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Declassified E.O. 12356 Section 3.3/NND

No. 785016

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

42/565

EPURATION OF THE MAGISTRACY  
JULY 1945

1782

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

FILE CLOSED : 30 July 1945

13

ALLIED COMMISSION  
LNO 394  
LEGAL SUB-COMMISSION

(13A)

AC/4082/13/L.

30 July 1945.

SUBJECT : Expiration Commissions for the North.

TO : The Minister of Pardon and Justice.

In reply to your BE/4714 of 28 July 1945 please be advised that this Sub-Commission is in agreement with your project to set up an Expiration Commission for magistrates in function in Northern Regions. It is understood that this Expiration Commission will sit at Milan.

C. C. HANBURY,  
Lt. Col.,  
Officer i/c Italian Branch,  
for Chief Legal Advisor.

Copy to: BE (Attn: NIO)  
LOMBARDIA Region.



4082/13  
Ministero di Grazia e Giustizia

Mod 2

(12A)

UFFICIO DI COLLEGAMENTO ALL'A.C.

Gabriele de S.E. di Ministro

Roma 28 luglio 1943 A

Autocollo 1.2 UC/4714

OGGETTO : - Commissione di epurazione per il Nord

Alla Commissione Alleata  
Sottocommissione legale

R o m a

E' intendimento di questo Ministero nominare una Commissione di epurazione che giudichi i funzionari giudiziari delle provincie del Nord attualmente sotto il controllo dell'A.M.G.

Quanto sopra perchè i pronunciati dell'analogha Commissione alleata hanno effetto solo provvisorio, mentre è utile iniziare un procedimento definitivo che possa fare utilizzare gli elementi eventualmente discriminati.

Pertanto prima di studiare concretamente l'organizzazione e il funzionamento di tale commissione (che avrà sede a Milano) si prega far conoscere con cortese sollecitudine se codesta commissione aderisce di massima a tale progetto.

L'Ufficio di Collegamento  
(dr. Giorgio Bonelli)

13

Bonelli

30 JUL 1945



4082/13

HEADQUARTERS  
VENEZIE REGION  
ALLIED MILITARY GOVERNMENT  
APO 394

HGW/jc

26 JUL 1945

Lgao

11A

23 July 1945

TO : Vice President, Civil Affair Section, H.Q., A.C.

SUBJECT: Epuration of the Magistracy.

File N°: RXII/LE/Reg/C/04.1.

SA

1. Reference you AC/4082/13/L of 17 July 1945.
2. I am wholly in favor of a Special Commission being appointed by the Italian Government for the Epuration of the Magistracy in Northern Italy.

*[Signature]*  
Regional Commissioner.

CIO	
OCIO	
Chief Counsel	
CJO	
Italian Section	H
CL RKS	
20 JUL 1945	

12

897

4082/13  
HEADQUARTERS  
LIGURIA REGION  
ALLIED MILITARY GOVERNMENT  
APO 394

26 LUG 1945

Lie/Leg/55

MC/sf  
23 July 1945

SUBJECT : Epuration of the Magistracy.

TO : Headquarters, Allied Commission - APO 394.  
(Civil Affairs Section)

1. Reference your AC/4082/13/L letter dated the 17th July 1945.

2. This Headquarters is in entire agreement with the proposed procedure for epuration of the magistracy under the provisions of DLL 159 by a commission of high ranking judges appointed by decree.

3. It is suggested, as a comment, that the commission should, when appointed, sit in the Capitals of the various Regions when dealing with personnel within that Region rather than permanent session in say Milan. This, it is thought, would have the following advantages:-

- (a) Facilitate the attendance of witness
- (b) Enable the commission to understand the past social and political situation under which the magistrate in question was compelled to function and thus insure a more uniform and comprehensive decision
- (c) The Commission would more readily have the confidence of the persons affected and the public which is more directly concerned.

11

*M Carr*  
M. CARR,

Brigadier,  
Regional Commissioner.

CIO

PELO

Chief Counsel

CIO

Chief Clerk

CIO

10 JUL 1945

195

HEADQUARTERS ALLIED COMMISSION  
APO 394  
LEGAL SUB-COMMISSION

(9A)

AC/4082/13/L.

GGH/lo.  
25 July 1945.

SUBJECT : Epuration of Magistracy

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

1. The remarks contained in para 2 of your LEG/5073 of 23 July are fully appreciated.

2. On the other hand you must remember that President PERETTI GRIVA of Torino is now in charge of epuration. Whether his presence at the head of this Department will restore in the public and the Magistracy the confidence which to date is lacking is a matter of conjecture. There can be no doubt however that he appears fully qualified for the very thankless task he has agreed to undertake.

By command of Rear Admiral STONE:

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

Copy to CA Sec.



*file 4080/13*

HEADQUARTERS  
ALLIED MILITARY GOVERNMENT  
LOMBARDIA REGION  
APO 394  
Legal Division

*(SA)*  
24 LUG 1945  
*Legal*

Ref.: LEG/5073

23 July 1945

SUBJECT : Epuration of the Magistracy

TO : HQ Allied Commission  
Civil Affairs Section

*SA*

1. In reply to your letter AC/4082/13/L dated 17th July 1945, your proposal would appear to provide a satisfactory solution to the difficulties encountered in the Epuration of the Magistracy by local commissions.

2. It is, however, considered that the work should be done by a Commission of judges representative of northern Italy and sitting in the North, rather than by the central commission of the Ministry, whose previous decisions have not inspired much confidence in either the Magistracy or the public.

DCLO	<i>lu</i>
Chief Counsel	
CJO	
Italian Section	<i>K</i> ←
CL RKS	

*Charles Poletti*  
CHARLES POLETTI  
Colonel  
Allied Military Government.

*y*

*I think we should write  
- explain the changed  
position*

ar/

4082/13  
HEADQUARTERS EMILIA REGION  
ALLIED MILITARY GOVERNMENT  
APO 394

7A

FET/vp  
21 July 1945

Reference : RIX/HQ/D/2/1

Subject : Epuration of the Magistracy

To : HQ Allied Commission  
(Atten. Director, ~~Local Government~~ S/C)

Legal

5A

1. Ref. your AC/4082/13 letter of 17 July 1945.

2. Having consulted the Regional Legal Officer, and in accord with his views, I am in agreement with the proposed procedure of epurating higher judges under DLL 159 instead of under GO 35.

*Floyd E. Thomas*

FLOYD E. THOMAS  
Colonel, Infantry  
Regional Commissioner

LEGAL SUB-COMMISSION	
→ CLO	by
DCLO	
Chief Counsel	
CIN	
→ Italing	
CL RK	
24 JUL 1945	

*Legal Sec 6582/13*

R/LE/401  
 HQ. Piemonte Region, A.M. 1st Ind. ✓  
 TO: HQ. A.C. for C.A. Section.

20 JUL 1945

EJM/AR.  
 20 July 1945.

*SA refers*

*6A*

1. This Region is in agreement with the proposed procedure.
2. For information the following is extracted from letter of this HQ. to all P.C.'s Piemonte Region, dated 27 May 1945:

- " 9. We next come to the question of epuration of Piemonte Judiciary under General Order 35. It will be seen from a study of G.O. 35, and 35a, that it was conceived as a summary measure to accomplish the result that has now been achieved through the acts hereinbefore described.
10. Should epuration now be attempted on Provincial levels of the Piemonte Judiciary it is apparent that confusion and embarrassment would result.
11. In exercise of the powers recognized in such order it is hereby directed that the heads of the administration of the Judiciary branch in Piemonte Region need not post any copies of the Order nor give any notice as provided therein. Persons of the Judicial branch who otherwise would be required to sign and lodge with the head of his administration a scheda personale are hereby relieved from such duty until further order.
12. As a result of the foregoing directives it is contemplated that epuration of the Judiciary will take place under D.L.L. No 159 of 29 July 1944 and further implementing decrees for such purpose, thus giving to the persons suspended from office a forum appropriate for a full hearing and the rights of appeal therein granted."

For the Regional Commissioner.

*Top copy of the return by C.A. Sec*

LEGAL SUB-COMMISSION	
✓	CLIO
	CLIO
	Chief Clerk
	CLIO
	Notary
	CL RKS

23 JUL 1945

Edwin J. Mercer  
 Lt. Col., Ord.  
 Regional Legal Officer

*622*

HEADQUARTERS ALLIED COMMISSION  
APO 394  
CIVIL AFFAIRS SECTION

5A

AG/4082/13/L.

/mt.  
17 July 1945.

SUBJECT : Epuration of the Magistracy. ✓ ✓ ✓  
TO : Regional Commissioners EMILIA, LIGURIA, PIEMONTE, LOMBARDIA,  
VENETIAN Regions.

1. At the meeting of First Presidents and Procuratori Generali which took place in Milan on 30 June all judicial officials present took strong exception, as far as the magistracy was concerned, to the procedure of epuration under General Order No. 35.

2. It was emphasized that, under the order, high "magistrati" are epurated through commissions where no judges sit, or if some do, they hold a much lower grade than that of the judicial officials whose future career they have to decide upon.

3. High judicial officials therefore claim to be "epurated" either centrally through the Ministry of Justice or by a commission composed of high ranking judges sitting in the North.

4. As DEL 159 is now operative in AMG territory, the Minister of Justice could appoint such Commission by Ministerial decree, which could be immediately implemented in AMG regions in order to avoid further loss of time.

5. Considering the fact that AMG will hand over in about six weeks time, both Legal Sub-Commission Legal Officers attending the conference and the Minister of Justice are in favour of this solution.

6. Will you please inform me whether you are in agreement with the proposed procedure or alternatively let me hear any comment you may wish to make thereon.

By command of Rear Admiral STONE:

*G. R. Upjohn*  
G. R. UPJOHN, Brig.,  
VP CA Sec.



40213 ✓

0 (4A)

HEADQUARTERS ALLIED COMMISSION  
APO 394  
CIVIL AFFAIRS SECTION

Ref: DF/3 B/CA.

13 Jul 45

SUBJECT: Expiration of Magistracy.

TO: Legal Sub-Commission,  
(Attn. Col. Behrens.)

2A

Reference your AC/4062/5/1 dated 11 Jul 45.

- 1 I am prepared to recommend that solution "A" be adopted but from a tactical point of view I believe it will be better to write a letter to Regional Commissioners putting the point to them and asking for their views, rather than discuss the matter with them on Friday next. If we merely discuss the point with Regional Commissioners ~~on Friday next~~ they will not have the benefit of the views of their Legal Advisers and some snap and possibly adverse decisions may be made.
- 2 On the other hand, if we write to Regional Commissioners they will, presumably, seek the advice of their Legal Advisers who were present when this matter was discussed in Milan and who, presumably, are favourable to the proposed solution.
- 3 Please prepare a suitable letter for my signature.

G. R. Lupton 5  
G.M. UPJOHN, Brig.,  
VP CA Section.

LEGAL SUB-COMMISSION	
TO	
FROM	
DATE	
BY	
CLERK	
7-8 JUL 1945	

ALLIED COMMISSION  
APO 394  
LEGAL SUB-COMMISSION

(3A)

AC/4082/<sup>3</sup>3/L.

12 July 1945. /mt.

SUBJECT : Epuration of Magistracy.

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

1. Following the meeting held at Milan on 30 June, the question of the epuration of the magistracy of the North is under consideration.

2. As soon as a decision will have been reached, instructions in this respect will be duly forwarded to you.

By command of Rear Admiral STONE:

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

(2A)

HEADQUARTERS ALLIED COMMISSION  
APO 394  
LEGAL SUB-COMMISSION

AC/4082/5/L.

/rlp.  
11 July 1945.

MEMORANDUM: Separation of Magistracy

TO : VP CA Sec.

I. You will recollect from reading the minutes of the meeting of PPS and PAs in Milan that strong exception was taken by all the magistrati present, as far as the magistracy was concerned, to the procedure of separation under G.O. 35.

They claim, rightly I believe, that high officials are separated through commissions where no judges sit at all or if they do, they are judges of a much lower grade than the officials who appear before them.

They ask to be separated centrally by the Ministry of Justice or by a commission sitting in the North composed of judicial officials holding the same or higher grade as held by those officials whose future career they have to decide upon.

II. There appear to exist two solutions to the problem.

a. As DLL 159 is implemented, to request the Ministry to appoint such a commission for the North, as a section of the Central Commission sitting at the Ministry of Justice. This the Minister is perfectly willing to do immediately and considering that AM will cease in six weeks time may be the easiest and more practical solution.

b. For AM to appoint a Commission of high judicial officials under G.O. 35 to proceed with the separation of the Northern Magistracy.

This solution presents the following difficulties:

1. As AM will cease in about six weeks it is likely that such a Commission will have done no work whatsoever by 31 August and will be automatically replaced by the Ministerial Commission under DLL 159.

2. In the North it will be extremely difficult to find and appoint suitable officials holding the required grade without depleting even further the sorely reduced staff of the Northern Courts.

3. The Northern Commission will be loath to apply stricter standards of political morality to their colleagues of the North than those

applied by the Ministerial Commission to their colleagues of the South. Therefore the practical result of their activity will in all probability be nil.

III. Solution (a) is consequently strongly recommended by this sub-commission, bearing in mind that the establishment of a section of the Ministerial Commission in the North will not require the presence of delegates, to whom, it is understood, strong exception has been taken by RO, Lombardy for administrative and other reasons.

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



HEADQUARTERS  
ALLIED MILITARY GOVERNMENT  
LOMBARDIA REGION  
APO 384  
Legal Division

Ref.: LBG/5073

9 July 1945

SUBJECT : Expiration of the Magistracy

TO : Hq., Allied Commission - Legal Sub-Commission ✓

1. By letter reference No 51235 dated 28 June 1945 the Minister of Grace and Justice has directed the First President of the Milan Court of Appeal to forward the Schede Personneli of the Magistrates and officials of the District to Rome for Expiration proceedings.

2. May this HQ please be informed whether it is now intended that this work will be done centrally, and if so, whether the Regional Commissions previously appointed for the Milan and Brescia circuits are to be dissolved, or should continue their investigations under G.O. 15, forwarding the Schede to Rome **only** when they have completed their task.

LOCAL SUB-COMMISSION

*H.M. Dickie*

H.M. DICKIE  
W/Comdr., E.A.F.  
Regional Legal Officer.

10 JUL 1945  
ar/105

10 JUL 1945

Following the meeting held at Milan on 20 June, the question of the expiration of the magistracy of the North is under consideration. It is now as a decision will have been reached instructions in this respect will be duly forwarded to you.

1797