

ACC

10000/142/711  
(BOX 443)

RIGHTS OF MILITARY  
TERRITORY  
MAR. 1944 - SEP.

10000/142/711  
(BOX 443)

RIGHTS OF MILITARY AUTHORITIES IN UNOCCUPIED  
TERRITORY  
MAR. 1944 - SEPT. 1945

~~SECRET~~

HEADQUARTERS  
ALLIED CONTROL COMMISSION  
LEGAL SUB-COMMISSION  
APO 394

ACC/4102/2/L.

WEB/ap.

6 October 1944.

SUBJECT : Movement Control.

TO : Deputy Chief of Staff, Civil Affairs Section.

- 25(a) 1. We have considered the questions raised by your  
6/AE/C.A. of 5 Oct 1944.
2. We are of opinion that the rights of the Commander-in-Chief to control civilian movement between Italian Government territory and countries outside Italy are limited to the rights specifically conferred by the Short Terms of Armistice, the Long Terms of Armistice and the various Terms of Restoration; and that as no such additional right is conferred by or can be deduced from the Terms of Restoration, the rights, if any, must be limited to those conferred by the Long and Short Terms of Armistice.

3. The only clauses in these Terms which may be relevant to such rights are :-

- (i) Long Terms clause 21.  
"in addition to the rights in respect of occupied Italian territory described in Articles 18 to 20.
- A. Members of the Land, Sea or Air Forces and officials of the United Nations will have the right of passage in or over non-occupied Italian territory and will be afforded all the necessary facilities and assistance in performing their functions.
- B. The Italian authorities, will make available on non-occupied Italian territory all transport facilities required by the United Nations including free transit for their war material and supplies, and will comply with instructions issued by the Allied Commander-in Chief regarding the use and control of airfields, ports, shipping, inland transport systems and vehicles."

## (ii) Long Terms clause 26.

"Italian subjects will pending further instructions be prevented from leaving Italian territory except as authorised by the Allied Commander-in Chief and will not in any event take service with any of the countries or in any of the territory of countries at war with any of the United Nations or occupied by any such country " nor will they proceed to any place for the purpose of undertaking work for any such country....."

## (iii) Short Terms Clause 10.

"The Commander-in-Chief of the Allied Forces reserves to himself the right to take any measure which in his opinion may be necessary for the protection of the interests of the Allied Forces for the prosecution of the war, and the Italian Government binds itself to take such administration or other action as the Commander-in Chief may require....."

4. We are of opinion that while clause 21 appears to provide for the control of airfields and ports, such control is not intended to be so unrestricted as to extend to a power of complete denial of entry to persons wishing to use such airfields or ports. The purport of the clause is to grant to the Allied Forces an unrestricted use of transport facilities for the benefit of United Nations personnel, and war material and supplies. Unless the entry of persons into those ports or airfields is of such a nature as to interfere with the transport of the United Nations personnel or the war material or supplies, the clause does not in our opinion confer a right to control such entry.

5. We are of opinion that clause 26 does confer a right to prevent egress from Italian territory, but this right only applies against Italian citizens. We do not think that the restoration of territory to the Italian Government in any way operates as a further instruction nor as an authority by the Allied Commander-in Chief within the meaning of that clause. Nor do we think that the introduction of further prohibitions concerning enemy or enemy occupied territories in any way limits the express directive contained in the early part of the clause.

2a)

6. We are of opinion that under clause 10 of the Short Terms the Commander-in-Chief has the right to require the Italian Government to prohibit the movement of civilians, whether of Italian or other nationality, between countries outside Italy and Italian Government territory provided that he is of opinion that such action is necessary for the protection of the Allied Forces for the prosecution of the war. We feel therefore that before expressing a definite opinion upon the rights conferred by the clause in this case we must know whether or not the Commander-in-Chief does take the view that the continuance of the movement under consideration constitutes a hazard to the Allied Forces in the prosecution of the war against which protection is required. If he does take this view we are of opinion that the clause confers a right to require the Italian Government to prohibit this movement.

7. Save as above we are of opinion that the Commander-in-Chief has no right to interfere with the jurisdiction of the Italian Government in their control of such movement.

*Richard H. Wilmer*  
RICHARD H. WILMER,  
Colonel, C.A.C.,  
Chief Legal Advisor. 41

HEADQUARTERS  
ALLIED CONTROL COMMISSION  
AFC 394

Ref: 6/1.1/C.A.

5th October, 1944.

SUBJECT:- Movement Control.

TO:- Chief Legal Adviser.

1. The Acting Chief Commissioner desires to be informed of the legal rights of the Commander-in-Chief under the Armistice Terms or other relevant document to prevent the ingress to and egress from Italian Government territory from and to places outside Italy.

2. Though by a strict control of shipping and aeroplane traffic the passage of unauthorized persons can to a large extent be eliminated, this has not been found wholly water-tight and unauthorized persons of Italian and other nationalities have entered into and left Italy without leave; it is for this reason that the Acting Chief Commissioner desires to be informed of the Legal powers of the Commander-in-Chief.

*R. R. Upjohn*

G.R. UPJOHN, Brigadier,  
V.P. Civil Affairs Section

CIN/ymb.

12CA Sec.

Please see letter opposite (copy in  
file 30/ii) which Cos directed  
me to write and which is sent  
up to you for reiteration and  
dispatch. File returned as per  
minute 9.

Editorial Dept.

H.S.O.

18/II

Office of COS  
File 30/II taken on 6/4/2/CA wif 21 Nov 44.  
G. Kershman <sup>33</sup> fit

A/C 63  
10/10/44

15 October 1944

To: Commodore Stone  
 From: Political Section

I regret that I had not been more explicit. With due respect to  
 (2 a) Colonel Wilmer's opinion, I do not think that an approach to the Italian  
 Government will get us anywhere better than now. So far as British and  
 American Personnel are concerned, surely there is no doubt that SACMED  
 is the final authority. So far as Italians and other Nationals are  
 concerned, our whole difficulty is to get even those to whom we support  
 in and out of the Country, the obstacle being G-2, A.T.H.Q. Their claws  
 are sharp enough already and I do not think that we need suggest that the  
 Italians should sharpen up theirs.

H.A.C.

38

H. A. CACCIA

Agree.  
W.W.B.OK  
HM

deos cas.

8

No action here. But please draft letter to  
 AFHQ asking how, & if, & etc. they keep control  
 over entry of all kinds of people into Italy

I

10/10/44

(Nov 44) To C.O.S.  
 To see you return please  
 GRB

6.

Mr. Caccia.

On reviewing this, it does not appear that SACMED has the right himself to prohibit but only to direct the Italian Government to do so. Hence the suggestion of the C.of S. Please speak to me about this.

Stone

37

MINUTE SHEET I

(1)

To. Cos

See 2(a) this matter was raised at your meeting

Tuesday Wednesday 4<sup>th</sup> Oct.

10 Oct. 44

R.R. Cappa

3.

TO: Acting Chief Commissioner.

Attached is submitted for your information.

In my opinion the C. in C. should clearly be in a position to prevent ingress and egress and that the A.C.C. should in his name request the Italian Government so to legislate. If you agree I will draft.

10 October 44.

M.S. Lush

TO: Chief of Staff.

4.

36

I agree, please get reaction of Political Section. Suggest Legal Adviser's opinion be ~~sent~~ forwarded.

12 October 44.

E.W. Stone

5.

Political Section:

Pl. see above minute of A/C.C.

Sallot or  
13/10.

402/2

(16A)

HEADQUARTERS ALLIED COMMISSION  
AND 55A  
LEGAL SUB-COMMISSION

10210

/r/p.  
4 September 1945.

TO : Executive Commissioner.

In my opinion the position in regard to the employment of Allied troops to support CO.RR. in the search of Italian houses in Italian Government territory for arms is as follows:-

1. The Allies have no right to require that the Italian Government or the Carabinieri accept such assistance.

2. Under Italian law the Italian Army has no right by itself to conduct a search for arms in Italian houses. The responsibility for such searches rests on the CO.RR. If however CO.RR. consider that they need military support in the conduct of their search they may request it and it will be then granted. It is solely a matter for the discretion of the CO.RR. whether or not to request such assistance, but they must be guided by the obvious considerations of probable danger and disturbance. If such assistance is requested the military commander has to discretion to refuse.

3. The position of the Allied troops who might be called in to assist the Carabinieri would be in law ~~as~~-curious. Obviously they are not under the command of the Italian Army; still less under that of the CO.RR. Nevertheless I do not see who, except the Italian Government, would be in a position to make complaint of any action which Allied troops may take in consequence of a request from the Carabinieri. Clearly if the Italian Government has officially requested such assistance it also is debarred from making any complaint. At the same time it would be open to any Italian civilian, and a fortiori to the Italian Government, to complain that on any particular occasion the Allied troops behaved in an improper manner or had used more violence than was necessary and to claim compensation accordingly.

4. I do not see how, from the legal point of view, the regulation affecting the use of troops in aid of a civil power in U.K. or U.S. affects the position in Italy; from a political point of view I can see that if any unfortunate incidents occur questions may well be asked which will be based upon the regulations current at home.

G. E. REINHOLD,  
Colonel,  
Chief Legal Advisor.

RE REGISTERED

DCK/fa

ALLIED FORCE HEADQUARTERS  
APO 512

(15A)

ADMINISTRATIVE MEMORANDUM

NUMBER

31

7 May 1945

POWERS AND RIGHTS OF ALLIED FORCES IN ITALIAN GOVERNMENT TERRITORY

AFHQ Administrative Memorandum Number 57, 1944, is rescinded and the following substituted therefor:

1. General

12A

a. It is the policy of the Allied Governments, as military exigencies permit and as the Italian Government is able to take on the responsibility, to hand back to its jurisdiction and administration territory formerly subject to Allied Military Government. In such territory Allied Military Government ceases on the hand-over and the Italian Government assumes jurisdiction and administration.

b. In handing back territory to the Italian Government, certain rights are reserved to the Allied Forces by agreement with the Italian Government. It is necessary that Allied troops in those areas should be aware of the most important of these rights and the manner in which they are to be exercised.

c. For the purposes mentioned herein the territory which may from time to time be included in that handed back to the Italian Government is termed Italian Government Territory. At the present time such territory comprises the Islands of Sicily and Sardinia and all provinces on the mainland south of the northern boundaries of the provinces of Viterbo, Rieti and Terni with the exception of the commune of Naples which is still under Allied Military Government.

34

2. Requisitioning - The Allied Forces have retained the power to requisition private and public property and services in Italian Government territory but it is emphasized that this must be exercised sparingly and only for reasons of genuine military necessity. This will be exercised through the Italian authorities. The usual formalities of requisitioning will be followed.

3. Proceeds in Italian Courts - No members of the Allied Forces, Allied followers of such forces, or British or US Merchant Seamen will be subject to jurisdiction of Italian Courts.

4. Crimes against Allied Forces

a. In Italian Government territory crimes committed by Italian nationals, will normally be tried under Italian Law and in Italian courts.

b. The Allied Forces however, have reserved to themselves the right to hold Allied Military Courts in Italian Government Territory for the trial of Italian nationals who commit acts seriously hostile to the Allied Forces such as cases of espionage or sabotage and to punish them in accordance with the Italian penal code. The reservation of this right is not intended however to encourage the trial of Italian offenders by Allied Military Courts but is to enable them to deal with the most serious offences against Allied personnel or property which cannot effectively be dealt with by Italian Courts.

-1-

REGISTERED

## R E S T R I C T E D

## AFHQ Administrative Memo #31 (Cont'd)

c. The procedure to be followed, if it is desired that an offence should be tried by an Allied Military Court, will be for the military authorities to give a full statement of the facts to Headquarters Allied Commission with a request that an Allied Military Government Court be convened to hear the charges. It will be the responsibility of Allied Commission to frame the charges and constitute the Court. It is emphasized that only in the most exceptional circumstances such as mentioned in paragraph 1(b) will any case in Italian Government Territory be referred to Allied Military Courts and then only on order of Allied Commission

d. There is reserved to the Allied Forces the power to arrest any persons who are believed to have committed offences against Allied personnel or property. High ranking Italian officials and officers of the Italian Armed Forces should, however, only be arrested in collaboration with the appropriate Italian official (e.g. the Prefect or the Commanding Officer of the officer concerned).

e. Apart from cases mentioned in this paragraph and in paragraph 7 the Allied Forces have no power of arrest in Italian Government Territory.

5. Military Zones

a. The right is reserved by the Supreme Allied Commander, Mediterranean Theater to declare specific areas of Italian Government Territory to be Military Zones. By the issue of such a declaration, the exercise of the powers of Military Government in the Zone in question is assumed by the Supreme Allied Commander, Mediterranean Theater. Should the situation in any area become such as to convince the District Commander that the establishment of Zones is necessary, he should, after consulting the Headquarters Allied Commission where possible, report accordingly to his headquarters, giving full reasons to justify his view.

b. The right is also reserved by the Supreme Allied Commander to have made available to the Allied Forces such facilities, utilities and installations as may be required by him or his agents for such dispositions, use or operation as may be determined.

6. Use of troops in aid of the Civil Power

In the event that the local Italian authorities ask for the assistance of Allied troops in quelling civil disturbances, the local commander will point out that the quelling of civilian riots or disturbances is a matter for the Italian authorities and he will refuse such assistance, unless he is of the opinion that it is necessary for the protection of Allied military interests. Furthermore, before rendering such assistance, the local commander will warn the local official requesting his assistance that the territory in question will be liable to be made forthwith an Allied Military Zone. If time permits, the local commander will consult his superior commander before giving assistance. In any event, if the decision is made to grant the assistance required, the first troops to be used will be such Italian troops as may be under command of District/Base Section Commanders. Allied Commanders will inform their superior Commander without delay of any requests made to them and of the action taken thereon.

7. Military and Civilian Internees - The Allied Forces may continue to hold

1259

## R E S T R I C T E D

AFHQ Administrative Memo # 31 (Cont'd)

or require the Italian Government to hold in custody military or civilian internees in Italian Government territory. If the Allied Forces require to arrest any person for security or similar reasons such arrest should be carried out in collaboration with Italian officials unless, in any particular case, it is thought that a request to the Italian police to arrest a suspect would be ineffective. In all such cases Allied Force Headquarters will be notified as soon as possible after the arrest has taken place, and an information copy of such notification will be forwarded to Headquarters, Allied Commission.

8. Allied Commission Liaison Officers - Details of the disposition and functions of Headquarters Allied Commission Liaison Officers stationed in Italian Government Territory together with information for the use of Commanders concerning the Italian civil organization and the Italian officials who should be approached by them in their dealings with the Italians has been issued separately by AFHQ letter file AG O91.1/081 GEO-O, dated 29 March, 1945, subject: "Withdrawal of Allied Commission Personnel from Italian Government Territory".

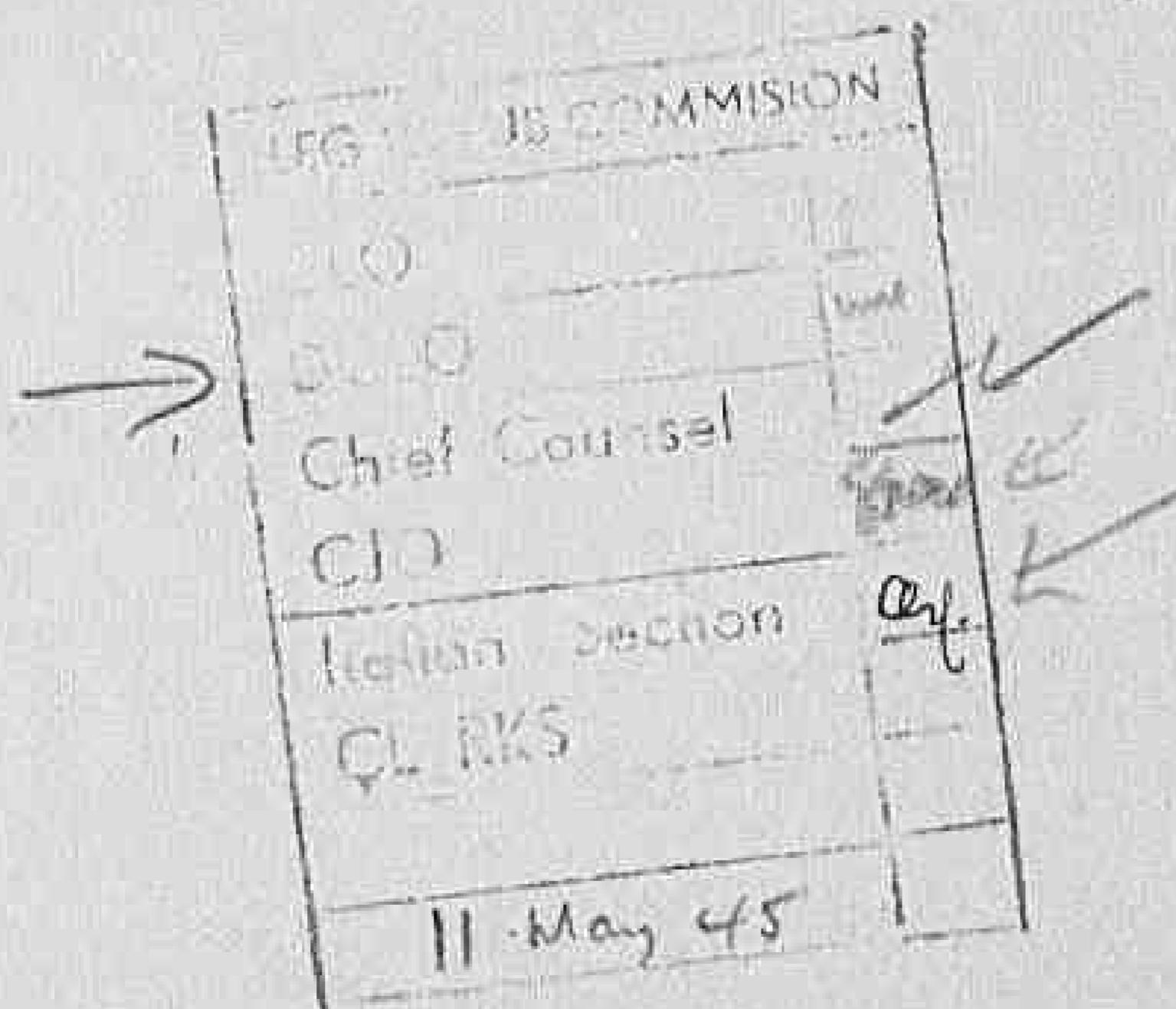
BY COMMAND OF FIELD MARSHAL ALEXANDER:

*C. P. Christenberry*  
C. P. CHRISTENBERRY  
Colonel, AGD  
Adjutant General

33

## DISTRIBUTION:

C



*SECRET*

ALLIED FORCE HEADQUARTERS

AFO 512

*RHT/jcm*

*4102/2*

SE:O.R.E.  
Auth: S.O.M.  
Initials: RFP  
6 January 1945

AG 370.6/005 GCT-O

6 January 1945

SUBJECT: Local Defense Plans.

To : Commanding General, 15th Army Group.  
 General Officer Commanding, Number 1 District  
 General Officer Commanding, Number 2 District  
 General Officer Commanding, Number 3 District  
 Commander, Balkan Air Force  
 Commander, Land Forces, Adriatic  
 Commander, Military Mission to the Italian Army  
 FOR: Army Sub-Commission.

Deputy President, Allied Commission  
 Commanding General, Peninsular Base Section, AFO 782.  
 Commanding General, Rome Area Allied Command, AFO 794.

1. Letters, this headquarters, file AG 370.6/106 GCT-O, dated 24 September 1944, AG 370.6/107 GCT-O, dated 27 November 1944, and AG 370.6/107 GCT-O, dated 8 December 1944, all subject as above, are rescinded and the following substituted therefor:

2. Your attention is directed to recent local uprisings and disorders which indicate the possible instability of local police to cope with such situations.

*Table 12A*  
 3. The present policy with respect to military zones and the employment of Allied troops to quell civil disturbances is laid down in paragraphs 5 and 6 of AFGO Administrative Memorandum Number 57, 1944, subject: "Powers and Rights of Allied Forces in Italian Government Territory". The following instructions are in application of those included in Administrative Memorandum Number 57.

4. There are two types of areas in that part of Italy in rear of the Army boundaries where civil riots or disturbances may occur: first, those areas which have been turned back to the Italian Government, including islands of Sicily and Sardinia, and second, those areas still under Allied Military Government control.

5. Within areas which have been turned back to the Italian Government, the Italian Government is responsible for the maintenance of law and order. To accomplish this, the Italian local civil authorities have under their control the Local carabinieri. If, in the opinion of the local Italian authorities, the carabinieri are unable to deal with the situation, they should appeal to the nearest Italian military headquarters for the assistance of such Italian troops as the latter has under its control. If no such Italian troops are available, or if there is still need for additional troops, the Italian civil authorities should request the local district (base section) area or sub-area commander for

SUBJECT: Local Defense Plans.

TO : Commanding General, 15th Army Group.  
 General Officer Commanding, Number 1 District  
 General Officer Commanding, Number 2 District  
 General Officer Commanding, Number 3 District  
 Commander, Balkan Air Force  
 Commander, Land Forces, Adriatic  
 Commander, Military Mission to the Italian Army

FOR: Army Sub-Commission.

Deputy President, Allied Commission  
 Commanding General, Peninsular Base Section, AGO 782.  
 Commanding General, Fourteen Allied Command, AGO 794.

1. Letters, this headquarters, file AG 370.6/106 GCT-A, dated 24 September 1944, AG 370.6/107 GCT-A, dated 27 November 1944, and AG 370.6/107 GCT-B, dated 6 December 1944, all subject as above, are rescinded and the following substituted therefor:

- Replaced*
2. Your attention is directed to recent local uprisings and disorders which indicate the possible inability of local police to cope with such situations.
  3. The present policy with respect to military zones and the employment of allied troops to quell civil disturbances is laid down in paragraphs 5 and 6 of AMQ Administrative Memorandum Number 57, 1944, subject: "Powers and Rights of Allied Forces in Italian Government Territory". The following instructions are in application of those included in Administrative Memorandum Number 57.
  4. There are two types of areas in that part of Italy in rear of the army boundaries where civil riots or disturbances may occur: first, those areas which have been turned back to the Italian Government, including islands of Sicily and Sardinia, and second, those areas still under Allied Military Government control.
  5. Within areas which have been turned back to the Italian Government, the Italian Government is responsible for the maintenance of law and order. To accomplish this, the Italian local civil authorities have under their control the local carabinieri. If, in the opinion of the local Italian authorities, the carabinieri are unable to deal with the situation, they should appeal to the nearest Italian military headquarters for the assistance of such Italian troops as the latter has under its control. If no such Italian troops are available, or if there is still need for additional troops, the Italian civil authorities should request the local district (base section) area or sub-area commander for assistance. It is essential that close liaison be maintained by district (base

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LEG. SUB C. MURKIN

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He. C. MURKIN

C. R. R. S.

15 JAN 1945

To Lee on  
Action to HQ  
le

15 JAN 1945

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Itrr, JHQ, AG 370.6/005 AG-O,  
dtd 6 January 1945 (cont'd)

section) areas and sub-area headquarters with the local Italian civil and military authorities.

6. Within areas which are still under Allied Military Government control, the Local Allied Military Government authority is responsible for the maintenance of law and order. The Local Carabinieri are under the control of Allied Military Government for this purpose. Should additional assistance be required, the Local Allied Military Government authority will appeal to the local district (base section) area or sub-area commander. It is essential that close liaison exist between the Local Allied Military Government commander and the local district (base section) area and sub-area commander.

7. The above responsibilities as outlined apply to civil disturbances, i.e. disturbance in which military personnel are involved is a military responsibility and will be dealt with by the appropriate military authority.

8. Immediate reports will be made through normal channels in all cases of riots or civil disturbance, whether or not it has been necessary to employ Allied troops.

9. In any case where Allied or Italian troops are employed to quell civil disturbances, the following instructions will apply:

- a. Troops will be moved to the scene of the disturbance with weapons unloaded.
- b. Weapons will be loaded only on command of an officer.
- c. Only small arms will normally be borne by troops. Commanders are advised that the carrying of automatic weapons by troops in a civil disturbance is most undesirable and will only be allowed in the Army areas where they will be kept to a minimum and used only as a last resort. Grenades are specifically prohibited.
- d. No smoke, tear gas, or chemicals of any kind will be employed.
- e. No troops will open fire upon rioters except on the express order of an officer.

10. Within the Army areas, the Commanding General, 15th Army Group will issue such instructions as are considered necessary to implement the general principles outlined above.

11. Commanders concerned are responsible for the preparation of local defense schemes for the protection of Allied Government property and to insure the security and efficiency of the Lines of Communication. Addressess who have been issued copy of these instructions shall do so without

6. Within areas which are still under Allied Military Government control, the local Allied Military Government authority is responsible for the maintenance of law and order. The local Garabiniieri are under the control of Allied Military Government for this purpose. Should additional assistance be required, the Local Allied Military Government authority will appeal to the local district (base section) area or sub-area commander. It is essential that close liaison exist between the Local Allied Military Government commander and the local district (base section) area and sub-area commander.

7. The above responsibilities as outlined apply to civil disturbances. A disturbance in which military personnel are involved is a military responsibility and will be dealt with by the appropriate military authority.
8. Immediate reports will be made through normal channels in all cases of riots or civil disturbance, whether or not it has been necessary to employ Allied troops.
9. In any case where Allied or Italian troops are employed to quell civil disturbances, the following instructions will apply:
  - a. Troops will be moved to the scene of the disturbance with weapons unlocked.
  - b. Weapons will be loaded only on command of an officer.
10. Commanders will normally be borne by troops. Commanders are advised that the carrying of automatic weapons by troops in a civil disturbance is most undesirable and will only be allowed in the LVI areas where they will be kept to a minimum and used only as a last resort. Grenades are specifically prohibited.
  - c. Only small arms will normally be borne by troops. Commanders are advised that the carrying of automatic weapons by troops in a civil disturbance is most undesirable and will only be allowed in the LVI areas where they will be kept to a minimum and used only as a last resort. Grenades are specifically prohibited.
  - d. No smoke, tear gas, or chemicals of any kind will be employed.
  - e. No troops will open fire upon rioters except on the express order of an officer.
11. Commanders concerned are responsible for the preparation of local defense schemes for the protection of Allied Government property and to insure the security and efficiency of the Lines of Communication. Addressees who have not already forwarded copies of their local defense plans will do so without delay. Changes or amendments will be submitted immediately on publication.

~~SECRET~~

SECRET

Ltr, AFHQ, AG 370.6/005 GCTW  
dtd 6 January 1945 (cont'd)

12. All addressees will acknowledge receipt of this order.

By command of Field Marshal ALEXANDER:

/s/ C.W.CHRISTENBERRY  
C.W.CHRISTENBERRY  
Colonel, AGD,  
Acting Adjutant General

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Commission. 12 Jan 45 2606/COS

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## ARMED SQUADRON

055

10 Dec 44.

URGENT

ENCLOSURE 29

SUPERIOR TO AND TO CIVIL AFFAIRS TO IN KENYA TO YOUR TWO THREE SIX TWO TO

CIV. AFFAIRS DIRECTOR TO

SARVEZ ALIYU BAWA TALKED BUT OVER HEARD NO. 1 AND JUST FATHED

*32c URGENT*

AND YOU MADE THIS STATEMENT DATED TWO SEVEN NOVEMBER TWENTYFOUR THIRTYEIGHT AS  
 THAT A VENUE POINT OUT START ONE HUNDRED EIGHTY ZERO ON THIS MEETING TO  
 THIS INSTRUCTION BASED ON THE RECENT AUTHORITIES IN THIS OTHER COMMANDER  
 WHICH TO INFLUENCE THIS POSITION OR AND OBTAIN TO REQUEST ITALIAN MUNICIPALITY WAS ENTITLED  
 THE AUTHORITY OF SUBJECT TWO TO AND NO REST IN REFERENCE TO LOCAL READING COMMANDER  
 IS LOCATED IN THE NEARBY BUT ALSO LEADS TO BOTH ALLIED MUNICIPAL AND  
 ITALIAN CIVIL AND MILITARY AUTHORITIES IS STRESSED TO  
 READ AUTHORITIES NUMBER THREE FURTHER ON SEVEN DOCUMENT ISSUED BY THE ITALIAN AUTHORITY  
 NUMBER 12 FORTY ANNUAL THAT ITALIAN TROOPS IS AND NOT BUT NOT BE USED WITH THE  
 ITALIAN GOVERNMENT AND APPROVAL OF LOCAL AUTHORITIES PAPER IN CHARGE  
 HOSPITALS USE WHICH YOU HAVE NOTICED IT IS RECEIVED COPY OF LETTER INSTRUCTION AND  
 ORDER YOU WOULD BASE YOUR ACTS ON AND MEMORANDUM TO SUB-COMMISSION

FURTHER NOW TELL. DISCUSSION BEEN HAVING BEEN DISCUSS

Copies to Civil Affairs Section  
Public Safety Sub-Commission  
Legal Sub-Commission

300.

G. W. P. SHARP

For, we have received none of the  
 documents above quoted.  
*Sharp sec.*

N.Y. DELEGATION  
MAJ. GEN. AND SECTION  
UNIFORMLY RKS

→     
Chief Counsel

18 DEC 1944

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41021  
REGISTERED

DGR/ar

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FayalALLIED FORCE HEADQUARTERS  
AFHQ 512

ADMINISTRATIVE MEMORANDUM )

NUMBER 57 )

11 December 1944

POWERS AND RIGHTS OF ALLIED FORCES IN ITALIAN GOVERNMENT TERRITORY

## 1. General

a. It is the policy of the Allied Governments, as military exigencies permit and as the Italian Government is able to take on the responsibility, to hand back to its jurisdiction and administration territory formerly subject to Allied Military Government. In such territory Allied Military Government ceases on the hand-over and the Italian Government assumes the jurisdiction and administration subject to the paramount guidance and control of the Allied Commission.

b. In handing back territory to the Italian Government, certain rights are reserved to the Allied Forces by agreement with the Italian Government. It is necessary that Allied troops in those areas should be aware of the most important of those rights and the manner in which they are to be exercised.

c. For the purposes mentioned herein the territory which may from time to time be included in that handed back to the Italian Government is termed Italian Government Territory. At the present time such territory comprises the Islands of Sicily and Sardinia and all provinces on the mainland south of the northern boundaries of the provinces of Viterbo, Rieti and Terni with the exception of the commune of Naples which is still under Allied Military Government.

d. It is to be particularly noted that officers of the Allied Commission stationed in Italian Government territory are there to advise and control the Italian Government and one of their most important functions is liaison between Allied Military Formations in their areas and the local Italian administrative officials.

e. It is further particularly to be noted that all but the most routine dealings with the Italian administration must be conducted through the local Allied Commission representative.

2. Requisitioning - The Allied Forces have retained the power to requisition private and public property and services in Italian Government territory but it is emphasized that this must be exercised sparingly and only for reasons of genuine military necessity. This will be exercised through the Italian authorities. If for example it is necessary to requisition a building it should be done through the Sindaco of the town where the building is situated with the assistance of the nearest provincial officer of the Allied Commission. The usual formalities of requisitioning will be followed.

## R E C T A I C T E D

AFHQ Adm Memo #57 (cont'd)

3. Process in Italian Courts - No members of the Allied Forces, Allied followers of such forces, or British or U. S. Merchant Seamen will be subject to jurisdiction of Italian Courts.

4. Crimes against Allied Forces

a. In Italian Government territory crimes committed by Italian nationals, will normally be tried under Italian Law and in Italian Courts.

b. The Allied Forces however have reserved to themselves the right to hold Allied Military Courts in Italian Government Territory for the trial of Italian nationals who commit acts seriously hostile to the Allied Forces and to punish them in accordance with the Italian penal code. The reservation of this right is not intended however to encourage the trial of Italian offenders by Allied Military Courts but is to enable them to deal with the most serious offences against Allied personnel or property which cannot effectively be dealt with by the Italian Courts.

c. The procedure to be followed, if it is desired that an offence should be tried by an Allied Military Court, will be for the military authorities to give a full statement of the facts to the local representative of the Allied Commission with a request that an Allied Military Government Court be convened to hear the charges. It will be the responsibility of Allied Commission to frame the charges and constitute the Court. It is emphasized that only in the most exceptional circumstances will any case in Italian Government Territory be referred to Allied Military Courts and then only on order of Allied Commission.

d. Consequent on reservation of the power to try such offenders there is reserved to the Allied Forces the power to arrest persons who are believed to have committed such offences. High ranking Italian officials and officers of the Italian Armed Forces should, however, only be arrested in collaboration with the appropriate Italian official (e.g. the Prefect or the Commanding Officer of the officer concerned). In all cases of arrest the agreement of the local Allied Commission officer will be obtained beforehand, except in an emergency when he will be informed immediately after the arrest.

5. Military Zones - The present policy with respect to military zones and the employment of Allied troops to quell civil disturbances is as follows:

The right is reserved by the Supreme Allied Commander, Mediterranean Theater to declare specific areas of Italian Government Territory to be Military Zones. By the issue of such a declaration, the exercise of the powers of Military Government in the Zone in question is assumed by the Supreme Allied Commander, Mediterranean Theater. Should the situation in any area become such as to convince the District Commander that the establishment of Zones is necessary, he should, after consulting the Allied Commission Regional Commissioner, report accordingly to his headquarters, giving full reasons to justify his view. The Allied Forces may also re-occupy any part of Italian territory, but the right to constitute a Military Zone will render it unnecessary to exercise this right in respect of any local disorders.

## R E S T R I C T E D

AFHQ Adm Memo #57 (cont'd)

## 6. Use of troops in aid of the Civil Power

a. In the event that the local Italian authorities ask for the assistance of Allied troops in quelling civil disturbances, the local commander will point out that the quelling of civilian riots or disturbances is a matter for the Italian authorities and he will refuse such assistance, unless he is of the opinion that it is necessary for the protection of Allied military interests. Furthermore, before rendering such assistance, the local commander will warn the local official requesting his assistance that the territory in question will be liable to be made forthwith an Allied Military Zone. If time permits, the local commander will consult the local Allied Commission officer and seek instructions from his superior commander before giving assistance; in any event, he will inform his superior commander of any request made to him and the action taken thereon without delay.

b. District and Base Section Commanders in disposing of their forces should have regard for contingencies in which it might be necessary to send troops to quell civil disturbances. They should consult the local Allied Commission officer where appropriate in this matter particularly in regard to contemplated troop movements which might prejudice the security of any locality within their area of responsibility.

7. Military and Civilian Internees - The Allied Forces may continue to hold or require the Italian Government to hold in custody military or civilian internees in Italian Government territory. If the Allied Forces require to arrest any person for security or other reasons such arrest should be carried out in collaboration with Italian officials unless, in any particular case, it is thought that a request to the Italian police to arrest a suspect would be ineffective. In all such cases the Local Allied Commission officer must, except in emergency, be informed of the intention to make the arrest, whether it is to be effected by the Allied or Italian authorities. If he is not in agreement the matter will be referred to higher authority. Such persons will be detained in 371 PT Camp, or such other place of internment as there may from time to time be designated for that purpose. L8

8. Emergency Action - All action required from the Italian Administration should invariably be sought through the medium of the Allied Commission Regional or Provincial Commissioner, except where an emergency may arise which requires immediate action by the Allied Forces for their protection and security. Where by reason of the emergency immediate action is taken without previous reference to Allied Commission, the appropriate Allied Commission officer will be informed as soon as possible.

By command of General WILSON:  
LEGAL SUB-COMMISSION

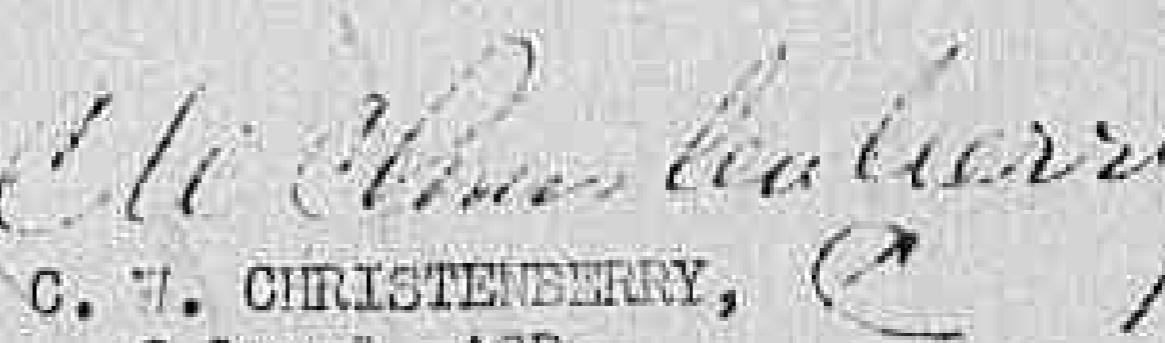
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DCO

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"C"

CJ

  
 C. V. CHRISTENBERRY, (S)  
 Colonel, AGD,

Acting Adjutant General.

3-

R E S T R I C T E D

18 DEC 1944

*Ch. A. Section* SECRET

EAS/AJp

1A

Ref 2606/39/003

1 November 1944

-8 NOV 1944

SUBJECT: Powers and Rights in Italian Government Territory  
TO : G-5 Section, Allied Force Headquarters

1. From the Regional Commissioner, Sicily Region, I have received the attached copy of letter dated 17 October 44, sent to him by 3 District Commander. I would draw your attention to Para 2 and 3 of this letter, in which it is laid down that in quelling civil disturbances not directly affecting Allied interests Italian troops will not, except in grave emergency, be employed without prior reference through the Allied Commission to the Allied Area Commander.

2. In AAI Administrative Instructions No. 48, para 7, it is stated that "the quelling of civilian riots or disturbances is a matter for the Italian Administration and he (the local Allied Commander) will refuse such assistance, unless he is of the opinion that it is necessary for the protection of Allied military interests".

3. The possibility of the employment of Italian troops is not specifically mentioned in Administrative Instructions No. 48, and it would appear that a procedure for this contingency should be established.

4. However, the channel for permission to use them, as laid down by 3 District, would, I suggest, in some instances delay their employment to a considerable extent. For example, a demand for Italian troops from a Province in the interior of Sicily administered from Palermo would have to pass to the latter and from there to Catania, HQ of the Sub Area Commander, and of course, follow the same route back. Having regard to the length and slowness of communications, a considerable period would elapse before a consent could be obtained, by which time damage and casualties might have occurred.

5. It is suggested that where Italian troops are disposed in Italian Government Territory, the Italian authorities should have liberty of action in the event of a civil disturbance, provided that allied interests are not directly involved.

6. It is for consideration however if it would not be advisable to prescribe rules limit the armament of troops so employed.

7. The foregoing does not arise out of the recent incident in Sicily, as you will see by the date of the letter from 3 District, but that occasion does give point to the foregoing proposal. Will you kindly raise the matter and let me know your conclusions.

EWS

JAMES W. STONE  
Commodore, USNR  
Acting Chief Commissioner

3595

1 Incl:

As in para 1 above.

COPY

(11B)

SUBJECT : Aid to the Civil Power.

S E C R E T

3 District  
Oct 9  
69/6

17 Oct 44.

Under authority of AAI Adm Instr No. 43 dated 8 August 44, (which has been subsequently endorsed by AFHQ letter AG 570.6/107 GOT-0 dated 26 Sep 44) this HQ issued Operation Instruction No. 10, "Aid to the Civil Power" (Copies attached for LAZIO and ABRUZZI/CAMPANIA Regions AOR).

1. Area/Sub Area Com commanders will ensure that their liaison with AOC Zone Commissioners (Regional HQ in Sicily) is such that they receive early information of any civil disturbances, should they arise.

26

2. While the quelling of civil disturbances, which do NOT directly affect Allied interests, is a matter for Italian administrative authorities, it will be borne in mind that the latter will normally only dispose of police and CO.MR. for the purpose. Area defense schemes will be drawn up in the light of this.

3. Where as in SICILY and CALABRIA the Italian authorities do dispose of troops, such will NOT, except in grave emergency, be employed without prior reference through AOC to the Area Commander, who will be kept fully informed of all incidents and actions taken.

4. Areas will forward full reports of all civil disturbances to this HQ, although Allied action may NOT have been called for.

TO	INIT	DATE
COL. CHAPMAN		✓
COL. YOUNG		✓
LT COL WILCOX		✓
MAJ MASON		
MAJ WILSON		
MAJ HANSDORF		
MAJ HARVEY		
MAJ BALLANCE		
CPT POWELL	/	✓

/s/ E. P. Warner

/t/ Lt. Col.  
G. S.  
(ED. WARNER).

(3595)

Copies to :

3 District  
C.A. Section  
Sicily Region  
Land Forces Sub-Commission.

25

3505

S E C R E T

10A

HEADQUARTERS  
 ALLIED CONTROL COMMISSION  
 LEGAL SUB-COMMISSION  
 APO 394

ACC/4102/2/L.

 WEB/ap.  
 6 October 1947

SUBJECT : Movement Control.

TO : Deputy Chief of Staff, Civil Affairs Section.

1. We have considered the questions raised by your  
 6/AB/C.A. of 5 Oct 1944.

2. We are of opinion that the rights of the Commander-in-Chief to control civilian movement between Italian Government territory and countries outside Italy are limited to the rights specifically conferred by the Short Terms of Armistice, the Long Terms of Armistice and the various Terms of Restoration; and that as no such additional right is conferred by or can be deduced from the Terms of Restoration, the rights, if any, must be limited to those conferred by the Long and Short Terms of Armistice.

3. The only clauses in these Terms which may be relevant to such rights are :-

(i) Long Terms clause 21.

"In addition to the rights in respect of occupied Italian territory described in Article 18 to 20.

A. Members of the Land, Sea or Air Forces and officials of the United Nations will have the right of passage in or over non-occupied Italian territory and will be afforded all the necessary facilities and assistance in performing their functions.

B. The Italian authorities, will make available on non-occupied Italian territory all transport facilities required by the United Nations including free transit for their war material and supplies, and will comply with instructions issued by the Allied Commander-in Chief regarding the use and control of airfields, ports, shipping, inland transport systems and vehicles."

## (ii) Long Terms clause 26.

"Italian subjects will pending further instructions be prevented from leaving Italian territory except as authorised by the Allied Commander-in Chief and will not in any event take service with any of the countries or in any of the territories of countries at war with any of the United Nations or occupied by any such country " nor will they proceed to any place for the purpose of undertaking work for any such country....."

## (iii) Short Terms Clause 10.

"The Commander-in Chief of the Allied Forces reserves to himself the right to take any measure which in his opinion may be necessary for the protection of the interests of the Allied Forces for the prosecution of the war, and the Italian Government binds itself to take such administration or other action as the Commander-in-Chief may require....."

4. We are of opinion that while clause 21 appears to provide for the control of airfields and ports, such control is not intended to be so unrestricted as to extend to a power of complete denial of entry to persons wishing to use such airfields or ports. The purport of the clause is to grant to the Allied Forces an unrestricted use of transport facilities for the benefit of United Nations personnel, and war material and supplies unless the entry of persons into those ports or airfields is of such a nature as to interfere with the transport of the United Nations personnel or the war material or supplies, the clause does not in our opinion confer a right to control such entry.

5. We are of opinion that clause 26 does confer a right to prevent egress from Italian territory, but this right only applies against Italian citizens. We do not think that the restoration of territory to the Italian Government in any way operates as a further instruction nor as an authority by the Allied Commander-in Chief within the meaning of that clause. Nor do we think that the introduction of further prohibitions concerning enemy or enemy occupied territories in any way limits the express directive contained in the early part of the clause.

6. We are of opinion that under clause 20 of the Short Terms the Commander-in-Chief has the right to require the Italian Government to prohibit the movement of civilians; whether of Italian or other nationality, between countries outside Italy and Italian Government territory provided that he is of opinion that such action is necessary for the protection of the Allied Forces for the prosecution of the war; We feel therefore that before expressing a definite opinion upon the rights conferred by the clause in this case we must know whether or not the Commander-in-Chief does take the view that the continuance of the movement under consideration constitutes a hazard to the Allied Forces in the prosecution of the war, against which protection is required. If he does take this view we are of opinion that the clause confers a right to require the Italian Government to prohibit this movement;

7. Save as above we are of opinion that the Commander-in-Chief has no right to interfere with the jurisdiction of the Italian Government in their control of such movement.

RICHARD H. WILMER,  
Colonel, C.A.C., }  
Chief Legal Advisor } 2 }

~~4102~~ 4102/2

9A

HEADQUARTERS  
ALLIED CONTROL COMMISSION  
APO 394

Ref: 6/LB/C.A.

5th October, 1944.

SUBJECT:- Movement Control.TO:- Chief Legal Adviser.

1. The Acting Chief Commissioner desires to be informed of the legal rights of the Commander-in-Chief under the Armistice Terms or other relevant document to prevent the ingress to and egress from Italian Government territory from and to places outside Italy.

2. Though by a strict control of shipping and aeroplane traffic the passage of unauthorised persons can to a large extent be eliminated, this has not been found wholly watertight and unauthorised persons of Italian and other nationalities have entered into and left Italy without leave; it is for this reason that the Acting Chief Commissioner desires to be informed of the Legal powers of the Commander-in-Chief.

-21-

  
G.R. UNJOHN. Brigadier.  
V.P. Civil Affairs Section.

LEGAL SUB COMMISSION	
CLO	
DCLO	
Chief Counsel	
CJO	
Italian	on
CL RKS	

GRU/ymb.

2D6

4011  
4012  
HEADQUARTERS  
ALLIED CONTROL COMMISSION  
LEGAL SUB-COMMISSION  
APO 594

Ref: 276/104/CA

/gb.  
17 Aug 44

SUBJECT: Use of troops in aid of Civil Power

TO: R C & U G Section

1. Reference AAI Administrative Instructions No 8,  
para 7 and AAC Circular AG 20 of 12 Aug 44 and discuss-  
ion Major Talbot - Captain More.

2. It is suggested that a letter in the following  
form might be sent to the ACC Liaison Officer:

"In practice it is hardly conceivable that a  
request for assistance would be made except in emergency  
and the Circular as at present drawn would seem to  
leave room for confusion. We think that some Allied  
Area Command should be asked to rewrite para 9 of their  
AG 300 of 12 Aug 44.

It would be better either to adopt the wording  
used in para 7 of AAI Administrative Circular No 8,  
or alternatively to retain the wording as at present,  
but omitting (a) the first sentence (b) the opening  
words "In any case" of the second sentence and (c)  
the penultimate sentence."

J. MORE,  
Captain  
for Acting Chief Legal Officer.

Copy to: ACC/4077/L

Ref: 276/104/OM

17 Aug 44

SUBJECT: Use of troops in aid of Civil Power

TO: R C & U G Section

1. Reference AAI Administrative Instructions Note 8,  
para 7 and RAAC Circular AG 20 of 12 Aug 44 and discussion  
Major Talbot - Captain More.

2. It is suggested that a letter in the following  
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and the Circular as at present drawn would seem to  
leave room for confusion. We think that Home Allied  
Arms Command should be asked to reword para 9 of their  
AG 300 of 12 Aug 44.

It would be better either to adopt the wording  
used in para 7 of AAI Administrative Circular No 8,  
or alternatively to retain the wording as at present,  
but omitting (a) the first sentence (b) the opening  
words "In any case" of the second sentence and (c)  
the penultimate sentence."

J. MORE,  
Captain  
for Acting Chief Legal Officer.

Copy to: ACC/4077/L

4102/2  
fileSECRET

(8A)

HEADQUARTERS  
 ALLIED CONTROL COMMISSION  
 R.C. & M.G. Section  
 APO 394

Phone:  
 478201

Ref/125/66/CA.

18 August 1944.

SUBJECT: Powers and Rights of Allied Forces and  
 Allied Military Government in Unoccupied Italy.

TO : Distribution below.

1. Attached hereto is copy of AAI Administrative Instruction No. 43 dated 8 August 1944.
2. This supersedes our letter 125/18/CA dated 23 March 1944.

*Not received  
but forwarded file 19*

NORMAN E. FISKE 19  
 Colonel,  
 Deputy Executive  
 Commissioner.

DISTRIBUTION:

Group 2 &amp; List "C".

LEGAL SUBCOMMISSION	
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Chief Counsel	
CJ	<i>19</i>
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88  
RE, UNITED STATES IN ITALY

AGT/3004/M(O)

ADMINISTRATIVE INSTRUCTION NO. 48

This Instruction supersedes Administrative Instruction No. 6, reference  
AGT/5344/A(C) dated 15 Dec. 44,  
POWER TO SIGN AND ISSUES OF UNITED STATES IN ITALY  
UNDOCUMENTED INSTRUCTION

1. Signature.

You will sign copies of this Instruction the term "Italian Government Term" referred to the Ministry of Government of Italy, SECRET, ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED, subject to the guidance issued by the Commission of the Italian Commission acting for the Committee of the A.I.T.

2. General.

The effect of this Instruction is to clarify the more important rights reserved to the Italian Government with the Italian Government, in such form, for the protection of Italian Government which may be handed over to the Italian Government, in respect of which full powers of Government will be possessed by the Italian Authorities.

Under these terms you will be the head of the United Control Commission in Government, SECRET, and Chairman of the Italian Government, SECRET, and Comptroller. One of the most important functions of the AGC will be liaison between the Italian Government and the Italian Administration and the Italian Control Board.

Allies will be the members of the United Control Commission in Government, SECRET, and Comptrollers. One of the most important functions of the AGC will be liaison between the Italian Control Board and the Italian Control Board. You will be the head of the Italian Control Board and the Italian Control Board will be represented on a control board or committee of the Italian Control Board, SECRET, and the Italian Control Board will be represented on a control board or committee of the Italian Control Board, SECRET. The Italian Control Board will be the head of the Italian Control Board and the Italian Control Board will be the head of the Italian Control Board.

3. Comptroller.

The AGC will be authorized the power and right to requisition private and public property in Italy for the use of the Italian Government - this right shall be exercised in accordance with the laws of the country in which it is exercised.

1945年5月25日，中華人民共和國人民民主專政中央人民委員會總理周恩來在北平同蘇聯人民委員會總理列寧斯基就中國人民解放軍和蘇聯軍隊在東北的軍事問題進行了談判。

卷之三

the Chinese government setting  
up a new capital at Peking, and  
the Chinese government sending  
a large number of troops to  
protect the Chinese legations and  
the Chinese people in the  
city of Tientsin.

GenoME

19 विजय दिवस  
में अपनी बाल विधि का अवलोकन करते हुए उन्होंने कहा-  
“विजय दिवस का अवलोकन करते हुए मैं आपको एक बड़ा गोपनीय  
देखा हूँ। आपका अवलोकन करने के लिए आपको बड़ा धूमधारी का रूप  
देखा हूँ। आपका अवलोकन करने के लिए आपको बड़ा धूमधारी का रूप  
देखा हूँ। आपका अवलोकन करने के लिए आपको बड़ा धूमधारी का रूप

be derived from the same source. The  
same may be said of the other species  
of *Thlaspi*, which are all closely  
allied to *T. arvense*. The species  
of *Thlaspi* are all annuals, and  
are all more or less glaucous, and  
have a strong disagreeable smell.  
The flowers are all white, and  
are produced in terminal cymes,  
which are branched, and have  
whorls of bracts at the base of  
the flower-stems. The leaves  
are all entire, and are either  
opposite, or whorled, or  
alternate, and are all  
more or less glaucous.  
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and are produced in terminal cymes,  
which are branched, and have  
whorls of bracts at the base of  
the flower-stems. The leaves  
are all entire, and are either  
opposite, or whorled, or  
alternate, and are all  
more or less glaucous.

卷之三

As the Pioneers Go  
On to Conquest of the West

Government Territory, all crimes will normally be tried under ITALIAN Law and in ITALIAN Courts. The Allied Forces, however, have reserved to themselves the right to hold Allied Military Courts in ITALIAN Government Territory for the trial of civilians who commit acts seriously hostile to the Allied Forces and to punish them in accordance with the ITALIAN Penal Codes.

The reservation of this right is not intended to encourage the trial of civilian offenders by Allied Courts, but is to enable them to deal with the most serious offenses against Allied personnel or property which cannot be dealt with by the ITALIAN Courts. If such an offense has been committed the military authorities will give a full statement of the facts to the local representative of the AGO with the request that an Allied Military Court be convened to hear the charges. It will be the responsibility of AGO to find the charges and constitute the Court. It is emphasized that only in the most unusual circumstances will any case in ITALIAN Government Territory be referred to AGC Courts and then only on order of AGC.

Consequently on reservation of the power to try such offenders there is reserved to the Allied Forces the power to arrest persons who are believed to have committed such crimes. High ranking ITALIAN officials and officers of the ITALIAN Armed Forces should, however, only be arrested in collaboration with the appropriate ITALIAN official (e.g. the Prefect or the Commanding Officer of the officer concerned). In all cases of arrest the agreement of the local AGC officer will be obtained beforehand, except in an emergency, when he will be informed immediately after the arrest.

#### 5. Military Zones.

The right is reserved by the Commander-in-Chief to declare specific areas in ITALIAN Government Territory to be Military zones. Upon the issue of such a declaration, the right to exercise the powers of military government in the zone in question passes once more vested in the Commander-in-Chief. It is hoped that the need for the establishment of such zones will never arise, but should the situation in any area become such as to convince the District Commander that such action is necessary, he should, after consulting the National Commissioner, report accordingly to HQ AGI giving full reasons to justify his view. The Allied Forces may also re-occupy any part of ITALIAN territory, but the right to constitute a Military zone will render it unnecessary to exercise this right in respect of any local disorders.

#### 6. Military and Civilian Internment.

The Allied Forces may continue to hold or require the ITALIAN Government to hold in custody military or civilian internees in ITALIAN Government Territory. If the Allied Forces require to arrest any person for security or other reasons such arrest should be carried out in collaboration with ITALIAN officials unless, in any particular case, it is thought that a request to the ITALIAN police to arrest a suspect would be ineffectual. In all such cases the Local AGC officer must, except in emergency, be informed of the intention to make the arrest, whether it is to be effected by the Allied or ITALIAN authorities. If he is not in agreement, the matter will be referred to higher authority. Normally such persons will be detained in 371 FW Camp.

#### 7. Use of Troops in Aid of the Civil Power.

in military zones. If such an offence has been committed the dissentive of the AGO with the request that an Allied Military Court be convened to hear the charges, it will go to the responsibility of AGO to furnish the charges will constitute the Court. It is emphasized that only in the most exceptional circumstances will any case in ITALIAN Government territory be referred to AGO Courts and then only on order of AGO.

In addition to the power to try such offenders there is reserved to the Allied Forces the power to arrest persons who are believed to have committed such offenses. High ranking ITALIAN officials and officers of the ITALIAN Armed Forces should, however, only be arrested in collaboration with the appropriate ITALIAN official (e.g. the Prefect or the Commanding Officer of the officer concerned). In all cases of arrest the agreement of the local AGO officer will be obtained beforehand, except in an emergency, when he will be informed immediately after the arrest.

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#### 7. Use of Troops in Aid of the Civil Power.

It may happen that the local ITALIAN authorities may ask for the assistance of Allied troops in quelling civil disturbances.

If such a request is made the local commander will point out that the quelling of civilian riots or disturbances is a matter for the ITALIAN administration and he will refuse such assistance, unless he is of the opinion that it is necessary for the protection of Allied military interests. Furthermore, before rendering such assistance the local commander will warn the local official requesting his assistance that the territory in question will be made forthcoming an Allied Military Zone (see para 5 above).

/TP tino

-5-

Part 7 contd.

The time permits the local commander will consult the Local AGO Officer and seek instructions from his Superior Commander before giving assistance; In any event he will inform his Superior Commander of any request made to him and the action taken thereon without delay.

3. Process in ITALIAN Courts

No member of the Allied Forces may be prosecuted or tried in ITALIAN Courts.

9. Emergency Action:

It is appreciated that an emergency may arise which requires immediate action by the Allied Forces for their protection and security, but except in such emergency all action required from the ITALIAN Administration should invariably be taken through the medium of the Regional or Provincial Commissioner. Where immediate action is taken without previous reference to AGO for emergency reasons, the appropriate AGO Officer will be informed as soon as possible.

10. Assistance to ITALIAN Authorities:

In view of the powers and rights described above, it should be recommended that the transfer of territory to the ITALIAN Government is made as part of the policy of the Allied Governments.

It is the duty of all Allied officers to assist the central and local Government authorities in acquiring and maintaining authority, and to avoid thoughtless acts which may unclothe the authority of the police, the Sismice, or the Proletti.

*H. H. Smith*

Major General,  
Chief Administrative Officer.

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/VET

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Draft

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ADVISORY INSTRUCTION NO.POWERS AND RIGHTS OF ALLIED FORCES AND ALLIED  
MILITARY GOVERNMENT IN ITALY IN ITALIAN GOVERNMENT TERRITORY.

1. On 20 July 1944 the provinces of Campobasso, Foggia, Benevento, Avellino

and Naples (with the exception of the Commune of Naples City) were handed over to Italian Government and jurisdiction, subject to the guidance and instruction of the Allied Control Commission under the Chief Commissioner acting for the Commander in Chief, U.S. The territory ~~was~~ subject to Italian jurisdiction therefore now comprises the islands of Sicily and Sardinia and (with the exception of Naples Commune) all the Italian mainland south of the Northern ~~18~~ boundaries of the provinces of Naples and Campobasso. The following paragraphs indicate the more important rights possessed by Allied troops in the territory mentioned above, which is referred to in this instruction as "Italian Government Territory".

## 2. General

(a) Full powers of government will be possessed by the Italian authorities in Italian Government Territory ~~possessed~~, subject only to such rights as have been reserved by the

Commander in Chief by agreement with the Italian Government. The most important of these rights are given in paras 3 - 9 below.

Italian Government Territory

and Naples (with the exception of the Commune of Naples City) were handed over to Italian Government and jurisdiction, subject to the guidance and instruction of the Allied Control Commission under the Chief Commissioner acting for the Commander in Chief, A.A.I. The territory ~~was~~ subject to Italian jurisdiction therefore now comprises the islands of Sicily and Sardinia and (with the exception of Naples Commune) all the Italian mainland south of the Northern ~~10~~ boundaries of the provinces of Naples and Campobasso. The following paragraphs indicate the more important rights possessed by Allied troops in the territory mentioned above, which is referred to in this instruction as "Italian Government Territory".

2. General

(a) Full powers of government will be possessed by the Italian authorities in Italian Government Territory, subject only to such rights as have been reserved by the

Commander in Chief by agreement with the Italian Government. The most important of these rights are given in paras 3 - 9 below.

(b) Apart from these rights, Allied Military Government in ~~unoccupied Italy~~ comes to an end. All Proclamations and Orders of the Military Governor and those made by his authority cease and are no longer operative; no such Proclamations or Orders can be issued in the future.

(c) Although there will be officers of the Allied Control Commission in

## Italian Government territories 2 -

~~unoccupied territories~~ they will be there to advise and control the Italian Government

and not as governors. One of the most important functions of the Regional and Provincial Officers of A.C.C. will be liaison between Allied military formations in the area and the Italian administrative officials. All but the most routine ~~business~~ dealings between the Italian administration and the Allied military authorities must be conducted through the A.C.C.

Then the Italian Government is directly represented on a control board or committee, the Military navy, of course, deal directly with that organisation without the intervention of A.C.C.

3. Rquisitioning The Allied Forces have retained the power and right to requisition private and public property and services in unoccupied Italy - this right must be exercised sparingly and only for reasons of genuine military necessity. This right is needed by the military it should be requisitioned through the Sindaco of the town where the building is situated, with the assistance of the Provincial officer.

The usual formalities of requisitioning will be strictly observed in Italian government territory as in other countries. The procedure of "hostile" requisition will be followed when necessary or the A.C.C. considers it expedient. A special authority to do this has been devised.

4. Allied Military Courts  
(a) As the Proclamation of the Military Governor ceases to operate in unoccupied Italy, all crimes will normally be tried under Italian law and in Italian courts.

The Allied forces, however, have reserved to themselves the right to hold Allied

*local*

Territory authorities must be conducted through the A.C.C. When the Italian Government

is directly represented on a control board or committee, the military may, of course, deal directly with that organisation without the intervention of A.C.C.

3. Requisitioning  
The Allied Forces have retained the power and right to requisition private

and public property and services in unoccupied Italy - this right must be exercised sparingly and only for reasons of genuine military necessity. This right

will be exercised through the Italian authorities. If, for example, a building is needed by the military it should be requisitioned through the Sindaco of the

town where the building is situated, with the assistance of the Provincial Officer.  
*The usual formalities of requisitioning will be observed, such as the sending of a requisition notice to the owner of the property, the giving of reasonable time for removal if necessary, and the payment of compensation for damage caused by requisitioning.*

4. Allied Military Courts  
(c) Is the Proclamation of the Military Governor ceases to operate in unoccupied

ITALY, all crimes will normally be tried under Italian law and in Italian courts.

The Allied Forces, however, have reserved to themselves the right to hold Allied

Italian Government territory  
Military Courts in unoccupied Italy for the trial of persons who commit acts

seriously hostile to the Allied Forces and to punish them in accordance with the Italian Penal Codes.

- (4) The reservation of this right is not intended to encourage the trial of persons <sup>in</sup> ~~of~~ Italian <sup>law</sup> by Allied Courts but ~~only~~ to deal with the most serious offences against Allied personnel or property which cannot be properly dealt with by the Italian Courts. If such an offence has been committed the military authorities should give a full statement of the facts to the local representative of the A.C.C. with the request that an Allied Military Court be convened to hear the charges. It will be the responsibility of A.C.C. to frame the charges and constitute the Court. It is emphasized that only in the most exceptional circumstances will any cases in Italian Government territory be referred to ~~Allied Military~~ Courts. ~~and~~ <sup>but</sup> ~~not~~ only in the order of the A.C.C.
- (5) ~~Persons~~ there is consequent on reservation of the power to try such ~~offences~~ persons who are believed to have committed such offences. High ranking Italian officials and officers of the Italian armed forces should, however, only be arrested in collaboration with the appropriate Italian official (e.g. the Prefect or the Commanding Officer of the officer concerned). In all cases of arrest the agreement of the local A.C.C. officer will be obtained beforehand, except in an emergency, when he should be informed immediately after the arrest.

A.G.C. with the request that an Allied Military Court be convened to hear the charges. It will be the responsibility of A.G.C. to tried the charges and constitute the Court. It is emphasised that only in the most exceptional circumstances will any cases in Italian Government territory be referred to Allied Military

Courts, and then only in extreme cases.

(6) Consistent on reservation of the power to try such persons there is

reserved to the Allied Forces the power to arrest persons who are believed to have committed such offences. High ranking Italian officials and officers of the Italian armed forces should, however, only be arrested in collaboration with the appropriate Italian official (e.g. the Prefect or the Commanding Officer of the officer concerned). In all cases of arrest the agreement of the local A.G.C. officer will be obtained beforehand, except in an emergency, when he should be informed immediately after the arrest.

5. Military Zones. The right is reserved by the Commander in Chief to declare specific areas

in unoccupied Italy to be Military Zones. Upon the issue of such a declaration, the right to exercise the powers of military government in the zone in question

becomes once no. vested in the Commander in Chief. It is hoped that the need for the establishment of such zones will never arise, but should the situation in any area become such as to convince the District Commander that such action is necessary, he should, after consulting the Regional Commissioner, report accordingly to HQ A.A.I. giving full reasons to justify his view. The Allied Forces may also re-occupy any part of Italian territory but the right to constitute a Military Zone will render it unnecessary to exercise this right in respect of any local disorders.

6. Prisoners of War and Civilian Internees.  
The Allied Forces may continue to hold or require the Italian Government to hold in custody military or civil prisoners of war in occupied areas. If the Allied Forces require to arrest any person for security or other reasons such

*Italian Government territories*  
arrest should, be carried out in collaboration with Italian officials unless in any particular case it is thought that a request to the Italian police to arrest a suspect would be ineffective. In all cases, except in emergency, the local A.C.C. officer must be informed of the intention to make any such arrest, whether by the Allied or Italian authorities. If he is not in agreement the matter will

is necessary, he should, after consulting the Regional Commissioner, report accordingly to H.Q.A.I. giving full reasons to justify his view. The Allied Forces may also re-occupy any part of Italian territory but the right to constitute a Military Zone will render it unnecessary to exercise this right in respect of any local disorders.

6. Prisoners of War and Civilian Internees.  
The Allied Forces may continue to hold or require the Italian Government to hold in custody military or civil prisoners of war in ~~the Italian Government territory~~. If the

-13

Allied Forces require to arrest any person for security or other reasons such arrest should, be carried out in collaboration with Italian officials unless in any particular case it is thought that a request to the Italian police to arrest a suspect would be ineffective. In all cases, except in emergency, the local A.C.C. officer must be informed of the intention to make any such arrest, whether by the Allied or Italian authorities. If he is not in agreement the matter will be referred to higher authority. Normally such persons will be detained in 371 P.W. Camp.

7. Use of Troops in Aid of the Civil Power.  
(c) It may happen that the local Italian authorities may ask for the assistance of Allied troops in quelling civil disturbances.

If such request is made the local commander will point out that the quelling of civilian riots or disturbances is a matter for the Italian Administration and he will refuse such assistance unless he is of the opinion that it is necessary for the protection of Allied Military interests. Furthermore, before rendering such assistance the Local commander will warn the local official requesting his assistance that the territory in question will be made forthwith an Allied Military zone (see para. 5 above).

(A) If time permits the local commander will consult the local A.O.C.C. officer and seek instructions from his Superior Commander before giving assistance; in any event he will inform his Superior Commander of any request made to him and the action taken thereon without delay.

B. Process in Italian Courts.  
No member of the Allied Forces may be prosecuted or sued in Italian Courts.

C. Emergency Action.  
It is appreciated that an emergency may arise which requires immediate action by the Allied Forces for their protection and security but except in such emergency all action required from the Italian Administration should

invariably be taken through the medium of the Regional or Provincial Commissioner

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Such assistance the local commander will warn the local official requesting his assistance that the territory in question will be made forthwith an Allied Military Zone (see para. 5 above).

- (A) If time permits the Local commander will consult the Local A.O.C. officer and seek instructions from his Superior Commander before giving assistance; in any event he will inform his Superior Commander of any request made to him and the action taken thereon without delay.

8. Process in Italian Courts.  
No member of the Allied Forces may be prosecuted or sued in Italian Courts.

9. Emergency Action.  
It is anticipated that an emergency may arise which requires immediate action by the Allied Forces for their protection and security but except in such emergency all action required from the Italian Administration should invariably be taken through the medium of the Regional or Provincial Commissioner of the Allied Control Commission. Where immediate action is taken without previous reference to A.O.C. for emergency reasons, the appropriate A.O.C. officer will be informed as soon as possible.

MURKIN, it is anticipated that further transfers of territory to

Italian Government control will be take place from time to time. Any such

transfers will be notified, and (subject to any notification to the contrary) the ~~same~~ instructions contained in para 2(b) of these instructions will apply to any ~~such~~ territory transferred.

295

Enc. v file

(6A)

GRU/cmf

REAR HEADQUARTERS  
ALLIED CONTROL COMMISSION  
Legal Subcommission  
RFO 394

/ file  
ACC/4102/2/L

8 May 1944

SUBJECT: Position of Military Authorities in Unoccupied Territory.

TO : Executive Commissioner, ACC.

1. I enclose copy of a letter sent to me from P.C. Potenza and enclosures. These were sent to me direct as a result of my request when visiting Major Nicholls at Potenza last Friday.

2. The communications by 52 Area Command ought, I think you will agree, never to have been made by them direct to the Italian authorities and contravenes Para. 2 of Administrative Instruction No. 6 issued by HQ MI Admin. Echelon on 15 March (See AIL/3064/4(0)).

3. It is submitted that it is essential that all such communications be made through ACC for two reasons.

(a) Nothing is more harmful to relationship between ACC officers in the field and local Italian authorities than to have another body issuing requests and instructions to such local authorities.

(b) The wishes of the Military Authorities can be transmitted to the Italian local authorities far more efficiently through ACC. The Prefect or Questore can be asked to pass the appropriate ordinances and so on as to put the matter on a proper footing. This was done, you will recall, when 56 Area wanted to restrict the sale of wine and wrote to ACC asking them to take the necessary steps (See enclosure to your 307/46/C dated 5 April).

4. For the above reasons will you please ask HQ MI to instruct 52 Area to discontinue their present practice and channel all such requests through the appropriate ACC authority.

G. R. UPJOHN  
Colonel  
Chief Legal Officer.

Copy to: P.C. Potenza.

File ACC/4102/L

C  
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t YALLIED CONTROL COMMISSION  
POTENZA PROVINCE

Pr

5A

Potenza, 5 May 1944

TO : HQ ACC - Salerno - (for Chief Legal Officer)  
From : Major H.H. Nichols - Provincial Commissioner - POTENZA  
SUBJECT: Sale of Wine.

I enclose herewith copies of correspondence re: sale of wine to Allied Forces from No. 52 Area who it appears deal direct with civilian authorities.

Please advise me whether I should be in order in insisting that in this Province such instructions should be issued by ACC.

(sgd) H. H. Nichols

Major, Provincial Commissioner.  
Potenza Province.

Enc.

vq/

See also file 44-1

9

5B

13 April 1944

XXXXXX

Memorandum to: Lt. Col. Chapman, R.L.C., Region III

XXX

Facts of cases at Pompei.

1. Three American soldiers went from Pompei to Scafati which is just across the line, and while there were beaten up by a group of Italian civilians. The latter were arrested by the Military Police in Scafati and were brought back to Pompei for trial. The defendants set up as their defence lack of jurisdiction since the crime was committed in Scafati which is a part of the King's Italy. Question arises whether or not the Allied Military Government Court at Pompei has jurisdiction to try these cases.

The other situation involves offenses committed in Pompei and the arrest of the offenders in Scafati being brought back for trial in Pompei. Defense set up is lack of jurisdiction, Scafati being part of King's Italy.

JOHN K. WEBER  
Colonel, Infantry  
P.L.O., Naples Prov'

MOST SECRET

(4A)

~~4102~~  
HEADQUARTERS  
ALLIED CON 'L COMMISSION  
R.C. & I. .. SECTION  
APO 394

Ref/125/20/CA

28 March 1944

SUBJECT: Powers and Rights of Allied Forces and  
AMG in unoccupied territory.

TO : Legal Sub-Commission.

1. As requested in your ACC/4102/2/L of 26  
March 1944, attached hereto is copy of AAI/3064/A(O)  
of 15 March 1944 dealing with above subject.

2. Please acknowledge receipt.

*for Dipfield White Major*  
for NORMAN E. FISKE  
Colonel  
Deputy Executive  
Commissioner

7

17 WAR Recd

17 Mar 44

SECRET

A.I. ALL INFORMATION  
CONTAINED HEREIN IS UNCLASSIFIED

ALL INFORMATION CONTAINED

ADMINISTRATIVE DIRECTION NO 6

POWERS AND RIGHTS OF ALLIED FORCES AND ALLIED  
MILITARY GOVERNMENT IN UNOCCUPIED ITALY

1. On 11 Feb 44, the port of Cagliari, South of Northern boundaries of the Provinces of SARDINIA, SICILY and TRIVENETO, together with strictly sea the adjacent Islands, was handed over to the Italian Government and jurisdiction, subject to the guidance and instruction of the Allied Control Commission under the Chief Commissioner acting for the Commander-in-Chief ...<sup>1</sup>. The following paragraphs indicate the more important rights possessed by military forces in the territory mentioned above, which is referred to in this Instruction as "unoccupied Italy".

2. General  
Full powers of government will be possessed by the Italian authorities in unoccupied Italy, subject only to such rights as have been reserved by the Commissioner-in-Chief by agreement with the Italian Government. The most important of these rights are given in parts 5 - 9 below.

3. Apart from these rights, Allied Military Government in unoccupied Italy comes to an end. All Proclamations etc. Orders of the Military Governor and all his authority cease and are no longer operative; no such Proclamations or Orders can be issued in the future.

Although there will be officers of the Allied Control Commission in unoccupied Italy they will be there to advise and control the Italian Government and not as governors. One of liaison must be present functions of the 3rd Army and Provincial Officers of A.O.C. Liaison between Allied Military Government in the areas and the Italian administrative officials. All other military authorities must conduct the Italian administration and the Allied Military authorities must be represented on a control board or committee, the Military Navy, of course, will directly with that organization without the intervention of A.O.C.

4. Recognition  
The Allied Forces have retained the power and right to regulate railways and public transports and services in unoccupied Italy - this right must be exercised sparingly and only for reasons of genuine military necessity. This right will be exercised through the Italian authorities, for example, a building is needed by the military it should be requisitioned through the Director of the building is situated, with the assistance of the Provost Marshal Officer of the A.O.C. The usual formalities of requisitioning are used in occupied territory should be strictly followed in unoccupied Italy. The property of disbanded associations must not be seized without giving a receipt and this only if required for reasons of military necessity.

1. On 14 Feb. 45, the portion in TELLY South of Northern Venezia and the adjacent Provinces of TIRIO, FOLIZZ, and VIX, together with SICILY and the adjacent unoccupied TELLY, subject only to such rights as have been reserved by the Commandant-in-Chief by agreement with the Italian Government. The most important Commissioner acting for the Commander-in-Chief, i.e., the Voluntary Comptroller, indicates the more important rights possessed by Allied forces in the territory mentioned above, which is referred to in this instruction as "unoccupied TELLY".

2. Full powers of Government will be possessed by the Italian authorities in unoccupied TELLY, subject only to such rights as have been reserved by the Commandant-in-Chief by agreement with the Italian Government. The most important of these rights are given in para 3 - 9 below.

6  
 Apart from these rights, allied Military Government is unoccupied TELLY enjoys certain end... Proclamations and Orders of the Military Governor and the corresponding Orders by His authority cease and are no longer effective; no such Proclamation or Order can be issued in this future.

Although there will be officers of the allied General Commission in unoccupied Italy they will be here to advise and control the Italian Government and not as Governors. One citizen in each town or village will be appointed Provincial Officers of A.C.C. between the Italian administrative offices and between the Italian administration and the military authorities. Direct liaison will be conducted through the A.C.C. After the Italian administration is restored A.C.C. can be controlled by a Board of committee, the Military and, of course, directly by the next organization without the intervention of A.C.C.

3. Requisitioning  
The allied forces have retained the power and right to requisition private and public property and services in unoccupied TELLY - this right must be exercised sparingly and only for reasons of genuine military necessity. Thus rights will be exercised through the Italian authorities. It, for example, a building is needed by the military it should be requisitioned through the sindaco of the town where the building is situated, with the resistance of the Provincial officer of the A.C.C. The usual formalities of requisitioning used in occupied territory should be strictly followed in unoccupied TELLY. The property of disloyal Fascist societies must not be seized without giving a receipt and which only if required for reasons of military necessity.

4. Allied Military Courts  
As the proclamation of the Military Governor ceases to operate in unoccupied TELLY, all crimes will normally be tried under Italian law and in Italian courts. Thus rights will be granted to the Italian authorities to prosecute criminal offenders in their own names. The allied forces, however, have reserved to themselves the right to trial of criminals who commit acts of serious hostility to the allied forces and to punish them in accordance with the Italian Penal Codes.  
The reservation of this right is not intended to encourage the trial of civilian offenders by allied Courts but only to deal with the most serious offenses against allied personnel or property which cannot be properly dealt with by the Italian Courts. If such an offense has been committed the representative of the ... G.C. should give a full statement of the facts to the local representative of the ... G.C. with the request that an allied Military Court be convened in the ... area. This will be the responsibility of ... G.C. to arraign the charges and sentence the guilty.

Consequent on reservation of the power to try such offenders there is reserved to the Allied Forces the power to arrest persons who are believed to have committed such offenses. When ranking Italian officials and officers of the appropriate Italian forces should, however, only be arrested in collaboration with the appropriate Italian official (e.g., the Prefect or the Commanding Officer of the officer concerned). In all cases of arrest the agreement of the local A.C.C. officer will be obtained beforehand, except in an emergency, when he should be informed immediately after his arrest.

5. Military Zones

The right is reserved by the Commander-in-Chief to designate specific areas in unoccupied Italy to be Military Zones. Upon the issue of such a declaration, the right to exercise the powers of military government in the Zone in question becomes once more vested in the Commander-in-Chief. It is hoped that the need for the establishment of such zones will never arise, but should the situation in any area become such as to convince the District Commander that such action is necessary, he should, after consulting the Regional Commissioner, report accordingly to HQ A.I.L. giving full reasons to justify his view. The allied Forces may also occupy any part of Italian territory but the right to constitute a Military Zone will render it unnecessary to exercise this right in respect of any local disorders.

6. Prisoners of War and Civilian Internees.

The allied Forces may continue to hold or require the Italian Government to hold in custody, military or civil prisoners of war in unoccupied P.L.I. If the allied Forces require to arrest any person for security or other reasons such as arrest should be carried out in collaboration with Italian officials unless in any particular case it is thought that a request to the Italian Police to arrest a suspect would be ineffective. In all cases, except in emergency, the local A.C.C. officer must be informed of the intention to make any such arrest, whether by the allied or Italian authorities. If he is not in agreement the matter will be referred to higher authority. Normally such persons will be detained in P.D. Camp.

7. Use of Troops in aid of the Civil Power.

It may happen that the local Italian authorities may ask for the assistance of allied troops in quelling civil disturbances. If such request is made the local commander will point out that the quelling of civilian riots or disturbances is a matter for the Italian Administration and he will refuse such assistance unless he is of the opinion that it is necessary for the protection of allied military interests. Furthermore, before rendering such assistance the local commander will warn the local official requesting his assistance that the territory in question will be held responsible in allied Military Zone (see para. 5 above).

If at time permits the local commander will consult the local A.C.C. officer and seek instructions from his Superior Commander before giving assistance; in any event he will inform his Superior Commander of any request made to him and the action taken thereon without delay.

8. Prisons in Italian Courts.

No member of the allied forces may be prosecuted or tried in Italian Courts.

9. Proceedings against members of the Italian Government.

Military Zones

The effects to be exercised by the Commander-in-Chief to derive specific areas in uncontrollably to be Military Zones. Upon the loss of such a total control, the right to exercise the powers of Military Government in the Zone in question becomes vested in the Commander-in-Chief. It is hoped that this command for the establishment of such zones will never arise, but should the situation of any fact become such as to convince the District Commander that such a situation is necessary, he may, after consulting the Regional Command, report accordingly to HQ ... I, giving full reasons to justify his view.

Forces may also occupy parts of Italian territory and the ...  
commit unto military zone shall render it unnecessary to exercise this right in respect of any local disorders.

6. Prisoners or War and Civilian Internees.

The Allied Forces may continue to hold or require the Italian Government to hold an excess of military or civil prisoners of war in unoccupied Italy. If the Italian Forces refuse to treat any person for security or other reasons much arrest should be carried out in collaboration with Italian officials unless in my judgment case it is thought that a request to the Italian Police to arrest a suspect would be ineffective. In all cases, except in emergency, the Local A.O.C. officer must be informed of the intention to make any such arrest, whether by the United or Italian authorities. It is not in agreement the number will be referred to higher authority. Normally such persons will be detained in 37L P.I. Camp.

7. Trial of Troops in Aid of the Civil Power.

To my knowledge the local Italian authorities may ask for the assistance of allied troops in quelling civil disturbances. If such request is made the local commander will point out that the quelling of civilian riots or disturbances is a matter for the Italian Administration and will refuse such assistance unless he is of the opinion that it is necessary for the protection of Allied Military interests. Furthermore, before rendering such assistance the local commander will inform the Local official requesting his assistance that the territory in question will be made part of an allied Military Zone (see para. 5 scope).

It is to be permitted the local commander will consult the local A.O.C. officer and seek instructions from his Superior Commander before giving any assistance; in any event he will inform his Superior Commander of any request made to him and the action taken thereon without delay.

8. Prosecution of Italian Officers.

No member of the allied Forces may be prosecuted or sued in Italian Courts.

9. Provinces of Italy.

Notwithstanding the various nature of the powers of Military Government in the Provinces of LIGURIA, TOSCANA, MARCHE and SICILY. The agreement has reached with the Italian Government makes the rights of the allied forces in those provinces identical with their rights in the areas recently transferred from Milanese Military Government to Italian control. Accordingly, all the rights described above as reserved to the allied forces, such as the right of requisitioning and of convening military tribunals from the trial of acts hostile to the allied forces, may be exercised wherever in the four Provinces named above.

...../3

10. Emergency Action.

It is appreciated that an emergency may arise which requires immediate action by the Allied Forces for their protection and security but except in such emergency all action required from the Italian Administration should invariably be taken through the medium of the Regional or Provincial Commissioner. Where immediate action is taken without previous reference to A.C.C. for emergency reasons, the appropriate A.C.C. officer will be informed as soon as possible.

*M. H. Johnson*

Major-General,  
C.A.C.

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5

Rear Headquarters  
Allied Control Commission  
Legal Subcommission  
APO 394

(SP) /gnf

ACQ/1102/2/L

26 March 1944.

SUBJECT: Powers and Rights of Allied Forces & AMG in Unoccupied Territory.

TO : Executive Commissioner, ACC.

May this subcommission please be supplied with a copy of HQ AMI  
Administrative Instruction referred to in para 1 of your Ref /125/18/CA  
dated 23 March, 1944, on the above subject.

G. R. UPJOHN, Colonel  
Chief Legal Officer.

2A  
Sp/Rec'd by 18 May Apr 1  
125/16/107 of 1 PAI

Ref/125/18/CA.

SUBJECT: Powers and Rights of Allied Forces and Allied  
Military Government in Unoccupied Italy.

TO : See Distribution Below.

1. HQ, A.A.T. (Admiral Bachelor) C.H.P. has issued an Administrative  
Instruction to all Military formations outlining the situation in general terms  
and substantially as stated in memoranda from this HQ dated 23 Jan and 31 Jan  
already in your possession.

2. The following extracts are quoted for your information:

- (a) Although there will be officers of the Allied Control Commission in  
unoccupied ITALY they will be there to advise and control the Italian  
Government and not as governors. One of the most important functions of  
the Regional and Provincial Officers of the Commission will be liaison  
between Allied Military formations in the area and the Italian adminis-  
trative officials. All but the most routine dealings between the  
Italian administration and the Allied Military authorities must be  
conducted through the Commission. When the Italian Government is  
directly represented on a control board or committee, the Military may,  
of course, deal directly with that organisation without the intervention  
of the Commission.

(b) Requisitioning.

The Allied Forces have retained the power and right to requisition pri-  
vate and public property and services in unoccupied ITALY - this right  
must be exercised sparingly and only for reasons of genuine military  
necessity. This right will be exercised through the Italian author-  
ities. I.e., for example, a building needed by the military it should  
be requisitioned through the Sindaco of the town where the building is  
situated, with the assistance of the Provincial Officer of the Commission.  
The usual formalities of requisitioning used in occupied territory should  
be strictly followed in unoccupied ITALY. The property of dissolved  
Fascist societies must not be seized without giving a receipt and then  
only if required for reasons of military necessity.

(c) Allied Military Courts.

As the Proclamation of the Military Governor causes to operate in  
unoccupied ITALY, all crimes will normally be tried under Italian law and  
the Italian Courts. The Allied Forces however have reserved to them-

TO : See Distribution Below.

1. HQ, A.A.I. (Admim Echelon) C.M.F. has issued an Administrative Instruction to all Military formations outlining the situation in general terms and substantially as stated in memos from this HQ dated 23 Jan and 31 Jan already in your possession.

2. The following extracts are quoted for your information :

- (a) Although there will be officers of the Allied Control Commission in unoccupied Italy they will be there to advise and control the Italian Government and not as governors. One of the most important functions of the Regional and Provincial Officers of the Commission will be liaison between Allied Military formations in the area and the Italian administrative officials. All but the most routine decisions between the Italian administration and the Allied Military authorities must be conducted through the Commission. When the Italian Government is directly represented on a control board or committee, the Military may, of course, deal directly with that organisation without the intervention of the Commission.

(b) Requisitioning.

The Allied Forces have retained the power and right to requisition private and public property and services in unoccupied Italy - this right must be exercised sparingly and only for reasons of genuine military necessity. This right will be exercised through the Italian authorities. If, for example, a building is needed by the military it should be requisitioned through the Sindaco of the town where the building is situated, with the assistance of the Provincial Officer of the Commission. The usual formalities of requisitioning used in occupied territory should be strictly followed in unoccupied Italy. The property of dissolved fascist societies must not be seized without giving a receipt and then only if required for reasons of military necessity.

(c) Allied Military Courts.

As the Proclamation of the Military Governor causes to operate in unoccupied Italy, all crimes will normally be tried under Italian law and in Italian courts. The Allied Forces, however, have reserved to themselves the right to hold Allied Military Courts in unoccupied Italy for the trial of civilians who commit acts seriously hostile to the Allied Forces and to punish them in accordance with the Italian Penal Codes.

The reservation of this right is not intended to encourage the trials of civilian offenders by Allied Courts but only to deal with the most serious offences against Allied personnel or property which cannot be properly dealt with by the Italian Courts. If such an offence has been committed the Military Authorities should give a full statement of the facts to the local representative of the Commission with the request that an Allied Military Court be convened to hear the charges. It will be the responsibility of the Commission to frame the charges and constitute the Court.

-2-

Consequent on reservation of the power to try such offenders there is reserved to the Allied Forces the power to arrest persons who are believed to have committed such offenses. High ranking Italian officials and officers of the Italian Armed Forces should, however, only be arrested in collaboration with the appropriate Italian official (e.g. the Prefect or the Commanding Officer of the officer concerned). In all cases of arrest the agreement of the local officer of the Allied Control Commission will be obtained beforehand, except in an emergency, when he should be informed immediately after the arrest.

- (d) The right is reserved by the Commander-in-Chief to declare specific areas in unoccupied Italy to be Military Zones. Should the situation in any area become such as to convince the District Commander that such action is necessary, he should, after consulting the Regional Commissioner, report accordingly to HQ. A.A.I., giving full reasons to justify his view. It may happen that the local Italian authorities may ask for the assistance of Allied troops in quelling civil disturbances. If such request is made the local commander will point out that the quelling of civilian riots or disturbances is a matter for the Italian Administration and he will refuse such assistance unless he is of the opinion that it is necessary for the protection of Allied Military interests. Before rendering such assistance the local commander will warn the local official requesting his assistance that the territory in question will be made a part of an Allied Military Zone. If time permits the local commander will consult the local officer of the Commission before giving assistance.

(e) Prisoners of War and Civilian Interness.

The Allied Forces may continue to hold or require the Italian Government to hold in custody military or civil prisoners of war in unoccupied Italy. If the Allied Forces require to arrest any person for security or other reasons such arrest should be carried out in collaboration with Italian officials unless in any particular case it is thought that a request to the Italian police to arrest a suspect would be ineffective. In all cases, except in emergency, the local officer of the Commission must be informed of the intention to make any such arrest, whether by the Allied or Italian authorities. If he is not in agreement the matter will be referred to higher authority. Normally such persons will be detained in 371 P.W. Camp.

(f) Process in Italian Courts.

No member of the Allied Forces may be prosecuted or sued in Italian Courts.

- (g) The agreement now reached with the Italian Government makes the rights of the Allied Forces in the provinces of Apulia identical with their rights in the areas recently transferred from Allied Military Government to Italian Government.

3. The instruction emphasises that except where, in emergency, immediate action is required by the Allied Forces for their own protection and security, all action required from the Italian Administration should invariably be taken through the medium of the Agent or Front Office of the Commission.

all cases of arrest the ~~authorities~~ <sup>will be obtained beforehand, except</sup> Control Commission will be informed immediately after the arrest, when he should be informed.

- (d) The right is reserved by the Commander-in-Chief to declare specific areas in unoccupied Italy to be Military Zones. Should the situation in any area become such as to convince the District Commander that such action is necessary, he should, after consulting the Regional Commissioner, report accordingly to HQ. .... I. giving full reasons to justify his view. It may happen that the local Italian authorities may ask for the assistance of the local commander will point out that the quelling of civilian riots or disturbances is a matter for the Italian Administration and he will refuse such assistance unless he is of the opinion that it is necessary for the protection of Allied Military interests. Before rendering such assistance the local commander will warn the local official requesting his assistance that the territory in question will be made forthcoming in Allied Military Zone. If this permits the local commander will consult the local officer of the Commission before giving assistance.

(e) Prisoners of War and Civilian Internees.

The Allied Forces may continue to hold or require the Italian Government to hold in custody military or civil prisoners of war in unoccupied Italy. If the Allied Forces require to arrest any person for security or other reasons such arrest should be carried out in collaboration with Italian officials unless in any particular case it is thought that a request to the Italian police to arrest a suspect would be ineffective. In all cases, except in emergency, the local officer of the Commissioner must be informed of the intentions to make any such arrest, whether by the Allied or Italian authorities. If he is not in agreement the matter will be referred to higher authority. Normally such persons will be detained in 371 P.W. Camp.

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The instruction emphasises that except where, in emergency, immediate, action is required by the Allied Forces for their own protection and security, all action required from the Italian Administration should invariably be taken through the medium of the Regional or Provincial Commissioner.

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It is further notified that where immediate action is taken without previous reference to the Allied Control Commission for emergency reasons, the appropriate officer of the Commission will be informed as soon as possible.

4. It will thus be appreciated that HQ, A.A.I., are seeking to obtain the fullest co-operation between military commanders and the Allied Control Commission. It should be your constant endeavour to reciprocate.

ROTHAN E. FISKE  
Colonel,  
Deputy Executive  
Commissioner.

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DISTRIBUTION:

All Regional Commissioners.  
SCAO's 5th and 8th Armies.  
Distribution "C".

(IA)

REAR HEADQUARTERS  
ALLIED CONTROL COMMISSION  
Legal Subcommission  
APO 394.

GRU/gmf

Acc/4181/2/c

21 March 1944.

SUBJECT: Directive on rights of Military authorities in unoccupied territory.

TO : Executive Commissioner, ACC.

Sometime ago Col. Upjohn handed to Brig. Lush a draft directive on the a/m subject, matter to be considered by C in C MI and if approved to be issued under his direction to MI.

It is understood that this directive was handed to the Chief Commissioner who in turn handed it to the C in C.

May I please be informed what action has been taken and supplied with a copy of any directive that has been issued.

1

G. R. UPJOHN, Colonel  
Chief Legal Officer.

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