundation either in law or in fact. Consequently it is neither necessary nor desirable that the Italian Government should be approached with a view to passing declaratory legislation as suggested at para. 7(b) of your letter.

In this connection I am to say that if an Italian judge in Tripolitania or elsewhere declines to act on the true view he should be dismissed, however difficult it may be to replace him.

As the proposals at para. 7(a) of your letter are in conformity with the views expressed above I am to confirm their approval.

/I

Chief Civil Affairs Officer,
Civil Affairs Branch,
G.H.Q.,
M.E.F.

18
27/3/45

I am directed to refer also to the note (L.409/20 dated 18th December, 1944) by D.C.S.A.O., Dodecanese, which you referred to us during your visit to London regarding the application of Italian Law to the Dodecanese Islands.

Since the exact legal position in the various islands at the time of our future occupation of the group may well be virtually impossible to ascertain, I am to say that it is agreed that a simple criterion should be adopted for the whole group, and it is considered that this should be the law applicable to the group as at 3rd September, 1943, the date of the Italian Armistice.

No Italian law passed since that date would be deemed to apply to any part of the group unless the Military Administration when it is established in control, expressly legislates to that effect, and no purported legislation by the Republican Fascist regime would be recognised as valid.

I am to add that enactments of the British Military Administration could not under international law, be deemed to apply to any island, unless and until (a) effective control over that island were in fact established and (b) the enactments in question were duly promulgated there. Notional control or constructive application of enactments would not suffice.

A copy of this letter is being sent to the Allied Commission in Italy for information.

I am,
Sir,
Your obedient Servant,

P. Pitt
N.C.

For Director of Civil Affairs.

3 2 APR 1945

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SECRET

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HEADQUARTERS ALLIED COMMISSION
APN 394
CIVIL AFFAIRS SECTION

AC/ACB2/10/1.

REV
23 Jan 45.

SUBJECT : Status of Italian Colonies.

TO : UNO.

1. Various letters have from time to time been received by this Commission from Civil Affairs Branch GHO MSP complaining of inconvenience caused to them by Italian Government decrees which would, under peace time procedure, be effective in Italian Colonies.

2. This Commission has been asked by MSP to approach the Italian Government in order, on one occasion to request the official cancellation of a decree that had been passed, and on other occasions to ensure that legislation which is passed does not attempt or appear to deal with occupied territory.

3. As you are aware legislation passed by the Italian Government is not effective in occupied territory, either in Italy or the Colonies, unless it is implemented by the occupying power. Further the position under international law is that, at the moment, the Italian Government retains no such sovereignty over the Italian Colonies as it does over Allied occupied or Fascist republican territory in Italy.

4. It has been the policy of this Commission deliberately to avoid making any suggestion to the Italian Government which could in any way indicate that the Italian Government has or will have any interest in the former Italian Colonies or which could otherwise prejudice the future action of the United Nations.

5. In view of the requests being received from MSP, however, it is thought that a decision should be made as a matter of policy on the extent, if any, to which account should be taken of the possible effect on the Italian Colonies of any legislation prepared by the Italian Government, and the degree of interference, if any, which is to be permitted to the Italian Government in the selection of judicial and administrative personnel or other similar problems.

For the Chief Commissioner :

G. R. BRUCE, Brig.
VP CA Sec
Dep CCB AC

Not sent

17

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

13A

AC/4082/10/L

WEB/mt.
22 January 1945.

SUBJECT : Suspension of Judge MATRAZZO.
TO : Civil Affairs Branch, GHQ, MEF.

1. Receipt is acknowledged of your 11476/165/GA of 3 Jan 45.
2. It is the definite policy of this Commission not to suggest to the Italian Government that they are in a position now to pass legislation which will be effective in Italian colonies subject to British Military Administration.
3. It is considered that to urge the Minister to pass a further decree which could be of no effect ^{unless} it operated in Tripolitania would be undesirable in the present circumstances.
4. The legal problems raised by the cases cited by you are not entirely simple of solution; apart from this aspect of the cases, however, it is considered that it will be better, as suggested by you, to leave the matter in abeyance pending a decision by the War and Foreign Offices on the general issue.

For the Chief Commissioner:

S. S. BERRANS,
Colonel,
Deputy Chief Legal Advisor.

1

HEADQUARTERS ALLIED COMMISSION
APO 354
LEGAL SUB-COMMISSION

(12A)

AC/ADSR/10/1.

WSP/ps.
19 Jan 45.

SUBJECT : Suspension of Judge MATERAZZO.
TO : Civil Affairs Branch, GHO, MTP.

1. Receipt is acknowledged of your 11476/10/CA of 3 January 1945.
2. It is the definite policy of this Commission not to suggest to the Italian Government that they are in a position now to pass legislation which will be effective in Italian colonies subject to British Military Administration.
3. It is considered that to urge the Minister to pass a further decree which could be of no effect when it operated in Tripolitania would be undesirable in the present circumstances.
4. The legal problems raised by the cases cited by you are not entirely simple of solution; apart from this aspect of the cases, however, it is considered that it will be better, as suggested by you, to leave the matter in abeyance pending a decision by the War and Foreign Offices on the general issue.

WSP
ps

For the Chief Commissioner.

G. B. EVIEN Brig.
VP CA Sec
Dep CCA AC

15

1708

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

785016

Hold this opinion in file

~~Here~~

(11A)

11

CP
ANCF

Suppression of colonial judges.

" Receipt is acknowledged of your letter No 11476/188/74 of 3 Jan

21. The views expressed by you in Para 2 have been considered by their Sub-Commission.

In our opinion there exist a violent contrast differences between the cases you refer to and the position of Judge Makenzie. In the case of the judges of Cayo Company, the Germanes had removed the French judges & replaced them by a court established in the name of the German Empire. In 1917 they had appointed a French person. The Court of Appeal of Nancy held in 2 February 1920 that the person could be punished as a traitor. The Germanes had no right under article 62 of the Hague Convention to suppress the French Courts of the Region. The Belgian and Hungarian Courts referred in your letter have followed a somewhat similar jurisprudence.

22. However the jurisprudence as to the exact scope of art 62 is far from being uniform. For instance in Curictona (Removal of judges) case, the Supreme Court of Australia ruled on 23 August 1919, that the removal of a judge by the opponent (Young Stirling) was lawfully effected by one who did not singed the decision of this latter. It was held that the first entry of the opponent into the scene and ensure law, public order & safety while requesting unless absolutely prevented, the same is valid in the country. May it be stated that the removal of judges by other authority and their replacement by others is completely practice in American under without Military government and it is not anticipated that the removal of these judges will be, at a later date, considered.

3) However the jurisprudence as to the correct scope of what is a fair
 has been inconsistent. For instance in *Constitutional* (Removal of
 Judges) case, the Supreme Court of Canada noted on 22 April 1979
 that the removal of a judge by the competent (Young Stinson) and
 has represented by another did not constitute a breach of their
 letter. It was held that the first letter of the competent was to
 advise and ensure laws passed under a safety while respecting
 unless absolutely prevented, the power is given to the competent
 Why it is assumed that the removal of judges by parliament
 and their retirement by others is essential public policy. It is not understood
 whether either military government and it is not understood
 that the removal of these judges would be, it is later held
 as validated by an other appellate court.

1:1

4) Furthermore the points of judge appointments in our
 opinion, altogether different. British Military outposts had not
 extent him, he is an Italian government appointee and has
 been kept in office by the competent. It is not understood how
 would be with respect to Italy, the nature of his appointment would
 have been reached British outposts in all possibility Montenegro
 would have exercised his functions notwithstanding fear or hesitation
 until the end of the war
 It is concluded that if such had been his appointment, the
 decision of parliament during that period would have been held
 invalid by the appellate Court of the returning Sovereign.

If the opinion expressed in your memo is generally accepted it would be an easy matter for the Department to suspend all payees in the area of the country occupied by the enemy and from substitute every effort of the occupant to retaliate and not order.

Neither Justice nor independence have been recognized in the possibility as it would no doubt be most detrimental to the occupant in view of the extremely large area to the occupant himself.

5] - On the other hand it might be envisaged that if and when the Japanese Appellate Court in Tokyo may have to deal with Motenaga's decision in this instance, they would take in consideration

a). that the suspension of Motenaga was known to PMH in

the report that Judge issued here, since available to not on the Study Period, he was allowed or asked to carry on in Tokyo.

b). That other other activities in studies occupied territory (RTH), aside by the decision of the operation and/or set up by the station government will implement the suspension pronounced by them.

6]. From the conflicting points of view set out above it must be pointed out that the funds raised in your letter of 12/20/44 (CA of 24 Nov 44) and the more general issue of retaliation of territory, it would appear preferable to request formally the station government to request the suspension of both. Motenaga on from 16th Sep 44.

Country or Territory

2). That other allied authorities in status occupied territory (Apt) also by the decision of the government and authorities set up by the status government will implement the suspension pronounced by them.

6). From the conflicting points of view set out above and set out previously the points raised in your letter No 12 203/10/CR of 29/4/54 and the more general issue of re-occupation of territory, it would appear preferable to request formally the status government to review the suspension of both Madras and from 16th Sept 1954. This decision could be upheld by the fact that the dependent is unable to appear before the competent Commission.

7). You will be informed of the Minister's decision on the course.

10A

No. 11 135/CA.

CIVIL AFFAIRS BRANCH
C.H.Q., H.R.F.

3rd January, 1945.

Headquarters,
Allied Commission,
Legal Sub-Commission,
A.P.O. 394.

SUBJECT:-- Suspension of Italian Colonial
Judges.

MA

I acknowledge receipt of your letter No. AC/4082/
10/1 of 22nd December, 1944.

2. I thank you for your assistance in the matter of Judge Materazzo's suspension, and am glad to note that the Italian Minister of Justice disclaims any intention of seeking to interfere with the legal status of a Judge holding office in a territory under British Military Administration. At the same time the legal position remains unsatisfactory in as much as there appears to be no guarantee that a Court of Law which might at some future date have to inquire into the validity of Judge Materazzo's acts would take the same view of the effect of the Minister's suspensory Decree as is taken by the Minister himself. The decree contains nothing on the face of it to show that it is a mere matter of routine deemed to affect only the career position of Mr. Materazzo and not the validity of his judicial acts, and if the hypothetical court which I have postulated were to take the same view of the position of Judge holding office under the authority of the occupying power as was taken by the Belgian Courts in the Case of Agricensesens (see Digest of International Law Cases 1919, No. 332)

2. I thank you for your assistance in the matter of Judge Materazzo's suspension, and as I wish to note that the Italian minister of Justice disclaims any intention of seeking to interfere with the legal status of a Judge holding office in a Territory under British Military Administration. At the same time the legal position remains unsatisfactory in as much as there appears to be no guarantee that a Court of Law which might at some future date have to inquire into the validity of Judge Materazzo's acts would take the same view of the effect of the minister's suspensory decrees as is taken by the minister himself. The decree contains nothing on the face of it to show that it is a mere matter of routine deemed to affect only the career position of Dr. Materazzo and not the validity of his judicial acts, and if the hypothetical court which I have postulated were to take the same view of the position of judges holding office under the authority of the occupying power as was taken by the Belgian Courts in the Case of Arrindhausen (Annual Digest of International Law James 1919, No. 332) the French Courts in the Case of the Judges of Lonsay and Briey (1914, No. 334) or the Hungarian Courts in the Case of Andras (Digest 1932 No. 232) the difficulties mentioned in paragraph 4 of my letter 11475/173/CA of 23rd November, 1944, would become apparent.

3. I should therefore greatly prefer that the decree in respect of Dr. Materazzo should be retrospectively cancelled as requested in my letter under reference. You may however prefer to let this matter remain in suspense until the War Office have given a ruling on the general issue raised in my letter to them, No. 12205/24/5A of 27th November, 1944, of which a copy has been sent to you. I cannot however pass without comment your statement that you regard the Italian colonies as still subject to Italian authority. In my view they are indisputably subject to the authority of the military occupant, a view

P.P.O.

which is consistent with the terminology used in articles 42 and 43 of the Hague Regulations. If however by "Italian authority" you mean "Italian sovereignty" then of course I am bound to agree.

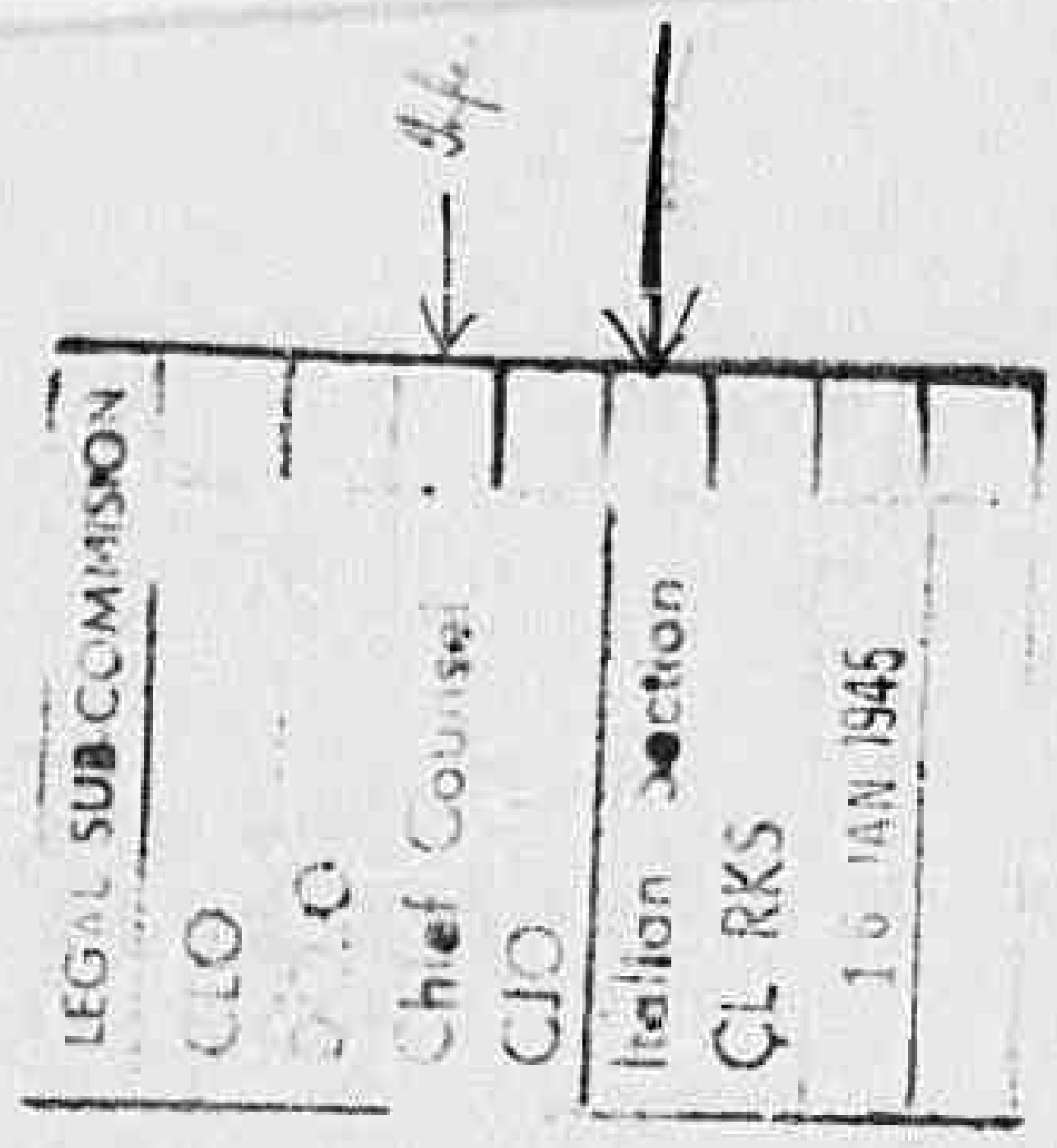
4. Incidentally, I assure that in the last paragraph of the translation of the minister's letter to you of 18th December, 1944, "opposite" is a misprint for "opposite"; it makes a substantial difference to the sense.

John ...

Colonel,
Acting CHIEF CIVIL AFFAIRS OFFICER.

Copy to:- C.A.,
Tripolitania,
File 12203

PAR/AA.



1716

GA

~~Handwritten initials/signature~~

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4082/10/L.

/rlp.
5 January 1945.

SUBJECT : Suspension of Italian Colonial Judges.
TO : Civil Affairs Branch, AFHQ MEF.

1. Reference your cable OET/ 74925 dated 3 Jan 44, hereunder is repeated the text of our cable 8622 of 22 Dec 44.

REPLY TO YOUR 11476/173/CA of 23 NOV 44 DISPATCHED TODAY

2. The reply--our reference AC/4082/10/L of 22 Dec 44--was duly dispatched on that day and no doubt it has now reached you.

For the Chief Commissioner;

11

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

1717

(S/A)

INCOMING MESSAGE

HEADQUARTERS ALLIED COMMISSION

Originator: Reference: 54/289 ~~_____~~ OCT/74925
 Date/Time of Origin: JAN 031100C
 Message Centre No: 0/6472
 Date/Time Rec'd: JAN 041350A
 Precedence: ROUTINE

Ligala
4082/10

FROM: MIDEAST
 TO: HQ AICOM

RESTRICTED.

Your 8622 December 22. Please repeat our reference which cannot be identified.

ACTION

Dist

- Action - Legal SC (2)
- Info - Chief Commissioner
- CA Sec
- File (2)
- Float

HEADQUARTERS
 4 JAN 1945
 A C

RESTRICTED

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HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/rlp.
22 December 1944.

AC/4082/10/L.

SUBJECT : Suspension of Italian Colonial Judges.
TO : Civil Affairs Branch, CHQ, MEF.

1. Following receipt of 11476/173/G1 of 23 Nov 44, this sub-commission pointed out to the Minister of Justice that he had no authority to suspend Dr. Materazzo and that his Decree for this purpose was out of order and of no legal effect.

2. A translation of the Minister's reply is attached from which you will see that the suspension was ordered as a matter of routine; that it is deemed to affect only the career position of Dr. Materazzo unless and until implemented by you; that it does not affect the validity of the sentences or judgments pronounced by Dr. Materazzo.

3. It should be observed that Dr. Materazzo was suspended in accordance with DLI No. 159 because he was alleged to be an active political fascist and a holder of the titles antefascista and squadrista. Since Dr. Materazzo is not in a position to present himself before an investigating commission, it is impossible to say whether he could have been reinstated or dismissed. DLI No. 159 was passed with the full concurrence of the Allied Commission, and has been implemented in AMG Territory in Italy.

4. It is understood that you propose to raise with the War Office the general relationship between the Italian Control Administration and the Occupied Colonies. It has been the policy in this HQ on the advice of the political advisors and by directive of AFHQ, to avoid discussion of these problems with the Italian Government. Pending any official change in the status of the Italian colonies this commission is bound to take the position that these colonies are still subject to Italian authority and Italian law even if these are suspended during Allied occupation.

For the Chief Commissioner,

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

Copy to: ECCAG, BMA, Tripolitania.

4081/10 ✓

6A

CIVIL AFFAIRS BRITISH GHQ MEF

8622

22 DECEMBER

ROUTINE

SECRET PD

11476/173/CA of 23 Nov 44

REPLY TO YOUR ONE ONE FOUR SEVEN SIX SLANT ONE SEVEN THREE
SLANT CHARLIE ABLE OF TWENTY THREE NOVEMBER FORTY FOUR
DESPATCHED TODAY PAREN TO CIVIL AFFAIRS BRITISH GHQ MEF
FROM ALCOM FROM LEGAL PAREN

1720

082/10 ✓

INCC MING MESSAGE

HEADQUARTERS ALLIED COMMISSION

LEGAL SA

Original Reference: CITE OBT/70835

Message Centre No: C/4933

Date/Time of Origin: DEC 18 1215

Date Time Rec'd: DEC 21 1037

Precedence: ROUTINE

FROM: CIVIL AFFAIRS BRITISH GHQ MEF

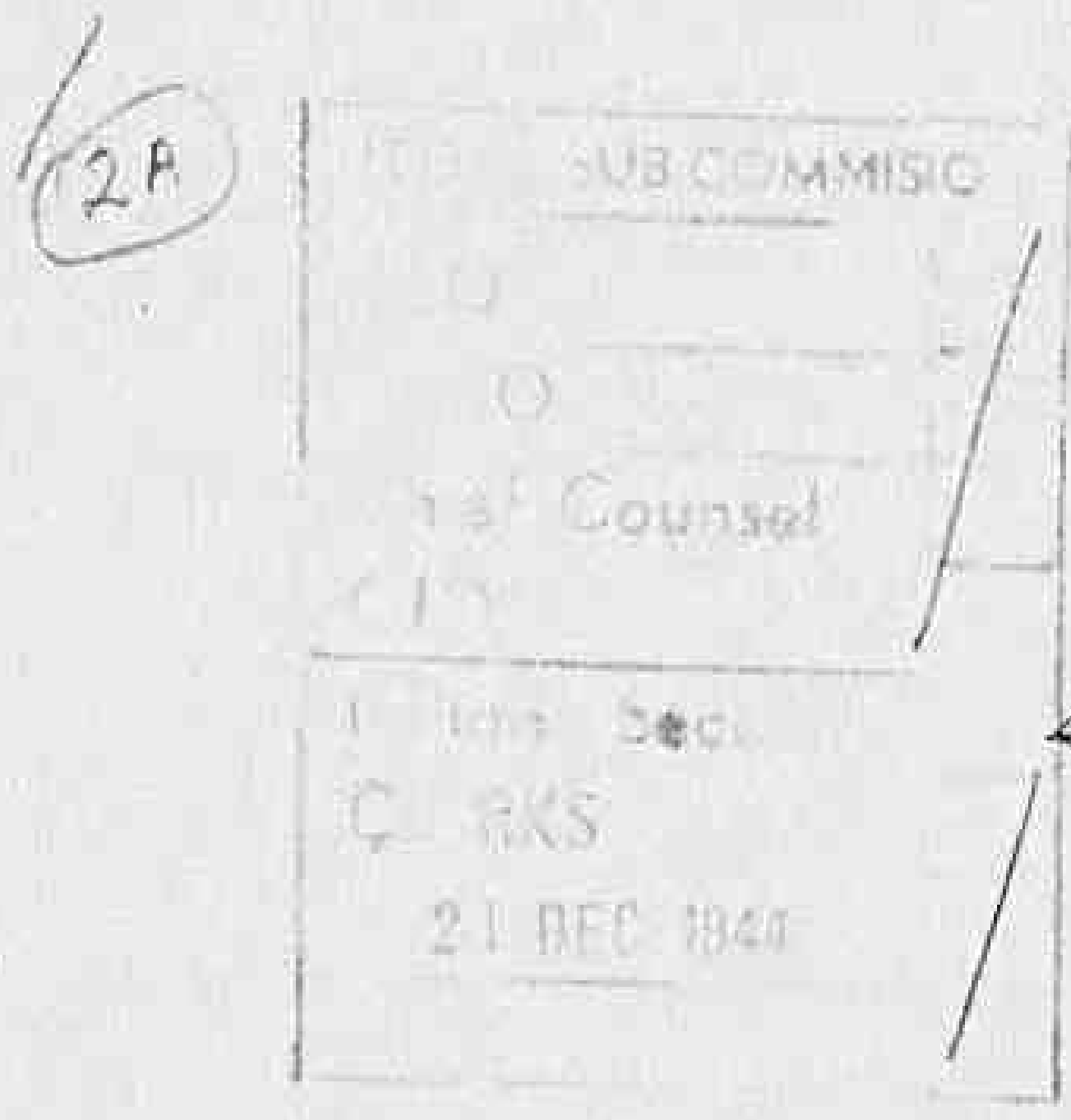
TO: LEGAL SUB COMMISSION

SECRET

ACTION

SECRET.

We would appreciate preliminary statement your views as opportunity personal discussion with TROOPERS possible within next (2) weeks. If detailed reply to our 11476/173/GA of November 23 is still incomplete.



DIST

- ACTION LEGAL SC (2)
- INFO CHIEF COMMISSIONER
- C & SEC
- FILE (2)
- FLOAT

HEADQUARTERS
21 DEC 1944
A. C

SECRET

See. 6A

4A
ENG

TRANSLATION

MINISTRY FOR PARDON AND JUSTICE
SUPERIOR OFFICE FOR PERSONNEL AND GENERAL MATTERS

Rome, 16 December 1944

SECRETARIAT
Prot. N°.

Reply to letter N°. AC/4082/10/D. of 4 Dec. 1944

TO HON
ALLIED COMMISSION
- Legal Sub-Commission -
R O M E

SUBJECT : Suspension of Dott. Carlo MATARAZZO,
judge of the Court of Appeal, Tripoli.

With reference to the above indicated letter I wish to advise you of the following: -

The Minister believed that he could provide for the suspension of judge MATARAZZO. MATARAZZO was regarded as a member of the role of Italian magistrates and was therefore created, in accordance with the normal procedure, in the same way as were also other magistrates in the same position. 6

By the above act, however, this Ministry has not intended to interfere in the least with the personal position of the above magistrate, in so far as he performs his office in a territory subject to British Military Administration which of course is absolutely free to apply in respect of MATARAZZO any provision they wish and consequently also disregard, if they consider it advisable, the order of suspension, which - as indicated - remains an administrative act of the Italian authorities which affects the career position of the above magistrate.

It follows from the aforesaid statements that if the British Authority consider the order of suspension as non-existent, the acts performed by MATARAZZO remain perfectly valid.

1722

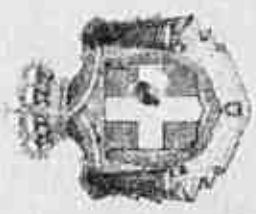
- 2 -

In the opposite case the validity of the acts would be subject to doubt only in respect of those acts performed after the notification of suspension and not of those performed prior to the notification.

THE MINISTER

(sgd) Tupini

Mod. 1348 Mu



Ministero di Giustizia

UFFICIO GENERALE DEL PERSONALE E DEGLI AFFARI GENERALI

4082/10

Roma, 18 dicembre 1944

Segreteria

Protocollo N.

Risposta a nota N. AC/4082/10/1 del 4 dicembre 1944

ALL'ON. COMMISSIONE ALLIATA
Sottocommissione Legale

R O M A

OGGETTO : sospensione del Dott. Carlo MATARAZZO - Giudice della Corte di Appello di Triboli.

In relazione alla nota sopraindicata si ha il piacere di comunicare quanto segue:

Questo Ministero ha creduto di poter provvedere alla sospensione del giudice MATARAZZO, considerando il medesimo come appartenente al ruolo della magistratura italiana, e trattandolo, quindi, per regolarità amministrativa, nello stesso modo con cui furono trattati i magistrati che si sono trovati nelle stesse condizioni del Matarazzo.

Con ciò, tuttavia, questo Ministero non ha inteso

Sottocommissione Legale

R. C. M. A.

CONTRIV : Sospensione del Dott. Carlo MATARAZZO - Giudice della Corte di Appello di Tripoli.

In relazione alla nota soprindicata si ha il piacere di comunicare quanto segue:

Questo Ministero ha creduto di poter provvedere alla sospensione del giudice MATARAZZO, considerando il medesimo come appartenente al ruolo della magistratura italiana, e trattandolo, quindi, per regolarità amministrativa, nello stesso modo in cui furono trattati i magistrati che si sono trovati nelle stesse condizioni del Matarazzo.

Con ciò, tuttavia, questo Ministero non ha inteso minimamente di interferire nella posizione personale del magistrato medesimo in quanto esercita le funzioni in territorio soggetto alla Amministrazione Militare Britannica, la quale pertanto è perfettamente libera di adottare nei riguardi

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



PARTITO FASCISTA REPUBBLICANO
FEDERAZIONE DELL' UOIE
IL COMMISSARIO FEDERALE

Mod. 1348 Mo



Ministero di Grazia e Giustizia

UFFICIO GENERALE DEL PERSONALE E DEGLI AFFARI GENERALI

4082/10

Roma, 18 dicembre 1944

Segreteria

Protocollo N.

Risposta a nota N. AC/ACB2/16/1 del 4 dicembre 1944

ALL'ON. COMMISSIONE ALIBATA
Sottocommissioni on. Isp. s. a.

R O M A

OCCETTO : Sospensione del Dott. Carlo Matarazzo - Giudice della Corte di Appello di Tripoli.

In relazione alla nota sopraindicata si ha il piacere di comunicare quanto segue:
Questo Ministero ha cretuto di poter provvedere alla sospensione del giudice Matarazzo, considerando il medesimo come appartenente al ruolo della magistratura italiana, e trattandolo, quindi, per regolarità amministrativa, nello stesso modo con cui furono trattati i magistrati che si sono trovati nelle stesse condizioni del Matarazzo.

Con ciò, tuttavia, questo Ministero non ha inteso

ROSA
CORRISPONDENTE : Sospensione del Dott. Dario MATARAZZO - Giudice della Corte di Appello di Tricoli.

In relazione alla nota sopraindicata si ha il pregio di comunicare quanto segue:

Questo Ministero ha creduto di poter provvedere alla sospensione del p. u. D. MATARAZZO, considerando il medesimo come appartenente al ruolo delle magistrature italiana, e trattandolo, quindi, per regolarità amministrativa, nello stesso modo con cui furono trattati i magistrati che si sono trovati nelle stesse condizioni del Matarazzo.

Con ciò, tuttavia, questo Ministero non ha inteso minimamente di interferire nella posizione personale del magistrato medesimo in quanto esercita le funzioni in territorio soggetto alla Amministrazione Militare Britannica, la quale pertanto è perfettamente libera di adottare nel riguardare

./.

di del Materazzo tutti quei provvedimenti che riterrò del
 caso e, quindi, anche di non tener conto, se lo creda o altr-
 tura, del provvedimento di sospensione, il quale, come si è
 accennato, resta un atto amministrativo dell'autorità itallie
 na che incide sulla posizione di carriera del magistrato.

I rilievi sopraccennati chiariscono che, se l'autorità
 Britannica ritiene come non avvenuta la sospensione, re-
 stano perfettamente validi gli atti compiuti dal Materazzo.
 Nel caso invece la validità di essi potrebbe essere posta
 in dubbio solo per quegli atti compiuti dopo la nota di carico
 ne della sospensione definitiva e non già per quelli compiuti
 anteriormente.

IL MINISTRO

Scarpigny

1729

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



PARTITO FASCISTA REPUBBLICANO
FEDERAZIONE DELLE UDR
IL COMMISSARIO FEDERALE

1730

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

FILE CLOSED 7 June 1945

22

1731

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

(3A)

AC/4082/10/L.

GGH/ap.
4 December 1944.

SUBJECT : Suspension of Dott. Carlo Marazzo, Judge
of the Court of Appeal, Tripoli.

TO : H. E. The Minister of Pardon and Justice.

1. By a Ministerial decree of 16 Sept. 1944 the Ministry of Justice suspended Dott. Carlo MATARAZZO, a judge at the Court of Appeal at Tripoli, in accordance with Art. 22 of D.L.L. 159 of 27 July 1944.

2. This Sub-Commission wishes to point out that at the present time the Italian Government has no jurisdiction in Tripolitania, which is occupied by Allied troops and administered by the British Military Administration.

3. If Dott. Materazzo who has been entirely satisfactory since the Allied occupation is considered as having exercised political activities which would justify a suspension such fact should be called by ~~the Italian Government~~ to the attention of this Sub-Commission and steps ~~should~~ be taken accordingly.

4. It is further pointed out that if Dott. Materazzo is suspended, all judgment rendered by him after the effective date of his suspension would become invalid and that he might even be sued for damages for unlawful imprisonment by parties sentenced by him.

5. Therefore in order to remedy this situation it is requested that the decree of suspension be cancelled with retroactive effect as of the date of the suspension so that judgment and sentences pronounced by him since such date ~~would~~ remain unquestionably valid.

6. Would Your Excellency treat this matter as urgent please.

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

SUBJECT: Suspension of Italian
Colonial Judges

(2A)

No. 11476/173/Ca.
CIVIL AFFAIRS BRANCH,
C.H.S. L.S.S.
23rd November, 1944.

✓ 4039/4

Headquarters,
Allied Commission,
Legal Sub-Commission,
A.F.C. 394

It has been brought to my notice that one of the Judges of the Tripoli Court of Appeal Dr. Carlo Materazzo has been named in the Decree dated 16th September, 1944, of the Minister of Grace and Justice at Rome made in pursuance of Article 22 of the Legislative Decree of the Lieutenant of the Realm dated 27th July, 1944, numbered 159. The Minister's Decree purports to suspend Dr. Materazzo from office.

2. It will not be necessary for me to point out to you how very anomalous will be the position if the Italian Government makes it a practise of purporting to legislate for occupied territories, for whatever may be the effect of the Military Occupation upon the theoretical rights of sovereignty vested in the ousted power, it is quite clear that the Government of such a power is effectively prevented from securing compliance with its legislation in the Occupied Territory.

3. I should therefore be glad if you would call the attention of the Italian Government to this matter so that in the future it will not attempt to legislate for Occupied Territory in this Command. In order that the legal position may be clarified I am seeking a ruling from the War Office generally on the subject of the effect of new Italian legislation in occupied territories, and in order that you may be kept informed I will send you a copy of the case I submit.

4. Meanwhile the case of Dr. Materazzo presses as he is still performing his judicial functions. In order to remedy his present position the Italian decree of suspension will have to be cancelled with retrospective effect as far as he is concerned in order that the judgments and sentences

Government makes it a pretense of purporting to legislate for occupied territories, for whatever may be the effect of the Military Occupation upon the theoretical rights of sovereignty vested in the ousted power, it is quite clear that the Government of such a power is effectively prevented from securing compliance with its legislation in the Occupied Territory.

3. I should therefore be glad if you would call the attention of the Italian Government to this matter so that in the future it will not attempt to legislate for Occupied Territory in this Command. In order that the legal position may be clarified I am seeking a ruling from the War Office generally on the subject of the effect of new Italian legislation in occupied territories, and in order that you may be kept informed I will send you a copy of the case I submit.

4. Meanwhile the case of Dr. Materazzo presses as he is still performing his judicial functions. In order to remedy his present position the Italian decree of suspension will have to be cancelled with retrospective effect as far as he is concerned in order that the judgments and sentences pronounced by him since that decree came into effect may remain unquestionably valid. If this is not done he will be running the risk of being sued by any Italian whom he may have imprisoned should he ever return to Italy, while any civil judgment he may have pronounced might be impugned in the Italian Courts. For this purpose it will not be enough for E.M.A. Tripolitania to ignore the decree and simply ask Dr. Materazzo to continue his functions regardless of his position under Italian law.

5. As regards the future employment of Dr. Materazzo I should be glad if you would ascertain and inform me why the Italian authorities saw fit to suspend him. The Deputy Chief Civil Affairs Officer in Tripolitania tells me that since the occupation began Dr. Materazzo's work has always been completely satisfactory and points out that as recently as the 16th September, 1944, the Italian Minister of Grace and Justice himself wrote expressing his appreciation of the work done by

P.T.C.

the Judges in that territory since the beginning of the occupation. It is a little difficult to reconcile such a letter with any suggestion that Dr. Materazzo is an undesirable character. But I do not overlook the fact that there may be some political reason which has not yet come to light and if this is the case I shall consider what action should be taken. Meanwhile he will of course continue to exercise his judicial functions.

R. W. Anderson

Brigadier,
CHIEF CIVIL AFFAIRS OFFICER.

Copy to:- D.C.C.A.O.,
H.Q., B.M.A.,
TRIPOLITANIA.

THT/EE.

| |
|----------------------|
| LEGAL SUB-COMMISSION |
| CLO |
| DCLO |
| Chief Counsel |
| CIO |
| Italian Section |
| CL RKS |
| 4 DEC 1944 |

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M. 1318 SRG

Ministero di Grazia e Giustizia

UFFICIO SUPERIORE DEL PERSONALE

Roma, 45.9.1944

Uff. 2°
Prot. n. 2474/02952

ALLA COMMISSIONE ALLEATA DI CONTROLLO
(Sottocommissione Legale)

R O M A

OGGETTO: Dott. MATERAZZO Carlo.

Con decreto del Ministero di Grazia e Giustizia del 16 settembre u.s., è stato sospeso dal servizio, ai sensi dell'art. 22 del D.L.L. 27.7.1944 n.159, il dott. MATERAZZO Carlo, giudice in funzioni di Consigliere a Tripoli, antimercia ed attivamente partecipe alla vita politica del fascismo. Contro di esso, infatti, è stato iniziato procedimento di epurazione.

Dalla data del decreto a detto Magistrato sarà corrisposto, a titolo alimentare, il solo stipendio, esclusa ogni altra indennità.

Tanto si comunica ai fini della concreta attuazione del provvedimento stesso.



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PEL MINISTRO

M. Mag.

Carlo Materazzo
Giudice in funzioni di Consigliere a Tripoli
Epurazione

1736

1737