

ACC

10000/142/679

10000/142/679

COURTS OF ASSIZES
OCT. 1943 - DEC. 1945

(37)

CA Sec
(att. May Palmieri)

Folio 36A submitted for information as to para 8.

5 DEC 1944 Legal Sec (att. Col. Amundson)

Do the L.O's have copies of all the records
directives and decrees?

H. G. Amundson: L.O. Col
B. H. Hester: Bureaus
for DCAAF.

of Palmieri copy of L.O. Sec.

7 Dec HH

CA (Maya. Palmieri)

59

All Decrees in G-U are forwarded to RC's & L-O's
automatically. Directives or "operatives" are not sent
by us. I take your department sees that they reach
the Provinces at as early date. ~~is it not~~

G. G. Amundson 7 Dec

- 8 DEC. 1944 has Palmieri has seen.

240 45

(1)

DEPT. 30720

9796

SUBJECT IS ONE OF SEVERAL CA. RECENTLY RECOVERED TO DEATH BY MEDICAL EXAMINER
CRIMINAL PD
WALL CASE PD. SUBJECT WAS ACTION IN THIS CASE UNTIL SUBJECT'S DEATH
AND THIS SUB-REVISION IS BEING RECOVERED WITH SUBJECT'S DEATH

28

Walter D. Bush-Snow (1893)

IN (42-38861) - FURNISH REGION -
PENDING

1960. 1970. 1980. 1990. 2000.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4092/L.

AP/lc.
31 October 1945.

SUBJECT : Cases of Pietro Mancinelli and Pietro Brandisarte.

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

1. Further to Sub-Commission's letter No. AC/4092/L,
of 26 September 1945 it is understood that the transfer of
the above mentioned to Torino and Milan has not been effected.

2. Will you please inform this Sub-Commission of the
position.

By command of Rear Admiral STONE:

EUSGRAVE THOMAS,
Italian Branch,
for Chief legal Advisor.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

49A

AC/4092/L.

/pa.
28 Aug 45.

SUBJECT : Ordinary Court of Assize.

TO : SCAC (Attn: S.L.O.), VENEZIA GIULIA Region.

1. It is a little difficult to give a useful reply to your 13c/AMG/LD/3 of 24 Aug 45 because I do not understand your particular difficulty.

2. As you are aware the law relating to the appointment of assessors is RD No.249 of 27 March 1931. It is obvious that some of the classes nominated in Art.4 are no longer eligible for appointment, but most are still acceptable. If necessary an AMG order can eliminate these undesirable classes.

3. If you are referring to Art.11 - the nomination of new assessors should be made by AMG order of the SCAC.

4. However if you will explain what particular problem is troubling you and the Procuratore Generale we will endeavour to provide a solution.

By command of Rear Admiral STONE :

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

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
13 CORPS

LEGAL DIVISION

FILE REF. 136/AMG/LD/ 3

SUBJECT Ordinary Court of Assize.

Date 24 August 1945.

TO Chief Legal Adviser, Legal Sub-Commission, H.Q., A.C.

1. The Procuratore Generale informs us that he has about a dozen important criminal cases which he would like to move for trial before the Ordinary Court of Assize.

2. The question of selecting a panel of jurors for this Court is a problem upon which we would appreciate your advice and instructions.

For the Senior Civil Affairs Officer.

26 AUG 1945

ALLIED COMMISSION

Felix J. Aulini, Major
for Louis L. COX,
Major A U S
Chief Legal Officer.

LEGAL SUB-COMMISSION
CLO
OCLO
Chief
CLO
Relief
CLRS

7 AUG 1945

55

REQUISITIONERS ALLIED COMMISSION
AFG 394
LEGAL SUB-COMMISSION

47A

40/4092/L.

12 July 1945.

SUBJECT : Taranto. Derequisitioning of premises in Court of Assize.
TO : The Minister of Pardon and Justice.

1. Reference your Prot. No. 1444/277 UFF. VI.
2. The content of your letter was communicated to the appropriate military authorities with an urgent request for derequisitioning of the above premises.
3. Reply has now been received that for the present time the request can not be favourably considered.
4. If you wish to raise a claim for damage caused by the fire in the above premises you may approach the locally competent British or United States claim department.

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

✓ 409
ALLIED COMMISSION
LIAISON OFFICE
BARI

(44A)
July 11, 1945

SUBJECT: Derequisitioning of Archives
Building, Court of Assize, Taranto.

REF : LB/11/41

TO : H.A. A.C.,
(for Legal Sub-commission).

The attached report relating to damage caused
by fire at the Court of Assize at Taranto is forwarded
in accordance with para 2 of your letter No. AC/4082/L
of the 14 June '45.



S. Miller

S. W. MILLER, Colonel
Liaison Officer,
A.C., Bari.

33



R. Prefettura di Taranto

Taranto, 2 luglio

1945

Illmo Sig. Ufficiale di Collegamento

presso la Commissione Alleata

- R. Prefettura -

B A R I

GABINETTO

N. 2510.

OGGETTO - Derequisizione locali Corte d'Assise.

Pregioni restituire la copia della lettera che il Ministero di Grazia e Giustizia ha trasmesso alla Commissione Alleata di Roma, in data 11 giugno scorso, riguardante l'incendio verificatosi nell'Archivio di questa Corte di Assise.

Effettivamente, a seguito dello scoppio di una cucina a gas infiammabile adoperata dai militari alleati negli ambienti in argomento, si determinò un incendio che distrusse buona parte del carteggio inerente processi in data anteriore al 1917.

A seguito di ciò il Ministero di Grazia e Giustizia, nel chiedere la derequisizione dei locali predetti, ha pure rappresentato come da parte delle Forze Alleate, sono stati messi fuori uso diversi armadi ed asportati tutti i mobili delle aule della Corte d'Assise, producendo danni valutati da questo ufficio del Genio Civile ad oltre lire trecento mila, esclusi quelli prodotti dall'incendio che non sono valutabili, trattandosi di incartamenti.

in istant. recq.

IL PREFETTO

[Signature]

15/11

(R)

1945

461

(370)

ALLIED COMMISSION
LIAISON OFFICE
BARI

Tel. 14152

Ref : LB/11.19.

19th June, 1945

SUBJECT : Derequisitioning of Archives Building,
Court of Assizes, TARANTO.

TO : HQ, Allied Commission - for Legal Sub-Commission.

1. Reference your letter AC/4092/L dated 14th June, 1945.

2. I had already asked for the derequisitioning of the Court of Assizes, TARANTO and on the 14th June received the following reply:-

"It is understood from the Liaison Officer, AC, BARI that you have requested that the Law Courts at TARANTO should be derequisitioned. It is regretted that this accommodation is at present occupied and it is not possible to release it at the present time."

Q.444/1.

/s/ xxxxxx for Lt. Col., AA & QMG, 52 Area."

3. I also made this a subject in my May report and this was forwarded to A.F.H.Q. vide letter No. S/21.1/CA dated 15th June, 1945, which would doubtless be shown to you if you would ask the Staff Officer Civil Affairs.

4. I don't think I can do more from here at this stage in view of the decision of HQ, 52 Area NOT to release the building. I agree with you that every effort should be made to release it even if it does cause a certain inconvenience to the troops.

S. W. Miller

S. W. MILLER, Colonel,
Liaison Officer, A.C.,
BARI.

lt H-A

TO : HQ, Allied Commission - for Legal Sub-Commission.

1. Reference your letter AC/4092/I dated 14th June, 1945.
2. I had already asked for the derequisitioning of the Court of Assizes, TARANTO and on the 14th June received the following reply:-

"It is understood from the Liaison Officer, AC, BARI that you have requested that the Law Courts at TARANTO should be derequisitioned. It is regretted that this accommodation is at present occupied and it is not possible to release it at the present time."

Q.444/1.

/s/ xxxxxxx for Lt. Col., AA & QMG, 52 Area."

3. I also made this a subject in my May report and this was forwarded to A.F.H.Q. vide letter No. 9/21.1/CA dated 15th June, 1945, which would doubtless be shown to you if you would ask the Staff Officer Civil Affairs.

4. I don't think I can do more from here at this stage in view of the decision of HQ, 52 Area NOT to release the building. I agree with you that every effort should be made to release it even if it does cause a certain inconvenience to the troops.

S. H. Miller

S. H. MILLER, Colonel,
Liaison Officer, A.C.,
BARI.

Copy to : V.P., Civil Affairs Section,
HQ, ALLIED COMMISSION.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

ES/103

14 June 1945.

AC/4092/L.

SUBJECT : Derequisitioning of archives building, Court of
Assize, Taranto.

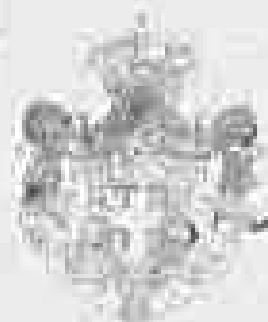
TO : Liaison Officer Allied Commission BARI.

1. Enclosed for your information and any action you might deem fit is copy of letter 1114/277 of the Ministry.
2. Would you please advise this Sub-Commission of the outcome.

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

Incls: copy 1114/277

4096



10097/10000

Roma 11 giugno 1945

43A

Ministero di Grazia e Giustizia
DIREZIONE GENERALE DEL RISTABILIMENTO
E DEL NOTARIATO

ALLA COMMISSIONE ALLIATA
Sottocommissione Legale
A. O. M. A.

Ufficio VI
Let. 1114/477

Rapporto del
Gen. Gen. 9°

Oggetto: Taranto = Incendio dell'archivio della
Corte d'Assise.

Il Primo Presidente della Corte d'Appello di Bari
ha di recente comunicato che, verso le ore 6 del 9
maggio u.s., in uno dei locali della Corte d'Assise
di Taranto, occupati dalle truppe Alleate, scoppiò
in seguito ad una candela accesa a gas infiammabi-
le, provocando un incendio che distrusse circa un
terzo dell'importante archivio della Corte medesima.

Poichè bisogna evitare il ripetersi di tale dolor-
oso fatto, si prega codesta Commissione di voler es-
aminare se sia possibile disporre la derequisizione
dei locali tuttora occupati dalle suddette truppe
Alleate nell'edificio della Corte d'Assise di Taran-
to.

/.

Tale provvedimento consentirebbe anche di far funzionare, com'è necessario, la suddetta Magistratura.

Questa Commissione è inoltre pregata di tenere presente che, a parere di questo Ministero, i danni causati dall'incendio di che trattasi non dovrebbero restare a carico del Governo Italiano.

Si predirà conoscere quali determinazioni saranno adottate in merito.

PEL MINISTRO

Mallo

LEGAL SUB-COMMISSION	
CLO	
DCLO	
Chief Counsel	
CJO	
Italian Section	
CL RKS	
14 JUN 1945	

4092 ✓
 HEADQUARTERS EMILIA REGION
 ALLIED MILITARY GOVERNMENT
 APO 394

Legal. E/c
 (USA)

REF : RIX/LE/699/40

WHL/glg.
 9 June 1945.

SUBJECT : Court of Assize (Ordinary).

TO : Headquarters , Allied Commission, APO 394 (for Deputy Chief Legal Advisor).

1. This is to advise you that the Acting Primo Presidente of the Court of Appeal of Bologna is proceeding to select the Peoples' Judges for the above Court, in accordance with DLL No. 290 of 5 October 1944.

2. As soon as these lists are completed, the Court will begin to hear cases. Lists of the number of cases pending in each Province of the Region were contained in our April report.

For the Regional Commissioner.

WHL/glg.
 WILLIAM H. LEVITT.
 Lt. Col. J.A.G.D.
 Regional Legal Officer.

LEGAL SUB-COMMISSION	
CLO	
DCLO	
Chief Counsel	
AD	
Section	
CL RKS	

48

✓
4092
as file

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

/rl.
5 May 1945.

DE/5.16/21

SUBJECT : Security Internment Procedure in relation to Italian Special Courts of Assize.

TO : See distribution.

1. Enclosed herewith for information, copy of HQ 15th Army Group letter reference HQG1/7/GSI (E) of 1 May 1945.

2. Sufficient copies are enclosed for distribution to Provincial Public Safety Officers and Provincial Legal Officers.

By command of Rear Admiral [Signature]:

[Signature]
O. R. UPJOHN, Brig.,
VP CA Sec, HQ AG.

Incls.

Distribution:			
Regional Commissioner,	WOSB. II. Region	- 34	copies
"	EMILIA	- 32	"
"	PIEMONTE	- 16	"
"	PIEMONTE	- 26	"
"	LOMBARDIA	- 32	"
"	VENETIA	- 45	"
Public Safety Sub-Commission - 2			
Legal Sub-Commission - 2			

47

CONFIDENTIALHEADQUARTERS
15TH ARMY GROUP
LFO 777

140177/GSI (3)

1 May 1945.

SUBJECT: Security Internment Procedure in relation to Italian Special Courts of Assize.

TO: See Distribution.

1. The Italian Government has passed a decree (MIL No. 249) establishing Special Courts of Assize for newly liberated territory. The decree has been approved by the Allied Commission (whose letter, DF/5.16/CA dated 25 April 1945 refers).

2. Such Courts, which are to be composed entirely of Italians, are to be set up in each province of N. Italy as soon as possible after its liberation. They are to have jurisdiction to try Fascist criminals and German collaborators (not Italian Armistice), and their purpose is to enable the Italian people themselves to administer quick justice in respect of such persons.

3. It is believed that these "People's Courts" will go far towards eliminating the criticism and dissatisfaction hitherto expressed by the Italians against the Allied authorities concerning the latter's alleged weakness in dealing with Fascists and collaborators, and that they will therefore make a considerable contribution to public order and Allied security in the North.

4. The establishment of such Courts calls for some revision of the Allied internment procedure which has hitherto been followed, since it is important that Allied security/OI agencies should not dispatch as internees to TERNI those persons whom the Italian authorities wish to bring to early trial before a Special Court of Assize. Not only would it involve a waste of time and effort to arrange for their return from TERNI for their trial, but their removal to TERNI might be misinterpreted by the Partisans as a form of "protection."

5. In future, therefore, the following procedure will be adopted by CIC/TS with regard to leading Fascists and German collaborators, etc., when it is considered necessary to intern on security grounds.

a. Before placing such persons in the nearest PW cage for evacuation to TERNI, the CIC/TS officer concerned will ask either the local President of the Tribunale, or the local Procuratore del Regio, or the President of the Provincial CLN, or their representative, whether or not they wish to try in the near future the person concerned.

b. If the answer is negative, the individual concerned will be interned in the normal way, i.e., dispatched to TERNI through PW channels.

c. If the answer is affirmative, he will be handed over to the Italian authorities, who will thereafter be responsible for his custody and confinement. At the same time, they will be informed that he must NOT be released without reference to the nearest Allied Security/OI authority.

d. The consultation with the appropriate Italian authority, as described in a. above, can take place either before or after the actual arrest of the individual concerned by CIC/TS, whichever course appears the more suitable.

1. The Italian Government has passed a Decree (DLI No. 249) establishing Special Courts of Assize for newly liberated territories. The Decree has been approved by the Allied Commission (whose letter, DI/5.16/34 dated 25 April 1945 refers).

2. Such Courts, which are to be composed entirely of Italians, are to be set up in each province of M. ITALY as soon as possible after its liberation. They are to have jurisdiction to try persons who are alleged to have collaborated (both Italian and German), and their purpose is to enable the Italian people themselves to administer quick justice in respect of such persons.

3. It is believed that these "People's Courts" will go far towards eliminating the criticism and dissatisfaction hitherto expressed by the Italians against the Allied authorities concerning the latter's alleged weakness in dealing with Fascists and collaborators, and that they will therefore make a considerable contribution to public order and Allied security in the North.

4. The establishment of such Courts calls for some revision of the Allied Government procedure which has hitherto been followed, since it is important that Allied Security/CI agencies should not dispatch as internees to TERNI those persons whom the Italian authorities wish to bring to early trial before a Special Court of Assize. Not only would it involve a waste of time and effort to arrange for the return from TERNI for their trial, but their removal to TERNI might be misinterpreted by the persons as a form of "protection."

5. In future, therefore, the following procedure will be adopted by CIC/ISS with regard to leading Fascists and German collaborators, etc., when it is considered necessary to intern on security grounds. 45

a. Before placing such persons in the nearest PW cage for evacuation to TERNI, the CIC/ISS officer concerned will ask either the local President of the Tribunale, or the local Procuratore del Reame, or the President of the Provincial CLN, or their representative, whether or not they wish to try in the near future the person concerned.

b. If the answer is negative, the individual concerned will be interned in the normal way, i.e., dispatched to TERNI through PW channels.

c. If the answer is affirmative, as will be handed over to the Italian authorities, who will then forward be responsible for his custody and confinement. At the same time, they will be informed that he must NOT be released without reference to the nearest Allied Security/CI authority.

d. The consultation with the appropriate Italian authority, as described in a. above, can take place either before or after the actual receipt of the individual concerned by CIC/ISS, whichever course appears the more suitable.

e. "Arrest Reports" will be made out in respect of these persons arrested by CIC/ISS and handed over to the Italian authorities in accordance with c. above, in the same way as such "Arrest Reports" are made out in respect of normal internment cases, and their distribution will be the same as hitherto. They will, however, indicate whether the individual concerned has been handed over to the Italians or whether he has been evacuated to TERNI.

f. The particulars of persons arrested and handed over to the Italians above will be included in the fortnightly lists of intern-

**DOWN GRADED
TO
UNCLASSIFIED**

Col. inf.
Chief Judicial Officer
for Chief Civil Affairs

6. Cases are likely to arise in which the appropriate Italian authority, whether as to their intention to try certain individuals, will state vaguely that they may wish to do so at a later date and will be uncertain as to whether or not they wish to assume responsibility for the custody of persons concerned. In such cases it should be pointed out to them that, by agreement between AFHQ and the Italian Government, persons interned by the Allies at MANTOVA can later be released to the Italian authorities, if required for trial on war-crime charges. In general, it is better that those whom the Italians feel that they may wish to try in the distant future should be dispatched to ITALY rather than held locally, in Italian custody, in order not to overcrowd the limited prison accommodation.

7. The procedures described above will NOT normally be adopted in the case of enemy agents who are arrested by CIC/TOB and whom it is desired to intern. It need only apply to Fascists etc., of little popular interest who are encountered in provinces other than that of their normal place of residence or work.

8. Similarly, in connection with this same subject, attention is drawn to Para. 3 of Appendix 1 to this Re-Captions Instruction No. 5, dated 12 April 1945, which item item that persons who have been imprisoned as Axis collaborators by the Partisans or USIS prior to the Allied arrival will NOT, save in exceptional circumstances, be released or received by the Allied authorities, but will remain at the disposal of the Italian authorities for such action as they may desire to take in pursuance of their repatriation programme: if there is undue delay on the part of the Italian authorities in dealing with such cases, these are to be reviewed and the prisoners disposed of by AFHQ in consultation with AFHQ and the Allied Security authorities. An example of the "exceptional circumstances" referred to above would be the case of persons required for interrogation, e.g., enemy agents, who may be removed by Security/CI agencies, either temporarily or permanently, by arrangement with the Partisans who made the arrest.

By command of GENERAL CLARK:

W. M. GUENTHER,
Major General, GSC,
Chief of Staff.

OFFICIAL:

/s/ G. J. S. HENCH
G. J. S. HENCH
Sergeant, GS
AFHQ S. 3-2.

to the Italian Government, persons interned by the Allies at home can later be released to the Italian authorities, if required for trial on charges. In general, it is better that those whom the Italians feel that they may wish to try in the distant future should be dispatched to Italy rather than held locally in Italian custody, in order not to overwork the limited prison accommodation.

7. The procedure described above, will not normally be adopted in the case of enemy agents who are arrested by SIS/SSS and when it is desired to intern, nor need it apply to fascists etc., of little public interest who are encountered in prisons other than that of their normal place of residence or work.

8. Finally, in connection with this same subject, attention is drawn to para. 3 of Appendix 1 to this HQ Operations Instruction No. 5, dated 12 April 1945, which lays down that persons who have been imprisoned as sole collaborators by the Partisans or Gels prior to the Allied arrival will not, save in exceptional circumstances, be released or removed by the Allied authorities, but will remain at the disposal of the Italian authorities for such action as they may desire to take in pursuance of their operation programme: if there is and no delay on the part of the Italian authorities in dealing with such cases, there are to be reviewed and the prisoners released of by the in consultation with GELN and the Allied Security authorities. An example of the exceptional circumstances referred to above, would be the case of persons required for interrogation, S.S., enemy agents, who may be removed by security/GI agencies, either temporarily or permanently, by arrangement with the Partisans and made the arrest.

By command of General Clark,

L. M. GUTENBERG,
Major General, GSC,
Chief of Staff.

ORIGINAL:

/s/ G. J. H. HIBSCH
G. J. H. HIBSCH
Brigadier, GS
AG & S, G-2.

CONFIDENTIAL

RECEIVED
IN THE ARMY GROUP
APR 29 1945

1401/8/AS1(2)

1 May 1945

SUBJECT: Security Department procedure in relation to Italian Special Courts of Justice.

TO : See Distribution

1. The Italian Government has passed a decree (D.M. No. 111) abolishing Special Courts of Justice for newly liberated territory. The decree has been approved by the Allied Commission (whose letter, W/5.15/44 dated 28 April 1945 refers).

2. Such courts, which are to be composed entirely of Italians, are to be set up in each Province of Italy as soon as possible after its liberation. They are to have jurisdiction to try Fascist criminals and German collaborators (post Italian armistice), and their purpose is to enable the Italian people themselves to administer justice in respect of such persons.

3. It is believed that there is a widespread feeling in Italy towards elimination of the partisan and investigation methods expressed by the Italians against the Allied authorities concerning the latter's alleged weakness in dealing with fascists and collaborators, and that they will therefore make a considerable contribution to public order and Allied security in the North.

4. The establishment of such Courts calls for some revision of the Allied intervention procedure which has hitherto been followed, since it is important that Allied security/CI agencies should not discover as intervenes to Italy those persons whom the Italian authorities wish to try to early trial before a special court of justice. Not only would it involve a waste of time and effort to arrange for their return from Italy for their trial, but their removal to Italy might be misinterpreted by the Partisans as a form of "protection".

5. In future, therefore, the following procedure will be adopted by CIG/POB with regard to Italian fascists and German collaborators etc., when it is considered necessary to interfere on security grounds.

a. Before placing such persons in the nearest PW camp for evacuation to Italy, the CIG/POB officers concerned will ask either the local President of the Tribunal, or the local Procuratore del Reame, or the President of the Provincial RSM, or their representative, whether or not they wish to try in the near future the person concerned.

2. The Italian Government has requested that the Italian Government be informed of the results of the investigation conducted by the Italian Government in the area of the investigation.

3. The Italian Government has requested that the Italian Government be informed of the results of the investigation conducted by the Italian Government in the area of the investigation.

4. The Italian Government has requested that the Italian Government be informed of the results of the investigation conducted by the Italian Government in the area of the investigation.

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6. The Italian Government has requested that the Italian Government be informed of the results of the investigation conducted by the Italian Government in the area of the investigation.

7. The Italian Government has requested that the Italian Government be informed of the results of the investigation conducted by the Italian Government in the area of the investigation.

8. The Italian Government has requested that the Italian Government be informed of the results of the investigation conducted by the Italian Government in the area of the investigation.

9. The Italian Government has requested that the Italian Government be informed of the results of the investigation conducted by the Italian Government in the area of the investigation.

DOWN GRADED
TO
UNCLASSIFIED

Col. Inf.

Chief Judicial Officer,

for Chief Civil Affairs Officer.

SAUNDERS, J. D., JR.

FULLY ARMED
CAPABLE OF
DIVISION
TO PROTECT
THE
ARMY TO THE
OF THE COMMANDER
IN CHIEF

subsites 1-4

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 Helen
 C. 1700

4 May 1865

$$K_{eq} = 5.10 / (CH_4)$$

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CONTINUING

DEPASCIEMDLL on Courts of Assize

The Italian version of this decree is the only authoritative text. The version herein 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.

Institution and Jurisdiction	Arts 1-3
Constitution of Court and its officers	" 4-11
Exclusion of Jurisdiction	" 112
Procedure	" 13-15
Appeals	" 16-17
Cesser	" 18
Commentary	" 19

INSTITUTION AND JURISDICTION

1 Special Courts of Assize are hereby constituted for that part of Italy now in enemy occupation and for such other areas as the President of the Council of Ministers may by decree specify.

Such Special Courts of Assize shall have jurisdiction to try any person who, after 8 September 1943 has committed an offence under Art 5 of DML 159 of 27 Jul 1944 against the loyalty to and the defence of the State by inflicting, corresponding or collaborating with the German invaders or by in any way helping or assisting them.

Any person who, after the creation of the so-called Italian Social Republic has held any of following posts or exercised any of the following functions shall be deemed without further proof to have collaborated with the German invaders and to have given them help and assistance:-

- 1) Minister or Under Secretary of State in the so-called government of the Italian Social Republic; or have held a national executive office in the republican fascist party;
- 2) President or member of the special tribunal for the defence of the State or of any special tribunal set up by the said government or of public prosecutor before any such tribunal;
- 3) Head of a Province, Federal Secretary or Commissioner or of any like office;
- 4) Editor of any political newspaper;
- 5) Senior officer in any black shirt unit exercising any function of a politico-military nature.

Any person who, in any of the posts above mentioned or in the exercise of any such functions has assumed greater responsibilities and, any person who has held any post mentioned in 1 and 2 of the preceding para shall be punishable under Art 51 and 54 of the CMG; in any other case Art 58 shall be applicable.

Where any act is an offence under any other law, the penalty prescribed by the CMG shall remain applicable.

2 The Special Court of Assize shall have jurisdiction to try an offence under Art 3 of DML 159 of July 1944 committed by any person accused of any crime described in the preceding Article.

The Special Court of Assize shall be established in the capital town of each

Institution and Jurisdiction
 Constitution of Court and its officers
 Exclusion of Jurisdiction
 Procedure
 Appeals
 Censor
 Comment

INSTITUTION AND JURISDICTION

- 1 Special Courts of Assize are hereby constituted for that part of Italy now in enemy occupation and for such other areas as the President of the Council of Ministers may by decree specify.
 Such Special Courts of Assize shall have jurisdiction to try any person who, after 8 September 1943 has committed an offence under Art 5 of D.L. 159 of 27 Jul 1944 against the loyalty to and the defence of the State by inflicting, corresponding or collaborating with the German invaders or by in any way helping or assisting them.
 Any person after the creation of the so-called Italian Social Republic has held any of following posts or exercised any of the following functions shall be deemed without further proof to have collaborated with the German invaders and to have given them help and assistance:-
 1) Minister or Under Secretary of State in the so-called government of the Italian Social Republic; or have held a national executive office in the republican fascist party;
 2) President or member of the special tribunal for the defence of the State or of any special tribunal set up by the said government or of public prosecutor before any such tribunal;
 3) Head of a Province, Federal Secretary or Commissioner or of any like office;
 4) Editor of any political newspaper;
 5) Senior officer in any black shirt unit exercising any function of a politico-military nature.
 Any person who, in any of the posts above mentioned or in the exercise of any such functions has assumed greater responsibility and, any person who has held any post mentioned in 1 and 2 of the preceding para shall be punishable under Art 51 and 54 of the C.M.G.; in any other case Art 58 shall be applicable, where any act is an offence under any other law, the penalty prescribed by the C.M.G. shall remain applicable.
- 2 The Special Court of Assize shall have jurisdiction to try an offence under Art 3 of D.L. 159 of July 1944, committed by any person accused of any crime described in the preceding Article.
- 3 A Special Court of Assize shall be established in the capital town of each Province.
 Sections of the said Courts to sit elsewhere than in the capital town may be set up by decree by the First President of the Court of Appeal.
- CONSTITUTION OF COURT AND ITS OFFICERS
- 4 In territory still in enemy occupation the time limits contained in arts 5, 6 and 10 shall commence on the day on which this decree becomes operative in such territory as laid down by Art 19.

When any Special Court of Assize is set up in any area specified by decree of the President of the Council of Ministers under the first para of Art 1, the time indicated in Art 5, 6 and 9 shall run from the publication of the said decree in the "Gazzetta Ufficiale". In territory not yet restored to Italian Administration such time limits shall commence on the day the above-mentioned decree becomes operative by order of the Allied Military Government.

5 Within 7 days from the date of liberation of any province the CML in such provincial capital shall conjointly with the CML of other important centres of the provinces, make a list of not less than 100 citizens of accepted moral and political probity and submit the same to the President of the Tribunal of the said capital.

Within the 7 days next following, the President of the Tribunal shall, after having satisfied himself of the moral probity and irreproachable political antecedents of the said persons select from the said list 50 persons as lay assessors.

When the population of any province exceed one million the list referred to in para 1 hereof shall consist of not less than 150 names and the number of lay assessors to be selected therefrom shall be 75.

6 A Special Court of Assize shall be composed of a president and 4 lay assessors.

The President shall be appointed by the first President of the Court of Appeal and shall be selected by him from magistrates of grade not lower than Councilor of the Court of Appeal. The appointment shall be made within 10 days. The lay assessors shall be drawn from the list mentioned in the preceding article.

A deputy may be appointed by a similar procedure.

7 A Section of the Special Court of Assize constituted in accordance with Art 2 shall be composed as set out in Art 5.

8 Whenever any provincial capital in which the competent Court of Appeal has its seat has not been liberated, the first President of the nearest Court of Appeal shall be competent to and shall exercise the power to appoint the President.

9 The consolidated text of the legislative provisions dealing with the Organization of the Courts of Assize shall so far as the same is applicable, be observed and followed. The oath shall be taken in accordance with Art 2 of D.L. 290 of 3 October 1944.

10 Within 10 days (from the liberation of any Province) the Attorney General of the Court of Appeal for that Province shall by order set up for each Special Court of Assize a Public Prosecutor's office. The number and grade of the judicial officers appointed to such office shall be stated in the order establishing the office.

The office shall consist of magistrates, together with such experienced and able lawyers of spotless moral conduct and irreproachable political antecedents, as may be selected to act therein from lists prepared by the National Liberation Committee.

Whenever any provincial capital in which the competent Court of Appeal has its seat has not been liberated, the functions described in the precedent paragraphs shall be exercised by the Attorney General of the nearest Court of Appeal.

11 No parent or relative of the third or nearer degree (Of any accused person) shall sit as a lay assessors on any Special Court of Assize nor act as public prosecutor in any trial before such Court.

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- 11 No parent or relative of the third or nearer degree (of any accused person) shall sit as a lay assessor on any Special Court of Assize nor act as public prosecutor in any trial before such Court.

EXCLUSION OF JURISDICTION

- 12 Claims for civil damages shall not be entertained by any Special Court of Assize.

PROCEDURE

- 13 The time limits established by the Code of Penal Procedure for the pre-trial investigation and for hearing are reduced to one half.

14 Any crime within the jurisdiction of a Special Court of Assize shall be investigated by summary procedure by the offices of the Public Prosecutor referred to in Art 19.

Whenever he is of opinion that there is a *prima facie* case against the accused the Public Prosecutor may provide that the conditions set out in the second para of Art 502 of the Code of Penal Procedure are observed, order that the trial shall proceed by "giudizio direttissimo".

15 Sentences of the Special Courts of Assize shall be filed within five days of their pronouncement.

16 PENALS

16 Appeal to Cassation against the decisions of any Special Court of Assize shall be allowed in such cases and within such time limits as are laid down by the Code of Penal Procedure with regard to the decisions of a Court of Assize.

Any such appeal shall be heard by a special section of the Court of Cassation instituted by decree of the Minister of Justice. Such Section of the Court of Cassation shall consist of five members and may sit elsewhere than at the ordinary seat of the Court of Cassation.

If the Court of Cassation shall quash any decision and order a new trial it shall name the Special Court of Assize to which the case shall be referred.

17 The grounds for an appeal to Cassation shall be lodged within 3 days after the filing of the sentence; no appeal submitted after that date shall be entertained.

The time limits for lodging any objection by the Public Prosecutor is reduced to five days.

The decision on any appeal against sentence of death shall be announced by the Court of Cassation within ten days from the day on which it receives the relative papers. Such papers shall be transmitted without delay and in any event not later than the day before that on which the grounds for appeal must be submitted.

ORDER

18 The jurisdiction of all Special Courts of Assize shall cease six months after the day on which this decree comes into force and offences set out in this decree shall thereafter be dealt with according to the previously existent rules of jurisdiction.

COMPLEMENT

19 This decree shall come into force on the day following its publication in the Official Gazette of the Kingdom; (except that) in territories not liberated or if liberated not restored to the Italian Administration it shall become operative on such day as may be ordered by the Allied Military Government.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

37A

AC/4092/L.

EB/ap.
4 December 1944.

SUBJECT : Lay Judges for Courts of
Assizes, Perugia.

TO : Regional Commissioner, Lazio-Umbria Region
(Attn Regional Legal Officer).

As agreed in this morning's telephone conversation
with Maj. HENDRICKSON please find enclosed herewith a copy
of letter ref. no. AC/4092/L of 16 Nov 44.

By command of Commodore STONE:

G. G. HANNAFORD, 51
Lt. Colonel,
Officer i/c Italian Branch,
for Chief Legal Advisor.

Incl: Copy letter AC/4092/L of 16 Nov 44

36A
 Headquarters Eosense Region
 Allied Military Government

Date: 22 Nov. 44.

REF: APM/19/1004/261

Subject: Court of Assizes.

To: C.L.A. Legal Sub-Commission.

M.C., A.C., Rome.

(Attention Officer i/c Italian Branch.)

Reference is made to your AC, ~~ampl.~~ of 16 November 1944, advising that the validity of D.L.L. of 5 Oct. 1944 N°290 has been extended to A.M.C. territory and will appear in one of the next issues of the Gazzetta Ufficiale.

Sessions of the Court of Assizes, particularly at Grosseto will be held at the earliest possible dates.

The P.L.C. Grosseto has reported that there are approximately 35 cases involving from 200 to 250 persons who are alleged to have committed offences under the D.L., N. 159. and who, in the opinion of the Procuratore del Regno are triable by the Court of Assizes. To date the records of the cases have not been received in the Procura Generale, Florence.

The P.L.C. Grosseto further reports that the lists of assessori have also been prepared, but these lists have not yet been received by the First President of the Court of Appeal.

It will be appreciated that until the records referred to in para. 2 have been delivered to the Procura Generale, and the First president has been given the panel of assessori, no immediate steps can be taken to arrange for a sitting of the Court in Grosseto. P.L.O.s are requested to give their assistance in forwarding, both the records of cases to be tried and the lists of assessori which must be obtained from the president of each dependent Tribunale, to Florence. Only when this has been done can it be said that the chief obstacle to this has been overcome.

(Attention Officer i/o Italian Branch.)

1. Reference is made to your ~~LC 4093/12~~ of 16 November 1944, advising that the validity of D.L.L. of 5 Oct. 1944 N°290 has been extended to A.M.B. territory and will appear in one of the next issues of the Gazzetta Ufficiale.
2. Sessions of the Court of Assises, particularly at Grosseto will be held at the earliest possible dates.
3. The P.L.O. Grosseto has reported that there are approximately 35 cases involving from 200 to 250 persons who are alleged to have committed offences under the D.L., N. 159. and who, in the opinion of the Procuratore del Regno are triable by the Court of Assises. No data the records of the cases have not been received in the Procuratore Generale, Florence. The P.L.O. Grosseto further reports that the lists of assessori have also been prepared, but these lists have not yet been received by the First President of the Court of Appeal. It will be appreciated that until the records referred to in para. 2 have been delivered to the Procura Generale, and the First President has been given the panel of assessori, no immediate steps can be taken to arrange for a sitting of the Court in Grosseto. P.L.O.s are requested to give their assistance in forwarding, both the records of cases to be tried and the lists of assessori which must be obtained from the President of each dependant Tribunale, to Florence. Only when this has been done can it be said that the chief obstacle to the holding of the Assises has been overcome.
6. The urgent necessity of early hearings of cases under D.L.L. 27 July 1944.N.159 is fully appreciated and both the First President and Acting Procuratore Generale are doing everything possible to expedite these hearings.
7. Eighteen such cases within the jurisdiction of the Tribunale of Grosseto have been prepared for trial and set down for hearing on the 24 Nov. 1944.
8. With reference to para. 2.6. of your ~~LC 4093/12~~ of 3 Nov. '44, the PLO ~~has been~~ ^{has been} Grosseto reports as follows:

32A

The Epuration Commission has been appointed as follows:

Pretore Mario Barone - Judicial official.

Dott. Porfiria - Official of the Prefettura.

AVV. De Leone - Nominated by the High Commissioner.

Signor Zesta, acting as representative of the High Commissioner.

is heading up this work and has established an office in the Prefettura across from the office of the PG. Judge Milenese is assisting Zesta. Fifteen files have been prepared. They expect to have another 40 prepared by the end of this month.

Of the Commission itself only AVV. De Leone's nomination remains yet unconfirmed, it being held up for the time being by the Committee of National Liberation.

* Attached hereto for your information is copy of the notice being used by Sig. Zesta in notifying all heads of public and private offices to forward names of fascists etc.

John K. Webster
John K. Webster
Colonel, Infantry

Regional Legal Officer.

WCH/NGH.

LEGAL SUBCOMMISSION	
CLIO	
QCIO	
Chief Counsel	
CJ	
Region Section	
CL RGS	
4 DEC 1944	

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John K. Webber
John K. Webber

Colonel, Infantry

Regional Legal Officer.

MCH/HCH.

LEGAL SUBCOMMISSION
CIO
DOUG
Chief Counsel
CJ
LEGAL SECTION
CL RKS
4 DEC 1964

368

ALTO COMMISSARIATO AGGIUNTO PER LA EPURAZIONE
Ufficio Provinciale di Grosseto

N. 190/300 di prot.

RACCOMANDATA RISERVATA ALLA PERSONA

AI CAPI UFFICIO

Grosseto, 2 Novembre 1944

Poiché evidenti ragioni di giustizia esigono che il giudizio degli impiegati sospesi abbia luogo con precedenza sugli altri, questo ufficio è venuto nella determinazione di affrettare la istruttoria nei riguardi dei predetti anche perché se nello svolgimento della istruttoria stessa il fondamento giustificativo della sospensione venisse a mancare si possa provvedere per la revoca di essa.

Si trasmette all'uopo un congruo numero di schede con preghiera di curare che ogni impiegato sospeso compili la propria scheda di epurazione.

Con l'occasione la S.V. è pregata di procedere all'esame della situazione personale dei predetti impiegati in relazione ai casi ipotizzati dal C.L.L. 27.VII.948 N° 159 Art. II e segg. giovandosi dei dati che già sono a sua conoscenza e di quegli altri che la S.V. potrà raccogliere con opportuni accertamenti, riferendo a questo Ufficio con un rapporto separato per ogni nominativo il parere da inviarsi unitamente alla scheda di epurazione compilata dall'interessato.

Al rapporto stesso si prega infine di allegare copia conforme del provvedimento di sospensione disposto nei riguardi di ciascun dipendente.

IL DELEGATO
dell'Alto Commissario per l'epurazione

(Aster Fasta)

HEADQUARTERS ALLIED COMMISSION
 194
 ITALIAN MILITARY COMMISSION

SS/ya.
 6 Nov 44.

10/4092/1.

SUBJECT : Lay Judges for Courts of Assises.

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

1. Your attention is invited to Art. 2 letter (a) of D.L. No. 17 of 6 August 1944 published in G.U. No. 47 of 18 August 1944.

2. The Minister of Justice reports that Allied authorities in Perugia insist that under no circumstances should a person who at any time held a Fascist membership card be selected to act as lay judge at the Court of Assise Perugia. Such interpretation of the above Article would not only be in conflict with the text of the law but according to Minister's advice would render the compilation of lists of lay judges extremely difficult if not impossible.

3. As you no doubt know the composition of Courts of Assises as designed by D.L. No. 17 for trials under the law on sanctions against the fascists will be applied to Courts of Assises in general by virtue of D.L. No. 290 of 5 October 1944 published in G.U. No. 79 of 9 Nov. 44. The endorsement extending the latter law to Military Government Territory has already signed and will appear in one of the next issues of the Gazzetta Ufficiale.

4. You might wish to advise the PG Perugia accordingly.

BY COMMAND OF THE COMMISSIONER :

Col. J.
 A. D. TRAMERAI,
 Lt. Colonel,
 Italian Branch,
 for Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION
APG 194
LEGAL SUB-COMMISSION

348

ES/mt.
16 Nov. 1944.

file
4072/L
10/22/9/L
SUBJECT : Court of Assizes.

TO : Regional Commissioners TOSCANIA Region.
(Attention Regional Legal Officer).

3A

1. Ref. para 4 of your RCM/14/D/ of 10 Nov. 1944 enclosed a copy of Gazzetta Ufficiale No. 79 containing D.L.L. No. 230 of 5 Oct. 1944 which in substance implements the idea of the First President in respect of the composition of the Court of Assizes.

2. The endorsement extending the validity of the above D.L.L. to Military Government Territory was already signed by the Deputy Chief of Staff Civil Affairs Sec. AG. and will appear in one of the next issues of the Gazzetta Ufficiale.

3. The chief obstacle having been overcome would you please impress upon the First President the urgent necessity for immediate reopening of the Courts of Assizes particularly at Grosseto where any further delay must be avoided.

By command of Commodore STONE:

36

CC
A. R. THACKERAY,
Lt. Col.,
Italian Branch,
for Chief Legal Advisor.

TOSCANA
HEADQUARTERS REGION ~~VIII~~
ALLIED MILITARY GOVERNMENT

331

Date: 10 Nov. 44.

File Ref: REC/14/31

SUBJECT: Court of Assises.

TO : U.I.A. Legal Subcommittee #4. A.C. Rome.
(Attention M. Col. A.C. Tinchera.)

1. Reference is made to para. 22 of your letter of 3 Nov. 44.
2. I attach hereto copy of a letter received from the First President of the Court of Appeal, Florence, in answer to my request for a report on the holding of sessions of the Corti di Assise, both for the trial of cases normally within its jurisdiction and for the particular offenses specified in the L. 31 of 27 July 1944 N. 159.
3. You will note that the difficulty of finding satisfactory assessors is the chief obstacle to be overcome in arranging for an early opening of the Court in Grosseto and elsewhere.
4. The suggestion is made that the same lists of assessors to be used for the agrarian cases would be more satisfactory for the regular sessions of the Court than the old lists which, as the First President points out, contain many names of persons who are to-day unsuitable to act as regular judges.

For the Regional Commander.

M. C. ~~ST~~
M.C. 1st Major

Officer i/c Italian Courts
Toscana Region.

TN/K.G.B.

33B

9 Novembre 1944

Funzionamento delle Corti di Assise

Al Sig. Maggiore M.G. Molt
Ufficio legale regionale dell'A.M.G. Firenze.

Per corrispondenza al Suo desiderio, Le rimetto l'unito prospetto delle cause per reati comuni pendenti innanzi ai vari Circoli delle Corti di Assise di questo distretto. Come Ella vede la pendenza è piuttosto lieve. Ma in verità io non mi sento, almeno per il momento di assumere la responsabilità della trattazione delle dette cause per la poca garanzia che danno i giudici popolari (Assessori), i quali dovendo essere estratti da albi, che sono stati formati con criteri di scelta prevalentemente fascista, hanno perdute ormai ogni prestigio e non danno affidamento di esprimere i veri sentimenti del popolo. Forse sarebbe opportuno stabilire che l'albo per la costituzione della Corte di Assise quando deve giudicare dei reati preveduti dall'articolo del decreto legislativo 27 luglio 1944, N. 1597 in via di formazione in esecuzione del D. Legislativo Delegato 6 Agosto 1944, N. 1707, debba servire anche per il giudizio sui reati comuni, ma al riguardo vedrà lei se sia il caso di avanzare una proposta in questi sensi al Governo Italiano.

L'interesse della giustizia e insieme intuitive ragioni politico-sociali impongono invece che si provveda di urgenza a convocare le Corti di Assise per i giudizi, ai quali sopra ho accennato, sui reati fascisti. In proposito debbo però rilevare che solamente il 28 ottobre U.S., giusta la comunicazione avutane dalla Prefettura di Firenze il 2 corrente, è entrato in vigore nel territorio del distretto soggetto al Governo Militare Alleato il citato D.L. 6 agosto 1944 e con circolare del giorno successivo ho richiesto ai Presidenti dei Tribunali un elenco di persone, che rispondano ai requisiti prescritti. Non appena in possesso di tali elenchi procederò alla compilazione degli albi per ciascun Circolo e darò le disposizioni per l'apertura delle sessioni. Date le difficoltà di comunicazioni Le sarei anzi grato se Ella credesse di sollecitare telegraficamente la trasmissione dei suddetti elenchi specie per le Corti per le quali maggiormente è sentita l'urgenza di provvedere, come per esempio per Grosseto.

il Primo Presidente

MV/M.G.R.

332

Corti Di Assise Del Distretto Di Firenze
Processi pendenti per reati comuni

Circolo di	Firenze	Nº	
"	" Arezzo	" 2	
"	" Grosseto	" 1	2
"	" Livorno	" 2	
"	" Siena	" 1	
"	" Lucca	" -	
"	" Pisa	" -	

oltre un processo che la Cassazione di Brescia ha rimesso alla Corte di Assise di Pistoia; e poiché a Pistoia non esiste Corte di Assise occorrerà che la Cassazione in sede di correzione, provveda ad altra designazione.

Firenze, 8 Novembre 1944

Il Cancelliere

32A

HEADQUARTERS ALLIED COMMISSION
 NO 394
 LEGAL SUB-COMMISSION

AC/409/L
 10/1000/9/5

ES/PA.
 3 Nov 44.

SUBJECT : Court of Assizes and Provincial Reformation
 Commission, GROSSETO.

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

1. Reference is made to the letters of PEO Grosseto file No. XVIII/19/3004 without date and file No. XVIII/19/2043 of 27 Sept 44 (endorsed by you on 10 Oct 44).

2. Would you please report to this Sub-Commission without delay

a. the present state of the Court of Assizes, Grosseto with special regard to its operation under the law No. 159 of 27 July 1944;

b. the progress in the organization and working of the Provincial Reformation Commission set up under same law.

3. If the above bodies are not functioning regularly indicate the reasons and possible remedies.

BY COMMAND OF COMMODORE STEAR:

Des
 A. R. THATCHER,
 Lt. Colonel,
 Italian Branch,
 for Chief Legal Advisor.

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 334

ES/ap

AOC/4052/L

30 JUN 44

SUBJECT : Court of Assize, Meli

TO : Regional Legal Officer (thru RC) Region 2

1. Reference your 2201/73/B of 12 June 44.
2. Enclosed copy of letter no. 28511 of 27 June 44 received here from the Ministry in response to this Subcommittee's intervention requested by you.
3. You will be informed as soon as the communication referred to in para 3 of the above letter is received.

[Signature]
A. B. THACKERAN,
Lt. Colonel,
for Chief Legal Officer.



MINISTERO DI GRAZIA E GIUSTIZIA

SEGRETERIA PARTICOLARE DI S.E. IL MINISTRO

GUARDASIGILLI

Penali

Ufficio 28511

Prot. N.

A. - 1001072

21. 10. 1944

D. - 1001072

S. A. D. 1001072

Risposta al foglio del 2. 10. 1944

Div. Sez. N. 1001072

Oggetto: Imp. 1001072 - Carta d'identità di 1001072.

Con riferimento alla nota sopra indicata, si comunica che con D. 12. 1. 1944 è stata approvata la concessione della carta di identità di 1001072, con la quale si è provveduto a far pervenire al titolare la copia della stessa carta di identità, con la quale si è provveduto a far pervenire al titolare la copia della stessa carta di identità, con la quale si è provveduto a far pervenire al titolare la copia della stessa carta di identità.

La presente nota è stata inviata al titolare della carta di identità, con la quale si è provveduto a far pervenire al titolare la copia della stessa carta di identità, con la quale si è provveduto a far pervenire al titolare la copia della stessa carta di identità, con la quale si è provveduto a far pervenire al titolare la copia della stessa carta di identità.

IL RESPONSABILE DI SEGRE

Quini.

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

(29A)
23/PA

15 June 1944

REFERENCE : AGO/4092/L.

SUBJECT : Court of Assizes, Melfi.

TO : H.E. The Minister of Pardon and Justice.

1. This Sub-Commission wishes to focus Your Excellency's attention to the question of holding separate Assizes at Potenza, Melfi and possibly Matera.

2. In the view of the AGC field ^{Legal officers} ~~officers~~ this problem is of pressing urgency. In this connection they point out that a number of accused have been awaiting trial for more than three years.

3. May Your Excellency please give this matter an early consideration.

By
A. R. THACKERAN,
Lt. Col.,
for Chief Legal Officer.

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

12 June 44

Ref. :- 2201/79/B
Subject:- Court of Assizes, Melfi
To :- Chief Legal Officer.

Ref. your ACC/4092/1 dated 29 May, the petition is strongly supported. Constant applications have been made for a Court of Assize to sit at Melfi, Potenza, and Matera, and there should be separate assizes in each of these towns. A number of accused have been awaiting trial for more than three years, but all efforts to get the Italian Authorities to move in the matter have up to now failed. It is hoped that the strongest representations may now be made.

D.E.S. Cousins
D.E.S. COUSINS, Lt. Col.
R.E.O.
Region II

*Comité d'officiers
de l'Armée
à Potenza*

27

REAR HEADQUARTERS
ARMED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ROC/4092/1.

/rle.
29 May 1944.

SUBJECT : Court of Appeal, Helmi.

TO : RIA (TARU: RC), Region II, for Legal Liaison Officer, Potenza.

1. You might be interested in the enclosed copy of a petition on the above subject. Could you please let this sub-commission have your opinion?

A. R. THACKERAY
Major,
for Chief Legal Officer.



Salerno 11,

4092

26

MINISTERO DI GRAZIA E GIUSTIZIA
 Direzione Generale Affari
 Ufficio Superiore del Personale
 Uff. degli Affari Generali
 Penali

A LL. PROCURA GENERALE
 DEL RE

RAFFOLI

Ufficio

Prot. N.

Rappresentante di Legazione

Dir. Sez. N.

Oggetto: Funzionamento della Corte di Assise in
 Melfi.

Per i provvedimenti di giustizia si
 trasmette l'unita istanza, relativo al-
 l'affare indicato in oggetto.

Con le informazioni si restituirà il
 ricorso.

P IL SOTTOSCRITTO DI STATO

Lianunsky

28

9/5/54
Nella sala degli Avvocati e Procuratori si sono riuniti i seguenti avvocati del Foro di Melfi interessati nelle cause pendenti di competenza della Corte di Assise:

- 1) Lancieri Antonino - 2) Rispoli Luca - 3) Salvatore Mauro - 4) Mastropietra Emanuele - 5) Severini Adriano - 6) Santolanni Carmine - 7) Ireneo Michele - 8) Lanciero Lancieri.

25
Gli stessi hanno rilevato che è trascorso più di un anno dalla convocazione dell'ultima sessione della Corte di Assise in Melfi e finora non vi è alcun indizio di prossima convocazione, benché siano pronti parecchi processi nei quali gli imputati trovansi in istato di carcerazione preventiva da molti mesi, e taluno da oltre un anno. E sono proprio questi detenuti che pregano i loro difensori affinché si abbia un sollecito giudizio. Inoltre è stato rilevato unanimemente che tutte le cause del melfese possono trattarsi con relativa comodità in Melfi, come per il passato, giacché tutti i comuni del circondario sono collegati col centro sia dai mezzi ordinari delle linee ferroviarie ed automobilistiche sia dai mezzi a trazione animale; laddove, se si do-

vesse convocare la Corte a Potenza o altrove, i detti comuni non avrebbero facile accesso al capoluogo ed in ogni caso sarebbero accresciute le difficoltà e le spese sia per le parti e loro difensori, sia per i testimoni.

Per questi motivi i suddetti Avvocati fanno voti a S.E. il Ministro della Giustizia, a S.E. il Primo Presidente della Corte di Appello di Napoli ed all'Ecc.mo Presidente della Sezione Autonoma della Corte di Appello di Potenza, perché la sessione della Corte di Assise di Melfi sia convocata in queste città senza ulteriore indugio.

Per copia conforme.

Melfi 23 aprile 1944

IL SEGRETARIO DELL'ADUNANZA

(avv. Mauro Salvatore)

Avv. Mauro Salvatore

✓ 4092
HEADQUARTERS
REGION III, ALLIED CONTROL COMMISSION
APO 394, U.S. ARMY

MCH/IC

23
SUBJECT : Court of Assizes at CAMPOBASSO, LARINO and LANCIANO.
TO : C.I.O. Legal Subcommittee, Rear Headquarters Allied
Control Commission, SALERNO. (Attention officer i/c
Italian Section).

22
1. Receipt is acknowledged of your letter of 7 April 1944,
ACC/4092/L with enclosed copy of memorandum of Minister of Grace and
Justice.

M.C. Holt
M.C. HOLT Major
Officer i/c. Italian Courts
A. C. C. REGION III

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

CGH/gst

ACC/4992/L

7 April 1946.

SUBJECT: Court of Assizes at Campobasso, Larino and Lenciano.

TO: RLO Region 5 (thru RO)
RLO Region 3
SLO 8th Army

1. Copy of a letter from H.E. The Minister of Justice is enclosed.
2. Please note that the RCL enabling the Minister to transfer the territorial jurisdiction of one Court of Appeal to another because of war conditions, will be signed next week, and promulgated in the Gazzetta Ufficiale a few days later. The Assizes could be held in Lenciano soon after the Larino session.
3. There is no objection to RLO Region 5 and SLO 8th Army communicating direct with RLO Region 3 for the fixing of the dates and the selection of judicial personnel by the President of the Court of Naples for the Assizes sessions in the above referred to localities. However copy of the correspondence should be forwarded to this Subcommittee.

G. G. HARRINGTON

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

3 copias

MINISTERO DI GRAZIA E GIUSTIZIA

=====

Prot. 5601

Salerno 5 Aprile 1944.

Oggetto: Corti di Assise di Campobasso Larino e Lanciano.

ALLA COMMISSIONE ALLEATA DI CONTROLLO

Sottocommissione Legale

SALERNO

Con riferimento a quanto riguarda l'oggetto si rileva che per le Corti di Assise di Campobasso e Larino è sufficiente fare la richiesta al P. Presidente della Corte di Appello di Napoli, perchè provveda ad indire le Sezioni di Corti di Assise nelle dette due città, e destinarvi i magistrati che vi devono attendere.

Per quanto invece si riferisce a Lanciano poiché essa fa parte della circoscrizione di Aquila si sta provvedendo ad emanare un R.D.L. che consenta la deroga della competenza territoriale e l'aggregazione di Preture, Tribunali e Corti di Assise a circoscrizioni viciniori quando quelle da cui dipendono si trovino in territorio occupato dai tedeschi. Appena tale R.D.L. sarà perfezionato si provvederà ad aggregare il Tribunale di Lanciano e conseguentemente la Corte di Assise, quasi certamente alla Corte di Appello di Napoli, per cui il Presidente delle Corti di Assise di Campobasso e di Larino potrà occuparsi anche di quella di Lanciano.

IL MINISTRO

Oggetto: Corti di Assise di Campobasso Larino e Lanciano.

ALLA COMMISSIONE ALIATA DI CONTROLLO

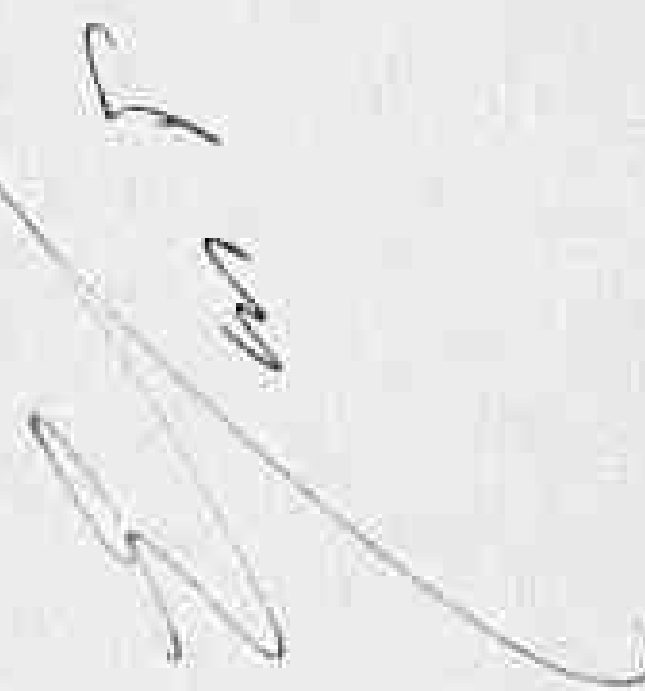
Sottocommissione Legale

S A L E R N O

Con riferimento a quanto riguarda l'oggetto si rileva che per le Corti di Assise di Campobasso e Larino è sufficiente fare la richiesta al P. Presidente della Corte di Appello di Napoli, perchè provveda ad indire le Sezioni di Corti di Assise nelle dette due città, e destinarvi i magistrati che vi devono attendere.

Per quanto invece si riferisce a Lanciano poiché essa fa parte della circoscrizione di Aquila si sta provvedendo ad emanare un R.D.L. che consenta la deroga della competenza territoriale e l'aggregazione di Preture, Tribunali e Corti di Assise a circoscrizioni viciniori quando quelle da cui dipendono si trovino in territorio occupato dai tedeschi. Appena tale R.D.L. sarà perfezionato si provvederà ad aggregare il Tribunale di Lanciano e conseguentemente la Corte di Assise, quasi certamente alla Corte di Appello di Napoli, per cui il Presidente delle Corti di Assise di Campobasso e di Larino potrà occuparsi anche di quella di Lanciano.

IL MINISTRO



V. Ref: S.P. LEGAL/8
1st APRIL 1944

(Legal Ref)

SUBJECT: Court of Assizes - CAMPORASSO ✓
TO: S.M.O. A.M.C. Eighth Army Main - R.L.O. Region of A.M.C.
From: P.S.L.O. Campobasso Province.

Assizes for this Province are normally provided by the Court of Appeal of Naples. It is desired to set up a Court of Assizes to try a number of outstanding cases which under Italian law require trial before a Court of Assizes. Attached hereto is a draft Decree, prepared by Procuratore del Re of CAMPORASSO, for the institution of such a Court on A.M.C. authority. Also attached is translation of operative part. Personnel concerned have been checked by P.S.C. In addition to cases therein listed for trial it will be necessary to add in due course names of further prisoners who are awaiting trial by Assizes and who are at present at FORTINO.

May approval be given for the institution of this Court with reference to that part of the Province for which each addressee is responsible.

1/6 enclosed, my draft decree is returned

J.A. Ryd-Allen Major,
Scots Guards.

Provincial Senior Legal Officer,
Campobasso Province.

1st Ind. 5/4/44

To: C.S.O. HQ ACC (Rear)

1. Forwarded for action.

Edward Mercer

EDWARD L. MERCER, Maj. Ord.
PROVINCIAL LEGAL OFFICER, CAMPORASSO

Decree
Forwarded to
M.G. 5/4/44
1st Ind. 5/4/44
1st Ind. 5/4/44
1st Ind. 5/4/44

TRANSMISSION:

RE: DECRET:

I. - That an extra-ordinary session of the Court of Assizes is opened at Campobasso for the trial of the following pending penal cases:

- 1.- Spinelli Giuseppe fu Giovanni e Spinelli Ferdinando di Giuseppe imputati di omicidio in danno di Rocco Giuseppe,
- 2.- Silvestri Michele fu Giovanni, imputato di omicidio in danno di D'Onofrio Michele,
- 3.- Pozzi Pasqualina, imputata di infanticidio,
- 4.- Di Sera Michele imputato di omicidio in danno di Martino Domenico,
- 5.- Latessa Teresa, imputata di lesioni con sfregio, in danno di Cocco
- 6.- Panicciani Carmine di Nicola, imputato di lesioni con sfregio/Luigi,
- 7.- Gallo Luigi, imputato di concussione.

II. - The functions of President of the Court of Assizes will be exercised by the Counsellor of the Supreme Court of Cassazione Dott. Rocco Pasquale, residing at Pietracatella; those of Counsellor & latere by Counsellor of Court of appeal in function of President of Section at the Tribunal of Milan, Dott. Pasquale IASCOE, residing at Campobasso; those of General Procurator, alternatively by the Substitute General Procurer of Appeal at the Court of Appeal of Genoa Dott. Domenico PASQUALE, residing at Pietracatella and by Dott. Filippo Leonardo, Procuratore del Re at the Tribunal of Campobasso, while the Assessors will be appointed according

(over)

to R.D.L. 23 Marzo 1934, n° 249.

The functions of Chancellor will be exercised by the Chancellor of the Tribunal of Campobasso *Angelo Lettieri*.

III.- The Procuratore del Re at the Tribunal of Campobasso will be charged with the execution of the present decree and of the provisions by law which derive from it.

Campobasso, April

, 1934

to R.D.L. 23 Marzo 1937, n° 249.

The functions of Chancellor will be exercised by the Chancellor of the Tribunal of Campobasso Mario Lettieri.

III.- The Procuratore del Re at the Tribunal of Campobasso will be charged with the execution of the present decree and of the provisions by law which derive from it.

Campobasso, April 1941

TRANSLATION:

WE DECREE:

I.-That an extra-ordinary session of the Court of Assized is opened at Campobasso for the trial of the following pending penal cases:

- 1.- Spinelli Giuseppe fu Giovanni e Spinelli Ferdinando di Giuseppe imputati di omicidio in danno di Rocco Giuseppe,
- 2.- Silvestri Michele fu Giovanni, imputato di omicidio in danno di D'Onofrio Michele,
- 3.- Pozzi Pasqualina, imputata di infanticidio,
- 4.- Di Cera Michele imputato di omicidio in danno di Martino Domenico,
- 5.- Latessa Teresa, imputata di lesioni con sfregio, in danno di Cocco
- 6.- Periccioli Carmine di Nicola, imputato di lesioni con sfregio/maigi,
- 7.- Sella Luigi, imputato di concussione.

II.- The functions of President of the Court of Assizes will be exercised by the Counsellor of the Supreme Court of Cassazione Dott. Rocco Pasquale, residing at Pietracatella; those of Counsellor a latere by Counsellor of Court of Appeal in function of President of Section at the Tribunal of Milan, Dott. Pasquale IAPONE, residing at Campobasso; those of General Procurator, alternatively by the Substitute General Procurer of Appeal at the Court of Appeal of Genoa Dott. Domenico PASQUALE, residing at Pietracatella and by Dott. Filippo Lonardo, Procuratore del Re at the Tribunal of Campobasso, while the Assessors will be appointed according
(over)

HEADQUARTERS

4092 REGION I, ALLIED CONTROL COMMISSION
APO 394, U.S. ARMY

MCH/EC

(17)
Naples, Italy
2 April 1944

SUBJECT : Assizes in BENEVENTO.

TO : C.L.O., Legal Subcommittee, Rear Headquarters Allied
Control Commission, SALERNO (Attention officer i/c
Italian Section).

1. Receipt is acknowledged of your letter of 26 March 1944
ACC/4092/L and contents noted.

2. Every effort will be made to comply with the request of
the Provincial Legal Officer of BENEVENTO.

(14)
M. C. Holt
M.C. HOLT Major
Officer i/c. Italian Courts
A. C. C. REGION III
18

Subject. Corte D'Amis Corte D'Appello in Chieti
Thru. S.L.O. Am. & 8th Army.
To. C.L.O. Rear H.Q. A.C.C.

4097

CH/legal/91.

delivered
to the
by the
on
5 AM.

(16)

Ref. your acc/4092/L to S.L.O. 8th Army. D 15 Mar, on 25 Mar. 9
forwarded with my CH/legal/85 lists D cases awaiting trial by Corte D'Amis
& criminal appeals pending to the Corte D'Appello.

I think the procedure suggested in para: 2 of your letter is preferable
to that in para: 3, as if the witnesses for prosecution & defence
have to be transferred to Campobasso & possibly lodged there it will
cause very considerable work for C.P.O.s with the necessary papers &
authorities for issuing I.O. Tpt.

If the principle of an Amicus is approved, a circuit could be worked
out according to the localities from which the witnesses for the various
cases come.

J. M. Welford.
Major. R.S.L. O. Chieti.

Vast
30 Mar. 44

Subject. Corte D'Anno & Corte D'Appello in Chieti.

To. C.I.O. Hq ACC (Rear)

Thru' S.I.O. Am.G. 8th Army.

CH/legal/85.

(15)

Reference your request on your recent visit here, I have obtained from the Vice-Presidente D' Lanciano Tribunale lists of the cases awaiting hearing by the Corte D'Anno & Corte D'Appello. I have reason to believe that some of the cases concern more than one defendant, & the Vice-Presidente informs me that there are cases in which appellants are still held in custody, pending the hearing of their appeals, which for this reason he is anxious to accelerate if possible. Chieti comes under the Corte D'Appello of Aquila.

Vasts.
25 Mar. 44

G. M. Leland

Major. P.S.I.O. Chieti

1st Ind. 30/3/44

To: C.I.O. Hq ACC (Rear) Attn: Maj. Leland.

1. Forwarded for information.
2. This info. requested by C.I.O. on recent visit to Chieti.

Leland

Attaches find
warrant
duty
#

Edson Mercer

Ord.
ARMY

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

GGH/gmf

(14)

26 March 1944

ACC/4092/L

SUBJECT: Assizes in Benevento.

TO : RLO (thru RC) Region 3 (Attention Major M.G. Holt).

1. Receipt is acknowledge of your letter of 24 inst.
2. Request for Assizes in Benevento was made by the Provincial Legal Officer there to the CLO personally during his tour last week and this decision was instructed by the latter to refer the matter to the competent regional authority.
3. As regards para 5 of your letter, CLO further instructs me to say that he considers it unnecessary, especially in view of the fact that it is addressed by a junior to a senior formation.

G.G. HANNAFORD, Major
Officer i/c Italian Sec.
for CLO.

HEADQUARTERS
REGION 3, ALLIED CONTROL COMMISSION
APO 394, U.S. ARMY

MC 20

SUBJECT : Court of Assize in BENEVENTO.

Naples, Italy
24 March 1944TO : G. L. C., Legal Subcommittee, Rear Headquarters Allied
Control Commission, SALERNO. (Attention officer i/c
Italian Section).

1. Receipt is acknowledged of your letter of 15 March 1944
ACC/4092/L.
2. Extensive war damage to the Court House in BENEVENTO
has delayed the re-opening of the Court of Assize.
3. The appointment of the Court will follow in due course
when adequate accomodation has been arranged.
4. The possibility of extending the AVELLINO Circuit, to
include BENEVENTO was considered and abandoned as impractical in
view of the above conditions.
5. It will be appreciated by this office if correspondence
of this nature be reduced to a minimum if not eliminated entirely.

M. C. Holt
M.C. HOLT Major
Officer i/c. Italian Courts
A. C. C. REGION III.

MINISTERO DI GRAZIA E GIUSTIZIA

Direzione Generale Affari Civili e Notariato

Protoc. N. 60301/A.E.

Resp. al foglio N.

del

Salerno 22 marzo 1944

Oggetto: Esami procuratori legali e praticanti.ALLA COMMISSIONE ALLIATA DI CONTROLLO
(Sottocommissione Legale)

SALERNO

Questo Ministero, dovendo fissare una nuova data per gli esami di concorso dei procuratori legali, e di idoneità dei praticanti, nelle sedi delle Corti di Appello di Catanzaro, Messina, Catania, Palermo e Cagliari, ove, per ritardi verificatisi nello scambio del necessario corteggio, non potranno aver luogo nei giorni rispettivamente fissati (28, 29, 30 e 31 marzo, 1 e 2 aprile) con Decreto Ministeriale 19 dicembre 1943, e riferendosi ai precedenti accordi, con i quali si ritenne opportuno far coincidere la data di proroga di detti esami con quella da stabilire per i medesimi esami che dovranno svolgersi pure presso la Corte di Appello di Napoli e la Sezione di Potenza, fa presente che riterrà opportuno stabilire la data stessa nei giorni 28, 29 e 30 giugno per il concorso, e nei giorni 2, 3 e 4 luglio per le prove di idoneità dei praticanti.

Si prega pertanto far conoscere se può essere emanato in confor-

Salerno 22 marzo 1944

OGGETTO: Esami procuratori legali e praticanti.

ALMA COMMISSIONE ALLIATA DI CONSIGLIO
(Sottocommissione Legale)

SALERNO

13

Questo Ministero, dovendo fissare una nuova data per gli esami di concorso dei procuratori legali, e di idoneità dei praticanti, nelle sedi delle Corti di Appello di Catanzaro, Messina, Catania, Palermo e Cagliari, ove, per ritardi verificatisi nello scambio del necessario carteggio, non potranno aver luogo nei giorni rispettivamente fissati (28, 29, 30 e 31 marzo, 1 e 2 aprile) con Decreto Ministeriale 18 dicembre 1943, e riferendosi ai precedenti accordi, con i quali si ritenne opportuno far coincidere la data di proroga di detti esami con quella da stabilire per i medesimi esami che dovranno svolgersi pure presso la Corte di Appello di Napoli e la Sezione di Potenza, fa presente che ritenne opportuno stabilire la data stessa nei giorni 28, 29 e 30 giugno per il concorso, e nei giorni 2, 3 e 4 luglio per le prove di idoneità dei praticanti.

Si prega pertanto far conoscere se può essere emanato in conformità il relativo provvedimento.

D. V. Cassella

IL MINISTRO

Spas...

(11)

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394.

GCH/gaf

ACC/4092/L

15 March 1944.

SUBJECT: Court of Assizes at Lucera.

TO : RLO (thru RC) Region 5.

1. It is understood from CLO's report that a Session of the Court of Assizes is being held at Lucera.

2. There is no objection under Italian Law to the appointment of the required judicial officials being made by the President of the Section of Court of Appeal of Lucera, as it has been regularly constituted by Royal Decree of 20 Jan. 1944 No. 27, and therefore its President holds the necessary powers to convene a session of the Court of Assizes in its district.

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

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394.

GGH/gmf

10

AGC/4092/L

15 March 1944.

SUBJECT: Court of Assizes in Benevento.

TO : RLO (thru RC) Region 3.

1. It is understood that no provisions have been made to set up a session of Court of Assizes in Benevento as was done in Avellino.
2. Could the First President of the Court of Appeal be approached with a view to appointing the required judicial officials to hold this session as soon as practicable.
3. It may be possible to extend the Avellino Circuit to include Benevento.

11

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

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

GGH/gmf

ACC/4092/L

15 March 1944.

SUBJECT: Court of Assizes at Lanciano.

TO : SLO 8th Army (thru SCAO).

1. As you are no doubt aware this Tribunale is within the Court of Appeal District of L'Aquila, still in enemy hands.
2. It is proposed to ask the Minister of Justice to agree to appoint the required judicial personnel from the Court of Appeal of Bari as soon as it may be practicable and if the number of pending cases justify such steps.
3. On the other hand if the number of prisoners awaiting trial before this jurisdiction is small, it might be as well to transfer them to Campo-rosso and have them tried there.

Copy to Col Bahners Reg 5

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

4092 18

Examine the volume of fiction, also, as a student
of literature, for

The circumstances concerning the appointment of Sg. Vincente Lugo as acting President have already been discussed. The following are those:

On my arrival in Honolulu in September, I learned from investigations that the Gerts' case had not yet been set in motion for more than two years. I learned that many persons had been in prison for from two (2) to six (6) years awaiting trial in this Court. I felt it proper to advise the Court as first to would function with the least possible delay. After inquiry I found that Sig. Vasconcelos who was the President of the Porto B. Appello, (Hawaii), was in America. We had an talk it was impossible for him to return to his duties at Honolulu at that time because of transportation facilities. I knew this was true. I told him I intended to appoint him to serve as President Gerts' assistant, at least for a comparatively short time. I made this appointment and notified them well in his duties and responsibilities. He got information and notified them well as far as getting the Court in operation is concerned. Several cases have been heard by the Court at Hilo, at Maui and a session of the Court has been held at Honolulu.

I reported this assignment immediately to Mr. C. O. Carter, Chief of the Bureau of Investigation, and he directed me to proceed to the city of New Orleans, Louisiana, to investigate the activities of the various groups and individuals mentioned in the above information. I was also directed to report to the Bureau of Investigation the results of my investigation.

1997-1998

HEADQUARTERS
AMERICAN MILITARY GOVERNMENT
LEGAL ATTACHMENT
A.M.G., 38.

100/100/41

SUBJECT: Italian Courts

TO: W.M.G., H.Q., A.M.G., Trieste

20th January 1944

Major General Lott's cover note at this office requesting answers to the following questions:-

1. Operation of Appeals Court of Appeals at Trieste

A Mr. Southwell of Region II saw this section about it. The First President (who acted under the instructions of U.I.C. Council) is not altogether in blame, as the difficulties of transport, archives, judicial personnel, etc., are great. Region I have been requested to contact Region II direct and endeavour to settle pending difficulties; copy of the correspondence is to sent on this date. Where the final decision will be taken, if "status quo" cannot be maintained. Previous correspondence between W.M.G., Messina and Officer I/d Italian Courts dealing with the intricate situation of Appeals Court and possible remedies is available at Trieste.

2. Administrative matters by Order of Court of Appeals at Trieste

This will be dealt with by Major Southwell personally.

3. Recreation of Court at Trieste

There exists a "business disturbance" from the Court of Appeals at Trieste, at least technically. There is no reason whatsoever to create an independent Court at Trieste. It would only divert further the already sorely tried Trieste judicial machinery.

4. Attention to the appointment of "Dottore Vito" as representative of the Italian Government.

Inquiries are being made at Trieste and it is suggested that W.M.G., Region II should be contacted direct by you.

5. Appointments in Region II

Nothing is known in this respect at this H.Q.

EDWARD H. FLEMING,
Lt. Col. G.S.C.
Deputy Chief Legal Officer.

Copy to: W.M.G., (thru W.M.G.) Region II.

REPUBLIC OF
SOUTH AFRICAN GOVERNMENT
LEGAL DEPARTMENT
APO 324

11/10/74

19 January 1974

SUBJECT: Court of Justice.

TO: SAC, Sg, AGO, Pretoria.

1. A draft amendment to the provisions of Article 4 of the JH of 23 March 1969 is submitted. Its purpose is to remove the possibility of selecting members of the court of justice as persons.

2. Though it is a desirable that the present machinery for selecting and appointing members could be considerably simplified, it does not seem expedient to revise the existing legislation at this juncture.

There is no doubt that many projects will be submitted to AGO as they have been in the past by various legal bodies with a view to reorganizing the present system.

These will vary according to the political and juridical point of view of the bodies concerned.

3. Therefore it is recommended that the responsibility of such matters be left to the Indian legislators, when they are in a position to effect it on a nationwide basis.

1 Encl: Draft Amendment to JH.

EDWARD H. MILLER,
Lt. Col., O.C.,
County Chief Legal Officer.

AMENDMENT TO THE TROOP ORDER OF 23 MARCH 51 No 249
CONCERNING THE ORGANIZATION OF THE BOUNTY OF AMERICA

ARTICLE 4

The provisions of sub-paragraphs 1 and 2 of Article 4 are
abrogated. No persons belonging to the categories mentioned
therein shall be selected as cadets.

4092

(4)

ALLIED MILITARY GOVERNMENT
VICINIA REGION HEADQUARTERS
APO 394

File: RLE 615-032/WH

8 January 1944

SUBJECT: Reform of Court of Assize.

TO : S.A.C., APO HQ., APO 394.

Herewith for examination and consideration by competent authority a proposal by the Lawyers Commission of Salernitana for the reform of the Courts of Assize, and an article on the same subject in today's "Piccola Liberta".

For Lt. Col. GHEPPI, HQAR:

WILLIAM B. JORDAN,
Lt. Col. S. A. C.,
Regional Legal Officer.

jd

1 Incl.

14 Jan 1944

To Maj. Shackerah

for necessary action
Richard & Wilmer
Lt Col CAC
DCLO

4092
 3
 2607

1. HISTORICAL NOTES

In the report to the King of Italy setting forth the recommendations of the Parliamentary Council, the Commission in 1931 to draft the project of reform of the Supreme Criminal Court (a Court of Appeals) the following points are emphasized.

- (a) The jury is a foreign institution created in England in the middle ages to avoid the "judgments de Dieu" or judicial duels condemned by the Pope as early as the XIII century.
- (b) It was introduced in Italy by the French after the Revolution of 1789, the legislators of the Cisalpine Republic (Italy) in the enactment of 1797 going as far as promulgating that "no criminal court will pronounce judgment when no offenses are concerned without the formal findings of a jury of indictment and a jury verdict having been rendered."
- (c) Though the jury system did not physically function in Italy before 1848 in Piedmont and only for areas of influence (liberal and political), it was formally adopted in 1859 (Code of Penal Procedure) the selection of jurors being the subject matter of various amendments by statute in 1865, 1874 and 1913.

2. ANALYSIS REPORT OF 1931-1933

The reasons put forward by the Commission to justify the reorganization of the Court of Appeals were the following.

- (a) The fact that the jury (giudici popolari) and the bench (giudici professionisti) are entirely apart during the proceedings and mean the cause of many misunderstandings of justice.
- (b) There is no summing up in Italian Courts.
- (c) The complete suppression of the jury favored by a number of jurists and politicians, was at least premature and would completely disturb the mind of the nation.
- (d) The amalgamation of professionals bringing with them their authority, prestige, culture and juridical knowledge with popular assessors known among free citizens well aware of the surrounding atmosphere (ambiente) and local conditions was bound to bring about good results.
- (e) The selection of assessors would be stricter than that of the jurors and men of higher social, moral and cultural standard could be thus chosen.
- (f) The new Court of Appeals had been tried in the Colonies and had been a success.
- (g) The jury was the result of the former popular principle of the Sovereignty of the people a belief which had no place in the fascist ideology.

PHOTO AND REPORT OF 1944.

The motives set forth for the suppression of assessors are:

- (a) The assessors being non-professional are generally influenced by the atmosphere of the proceedings and it is not logical that their emotional reaction should prevail over the experience and juridical knowledge of the professional judges.
- (b) It is an unanimism to claim that in our days the conscience of the people is shocked by the crimes and makes an impression in the judges' conscience and therefore must be represented at the trial by means of assessors.
- (c) By suppressing the popular judges and maintaining only the professionals the standard of the Court of Assizes would be raised.
- (d) In any case an experiment should be made in the Provinces of Reggio and the reform judge on his results.

CONCLUSION

In my opinion the only system which could justify a temporary modification of the present system would be the difficulty of appointing or even finding suitable assessors in areas situated near the battle front.

In Regions I and II the Courts of Assizes are working regularly under the 1931 regulations which appear to have been accepted without such reluctance by the Italian Public.

Whether articles 6-7-8- etc of the decree of 23-3-1931 dealing with the nomination of assessors could be modified and the provisions of articles 14-15 etc suspended, so as to facilitate the selection of assessors during the period of emergency, is a matter which the Italian Government could study in order to put forward proposals which might be endorsed by the legal sub-commission.

The order in its present form cannot be accepted by the Allied Commission without running a very strong risk of serious political repercussions.

As a matter of fact if any newspaper or member of the opposition got hold of this document, either in U.S. or Britain and etc of that an extract containing sentences such as "whereas it would constitute an interference to claim that today it is still necessary to give expression in the judicial body to the public conscience shocked by crimes and intervened by the charges preferred" had been promulgated by the Italian Government with the tacit approval of AGO, whose members held the power to prevent its publication, the results of such disclosures would certainly be disastrous to the Government and the Control Commission in general and the legal Sub-Commission in particular; even though it is possible that the above referred statement gives/mind of the Italian People after twenty years of Fascist rule.

a true picture of the present state of

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1
 occasione carta d'identità, allegando
 l'originale della carta d'identità.

2
 10/10/1971

31 ottobre, 3

Si prega di trasmettere una copia della nota inviata da
 questa ufficio al capo locale allato per il accertamento
 della validità in rispetto al nome di trasporto necessario
 per i tre registri, trasmettendo la carta d'identità, il
 12/11.

di
 incl.

G. J. HARRISON,
 Mayor, Long Beach, Calif.

Copy to RCLC Reg I

2

Court of Assizes.

4092/L

A.C.L.O. through A.C.L.O. Region I

31 October 3

1. In spite of many difficulties the session of the Court of Assize for the Province of Agrigento has been definitely fixed for November, 12th.

2. There are over 20 cases on the docket. Many accused have been awaiting trial for well over a year.

3. It will be necessary for the three Consiglieri della Corte d' Appello di Palermo, who sit on the Agrigento Circuit to arrive there not later than 9 November.

4. Could you confirm please that travelling facilities will be provided as promised.

SGH/Re.

WILLIAM S. CHANLER, Lt. Col.
Chief Legal Officer.

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