ACC

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(VOL. 2)

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(VOL. 2)

ITALIAN LEGISLATION UNDER ACC
(JUN. - AUG. 1943); OCT., NOV. 1944

FILE CLOSED 18 November 1944

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HEADQUARTERS ALLIED COMMISSION
FINANCE SUB-COMMISSION
APO 394

13171/F

18 November 1944

SUBJECT : Expurgation - Commercial Insurance Companies

TO : Legal Sub-Commission.

1. Copies of the following documents in English and Italian are transmitted herewith:

(a) Letter from Minister of Industry, Commerce and Labour dated 9 November 1944

(b) Draft decree referred to therein

(c) Decree No. 739 of 21 August 1943 which (b) above would extend to insurance companies.

110

2. The intention behind the letter dated 9 November, and the proposal for extension of Decree No.739 to insurance companies is one of expurgation. Such companies are commercial undertakings, either with a share capital or a subscribed guarantee fund, and are not subject to any existing expurgation provisions.

3. We have been verbally informed, in the course of discussions with the Ministry

(a) that the decree can only be applied to those companies whose Head Offices (and hence, in theory, whose Consigli di Amministrazione) are located in territory which has been liberated; and of those companies, only to those whose Consigli are either known to be composed of undesirable persons, or have already been depleted by AMG suspensions.

(b) that the appointment of a Commissioner is essential on dissolution of a Consiglio, in order to maintain a control that will be responsible to the owners of the company - i.e. the shareholders. It being

known that there is an almost complete absence of competent men for such posts outside the ranks of the companies themselves, it has been agreed verbally that Commissioners should be picked as far as possible from amongst elements from within the companies who are both competent and acceptable.

(c) There is no intention to apply the provisions of the proposed decree to companies which, although operating from a temporary Head Office in Liberated Italy under properly authorised officials, have their Head Offices proper in territory not yet liberated. Application in such cases is intended to be left over until the Head Office has been reached. This is important, as the nomination of Commissioners in such cases is expected to have undesirable repercussions in the North.

(d) That the term of appointment of a Commissioner would last only until such time as a general meeting of shareholders could be called to elect a new Consiglio.

4. Your opinion as to whether the proposed decree best puts into effect the intentions declared would be appreciated. Our own feeling is that a phrase might be added, to allay misgivings otherwise possible amongst both professional elements and the insured public, to the effect that this decree will only be applied to companies with Head Offices in Liberated Territory in those cases where the existing Consigli di Amministrazione are either in need of investigation or have been so weakened by Military Government suspension as to be unable to exercise their proper functions.

D.P. Francey Smith
Colonel

Joint Director
Finance Sub-Commission.

copy: mgs

112Y

Ref: N° 280 XIV 29
From : Ministero dell' Industria, Commercio e Lavoro
TO : Commissione Alleata di Controllo

OGGETTO : Sistemazione imprese assicuratrici.

1. E' proposito di questo Ministero procedere alla sistemazione di quelle imprese di assicurazione il cui indirizzo risente di sistemi che debbono essere rinnovati.

Il fascismo ne deviò le funzioni da quei compiti che avrebbero dovuto svolgere secondo il loro ordinamento, e a questi compiti esse devono venire al più presto restituite.

2. Una finalità del genere non potrebbe essere attuata mediante gli organi amministrativi ordinari, poichè esige una valutazione complessiva della gestione ventennale di ogni impresa, che gli organi stessi non potrebbero compiere se essi non funzionarono in modo da imporre il rispetto degli scopi statutari.

3. Com'è noto, il Ministero dell' Industria esercita sulle imprese di assicurazione una vigilanza penetrante che, in base al R.D. 29 Aprile 1923 n. 966, implica possibilità di imporre direttive di azione e può spingersi fino alla nomina di Commissari per la liquidazione e soppressione delle imprese.

Ma l'esercizio di questi poteri sembra eccessivo ed ingombrante e sopratutto eccessivamente autoritario. 109

4. In attesa della revisione della legislazione sulle imprese di assicurazioni, sembra più conveniente estendere alle stesse il RD. 21 agosto 1943, n. 739, che consente di sottoporle alla gestione commissariale, analogamente a quanto si è disposto per gli istituti di credito col decreto Luogotenenziale 12 settembre 1944, n. 222.

Ciò darebbe anche la possibilità di far rientrare le imprese assicuratrici fra le aziende cui può applicarsi il procedimento di epurazione.

5. Si è in conseguenza predisposto l'unito schema di provvedimento legislativo che, ricollegandosi a principi dai quali le imprese assicuratrici sono governate in base alle leggi vigenti, non presenta alcun carattere eccezionale, nè riveste gli estremi di una anormale ingerenza dello Stato.

6. Si porta a conoscenze di codesta Commissione lo schema predetto, il cui spirito e le cui ragioni imporranno al Governo un uso moderato ed eccezionale del potere previstovi. Esso, com'è palese, potrà più profondamente esercitarsi solo per le imprese rispetto alle quali è più vivo e generale il bisogno di un ritorno ai compiti istituzionali e che più subirono la pressione fascista, per l'origine del loro capitale e per il legame patrimoniale con l'Istituto nazionale delle assicurazioni.

IL MINISTRO
/s/ Gronchi.

TRANSLATION

Ministry of Industry, Commerce and Labour.

9 Nov. 1944

1. This Ministry proposes to deal with those insurance companies whose operations have been affected by influences that must be changed.

Fascism has caused those managements to be diverted from the functions they ought to be performed in accordance with their proper duties, to which they must return as soon as possible.

2. Final settlement of this problem cannot be resolved by means of the ordinary company directorates, because there is need for a comprehensive survey of the management of each over the last twenty years, a survey which the company directorates could not perform, as they did not function in such a way as to carry out their statutary obligations.

3. As is known, this Ministry exercises over insurance companies a strict supervision which, by RDL. No.966 of 29 april 1923, includes the power of prescribing certain actions, and of appointing Commissioners for the liquidation and suppression of companies. The exercise of these powers, however, seems unnecessary and embarrassing, besides being too dictatorial.

4. Pending revision of insurance legislation, it seems more convenient to extend to such companies RDL. No.739 of 21 Aug. 1943, which would permit them to be placed under the management of a Commissioner in a way similar to that which has been provided for Institutions of Credit by means of the Lieut. General's decree No. 222 dated 12 Sept.1944. This would also make possible the inclusion of insurance companies in those institutions to which expurgation procedure can be applied.

5. Provisional legislation in accordance with the attached draft is therefore proposed. By referring to the principles under which insurance companies are governed by existing laws, this does not present any exceptional characteristics, nor involve abnormal interference by the State.

6. The Allied Commission is hereby advised of this draft, the intention and reasons of which will oblige the Government to use the powers moderately as occasion arises. Such powers will be fully exercised only for businesses in respect of which there is a real need for a return to statutary obligations, and which have been most subjected to Fascist pressure for the origin of their capital and for their financial ties with the Istituto Nazionale delle Assicurazioni.

THE MINISTER.

1122

SCHEMA DI DECRETO LEGISLATIVO LUOGOTENENZIALE CONCERNENTE LA NOMINA DI COMMISSARI ALLE IMPRESE PRIVATE DI ASSICURAZIONE.

UMBERTO DI SAVOIA PRINCIPE DI PIEMONTE
LUOGOTENENTE GENERALE DEL REGNO

In virtù dell'autorità a Noi delegata;

VISTO il RDL. 20 aprile 1923 n. 966, convertito nella legge 17 aprile 1925, n. 473, e le successive disposizioni modificative e integrative, concernenti l'esercizio delle assicurazioni private;

VISTO il RD. 4 gennaio 1925, n. 63, modificato con RD. 4 marzo 1926, n. 519, che approva il regolamento per l'esecuzione del predetto RDL. 29 aprile 1923,n. 966;

VISTO il Decreto Luogotenenziale 25 giugno 1944, n. 151 relativo all'assemblea per la nuova costituzione dello Stato, al giuramento dei membri del Governo e alla facoltà del Governo di emanare norme giuridiche;

VISTO il RDL. 30 ottobre 1943, n. 2/B; modificato con RDL. 29 maggio 1944, n. 141, riguardante la sospensione delle norme relative all'emanazione, promulgazione, registrazione e pubblicazione di Regi decreti e di altri provvedimenti;

VISTO il RDL. 21 agosto 1943, n. 739 relativo allo scioglimento degli organi deliberativi degli enti pubblici e alla nomina di commissari straordinari;

VISTA la deliberazione del Consiglio dei Ministri;

SULLA proposta del Ministro per l' Industria, il Commercio ed il Lavoro, di concerto con il Ministro per la Grazia e Giustizia e con quello del tesoro;

105

ABBIAMO SANZIONATO E
PROMULGHIAMO QUANTO SEGUE:-

Art. 1

Le disposizioni del RDL. 21 agosto 1943, n. 739 sono estese alle imprese private di assicurazione, di capitalizzazione e di risparmio, soggette alla disciplina del RDL. 29 aprile 1923, n. 966, convertito nella legge 17 aprile 1925 n. 473, e delle leggi modificatrici e integratrici del regio decreto predetto.

Art. 2

Il decreto di scioglimento degli organi deliberativi e di nomina di commissari straordinari è adottato dal Ministro per l'Industria, il Commercio ed il Lavoro, il quale determina il periodo massimo della gestione commissariale.

RD. 4 marzo 1926, n. 519, che approva il regolamento per l'esecuzione del predetto RDL. 29 aprile 1923,n. 966;

VISTO il Decreto Luogotenenziale 25 giugno 1944, n. 151 relativo all'assemblea per la nuova costituzione dello Stato, al giuramento dei membri del Governo e alla facoltà del Governo di emanare norme giuridiche;

VISTO il RDL. 30 ottobre 1943, n. 2/B; modificato con RDL. 29 maggio 1944, n. 141, riguardante la sospensione delle norme relative all'emanazione, promulgazione, registrazione e pubblicazione di Regi decreti e di altri provvedimenti;

VISTO il RDL. 21 agosto 1943, n. 939 relativo allo scioglimento degli organi deliberativi degli enti pubblici e alla nomina di commissari straordinari;

VISTA la deliberazione del Consiglio dei Ministri;

SULLA proposta del Ministro per l' Industria, il Commercio ed il Lavoro, di concerto con il Ministro per la Grazia e Giustizia e con quello del tesoro;

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Art. 3

Il presente decreto entra in vigore nel giorno successivo alla sua pubblicazione nella Gazzetta Ufficiale del Regno.

Ordiniamo,a chiunque spetti, di osservare il presente decreto e di farlo osservare come legge dello Stato.

Dato a.....

Seen

RDL. No. 966 of 29 April 1923, converted into law No. 473 dated 17 April 1925, and subsequent modifying and consolidating provisions, concerning the transaction of insurance,

- RDL. No. 63 dated 4 January 1925, amended by RD. No. 519 dated 4 March 1926, which approves rules for the application of the said RDL. No. 966 of 29 April 1923;

- Lieut. General decree No. 151 dated 25 June 1944 relating to the assembly for a new constitution of the State, to the jurisdiction of the members of the Government and to the powers of the Government to issue juridical rules.

- RDL. n. 2/B dated 30 October 1943, amended by RDL. No. 141 of 29 May 1944 regarding the suspension of rules relating to the issue, promulgation, registration and publication of Royal Decrees and other provisions,

- RDL. No. 939 of 21 August 1943 relating to the dissolution of deliberative organs of public bodies and the nomination of Commissioners Extraordinary

and with the deliberation of the Council of Ministers,

On the proposal of the Minister of Industry, Commerce and Labour, in agreement with the Minister for Grace and Justice and of the Minister of the Treasury,

1043

We have authorised and promulgate

Article 1.

The provisions of RDL. No. 939 dated 21 August 1943 are extended to those private businesses conducting insurance, reinsurance, capitalisation and savings which are subject to regulation by RDL. No. 966 of 29 April 1923 converted into law No. 473 dated 17 April 1925, and by the laws modifying and consolidating the said Royal Decree.

Article 2

The decree for dissolution of the deliberative organs and nomination of Commissioners Extraordinary is entrusted to the Minister of Industry, Commerce and Labour, who will determine the maximum period of management by such Commissioners.

Article 3

This decree will come into force &c.

jurisdiction of the members of the Government and to the powers of the Government to issue juridical rules.

- RDL. n. 2/B dated 30 October 1943, amended by RDL. No. 141 of 29 May 1944 regarding the suspension of rules relating to the issue, promulgation, registration and publication of Royal Decrees and other provisions,
- RDL. No. 939 of 21 August 1943 relating to the dissolution of deliberative organs of public bodies and the nomination of Commissioners Extraordinary

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On the proposal of the Minister of Industry, Commerce and Labour, in agreement with the Minister for Grace and Justice and of the Minister of the Treasury,

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Article 3

This decree will come into force &c.

Article 4

We order whoever this concerns to observe this decree etc.

REGIO DECRETO-LEGGE 21 agosto 1943, n. 739.

Scioglimento degli organi deliberativi degli Enti pubblici e nomina di commissari straordinari.

VITTORIO EMANUELE III
Per grazia di Dio e per volontà della Nazione
RE D'ITALIA E DI ALBANIA
IMPERATORE D'ETIOPIA

VISTO l'art.18 della legge 19 gennaio 1939, n. 129;
RITENUTO lo stato di necessità derivante da causa di guerra;
SENTITO il Consiglio dei Ministri;
SULLA proposta del Capo del Governo, Primo Ministro Segretario di Stato;

ABBIANO DECRETATO E DECRETIAMO :

Art. 1

L'autorità governativa, nell'esercizio della vigilanza sugli Enti pubblici, può sciogliere, in deroga alle vigenti norme di legge, di regolamento o dell'ordinamento interno, gli organi deliberativi degli Enti stessi e procedere alla nomina di commissari straordinari.

Art. 2

Il provvedimento previsto nel precedente articolo è adottato dall'autorità competente a procedere alla nomina del presidente dell'Ente.

Art. 3

Il presente decreto ha applicazione fino a sei mesi dopo la cessazione dello stato di guerra.

Art. 4

Il presente decreto entra in vigore il giorno successivo a quello della sua pubblicazione nella Gazzetta Ufficiale del Regno e sarà presentato alle Assemblee legislative per la conversione in legge.

VISTO l'art.18 della legge 19 gennaio 1939, n. 129;
RITENUTO lo stato di necessità derivante da causa di guerra;
SENTITO il Consiglio dei Ministri;
SULLA proposta del Capo del Governo, Primo Ministro Segretario di Stato;

ABBIAMO DECRETATO E DECRETIAMO :

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103

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Il presente decreto entra in vigore il giorno successivo a quello della sua pubblicazione nella Gazzetta Ufficiale del Regno e sarà presentato alle Assemblee legislative per la conversione in legge.

Il Capo del Governo, Primo Ministro Segretario di Stato, è autorizzato alla presentazione del relativo disegno di legge.

Ordiniamo che il presente decreto, munito del sigillo dello Stato, sia inserto nella Raccolta ufficiale delle leggi e dei decreti del Regno d'Italia, mandando a chiunque spetti di osservarlo e di farlo osservare.

Date a Roma, addì 21 agosto 1943

VITTORIO EMANUELE
BADOGLIO

Visto,il Guardasigilli:AZZARITI
Registrato alla Corte dei conti, addì 1 Settembre 1943
Atti del Governo, registro 461, foglio 1.- MANCINI

TRANSLATION

Article 1

The governing authority, in the exercise of supervision over public "Enti", can dissolve the deliberative organs of such bodies and proceed to nominate a Commissioner, in spite of existing legal rules, regulations or rules of internal organisation.

Article 2

The said provision is entrusted to the authority competent to nominate the President of the Ente in question.

Article 3

This decree continues in force until six months after cessation of a state of war.

102

Article 4

The present decree comes into force .....

4104 f-6

(11 B)

NOTES ON D.L.L. 284 AMENDING THE PROCEDURE FOR ALLOTMENT OF LAND IN COLLECTIVE USE TO PEASANTS.

1. D.L.L. 19 October 1944 No.279 (G.U. 4 Nov 1944 No. 77) sets up a procedure for grant of uncultivated land to peasants.

This decree is being excluded from Military Government Territory.

2. D.L.L. 19 October 1944 No. 284 (G.U. 7 Nov 1944 No. 78)provides for expediting the procedure of allotting land in collective use to peasants.

3. The decree under 1 constitutes an innovation and modification of civil law in that it affects the right of ownership in realty. Such right is made subject to a forced (although only temporary) limitation on the disposal and use of the realty as its possession is given to the peasants holding the grant. This constitutes an extension of the prevailing rules on expropriation for public use and goes beyond the limits of the private law.

4. D.L.L. mentioned above under 2 on the other hand does not affect private property owned by individual owners, (be it physical or juridical persons or public bodies) but it does concern only land "in collective use" i.e. land owned by the state or its subdivisions or in some exceptional cases by private persons which from times immemorial, and particularly from the times of the feudal regime, have been subject to certain " collective rights " such as right of pasture, to cut grass, to gather woods pertaining simultaneously to residents of a certain community.
These rights pertaining to residents of certain communes or "frazioni" of communes as residents not individually but collectively are considered by modern Italian law as a certain type of condominium regulated by public law.
In consequence of the difficulties arising out of the use and abuse of such rights and of the harm caused to the agriculture and forestry (also because of the century long controversies between various communes) the legislator decided to liquidate all such rights (called "usi civici") and to provide for an allotment of the land concerned to peasants in ownership proportionately to the abolished rights and upon payment of certain indemnities.
The respective laws on the subject are the following :-

The law No.1766 of 16 June 1927, the R. Decree No.332 of 26 February 1928, approving the regulations for the application of the law, and the law No.1078 of the 10th July 1930.

The ascertaining and the liquidation of rights on land in collective use and the allotment of land resulting from such liquidation are entrusted to a " Commissario liquidatore" (usually a counsellor of Court of Cassation).

5. The D.L.L. No.284 has the purpose of expediting such allotment, already in progress since 1928. The amendment is in that for the duration of the war and up to one year after the conclusion of peace, the said Commissioners may authorise that parcels of such land be granted temporarily for use to heads of families in the Communes or "frazione" who assume the obligation to improve the cultivation of the land.
These temporary provisions aim to the immediate agricultural utilization of

subject to a forced (although only temporary) [illegible] and use of the realty as its possession is given to the peasants holding the grant. This constitutes an extension of the prevailing rules on expropriation for public use and goes beyond the limits of the private law.

4. D.L.L. mentioned above under 2 on the other hand does not affect private property owned by individual owners, (be it physical or juridical persons or public bodies) but it does concern only land "in collective use" i.e. land owned by the state or its subdivisions or in some exceptional cases by private persons which from times immemorial, and particularly from the times of the feudal regime, have been subject to certain " collective rights " such as right of pasture, to cut grass, to gather woods pertaining simultaneously to residents of a certain community.
These rights pertaining to residents of certain communes or "frazioni" of communes as residents not individually but collectively are considered by modern Italian law as a certain type of condominium regulated by public law.
In consequence of the difficulties arising out of the use and abuse of such rights and of the harm caused to the agriculture and forestry (also because of the century long controversies between various communes) the legislator decided to liquidate all such rights (called "usi civici") and to provide for an allotment of the land concerned to peasants in ownership proportionately to the abolished rights and upon payment of certain indemnities. The respective laws on the subject are the following :-

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These temporary provisions aim to the immediate agricultural utilisation of land pending the regular liquidation proceedings. The procedure, of course, shall follow its normal course as set out in the above mentioned laws.

6. In conclusion, the economic and social purposes of the two D.L.L. are the same: to further and improve national agriculture according to the necessities arising from the state of war and to ease the conditions of the peasants. However,, the two decrees apply to different sectors and with different systems.
The D.L.L. No. 279 affects, even though temporarily, the right of ownership.
The D.L.L. No. 284 affects rights of collective use, already subjected to special provisions of public law since 1928, when such land was destined to be liquidated and allotted.

16 November 1944.

110A

HEADQUARTERS ALLIED COMMISSION
AFO 394
LEGAL SUB-COMMISSION

AC/4104/L. /rld.
7 November 1944.

SUBJECT : War damages privately owned railways.

TO : Transportation S/C.

109A

1. Reference your ACC/Tn/44 of the 25 Oct 44.

2. The decree which is returned herewith is badly drawn and we have the following observations to make upon it.

3. The Enlish translation is bad and we draw your particular attention to omission in Articles 4 and 14.

4. On matters of substance, you will observe that the Italian text of Article 4 provides in para. 1 that the Inspectorate will assess the damages not only when a report of such damage is received, but also in the absence of any report on its own initiative. The decree does not state what action is to be followed upon such acuros and in any event it appears to us to be useless to insert such a provision having regard to the somewhat bankrupt state of the country.

5. Articles 14 and 15 are entirely unsatisfactory. As drafted, they provide that the Government, by advancing two-thirds of the expenses necessary for the repair of damaged rolling stock (Art. 8), obtains title to the whole of the rolling stock. The funds as advanced by the Government will be repaid. Nothing is said in either article as to the ultimate title of the rolling stock after re-payment.

Nothing is said in either article as to any right in the Railway company to use the rolling stock pending re-payment.

It is presumed that the intention of Articles 14 and 15 is to create a situation analogous to a hire purchase agreement. If this is the intention the decree does not achieve it.

6. Paragraphs 2 and 3 of Article 15 appear to be entirely meaningless. If we can be advised what these paragraphs are intended to mean, we may be able to make some observations thereon.

7. In Art. 17 as a pure point of drafting, the words "e 6" should be deleted from the 5th line.

W. E. HEARNE.
Colonel,
Deputy Chief Legal Advisor.

Incl.

2 Att 4104

109A

ADF/fa

HEADQUARTERS
ALLIED CONTROL COMMISSION
Transportation Sub-Commission
APO 394

Tele 473701 25 October 1944

Our ref.; ACC Tn/44

TO : Legal Sub-Commission
M.G. ACC.

SUBJECT : War Damages Privately Owned Railways

1098

1. Reference is to my letter ref. ACC Tn/44 dated 6 October 44 to Finance Sub-Commission, copy to you.

2. Please say if you have any comments in respect of the Decree.

L.S. ADAMS
Colonel, C.A.,
Director, Tn.S/C.

99

AGE/Tn.
1098

HEADQUARTERS
ALLIED CONTROL COMMISSION
Transportation Sub-Commission
APO 394

Tel.:473703

6 October 1944
AGO.Tn/44

TO : Finance Sub-Commission, AG. AGO

SUBJECT: War damages Privately owned Railways

1. Reference is to your letter A31947 of 30 Sept.'44.

2. It is presumed that the appropriation of 50 million lire for repair of war damage to Private Railways in connexion is based on a proposed decree which is at the moment receiving attention of this Sub-Commission.

3. A copy of the decree is annexed hereto and your observations would be welcomed.

R.E. ADAMS
Colonel, C.E.
Director, Tn.Sub.Com.

Copy to: Legal Sub.Comm.
Economic Section

Enclosure:1.
(Copy of decree)

(109c)

SCHEME OF LIEUTENANCY LAW - DECREE

"Extraordinary providences for the re-operation of public transports services in concession to private industry".

UMBERTO OF SAVOY, Prince of PIEMONTE
Lieutenant - General of the Kingdom;

By virtue of Authority granted me:

seen the Royal decree of the 9th May 1922, No.1447: which approves the contents of the law concerning Railways in concession to private enterprises, tramways and motor cars;

seen the Royal law decree of the 2nd August 1929, No.2190: concerning the concession of Railways and other means of transports and the technical and administrative maintenance of the operating railway lines;

seen the law of the 28th September 1939, No.1939: concerning the discipline of motor transports of passengers, luggage and agricultural packages in regime of concession to private industry;

seen the article 4 of the lieutenancy law decree of the 25th June 1944, No.151.

seen the Royal law decree of the 20th October 1943, No.2/97 and successive modifications;

seen the deliberation of the Minister's Council;
On proposal of the Minister of Communications, in agreement with the home Secretary and the Ministers of Grace and Justice, Finance, Treasury, War, Public Works, Agriculture and Forests, Industry, Commerce and Labour;

We sanction and we promulgate what follows:

ART.1.

All persons who have in concession public services of transports and who, owing to war events, suffered the loss, ruin and deterioration of fine art, manufactured goods,

By virtue of authority granted me:

seen the Royal decree of the 9th May 1922, No.1447: which approves the contents of the law concerning Railways in concession to private enterprises, tramways and motor cars;

seen the Royal law decree of the 2nd August 1929, No.2150: concerning the concession of Railways and other means of transports and the technical and administrative maintenance of the operating railway lines;

seen the law of the 26th September 1939, No.1839: concerning the discipline of motor transports of passengers, luggage and agricultural packages in regime of concession to private industry;

seen the article 4 of the lieutenancy law decree of the 25th June 1944, No.151.

seen the Royal law decree of the 10th October 1943, No.2/[illegible] and successive modifications;

seen the deliberation of the Minister's Council:
On proposal of the Minister of Communications, in agreement with the home Secretary and the Ministers of Grace and Justice, Finance, Treasury, War, Public Works, Agriculture and Forests, Industry, Commerce and Labour;

We sanction and we promulgate what follows:

ART.1.

All persons who have in concession public services of transports and who, owing to war events, suffered the loss, ruin and deterioration of fine Art, manufactured goods, buildings, permanent installations, rolling stock or track equipment, indispensable for the operation, must denounce their damage to the Ministry of Communications - General Inspectorate of civil motorization and transports in concession.

ART.2

The grantees, reference to the above article, in order to re-operate and keep efficient all services, ref.Art.106 and following of the royal decree of the 9th May 1919, No.1447, can benefit, if they ask for it, of an economic support of the Government, in the limits and with the modalities ordered by this

decree, with no prejudice for indemnity, reference to the Royal law-decree of the 26th October 1940, No.1543.

ART.3.

Denunciations and requests for the economic support of the Government to keep efficient all the services, must enclose the plans and an estimate of expenses for the works and supplies and must be addressed to the competent compartmental Inspectorate of civil motorisation and transports in concession, within sixty days from the date from which the decree will become effective.

For the losses suffered after this date, denunciations and requests will be addressed respectively within ten or forty days from the date of the event.

The above mentioned limit can be delayed by the Inspectorate, when the possibility of observing them has been proved.

ART.4.

not exact

The compartmental Inspectorate, upon receipt of a report, will value in cross examination the damages suffered by the grantee and will make a technical report of the works, supplies and expenses necessary for the operation.

The report is submitted and examined by a special Commission, part of the Ministry of Communications -General Inspectorate of civil motorisation and transports in concession, who will be appointed with a Regal decree, proposed by the Minister of Communications.

ART.5

The Commission, reference to the last paragraph of the above said article, is administered by the Minister of Communications and in his absence he will be represented by the Under Secretary of State for Railways, civil motorisation and transports in concession.

The Commission is composed:

- of four officials of the administrative section and of four officials of the technical section of the General Inspectorate of civil motorisation and transports in concession;

- of two officials of the general direction of the Treasury and of one of the general accounts of the Government, who is named by the Minister of Communications.

- of an official belonging to the economic control section

For the losses suffered after this date, denunciations and requests will be addressed respectively within ten or forty days from the date of the event.

The above mentioned limit can be delayed by the Inspectorate, when the possibility of observing them has been proved.

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The report is submitted and examined by a special Commission, part of the Ministry of Communications -General Inspectorate of civil motorisation and transports in concession, who will be appointed with a Royal decree, proposed by the Minister of Communications.

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The Commission, reference to the last paragraph of the above said article, is administered by the Minister of Communications and in his absence he will be represented by the Under Secretary of State for Railways, civil motorisation and transports in concession.

The Commission is composed:

- of four officials of the Administrative section and of four officials of the technical section of the General Inspectorate of civil motorisation and transports in concessions;

- of two officials of the general direction of the Treasury and of one of the general accounts of the Government, who is named by the Minister of Communications.

- of an official belonging to the economic control section of the general Inspectorate of civil motorisation and transports in concession and who must not be inferior to the sixth category.

- of two officials of the general Inspectorate of civil motorisation transports in concession, not inferior to the ninth category and who will have the duties of secretaries.

For the validity of the Society's meetings, the presence of at least seven members, including the president is necessary.

Decisions are taken by majority of votes. When there is equality of votes, the president's vote prevails.

ART.6.

The Commission, after having examined the plans and after having examined the accounts, the technical report (ref.Art.4) decides:

a) of the necessity of the works and supplies for the operation of the public service of transport.

b) of the priority of these works and supplies compared with the public interest, whether considering the necessity of the operation or the general conditions of traffic.

c) of the modalities and conditions of the accomplishments of these works and supplies.

d) of the investment of the capitals already fixed.

e) of the amount of the economic support from the Government.

f) of the amount of the accounts eventually necessary for initiation of works and the modalities of their disposal.

ART.7.

The Government will issue no economic support:

- for the total or partial reconstruction of works with a span inferior to three metres and of small abutment walls.

- for the remaking, settlement, restoring of the ballast, with the exclusion of the track.

- for the reconstruction, settlement and recovering of station yards, with the exclusion for the equipment and the signalling.

ART.8.

The economic support of the Government cannot surpass:

Services:

a) of the necessity of the works and supplies for the operation of the public service of transport.

b) of the priority of these works and supplies compared with the public interest, either considering the necessity of the operation or the general conditions of traffic.

c) of the modalities and conditions of the accomplishments of these works and supplies.

d) of the investment of the capitals already fixed.

e) of the amount of the economic support from the Government.

f) of the amount of the accounts eventually necessary for initiation of works and the modalities of their disposal.

ART.7.

The Government will issue no economic support:

- for the total or partial reconstruction of works with a span inferior to three metres and of small abutment walls.

- for the ramasking, sustainment, restoring of the ballast, with the exclusion of the track.

- for the reconstruction, settlement and recovering of station yards, with the exclusion for the equipment and the signalling.

ART.8.

The economic support of the Government cannot surpass:

- half of the expenses necessary to the reconstruction of the passenger's buildings, goods stores, cottages for p-ny inspectors, depots and repair shops;

- two thirds of the expenses necessary for the repair and re-operation of the damaged rolling stock belonging to the grantee;

- three fourths of the expenses necessary:
a) for the purchase of new rolling material substituting the loss of damaged stock;
b) for the reconstruction, settlement and restoring of the track, including also that of the station yards;

-3-

c) for the reconstruction, settlement and recovering of signalling and interlocking installations;

d) for the operation of overhead electric equipment and telegraph telephone lines and their poles.

ART.9.

The Government will give his financial support for these railway lines of pre-eminent public interest every time the Commission will judge, after having verified it, that the grantees cannot provide by themselves. In this occasion the Minister of Treasury, in agreement with the Minister of Communications, can authorize the guarantee of the Government for the payment of interests and for banking advances, reference to the royal law decree of the 16th December 1943, No.25/3.

ART.10

If the grantee has already incurred expenses for accomplished or initiated works of re-operation and for the restoring of installations and rolling stock, he can enclose them in the estimated accounts in order to establish the Government's supports.

The sums already disbursed for this purpose will be deducted from future accounts.

ART.11.

The correspondion of financial supports is authorized with a decree of the Minister of Communications in agreement with the Minister of Treasury.

The decree will be notified to the financial Administration reference to Art.23 of the Royal law decree of the 26 Dec.1940, No.1543.

ART.12.

The performance of works and supplies belongs to the grantees, under the supervision of the Compartimental Inspectorate of Civil Motorization and Transports in concession, following the present dispositions and the decisions of the Commission, within the date fixed by this one.

ART.13.

If eventually the grantee does not initiate the works in the fixed time and does not respect his duties, reference to Art.205 and following of the only text of the 9th May 1912, No.1447, the Art.184 of the only said text will be enforced, modified by the Royal law-decree of the 6th June 1940, No.1130.

Commission will judge, after having verified it, that the grantees cannot provide by themselves. In this occasion the Minister of Treasury, in agreement with the Minister of Communications, can authorise the guarantee of the Government for the payment of interests and for banking advances, reference to the royal law decree of the 16th December 1943, No.26/B.

ART.10

If the grantee has already incurred expenses for accomplished or initiated works of re-operation and for the restoring of installations and rolling stock, he can enclose them in the estimated accounts in order to establish the Government's support.

The sums already disbursed for this purpose will be deducted from future accounts.

ART.11.

The corresponsion of financial supports is authorised with a decree of the Minister of Communications in agreement with the Minister of Treasury.

The decree will be notified to the financial administration reference to Art.23 of the Royal law decree of the 26 Oct.1940, No.1543.

ART.12.

The performance of works and supplies belongs to the grantees, under the supervision of the Compartimental Inspectorates of Civil Motorization and Transports in concession, following the present dispositions and the decisions of the Commission, within the date fixed by this one.

ART.13.

If eventually the grantee does not initiate the works in the fixed time and does not respect his duties, reference to Art.106 and following of the only text of the 9th May 1912, No.1447, the Art.184 of the only said text will be enforced, modified by the Royal law-decree of the 4th June 1936, No.1336.

The same disposition can be enforced whenever works and supplies are left unfinished or when tested, they result different from the instructions and orders, reference to Art.6.

ART.14

The rolling material is the property of the Government for a value corresponding to the amount of the financial support, issued for substituting and repairing the lost, destroyed or damaged material. The Commission will fix how much will be conferred to the Government, reference Art.5.

Omission

ART.15

The amount of all other financial supports, reference art.6, will be refunded to the Government without interests with a number of annuities, which will be fixed by the Ministry of Communications in agreement with the Ministry of Treasury.

The shares of extinction will be enlisted in the operating account three years after the conclusion of peace.

The expenses, which will remain charged to the grantee will be inscribed one year after their laying out and the shares of extinction will be fixed by the Ministry of Communications.

ART.16

The denunciations and requests of financial supports, the documents necessary to justify the petitions, the minutes of assurance, the acts of liquidation and test, the acts and contracts necessary for the operation of works are exempted from stamp taxes, from Government concessions and registered taxes.

ART.17

The Commission instituted with the Article 7 of the lieutenancy law decree of the 23rd of February 1919, No.301, is suppressed and its attribution, including those of the Art.5 of the Royal law-decree of the 28th August 1917, No.1668, are delegated to the Commission instituted with Articles 3 and 6 of the present decree, who will judge also of the economic measures and tariffs at grantee's favour.

ART.18.

The Minister of Treasury in order to assure the execution of this decree, is authorized to introduce, with new decrees, modifications to the budget.

ART.19.

The Minister of Communications, in agreement with the Ministers of Treasury and Finance, is authorized to issue supplementary and temporary rules and regulations.

ART.20.

For the territory of the State not yet liberated and not under the administration of the Italian Government, this decree will become effective only after special decrees of the Minister of Communications.

ART.16

The denunciations and requests of financial supports, the documents necessary to justify the petitions, the minutes of assurance, the acts of liquidation and test, the acts and contracts necessary for the operation of works are exempted from stamp taxes, fra. Government concessions and registered taxes.

ART.17

The Commission instituted with the Article 7 of the lieutenancy law decree of the 22nd of February 1919, No.303, is suppressed and its attribution, including those of the Art.5 of the Royal law-decree of the 30th August 1937, No.1668, are delegated to the Commission instituted with Articoles 5 and 6 of the present decree, who will judge also of the economic measures and tariffs at grantee's favour.

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ART.20.

For the territory of the State not yet liberated and not under the administration of the Italian Government, this decree will become effective only after special decrees of the Minister of Communications.

ART.21.

This decree will become effective when it will be published in the official Gazette (Gazzetta Ufficiale) of the Kingdom. All those concerned are hereby ordered to trent and to see that it is treated as - State law.

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HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

ART/rm.
1 Nov. 44.

AC/4104/L.

SUBJECT : Circular pursuant to DDL Nº. 189.

TO : Transportation Sub-Commission.

1. Reference ~~in to~~ your letter ACC Tn/15 dated 28 Oct. 44.

2. This DDL having been sanctioned, promulgated and duly published in the Official Gazette could be changed only by another formal law, and this applies, of course, to the dates fixed in Article 2. Moreover, on 10 Sept. 44 an implementation order was signed providing for application in AMG territory.

3. On the question of interpretation by circular of what would be accepted from a claimant as sufficient proof to rebut the presumption of "force majeure" established in favour of the carriers, it might be possible to relieve the trader of some of his burden by a skillful redrafting of the circular. But this is a technical matter which could only be properly undertaken by an expert versed in the jurisprudence of "carrier" claims.

4. If you were to call the attention of the Ministry to your views on this point some alleviation might be obtainable for the trader without its being necessary to reverse the decree itself.

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

ACP/hl

4104

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HEADQUARTERS
ALLIED CONTROL COMMISSION
Transportation Sub-Commission
APO 394

Tel: 478701
Our Ref: ACC.Tn/15

28 October 1944

TO : Legal Sub-Commission
HQ. ACC.

SUBJECT: Circular pursuant to DDL No.189
Legislative Decree

100A

1. Reference is to your letter ACC 4104/C of 20 Oct.'44.

2. This Sub-Commission is disturbed at the facts revealed in your letter, as the original Decree was not submitted to this Sub-Commission for consideration.

3. Your opinion is sought as to the desirability at this stage of the drawing particular attention of the Government to the fact that the Railways absolve themselves of the onus of proving "Force Majeure" as the cause of loss or damage.

3. It has recently been brought to our notice that the 9.1 intention to provide a railway Police Force by Decree has been shelved by the Minister of the Interior and in such circumstances the scales appear to be weighed much too favourably for the State as against the Trader.

4. The question of offending against fundamental principles of Italian Law by back dating the date of application also deserves serious consideration, particularly when the date selected is one previous to the disturbance of war by Allied invasion.

LEGAL SUB-COMMISSION
CLO

D.S. ADAMS
Colonel, C.E.
Director, Tn.Sub-Comm.

TO : Legal Sub-Commission
HQ. ACC.

SUBJECT: Circular pursuant to DDL No.189
Legislative Decree

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9.1

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LEGAL SUB-COMMISIO
CLO
DCLO
Chief Counsel
CJ
Italian Section
CL. RKS
30 OCT 1944

D.S. ADAMS
Colonel, C.E.
Director, Tn.Sub.Comm.

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HEADQUARTERS
ALLIED CONTROL COMMISSION
LOCAL GOVERNMENT SUB COMMISSION
APO 394

ACC/1/4/1/LG

27 October 1944

SUBJECT: Draft decree on the dissolution of the Governatorato of Rome.

TO : Legal Sub Commission.

49a(Vol 1) 93A(Vol 2)

1. Reference your ACC/4104/L of 29 August 1944, and our ACC/1/4/1/LG of 9 October 1944.

2. I attach hereto the proposed draft decree which is being submitted by the Ministry of Interior to the next meeting of the Council of Ministers for examination.

3. You will note that your suggestions with regard to Article 6 and Article 12 have been incorporated in the proposed draft.

4. If any changes are made by the Council of Ministers in the decree submitted which affect your Sub Commission, you will be duly informed.

R L Temple Capt.

for R. G. B. SPICER
Colonel
Director
Local Government Sub Commission

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RRT/pec
Encl. as in (2) above.

LEGAL SUB COMMISION
CLO
DCLO
Chief Counsel
CJO
Italian Section
CLERKS
20 OCT 1944

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SCHEMA DI DECRETO LEGISLATIVO LUOGOTENENZIALE

Soppressione del Governatorato di Roma e nuova disciplina giuridica dell'amministrazione comunale della Capitale

UMBERTO DI SAVOIA PRINCIPE DI PIEMONTE
LUOGOTENENTE GENERALE DEL RE

In virtù dell'autorità a Noi delegata;

Visto il Decreto Legge Luogotenenziale 25 Giugno 1944,n.151,concernente l'Assemblea per la nuova costituzione dello Stato,il giuramento dei Membri del Governo e la facoltà del Governo di emanare norme giuridiche;

Visto il Regio Decreto Legge 30 Ottobre 1943,n.2/B,sulla sospensione delle norme relative alla emanazione,promulgazione,registrazione e pubblicazione dei Regi Decreti e di altri provvedimenti;

Visto il Regio Decreto Legge 4 Aprile 1944,n.111,che detta norme transitorie per l'amministrazione dei comuni e delle provincie;

Visto il Testo Unico della legge comunale e provinciale,approvato con Regio Decreto 3 Marzo 1934,n.383;

Visto il Testo Unico della legge comunale e provinciale,approvato con Regio Decreto 4 Febbraio 1915,n.148;

Vista la deliberazione del Consiglio dei Ministri;

Sulla proposta del Ministro per l'Interno,di concerto con il Ministro per il Tesoro e con il Ministro per i Lavori Pubblici;

ABBIAMO SANZIONATO E PROMULGHIAMO QUANTO SEGUE:

Art. 1

Il titolo VIII del Testo Unico della legge comunale e provinciale, approvato con Regio Decreto 3 Marzo 1934,n.383 nonchè il Titolo VIII del Testo Unico delle leggi sanitarie,approvato con Regio Decreto 27 Luglio 1934,n.1265,relativi al Governatorato di Roma,sono abrogati.

Salvo quanto è disposto dagli articoli seguenti,al comune di Roma si applicano le disposizioni del testo unico della legge comunale e provinciale approvato con R.D.4.2.1915,n.148 e successive modificazioni e aggiunte.

Art. 2

Le deliberazioni dell'amministrazione comunale,escluse quelle relative alla mera esecuzione di provvedimenti già adottati e perfezionati,devono essere trasmesse in duplice copia al Prefetto.

Il Prefetto munisce di visto di esecutività le deliberazioni che non siano soggette a speciali approvazioni,semprechè le riconosca regolari.

In caso contrario può pronunciarne l'annullamento per motivi di legittimità.

Indipendentemente dal visto di esecutività,le deliberazioni per le qua-

In virtù dell'art.

Visto il Decreto Legge Luogotenenziale 25 Giugno 1944,n.151,concernente l'Assemblea per la nuova costituzione dello Stato,il giuramento dei Membri del Governo e la facoltà del Governo di emanare norme giuridiche;

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Visto il Regio Decreto Legge 4 Aprile 1944,n.111,che detta norme transitorie per l'amministrazione dei comuni e delle provincie;

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Visto il Testo Unico della legge comunale e provinciale,approvato con Regio Decreto 4 Febbraio 1915,n.148;

Vista la deliberazione del Consiglio dei Ministri;

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Salvo quanto è disposto dagli articoli seguenti,al comune di Roma si applicano le disposizioni del testo unico della legge comunale e provinciale approvato con R.D.4.2.1915,n.148 e successive modificazioni e aggiunte.

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Il Prefetto munisce di visto di esecutività le deliberazioni che non siano soggette a speciali approvazioni,semprechè le riconosca regolari.

In caso contrario può pronunciarne l'annullamento per motivi di legittimità.

Indipendentemente dal visto di esecutività,le deliberazioni per le quali non sia richiesta speciale approvazione,autorizzazione o parere,diventano esecutive dopo trascorsi dieci giorni da quello in cui sono pervenute alla Prefettura,senza che questa abbia comunque interloquito

E' in facoltà del Prefetto di richiedere, quando lo ritenga opportuno, la trasmissione anche delle deliberazioni relative alla mera esecuzione di provvedimenti già adottati. In tal caso si applicano a dette deliberazioni le norme di cui al comma secondo, terzo e quarto del presente articolo.

Sono immediatamente esecutive le deliberazioni non soggette a speciali approvazioni, quando la maggioranza dei due terzi dei votanti dichiari che vi è evidente pericolo o danno nel ritardarne l'esecuzione.

La trasmissione di cui al primo comma del presente articolo è fatta entro otto giorni dall'adunanza e in nessun caso prima che le deliberazioni siano state affisse all'albo pretorio, in conformità dell'art.128 del T.U. della legge comunale e provinciale approvato con R.D.4 Febbraio 1915, n.148.

Art. 3

Sono sottoposte all'approvazione del Ministro dell'Interno le deliberazioni che riguardano i seguenti oggetti:

1°) Spese vincolanti il bilancio per oltre 5 anni;
2°) liti attive e passive e transazioni per un valore eccedente le lire un milione;
3°) alienazione di immobili, di titoli del debito pubblico, di semplici titoli di credito e di azioni industriali, quando il valore del contratto superi la somma di lire un milione, nonchè la costituzione di servitù e di enfiteusi, quando il valore del fondo ecceda la somma suddetta;
4°) locazioni e conduzioni di immobili oltre i 12 anni, quando l'importo annuo della locazione o conduzione superi la somma di lire 100.000;
5°) assunzione dirette di pubblici servizi;
6°) piani regolatori edilizi e di ampliamento;
7°) regolamenti di uso dei beni comunali, di igiene, edilità, polizia locale e quelli concernente le istituzioni che appartengono al Comune;
8°) ordinamento degli uffici e servizi e regolamenti concernenti il trattamento economico e lo stato giuridico del personale.

Art. 4

Le opere pubbliche del comune si eseguono in base a progetti compilati dall'ufficio tecnico.

Quando la speciale natura delle opere lo renda necessario, la compilazione dei progetti può essere affidata, mediante apposita deliberazione, a professionisti privati. L'incarico di compilare un progetto non conferisce titolo al privato professionista per la direzione e la esecuzione dell'opera.

I progetti di massima ed esecutivi di opere pubbliche del comune, d'importo superiore a lire 6.000.000, quando all'esecuzione dei lavori si provveda con asta pubblica o licitazione privata, ovvero di importo superiore a lire 2.000.000, quando all'esecuzione dei lavori si provveda a

Art. 3

Sono sottoposte all'approvazione del Ministro dell'Interno le deliberazioni che riguardano i seguenti oggetti:

1°) Spese vincolanti il bilancio per oltre 5 anni;
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3°) alienazione di immobili, di titoli del debito pubblico, di semplici titoli di credito e di azioni industriali, quando il valore del contratto superi la somma di lire un milione, nonchè la costituzione di servitù e di enfiteusi, quando il valore del fondo ecceda la somma suddetta;
4°) locazioni e conduzioni di immobili oltre i 12 anni, quando l'importo annuo della locazione o conduzione superi la somma di lire 100.000;
5°) assunzione diretta di pubblici servizi;
6°) piani regolatori edilizi e di ampliamento;
7°) regolamenti di uso dei beni comunali, di igiene, edilità, polizia locale e quelli concernente le istituzioni che appartengono al Comune;
8°) ordinamento degli uffici e servizi e regolamenti concernenti il trattamento economico e lo stato giuridico del personale.

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I progetti di massima ed esecutivi di opere pubbliche del comune, d'importo superiore a lire 6.000.000, quando all'esecuzione dei lavori si provveda con asta pubblica o licitazione privata, ovvero di importo superiore a lire 2.000.000, quando all'esecuzione dei lavori si provveda a trattativa privata o in economia, devono riportare il parere favorevole del Ministero dei Lavori Pubblici.

I progetti esecutivi di opere pubbliche d'importo compreso fra lire

2.000.000 - lire 6.000.000, quando all'esecuzione dei lavori si provvede per asta pubblica o licitazione privata, ovvero d'importo compreso fra lire 1.000.000 e lire 2.000.000, quando all'esecuzione dei lavori si provveda a trattativa privata o in economia, devono riportare il parere favorevole ~~del Ministero dei Lavori Pubblici~~ dei Lavori Pubblici.

Non è necessario provocare un nuovo parere per gli aumenti di spesa che si verifichino durante l'esecuzione delle opere, quando l'importo di essi non supera il quinto del preventivo.

Il parere del Ministro dei Lavori Pubblici è richiesto anche quando si tratti di progetti parziali per un'opera, la cui spesa complessiva si preveda superiore ai limiti indicati nel comma terzo e quarto, salvo che costituiscano esecuzione di un progetto di massima già approvato.

Art. 5

I contratti del Comune riguardanti alienazioni, locazioni, acquisti somministrazioni ed appalti di opere, devono essere preceduti da pubblici incanti con le forme stabilite per i contratti dello Stato.

E' tuttavia consentito di provvedere mediante licitazione privata:

1°) quando si tratti di contratti il cui valore complessivo a giustificato non ecceda le lire 1.000.000;

2°) quando si tratti di spesa che non superi annualmente le lire 200.000 ed il comune non resti obbligato oltre cinque anni, sempre che per lo stesso oggetto non vi sia altro contratto, computato il quale si oltrepassi il limite suddetto;

3°) quando si tratti di locazioni di fondi rustici, fabbricati od altri immobili, se il canone complessivo non superi le lire 200.000 e la durata del contratto non ecceda i nove anni.

Si può anche procedere alla trattativa privata, quando il valore complessivo dei contratti non ecceda la metà delle cifre suindicate.

Anche all'infuori dei casi previsti nel comma precedente il Prefetto può consentire che i contratti seguano a licitazione privata, quando tale forma di appalto risulti più vantaggiosa per il Comune.

Può anche autorizzare la trattativa privata, allorchè ricorrano circostanze eccezionali e ne sia evidente la necessità o la convenienza.

Art. 6

Il bilancio di previsione del Comune di Roma è deliberato nei modi e termini di cui all'art.129 del T.U. approvato con Regio Decreto 4 Febbraio 1915, n 148.

Le deliberazioni del Consiglio Comunale concernente il bilancio sono pubblicate in copia nell'albo pretorio per otto giorni. Durante lo stesso termine il bilancio deve essere depositato nella segreteria del comune a disposizione del pubblico.

Il bilancio è approvato con decreto del Ministro per l'Interno di concerto con quello per il Tesoro.

Il parere del Ministro dei Lavori Pubblici è richiesto anche quando si tratti di progetti parziali per un'opera, la cui spesa complessiva si prevede superiore ai limiti indicati nel comma terzo e quarto, salvo che costituiscano esecuzione di un progetto di massima già approvato.

Art. 5

I contratti del Comune riguardanti alienazioni, locazioni, acquisti somministrazioni ed appalti di opere, devono essere preceduti da pubblici incanti con le forme stabilite per i contratti dello Stato.

E' tuttavia consentito di provvedere mediante licitazione privata:

1°) quando si tratti di contratti il cui valore complessivo e giustificato non ecceda le lire 1.000.000;

2°) quando si tratti di spesa che non superi annualmente le lire 200.000 ed il comune non resti obbligato oltre cinque anni, sempre che per lo stesso oggetto non vi sia altro contratto, computato il quale si oltrepassi il limite suddetto;

3°) quando si tratti di locazione di fondi rustici, fabbricati od altri immobili, se il canone complessivo non superi le lire 200.000 e la durata del contratto non ecceda i nove anni.

Si può anche procedere alla trattativa privata, quando il valore complessivo dei contratti non ecceda la metà delle cifre suindicate.

Anche all'infuori dei casi previsti nel comma secondo il Prefetto può consentire che i contratti seguano a licitazione privata, quando tale forma di appalto risulti più vantaggiosa per il Comune.

Può anche autorizzare la trattativa privata, allorchè ricorrano circostanze eccezionali e ne sia evidente la necessità o la convenienza.

Art. 6

Il bilancio di previsione del Comune di Roma è deliberato nei modi e termini di cui all'art.129 del T.U. approvato con Regio Decreto 4 Febbraio 1915, n.148.

La deliberazione del Consiglio Comunale concernente il bilancio sono pubblicate in copia nell'albo pretorio per otto giorni. Durante lo stesso termine il bilancio deve essere depositato nella segreteria del comune a disposizione del pubblico.

Il bilancio è approvato con decreto del Ministro per l'Interno di concerto con quello per il Tesoro.

Col decreto di approvazione del bilancio si provvede anche sui ricorsi o sulle opposizioni al bilancio stesso.

Al Ministero per l'Interno, di concerto con quello per il Tesoro, sono demandate le attribuzioni di cui all'articolo 332 del Testo Unico della Legge comunale e provinciale, approvato con Regio Decreto 3 Marzo 1934, n.383 e la determinazione della percentuale delle spese facoltative, anche in deroga al disposto dell'articolo 314 del cennato Testo Unico 4 Marzo 1934, n.383.

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Art. 7

Le deliberazioni del Consiglio Comunale di Roma concernenti l'assunzione di mutui sono approvate con decreto del Ministro per l'Interno, di concerto con quello per il Tesoro.

Art. 8

Il Decreto ministeriale che approva il bilancio deve essere pubblicato per copia all'albo pretorio per otto giorni e durante lo stesso termine il bilancio deve essere depositato in segreteria a disposizione del pubblico.

Contro il decreto ministeriale è ammesso soltanto ricorso per motivi di legittimità al Consiglio di Stato, da parte dell'Amministrazione comunale e di qualsiasi contribuente.

I termini per la presentazione del ricorso e per il procedimento dinanzi al Consiglio di Stato sono ridotti a metà.

La Sezione pronunzia in camera di Consiglio sulle memorie e sugli atti presentati dalle parti, senza che occorra ministero di avvocato.

Art. 9

L'assegnazione e la erogazione dei contributi dello Stato a favore del Comune di Roma sono regolate dalle relative leggi speciali.

Art.10

Gli atti del comune, concernenti la erogazione di somme poste a carico del bilancio dello Stato, sono parificati, a tutti gli effetti, a quelli compiuti dall'Amministrazione dello Stato.

Art.11

Il tesoriere del Comune rende il conto nel termine di otto mesi dalla chiusura dell'esercizio.

Qualora il conto non venga presentato entro tale termine, il Ministro per l'Interno lo fa compilare d'ufficio, a spese del tesoriere, al quale applica, inoltre, una sanzione consistente nel pagamento di una somma da lire mille a lire diecimila, il cui ammontare viene devoluto a favore delle Casse di Previdenza per le pensioni agli impiegati ed ai salariati degli enti locali.

Il Consiglio Comunale nella sessione di primavera esamina il conto dell'anno precedente in seguito alla relazione della giunta ed al rapporto dei revisori e delibera sulla sua approvazione.

Delle deliberazioni del Consiglio comunale è data notizia al tesoriere, in quanto porti variazioni nel carico o discarico ed agli amministratori che furono designati responsabili, con notifica, contenente invito a prenderne cognizione, entro trenta giorni, nella segreteria, insieme col conto e con tutti gli altri documenti che vi si riferiscono.

Contemporaneamente il sindaco, a mezzo di avviso da affiggersi all'al-

cato per copia all'albo pretorio per otto giorni e durante lo stesso termine il bilancio deve essere depositato in segreteria a disposizione del pubblico.

Contro il decreto ministeriale è ammesso solvanto ricorso per motivi di legittimità al Consiglio di Stato, da parte dell'Amministrazione comunale o di qualsiasi contribuente.

I termini per la presentazione del ricorso e per il procedimento dinanzi al Consiglio di Stato sono ridotti a metà.

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Il Consiglio Comunale nella sessione di primavera esamina il conto dell'anno precedente in seguito alla relazione della giunta ed al rapporto dei revisori e delibera sulla sua approvazione.

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Contemporaneamente il sindaco, a mezzo di avviso da affiggersi all'albo pretorio per almeno otto giorni, informa il pubblico dell'avvenuta deliberazione sul conto e del deposito di esso con tutti gli atti e documenti che vi si riferiscono nell'ufficio di segreteria. Entro il termine di otto giorni dall'ultimo deposito, il tesoriere e gli amministratori nonchè qualunque contribuente possono presentare per iscritto, senza spesa, le loro deduzioni, osservazioni e reclami.

Trascorso il termine suddetto, il conto, coi documenti giustificativi dell'entrata e della spesa e con le deduzioni, osservazioni e reclami eventualmente presentati, o, in mancanza, con esplicita dichiarazione che nessuna deduzione, osservazione o reclamo venne presentato nei termini prescritti, è trasmesso dal Sindaco al Ministro per l'Interno, per l'approvazione.

Il conto consuntivo è approvato con decreto del Ministro per l'Interno.

Art. 12

Il decreto ministeriale che approva il conto consuntivo è notificato e pubblicato, a cura del sindaco, nei modi e nei termini stabiliti nel ~~quinto~~ comma dell'articolo precedente. Contro di esso è ammesso ricorso alla Corte dei Conti da parte degli interessati, del sindaco nonchè di qualsiasi contribuente, ancorchè non abbia previamente reclamato a' termini del comma suddetto.

Art. 13

Per quanto riguarda l'applicazione dei tributi restano ferme, per il Comune di Roma, le disposizioni del Testo Unico 14 settembre 1931, n. 1175 e successive modificazioni ed aggiunte nonchè quelle del T.U. 3 marzo 1934, n. 383.

Art. 14

In casi eccezionali il sindaco prende, sotto la sua responsabilità, le deliberazioni che altrimenti spetterebbero alla Giunta municipale, quando l'urgenza sia tale da non permettergli la convocazione, e sia dovuta a cause nuove e posteriori all'ultima adunanza della Giunta stessa. Di tale deliberazione è fatta comunicazione alla Giunta municipale nella sua prima seduta per la relativa ratifica. Nella sessione di primavera di ciascun anno è comunicato al Consiglio Comunale l'elenco delle deliberazioni d'urgenza adottate dal sindaco nell'anno precedente.

Art. 15

Il Ministro per l'Interno assegna al Sindaco ed agli Assessori del Comune di Roma un'annua indennità per spese di rappresentanza, che grava sul bilancio del Comune.

Art. 16

Sono abrogate tutte le norme contrarie od inconciliabili col presente decreto.

Art. 17

Fino a quando non saranno completate le elezioni amministrative il sindaco verrà nominato dal Ministro per l'Interno. Verrà parimenti nominata dal Ministro per l'Interno una Giunta municipale provvisoria che eserciterà anche le attribuzioni del Consiglio Comunale. La Giunta municipale provvisoria sarà composta di dodici membri effettivi e quattro supplementi.

Art. 18

Il presente decreto entrerà in vigore il giorno della sua pubblica-

Il decreto ministeriale che approva il conto consuntivo è notificato e pubblicato, a cura del sindaco, nei modi e nei termini stabiliti nel [illegible] comma dell'articolo precedente. Contro di esso è ammesso ricorso alla Corte dei Conti da parte degli interessati, del sindaco nonchè di qualsiasi contribuente, ancorchè non abbia previamente reclamato ai termini del comma suddetto.

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Il Ministro per l'Interno assegna al Sindaco ed agli Assessori del Comune di Roma un'annua indennità per spese di rappresentanza, che grava sul bilancio del Comune.

Art. 16

Sono abrogate tutte le norme contrarie od incompatibili col presente decreto.

Art. 17

Fino a quando non saranno espletate le elezioni amministrative il sindaco verrà nominato dal Ministro per l'Interno. Verrà parimenti nominata dal Ministro per l'Interno una Giunta municipale provvisoria che eserciterà anche le attribuzioni del Consiglio Comunale. La Giunta municipale provvisoria sarà composta di dodici membri effettivi e quattro supplementi.

Art. 18

Il presente decreto entrerà in vigore il giorno della sua pubblicazione nella Gazzetta Ufficiale del Regno.

Ordiniamo, a chiunque spetti, di osservare il presente decreto e di farlo osservare come legge dello Stato.

Legal S/C

HEADQUARTERS
ALLIED CONTROL COMMISSION
ECONOMIC SECTION
APO 394

LDD/ss

ES/10

23 October 1944

105A

My dear Minister Gullo:

This letter is in reference to my telephone conversation of Friday, October 20th, relative to the Decree dealing with Allotment of uncultivated land to laborers. Letters to your Ministry dated October 6 and 16 from the Agricultural Sub-Commission contain certain observations and comments on the proposed law. However, it is considered by the Commission that the substance of the proposed Decree is such that objection based on Allied military interest is not justified.

This is to confirm that the Commission does not desire to put forth any opposition to the proposed Decree.

Sincerely yours,

A. G. ANTOLINI
Acting Deputy Chief of Staff
Economic Section

H. E. Fausto Gullo
Minister of Agriculture
Rome

cc Legal Sub-Commission
Agricultural Sub-Commission

LEGAL SUB-COMMISION
CLO
DCLO
Chief Counsel
CIO
Italian Sect.
C RKS
26 OCT 1944

"Comments on decree concerning land allotments of organization Laborers."

4195

NOTES ON LAND DECREE

104 A

24 Oct.1944 /ap

1. This decree appears to serve a useful purpose and the procedure is simple and speedy.

There seems to be no risk of any permanent restriction being imposed on the land, though once occupied without the consent of the landlord, it may remain occupied with or without payment of rent or compensation, and serious conflicts may arise between peasant associations and landlords claiming the return of their land at the end of the period of occupation.

2. Nothing to say on the legal side except that Article III draws still further on the already depleted judicial personnel.

Avv. Forti has made certain observations on procedure (attached) all the points mentioned, if agreed, can be embodied in the customary " norme integrative" or rules and regulations for implementing legislation which are generally issued together with the actual decree.

89

G. G. Hamilton

ART. 1 a) - The contents of the "grant ("concessione") are not defined in the proper place. It results from Art. 4 ("such land may not be....sublet" "such regulations must contain the clauses of the lease") that there is only question of granting a lease. It seems opportune to make it clear in Art. 1: "The peasants associations.....may obtain a grant of lease"

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b) - The application for the grant should be formally notified to the landlord and to anybody who from the registers of the registrar of rights in immovable property appears to hold any right in the land published in the "Foglio Annunzi Legali" and posted up at the "Albo Pretorio" of the Commune where the land lies.

82

ART. 2 - The sequestrators of Fascist property may entrust the land to peasants' co-operative societies. In what way? With what guarantees?
It appears advisable to add: "under the provisions established by Art. 4" and for a duration not exceeding 4 agrarian years.

ART. 3 - "after hearing both parties" and the third parties (tenants, metayers or persons having other rights on the land) and after an inspection of the land by the President or another member of the Committee appointed by him together with the Provincial Agrarian Inspector or his assistant.

of lease"

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b) - The application for the grant should be formally notified to the landlord and to anybody who from the registers of the registrar of rights in immovable property appears to hold any right in the land published in the "Foglio Annunzi Legali" and posted up at the "Albo 82 torio" of the Commune where the land lies.

ART. 2 - The sequestrators of Fascist property may entrust the land to peasants' co-operative societies. In what way? With what guarantees?
It appears advisable to add: "under the provisions established by Art. 4" and for a duration not exceeding 4 agrarian years.

ART. 3 - "after hearing both parties" and the third parties (tenants, metayers or persons having other rights on the land) and after an inspection of the land by the President or another member of the Committee appointed by him together with the Provincial Agrarian Inspector or his assistant.

ART. 4 - The compensation is to be paid to the landlord or to the former lessee or tenant. The rent to the landlord The regulations governing the grant shall be formulated

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according to the general farming agreement or compact already in operation in the area.

ART. 5 - The Prefect's Decree shall be officially notified to the parties and to the "Conservatore dei Registri immobiliari" and duly published.

ART. 6 - To be added:

When the lease has been cancelled or has expired the land shall be returned to the landlord according to the inventory of the property (Art. 4).

The landlord shall pay to the peasant's co-operative society a compensation for land improvement or reclamation, if any. The obligation and the amount of such compensation shall be established by the Prefect in agreement with the Committee.

The Prefect's Decree may be opposed only under the terms of Art. 5, last Para.

ART. 7 - To be added:

Every act decree, resolution and document in any proceedings according to or in compliance with the present Decree is free from all taxes and stamp-duties.

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4104/L. WEB/ap.

22 October 1944.

SUBJECT : Translation of Italian Decrees.

TO : Regional Commissioner, Southern Region.

1. In reply to your R/1121 of 20 Oct 44 we should be only too pleased to supply translations of all decrees if it were humanly possible to do so. The work of translation has to be undertaken by specialists and any official translation issued from this HQ would have to be the responsibility of an Allied officer.

2. At the moment we have not got the necessary personnel. If, however, we do get an increase in future we will reconsider the question.

By Command of Commodore STONE :

RICHARD H. WILMER,
Colonel, CAC;
Chief Legal Advisor.

4104.0

Legal

102A

HEADQUARTERS
SOUTHERN REGION, ALLIED CONTROL COMMISSION
OFFICE OF THE REGIONAL COMMISSIONER
APO 394

R/1121 20 October 1944

SUBJECT: Decrees.

TO: Headquarters, Allied Control Commission,
(Legal Sub-Commission)

1. Many of the government decrees which you forward to this HQ are of direct interest to the Regional Commissioner or to section heads. They have, accordingly, to be translated into English at Regional HQ. Probably the same happens in other regions. Under the circumstances it is suggested that HQ ACC should supply English translations with all decrees which they circulate to lower formations.

C. E. TEMPERLEY,
Colonel,
Regional Commissioner

CET/jh

15

79

HEADQUARTERS
21 OCT 1944
A. C. C.

LEGAL SUB-COMMISSION
CLO
DCLO
Chief Counsel
CLO
Italian Section
CLERKS
21 OCT 1944

Splendid idea !

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4104/L.

MJ/pa.
20 Oct 44.

SUBJECT : Directives of Ministry of Justice.

TO : Regional [illegible] (Abruzzi, Puglie) Liguria Region
" " " " Piemonte Region.

1. Enclosed herewith copies of the following directives of the Ministry of Justice in Italian :-

Prot. No. 75 (sentences of courts created by repudiated governments) 9 August 1944.
" 27052 (V.D.) 29 Apr 1944.
" 27046 (V.D.) 18 March 1944.
" 2856 (Offences against Allied Interests) 28 July 1944.
" 25022 (Offences against Allied Interests) 8 March 1944.

2. You will find it helpful to distribute these directives in due course through PIUs to Italian authorities before the originals can reach them from the Ministry through the regular channels.

BY COMMAND OF COMMISSIONER :

5 Incls.

A. N. TRAUTMAN,
Lt. Colonel,
Italian Branch,
For Chief Legal Adviser.

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4104/L.

AMT/pa.
20 Oct 44.

SUBJECT : Circular pursuant to MOL No. 15.

TO : Transportation Sub-Commission.

1. Reference is made to your ACC Tn/15 dated 14 October 1944.

2. From an examination of the original Italian text it results that there is no objection as to the form nor as to the manner of interpretation of the decree in question by the circular.

3. As you have invited comment and the examination of the circular involves a perusal of the law, the following observation is made :

The State railways are to all intents and purposes relieved during the continuance of a State of War from normal statutory responsibilities as common carriers, and moreover (contrary to the fundamental principles of Italian law) this protection is made retroactive to 1 Jan 43 with all the consequences that this implies in regard to contractual obligations entered into up to 9 Sept 44.

The burden of proof is placed upon the consignor to rebut the presumption created in favour of the railways that loss, damage or delay is due to "force majeure" (vide Article 2 MOL).

A. R. TRACHERA,
Lt. Colonel,
Italian Branch,
for Chief Legal Adviser.

99 P CG/nf

MINISTERO DELLE COMUNICAZIONI
FERROVIE DELLO STATO
DIREZIONE GENERALE
SERVIZIO COMMERCIALE E DEL TRAFFICO

Rome lì 14 SET. 1944

Oggetto

D.L.L. 17 agosto 1944
n. 189

SEZIONE COMMERCIALE E DEL TRAFFICO
Roma - Firenze - Ancona - Bari
Napoli - Reggio Calabria -
Palermo
e
Delegazione F.S. Cagliari

Con Decreto Legislativo Luogotenenziale del 17.8.1944 n. 189, pubblicato nella Gazzetta Ufficiale n. 53 dell'8.9.1944 e che sarà riportato in un prossimo Bollettino Ufficiale F.S. vengono dettate norme che modificano il regime di responsabilità nell'esecuzione di trasporti di cose.

Mentre si richiama tutta l'attenzione di codesta Sezione su tale decreto ed allo scopo di assicurare uniformità di criteri nell'applicazione pratica del provvedimento, si prega di attenersi alle seguenti direttive:

78

1) - Tutti i reclami in corso riguardanti la mora o la mancata riscossione dell'assegno nonchè avarie, perdite totali o parziali di cose ed inosservanze del termine di resa, verificatesi su trasporti accettati dal 1° gennaio 1943 a tutto il 7.9.1944 e per i quali non siasi comunque proceduto finora al risarcimento del danno devono essere esaminati alla stregua delle nuove norme di responsabilità sancite dal decreto sopra indicato ed essere al caso respinti citando nelle risposte ai reclamanti gli estremi del decreto stesso. La reiezione deve avvenire in tutti i casi in cui le parti non abbiano provveduto o provvedano, con validi e concreti elementi di prova, a distruggere la presunzione di irresponsabilità stabilita a nostro favore, dimostrando altresì in modo inequivocabile la causa vera del danno e la imputabilità ad una colpa specifica dell'Amministrazione.

E' inteso che circa la esibizione di tali prove e documentazioni non possano essere ammessi criteri di correntezza ma che può naturalmente tenersi conto delle risultanze dei processi verbali ch.100, quando tali risultanze, non solo smentiscano la forza maggiore contemplata dal decreto, ma contengano inoltre elementi concreti di colpa a carico del vettore ed escludano in modo assoluto la ca-

Oggetto

D.L.L. 17 agosto 1944
n. 189

SEZIONE COMMERCIALE E DEL TRAFFICO
Roma - Firenze - Ancona - Bari
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E' inteso che circa la esibizione di tali prove e documentazioni non possano essere ammessi criteri di correntezza ma che può naturalmente tenersi conto delle risultanze dei processi verbali ch.100, quando tali risultanze, non solo smentiscano la forza maggiore contemplata dal decreto, ma contengano inoltre elementi concreti di colpa a carico del vettore ed escludano in maniera assoluta la esistenza di qualsiasi nesso di causalità tra il fatto dannoso ed il presunto evento di forza maggiore.

Così pure rimane stabilito che nella valutazione delle risultanze, prove e documentazioni di cui sopra dovranno essere considerate le circostanze eccezionali in cui i trasporti venivano eseguiti e l'impossibilità in cui quasi sempre si trovava l'Amministrazione di assicurare un regolare svolgimento del servizio.

Casi dubbi dovranno essere sottoposti a questa Direzione Generale onde evitare diversità di decisioni.

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2) - I criteri di cui al punto precedente devono applicarsi anche ai reclami per anormalità su trasporti accettati posteriormente al 7.9.1944, dato che, a norma del decreto sopra accennato, i trasporti stessi vengono eseguiti a rischio e pericolo delle parti, clausola questa che costituisce una presunzione di irresponsabilità del vettore e lascia agli utenti l'onere di distruggere tale presunzione, provando concretamente che il danno è conseguenza di una colpa specifica della Ferrovia.

3) - Le vertenze per anormalità su spedizioni accettate anteriormente al 1° gennaio 1943, devono invece essere trattate e definite con i criteri finora seguiti, quelli cioè della normale responsabilità prevista dalle vigenti Condizioni e Tariffe, dato che per tali trasporti nessuna norma limitativa di responsabilità il ripetuto decreto contiene. E' indispensabile però tener presente la necessità assoluta di limitare, nelle attuali contingenze, ed al massimo possibile l'onere derivante dal pagamento di indennizzi, eppertanto resta inteso che nella trattazione e definizione di tali vertenze devono essere raccolte, valutate e fatte valere con ogni cura tutte le circostanze atte ad escludere, o quanto meno a delimitare, la responsabilità dell'Amministrazione e la conseguente liquidazione di indennità a norma degli art. 52 e seguenti delle Condizioni e Tariffe.

4) - Tutte le vertenze che vengono rassegnate a questa Sede per parere o per le definizioni e autorizzazioni di competenza devono essere completamente istruite, documentate ed accompagnate da dettagliata relazione per modo da rendere possibile una pronta e definitiva risoluzione.

Con l'occasione si raccomanda la massima cura nella compilazione dei processi verbali d'accertamento Mod. Gh. 100 che devono essere redatti con la massima obiettività, precisione ed oculatezza e comprendere solo elementi di fatto positivi senza alcun apprezzamento subiettivo.

E' poi ovvio che l'accettazione delle spedizioni a rischio e pericolo dei mittenti, come è prevista dal ripetuto decreto, non consente di esigere dagli speditori particolari dichiarazioni di garanzia o di esonero da responsabilità e che pertanto dovrà prescindersi dal richiedere simili dichiarazioni, limitandosi a pretendere la semplice dichiarazione di garanzia prevista dall'art. 23 delle Condizioni e Tariffe nei casi tassativamente stabiliti.

Occorre infine rilevare che la proroga a 180 giorni del termine di cui al paragrafo 1 dell'art. 64 delle Condizioni e Tariffe, così come è prevista dal ripetuto decreto, consente di poter tempestivamente provvedere per la definizione dei reclami in via amministrativa, eppertanto si raccomanda ogni cura e sollecitudine nello espletamento delle istruttorie relative onde evitare gli inconvenienti che ingiustificati ritardi potrebbero causare.

specifica della Ferrovia.

3) - Le vertenze per anormalità su spedizioni accettate anteriormente al 1° gennaio 1943, devono invece essere trattate e definite con i criteri finora seguiti, quelli cioè della normale responsabilità prevista dalle vigenti Condizioni e Tariffe, dato che per tali trasporti nessuna norma limitativa di responsabilità il ripetuto decreto contiene. E' indispensabile però tener presente la necessità assoluta di limitare, nelle attuali contingenze, ed al massimo possibile l'onere derivante dal pagamento di indennizzi, eppertanto resta inteso che nella trattazione e definizione di tali vertenze devono essere raccolte, valutate e fatte valere con ogni cura tutte le circostanze atte ad escludere, o quanto meno a delimitare, la responsabilità dell'Amministrazione e la conseguente liquidazione di indennità a norma degli art. 52 e seguenti delle Condizioni e Tariffe.

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Si prega confermare.

IL CAPO DEL SERVIZIO

Cav. Forli

Col. Turbiglio

998 Eng

17.8.1944

Circular relating to D.L.L. No. 189.

~~Responsibility of the State Railways for the carriage of goods~~

~~Extraordinary~~ Exceptional provisions for the ~~carriage~~ hauling of goods by the State Railways.

1. The Circular 14.9.1944 of the Ministry of Communications contains executory and instructions rules for the enforcement of the D.L.L. 24x

17.8.1944 No. 189.

From a formal standpoint there is nothing to object: the interpretation of the law by the circular is correct. Substantially it emphasizes the legal presumption of irresponsibility, created by the said D.L.L. in favour of the carriers of goods by railway. All claims shall be dismissed if the parties do not succeed in bringing full evidence

goods by the State Railways.

1. The Circular 14.9.1944 of the Ministry of Communications contains executory rules and instructions for the enforcement of the D.L.L. 17.8.1944 No.189.

From a formal standpoint there is nothing to object: the interpretation of the law by the circular is correct. Substantially it emphasizes the legal presumption of irresponsibility, created by the said D.L.L. in favour of the carriers of goods by railway. All claims shall be dismissed if the parties do not succeed in bringing full evidence of the actual cause of the damage and specific fault of the railway's administration in most cases. This is practically impossible, so that almost all claims will be rejected.

7. According to Art. 2 of the a. m. D.L.,
all claims ~~~~ concerning transports
applied for and carried out ~~before~~ ~~sequestration from~~ the 1.1.1943 up to the
9.9.1944 are ~~~~ subject to the presumption
that any damage is due to an event of
"vis maior" for which the administration
is not liable.
This law (although for the duration of the ~~state of war~~)
is not only derogating from
the basic principle of the liability
of the ~~carrier~~ ~~confected~~ for the goods he is
~~to deliver~~
entrusted with for transportation
(Vide: Art. 1693 It. Civil Code and Art.s
25, 53 and 55 of the "Condizioni e Tariffe"
R.D.L. 25.1.1940 No 9), but has also
disregarded the fundamental rule
of the non-retroactivity (Vide: Art. 11 Preleggi It. Civ. Code) of the law.
The parties had ~~entered~~ taken their reciprocal
obligations according to the law in
force at that time. It seems to
be "contra bonam fidem et bonos
mores" to alter that law later on.

"vis maior" for which the [illegible]

is not liable.

This law is not only derogating (although for the duration of the state of war) from the basic principle of the liability ~~confectat~~ of the carrier for the goods ~~to have~~ he is entrusted with for transportation (Vide: Art. 1693 It. Civil Code and Art.s 25, 53 and 55 of the "Condizioni e Tariffe" R.D.L. 25.1.1940 N°9), but has also disregarded the fundamental rule (Vide: Art. 11 Preleggi It. Civ. Code) of the non-retroactivity of the law.

The parties had ~~entered~~ taken their reciprocal obligations according to the law in force at that time. It seems to be "contra bonam fidem et bonos mores" to alter that law later on, reversing the bases of many lawful and valid contracts. The senders rightfully believed that the railway administration was responsible

for their goods. If they could have imagined that a future law will abrogate the liability of the carrier, they would either have refrained from sending their goods by railway or insure them against any risk. Now they are punished for having trusted the law in force at the time of the contract.

3. The D. L. L. 17.8.1944 N. 189 ~~has been~~ was sanctioned, promulgated and duly published in the "Gazzetta Ufficiale" of 8.9.1944 No. 53. Therefore Art. 2 of this Decree could be changed only by another formal law, restoring for the past the preceding rules and regulations.

The railway administration could in any case defend itself by alleging and proving the circumstances of "vis maior" ~~consisting~~ derived from facts of war or consequences ~~thereof~~ thereto, without derogating, at least for the past, from a basic principle of the law

force at the time of the contract.

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ACP/11
980

4104

HEADQUARTERS
ALLIED CONTROL COMMISSION
Transportation Sub-Commission
APO 394

Tel.478701
Our Ref:ACC.Tn/1b/

14 October 1944

TO : Legal Sub-Commission, HQ. ACC.

SUBJECT: Legislative Decree

84A

Reference is to your letter ACC/4104/L of 7 October 1944.

Copy or original Italian text is attached hereto. 84A 99A 98

D.S. ADAMS
Colonel, C.E.
Director, Tn.Sub.Comm.

Enclosure: 1
(letter from Min.of Comm.)

4104

01005/10.3.0

Please file for future reference

Rome- October 10, 1944.

99 A

Presidency of the Council of the Ministers.

Dear Colonel,

I am attaching herewith a copy of the Decree concerning the grant of uncultivated land. I have also spoken with H.E. GULLO, Minister of Agriculture, who has pointed out to me that the draft has been already sent to the ACC Agriculture Sub-Commission, with which he is in touch for the examination of the various provisions.

I believe therefore that you may get better information on the matter directly from the above mentioned Sub-Commission.

With kindest regards.

Yours

A.

71

Col. R.H.Wilmer
Chief of the Legal Sub-Commission
A.C.C.
Rome

01005/10.3.13

Roma, 10 otto e 1944.-

96A

Presidenza del Consiglio dei Ministri

Caro Colonnello,

Le unisco una copia del provvedimento per la concessione delle terre incolte. Ho anche parlato con S.E. Gullo, Ministro dell'Agricoltura, il quale mi ha fatto presente che lo schema è stato già inviato alla Sottocommissione per l'Agricoltura dell'A.C.C., con la quale è in contatto per l'esame delle varie norme.

Ritengo, quindi, che Ella potrà avere ogni maggiore informazione al riguardo direttamente dalla cennata sottocommissione.

Con viva cordialità

70

Suo

A. Tonti

Colonnello R.H. WHILMER
Direttore della Sottocommissione Legale
Commissione Alleata di Controllo

ROMA

Draft of Decr -Law of the Lieutenant Ge..eral of the King-dom granting uncultivated land to the peasants.

958

UMBERTO DI SAVOIA
PRINCE OF PIEDMONT
LIEUTENANT GENERAL OF THE REALM

By virtue of the authority conferred upon us;
considering the Decree-Law of the Lieutenant General of the Kingdom of June 25, 1944, No. 151;
considering the R.Decree-Law of October 30, 1943, No. 2/B;
considering the R.Decree-Law of May 29, 1944, No; 141;
considering the resolution of the Council of the Ministers;
Following the proposal of our Minister, Secretary of State for Agricuture and Forests, in agreement with the Ministers of Interior, Pardon and Justice and Finance;
We have sanctioned and we promulgate the following :

69

Art. 1

The peasants associations, duly formed as co-operative societies or other bodies, may obtain a grant of land belonging to private owners or to public bodies if such land is uncultivated or unsufficiently cultivated considering its quality, the agricultural conditions of the locality and the agricultural needs of the farm in relation to the necessities of the national agricultural production.

Art. 2

The sequestrators of Fascist property affected by the Decree-Law of July 27, 1944, No. 159, may in the case of direct tenancy and excepting the case of Art. 1 entrust the farm to peasants co-operative societies giving sufficient guaranty to maintain the farm at the present productive capacity.

Art. 3

The application for the grant of land shall be examined, after hearing both parties or their representatives, by a Provincial Committee, consisting of the President of the 'Tribunale' of the Chief — Town or of a Judge appointed by him as President, of a representative of the landlords and of a representative of the peasants, appointed by the Prefect on proposal of the respective syndical unions. The Provincial Agrarian Inspector takes also part in the Committee, with advisory vote.

Art. 4

If the Committee believes that the application should be granted, they shall determine, in case the parties fail to agree, the indemnity to be paid to the landlord, availing themselves eventually of the estimate of experts appointed by the parties.

The Committee also fixes the date and the formalities of the taking possession of the land and the time limit within which the cultivation of the granted land must be initiated; such land may not be in any manner sublet or transferred away.

The Provincial Agrarian Inspector, assisted by two experts appointed by the parties, shall formulate the regulations governing the grant; such regulations must contain the inventory of the property handed over and the clauses of the lease.

68

Art. 5

The resolution of the Committee must be issued within not more than 15 days from the filing of the application.

The Prefect shall issue the Decree effecting the grant, according to the resolution adopted by the Committee, within not more than 5 days from the decision.

The duration of the grant may not exceed 4 agrarian years.

This Decree may not be opposed either before the Administrative or the Judicial Authorities, with the exception of the clause concerning the compensation, regarding which the parties may apply to the Court in the ordinary way of proceeding at law within the peremptory term of 15 days from the date of

the service of the notice of the Prefect's Decree.

Art. 6

The failure to comply with or infringement of the prescribed obligations entails the loss of the grant, to be ordered by Decree of the Prefect, in conformity with the advice of the Committee.

A complaint to the Minister of Agriculture against the Decree shall be admissible within the term of 15 days from the respective notice.

Art. 7

The grantees can avail themselves of all facilities granted by the laws now in force regarding transactions involving loans for agricultural undertakings.

Art. 8

This Decree shall come into force on the day of its publication in the "Gazzetta Ufficiale" of the Reich.

67

We order to whoever concerned to comply with the present Decree and enforce it as a Law of the State.

Dated.....

SCHEMA DI DECRETO LEGGE LUOGOTENENZIALE
CONCESSIONE AI CONTADINI DI TERRE INCOLTE

UMBERTO DI SAVOIA
PRINCIPE DI PIEMONTE
LUOGOTENENTE GENERALE DEL REGNO

In virtù dell'autorità a Noi delegata;
Visto il decreto-legge luogotenenziale 25 giugno 1944,n.151;
Visto il R.decreto-legge 30 ottobre 1943,n.2/B;
Visto il R.decreto-legge 29 maggio 1944,n.141;
Vista la deliberazione del Consiglio dei Ministri;
Sulla proposta del Nostro Ministro Segretario di Stato per l'Agricoltura e per le Foreste, di concerto con i Ministri dell'Interno, Grazia e Giustizia e Finanze;

ABBIAMO SANZIONATO E PROMULGHIAMO QUANTO SEGUE :

Art. 1

Le associazioni dei contadini, regolarmente costituite in cooperative o in altri enti, possono ottenere la concessione di terreni di proprietà privata o di enti pubblici che risultino non coltivati o insufficientemente coltivati in relazione alla loro qualità, alle condizioni agricole del luogo e alle esigenze culturali dell'azienda in relazione con le necessità della produzione agricola nazionale.

Art. 2

I sequestratari di beni fascisti colpiti dal decreto legislativo luogotenenziale 27 luglio 1944,n.159, possono, qualora trattisi di conduzione diretta o qualora non si ricada nel caso contemplato nell'art.1, affidare l'azienda a cooperative di contadini che diano sufficienti garanzie di mantenere l'azienda nel grado di produttività raggiunto.

Art. 3

La istanza per la concessione dei terreni è esaminata, sentite le parti o i loro delegati, da una Commissione provinciale, composta del Presidente del Tribunale del capoluogo o da un giudice da lui delegato che la pre-

Visto il decreto-legge luogotenenziale 25 giugno 1944,n.151;
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La istanza per la concessione dei terreni è esaminata, sentite le parti o i loro delegati, da una Commissione provinciale, composta del Presidente del Tribunale del capoluogo o da un giudice da lui delegato che la presiede, da un rappresentante dei proprietari di terre e da un rappresentante dei contadini, nominati dal Prefetto, su designazione delle rispettive organizzazioni sindacali. Fa anche parte della Commissione, con voto consultivo, l'Ispettore agrario provinciale.-

./.

Art. 4

La Commissione, se ritiene doversi accogliere l'istanza, determina, in caso di mancato accordo fra le parti, l'indennità da corrispondere al proprietario, avvalendosi eventualmente del parere di periti nominati dalle stesse parti.

Stabilisce inoltre la data e le modalità della presa di possesso dei terreni, ed il termine entro cui dovrà essere iniziata la coltivazione delle terre concesse, che non potranno essere comunque subaffittate o cedute.

Demanda all'Ispettorato Agrario Provinciale, assistito da due periti nominati dalle parti, la formulazione disciplinare della concessione che deve contenere l'inventario di consegna e le norme di conduzione.

Art. 5

La decisione della Commissione deve essere emessa nel termine massimo di giorni 15 dalla presentazione della domanda.

Il decreto di concessione viene emesso dal Prefetto, uniformemente alla decisione adottata dalla Commissione, nel termine massimo di 5 giorni dalla decisione.

65

La durata della concessione non può oltrepassare i quattro anni agrari.

Il decreto non è soggetto ad impugnazione nè in sede amministrativa nè in sede giudiziaria, tranne nella parte relativa all'indennità, per la quale, con le forme del giudizio ordinario, le parti possono adire all'autorità giudiziaria entro il perentorio termine di giorni quindici dalla data della ricevuta comunicazione del decreto prefettizio.

Art. 6

La inadempienza o infrazione agli obblighi stabiliti importa la decadenza della concessione, che sarà pronunziata con decreto prefettizio, su conforme parere della Commissione.

Contro il decreto è ammesso ricorso al Ministro per l'Agricoltura, entro il termine di 15 giorni dalla relativa notifica.

Art. 7

I concessionari possono usufruire di tutte le agevolazioni consentite

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Contro il decreto è ammesso ricorso al Ministro per l'Agricoltura, entro il termine di 15 giorni dalla relativa notifica.

Art. 7

I concessionari possono usufruire di tutte le agevolazioni consentite dalla vigente legislazione in materia di operazioni di credito agrario di esercizio.

Art. 8

Il presente decreto entra in vigore il giorno della sua pubblicazione nella Gazzetta Ufficiale del Regno.

Ordiniamo, a chiunque spetti, di osservare il presente decreto e di farlo osservare come legge dello Stato.-

Dato a

4104

93A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LOCAL GOVERNMENT SUB COMMISSION
APO 394

ACC/1/4/1/LG

9, October, 1944

SUBJECT : Draft Decree on the Dissolution of the Governatorct of Rome.

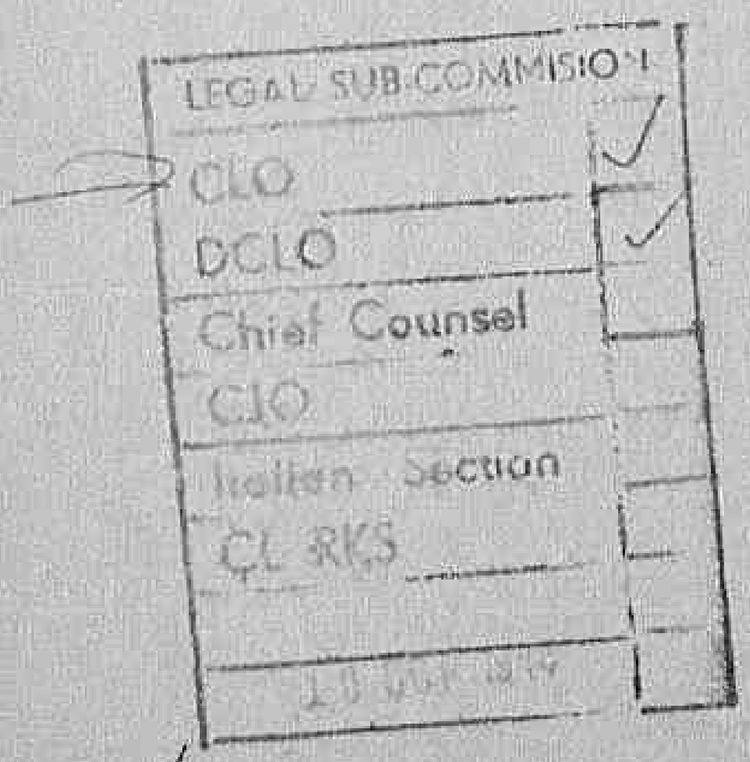
TO : Legal Sub- Commission

49A

1) Reference your ACC/4104/L dated 29th of August 1944, your suggested amendments have been accepted by the Ministry of the Interior. 6A

2) As to your point 2(b) the different procedure in regard to the approval of the budget and of the final account was intended. It is really a system adopted already by law.

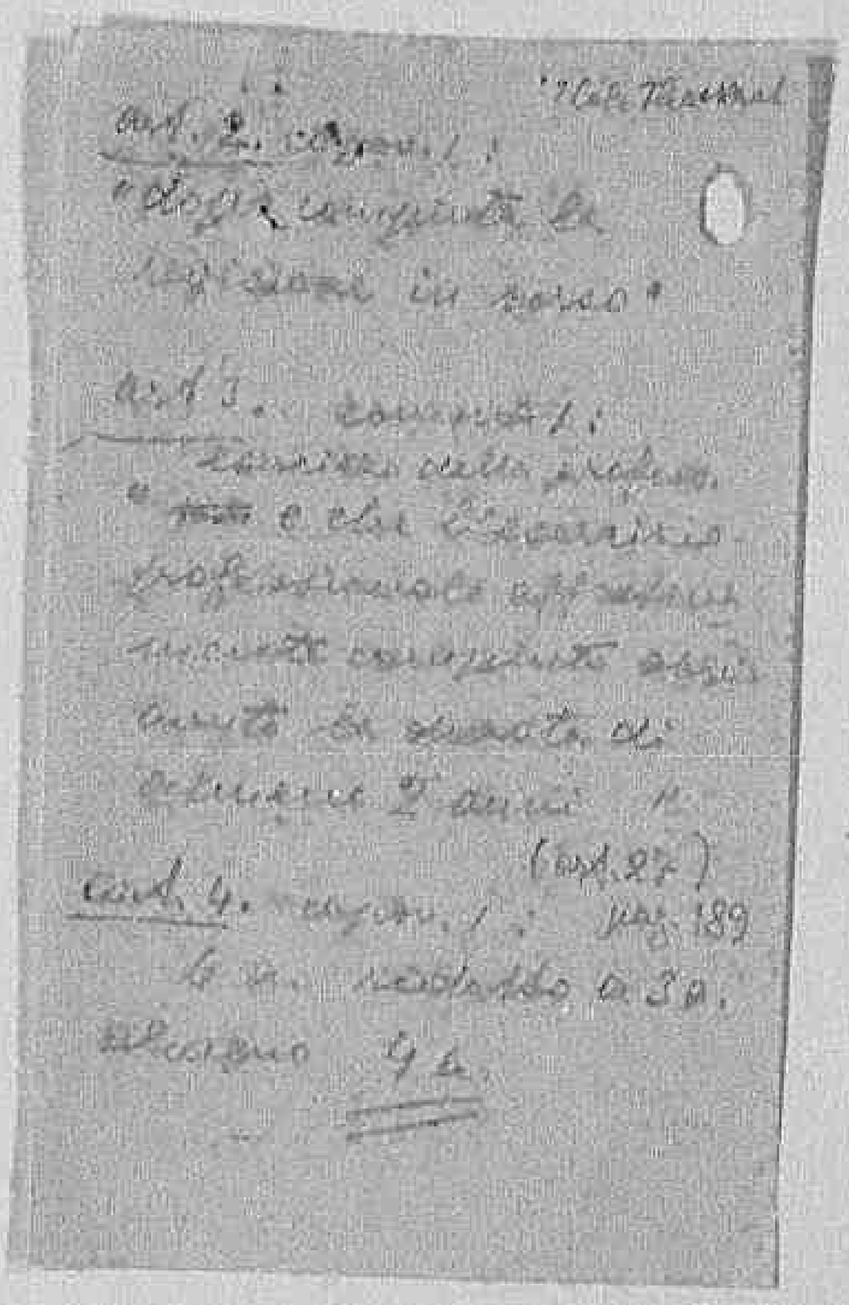
3) Before final approval, the proposed Draft Decree will be submitted to you for your perusal.



for R.G.B. SPICER
Colonel
Director
Local Government
Sub-Commission

FH/F/TC

2287



4104 Confidential Mod 3

90A

Draft memorandum to the bar

RELAZIONE E SCHEMA DI DECRETO LEGISLATIVO SULL'AMMISSIONE AL PATROCINIO DINANZI ALLE GIURISDIZIONI SUPERIORI E SULLE ISCRIZIONI NEGLI ALBI DEI PROCURATORI E DEGLI AVVOCATI.

Okeyed Oct 44 on 12th meeting

L'ammissione al patrocinio dinanzi alla Corte suprema di cassazione ed alle altre giurisdizioni superiori era deliberata, a norma dell'art.33 dell'ordinamento forense approvato con R.decreto-legge 27 novembre 1933, n.1578, dal direttorio del sindacato nazionale forense; epperò in mancanza di tale organo si è reso indispensabile regolare la materia con nuove norme.

A ciò provvede l'unito schema di decreto legislativo, il quale, ripristinando il sistema sancito dall'ordinamento forense del 1874, devolve alla Corte predetta l'ammissione di che trattasi e stabilisce le norme del procedimento relativo adattandovi quelle stabilite dall'art. 375 cod.proc.civ. concernente le pronuncie in camera di consiglio (art.1).

Delle ammissioni che saranno disposte verrà formato un elenco, tenuto dalla cancelleria della corte, nel quale, in sede di prima formazione, saranno inclusi anche i professionisti già ammessi al patrocinio medesimo, e che sarà aggiornato in base alle comunicazioni che i consigli degli ordini saranno tenuti ad effettuare alla stessa cancelleria, circa le variazioni degli albi degli avvocati che riguardino i professionisti iscritti nell'elenco. Questo sarà pubblico in modo che chiunque potrà prenderne visione (art.2).

L'ammissione al patrocinio dinanzi alla Corte suprema di cassazione ed alle altre giurisdizioni superiori era deliberata, a norma dell'art.33 dell'ordinamento forense approvato con R.decreto-legge 27 novembre 1933, n.1578, dal direttorio del sindacato nazionale forense; epperò in mancanza di tale organo si è reso indispensabile regolare la materia con nuove norme.

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Delle ammissioni che saranno disposte verrà formato un elenco, tenuto dalla cancelleria della corte, nel quale, in sede di prima formazione, saranno inclusi anche i professionisti già ammessi al patrocinio medesimo, e che sarà aggiornato in base alle comunicazioni che i consigli degli ordini saranno tenuti ad effettuare alla stessa cancelleria, circa le variazioni degli albi degli avvocati che riguardino i professionisti iscritti nell'elenco. Questo sarà pubblico in modo che chiunque potrà prenderne visione (art.2).

Nell'imminenza degli esami di procuratore, a cui parteciperanno candidati che nella maggior parte hanno compiuto da tempo il biennio di pratica, senza potere accedere agli esami sospesi dal 1940 a causa della guerra, l'art.3 dello schema è ispirato alla fina-

lità di dare modo a questi praticanti di riacquistare per quanto è possibile il tempo perduto e di sollevarli così dalla situazione di grave disagio economico e morale in cui sono venuti a trovarsi. Il beneficio concesso a costoro, della riduzione del periodo di esercizio della professione di procuratore di un tempo pari a quello trascorso dopo il compimento della pratica, è commisurato appunto al tempo in cui essi sono rimasti in attesa degli esami per modo che ciascuno si avvantaggerà della nuova norma in proporzione del ritardo con cui accede agli esami stessi.

Il beneficio medesimo viene esteso per ovvie ragioni di equità a coloro che hanno già superato gli esami del 1944 svoltisi in Sardegna e nelle Puglie e per l'avvenire ai candidati che risulteranno parimenti idonei nelle sessioni del 1945 e del 1946 nella ragionevole previsione che non tutti i candidati a favore dei quali sono dirette le attuali provvidenze potranno accedere agli esami nella sessione bandita a breve scadenza, e cioè per il gennaio p.v.

62

Per considerazioni dello stesso genere di quelle riguardanti l'iscrizione negli albi degli avvocati viene ridotto inoltre da otto anni a sei il periodo di esercizio della professione di avvocato per l'ammissione al patrocinio dinanzi alle giurisdizioni superiori.

Infine all'art.4 sono stabiliti i maggiori benefici spettanti agli ex combattenti ed a coloro che hanno prestato un anno almeno di servizio militare durante l'attuale guerra; e ciò anche in analogia alle disposizioni dell'attuale ordinamento forense.

riodo di esercizio della professione di procuratore di un tempo pari a quello trascorso dopo il compimento della pratica, è commisurato appunto al tempo in cui essi sono rimasti in attesa degli esami per modo che ciascuno si avvantaggerà della nuova norma in proporzione del ritardo con cui accede agli esami stessi.

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62

Art. 1

L'ammissione al patrocinio dinanzi alle giurisdizioni superiori indicate dall'art.4 del R.D.Legge 27 novembre 1933,n.1578 é disposta dalla corte suprema di cassazione.

A seguito della presentazione della domanda d'ammissione,corredata dei documenti diretti a comprovare il possesso dei requisiti prescritti,il presidente nomina il relatore ed ordina la comunicazione degli atti al pubblico ministero per le sue conclusioni.Qualora queste siano contrarie all'ammissione,ne viene informato il professionista il quale può presentare controdeduzioni nel termine di giorni venti dal ricevimento della notizia.Scaduto questo termine,la corte provvede in camera di consiglio con decreto motivato.

Art. 2

61

La cancelleria della corte suprema di cassazione comunica l'ammissione al patrocinio dinanzi alle giurisdizioni superiori al professionista ed al consiglio dell'ordine al quale questi appartiene,e tiene aggiornato lo elenco degli avvocati ammessi al patrocinio medesimo.A questo effetto i consigli dell'ordine devono informare prontamente la cancelleria predetta delle variazioni dell'albo e dei provvedimenti disciplinari riguardanti gli avvocati iscritti nell'elenco.

Nella prima formazione dell'elenco sono in esso iscritti anche coloro che sono attualmente ammessi allo stesso patrocinio.

Dell'elenco tenuto dalla cancelleria può prendere visione chiunque ne faccia richiesta.

Art. 3

A seguito della presentazione della domanda d'ammissione,corredata dei documenti diretti a comprovare il possesso dei requisiti prescritti,il presidente nomina il relatore ed ordina la comunicazione degli atti al pubblico ministero per le sue conclusioni.Qualora queste siano contrarie all'ammissione,ne viene informato il professionista il quale può presentare controdeduzioni nel termine di giorni venti dal ricevimento della notizia.Scaduto questo termine,la corte provvede in camera di consiglio con decreto motivato.

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Nella prima formazione dell'elenco sono in esso iscritti anche coloro che sono attualmente ammessi allo stesso patrocinio.

Dell'elenco tenuto dalla cancelleria può prendere visione chiunque ne faccia richiesta.

Art. 3

A favore dei praticanti che saranno iscritti nell'albo dei procuratori in base all'idoneità conseguita negli esami del triennio 1944 - 1946 il periodo di esercizio della professione necessario per l'iscrizione nell'al

bo degli avvocati é ridotto di un tempo pari a quello trascorso dopo il compimento della pratica, a condizione che la domanda di iscrizione nell'albo dei procuratori sia presentata entro novanta giorni dalla pubblicazione dell'esito degli esami predetti.

A favore degli avvocati che saranno iscritti nell'albo a termini della disposizione di cui al comma precedente, il periodo di esercizio della professione necessario per l'ammissione al patrocinio dinanzi alle giurisdizioni superiori é ridotto a sei anni.

Art. 4

•60

Il tempo trascorso dopo il compimento della pratica di procuratore é computato per doppio a favore degli ex combattenti e di coloro che hanno prestato un anno almeno di servizio militare durante l'attuale guerra, qualora richiedano l'iscrizione nell'albo degli avvocati a termini dell'articolo precedente.

A favore delle medesime categorie il periodo di esercizio della professione di avvocato necessario per l'ammissione al patrocinio dinanzi alle giurisdizioni superiori é ridotto a tre anni.

4104 bis

30 SET. 19

Draft Decree on Composition of Courts of Assizes

RELAZIONE ALLO SCHEMA DI DECRETO LEGISLATIVO SULLA COMPOSIZIONE DELLA CORTE DI ASSISE.

In seguito all'emanazione del decreto legislativo 6 agosto I944,n.170, che ha modificato la composizione della Corte d'Assise quando questa deve giudicare dei delitti fascisti,si è determinata una diversità in tale composizione, secondo che la Corte sia chiamata a conoscere dei delitti fascisti o di altri reati.

Infatti nel primo caso essa è composta di due magistrati e di cinque giudici popolari scelti a norma del decreto legislativo 6 agosto I944,n.170,mentre nel secondo caso è composta di due magistrati e di cinque assessori scelti a norma del Testo Unico 4 ottobre I935,n.1899, sull'ordinamento delle Corti d'Assise.

In attesa della riforma organica dell'istituto,si ravvisa opportuno unificare il sistema di composizione della Corte d'Assise,stabilendo che in tutti i casi sono chiamati a far parte del collegio, oltre ai due magistrati,i cinque giudici popolari scelti secondo le norme del decreto legislativo 6 agosto I944,n.170.

In pari tempo si prescrive che i giudici popolari giurano all'inizio di ciascun dibattimento secondo l'antica formula di giuramento che era prevista per i giurati,dall'art.440 del codice di procedura penale del I913,formula di giuramento che è la più consona alla funzione dei giudici popolari.

Allegato al 12 Oct. in Lucca

In seguito all'emanazione del decreto legislativo 6 agosto I944,n.170, che ha modificato la composizione della Corte d'Assise quando questa deve giudicare dei delitti fascisti,si è determinata una diversità in tale composizione, secondo che la Corte sia chiamata a conoscere dei delitti fascisti o di altri reati.

Infatti nel primo caso essa è composta di due magistrati e di cinque giudici popolari scelti a norma del decreto legislativo 6 agosto I944,n.170,mentre nel secondo caso è composta di due magistrati e di cinque assessori scelti a norma del Testo Unico 4 ottobre I935,n.1899, sull'ordinamento delle Corti d'Assise.

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Allegato 12 bis

Schema di Decreto Legislativo
Composizione della Corte di Assise

UMBERTO DI SAVOIA
Principe di Piemonte
Luogotenente Generale del Regno

In virtù dell'autorità a Noi delegata;
Visto il decreto legge Luogotenenziale 25 giugno 1944, n.151;
Visti il decreto legislativo 6 agosto 1944,n.170, ed il Testo Unico 4 ottobre 1935,n.1899;
Vista la deliberazione del Consiglio dei Ministri;
Sulla proposta del Guardasigilli, Ministro Segretario di Stato per la Grazia e Giustizia;
ABBIAMO SANZIONATO E PROMULGHIAMO QUANTO SEGUE:

Art.1

La composizione della Corte di Assise, anche fuori dei casi preveduti nell'art.1 del decreto legislativo Luogotenenziale 6 agosto 1944,n.170, è determinata dalle disposizioni degli articoli 1,2,3 e 6 del decreto medesimo.

Art.2

Le disposizioni dell'art.12 del Testo Unico approvato con R.decreto 4 ottobre 1935, n.1399, circa il giuramento degli assessori all'atto della nomina,sono abrogate.
I giudici popolari chiamati a prestare servizio giu

Principe di Piemonte
Luogotenente Generale del Regno

In virtù dell'autorità a Noi delegata;
Visto il decreto legge Luogotenenziale 25 giugno 1944, n.151;
Visti il decreto legislativo 6 agosto 1944,n.170, ed il Testo Unico 4 ottobre 1935,n.1899;
Vista la deliberazione del Consiglio dei Ministri;
Sulla proposta del Guardasigilli, Ministro Segretario di Stato per la Grazia e Giustizia;
ABBIAMO SANZIONATO E PROMULGHIAMO QUANTO SEGUE:

Art.1

La composizione della Corte di Assise, anche fuori dei casi preveduti nell'art.1 del decreto legislativo Luogotenenziale 6 agosto 1944,n.170, è determinata dalle disposizioni degli articoli 1,2,3 e 6 del decreto medesimo.

Art.2

Le disposizioni dell'art.12 del Testo Unico approvato con R.decreto 4 ottobre 1935, n.1899, circa il giuramento degli assessori all'atto della nomina,sono abrogate.
I giudici popolari chiamati a prestare servizio giu

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rano all'inizio di ciascun dibattimento in conformità di quanto era stabilito per i giurati dall'art.440 del codice di procedura penale approvato con Regio decreto 27 febbraio 1913 n.127. A tale scopo il Presidente della Corte di Assise li invita ad alzarsi e stando in piedi egli stesso legge la seguente formula:

" Con la ferma volontà di compiere, da uomini di onore, tutto il vostro dovere, e coscienti della suprema importanza morale e civile dell'ufficio che la legge vi affida, giurate e promettete di ascoltare con diligenza ed esaminare con serenità, in questo procedimento, le prove e le ragioni dell'accusa e della difesa, di formare la vostra intima convinzione valutandole con rettitudine ed imparzialità, e di tenere lontano dall'animo vostro ogni sentimento di avversione o di favore, perchè la sentenza riesca, quale la società l'attende, affermazione sincera di verità e di giustizia ".

I giudici popolari sono chiamati ad uno ad uno; e ciascuno di essi risponde affermando : " Lo giuro ". 57

Queste disposizioni si osservano sotto pena di nullità.

Ordiniamo, a chiunque spetti, di osservare il presente decreto e di farlo osservare come legge dello Stato.

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HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

ACC/4104/L.

SUBJECT : Draft of Decree Law concerning Rules for the operation of Stock Companies.

TO : Commerce Sub-Commission.

1. Reference your ACC /5109/Commerce dated 1 October 1944.

2. There does not appear to be any error of substance in the form of decree submitted and we have no objection to it. I understand from my Italian authority that it is well prepared.

3. I return herewith the papers which you submitted.

RICHARD H. WILMER.
Colonel, CAC.
Chief Legal Adviser.

4104

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HEADQUARTERS
ALLIED CONTROL COMMISSION
COMMERCE SUB-COMMISSION
APO 394

WES/jfl/aie

Ref. ACC/5103/Commerce

1 October 1944

SUBJECT: Transmittal of Draft of Lieutenential Decree Law Concerning Rules for the operation of Stock Companies

TO : Legal Subcommission HQ ACC

There is transmitted herewith, for your examination, Italian copy and English translation of a draft of a lieutenential decree law concerning the operation of stock companies

LEGAL SUB COMMISION	
CLO	
DCLO	
Chief Counsel	
CJO	
Italian Section	
CLERKS	

W.P. EVANS
Colonel
Director
Commerce Sub-Commission

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1 Incl. as above (in English and Italian)

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

9 October 1944.

ACC/4104/1.

SUBJECT : Memo for project of Legislative Decree containing provisions for appointment of Commissars for Para-Syndical Institutions and substitutions of members appointed or nominated by Syndicates in Commissions or other organs.

TO : Commerce Sub-Commission.

1. Reference your letters Ref. ACC/[illegible]/Commerce dated 1 and 5 October 1944.

2. There appears to be nothing radically wrong with the substance of the decree for the appointment of Commissars for para-syndical Institutions but there may be a very radical objection to the promulgation of this decree because of the fact that the Economic Section is in negotiation with the same Minister with respect to a decree specifically dissolving certain named syndicates. This is covered in letter of this Sub-Commission to Economic Section ACC/4082/1/1 dated 27 September 1944 and letter of Economic Section to this Sub-Commission ES/7B dated 24 Sept 44 and further correspondence.

3. You will note that in Article 1 of the Decree which you have submitted reference is merely made to the Law of 1926 under which these institutions were created. We cannot tell, therefore, what [illegible] syndical organizations your proposed draft covers and if it does refer to any or some of the same syndical organizations that were specifically named in the proposed decree now being considered by the Economic Section and referred to above there will be an absolute conflict in the method of treatment.

4. As to the matter of policy referred to in your letter of 5 Oct 44. I have referred that to Higher Authority for consideration.

5. I return herewith the papers which you submitted.

RICHARD H. WILMER.
Colonel, CAC.
Chief Legal Adviser.

HEADQUARTERS
ALLIED CONTROL COMMISSION
COMMERCE SUBCOMMISSION
APO 394

WES/jf1

5 October 1944

Ref. ACC/~~5103~~/Commerce

SUBJECT: Draft of Lieutenential Decree Law Concerning Rules for the Operation of Stock Companies and Provisions for the Appointment of Commissars for Para-syndical Institutions

TO : Legal Subcommission, HQ ACC

1. Reference is made to letters of this Subcommission dated 1 October 1944, file 5103, transmitting the subject drafts of proposed legislation submitted for the examination of the Allied Control Commission by the Italian Government.

2. These drafts were originally submitted to this Subcommission by hand without covering letter. The text of the covering letters furnished by the Ministry of Industry, Commerce, and Labor, subsequently presented to this Subcommission upon its request, is quoted herewith for your information:

> "There is transmitted the attached draft of a legislative decree, which, although it is strictly juridical in character and has no connection with the application of the Armistice, is nevertheless submitted for the information of your Commission."

3. This Subcommission will be pleased to learn the opinion of the Legal Subcommission as to whether or not the Italian Government is to be deemed competent to decide whether or not legislation does or does not conform to the terms of the Armistice and to what extent all contemplated legislation is required to be submitted for the approval of the Allied Control Commission under present policy.

Copy to: ~~Economic Section~~
LEG
CLO
DCLO
Chief Counsel
CIO
Italian
CL RKS

W. P. EVANS
Colonel
Director
Commerce Subcommission

File 4104

HEADQUARTERS
ALLIED CONTROL COMMISSION
COMMERCE SUB-COMMISSION
APO 394

WES/jfl/aie

Ref. ACC/~~5103~~ 5040/Commerce

1 October 1944

SUBJECT: Transmittal of
Memo for the Project of
Lieutenential Legislative
Decree Containing Provisions
for the Appointment of Commissars
for Para - Syndical Institutions
and the Substitutions of Members
Appointed or Nominated by Syndicates
in Commissions or other organs

TO : Legal Sub-Commission HQ ACC

There are transmitted herewith, for your examination, two copies of a memorandum as above, one in Italian and one in English.

LEGAL SUB COMMISION
CLO
DCLO
Chief Counsel
CJO
Italian Section
CLERKS
2 Incls. as above

for
W.P. EVANS
Colonel
Director
Commerce Sub-Commission

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

85A

TEW/pa.
8 Oct 44.

ACC/4104/1.

SUBJECT : Italian Legislation.

TO : V.P. Civil Affairs Section.

1. Commerce Sub-Commission a few days ago submitted to Legal Sub-Commission two drafts of two decrees to be promulgated by the Italian Government. They are being examined now. These drafts were handed to Commerce Sub-Commission without covering letter. Later covering letters were sent by the Minister of Industry Commerce and Labor upon the request of Commerce Sub-Commission.

2. The covering letter states :

> " There is transmitted the attached draft of a legislative decree, which although it is strictly juridical in character and has no connection with the Armistice, is nevertheless submitted for the information of your Commission".

3. One of these decrees deals with the holding of joint stock company meeting, submission of balance sheets and appointment of commissars. The other deals with the dissolution of certain fascist syndicals. In the former we may or may not be interested; in the latter I would think we may find we are much interested.

4. Whether or not these decrees are of interest to ACC will have to be determined after they and their implications have been thoroughly considered. The main point now to be decided is one of policy :

a. Is each proposed decree to be submitted to ACC before it may be promulgated ?

b. If not if the Italian Government to be the sole arbiter as to whether or not it is of interest to us under the Armistice Terms?

RICHARD M. WIMER,
Colonel, C.A.C.,
Chief Legal Advisor.

Copy to 4113/1.

HEAD QUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

AGC/4104/1.

AR?/pa.
7 Oct 44.

SUBJECT : Circular relating to D.L.L. No. 109.

TO : Transportation Sub-Commission.

830

1. Referring to your AGC/Tn/15 of 4 Oct 44 and annexures, it is not possible to gain an accurate idea of the objects and scope of the circular from the imperfect translation supplied.

2. If you will kindly furnish a copy of the Italian text at the same time indicating from the point of view of your Sub-Commission (a) the objectivity of the circular, (b) any objections or queries it is desired to raise, we shall be better able to comment usefully upon it.

A. P. THACKRAH,
Lt. Colonel,
Italian Branch,
for Chief Legal Advisor.

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ACP/16 83A

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HEADQUARTERS
ALLIED CONTROL COMMISSION
Transportation Sub-Commission
APO 394

4 October 1944

Tele : 478701

ACC Tn/15/

SUBJECT : Luogotenenziale Legislative Decree N.189 dated 17 August 1944

TO : Legal Sub-Commission

1. Attached hereto is a translation of a letter sent by the I.S.R. Headquarters to their various Divisional Chiefs in respect of liability for claims.

2. Your comments thereon in due course will be appreciated.

for D.S. ADAMS
Colonel, C.B.,
Director, Tn. S/C.

LEGAL SUB-COMMISION
CLO
DCLO
Chief Counsel
CJO
Italian section
CLERKS

MINISTERO DELLE COMUNICAZIONI
FERROVIE DELLO STATO - DIREZIONE GENERALE

(1) .....

Roma, 29 SET. 1944 (838) A

N. C. of. Segr. 7/CCA/864/5

Al N. ..... del .....

OGGETTO: Invio circolari
-alleg.N°

ALLA COMMISSIONE ALLEATA DI CONTROLLO

Alla DIREZIONE del
"MILITARY RAILWAY SERVICE"
S E D E

Per opportuna conoscenza, si trasmettono le unite copie della circolare C. 242/5251/2 del 14 corrente relativa al D.L.L. 17.8.1944 N° 189 che modifica il regime di responsabilità nell'esecuzione dei trasporti di cose.

IL DIRETTORE GENERALE

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cir

(1) Servizio.

Stab. Tip. Pucci - Ancona - Ord. 37 - 30-6-42-XX. - 1.701.500

Translation

Ministry of Communications — Rome 14 Sept. 194[illegible]
I S R - General Direction
Commercial and Traffic Service

— our ref.C.242/5251/2

Subject:

"Luogotenenziale Legislative Decree N.189 dated 17 August 1944

To Commercial and Traffic Sections of
Rome - Naples - Florence - Ancona - Bari
Reggio Calabria and Palermo -
Cagliari I.S.R. Delegation

Rules, modifying the responsibility regimen connected with goods transportation have been issued with the "Luogotenenziale Legislative Decree" N.189 dated August 17 - 1944 - This Decree, already published on Official Gazette n.53, dated 8 Sept.1944, will be taken over by a next I S R Official Bullettin.

While your attention is invited on said decree with the purpose to secure uniformity of opinions in practical application of such disposition, we beg you to fulfill the following dispositions:

1) All the pending claims regarding either delay of failed cashing of the C O D and damage, either total or partial loss of goods, or inobservance of time allowed for delivery concerning transportations accepted between January 1st 1943 and September 7th 1944, and for which we have not indemnified the damage, are now to be examined in connection with the new rules issued by this decree. In case of such claims dismission the dispositions of the above mentioned decree are to be cited to the Claimants on the reply. The dismission is to be performed in all the cases in which the claimants have not provided or are not going to provide to invalidate, bringing efficient and positive evidences, the irresponsibility presumption stated on our behalf, evicing, besides, the full evidence of the real cause of the damage and the imputability to a specific I S R Administration guilt.

It is understood: a) that concerning such evidences and documentations fair dealings criteriums cannot be allowed. b) that it is possible, however, to esteem the results of minutes (form CU 100) in case that the-

transportation have been issued with the "Luogotenenziale Legislative Decree" N.189 dated August 17 - 1944 - This Decree, already published on Official Gazette n.53, dated 8 Sept.1944, will be taken over by a next I S R Official Bullettin.

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It is understood: a) that concerning such evidences and documentations fair dealings criteriums cannot be allowed. b) that it is possible, however, to esteem the results of minutes (form CH 100) in case that these results, not only invalidate the force major fact, but bring efficient evidence of the common carier guilt and escluding, absolutely the existence of any causality connection between the harmful action and the presumed

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force major fact. It is pointed out, too, that testing the results, the above referred evidences and documentations,are to be considered the exceptional circumstances in which the transportations have been operated and the I S R Administration impossibility to secure a regular service operation.

Doubtfull cases are to be submitted to this General Director to avoid diversity of decisions.

2) Dispositions, whereof the above para. are to be fulfilled, too, for the claims regarding abnormalities of transports accepted afterwards september 7th 1944, as, according to the above sentioned decree, such transportations are operated at parties' own risk.This clause states the common carrier's irresponsibility presumption, the claimant having of course the duty to invalidate such presumption, by envicing surely that the damage is consequent to a specific I R S guilt.

3) The controversies,regarding the abnormalities for consignements accepted before January 1st 1945 are to be on the contrary handled and carried out according to the dispositions followed up to this time - that is to say the usual responsibility foreseen by the Conditions and Rates now in force, as no responsibility limitative rule is foreseen by the said Decree concerning such transportations. But it is very necessary, considering the strict necessity, considering the strict necessity to limit, at this particular moment, and as much as possible, the burden connected with indemnities payment. It is understood therefore, that in the handling and carrying out of these controversies are to be collected and tested, as much as possible, circumstances, proper to leave out, or at least to limit; I.S.R. Administration and the consequent payment of indemnity (as art.52 and following of Conditions and Rates.)

4) All the controversies submitted to the Seat either for [illegible] responsibility

to avoid diversty of decisions.

2) Dispositions, whereof the above para. are to be fulfilled, too, for the claims regarding abnormalities of transports accepted afterwards september 7th 1944, as, according to the above mentioned decree, such transportations are operated at parties' own risk. This clause states the common carrier's irresponsibility presumption, the claimant having of course the duty to invalidate such presumption, by envicing surely that the damage is consequent to a specific I R S guilt.

3) The controversies, regarding the abnormalities for consignements accepted before January 1st 1949 are to be on the contrary handled and carried out according to the dispositions followed up to this time - that is to say the usual responsibility foreseen by the Conditions and Rates now in force, as no responsibility limitative rule is foreseen by the said Decree concerning such transportations. But it is very necessary, considering the strict necessity, considering the strict necessity to limit, at this particular moment, and as much as possible, the burden connected with indemnities payment. It is understood therefore, that in the handling and carrying out of these controversies are to be collected and tested, as much as possible, circumstances, proper to leave out, or at least to limit; I.S.R. Administration and the consequent payment of indemnity (as art.52 and following of Conditions and Rates.)

4) All the controversies submitted to the Seat either for opinion or to be carried out or for issuing of the competent authorities are to be wholly drawn up, evidenced by documents, and accompanied with a detailed report to get a prompt and definitive solution.

We recommend too, to draw up, with the utmost accuracy, the verification minutes Form OH 100 - Such minutes are to be drawn with the utmost objectivity, accuracy and heedfulness and are to include only real fact elements and no subjective appreciation.

It is understood, too, that such consignement acceptance on senders'own risk, (as foreseen by the above referred Decree) does not permit to require from senders either special declaration of warranty or exonaration from responsibility. Therefore, such declarations are not to be required, requesting only the simple guarantee declaration foreseen by art.23 (Conditions and Rates) for specifically stated cases.

It is necessary, at last, to point out that the delay of 180 days of the term (para.1 - art.64 of the Conditions and Rates), as foreseen by the above referred Decree, allows to proceed timely for the settlement of the claims by administrative way.

Therefore, we recommend that the utmost accuracy and speed are to be used, carrying out the relative proceedings, to avoid unjustified delays.

Please acknowledge receipt.

The Service Chief

f Davagnone

cu/ng26

4404/

ALLIED CONTROL COMMISSION
CONTROL STAFF
APO 394

Ref. ACC/3949/Commerce

5 October 1944

SUBJECT: Decree Law Concerning the Regulation of Trade in Raw and Tanned Hides

TO : [redacted]

1. There is transmitted herewith for your signature letter addressed to the Ministry of Industry, Commerce, and Labour approving the Decree Law transmitted to us by that Ministry with letter No. 01789 of October 4th 1944.

2. Both the Commerce and Legal subcommissions have examined same and approve the text for publication in the Official Gazette.

W. S. [redacted]
Colonel
Director
Commerce Subcommission

Encls.

Copy to: Legal S/C (with encl.)
[redacted] (with encl.)

LEGAL SUBCOMMISION
CLO
DCLO
Chief Colonel
CLO
Asher
C. [redacted]

(836)

HEADQUARTERS
ALLIED CONTROL COMMISSION
ECONOMIC SECTION
APO 394

WEB/JCL

5 October 1944

Ref. ACC/3040/Germatros

SUBJECT: Decree Law Concerning the Regulation of Trade in Raw and Turned Hides

TO : ~~H.E. The Minister of Industry, Commerce, and Labour~~

1. There is transmitted herewith a copy of the proposed decree law referred to in your letter No. 01739 of October 4th 1944.

2. This Commission is in agreement with the terms of the Decree and will issue the necessary instructions to its officers in the Regions as soon as the publication has been effected in the Official Gazette.

For the Acting Chief Commissioner

43

J. C. MITCHELL
Acting Head
Economic Section

Encls.

Copy to: ~~Commerce~~ ~~Industry~~ ~~Legal~~

IL MINISTRO SEGRETARIO DI STATO PER L'INDUSTRIA
IL COMMERCIO E IL LAVORO

VISTO il R.D. Legge 16 giugno 1938, n.1387;
VISTO l'art.7 della legge 13 giugno 1940, n.826;

D E C R E T A :

Art.1

Il prezzo di vendita dell'estratto conciante secco avente un titolo inferiore al 67% di unità tanniche viene fissato, in via provvisoria, in Lire 49 al chilogramma per merce resa franco stabilimento.

Art.2

I prezzi di vendita delle pelli bovine, equine e bufaline conciate rimangono stabiliti come appresso, per merce resa franco stabilimento:

cuoio suola	L. 240	al Kg.
Tomaia a concia vegetale	L. 120,50	" pq.
" " " minerale	L. 215	" pq.

Art.3

Il prezzo di vendita delle pelli bovine, equine e bufaline conciate prodotte da pelli provenienti dai Consorzi viene così fissato per merce resa franco stabilimento:

cuoio suola	L. 160	al Kg.
tomaia a concia vegetale	L. 69,10	" pq
" " " minerale	L. 114,55	" pq.

Art.4

Il presente decreto entra in vigore nel giorno successivo a quello della sua pubblicazione nella Gazzetta ufficiale.

820

DECRETO LEGISLATIVO LUOGOTENENZIALE CONCERNENTE
LA DISCIPLINA DEL COMMERCIO DELLE PELLI GREZZE
E DELLE PELLI CONCIATE

UMBERTO DI SAVOIA PRINCIPE DI PIEMONTE
LUOGOTENENTE GENERALE DEL REGNO

In virtù dell'autorità a Noi delegata;

VISTA la legge 13 giugno 1940 n.826 concernente la disciplina della raccolta, salatura e distribuzione delle pelli bovine ed equine;

VISTO il decreto legge luogotenenziale 25 giugno 1944 n.151 concernente l'assemblea per la nuova costituzione dello Stato, il giuramento dei membri del Governo di emanare norme giuridiche;

VISTO il R. decreto legge 30 ottobre 1943 n.2/B, modificato col R. decreto legge 29 maggio 1944 n.141, concernente la sospensione delle norme relative all'emanazione, promulgazione, registrazione e pubblicazione dei RR. decreti ed altri provvedimenti;

VISTA la deliberazione del Consiglio dei Ministri;

SULLA proposta del Ministro per l'Industria, il Commercio ed il Lavoro, di concerto col Ministro per la Grazia e Giustizia;

ABBIAMO SANZIONATO E PROMULGHIAMO QUANTO SEGUE:

Art. 1

I consorzi provinciali ed interprovinciali obbligatori tra i macellai per la raccolta e la salatura delle pelli bovine, equine e bufaline sono soppressi.

f/:

Art. 2

Il Prefetto della provincia ove ha sede il consorzio nominerà un commissario liquidatore il quale, entro venti giorni della data di accettazione della nomina, provvederà a trasmettere al Prefetto ed al Ministero dell'Industria, del Commercio e del Lavoro una relazione scritta sulla situazione patrimoniale del consorzio.

Con successivo decreto legislativo, su proposta del Ministro per l'Industria il Commercio ed il Lavoro, verranno emanate le norme per la liquidazione dei concorsi.

Art. 3

L'esercizio del commercio delle pelli grezze nazionali è soltanto consentito a coloro che alla data di pubblicazione del presente decreto risultino iscritti quali esercenti tale commercio nel registro delle ditte previsto dal R. decreto 20 settembre 1934, n.2011.

Art. 4

L'esercizio dell'industria della concia è consentito soltanto alle concerie che alla data di pubblicazione del presente decreto risultino iscritte in tale qualità nel registro di cui all'articolo precedente.

Art. 5

E' fatto divieto ai produttori e ai commercianti di estratti conciati per la concia delle pelli di vendere, comperare o fornire, anche a titolo gratuito, materiali concianti senza la presentazione di un regolare buono di svincolo.

Art. 6

I buoni di svincolo saranno rilasciati alle sole concerie di cui all'articolo 4 e saranno emessi a richiesta dei conciatori

interessati dal Ministero dell'Industria, del commercio e del lavoro, e per esso dalla R. Stazione sperimentale per l'industria delle pelli di Napoli.

E' fatto divieto alle concerie di venire in possesso di materiali conciati in eccesso alle quantità stabilite nel buono di assegnazione.

ART. 7

Le concarie dovranno mettere a disposizione del Ministero dell'Industria, del commercio e del lavoro una quantità di cuoio-suola pari al 120% dell'estratto conciante secco ricevuto in assegnazione ed avente il titolo non inferiore al 67% dell'unità tannica.

Per le altre categorie di pellame conciato il rapporto tra estratto conciante assegnato e manufatto da consegnare dalle concerie sarà stabilito dalla R. Stazione sperimentale per l'industria delle pelli sulla base del rapporto fissato per il cuoio-suola.

La messa a disposizione del manufatto da parte delle concerie dovrà essere effettuata entro 75 giorni dall'avvenuto ritiro dell'estratto conciante.

Art. 8

La vendita del cuoio e delle pelli bovine, equine e bufaline conciate è sottoposta alle disposizioni contenute negli articoli che seguono.

Art. 9

Tutte le concarie devono denunciare al Ministero dell'Industria, del Commercio e del lavoro, per il tramite della R. Stazione sperimentale per l'industria delle pelli, entro il giorno

25 di ogni mese, tutte le pelli bovine, equine e bufaline conciate e le pelli in lavorazione anche se nella fase iniziale.

Art. 10

Le concerie hanno l'obbligo di tenere un libro di carico e scarico, vidimato alla Camera di commercio, industria ed agricoltura competente per territorio e a registrarvi tutte le pelli grezze e conciate in loro possesso anche se in deposito per conto terzi, specificando nel libro di scarico i quantitativi avincolati o ceduti a qualsiasi titolo con l'indicazione della ditta acquirente.

Art. 11

Il cuoio e le pelli conciate dovranno essere consegnate dalle concerie esclusivamente ai possessori di buoni di assegnazione rilasciati dal Ministero per l'Industria, Commercio e Lavoro in relazione alle necessità che verranno segnalate, previ opportuni accertamenti, dagli organi competenti.

Art. 12

Ai trasgressori delle norme contenute nel presente decreto saranno applicate le sanzioni previste dalla legge 22 aprile 1943 n.245.

Art. 13

Il presente decreto entra in vigore nel giorno successivo a quello della sua pubblicazione nella Gazzetta Ufficiale del Regno.

Ordiniamo, a chiunque spetti, di osservare il presente decreto e di farlo osservare come legge dello Stato.

Dato a Roma,

Legislative D. Decree Concerning the Regulation of

Trade in Raw & Tanned Hides

Humbert of Savoy Prince of Piedmont,
Lieutenant General of the Realm

In virtue of the authority delegated to us; Seen the Law 13th June 1940, No. 825 concerning the regulation of the collection, salting and distribution of bovine and equine hides. Seen the L. Decree law 25th June 1944, No. 151 concerning the assembly for the new constitution of the State, the oath of the members of the Government to issue juridical regulations. Seen the R. Decree law 28th October 1943, No. 2/3 modified by R. Decree law 29th May 1944, No. 144, concerning the suppression of the regulations relative to the emanation, promulgation, registration and publication of R.D. Decrees and other measures;
Seen the deliberation of the Council of Ministers;
On the proposal of the Ministry of Industry, Commerce & Labour, in agreement with the Minister of Grace and Justice

We have sanctioned and promulgate what follows:

Art. 1

The obligatory inter-provincial Consortia formed among butchers for the collection of bovine, equine, and bufaline hides are abolished.

Art. 2

The Prefect of the province, where the Consortium has its Headquarters, will appoint a liquidating commissar, who, within 20 days from the date of acceptance of the appointment, will provide to transmit to the Prefect and to the Ministry of Industry, Commerce and Labour a written report on the patrimonial situation of the Consortium.

With subsequent legislative decree, on proposal of the Ministry of Industry, Commerce and Labour, the regulations for the liquidation of the consortia will be issued.

Art. 3

The exercise of commerce in national raw hides is only allowed to those who, at the date of publication of the present decree, are registered as dealers in such trade in the register of firm foreseen by R. Decree of 20th September, 1934, No. 2031.

Art. 4

The exercise of tanning industry is only allowed to those tanneries that at the date of publication of the present decree are registered in such capacity in the register referred to in the preceding Article.

Art. 5

Ister 29th May 1944, No. 144, concerning the suspension of the regulations relative to the examination, promulgation, registration and publication of R.D. Decrees and other measures;
Seen the deliberation of the Council of Ministers;
On the proposal of the Ministry of Industry, Commerce & Labour, in agreement with the Minister of Grace and Justice

We have sanctioned and promulgate what follows:

Art. 1

The obligatory inter-provincial Consorzii formed among butchers for the collection of bovine, equine, and bufaline hides are abolished.

Art. 2

The Prefect of the province, where the Consortium has its Headquarters, will appoint a liquidating commissar, who, within 20 days from the date of acceptance of the appointment, will provide to transmit to the Prefect and to the Ministry of Industry, Commerce and Labour a written report on the patrimonial situation of the Consortium.

With subsequent legislative decree, on proposal of the Ministry of Industry, Commerce and Labour, the regulations for the liquidation of the consorzii will be issued.

Art. 3

The exercise of commerce in national raw hides is only allowed to those who, at the date of publication of the present decree, are registered as dealers in such trade in the register of firm foreseen by R. Decree of 20th September, 1934, No. 2011.

Art. 4

The exercise of tanning industry is only allowed to those tanneries that at the date of publication of the present decree are registered in such capacity in the register referred to in the preceding Article.

Art. 5

It is forbidden to producers and dealers in tanning extracts for the tanning of hides to sell, buy, or furnish gratuitously to tanning agents without the presentation of a regular release certificate.

Art. 6

Release certificates are issued only to those tanneries provided for in Art. 4 and shall be issued on the application of the interested tanners by the Ministry of Industry, Commerce, and Labour and on its behalf by the Royal Experimental Station for the Hide Industry of Naples.

It is forbidden to tanneries to obtain possession of tanning agents in excess of the quantities established in the allotment certificate.

Art. 7

Tanneries must place at the disposal of the Ministry of Industry, Commerce, and Labour, a quantity of sole leather equivalent to 12½ of the dry tanning extract received on allotment and having a strength not less than 67% of the tannic content.

For other types of tanned hides the proportion between tanning extract consigned and that manufactured to be turned over by the tanneries shall be established by the Royal Experimental Station for the Hide Industry on the basis of the proportion fixed for sole leather.

The consignment of the manufactured product on the part of the tanneries shall be effected within 75 days of the date of the withdrawal of tanning extract.

Art. 8

The free sale of leather and bovine, equine, and bufaline tanned hides is forbidden.

Art. 9

All tanneries must report to the Ministry of Industry, Commerce, and Labour through the Royal Experimental Station for the Hide Industry on the 25th day of each month all equine, bovine, and bufaline tanned, as well as the hides which are in process, even if in the initial phases thereof.

Art. 10

Tanneries are furthermore obliged to keep a register under the control of the Chamber of Agriculture, Industry and Commerce having jurisdiction over the territory concerned and to register therein all raw and tanned hides in their possession, even if deposited therewith for the account of third parties, specifying in the outgoing register the amount released or passing out of their possession in whatsoever manner, indicating the name of the acquiring firm.

Art. 11

Leather and tanned hides shall be consigned by the tanneries exclusively to holders of allotment certificates issued by the Ministry of Industry, Commerce, and Labour in relation to the needs that will be notified, subject to the necessary screening, by the competent organ.

Art. 12

Violators of the regulations contained in the present Decree shall be subject to the penalties provided for by the Law of 22 April 1943, No. 245.

Art. 13

tanneries shall be effected within 15 days of the date of the extraction of tanning extract.

Art. 8

The free sale of leather and bovine, equine, and bufaline tanned hides is forbidden.

Art. 9

All tanneries must report to the Ministry of Industry, Commerce, and Labour through the Royal Experimental Station for the Hide Industry on the 25th day of each month all equine, bovine, and bufaline tanned , as well as the hides which are in process, even if in the initial phases thereof.

Art. 10

Tanneries are furthermore obliged to keep a register under the control of the Chamber of Agriculture, Industry and Commerce having jurisdiction over the territory concerned and to register therein all raw and tanned hides in their possession, even if deposited therewith for the account of third parties, specifying in the outgoing register the amount released or passing out of their possession in whatsoever manner, indicating the name of the acquiring firm.

Art. 11

Leather and tanned hides shall be consigned by the tanneries exclusively to holders of allotment certificates issued by the Ministry of Industry, Commerce, and Labour in relation to the needs that will be notified, subject to the necessary screening, by the competent organ.

Art. 12

Violators of the regulations contained in the present Decree shall be subject to the penalties provided for by the law of 22 April 1943, No. 365.

Art. 13

The present decree will enter into force on the day following its publication in the official Gazette of the Realm.

Art. 14

We order, whosoever is concerned, to observe the present decree and to have it observed as a law of the State.

TRANSLATION

THE MINISTER, SECRETARY OF STATE FOR INDUSTRY, COMMERCE AND LABOR

Having seen the R.D.L. No. 1387 of 16 June 1938;

Having seen Art. 7 of Law No. 826 of 13 June 1940;

Decrees:

Art. 1

The sale price of dried tanning extract having a strength of not less than 67% of tanning content shall temporarily be fixed at 49 Lire per Kilogram for goods delivered franco factory.

Art. 2

The sale price of bovine, equine, and bufaline tanned leather shall be fixed as follows for goods delivered franco factory:

Sole leather	240 Lire per Kg.
Upper leather, vegetable tanned	120,50 Lire per sq. ft.
Upper leather, mineral tanned	215 - " " " "

Art. 3

The sale price of bovine, equine, and bufaline tanned leather produced from hides consigned by the Consorzii shall be fixed as follows for goods delivered franco factory:

Sole leather	160 - Lire per Kg.
Upper leather, vegetable tanned	68,10 " " sq. ft.
Upper leather, mineral tanned	114,35 " " " "

Art. 4

This decree shall become effective on the day following that of its publication in the Official Gazette.

of not less than 6% of tanning [illegible]
49 Lire per kilogram for goods delivered franco factory.

Art. 2

The sale price of bovine, equine, and bufaline tanned leather shall be fixed as follows for goods delivered franco factory:

Sole leather	240 Lire per Kg.
Upper leather, vegetable tanned	120,50 Lire per sq. ft.
Upper leather, mineral tanned	215 - " " " "

Art. 3

The sale price of bovine, equine, and bufaline tanned leather produced from hides consigned by the Consorzii shall be fixed as follows for goods delivered franco factory:

Sole leather	160 - Lire per Kg.
Upper Leather, vegetable tanned	68,40 " " sq. ft.
Upper leather, mineral tanned	114,55 " " " "

Art. 4

This decree shall become effective on the day following that of its publication in the Official Gazette.

TRANSLATION

4104

5

HEADQUARTERS
ALLIED CONTROL COMMISSION
ECONOMIC SECTION
APO 394

WPE/es

Ref. ACC/5040/Commerce 7 October 1944

SUBJECT: Decree Law re Institution of Chambers of Commerce, Industry, etc.

TO : H. E. The Minister of Industry, Commerce and Labor.

1. There is transmitted herewith a copy of the proposed decree law referred to in your letter No. 01787 of October 4, 1944.

2. This Commissioner concurs with the terms of the Decree and will issue the necessary instructions to its officers in the Regions as soon as the Decree becomes effective.

For the Acting Chief Commissioner;

A. C. ANTOLINI
Acting Deputy Chief of Staff
Economic Section

Incls - above

cc: Commerce S/C
Industry S/C
Legal S/C

41024

HEADQUARTERS
ALLIED CONTROL COMMISSION
CONTROL SUBCOMMISSION
APO 394

Ref. ACC/5040/Commerce

VPR/ist

5 October 1944

SUBJECT: Decree Law re Institution of Chambers of Industry & Commerce

TO : ~~Accused Service~~

1. There is transmitted herewith for your signature letter addressed to the Ministry of Industry, Commerce, and Labour approving the Decree Law referred to by that Ministry in their letter No. 04707 of October 4th 1944.

2. Both the Commerce and Legal Subcommissions have examined same and approve the text for publication in the Official Gazette.

X

R. L. EVANS
Colonel
Director
Commerce Subcommission

Encls.

copy to: Legal S/C (with encl.)
~~Industry S/C (with encl.)~~

393

LEGAL SUB.COMMISION
CLO
UCLO
Chief Controls
CLO
Italian Section
CLERKS

(81)

SCHEME FOR A LIEUTENTIAL LEGISLATIVE DECREE CONCERNING THE ABOLITION OF THE PROVINCIAL COUNCILS AND OFFICES OF ECONOMY AND THE CREATION OF CHAMBERS OF COMMERCE, INDUSTRY AND AGRICULTURE AS WELL AS PROVINCIAL OFFICES OF COMMERCE AND INDUSTRY.

HUMBERT OF SAVOY, PRINCE OF PIEMONT
LIEUTENANT GENERAL OF THE REALM

We, by virtue of the authority delegated to us, having considered the Royal Decree of Sept. 20, 1934 N°.2011, which approved the code and text of laws governing Provincial Councils and Offices of Economy, modified by the Royal Decree Law of 3 Sept. 1936, N°. 1900, converted into the law of 3 June 1937 N°.1000, and through the Royal Decree Law of 20 April, 1937, N°.524 converted into the law of 7 June 1937 N°.387.

The Royal Decree Law of 30 October 1943 N°.2/B, which suspends the provisions governing the issuance, promulgation, registration, and publication of Royal Decrees and other Acts.

The Royal Decree of 27 January 1944,N°.23 containing provisions for the provisional administration of the Provincial Councils of Economy.

The Lieutential Decree Law of 25 June 1944 N°.151 relative to the assembly for the new constitution of the State, the taking of an oath by the members of the Government and the rights of the Government to issue juridical regulations.

The Session of the Council of Ministers.

On the proposal of the Ministry of Industry, Commerce and Labour in concert with the Ministry of Justice, Finance, Treasury, Agriculture, and Forests, we have sanctioned and do promulgate the following:

Art. 1

The Provincial Councils and Offices of Economy are abolished.

Art. 2

LIEUTENANT GENERAL OF THE REALM

We, by virtue of the authority delegated to us, having considered the Royal Decree of Sept. 20, 1934 N°.2011, which approved the code and text of laws governing Provincial Councils and Offices of Economy, modified by the Royal Decree Law of 3 Sept. 1936, N°. 1900, converted into the law of 3 June 1937 N°.1000, and through the Royal Decree Law of 20 April, 1937, N°.524 converted into the law of 7 June 1937 N°.387.

The Royal Decree Law of 30 October 1943 N°.2/B, which suspends the provisions governing the issuance, promulgation, registration, and publication of Royal Decrees and other Acts.

The Royal Decree of 27 January 1944,N°.23 containing provisions for the provisional administration of the Provincial Councils of Economy.

321

The Lieutential Decree Law of 25 June 1944 N°.151 relative to the assembly for the new constitution of the State, the taking of an oath by the members of the Government and the rights of the Government to issue juridical regulations.

The Session of the Council of Ministers.

On the proposal of the Ministry of Industry, Commerce and Labour in concert with the Ministry of Justice, Finance, Treasury, Agriculture, and Forests, we have sanctioned and do promulgate the following:

Art. 1

The Provincial Councils and Offices of Economy are abolished.

Art. 2

There is reinstituted in each Provincial Seat a Chamber of Commerce, Industry and Agriculture which coordinates and represents commercial, industrial, and agricultural interests of the Province and exercises all the functions and powers that are attributed to it by law. The Chamber is a legal personality exercising activities of public interest (Ente di Diritto Pubblico) which, up to the present time, have been attributed to the abolished Councils of Economy.

Art. 3

In every provincial seat there is created under the direct authority of the Ministry od Industry, Commerce and Labour, a

Provincial Office of Commerce and Industry, which assures the execution of the Acts and Regulations of the Ministry, collects data on and reports the economic movement of the Province and fulfills all the other functions which are attributed to it by law.

The manager of the Office is appointed by the Minister of Industry, Commerce and Labour.

Art. 4

The Chambers are administered by an elective council, the composition and election of which is to be regulated by the decree mentioned in Art. 8.

The Council elects from its own numbers the President and Vice President.

Art. 5

The legal representation of the Chamber is a function of the President.

Art. 6

The Chambers of Commerce, Industry and Agriculture will continue to collect, under the same procedures and with the same privileges, the fees and taxes formerly appertaining to the abolished Councils of Economy.

Art. 7

The property of the dissolved Provincial Councils of Economy of the various provinces passes to the reconstituted Chambers of Commerce.

Art. 8

Regulations governing organization, personnel, and functioning of the Chambers of Commerce, Industry, and Agriculture and of the Provincial Offices of Commerce and Industry are to be laid down by legislative provision. In the same manner provisions are tobe laid down giving force to those contained in the present decree.

Until the entry into effect of the regulations referred to

Art. 4

The Chambers are administered by an elective council, the composition and election of which is to be regulated by the decree mentioned in Art. 8.

The Council elects from its own numbers the President and Vice President.

Art. 5

The legal representation of the Chamber is a function of the President.

Art. 6

The Chambers of Commerce, Industry and Agriculture will continue to collect, under the same procedures and with the same privileges, the fees and taxes formerly appertaining to the abolished Councils of Economy.

Art. 7

The property of the dissolved Provincial Councils of Economy of the various provinces passes to the reconstituted Chambers of Commerce.

Art. 8

Regulations governing organization, personnel, and functioning of the Chambers of Commerce, Industry, and Agriculture and of the Provincial Offices of Commerce and Industry are to be laid down by legislative provision. In the same manner provisions are tobe laid down giving force to those contained in the present decree.

Until the entry into effect of the regulations referred to in the preceding clause the Provincial Offices of Industry and Commerce may fulfill the functions of Secretariat of the Chambers on request of the President of the Committee and with the authorization of the Ministry of Industry, Commerce and Labour.

Art. 9

Until the election of the Council the administration of each Chamber will remain entrusted to a Committee composed of a President and 4 members.

The President is appointed by the Minister of Industry, Commerce, and Labour in agreement with the Ministry of Agriculture and Forests. The 4 membrs are appointed by the Prefect of the Province by decree approved by the Ministry of Industry, Commerce, and Labour and are selected: 1 from the merchants, 1 from the industrialists, 1 from the agriculturists, and 1 from the workers.

In the case of the President's a being prevented from serving, his functions are fulfilled by the oldest member.

In the sittings of the Committee, the presence of the President or whoever replaces him and 2 members is considered to constitute a quorum.

Art. 10

Subject to the application of the regulations governing the defascistisation of public administrations until the entry into effect of the decree provided for by Art. 8, the Chambers of Commerce, Industry, and Agriculture and the Provincial Offices of Commerce and Industry may make use of the services of personnel at present belonging to the abolished Provincial Councils and Offices of Economy.

Art. 11

Participation in organs or commissions and the power of appointment or nomination formerly attributed by the laws governing the Provincial Councils of Economy belong respectively to the President and the Council of the Chambers of Commerce, Industry, and Agriculture, and during the temporary management or administration thereof, to the President and Committee provided for in Article 9.

Art. 12

Expenses arising out of the operations of the Provincial Offices of Industry and Commerce are chargeable to the budget of the Chambers. Those required for payment of personnel are advanced from the State Treasury and are reimbursed by the Chambers within 2 months of the closing of the fiscal period, in which the expenditure belongs.

Art. 13

The present decree will enter into effect on the day following that of its publication.

sident or whoever replaces him and 2 members of the Council, shall constitute a quorum.

Art. 10

Subject to the application of the regulations governing the defascistisation of public administrations until the entry into effect of the decree provided for by Art. 8, the Chambers of Commerce, Industry, and Agriculture and the Provincial Offices of Commerce and Industry may make use of the services of personnel at present belonging to the abolished Provincial Councils and Offices of Economy.

Art. 11

Participation in organs or commissions and the power of appointment or nomination formerly attributed by the laws governing the Provincial Councils of Economy belong respectively to the President and the Council of the Chambers of Commerce, Industry, and Agriculture, and during the temporary management or administration thereof, to the President and Committee provided for in Article 9.

Art. 12

Expenses arising out of the operations of the Provincial Offices of Industry and Commerce are chargeable to the budget of the Chambers. Those required for payment of personnel are advanced from the State Treasury and are reimbursed by the Chambers within 2 months of the closing of the fiscal period, in which the expenditure belongs.

Art. 13

The present decree will enter into effect on the day following that of its publication.

We order to whoever it may concern to observe the present decree and to cause it to be observed as the Law of the State.

SCHEMA DI DECRETO LEGISLATIVO LUOGOTENENZIALE CONCERNENTE LA SOPPRESSIONE DEI CONSIGLI E DEGLI UFFICI PROVINCIALI DELL'ECONOMIA E L'ISTITUZIONE DELLE CAMERE DI COMMERCIO, INDUSTRIA E AGRICOLTURA, NONCHE' DEGLI UFFICI PROVINCIALI DEL COMMERCIO E DELL'INDUSTRIA;

UMBERTO DI SAVOIA, PRINCIPE DI PIEMONTE

LUOGOTENENTE GENERALE DEL REGNO

In virtù dell'autorità a Noi delegata;
VISTO il R. decreto 20 settembre I934, n.2011, che approva il testo unico delle leggi sui consigli e sugli uffici provinciali dell'economia, modificato con R. decreto legge 3 settembre I936, n.1900, convertito nella legge 3 giugno I937, n.1000, e con R. decreto legge 28 aprile I937, n.524 converito nella legge 7 giugno I937, n.387;
VISTO il R. decreto 30 ottobre I943, n.2/B, che sospende le norme relative alla emanazione, promulgazione, registrazione e pubblicazione dei regi decreti e di altri provvedimenti;
VISTO il R. decreto legge 27 gennaio I944, n.23, contenente disposizioni per la straordinaria amministrazione dei consigli provinciali dell'economia;
VISTO il decreto legge luogotenenziale 25 giugno I944, n.151, relativo all'assemblea per la nuova costituzione dello Stato, al giuramento dei membri del governo e alla facoltà del Governo di emanare norme giuridiche;
VISTA la deliberazione del Consiglio dei Ministri;
SULLA proposta del Ministro dell'industria, del commercio e del lavoro, di concerto con i Ministri della giustizia, delle finanze, del tesoro e con quello dell'agricoltura e foreste;

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ABBIAMO SANZIONATO E PROMULGHIAMO QUANTO SEGUE:

Art.1

I consigli e gli uffici provinciali dell'economia sono soppressi.

Art.2

E' ricostituita, in ogni capoluogo di provincia, una camera di commercio, industria ed agricoltura, che coordina e rappresenta gli interessi commerciali, industriali ed agricoli della provincia, ed esercita le funzioni e i poteri demandatile dalla legge, sinora attribuiti ai soppressi consigli dell'economia.
La Camera è ente di diritto pubblico.

Art.3

In ogni capoluogo di provincia è ricostituito, alla diretta dipendenza del Ministero dell'Industria, commercio e lavoro, un ufficio provinciale del commercio e dell'industria, il quale cura l'esecuzione degli atti [illegible]

in virtù dell'autorità a Noi delegata;
VISTO il R. decreto 20 settembre I934, n.2011, che approva il testo unico delle leggi sui consigli e sugli uffici provinciali dell'economia, modificato con R. decreto legge 3 settembre I936, n.1900, convertito nella legge 3 giugno I937, n.1000, e con R. decreto legge 28 aprile I937, n.524 converito nella legge 7 giugno I937, n.387;
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SULLA proposta del Ministro dell'industria, del commercio e del lavoro, di concerto con i Ministri della giustizia, delle finanze, del tesoro e con quello dell'agricoltura e foreste;

2829

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La Camera è ente di diritto pubblico.

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In ogni capoluogo di provincia è ricostituito, alla diretta dipendenza del Ministero dell'Industria, commercio e lavoro, un ufficio provinciale del commercio e dell'industria, il quale cura l'esecuzione degli atti e provvedimenti del ministero, rileva e segnala il movimento economico della provincia e compie le altre funzioni che gli sono demandate dalle leggi.
Il direttore dell'ufficio è nominato dal Ministro dell'industria del commercio e del lavoro.

Art.4

Le camere sono amministrate da un consiglio elettivo la cui composizione ed elezione sarà regolata dal decreto di cui all'art. 8.
Il consiglio eleggerà nel proprio seno il presidente ed i vice presidenti.

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Art. 5

La rappresentanza legale della camera spetta al presidente.

Art. 6

Le camere di commercio, industria e agricoltura torneranno a percepire con le stesse forme e privilegi i diritti e i tributi già attribuiti ai soppressi consigli dell'economia.

Art. 7

Alle ricostituite camere di commercio, industria e agricoltura è devoluto il patrimonio dei disciolti consigli provinciali dell'economia delle rispettive province.

Art. 8

Le norme relative alla costituzione, al personale e al funzionamento delle camere di commercio, industria ed agricoltura e degli uffici provinciali del commercio e dell'industria, sono emanate con provvedimento legislativo. Con la stessa forma sono date le disposizioni integrative di quelle contenute nel presente decreto.
Fino all'entrata in vigore delle norme di cui al comma precedente, gli uffici provinciali dell'industria e del commercio potranno svolgere le funzioni di segreteria delle camere su richiesta del presidente della giunta e con l'autorizzazione del Ministro per l'industria, il commercio e il lavoro.

Art. 9

Fino alla elezione del consiglio, l'amministrazione di ciascuna camera rimarrà affidata ad una giunta composta da un presidente e da quattro membri.
Il predidente è nominato dal Ministro dell'industria, del commercio e del lavoro, di concerto col Ministro dell'agricoltura e foreste.
I quattro membri sono nominati dal prefetto della provincia, con decreto approvato dal Ministro dell'industria, del commercio e del lavoro, e sono scelti, uno fra i commercianti, uno fra gli industriali, uno fra gli agricoltori e uno fra i lavoratori.
In caso di impedimento del presidente ne esercita le funzioni il membro più anziano.
Le deliberazioni della giunta sono valide con la presenza del presidente o di chi ne fa le veci, e di due membri.

Art.10

Salva l'applicazione delle norme sulla defascistizzazione delle pubbliche amministrazioni, sino all'entrata in vigore del decreto previsto dall'art.8, le camere di commercio, industria ed agricoltura e gli uffici provinciali del commercio e dell'industria possono avvalersi della opera del personale attualmente appartenente ai soppressi consigli ed uffici provinciali dell'economia.

Art.11

il patrimonio dei disciolti consigli provinciali dell'economia delle rispettive province.

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Fino alla elezione del consiglio, l'amministrazione di ciascuna camera rimarrà affidata ad una giunta composta da un presidente e da quattro membri.
Il presidente è nominato dal Ministro dell'industria, del commercio e del lavoro, di concerto col Ministro dell'agricoltura e foreste.
I quattro membri sono nominati dal prefetto della provincia, con decreto approvato dal Ministro dell'industria, del commercio e del lavoro, e sono scelti, uno fra i commercianti, uno fra gli industriali, uno fra gli agricoltori e uno fra i lavoratori.
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Le deliberazioni della giunta sono valide con la presenza del presidente o di chi ne fa le veci, e di due membri.

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Art.11

Spettano rispettivamente al presidente e al consiglio della camera di commercio, industria ed agricoltura o, durante la gestione temporanea, al presidente e alla giunta previsti nell'art.9, la partecipazione ad organi o commissioni e il potere di nomina o di designazione già attribuiti dalle leggi vigenti ai soppressi consigli provinciali della economia.

Art.12

Le spese relative al funzionamento degli uffici provinciali della industria e del commercio sono a carico dei bilanci delle Camere. Quelle per il personale sono aticipate dal tesoro dello Stato, e rim-

borsate dalle camere entro due mesi dalla chiusura dell'esercizion al quale si riferisce la spesa.

Art. 13

Il presente decreto entra in vigore dal giorno successivo a quello della sua pubblicazione.

Ordiniamo a chiunque spetti, di osservare il presente decreto e di farlo osservare come legge dello Stato.

Dato a Roma.

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REPORT TO THE COUNCIL OF MINISTERS

The events of the 25 July 1943 causing an unexpected interruption of the activities of the legislative authority when the Chamber was dissolved, there arose the serious problem of the presentation and conversion into law of the decree-laws already issued or ready to be issued.

As is known, decree-laws must undergo the following formalities within the time limits established for them by present regulations or they become annulled:

a) they must be presented to the Assemblies for conversion to law no-t later than 60 days from publication. (single article of the law of 8 June 1939, No. 860):

b) they must be converted within two years from presentation (last paragraph of art. 3 of the law of 31 January 1926, No. 100).

In view of this situation, the Government, on 2nd August 1943, issued circular No. 21369 of the Presidency of the Council of the Ministers, ordering the decree-laws to be presented within the time limits established, to the Presidency of the Senate, with the exception of those regarding the levy of taxes and the approval of State budgets and accounts which, according to art.10 of the Statute, were to be submitted to the Presidency of the Chamber. No arrangements were made for the provisions already presented and not yet converted.

On 8 September, as there was no longer the possibility of reverting to a similar expediency the situation became still worse.

The Lt. General's decree-law, No. 151 of 25 June 1944 (published on 8 July 1944) has solved this problem for the future, conferring (art.4) to the Council of Ministers the power to decide on the provisions having the force of law, which, sanctioned and promulgated by the Head of the State, need not be presented to Parliament.

decree-laws already issued or ready to be issued.

As is known, decree-laws must undergo the following formalities within the time limits established for them by present regulations or they become annulled:

a) they must be presented to the Assemblies for conversion to law not later than 60 days from publication, (single article of the law of 8 June 1939, No. 860);

b) they must be converted within two years from presentation (last paragraph of art. 3 of the law of 31 January 1926, No. 100).

In view of this situation, the Government, on 2nd August 1943, issued circular No. 21369 of the Presidency of the Council of the Ministers, ordering the decree-laws to be presented within the time limits established, to the Presidency of the Senate, with the exception of those regarding the levy of taxes and the approval of State budgets and accounts which, according to art. 10 of the Statute, were to be submitted to the Presidency of the Chamber. No arrangements were made for the provisions already presented and not yet converted.

On 8 September, as there was no longer the possibility of reverting to a similar expediency the situation became still worse.

The Lt. General's decree-law, No. 151 of 25 June 1944 (published on 8 July 1944) has solved this problem for the future, conferring (art. 4) to the Council of Ministers the power to decide on the provisions having the force of law, which, sanctioned and promulgated by the Head of the State, need not be presented to Parliament.

But there still remains to be solved the urgent problem of the decrees law not presented or not converted, which includes the same Lt. General's decree-law, No. 151 just mentioned.

Consequently the attached draft of Lt. General's decree law has been drawn up, which fixes new time limits for the presentation and conversion of the decree-laws which, following the events of 25 July, it was not possible to present or convert.

(153)

These periods, fixed at 60 days for presentation and a year for conversion, shall begin naturally on the date that the legislative bodies which will be established by the Constitutional Assembly contemplated in the same Lt. General's decree-law, No. 151. begin functioning. As many of those decree-law may have become annulled it was established that they shall remain in force until expiration of the new time limits.

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DRAFT OF LT. GENERAL'S DECREE-LAW

New time limits for presentation and conversion into law of decrees-laws

HUMBERT OF SAVOY
PRINCE OF PIEDMONT
LIEUTENANT GENERAL OF THE KINGDOM

By virtue of the authority delegated to us; and

Whereas the law No. 100 of 31 January 1926; and

Whereas the law No, 129 of 19 January 1939; and

Whereas the law No. 860 of 8 June 1939; and

Whereas the Lt. General's decree-law, No. 151 of 25 June 1944; and

Whereas the decision of the Council of Ministers;

On the proposal of the President of the Council of Ministers, Prime Minister Secreatary of State, in accord with the Minister of Pardon and Justice;

WE HEREBY SANCTION AND PROMULGATE THE FOLLOWING:

ARTICLE I

The decrees-laws which because of the events following the 25 July 1943, were not presented to Parliament for conversion to law within the period established by the law No. 860 of 8 June 1939, or were not converted to law within the period indicated in the last para of art. 3 of the law No.100 of 31 January, remain effective, but must be presented to the legislative bodies which will be established by the Constitutional Assembly contemplated in art. 1 of the Lt. General's decree-law No. 151 of 25 June 1944, within the period of 60 days from the date they begin functioning.

By virtue of the authority delegated to us; and

Whereas the law No. 100 of 31 January 1926; and

Whereas the law No, 129 of 19 January 1939; and

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Whereas the Lt. General's decree-law, No. 151 of 25 June 1944; and

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26

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The decrees-law not presented within the period indicated or not converted to law within a year from the date the legislative bodies begin functioning, shall cease to be effective on expiration of the said periods.

ARTICLE 2

The present decree shall become effective on the day of its publication in the Official Gazzette of the Kingdom.

We hereby order all persons concerned to observe and see that others observe the present decree as law of the State.

Issued at.....

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Roma, 21 settembre 1944

Presidenza del Consiglio dei Ministri
Ufficio Studi e Legislazione

27 SEP. 1944

13503/1.26

Caro Colonnello,

Le unisco una copia dello schema di provvedimento, che formò oggetto del colloquio costà avuto nel pomeriggio di lunedì 18.

Ritengo che questo nuovo schema riproduca tutte le modifiche e le aggiunte concordate nel colloquio stesso.

In particolare, si è avuto cura di:

1)- precisare all'art.1, primo comma, che la procedura da seguirsi dalla Commissione di epurazione sia quella già fissata dalla legge di defascistizzazione (decreto legislativo luogotenenziale 27 luglio 1944 n.159);

2)- meglio chiarire, nel secondo comma dell'art.1, che il Ministro, nel formulare le proposte di dispensa dal servizio, deve attenersi alle conclusioni della Commissione di epurazione, e non possa, quindi, proporre dispense che non siano già state da questa proposte;

3)- accordare, all'art.5, al Presidente del Consiglio dei Ministri la facoltà di disporre, in via eccezionale, una proroga dei termini, nei casi che, in seguito alla liberazione di territori, risultino a carico di qualche dipendente dello Stato evidenti e gravi prove, che non era possibile conoscere prima;

4)- fissare un appropriato termine per il personale che si trovi in territori non ancora liberati o, comunque, fuori dal territorio Nazionale.

La relazione, poi, che accompagna il nuovo schema giustifica, tra l'altro, la avvenuta fusione in un medesimo atto legislativo di due provvedimenti:- l'acceleramento del giudizio di epurazione ed il collocamento a riposo - che, se pure di

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./.

Tenente Colonnello W H I T E
Commissione Alleata di Controllo
Sezione Amministrativa -
R o m a

Lo schema verrà sottoposto al prossimo Consiglio dei Ministri e sarà mia cura di comunicarLe se sia stata ad esso apportata qualche ulteriore modifica.

Pregandola di presentare i miei ossequi al Sig. Generale Le rinnovo l'espressione della mia viva cordialità.

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RELAZIONE AL CONSIGLIO DEI MINISTRI

- - - - - - -

Gli avvenimenti del 25 luglio 1943, determinando, con lo scioglimento della Camera, un'improvvisa interruzione dell'attività del potere legislativo, fecero sorgere il grave problema della presentazione e conversione in legge dei decreti-legge, già emanati o da emanarsi.

Com'è noto, le norme vigenti prevedono che i decreti-legge - pena la decadenza - debbono:

a) essere presentati alle Assemblee per la conversione, non oltre i 60 giorni dalla pubblicazione (articolo unico della legge 8 giugno 1939, n.860);

b) essere convertiti entro due anni dalla presentazione (ultimo comma dell'art. 3 della legge 31 gennaio 1926, n.100).

Di fronte a questo stato di fatto, il Governo, in data 2 agosto 1943, con circolare n.21369, della Presidenza del Consiglio dei Ministri, disponeva che i decreti-legge si presentassero, nel termine prescritto, alla Presidenza del Senato, salvo quelli riguardanti imposizioni di tributi, approvazioni di bilancio e dei conti dello Stato che, ai sensi dell'art.10 dello Statuto, dovevano essere trasmessi alla Presidenza della Camera. Nulla si prevedeva per i provvedimenti già presentati e non ancora convertiti.

L'8 settembre, venendo meno, anche, la possibilità di ricorrere ad un simile ripiego, la situazione si aggravò ulteriormente.

Il decreto-legge luogotenenziale 25 giugno 1944, n.151

lo scioglimento della Camera, un'improvvisa interruzione dell'attività del potere legislativo, fecero sorgere il grave problema della presentazione e conversione in legge dei decreti-legge, già emanati o da emanarsi.

Com'è noto, le norme vigenti prevedono che i decreti-legge -- pena la decadenza -- debbono:

a) essere presentati alle Assemblee per la conversione, non oltre i 60 giorni dalla pubblicazione (articolo unico della legge 8 giugno 1939, n.860);

b) essere convertiti entro due anni dalla presentazione (ultimo comma dell'art. 3 della legge 31 gennaio 1926, n.100).

Di fronte a questo stato di fatto, il Governo, in data 2 agosto 1943, con circolare n.21389, della Presidenza del Consiglio dei Ministri, disponeva che i decreti-legge si presentassero, nel termine prescritto, alla Presidenza del Senato, salvo quelli riguardanti imposizioni di tributi, approvazioni di bilancio e dei conti dello Stato che, ai sensi dell'art.10 dello Statuto, dovevano essere trasmessi alla Presidenza della Camera. Nulla si prevedeva per i provvedimenti già presentati e non ancora convertiti.

L'8 settembre, venendo meno, anche, la possibilità di ricorrere ad un simile ripiego, la situazione si aggravò ulteriormente.

Il decreto-legge luogotenenziale 25 giugno 1944, n.151 (pubblicato l'8 luglio u.s.) ha risolto il problema per l'avvenire, attribuendo (art.4) al Consiglio dei Ministri la facoltà di deliberare i provvedimenti aventi forza di legge, che, sanzionati e promulgati dal Capo dello Stato,

non debbono essere presentati al Parlamento.

Rimane, però, sempre non definita ed urgente la questione dei decreti-legge non convertiti o non presentati, tra i quali rientra lo stesso decreto-legge luogotenenziale n.151 ora ricordato.

Ciò premesso è stato predisposto l'unito schema di decreto legislativo luogotenenziale, con il quale si fissano dei nuovi termini per la presentazione e la conversione dei decreti-legge che a seguito degli eventi del 25 luglio non fu possibile presentare o convertire.

Tali termini, che vengono fissati in 60 giorni per la presentazione ed in un anno per la conversione, decorreranno, logicamente, dall'inizio dell'attività degli organi legislativi che saranno istituiti dall'Assemblea Costituente prevista dallo stesso decreto-legge luogotenenziale n.151. In considerazione poi che molti di tali decreti-legge possono essere decaduti si è stabilito che tutti conserveranno la loro efficacia sino alla decorrenza dei nuovi termini.

tra i quali rientra lo stesso decreto-legge luogotenenziale n.151 ora ricordato.

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Tali termini, che vengono fissati in 60 giorni per la presentazione ed in un anno per la conversione, decorreranno, logicamente, dall'inizio dell'attività degli organi legislativi che saranno istituiti dall'Assemblea Costituente prevista dallo stesso decreto-legge luogotenenziale n.151. In considerazione poi che molti di tali decreti-legge possono essere decaduti si è stabilito che tutti conserveranno la loro efficacia sino alla decorrenza dei nuovi termini.

SCHEMA DI DECRETO LEGISLATIVO LUOGOTENENZIALE:
Nuovi termini per la presentazione e la conversione in legge dei decreti-legge.

UMBERTO DI SAVOIA
PRINCIPE DI PIEMONTE
LUOGOTENENTE GENERALE DEL REGNO

In virtù dell'autorità a Noi delegata;

Vista la legge 31 gennaio 1926, n.100,

Vista la legge 19 gennaio 1939, n.129;

Vista la legge 8 giugno 1939, n.860;

Visto il decreto-legge luogotenenziale 25 giugno 1944, n. 151;

Vista la deliberazione del Consiglio dei Ministri; 20

Sulla proposta del Presidente del Consiglio dei Ministri, Primo Ministro Segretario di Stato, di concerto con il Ministro per la Grazia e Giustizia,

ABBIAMO SANZIONATO E PROMULGHIAMO QUANTO SEGUE:

Art. 1

I decreti-legge che, a causa degli avvenimenti successivi al 25 luglio 1943, non siano stati presentati al Parlamento per la conversione in legge nel termine previsto dalla legge 8 giugno 1939, n.860, o non siano stati convertiti in legge nel termine indicato nell'ultimo comma dell'art. 3 della legge 31 gennaio 1926, n.100, conservano la loro efficacia, ma debbono essere presentati agli organi legislativi che saranno istituiti dall'Assemblea costituente, di cui all'art.1 del decreto-legge luogotenenziale 25 giugno 1944, n.151, nel termine di sessanta giorni dal-

PRINCIPE DI PIEMONTE
LUOGOTENENTE GENERALE DEL REGNO

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Vista la legge 31 gennaio 1926, n.100;
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Visto il decreto-legge luogotenenziale 25 giugno 1944, n. 151;
Vista la deliberazione del Consiglio dei Ministri;
Sulla proposta del Presidente del Consiglio dei Ministri, Primo Ministro Segretario di Stato, di concerto con il Ministro per la Grazia e Giustizia,

ABBIAMO SANZIONATO E PROMULGHIAMO QUANTO SEGUE:

Art. 1

I decreti-legge che, a causa degli avvenimenti successivi al 25 luglio 1943, non siano stati presentati al Parlamento per la conversione in legge nel termine previsto dalla legge 8 giugno 1939, n.860, o non siano stati convertiti in legge nel termine indicato nell'ultimo comma dell'art. 3 della legge 31 gennaio 1926, n.100, conservano la loro efficacia, ma debbono essere presentati agli organi legislativi che saranno istituiti dall'Assemblea costituente, di cui all'art.1 del decreto-legge luogotenenziale 25 giugno 1944, n.151, nel termine di sessanta giorni dall'inizio del loro funzionamento.

I decreti-legge non presentati nel termine indicato ovvero non convertiti in legge entro un anno dall'inizio

del funzionamento degli organi legislativi, cessano di aver vigore a decorrere dalla scadenza dei termini stessi.

Art. 3

Il presente decreto entra in vigore il giorno della sua pubblicazione nella Gazzetta Ufficiale del Regno.

Ordiniamo, a chiunque spetti, di osservare il presente decreto e di farlo osservare come legge dello Stato.

Dato a.....

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Art. 3

Il presente decreto entra in vigore il giorno della sua pubblicazione nella Gazzetta Ufficiale del Regno.

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Dato a.....

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R.D.L. 8 JULY 1938 No.1415 ("Legge di Guerra") - Chapter II. Treatment of Enemy Property the Territory of the State.

Translation of those Articles or parts thereof, affecting persons of enemy nationality.

ARTICLE 294 - (Requisition of enemy property).-
Property belonging to persons of enemy nationality may be requisitioned against compensation, in the manner established by the provisions of the law in force in such matters.

ARTICLE 295 - (Sequestration of enemy property).-
Property belonging to persons of enemy nationality may be subjected to sequestration.
The sequestration of property provided for in the preceding para may be ordered also in the case of persons of enemy nationality although figuring as belonging to persons of different nationality.
At the date of the application of this law, property devoted to the exercise of the Catholic religion, or of one of the religions permitted in the State, may not be the object of sequestration.
Sequestration shall not prejudice the rights of third parties.

ARTICLE 296 - (Decree of sequestration and appointment of sequestrators).-
Sequestration shall be provided for by decree of the prefect which shall be effective as of its date.
By the same decree the prefect shall appoint the sequestrator, choosing him preferably from amongst the functionaries of State or of public bodies, in active service or retirement.
Exceptionally, the holders of sequestrated property may be appointed.
If the property belonging to a person of enemy nationality is situated in the territory of more than one province, the Minister of Finance shall have the faculty of appointing a sole sequestrator in the place of those appointed by the prefects according to the preceding reguletion.
In such a case, the Minister shall establish which intendent of Finance shall exercise supervision.
In the case provided for in the preceding paragraph, the sequestrator with the authorization of the intendent of Finance shall delegate his representative in the place where he does not himself reside.

ARTICLE 297 - (Remuneration of Sequestrator).-
When the sequestrator is not the holder of the sequestrated property, he shall be compensated for his activities, over and above the reembursement of the justifiable expenses. The recompense of the expenses shall be liquidated by the Minister of Finance, on the proposal of the intendent of Finance, taking into account the importance of the work demanded.

ARTICLE 298 - (Notification and Registration of Decree of Sequestration).-
It is the responsibility of the Intendent of Finance to publish the decree of sequestration in the "Official Gazette" of the Kingdom " and if possible, to notify the owner of the sequestrated property by registered letter with advice of receipt.
If the object of the decree is property capable of mortgage, even only in part, it shall be registered at the mortgage registry on the responsibility of the intendent of finance. The transcription is not subject to tax or other

sequestration.
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If the object of the decree is property capable of mortgage, even only in part, it shall be registered at the mortgage registry on the responsibility of the intendent of finance. The transcription is not subject to tax or other expenses.
The same formality shall be observed in the case of the annulment or revocation of sequestration.

ARTICLE 299 - (Functions of the Sequestrator).-
Under the supervision of the intendent of finance, the sequestrator shall provide for the custody, conservation, maintenance, and when necessary, the administration of the sequestrated property.
In the performance of all acts coming within his jurisdiction he shall employ the diligence of a good father of a family.
The decree of sequestration shall fix the delays for the periodical submission by the sequestrator of the documents of account, and the amount

of the guarentee for the safe custody of the sums collected until deposited in accordance with the following rule .

Unless the Prefect shall otherwise provide, the balance resulting from the management shall be paid on the responsibility of the Sequestrator into a banking institution authorised for this purpose by the Minister of Finance.

For acts outside those of ordinary administration the authorization of the intendent of finance is necessary.

ARTICLE 300 - (Sale of sequestrated property).-

For the sale of movables, the same procedure shall be followed as that for the sale and adjudication of pledged objects, in so far as applicable ; for the sale of unmovable property, the rules relative to the voluntary sale of the property of a minor shall apply. The prefect may authorize the sale also in another manner, prescribing the opportune guarantees.

The price realised by the sale of sequestrated property less the expenses of management and sale and any debts , shall be deposited with the bank for deposits and loans ("Cassa depositi e prestiti") subject to the same restrictions of sequestration as attached to the property sold.

ARTICLE 301 - (Deposit of securities placed under sequestration)

Sequestrated public or industrial securities shallbe deposited at the "bank for deposits and loans."

ARTICLE 302 - (Withdrawals of sums and securities deposited)

With the previous authorization of the intendent of finance, the sequestrator may withdraw sums and securities sequestrated which may have been deposited with the banking institutions as provided in Article 299, or with the "bank for deposits and loans", as may be necessary for the purposes of management.

ARTICLE 303 - (Advances by State of expenses of management)

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In cases in which sequestrated properties do not produce income or comprise liquid assets in sufficient quantity to provide for the necessary expenses of management, the Minister of Finance may arrange that these shall be advanced by the State by way of the opening of an express credit in its balance sheet.

The expenses anticipated by the State in accordance with the rule in the preceding para are reembursable at the charge of the owner or holder of sequestrated property.

The debt due to the State for sums advanced shall be privileged as against the sequestrated property over every other debt, although privileged.

ARTICLE 304 - (Debts guaranteed against sequestrated property).-

The following creditors can be satisfied out of sequestrated property, to the exclusion of others, the respective rights of preference among them established by law remaining unchanged:

1. the State for the advances for expenses of management as provided for in the preceding article ;

2. the State and any other public body for imposts and taxes due to it;

3. the sequatrator for the remuneration and re-embursement of expenses due to him;

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The following creditors can be satisfied out of sequestrated property, to the exclusion of all others, the respective rights of preference among them established by law remaining unchanged.

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2. the State and any other public body for imposts and taxes due to it;

3. the sequatrator for the remuneration and re-embursement of expenses due to him;

4. those who derive their title from the obligations assumed by the sequestrator in the interest of his management;

5. those who derive their title from obligations referring directly and exclusively to sequestrated properties in the measure in which the said obligations may have contributed to the acquisition , conservation or amelioration of the said properties;

6. every person whose debt may bear a date certain prior to the

pplication of the present law ;

7. every person whose debt may bear a date certain prior to sequestration, provided that it is shown that at the moment that the debt arose the creditor had no knowledge that the property of the debitor might be subjected to sequestration.

ARTICLE 305 - (Leving of execution and attachment of sequestrated property).-
Sequestrated property can be the object of proceedings for the leving of execution, except for bankruptcy, and in every case concerning creditors indicated in the preceding article.
The effects of attachment proceedings adopted by whatsoever judicial authority and having as object property which may have been or has been sequestrated under article 295 shall be suspended until the date on which the effects of the sequestration and, as provided for by the same article.
The provisions of the preceding paragraph shall not apply to attachment proceedings adopted by the penal judicial authority in respect of things appertaining to an offense.

ARTICLE 306 - (Communication of warning to owner of sale of sequestrated property or of leving of execution).-
Whenever in order to extinguish liabilities it is necessary to promote the sale of sequestrated properties, the sequestrator, circumstances permitting and without prejudice to the proceedings, shall give notice, of it to the owner.
The same provision applies in the case of the taking of executory proceedings against sequestrated property.
In the case provided for in the first para, the owner of the property of which the sequestration has been ordered may obtain a stay of the proceedings for sale by advancing the expenses of management on such terms and in such measure as shall be established by the intendent of finance.

ARTICLE 307 - (Withdrawals in favour of the owner or personal representatives).-
The sequestrator with previous authorization of the prefect may effect withdrawals of money from sequestrated property in favour of the owner or his personal representatives for cause of necessity or of a husband or wife at their charge.
If there is no money available, on demand of the owner or his personal representative, the prefect can authorize the sequestrator to sell part of the sequestrated property, or himself carry out operations calculated to produce the money forming the object of the withdrawal.
The prefect may exceptionally authorize a withdrawal in kind, provided this does not consist of public or industrial securities.

ARTICLE 308- (Non-retroactive effect of provisions for the revocation of sequestration).-
Provisions from whatsoever authority emanating revoking or annulling decrees providing for the sequestration of property, shall produce juridical effects only after the date of their publication in the "Official Gazette of the Kingdom."

ARTICLE 309 - (Declaration of a private debt owing to a person of enemy nationality)-
Private persons, debtors of persons of enemy nationality or of holders of property belonging to persons of enemy nationality, shall present a written declaration thereof to the prefect, containing the name of the creditor or owner, amount of the debt, the nature and amount of the titles, and a summary description of the property.

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ARTICLE 309 - (Declaration of a private debt owing to a person of enemy nationality)-

Private persons, debtors of persons of enemy nationality or of holders of property belonging to persons of enemy nationality, shall present a written declaration thereof to the prefect, containing the name of the creditor or owner, amount of the debt, the nature and amount of the titles and a summary description of the property.

The declaration must be made within thirty days of the date of application of this law, and, for the obligations supervening, within thirty days from the date when they arise or become liquid.

ARTICLE 310- (Notice by the public administration of credits due to persons of enemy nationality).

The State administrations and public bodies that are indebted to persons of enemy nationality or hold property of persons of enemy nationality, and any authority which disposes in whatsoever manner of the payment of sums or the transfer of property to such persons, shall give immediate written notice thereof to the prefect.

ARTICLE 311 - (Suspension of payments).-
Until the declaration of the notice provided for in Articles 309 and 310 have been made, and during a period of thirty days from the date of the said declaration or notice, it shall be forbidden to make any payment or transfer of property whatsoever to persons of enemy nationality entitled thereto. Passed this delay, if the authority has not provided for sequestration of the property, the transfer and payment can be made without more ado, subject in every case to the prohibitions established in Articles 326, 327 and 328. (Translator's note - These refer to export restrictions).

ARTICLE 312 - (Nullity of transfer of enemy property).
Any act whatsoever concluded after the date of the passing of this law having the effect of transferring enemy property existing within the State belonging to a person of enemy nationality or of constituting real rights over such property, is null.
This provision shall not apply to the acts done by the sequestrator, nor to transfer on account of death nor those effected by order of the authorities. The acts foreseen in the preceding para may be declared nul by royal decree if done within the period prior to the date of the application of the law, as shall be established by such decree.

ARTICLE 313 - (Suspension of the protection of industrial rights).-
The delivery of certificates of protection for industrial rights, the registration of models and designs of manufacture and the transfer of such rights or trade-marks in favour of persons of enemy nationality shall be suspended during the application of this law.

Section II

Special provisions for enemy commercial undertakings.

Article 314 (Decree of receivership and appointment of the receiver.)

Businesses belonging to persons of enemy nationality or in which these persons have a prevailing interest may be subject to receivership by prefectoral decree.

By the said decree the prefect shall appoint the receiver, choosing him from amongst functionaries of State or public bodies either in service or retirement.

The provisions of Article 297 shall apply relatively to the receiver.

Article 315 (Functions of the receiver).

The receivership shall be exercised under the supervision of the intendent of finance.

The receiver shall control the activity of the business, reporting upon it to the intendent of finance, and to that end shall have the right at all times to inspect the books, papers and other correspondence of the business.

Article 316 (Revocation of the receivership).

Whenever a receivership is revoked, the relative provisions shall prescribe, when necessary, particular obligations on the owner or administrator of the business, for the observation of which the furnishing of an adequate guarantee may be imposed.

In case of the non-fulfilment of the said obligations, the prefect shall order that the guarantee shall be forfeit to the treasury and that the receivership shall be reconstituted, unless it is considered that the procedure set out in the following article should be adopted.

Article 317 (Sequestration of the business).

The provisionsof the preceding sections concerning the sequestration of property belonging to an enemy state or to a person of enemy nationality shall apply also to the commercial enterprises indicated in article 314

businesses belonging to persons of enemy nationality or in which these persons have a prevailing interest may be subject to receivership by prefectoral decree.

By the said decree the prefect shall appoint the receiver, choosing him from amongst functionaries of State or public bodies either in service or retirement.

The provisions of Article 297 shall apply relatively to the receiver.

Article 315 (Functions of the receiver)
The receivership shall be exercised under the supervision of the intendent of finance.

The receiver shall control the activity of the business, reporting upon it to the intendent of finance, and to that end shall have the right at all times to inspect the books, papers and other correspondence of the business.

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In case of the non-fulfilment of the said obligations, the prefect shall order that the guarantee shall be forfeit to the treasury and that the receivership shall be reconstituted, unless it is considered that the procedure set out in the following article should be adopted.

Article 317 (Sequestration of the business).
The provisionsof the preceding sections concerning the sequestration of property belonging to an enemy state or to a person of enemy nationality shall apply also to the commercial enterprises indicated in article 314 with exception of the provisions of articles 324 to 326.

Article 318 (Functions of the sequestrator of a business)
The sequestrator shall provide for the management of the business under the supervision of the intendent of finance.

The sequestrator shall remit to the intendent of finance:-

1. At the end of each quarter, a statement of account showing the situation of the assets and liabilities;

2. At the end of every financial period, a copy of the inventory and of the balance sheet as

prescribed by the commercial code;

3. At the end of the sequestration, the final statement of accounts.

The distributable profits of the management shall be paid over at the end of every financial period to the bank as provided under Article 299, except when the Minister of Finance disposes in favour of persons of non enemynationality of the total or partial payments of that portion due to them, or authorises withdrawals according to Article 307.

Article 319 (Substitution of receivers or sequestrators).
If a firm has establishments or representatives in the districts of more than one province, the provisions of the last paragraph of Article 295 for the appointment of a receiver or sequestrator shall apply.

Article 320 (Liquidation of businesses).
For special motives, the Minister of Finance may order the liquidation of the commercial undertaking subject to sequestration.

The winding-up of the business shall be ordered in all cases when it is not possible to meet the obligations attaching to its exploitation.

Except when special motives occur, the winding-up of the business shall be ordered when the bankruptcy of the person to whom it belongs has been declared.

The winding-up shall be carried out by the sequestrator who shall observe the methods established by the Minister of Finance, subject in every case to the application of the rules concerning businesses subjected to sequestration.

The sums recovered from the liquidation shall be assigned to the creditors indicated in Article 304, and, whenever there is a residue, this shall be deposited with a banking institution as provided in Article 299, where it shall remain subject to the same restrictions of sequestration as attached to the business.

In cases of winding-up, the provisions of Article 306 shall apply, substituting the Minister of Finance for the intendent.

If the provision ordering the liquidation is annulled or revoked, the provisions of art. 308 shall apply.

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In cases of winding-up, the provisions of Article 306 shall apply, substituting the Minister of Finance for the intendent.

If the provision ordering the liquidation is annulled or revoked, the provisions of Art. 308 shall apply.

Article 321 (Publication of provisions concerning the receivership, or sequestration). Provisions that concern the receivership, the sequestration or the winding-up of the business, those appointing the receiver as well as those which annul or revoke the aforesaid provisions shall be published in the "Official Gazette of the Kingdom" on the responsibility of the intendency of Finance, and a copy thereof shall be deposited at the registry of the tribunal within the jurisdiction of which the registered offices of the business are situate, and also at the registered offices of the tribunal within

the jurisdiction of which establishments or representatives of same business are to be found. The said provisions moreover shall be notified when possible to the owner of the business by means of registered letter with advice of receipt.

When the business comprises immovables or other rights capable of mortgage, the provisions moreover of the second para of article 298 shall apply to dispositions for sequestration of a business or to those which annul or revoke the same.

Section III

Provisions common to the foregoing section.

Article 322 (Recourse to the Duce) - Final appeal to the Duce or Ministry of Finance respectively is admitted against the provisions of the prefect and the intendent of Finance issued pursuant to the provisions of the foregoing sections.

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Article 323 (Constitution of special administrative and jurisdictional organs.) - The attributions called for from the Ministry of Finance by the provisions under this head may be conferred, in whole or in part, by royal decree, on special organs, the composition and functioning of which will be determined by the said decree.

Special jurisdictional organs for the deciding of controversies arising out if the application of the dispositions under the heads above indicated may be equally provided for.

These same provisions shall establish the terms and conditions for appeal and the relative rules of procedure.

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R.D.L. No. 11 of the 4th of February 1942.

New provisions in regard to industrial and commercial undertakings in the Kingdom, owned by enemy nationals or in which such nationals hold a prevailing interest.

Art. 1 - Any industrial and commercial undertaking in the Kingdom owned by enemy nationals or in which, according to a decision without right of appeal of the competent Ministers, such nationals are deemed to hold in any way a prevailing interest, shall be subject to control (sindacato), sequestration or liquidation.

Any industrial and commercial undertaking in the Kingdom in which enemy nationals hold an interest, even tough not a prevaling one, may be subject to control.

The decisions provided for in the preceding paras and the decisions concerning the appointment and eventual substitution of controllers, sequestrators and liquidators are carried out by decrees of the Ministe for the Corporations in agreement with the Minister of Finance, after consultation, whenever necessary, with the competent sindacal organizations.

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Art. 2 - The control (sindacato), shall be excercised under the supervision of the Ministers for Corporations and Finance. The Controller supervises the functioning of the undertaking and has the power to inspect at any time registers, records and correspondence of the undertaking and to effect any inspection he may consider necessary.

Any person who refuses to supply the controller with information regarding the activities or the actual position of the undertaking, shall be punished by imprisonment from one to six months or a fine from L. 300 to L. 6.000, excepting those cases contemplated in art. 351 of the text of War law, approved by R. decree No. 1415 of 8 July 1938.

The sequestrator of undertakings constituted as limited

Art. 1 - Any industrial and commercial undertaking in the Kingdom owned by enemy nationals or in which, according to a decision without right of appeal of the competent Ministers, such nationals are deemed to hold in any way a prevaling interest, shall be subject to control (sindacato), sequestration or liquidation.

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Any person who refuses to supply the controller with information regarding the activities or the actual position of the undertaking, shall be punished by imprisonment from one to six months or a fine from L. 300 to L. 6.000, excepting those cases contemplated in art. 351 of the text of War law, approved by R. decree No. 1415 of 8 July 1938.

Art. 3 - The sequestrator of undertakings constituted as limited Companies with the main seat within the Kingdom, shall assume the legal representation of the undertaking and shall administer it.

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Operations outside the normal administration cannot be undertaken without previous authorization of the Minister of Corporations in agreement with the Minister of ~~the~~ Finance.

Except as provided in para 6th of this Art. in respect of shareholder's meeting, the corporate organs shall be suspended from their duties.

The functions of the company inspectors (sindaci) shall be excercised by two revisors (revisori) who shall be appointed by the Minister of Corporations in agreement with the Minister of Finance

The balance sheet must be presented by the sequestrator to the company's financial year; within the subsequent month the revisors within two months from the closing of the balance sheet, together with the revisors' report, shall be sent to the Ministeries of corporations and finance.

The balance sheet shall be approved by an order issued by the Minister of Corporations in agreement with the Minister of Finance.

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The general meeting of shareholders may be called by the sequestrator, after having received the authorization of the Minister of corporations in agreement with the Minister of finance, to decide the following:

1 - the extension of the duration of the company;

2 - merges with other companies;

3 - the increase, restoration or reduction of the company's capital;

4 - change of the company's purposes

5 - any other change in company's charter (articles of incorporation);

6 - the issue of bonds:

The decisions of the meeting do not have any effect if they are

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4 - change of the company's purposes

5 - any other change in company's charter (articles of incorporation);

6 - the issue of bonds:

The decisions of the meeting do not have any effect if they are not approved by the Minister of corporations in agreement with the Minister of Finance.

The meeting may, in a second session, decide any question,

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whatever the number of members present or of shares represented.

The sequestrator must present a semestral account of his management to the Ministers of corporations and finance.

Art. 4 - In the case of undertaking not constituted in limited companies the sequestrator shall represent the undertaking in every respect and, when not otherwise established, shall continue it operating it. Operations outside the normal management shall be authorized by the Ministry of corporations in agreement with the Ministry of finance.

For more important undertaking the Ministry of corporations, in agreement with the Ministry of finance, shall have the power to appoint one or more revisors who shall have the task of inspecting the management and reporting to the above-mentioned Ministries.

The sequestrator must present every six months an account of his management to the Ministry of Corporations and to the Ministry of Finance; the duty to compile an inventory with the Balance sheet and with account of profits and losses according to the law remains unchanged.

Art. 5 - Sequestration of industrial and commercial undertakings shall not be of any prejudice to rights of third parties.

The provisions set out in art. 304 of the war law shall apply to the sequestrated undertakings.

The date of maturity of obligations referred to in paras 6 and 7 of the above-citated article may be proved in regard to commercial obligations by any means of evidence.

Creditors, whose rights have arisen during the period in which the

when not otherwise established, shall continue it operating. Operations outside the normal management shall be authorized by the Ministry of corporations in agreement with the Ministry of finance.

For more important undertaking the Ministry of corporations, in agreement with the Ministry of finance, shall have the power to appoint one or more revisors who shall have the task of inspecting the management and reporting to the above-mentioned Ministries.

The sequestrator must present every six months an account of his management to the Ministry of Corporations and to the Ministry of Finance; the duty to compile an inventory with the Balance sheet and with account of profits and losses according to the law remains unchanged.

Art. 5 - Sequestration of industrial and commercial undertakings shall not be of any prejudice to rights of third parties.

The provisions set out in art. 304 of the war law shall apply to the sequestrated undertakings.

The date of maturity of obligations referred to in paras 6 and 7 of the above-citated article may be proved in regard to commercial obligations by any means of evidence.

Creditors, whose rights have arisen during the period in which the undertaking has been subject to control, may be paid out of the property of the sequestrated undertaking, provided that such rights concern directely and exclusively the undertaking.

Futhermore art. 305 of the war law shall apply to sequestrated undertakings, also in regard to rights mentioned in the preceding para.

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Art. 307 of the war law shall also apply to the undertakings mentioned in art. 4 of this decree, and the Minister of Corporation, in agrement with the Minister of Finance, shall take plae ce of the Prefect in regard to the authorisations provided for by the said article.

Art.-6 - Sequestrators of insurance undertakings may provide for the transfer d'office of the obligations and rights arising from insurance policies to regularly functioning Italian Companies, whenever such transfer it considered necessary in the interest of the insured persons and of the undertaking.
The transfer shall be previously authorised by the Minister of Corporations, in agreement with the Minister of Finance; in such case the provisions set out in R.D.L. No. 1059 of the 13 July 1933, made into law No. 521 of the 22nd January 1934 with amendments, concerning the merging of insurance undertakings shall apply.

In regard to representative offices established in the Kingdom by insurance companies owned by enemy nationals or in which such nationals hold a prevailing interest, the Minister of Corporations, in agreement with the Minister of Finance, shall have the power to appoint as sequestrator the head of the representative office himself, provided that the latter holds the Italian citizenship.

Art. 7 - Whenever it is considered advisable in the interest of the banking operations and of the undertaking, sequestrators of

from insurance policies to regularly functioning Italian Companies, whenever such transfer it considered necessary in the interest of the insured persons and of the undertaking.
The transfer shall be previously authorised by the Minister of Corporations, in agreement with the Minister of Finance; in such case the provisions set out in R.D.L. No. 1059 of the 13 July 1933, made into law No. 521 of the 22nd January 1934 with amendments, concerning the merging of insurance undertakings shall apply.

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Art. 7 - Whenever it is considered advisable in the interest of the banking operations and of the undertaking, sequestrators of banking institutions may transfer assets or liabilities to the regularly functioning Italian banking institutions upon previously authorisation by the Minister of Corporations, given in agreement with the Minister of Finance and after consultation with the

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Inspectorate for the defence of saving and for banking operations. In such cases the provisions concerning the transfer of assest or liabilities of banking institutions in liquidation as set out in Art. 54 of R.D.L. No. 375 of the 12ve March 1936, amended by the laws No. 141 of the 7 March 1938, No. 636 of the 7th April 1938 and No. 933 of the 10th June 1940, shall apply.

Art. 8 - Liquidation shall be ordered whenever the undertaking can not fulfil obligations relative to its management.

Whenever special reasons arise a liquidation may be ordered. The decree ordering the liquidation of undertakings mentioned in Art. 3 shall be understood as providing for the liquidation of the company to all the effects contemplated by the law.

The formalities prescribed from time to time by the Minister of Corporations, in agreement with the Minister of Finance, conferming as far as applicable to the provisions on the liquidation of commercial companies, shall be followed in regard to the liquidation. The provisions set out in Art. 3, third para, and Art. 4, second para, shall apply to undertakings which have gone into liquidation.

The liquidator may sell the undertaking as a whole, upon previous authorisation by the Minister of Corporations in agreement with the Minister of Finance. The sale is subject to the approval of the said Ministers.

Whenever the liquidation has been ordered for the reason set out in the first paragraph of this article, the net proceeds from the liquidation shall be used first of all for the payment of [illegible] and the residual amount shall be allotted to all

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Whenever the liquidation has been ordered for the reason set out in the first paragraph of this article, the net proceeds from the liquidation shall be used first of all for the payment of privileged claims and the residual amount shall be allotted to all creditors in proportion to the amount.

In cases provided for by the preceding article no execution can be carried out against the undertaking after the date of the

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decree which orders the liquidation.

In any case the aforesaid decree shall prevent the declaration of bankruptcy and shall cause the bankruptcy proceeding to be discontinued in case it has been already declared.

The inability to fulfill obligations shall be declared by a judgment of the tribunal either d'office or upon request of creditors or of the liquidator. The judgement shall fix the date on which the inability has commenced and which can not be made retroactive for more than two years from the date of the judgment.

The provisions of articles 707, second para, 708, 709, 710 and 711 of the commercial code, of Art. 9, second para, of the law No.995 of the 10th July 1930 and the provisions concerning the offences in regard to bankruptcy shall be made applicable by the judgment. The provisions set out in the three last paras of Art. 67 of law No. 375 of the 12th March 1936, amended by laws No. 141 of the 7 March 1936, amended by laws No. 141 of the 7 March 1938, No.636 of the 7 April 1938 and No. 933 of the 10th June 1940 shall apply.

Art. 9 - The decisions ordering the control, the sequestration and the liquidation of an undertaking and those revoking such decisions shall be published in the Official Gazette of the Kingdom free of charge upon request of the Minister of Corporations. Copy of the decisions shall be lodged with the chancery of the Tribunal which has jurisdition over the place where the undertaking is located.

Whenever in cases provided for by Art. 4 the property of the undertaking includes any real estate or any mortgageable other property, the decisions ordering the sequestration or revoking it, shall be registered in the Mortgage Registry without payment of the

on which the inability has commenced and which can not be made retroactive for more than two years from the date of the judgment.

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Art. 10 - A special indennity at the expense of the undertaking may be granted in favour of the persons charged with the control, sequestration or liquidation and in favour of revisors provided for by articles 3 and 4, whenever special reasons arise in regard

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to the amount of the work that is to be accomplished. The amount of such indemnity shall be fixed by the Minister of Corporations in agreement with the Minister of Finance.

Art. 12 - The presentation of shares of undertaking, subject to control, sequestration or liquidation, for certification by the controller, sequestrator, liquidator or of another governmental agent, may be ordered by d cree of the Ministers of Finance and of Corporations. The decree shall be published in the Official Gazette of the Kingdom and at least in two daily newspapers of large circulation the name of which must be mentioned in the decree.

The decree shall fix the date within which the presentation of shares has to take place and which must not be less than sixty days after the date of the publication of the decree. All others particulars concerning the presentation shall be determined by the decree. Any right pertaining to the shares shall be suspended until the shares have been certified. Certification shall be marked on the share, and an entery to this effect shall be also made in the registers of the company in case of personal shares.

Art. 13 - Certification shall be denied to shares owned by enemy nationals or by persons who are proved to have held enemy citizenship after the war law has become effective in relation to the foreign state of which the person concerned is a national.

Certification shall be also denied to shares which are proved to have been owned by enemy nationals during a period subsequent to [illegible] August 1939, as shall be fixed by an

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Certification shall be also denied to shares which are proved to have been owned by enemy nationals during a period subsequent to such a date after the 31st August 1939, as shall be fixed by an order of the Duce, to be published in the Official Gazette of the Kingdom.

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In the case contemplated in the preceding paragraph the certification may be authorized by the Ministers of Finance or for Corporations if there exist special reasons.

The provisions of this article shall not apply to shares which, although owned by enemy nationals within the periods of time set out in the first & second para, have been trasferred to other than enemy nationals by an act of the sequestrator, by succession mortis causa or by an order of an Italian authority.

The interested parties may lodge an appeal against the denial of the certification with the Ministers for Finance and for Corporations.

The appeal shall be filed with the Ministry of Corporations.

Art. 14 - The shares which were denied the certification as well as those who were not presented for certification and which there is a reason to believe are owned or were owned subsequent to the date fixed in pursuance to the second para of this article by enemy nationals shall be declared of no effect by a decree of the Ministers for Finance and for Corporations to be published in the Gazzetta Ufficiale of the Kingdom.

The issuing company shall issue new securities which shall not be subject to stamp fees and which to all intent and purposes shall replace the shares declared of no effect.

The new securities shall be deposited with the Bank of Italy or whit one of the banking institutions authorized to operate as agencies of the Bank of Italy within the meaning of Art. 10 of the decree of the Minister of Finance of 8 Dec. 1934-XIII, published in Gazzetta Ufficiale of the Kingdom of the same date concerning the duty to

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The interested parties may lodge an appeal against the denial of the certification with the Ministers for Finance and for Corporations.

The appeal shall be filed with the Ministry of Corporations.

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The institutes holding such deposits shall exercise the rights inherent in the shares in accordance with the instructions of the Ministries of Finance of Corporations.

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Art. 15 - The Ministers for Finance and for Corporations may order the s
sale of the securities issued in persuance to the second para of the
preceding article and prescribe the relative formalities.

The purchase price as well as the amounts paid for any reason
inherent in the securities shall, after deduction of fees for custody
and other expenditures, be desposited, saving the provisions of Art.17,
with the National Institute for foreign exchange, which shall open for
such amounts non-personal accounts bearing no interests and expressed
in the currency of the creditor's country in persuance with the law
No. 1994 of 15 Dec. 1940-XIX.

Art. 16 - The annulment of the provisions contemplated in Art. 13
penultimate para shall not affect the efficacy of acts performed in
the meantime.

Art. 17 - Persons of other than enemy nationality who have acquired
shares or property rights to such shares prior to their being declared
of no effect in accordance with Art. 14 first para, shall be permitted
to assert their claims in the manner prescribed by this article provided
that such acquisition is not void by virtue of art. 312 and 332 of the
war law.

The claims of the persons set out in the preceding para shall be
satisfied from the purchase price of securities which have replaced the
shares declared of no effect and from other eventual income derived
from such securities.

If the sale did non take place within 90 days after the date of
which the application filed by interested parties has definitely been
judicial authority, such parties may

with the National Institute for foreign exchange, which shall pay such amounts non-personal accounts bearing no interests and expressed in the currency of the creditor's country in persuance with the law No. 1994 of 15 Dec. 1940-XIX.

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The claims of the persons set out in the preceding para shall be satisfied from the purchase price of securities which have replaced the shares declared of no effect and from other eventual income derived from such securities.

If the sale did non take place within 90 days after the date of which the application filed by interested parties has definitely been granted by an administrative or judicial authority, such parties may assert their claims against the new securities.

Art. 18 - In order to secure the national character of industries which are particularly important for the autarchic projects, a transfer may

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be ordered for a fair price of undertakings subject to sequestration or liquidation by virtue of Art. 1 to Italian nationals who apply for it.

Art. 19 - The application contemplated in the preceding Article shall be filed with the Ministry of Corporations which, in case of favorable consideration, shall determine in agreement with the Ministry of Finance and after consultation with the sequestrator or liquidator and the applicant, the formalities and conditions for the transfer of the undertaking, as well as the amount to be deposited by the applicant as a guaranty for the payment of the price. The applicant shall be notified of the decision and given definite time for deposition of the aforesaid amount with a specified branch of the Bank of Italy.

If the applicant has made the deposit within the fixed period of time the Minister of Corporation in agreement with the Minister for Finance, shall by a decree order the transfer of the undertaking.

The decree shall be published in the Gazzetta Ufficiale of the Kingdom and communicated to the sequestrator or liquidator and to the transferee. If the undertaking comprises mortgageable property the decree shall also be registered at the mortgage Registry upon the initiative of the Ministry of Corporations.

Art. 20 - A Committee shall determine the fair price of the transferred undertaking. Such Committee shall consist of three experts, one appointed by the Ministry for Corporations in agreement with

shall be filed with the Ministry of Corporations which, in case of favorable consideration, shall determine in agreement with the Ministry of Finance and after consultation with the sequestrator or liquidator and the applicant, the formalities and conditions for the transfer of the undertaking, as well as the amount to be deposited by the applicant as a guaranty for the payment of the price. The applicant shall be notified of the decision and given definite time for deposition of the aforesaid amount with a specified branch of the Bank of Italy.

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Art. 20 - A Committee shall determine the fair price of the transferred undertaking. Such Committee shall consist of three experts, one appointed by the Ministry for Corporations in agreement with the Minister for Finance, the second by the transferee and the third by the first president of the Court of Appeal of the district

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in which the main place of business of the undertaking is located.

The transfer shall appoint the expert within 15 days after the notice of the decree ordering the transfer and if he fails to do so, the appointment will be made by the aforesaid first president of Court of Appeal .

There shall be no appeal against the decision of the Committee. Application for corrections of material or counting errors shall be directed to the same Committee.

Art. 21 - After the Committee has determined the fair price the Ministry of Corporations, in agreement with the Ministry of Finance, shall order the release of the amount deposited in accordance with Art. 19.

The decision of the Committee contemplated by Art. 20 shall be a good title for execution against the transferee for the recovery of the remaining amount owed by him in addition to the deposit.

Art. 22 - The rights of third parties to the undertaking shall attach to the price.

Art. 23 - From the effective date of this decree no right may be acquired to shares of companies with principal seat within the State territory owned by enemy nationals, with the exception of transfers by succession mortis causa or by virtue of acts effected by a sequestrator or by Italian authorities.