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DRAFT DECREE ON PO
ITALIAN LAW
NOV. 1943 - SEPT. 1944

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DRAFT DECREE ON POWERS OF PROPERTY CONTROLLER UNDER
ITALIAN LAW
NOV. 1943 - SEPT. 1944

FILE CLOSED 28 September 1944

105

R.D.L. 6 JULY 1938 No. 1415 (Decreto de Guerra) Chapter II. Treatment
of Enemy Property in the Territory of the State.

Translation of these 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 paragraph may be
ordered also in the case of persons of enemy nationality although figur-
ing 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 sequestered 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 or those
appointed by the prefects according to the preceding regulation.
In such a case, the Minister shall establish which Intendant of Finance
shall exercise supervision.
In the case provided for in the preceding paragraph, the sequestrator
with the authorization of the Intendant of Finance shall designate 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 sequestered property, he
shall be compensated for his activities, over and above the reimbursement
of the justifiable expenses. The recompense of the expenses shall be
liquidated by the Minister of Finance, on the proposal of the Intendant
of Finance, taking into account the importance of the work demanded.

ARTICLE 298 - (Publication and Registration of Decree of Sequestration).--
It is the responsibility of the Intendant of Finance to publish the decree
of sequestration in the "Official Gazette" of the Kingdom, and if
possible, to notify the owner of the sequestered 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
Intendant of Finance. The transcription is not subject to tax or other
expenses.

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Sequestration shall not prejudice the rights of third parties.

103

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 sequester, choosing him preferably from amongst the functionaries of State or of public bodies, in active service or retirement.

Exceptionally, the holders of sequestered 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 sequester in the place or those appointed by the prefects according to the preceding regulation.

In such a case, the Minister shall establish which intendents of Finance shall exercise supervision.

In the case provided for in the preceding paragraph, the sequester with the authorization of the intendents of Finance shall designate his representative in the place where he does not himself reside.

ARTICLE 297 - (Remuneration of Sequester)...
When the sequester is not the holder of the sequestered property, he shall be compensated for his activities, over and above the reimbursement of the justifiable expenses. The recompense of the expenses shall be liquidated by the Minister of Finance, on the proposal of the intendents 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 sequestered 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 intendents 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 Sequester)...
Under the supervision of the intendents of Finance, the sequester shall provide for the custody, conservation, maintenance, and when necessary, the administration of the sequestered 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 sequester of the documents of account, and the amount

of the guarantee for the safe custody of the same as 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 Sequester into a banking institution authorized 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 sequestered 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 immovable 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 realized by the sale of sequestered 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)

Sequestered public or industrial securities shall be deposited at the bank for deposits and loans.

103

ARTICLE 302 - (Withdrawals of sums and securities deposited)

With the previous authorization of the intendent of finance, the sequester may withdraw sums and securities sequestered 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)

In cases in which sequestered 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 reimbursable at the charge of the owner or holder of sequestered property.

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

ARTICLE 304 - (Debts guaranteed against sequestered property).

The following creditors can be satisfied out of sequestered 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 sequester for the remuneration and re-embursement of expenses due to him;

sale of immovable 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 realized 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.

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103

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ARTICLE 303 - (Advances by State of expenses of management)
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 rules in the preceding para are reimbursable 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 advance 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 sequestrator 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 debts may have a date certain prior to the

application 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 debtor might be subjected to sequestration.

ARTICLE 305 - (Levying of execution and attachment of sequestered property).-
Sequestered property can be the object of proceedings for the levying of execution, except for bankruptcy, and in every case concerning creditors indicated in the preceding articles.
The effects of attachment proceedings adopted by whatsoever judicial authority and having as object property which may have been or has been sequestered under article 295 shall be suspended until the date on which the effects of the sequestration end, 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 sequestered property or of levying of execution).-

Whenever in order to extinguish liabilities it is necessary to promote the sale of sequestered properties, the sequesteror, 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 sequestered 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 sequesteror with previous authorization of the prefect may effect withdrawals of money from sequestered 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 sequesteror to sell the sequestered property, or himself carry out operations calculated to produce the money ~~for~~ 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 of the prefect, containing the name of the creditor or the nature and amount of the debt, the nature and amount of the ~~debt~~ and a summary

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 sequestered property or of levying of execution).

Whenever in order to extinguish liabilities it is necessary to promote the sale of sequestered properties, the sequesteror, 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 sequestered 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 sequesteror with previous authorization of the prefect may effect withdrawals of money from sequestered 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 sequesteror to sell ^{100%} the sequestered property, or himself carry out operations calculated to produce the money ^{100%} 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 of the prefect, containing the name of the creditor or owner, amount of the debt, the nature and amount of the ^{debt and a summary} of this law, and, for the obligations supervening, within thirty days from the date when they arise or become liquid.

declaration of the property

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 person 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 null 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 prefectural 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 obligation 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 provisions of 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 prefectural 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 provisions of 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 authorizes 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 296 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. 306 shall apply.

the receiver

according to Article 307.

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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 as 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.

Article 321 (Publication of provisions concerning the receiver ship, or sequestration). Provisions that concern the receiver ship, 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 intendent 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 representative 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 (Recouvre to the Duce) - Final appeal to the Duce or Ministry of Finance respectively is admitted against the provisions of the prefect and the intendant of Finance issued pursuant to the provisions of the foregoing sections.

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 of 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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Special jurisdictional organs for the deciding of controversies arising out of 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.

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 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 though not a prevailing one, may be subject to control.

The decisions provided for the ⁱⁿ preceding paras and the decisions concerning the appointment and eventual substitution of controllers, sequestrators and liquidators are carried out by decrees of the Ministers for the corporations in agreement with the Minister of Finance, after consultation, whenever necessary, with the competent sindacato organizations.

Art. 2 - The control (sindacato), shall be exercised 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. 931 of the text of war law, approved by R. decree No. 1415 of 2 July 1938.

Art. 3 - 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 prevailing interest, shall be subject to control (sindicato), sequestration or liquidation.

Any industrial and commercial undertaking in the Kingdom in which enemy nationals hold an interest, even though not a prevailing one, may be subject to control.

The decisions provided for the preceding paras and the decisions concerning the appointment and eventual substitution of controllers, sequestrators and liquidators are carried out by decrees of the Minister for the Corporations in agreement with the Minister of Finance, after consultation, whenever necessary, with the competent financial organizations.

Art. 2 - The control (sindicato), shall be exercised 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 activities or the actual position of the undertaking, shall be punished by imprisonment from one to six months or a fine from L. 500 to L. 6.000, excepting those cases contemplated in art. 937 of the text of War Law, approved by R. Decree No. 1417 of 6 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~~ ^{shareholder's} meetings, the corporate organs shall be suspended from their duties.

The functions of the company inspectors (sindaci) shall be exercised 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 Ministries 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.

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;

98
99

to not have any effect if they are

exercised 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 sequestator 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 Ministries of Corporations and Finance.

The balance sheet shall be approved by a order issued by the Minister of Corporations in agreement with the Minister of Finance. The general meeting of shareholders may be called by the sequestator, 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;
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- 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 issuance 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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96
115

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. **934**

The date of maturity of obligations referred to in paras 6 and 7 of the above-cited article may be ^{proved} in regard to commercial obligations by any means of evidence.

These rights have arisen during the period in which the

when not otherwise established, shall continue to operate in, operations outside the normal management shall be authorized by the Ministry of corporations in agreement with the Ministry of finance.

For more important undertakings 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 sequesteror 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 sequestered undertakings. **951k**

The date of maturity ^{or} obligations referred to in paras 6 and 7 of the above-cited 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 sequestered undertaking, provided that such rights concern directly and exclusively the undertaking.

Furthermore art. 305 of the war law shall apply to sequestered undertakings, also in regard to rights mentioned in the preceding para.

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 agreement with the Minister of Finance, shall take place 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 is considered necessary in the interest of the insured persons and of the undertaking.

The transfer shall be previously authorized by the Minister of Corporations, in agreement with the Minister of Finance; in such case the provisions set out in U.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.

Whenever it is considered advisable in the interest of the undertaking, sequestrators of

Article 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 is considered necessary in the interest of the insured persons and of the undertaking.

The transfer shall be previously authorized 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.

Article 7 - Whenever it is considered advisable in the interest of the banking operations of the undertaking, sequestrators of banking institutions may transfer assets or liabilities to the regularly functioning Italian banking institutions upon previous authorization 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 assets or liabilities of banking institutions in liquidation as set out in Art. 54 of R.D.L. No. 375 of the 12th 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 fulfill 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 conforming 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

Art. 8. Liquidation shall be ordered whenever the undertaking can not fulfill 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 concerning 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 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 judgment 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 ~~code~~ 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. 575 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 jurisdiction 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,

judgment of the Tribunal either d'office or upon request of creditors or of the liquidator. The judgment 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, No. 616 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 jurisdiction 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 mortgagable other property, the decisions ordering the sequestration or revoking it, shall be registered in the Mortgage Registry without payment of the fees or of any other charge.

Art. 10 - A special indemnity 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, sequesterator, liquidator or of another governmental agent, may be ordered by decree 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 contrary 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~~ ⁹¹ 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 be ~~denied~~ ⁹¹ subsequent to

control, sequestration or liquidation, for certification by the controller, sequestrator, liquidator or of another governmental agent, may be ordered by decree 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 ~~eventary~~ to this effect shall be also made in the registers of the company in case of personal shares.

Art. 11 - 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~~ ⁹¹ 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 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.

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 transferred 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 with 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 6 Dec. 1934-XIII, published in Gazzetta

and the duty to

nationals by an act of the administrator, or succession of the cause 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 with 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 consign the means of payment derived from exports and the rules for commerce with any means of payment which might serve as payment abroad.

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 sale of the securities issued in pursuance 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 deposited, 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 pursuance with the law No. 1934 of 15 Dec. 1940-XII.

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 incomes derived from such securities.

If the sale did not take place within 90 days after the date of which the application filed by interested parties has definitely been

and other expenses 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 pursuance with the law No. 1984 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 not 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 sequesterator 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 sequesterator or liquidator and to the transferee. If the undertaking comprises mortgageable property the decree shall also be registered at the Mortgage Registry  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, 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 sequesteror 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 deposit 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 Corporations 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 sequesteror or liquidator and to the transferee. If the undertaking comprises mortgageable property the decree shall also be registered at the Mortgage Registry ~~of~~ 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 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 attached 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.

SCHEMA DI DECRETO LEGISLATIVO LUOGOTENENZIALE

ABROGAZIONE DEI PROVVEDIMENTI E DELLE MISURE ADOTTATE IN MATERIA DI BENI APPARTENENTI AGLI STATI DELLE NAZIONI UNITE E ALLO STATO FRANCESE NONCHÉ ALLE PERSONE, FISICHE E GIURIDICHE, AVENTI LA NAZIONALITÀ DEGLI STATI STESSI. -

UMBERTO DI SAVOIA
Principe di Piemonte
Luogotenente Generale del Regno

In virtù dell'autorità a Noi delegata

Vista la legge di guerra, approvata con R. decreto 8 luglio 1938, n. 1415,

Visto il R. decreto 10 giugno 1940, n. 566, riguardante l'applicazione della Legge di guerra nei territori dello Stato;

Visto il R. decreto 25 novembre 1940, n. 1886, che sottopone a sequestro le navi mercantili nemiche appartenenti a privati;

Vista la legge 16 dicembre 1940, n. 1902, portante variazioni ed aggiunte al R. decreto 8 luglio 1938, n. 1415;

Vista la legge 19 dicembre 1940, n. 1994, riguardante nuove norme circa il trattamento dei beni nemici ed i rapporti economici con le persone di nazionalità nemica;

Visto il R. decreto 10 marzo 1941, n. 618, che approva il regolamento relativo al trattamento dei beni nemici nel territorio dello Stato;

Visti i RR. decreti-legge 17 giugno 1941, n. 494, e 23 giugno 1941, n. 608, convertiti nella legge 9 febbraio 1942, n. 379, recante disposizioni sui beni esistenti in Italia ed appartenenti a persone aventi la nazionalità degli Stati Uniti d'America;

Luogotenente Generale del Regno

In virtù dell'autorità a Noi delegata

Vista la legge di guerra, approvata con R. decreto 8 luglio 1938, n. 1415;

Visto il R. decreto 10 giugno 1940, n. 566, riguardante l'applicazione della Legge di guerra nei territori dello Stato;

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Vista la legge 19 dicembre 1940, n. 1994, riguardante nuove norme circa il trattamento dei beni nemici ed i rapporti economici con le persone di nazionalità nemica;

Visto il R. decreto 10 marzo 1941, n. 618, che approva il regolamento relativo al trattamento dei beni nemici nel territorio dello Stato;

Visti i RR. decreti-legge 17 giugno 1941, n. 494, e 23 giugno 1941, n. 608, convertiti nella legge 9 febbraio 1942, n. 379, recante disposizioni sui beni esistenti in Italia ed appartenenti a persone aventi la nazionalità degli Stati Uniti d'America;

Visto il R. decreto 10 luglio 1941, n. 619, concernente norme integrative di quelle emanate con i RR. decreti-legge 17 giugno 1941, n. 494, e 23 giugno 1941, n. 608;

Visto il R. decreto-legge 27 dicembre 1941, n. 1624, circa l'ap-

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modificazioni della legge 17 luglio 1942, n. 1100, rescante nuove norme sulle aziende appartenenti a persone di nazionalità nemica;

Visto il Decreto-legge Luogotenenziale 25 giugno 1944, n. 151;

Sentito il Consiglio dei Ministri

Sulla proposta del Capo del Governo, Primo Ministro Segretario di Stato e Ministro degli Affari Esteri, e dei Ministri del Tesoro e dell'Industria Commercio e Lavoro, d'intesa col Ministro di Grazia e Giustizia

ABBIAMO DECRETATO E DECRETIAMO

Art. I°

Sono abrogati i provvedimenti e le misure adottati in virtù della legge di guerra approvata con R. decreto 8 luglio 1938, n. 1415, e successive modificazioni ed aggiunte, in materia di beni appartenenti agli Stati facenti parte delle Nazioni Unite e allo Stato francese, nonché alle persone, fisiche e giuridiche, aventi la nazionalità degli Stati stessi.

L'intendente di finanza provvede all'adempimento delle formalità richieste dall'articolo 298 ultimo comma della legge di guerra e dall'articolo 9 del R.D.L. 4 febbraio 1942 n. 11, convertito con modificazioni nella legge 17 luglio 1942 n. 1100, per la revoca dei provvedimenti di sequestro e di liquidazione.

Art. II°

La gestione del sequestratario o del liquidatore cessa dopo 30 giorni dalla data dell'entrata in vigore del presente decreto legislativo. Il sequestratario o il liquidatore è tenuto, pertanto, ad effettuare, entro detto termine, la restituzione dei beni all'avente diritto o al suo legale rappresentante.

All'atto della restituzione il sequestratario o il liquida-

tore redige processo verbale, con l'intervento dell'avente diritto, o del suo legale rappresentante, al quale è tenuto a presentare il rendiconto finale della gestione corredato dell'inventario e, per le aziende industriali e commerciali, dell'ultimo bilancio.

Nel caso che la restituzione non venga effettuata nel termine anzidetto, il Ministro del tesoro nomina un amministratore per provvedere alla temporanea amministrazione dei beni stessi.

Fino a quando non sarà provveduto a tale nomina le funzioni di amministratore restano affidate al sequestratario o al liquidatore che inizia la nuova gestione redigendo il rendiconto finale, corredato dell'inventario e, per le aziende industriali e commerciali, dell'ultimo bilancio.

Art. III°

Nel caso che l'amministratore non sia lo stesso sequestratario, la consegna dei beni deve essere effettuata colle stesse modalità e sulla base dei documenti di cui all'articolo precedente.

Art. IV°

Il processo verbale di restituzione o di consegna e gli atti di cui agli articoli 2 e 3 sono depositati, insieme a tre copie, dal sequestratario o dal liquidatore, nel termine di tre giorni, presso l'intendenza di finanze.

L'intendenza di finanze trasmette due di dette copie al ministero del tesoro e, per le aziende industriali e commerciali, altra copia al Ministero dell'industria, commercio e lavoro.

Art. V°

L'amministratore provvede, sotto la vigilanza del Ministero del tesoro, alla custodia, alla conservazione e, occorrendo, all'ammi-

dere alla temporanea amministrazione per beni sequestrati.
Fino a quando non sarà provveduto a tale nomina le funzioni di amministratore restano affidate al sequestratario o al liquidatore che inizia la nuova gestione redigendo il rendiconto finale, corredato dell'inventario e, per le aziende industriali e commerciali, dell'ultimo bilancio.

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Nel caso che l'amministratore non sia lo stesso sequestratario, la consegna dei beni deve essere effettuata colle stesse modalità e sulla base dei documenti di cui all'articolo precedente.

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Il processo verbale di restituzione o di consegna e gli atti di cui agli articoli 2 e 3 sono depositati, insieme a tre copie, dal sequestratario o dal liquidatore, nel termine di tre giorni, presso l'intendenza di finanza.

L'intendenza di finanza trasmette due di dette copie all'Intendenza di finanza di cui al paragrafo 1° dell'articolo 1° del regolamento del ministero del tesoro e, per le aziende industriali e commerciali, altra copia al ministero dell'industria, commercio e lavoro.

Art. V°

L'amministratore provvede, sotto la vigilanza del ministero del tesoro, alla custodia, alla conservazione e, occorrendo, all'amministrazione ordinaria, dei beni sottoposti alla sua gestione temporanea.

Gli atti eccedenti l'ordinaria amministrazione, o che comunque importino impegni a carico di più esercizi sociali, debbono essere preventivamente autorizzati dal ministro del tesoro.

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All'amministratore può essere consentita una indennità da de-terminarsi dal Ministro del tesoro, tenuto conto dell'entità del lavoro da compiere.

Art. VI°

L'amministratore deve rimettere al Ministero del tesoro, per il tramite dell'intendenza di finanza, in duplice esemplare:

- 1) - alla fine di ogni semestre, il rendiconto della Gestione;
- 2) - per le aziende industriali e commerciali, alla fine di ogni eser-
cizio anche copia dell'Inventario e del bilancio;
- 3) - alla fine della gestione, il rendiconto finale.

Art. VII°

Fino alla restituzione dei beni all'avente diritto o al suo legale rappresentante, i giudizi in corso relativi ai beni di cui al-
l'articolo 1° restano sospesi a norma dell'art. 3 del R.D.L. 3 gennaio
1944 n°1 salvo nel caso che la prosecuzione del giudizio sia autorizza-
ta dal Ministro del tesoro.

La predetta sospensione si applica anche nei casi in cui il
processo sia interrotto a norma degli art.299 e segg. del Codice Proc.
Civ.

Art. VIII°

All'atto della restituzione dei beni all'avente diritto o al
suo legale rappresentante, questi è tenuto a rimborsare l'ammontare del-
le spese ordinarie di gestione erogate dal sequestratario, dal liquida-
tore o dall'amministratore nonché le somme con gli interessi legali an-
ticipate per l'estanzione dei debiti o per la conservazione o incremen-
to o miglioramento dei beni stessi, in quanto tali spese non siano com-
pensate dai frutti dei beni stessi o da altre attività del sequestro o
dell'amministrazione.

L'amministratore deve rimettere al Ministero del tesoro, per

- il tramite dell'intendenza di finanza, in duplice esemplare:
- 1) - alla fine di ogni semestre, il rendiconto della gestione;
 - 2) - per le aziende industriali e commerciali, alla fine di ogni esercizio anche copia dell'inventario e del bilancio;
 - 3) - alla fine della gestione, il rendiconto finale.

Art. VIII

Fino alla restituzione dei beni all'avente diritto o al suo legale rappresentante, i giudizi in corso relativi ai beni di cui all'articolo 1° restano sospesi a norma dell'art. 3 del R.D.L. 3 gennaio 1944 n°1 salvo nel caso che la prosecuzione del giudizio sia autorizzata dal Ministro del tesoro.

La predetta sospensione si applica anche nei casi in cui il processo sia interrotto a norma degli art.299 e segg. del Codice Proc. Civ.

Art. VIII

✓ All'atto della restituzione dei beni all'avente diritto, o al suo legale rappresentante, questi è tenuto a rimborsare l'ammontare delle spese ordinarie di gestione erogate dal sequestratario, dal liquidatore o dall'amministratore nonché le somme con gli interessi legali anticipate per l'estinzione dei debiti o per la conservazione o incremento o miglioramento dei beni stessi, in quanto tali spese non siano compensate dai frutti dei beni stessi o da altre attività del sequestro o dell'amministrazione.

✓ L'ammontare del credito del sequestratario, riconosciuto e non rimborsato all'atto della restituzione dei beni, ha privilegio sui beni stessi a norma dell'art. 304 della legge di guerra.

Lo stesso privilegio compete al liquidatore e all'amministratore.

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Art. IX°

Lo svincolo di somme di denaro, di titoli o di valori depositati, ai sensi delle disposizioni di legge contemplate nel presente decreto, presso la Banca d'Italia o altri istituti bancari o finanziari, viene effettuato su richiesta dell'interessato, previo nulla osta del Ministro del tesoro.

Art. X°

Nel caso che i beni sottoposti all'amministrazione non producano rendite o non comprendano attività liquide in misura sufficiente per provvedere alle spese per la gestione, il Ministro del tesoro può disporre che esse siano anticipate dallo Stato, mediante apposito stanziamento nel suo bilancio.

Le spese anticipate dallo Stato, a norma del comma precedente, sono ripetibili a carico del proprietario con l'interesse dell'1% superiore al tasso ufficiale di sconto.

Il credito dello Stato, per le somme anticipate, ha privilegio sui beni sottoposti ad amministrazione, con preferenza su ogni credito, ancorchè privilegiato.

Le disposizioni del presente articolo non sono applicabili alle aziende industriali e commerciali.

Art. XI°

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 rispettare come legge dallo Stato.

Dato a Roma, addì

La Commissione Alleata ha chiesto che venga precisato quanto segue in relazione alle disposizioni del Decreto Legislativo, che il Governo italiano intende emanare, concernente l'abrogazione dei provvedimenti e delle misure adottati in materia di beni appartenenti agli Stati delle Nazioni Unite ed allo Stato francese nonché alle persone, fisiche e giuridiche, aventi la nazionalità degli Stati stessi:

1) il Governo italiano è responsabile verso gli aventi diritto degli atti di gestione dell'amministratore dei beni di cui sopra;

2) il regolamento dei conti - effettuato, a norma dell'art. 8 del decreto legislativo anzidetto, all'atto della restituzione dei beni all'avente diritto, concernente il rimborso dell'ammontare delle spese ordinarie di gestione erogate dal sequestratario, dal liquidatore o dall'amministratore nonché delle somme anticipate per l'estinzione dei debiti o per la conservazione o incremento o miglioramento dei beni stessi non preclude il diritto sia dell'avente diritto, per le somme rimborsate, sia del sequestratario, del liquidatore, dell'amministratore o del Governo italiano, per le spese non rimborsate, di chiederne rispettivamente la restituzione o il pagamento nei modi che verranno stabiliti dai Governi interessati e del Governo italiano in apposite trattative.

X
Autore
Data
Luogo

dei provvedimenti e delle misure adottati in materia di beni tenenti agli Stati delle Nazioni Unite ed allo Stato francese nonché alle persone, fisiche e giuridiche, aventi la nazionalità degli Stati stessi:

1) il governo italiano è responsabile verso gli aventi diritto degli atti di gestione dell'amministratore dei beni di cui sopra;

2) il regolamento dei conti - effettuato, a norma dell'art. 2 del decreto legislativo anzidetto, all'atto della restituzione dei beni all'avente diritto, concernente il rimborso dell'ammontare delle spese ordinarie di gestione erogate dal sequestratario, dal liquidatore o dall'amministratore nonché delle somme anticipate per l'estinzione dei debiti o per la conservazione o incremento o miglioramento dei beni stessi non preclude il diritto sia dell'avente diritto, per le somme rimborsate, sia del sequestratario, dell' liquidatore, dell'amministratore o del Governo italiano, per le spese non rimborsate, di chiederne rispettivamente la restituzione o il pagamento nei modi che verranno stabiliti dai Governi interessati e dal Governo italiano in apposite trattative.

Ho l'onore di comunicare che il governo italiano è d'accordo su quanto precede.

X
[Handwritten notes and signatures]

TRANSLATED COPY

SCHEME OF LEGISLATIVE DECREES OF THE LIEUTENANT GENERAL OF THE KINGDOM.

ADROPTION OF THE PROVISIONS AND MEASURES TAKEN REGARDING PROPERTY BELONGING TO THE ALLIED NATIONS AND TO FRANCES AND TO THE PHYSICAL AND JURIDICAL PERSONS HAVING THE ABOVE MENTIONED NATIONALITIES. -

UMBERTO DI SAVOLA

Prince of Piemonte

Lieutenant General of the Kingdom

In virtue of the authority conferred to us

Considered the war-law, approved with Royal decree 8 July 1938, n. 1415, Considered the R. decree 10 June 1940, n. 566, regarding the application of the war-law in the territory of the State;

Considered the law 16 December 1940, n. 1902, making variations and additions to the R. decree 8 July 1938, n. 1415;

Considered the R. decree 25 November 1940, n. 1886, which places under sequestration the mercantile ships of the enemy belonging to private persons;

Considered the law 19 December 1940, n. 1994, regarding new provisions concerning the treatment of the enemy property and the economical relations with persons of enemy nationality;

Considered the R. decree 10 March 1941, n. 618, which approves the rule relative to the treatment of enemy goods in the territory of the State;

Considered the R. law-decree 17 June 1941, n. 494 and 23 June 1941, n. 608, changed into law 9 February 1942, n. 278, showing the provisions regarding property existing in Italy and belonging to persons of American nationality;

Considered the Royal decree 10 July 1941, n. 619, concerning rules completing those issued by the Royal law-decree 17 June 1941 n. 494 and 23 June 1941, n. 608;

Considered the Royal law-decree 27 December 1941, n. 1624, regarding the application of rules for the treatment of property belonging to American citizens, converted in law 24 May 1942, n. 761 and also the decree of the Chief of Government 12 August 1942, concerning the denial of approval, of which in art. 12 of the R.L.D. 4 February 1942 n. 11, of the shares which result to belong to the same citizens after the 17 June 1941;

Considered the R. law-decree 4 February 1942, n. 11, converted with modifications in law 17 July 1942, n. 1100, showing new rules regarding the concerns belonging to persons of enemy nationality;

Considered the law-decree of the Lieutenant General of the Kingdom 25 June 1941, n. 151;

after conferring with the Cabinet Council;

On proposal of the Chief of the Government, Prime Minister Secretary of State and Minister of Foreign Affairs, and of the Ministers of Treasury and of Industry, Commerce and Labour, in accordance with the Minister of Justice

WE DECREE :

Att. 1

taken

In virtue of the authority conferred to us

Considered the war-law, approved with Royal decree 6 July 1936, n. 1419, considered the R. decree 10 June 1940, n. 566, regarding the application of the war-law in the territory of the State;
 Considered the law 16 December 1940, n. 1902, making variations and additions to the R. decree 8 July 1936, n. 1419;
 Considered the R. decree 25 November 1940, n. 1886, which places under sequestration the mercantile ships of the enemy belonging to private persons;
 Considered the law 19 December 1940, n. 1904, regarding new provisions concerning the treatment of the enemy property and the economical relations with persons of enemy nationality;

Considered the R. decree 10 March 1941, n. 618, which approves the rule relative to the treatment of enemy goods in the territory of the State;

Considered the R. law-decrees 17 June 1941, n. 494 and 23 June 1941, n. 608, changed into law 9 February 1942, n. 378, showing the provisions regarding property existing in Italy, and belonging to persons of American nationality;

Considered the Royal decree 10 July 1941, n. 617, concerning rules completing those issued by the Royal law-decrees 17 June 1941 n. 494 and 23 June 1941, n. 608;

Considered the Royal law-decree 27 December 1941, n. 1624, regarding the application of rules for the treatment of property belonging to American citizens, converted in law 1st May 1942, n. 761 and also the decree of the Chief of Government 12 August 1942, concerning the denial of approval, of which in art. 12 of the R.L.D. 4 February 1942 n. 11, of the change which result to belong to the same citizens after the 17 June 1941;

Considered the R. law-decree 4 February 1942, n. 11, converted with modifications in law 17 July 1942, n. 1106, showing new rules regarding the concerns belonging to persons of enemy nationality;

Considered the law-decree of the Lieutenant General of the Kingdom 25 June 1941, n. 151;

After conferring with the Cabinet Council:

On proposal of the Chief of the Government, Prime Minister Secretary of State and Minister of Foreign Affairs, and of the Ministers of Treasury and of Industry, Commerce and Labour, in accordance with the Minister of Justice

WE DECREE :

Art. 1

~~The~~ ^{taken} Provisions ~~and~~ ^{acts done} ~~in~~ accordance to the law of war approved by F. Decree 8 July 1936, n. 1419, and subsequent modifications and additions, in point of goods belonging to the Allied Nations and to France and also to physical and juridical persons having the mentioned nationalities, are abrogated.

The Intendente di finanza provides for the fulfilment of the formalities requested by art. 298, last pars., of the war-law and by art. 9 of the R.L.D. 4 February 1942 n. 11, converted in law 17 July 1942, n. 1106 with modifications, for the revocation of the provisions of sequestration and liquidation.

Art. 2

The management of the sequestrator or of the liquidator ceases after 30 days from the date the present legislative decree has become operative. The sequestrator or the liquidator is obliged, therefore, to carry out within such term, the re-assignment of the property to the owner or to his legal representative.

At the moment of the re-assignment the sequestrator or the liquidator draws up a verbal process, in presence of the owner or of his legal representative, to whom he has to present the final report of the management supplied with the inventory and, for the industrial and commercial concerns, of the final balance.

In case the re-assignment is not carried out within the above mentioned date, the Minister of Treasury nominates a manager in order to provide for the temporary management of the property.

Until such nomination has been made the functions of manager remain in the hand of the sequestrator or liquidator who begins the new management drawing up the final report with an inventory and, if there are industrial or commercial concerns, with the final balance.

Art. 3

In case the manager be not the sequestrator himself, the re-assignment of the property has to be carried out with the same modalities and on basis of the documents mentioned in the present article.

Art. 4

The verbal process of re-assignment or consignment and the documents mentioned in art. 2 and 3 are deposited, together with three copies, by the sequestrator or the liquidator, within three days, at the Intendenza di Finanza.

The Intendente di Finanza send two of these copies to the Ministry of Treasury and if there are industrial or commercial concerns, another copy is sent to the Ministry of Industry, Commerce and Labour.

Art. 5

The manager provides, under surveillance of the Minister of Treasury, for the custody, maintenance and if necessary for the ordinary management of the property placed under temporary management.

Actions exceeding the ordinary management, or which, in any way,

In case the re-assignment is not carried out within the above mentioned date, the Minister of Treasury nominates a manager in order to provide for the temporary management of the property.

Until such nomination has been made the functions of manager remain in the hands of the sequestrator or liquidator who begins the new management drawing up the final report with an inventory and, if there are industrial or commercial concerns, with the final balance.

art. 3

In case the manager be not the sequestrator himself, the re-assignment of the property has to be carried out with the same modalities and on basis of the documents mentioned in the precedent article.

art. 4

The verbal process of re-assignment or consignment and the documents mentioned in art. 2 and 3 are deposited, together with three copies, by the sequestrator of the liquidator, within three days, at the Intendenza di Finanza.

The Intendente di Finanza send two of these copies to the Ministry of Treasury and if there are industrial or commercial concerns, another copy is sent to the Ministry of industry, commerce and labour.

art. 5

The manager provides, under surveillance of the Minister of Treasury, for the custody, maintenance and if necessary for the ordinary management of the property placed under temporary management.

The actions exceeding the ordinary management, or which, in any way, have obligations towards several social functions, have to be previously authorized by the Minister of Treasury.

To the manager may be granted an indemnity which has to be fixed by the Minister of Treasury, considered the importance of the accomplished work.

art. 6

The manager has to remit to the Ministry of Treasury, by means of the Intendente di Finanza, a duplicate;

- 5 -

- 1 - at the end of each half-year, the report of the management;
- 2 - if there are industrial and commercial concerns, at the end of each working period also a copy of the inventory and of the balance;
- 3 - at the end of the management, the final report.

Art. 7

Until the re-assignment of the goods to the owner or to his legal representative, the judgment in course relative to the property mentioned in art. 1 remain suspended according to art. 3 of the P.L.D. 3 Jan 1944, n. 1 save in case the prosecution of the judgment be authorized by the Minister of Treasury.

The above mentioned suspension is also applied in case the law-suit is interrupted according to art. 299 and following of the Civil Penal Code.

art. 8

At the moment of the re-assignment of the property to the owner or to his legal representative, he is obliged to reimburse the amount of the ordinary expenses of management advanced by the sequestrator, liquidator or manager and also the sums with the legal interests advanced for the payment of the debts or for the maintenance, furtherance and improvement of the property, if these expenses are not covered by the income of the property or by other assets of the sequestration or of the management.

The amount of the credit of the sequestrator, acknowledged and not reimbursed at the moment of the re-assignment of the property has a privilege on the goods according to art. 304 of the war-law.

The same privilege is due to the liquidator and to the manager.

Art. 9

The withdrawal of monies, bonds and valuables deposited, according to provisions of law considered in the present decree, in the Banca d'Italia or in other banks or financial institutes, is carried out on request of the interested person, after approval of the Minister of Treasury.

Art. 10

78

In case the properties placed under management do not give any income or do not comprise any liquid assets for the expenditures of the management, the Minister of Treasury may order that they be advanced by the Government, by means of special assignments to its balance.

The expense advanced by the Government, according to the precedent para., may be charged to the owner with the interest of 1% higher than the official tax of discount.

The provisions of the present article are not applicable to the industrial and commercial concerns.

representative, the judgment in course relative to art. 3 of the P.L.D. 3 Jan 1944, n. 1 in art. 1 remain suspended according to art. 3 of the P.L.D. 3 Jan 1944, n. 1 save in case the prosecution of the judgment be authorized by the Minister of Treasury.

The above mentioned suspension is also applied in case the law-suit is interrupted according to art. 299 and following of the Civil Penal Code.

Art. 6

At the moment of the re-consignment of the property to the owner or to his legal representative, he is obliged to reimburse the amount of the ordinary expenses of management advanced by the sequestrator, liquidator or manager and also the sums with the legal interests advanced for the payment of the debts or for the maintenance, furtherance and improvement of the property, if these expenses are not covered by the income of the property or by other assets of the sequestration or of the management.

The amount of the credit of the sequestrator, acknowledged and not reimbursed at the moment of the re-consignment of the property, has a privilege on the goods according to art. 504 of the war-law.

The same privilege is due to the liquidator and to the manager.

Art. 9

The withdrawal of monies, bon ds and valuables deposited, according to provisions of law considered in the present decree, in the Banca d'Italia or in other banks or financial institutes, is carried out on request of the interested person, after approval of the Minister of Treasury.

Art. 10

In case the properties placed under management do not give any income or do not comprise any liquid assets for the expenditure of the management, the Minister of Treasury may order that they be advanced by the Government, by means of special assignments to its balance.

The expense advanced by the Government, according to the present para., may be charged to the owner with the interest of 1% higher than the official tax of discount.

The provisions of the present article are not applicable to the industrial and commercial concerns.

Art. 11

The present decree becomes operative the day after its publication in the Official Gazette of the Kingdom.

We order, to everyone whom the decree is concerning, to observe the present decree and to make it respect as a law of the Government.

TRANSLATION

The Allied Commission has requested that the following be specified in relation with the provisions of the Legislative Decree, which the Italian Government want to issue concerning the abrogation of provisions and measures taken regarding the property belonging to the Allied Nations and to France and also to the physical and juridical persons having the above mentioned nationalities;

1) the Italian Government is responsible to the owners for the operations of management of the manager of the above mentioned property;

2) the settling of the accounts - carried out according to art.5 of the above Legislative Decree, at the moment of the re-consignment of the goods to the owner, concerning the reimbursement of the amount of the ordinary expenses of management advanced by the sequestrator, the liquidator or the manager and also of the sums advanced for the payment of the debts or for the maintenance, improvement or furtherance of the goods does not prevent the right of the sequestrator, the liquidator, the manager or the Italian Government regarding the non-reimbursed expenses to ask respectively for the re-consignment or payment in the way which will be established by the interested Governments and by the Italian Government in special transactions.

I have the honour to inform you that the Italian Government agrees with the above mentioned matters.

NEW DRAFT

With regard to the legislative decree which the Italian Government proposes to issue concerning the abolition of the legislation and measures taken thereunder regarding State property belonging to the United Nations and to France and property belonging to individuals and corporations, nationals of any of the aforesaid States, the Allied Control Commission has requested that the following be understood:

- (1) The Italian Government shall be responsible to the owners for all acts or omissions of the administrators appointed pursuant to the provisions of Art. 2 of the said decree; without prejudice to any rights that either the United Nations and France, or their nationals, or the Italian Government may at present have.
- (2) Settlement of accounts made in accordance with Art. 8 of the aforesaid legislative decree at the time of the restoration of the property to the owner shall not prejudice the right either of the owner, with regard to amounts reimbursed by him, or of the sequestrator, liquidator, administrator or of the Italian Government, as regards expenses not reimbursed, to claim either restitution or payment as the case may be in such manner as may be agreed by negotiation between the interested Governments and the Italian Government. At the same time the rate of interest on expenses incurred by the State as provided for by Art. 10 of the legislative decree shall be finally fixed.

I have the honour to inform you that the Italian Government agrees to the above.

(1) The Italian Government shall be responsible to the owners for all acts or omissions of the administrators appointed pursuant to the provisions of Art. 2 of the said decree; without prejudice to any rights that either the United Nations and France, or their nationals, or the Italian Government may at present have.

(2) Settlement of accounts made in accordance with Art. 8 of the aforesaid legislative decree at the time of the restoration of the property to the owner shall not prejudice the right either of the owner, with regard to amounts reimbursed by him, or of the sequestrator, liquidator, administrator or of the Italian Government, as regards expenses not reimbursed, to claim either restitution or payment as the case may be in such manner as may be agreed by negotiation between the interested Governments and the Italian Government. At the same time the rate of interest on expenses incurred by the State as provided for by Art. 10 of the legislative decree shall be finally fixed.

I have the honour to inform you that the Italian Government **78** agrees to the above.

In relazione al decreto legislativo che il Governo Italiano intende emanare in tema di abrogazione dei provvedimenti e delle misure adottate rispetto ai beni appartenenti agli Stati delle Nazioni Unite e allo Stato Francese, nonché alle persone fisiche e giuridiche aventi nazionalità degli Stati stessi, la Commissione Alleata ha chiesto che venga precisato quanto segue:

1) Senza pregiudizio alcuno per i diritti che tanto le Nazioni Unite e la Francia o i loro cittadini, quanto il Governo Italiano possono attualmente vantare, il Governo Italiano non è responsabile nei confronti degli aventi diritto di tutti gli atti o le omissioni degli amministratori nominati in applicazione delle disposizioni di cui all'Art. 2 del detto decreto.

2) Il regolamento dei conti effettuato a norma dell'Art. 8 del decreto legislativo anzidetto all'atto della restituzione dei beni all'avente diritto, non preclude il diritto sia dell'avente diritto, quanto alle somme da lui rimborsate, sia del sequestratario, del liquidatore, dell'amministratore o del Governo Italiano, quanto alle spese non rimborsate, di chiederne rispettivamente la restituzione o il pagamento nei modi che verranno stabiliti dai Governi interessati e dal Governo Italiano in apposite trattative, in occasione delle quali sarà definitivamente stabilita la misura degli interessi da applicarsi sulle spese anticipate dallo Stato a norma dell'Art. 10 del menzionato decreto legislativo.

Ho l'onore di comunicare che il Governo Italiano è d'accordo su quanto precede.

DRAFT

ART. 1 - Provisions of war law approved by R.D. N. 1415 of 8 July 1938, and of subsequent amendments and integrations (additions) concerning property belonging to enemy States and to individuals and corporations, nationals of any of the said States, shall cease to be effective with regard to the United Nations and France and to individuals and corporations possessing the nationality of any of such States.

All legislation issued under Art. 2 and 10 of R.D. N. 1415 of July 8, 1938 with regard to States and persons in the preceding paragraph shall be abrogated, R.D.L. N. 494 of June 17, 1941 and N. 608, of June 23, 1941, made into law n. 379, of February 9, 1942; R.D. N. 619, of July 10, 1941; R.D.L. 1624, of December 27, 1941, made into law N. 761, of May 1, 1942; and the Decree of the Chief of the Government of August 12, 1942, shall be likewise abrogated.

ART. 2 - The Minister of the Treasury shall immediately take steps to repeal all decrees issued for the purpose of placing under sequestration real estate and personal property belonging to the United Nations and France, and to persons possessing the nationality of any of such States.

The Minister for Industry, Commerce and Labor, in accordance with the Minister of the Treasury, shall immediately take steps to repeal all decrees issued for the purpose of placing under sequestration, receivership or liquidation industrial and commercial concerns owned by persons possessing the nationality of any of the State mentioned in Art. 1.

All legislation issued under Art. 2 and 10 of R.D. N. 1415 of July 8, 1938 with regard to States and persons in the preceding paragraph shall be abrogated. R.D.Ls N. 494 of June 17, 1941 and N. 608, of June 23, 1941, made into law n. 379, of February 9, 1942; R.D. N. 619, of July 10, 1941; R.D.L.1624, of December 27, 1941, made into law N. 761, of May 1, 1942; and the Decree of the Chief of the Government of August 12, 1942, shall be likewise abrogated.

ART. 2 - The Minister of the Treasury shall immediately take steps to repeal all decrees issued for the purpose of placing under sequestration real estate and personal property belonging to the United Nations and France, and to persons possessing the nationality of any of such States.

The Minister for Industry, Commerce and Labor, in accordance with the Minister of the Treasury, shall immediately take steps to repeal all decrees issued for the purpose of placing under sequestration, receivership or liquidation industrial and commercial concerns owned by persons possessing the nationality of any of the State mentioned in Art. 1.

ART. 3 - The administration of the sequestrator or of the liquidator shall cease 20 days after the date of publication of the revoking order in the Official Gazette of the Kingdom.
The sequestrator.....etc.....

ART. 1 - Le disposizioni della legge di guerra, approvate con R.D. 8 luglio 1938, n. 1415, e successive modificazioni e aggiunte, in materia di beni appartenenti a Stati nemici e a persone fisiche e giuridiche aventi la nazionalità degli Stati e stessi cessano di avere effetto nei confronti delle Nazioni Unite e dello Stato Francese, nonché delle persone fisiche e giuridiche che abbiano la nazionalità di tali Stati.

Sono abrogati i provvedimenti emanati, in applicazione degli artt. 2 e 10 del R.D. 8 luglio 1938, n. 1415 nei confronti degli Stati e delle persone contemplate nel comma precedente, nonché i RR. DD. LL. 17 giugno 1941, n. 494, e 23 giugno 1941, n. 608, convertiti nella legge 9 febbraio 1942, n. 379, 11 R.D. 10 luglio 1941, n. 619; il R.D.L. 27 dicembre 1941, n. 1624, convertito nella legge 1 maggio 1942, n. 761 e il decreto del Capo del Governo 12 agosto 1942.

ART. 2 - Il Ministro del tesoro promuoverà immediatamente la revoca dei decreti emanati per sottoporre a sequestro i beni mobili ed immobili appartenenti alle Nazioni Unite, alla Francia e alle persone aventi la nazionalità di tali Stati.

Il Ministro dell'Industria, Commercio e Lavoro, d'intesa col Ministro del tesoro, promuoverà immediatamente la revoca dei decreti emanati per sottoporre a sindacato, a sequestro o a liquidazione le aziende industriali e commerciali appartenenti a persone aventi la nazionalità degli Stati contemplati nell'Art. 1.

effetto nei confronti delle Nazioni Unite e delle loro nazionalità
nonché delle persone fisiche e giuridiche che abbiano la nazionalità
di tali Stati.

Sono abrogati i provvedimenti emanati, in applicazione degli
artt. 2 e 10 del R.D. 8 luglio 1938, n. 1415 nei confronti degli
Stati e delle persone contemplate nel comma precedente, nonché i
RR. DD. LL. 17 giugno 1941, n. 494, e 23 giugno 1941, n. 608, conver-
titi nella legge 9 febbraio 1942, n. 379, il R.D. 10 luglio 1941,
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Il Ministro dell'Industria, Commercio e Lavoro, d'intesa col
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emanati per sottoporre a sindacato, a sequestro o a liquidazione le
aziende industriali e commerciali appartenenti a persone aventi la
nazionalità degli Stati contemplati nell'Art. 1.

ART. 3 - La gestione del sequestratario e del liquidatore cessa
dopo 20 giorni dalla data di pubblicazione del provvedimento di
revoca nella Gazzetta Ufficiale del Regno. Il sequestratario... ecc...

ACC/OL3.22/CP

20 September 1944

COMMENTS ON DRAFT DECREE PREPARED FOR

CONSIDERATION ON 26 SEPTEMBER 1944

With regard to article "2"

line 4: It is stated that the sequestator is "bound to effectuate the restitution of property. Should he be "bound" to restore properties when it is unlikely that the owners or their legal representatives will be available would it not be better to say "shall use all reasonable efforts to", etc. where possible will take all necessary steps to effectuate lines 6 to 10: The verbale should reserve to the owner the right to make claims for all loss or damage not specifically

Agued

waived in the verbale,

*not waived
parabola X*

transcriptive presso lufficio delle ipoteche.

Strike all the second paragraph and substitute the following in place thereof "if for any reason the property cannot be restored within the aforesaid term the Ministry of Treasury shall forthwith appoint an administrator for the administration of the said property."

OK

With regard to article "4"

Strike the last sentence.

With regard to article "5"

Change the last paragraph to read "The administrator is directly responsible for his management to the Italian Government".

With regard to article "6"

to restore the restitution of property, should be bound
 to restore properties when it is unlikely that the owners or
 their legal representatives will be available? Would it not
 be better to say "shall use all reasonable efforts to", also,
 where possible, will take all necessary steps to effectuate
 lines 6 to 10; The verbals should reserve to the owner the
 right to make claims for all loss or damage not specific-
 ally covered in the verbals;
francese prima paragrafo lufficio delle ipoteche
 strike all the second paragraph and substitute the follow-
 ing in place thereof "if for any reason the property has not
 been restored within the aforesaid term the Ministry of Econ-
 omy shall forthwith appoint an administrator for the admin-
 istration of the said property."

With regard to article "4"

Strike the last sentence.

With regard to article "5"

Change the last paragraph to read "The administrator is di-
 rectly responsible for the management to the Italian Govern-
 ment".

With regard to article "6"

Strike the last sentence and substitute: therefore the fol-
 lowing "The administrator shall furnish to the Ministry of
 Treasury such additional accounts and reports as the Minis-
 try may request".

With regard to article "5"

line 21 before the word expenses insert the word "ordinary".

Line 2: Add the words "er administration".

Strike all of the last two paragraphs (lines 10 to 17 of said article "B") and substitute the following in place thereof: "The term "ordinary expense" as used in the preceding paragraph shall consist of the following: taxes, insurance premiums; charges for water, electricity, gas and other public services; the cost of necessary repairs; wages or fees of watchmen, caretakers, servants, managers and other persons or institutions, usually, and not as the result of war or occupation, employed or required on or with respect to the property.

All other fees and charges shall be paid by the Italian Government.

Payment or reimbursement by the owner, or payment by the Italian Government, as aforesaid, shall not foreclose the right of either such party to seek reimbursement thereafter at subsequent dates and through appropriate channels".

with regard
~~with regard~~ article "B"

Legislating: Omit any reference to ADG.

Insert an additional paragraph in the following words: "If, during administration under the provisions of this decree, funds in the hands of the administrator with respect to any property are insufficient to meet current or accrued expenses, the Ministry of Treasury shall, at the request of the Administrator, and if such course seems necessary for the protection of the property, advance the sums required at 1 per cent above the bank of Italy discount rate. Surplus income from such property during successive six-monthly periods will be applied in reduction of such advances, and in

OK
Carlo
del

of institution, usually, and not as the result of war or so-
quisition, employed or required on or with respect to the
property.

*Corrected
for*

All other fees and charges shall be paid by the Italian Govern-
ment.

Payment or reimbursement by the owner, or payment by the Ita-
lian Government, as aforesaid, shall not foreclose the right
of either such party to seek reimbursement therefor, at sub-
sequent dates and through appropriate channels".

*with regard
to article "9"*

Inserting: Omit any reference to ACC.

Insert an additional paragraph in the following words: **7111**
during administration under the provisions of this decree,
funds in the hands of the administrator with respect to any
property are insufficient to meet current or accrued expen-
ses, the Ministry of Treasury shall, at the request of the
Administrator, and if such course seems necessary for the
protection of the property, advance the sums required at 1
per cent above the bank of Italy discount rate. Surplus in-
come from such property during successive six-monthly pe-
riods will be applied in reduction of such advances, and in
the event the income to the date of reiteration to the owner
is not sufficient to repay such advances, the balance shall
remain a charge against the property".

~~with regard to article "10"~~
~~be given to discuss this article, as well as the subject of its~~
~~effect on pledged accounts.~~

1) The Italian Government is responsible to the owners for the management of the above mentioned property.

2) The settling of accounts carried out according to art.8 of the legislative decree shall not prevent the owner, the sequestator, the liquidator, the manager or the Italian Government from seeking reimbursement or repayment in a way which will be established by the interested governments and the Italian Government in special transactions.

3) The Allied Control Commission, or similar agency of the United Nations, by whatever name known, shall have the right to exercise such control as is contemplated by the Armistice exercised ^{through} such agencies as may be agreed upon between such Commission and the Ministry of Treasury.

HEADQUARTERS
ALLIED CONTROL COMMISSION
ITALY SUB-COMMISSION
APO 394

ans/aw
27 August

ans/aw/37

SUBJECT : Policy as to Functions of Property Control.

TO : The Acting Head Administrative Section, APO .

1. The evolution of the Military Government in Italy following upon the advent of the mission of occupation and the progressive restoration of authority to Italian Government administration seems to call for a re-examination of the policy objectives adopted in the matter of the functions of the Directorate of Property Control. In the inception of Allied occupation of Italy control of all forms of United Nations' property and every state property was envisaged by direct methods (vide Resolution No. 5), and although in practice the A.C.C. with the restricted means at its disposal found it inevitable to discharge all functions assigned to him, his organization has consistently performed none of an executive nature by taking direct control of property and control in the capacity of director or manager thereof. The extent of this formal control has varied in different regions, control becoming lighter as the control zone moved northwards and the relationship between the United Nations and Italy took on a new complexion.

Whilst the aim of liberating Italy grows daily as the Northern and industrial regions come under control so the percentage of the functions originally assigned to the A.C.C. become increasingly difficult to fulfill and the responsibilities engendered are suggested in a like ratio .

2. On the Italian side of the picture the A.C.C. found himself in the presence of a highly organized and well developed system of control of enemy property, the principal components of which were IMMI (Beni di Contorno and Liquidazione Immobiliare) for immovables, IMMI for bank balances and negotiable instruments, and the extraordinary of corporations (non absorbed by the Ministry of Industry, Commerce and Labor) for corporate enterprises. These organisms had with few exceptions taken over the administration and administration of the property of the United Nations pursuant to the Italian laws of war (Legge di Guerra 8 luglio 1943 and the provisions of Royal Decree No. 618 of 10 March 1941) and where applicable had duly appointed representatives thereof .

Generally speaking the A.C.C. finds that the organizations organized by the Italian Government, either directly or through the above named organizations, have administered the property well, and where possible, those officials continue to perform these functions under the direction of A.C.C.

3. Expressed in broad terms the position to be may be summed up as follows :

- (a) The Italian Government followed the creation of an act of war against the United Nations by reorganization of the property of their interests.

(b) In certain instances the control and administration (as in

1. The evolution of the Military Government in Italy following upon the advent of the status of cobelligerency and the progressive restoration of territory to Italian Government administration seems to call for a succinct definition of the policy directives adopted in the matter of the functions of the Directorate of Property Control. At the inception of Allied occupation of Italy control of all forms of Italian National property and every state property was envisaged by direct action (Vice Protocol No. 6), and although in practice the D.P.C. with the restricted means at his disposal could in practice do discharge all functions assigned to him, his organization has consistently performed acts of an executive nature by using formal control of property and acting in the capacity of director or manager thereof. The extent of this formal control has varied in different regions, control becoming lighter as the combat zone moved northwards and the relationship between the United Nations and Italy took on a new complexion.

Whilst the aim of liberated Italy grows daily as the Northern and in-tervened regions come under control so the persistence of the functions originally assigned to the D.P.C. become increasingly difficult to fulfill and the responsibilities engendered are augmented in a like ratio.

2. On the Italian side of the picture the D.P.C. found himself in the presence of a highly organized and well developed system of control of enemy property; the principal components of which were IRI (Instal di Gestione) and IRI (Istituto Mobiliare) for immovables, IRI (Istituto per Beni Mobiliari) for negotiable instruments, and the ex-Ministry of Corporations (now absorbed by the Ministry of Industry, Commerce and Labor) for Commercial Enterprises. These organisms had with few exceptions taken over the sequestration and administration of the property of the United Nations pursuant to the Italian laws of War (Legge di Guerra 6 Maggio 1948 and the provisions of Royal Decree No. 648 of 30 March 1941) and where applicable had duly appointed representatives thereof.

Generally speaking the D.P.C. finds that the organizations appointed by the Italian Government, either directly or through the above named organizations, have administered the property well; and where present, these officials continue to perform their functions under the direction of D.P.C.

69

3. Progressed in broad terms the position today may be summed up as follows:

- (a) The Italian Government followed the commission of an act of war against the United Nations by sequestration of the property of their nationals.
- (b) It devised machinery for the control and administration (and in some cases liquidation) of such property, pursuant to certain laws still in force, and for the eventual restoration of such property to its lawful owners.
- (c) It still the means that the D.P.C. takes custody of the property the responsibility of the Italian Government is absolute, subsequent to that moment is becomes merely partial because although the consequences of the act of war continue until finally determined at the peace table, any alleged prejudice suffered by the owners of the property arising out of its control by the D.P.C., it is sub-stantiated, cannot be wadably referred to the burden of responsibility of the Italian Government.

- 2 -
- (a) The obvious solution is that the U.S.G. in all future exercise of his functions avoid acts which may break the continuity of the Italian Government's liability up to the point where the property is being restored to its lawful owner or his property constituted representatives; and in the case of property taken into custody by the U.S.G. from the Italian Government to return it to the Italian Administration in such manner as to ensure the measure of protection for the absent owner.
- (c) But this still leaves unsolved the problem of the determination of the extent of liability for the prohibitive, if any, caused to the owner in the case of mixed content, e.g. prior administration by the Italian Government after followed by a period of custody or control by the U.S.G.
- b. The above considerations having been the subject of explanation and discussion between representatives of the U.S.G. and the Legal Sub-Commission, the following basic principles were agreed upon and recommended to be put into effect as rapidly as possible:
- (a) that hereafter the U.S.G. would deal only with the following:
 - I. Property of the United Nations and their nationals, including Nations and its nationals.
 - II. Property of enemy governments.
 - III. Such other property as may be designated by the Military Commander in the area or the Field Commander.
 - (b) that the U.S.G. would not take control of property when the owners or their representatives are available and able to look after the property.
 - (c) That the following points of agreement which it would be convenient to fix with the Italian Government be admitted to the examination of the Chief Commissioner.
 - I. That the Italian Government repeal all war laws and decrees under which any property of the United Nations and their nationals, including Nations and its nationals, was sequestered, blocked, impounded, or otherwise brought under the dominion or control of the Italian Government or its agencies.
 - II. That the Italian Government take over the custody, care and management of all such property as fixed from sequestration including such properties not sequestered, and as continuous with custody, care and management until restoration of the respective properties to the owners or representatives thereof. However, since the appointment of an Italian administrator is unavoidably delayed and the property consists either partly or wholly of perishable goods, the U.S.G. in order to prevent material loss to the absent owner would take interim emergency measures to preserve the assets.
 - III. That the U.S.G. should be endowed with adequate powers of supervision, advice and inspection in order to ensure proper administration of the property in the best interests of the absent owner.
 - IV. That all changes of administrators of such property may be effected in accordance with the agreement of U.S.G., which shall have the right to require the Italian Government to remove any official whom it considers incapable of the requisite administration.

The above conditions having been the subject of negotiations and discussion between representatives of the U.S.C. and the legal administration, the following basic principles were agreed upon and recommended to be put into effect as rapidly as possible:

- (a) that hereafter the U.S.C. should deal only with the following:
 - I. Property of the United Nations and their nationals, including those and its nationals.
 - II. Property of enemy governments.
 - III. Such other property as may be designated by the Military Commander in the area or the Chief Administrator.
- (b) that the U.S.C. should not take control of property when the owner or their representatives are available and able to look after the property.
- (c) That the following points of agreement which it will be convenient to fix with the Italian Government be admitted to the examination of the Chief Administrator:
 - I. That the Italian Government reveal all war laws and decrees under which any property of the United Nations and their nationals, including those and its nationals, was sequestrated, alienated, transferred, or otherwise brought under the restriction or control of the Italian Government or its agencies.
 - II. That the Italian Government take over the custody, care and management of all such property as freed from sequestration including such properties as:
 - warehouses, such as those containing such quantities, care and management until restoration of the respective properties to the owner or representative is unacceptably delayed.
 - the property of an Italian administrator is unacceptably delayed.
 - the property consists either partly or wholly of perishable commodities, the party concerned either partly or wholly to the absent owner would take interest to avoid material loss to the absent owner would take interest to preserve the assets.
 - III. That the U.S.C. should be entered with adequate powers of supervision, advice and inspection in order to ensure proper administration of the property in the best interests of the absent owner.
 - IV. That all changes of administration of such property may be submitted to the U.S.C. which shall have the right to require the Italian Government to remove any official when it considers desirable or who commits irregularities.
 - V. That an inventory shall be drawn up on return to Italian Government administration of these properties which have been previously taken into custody or controlled by the U.S.C. (An inventory ("verbale") of the state of the property having already been furnished at the time of the taking of such custody), when the Italian administration continues only existing and closing inventories are necessary.
 - VI. That on the restoration of a property to its legal owner by the Italian Government, the administrator should cause an inventory to be drawn up in proper form according to the physical state of the pro-

REORGANIZATION
ALLIED CONFERENCE COMMISSION
Legal Sub-Commission
APR 534

APC/pas
15 AUG 44

APC/4014/3/L

SUBJECT : Policy as to functions of Property Control.
TO : The Acting Head Administrative Section, ACC .

1. The evolution of the Military Government in Italy following upon the advent of the status of co-belligerency and the progressive restoration of territory to Italian Government administration seems to call for a prompt modification of the policy hitherto adopted in the matter of the functions of the Directorate of Property Control. At the insertion of Allied occupation of Italy control of all assets of United Nations' property and enemy state property was envisaged by direct methods (vide Proclamation No. 5), and although in practice the D.P.C. with the restricted means at its disposal found it impracticable to discharge all the functions assigned to him, his organization has consistently performed acts of an executive nature by taking formal custody of property and acting in the capacity of Director or manager thereof. The extent of this formal custodianship has varied in different regions, control becoming tighter as the combat zone moved northwards and the relationship between the United Nations and Italy took on a new complexion.

Whilst the area of liberated Italy grew daily as the Northern and industrial regions came under control so the performance of the functions originally assigned to the D.P.C. became increasingly difficult and the responsibilities engendered are augmented in a like ratio.

2. On the Italian side of the picture the D.P.C. found himself in the presence of a highly organized and well developed system of control of enemy property, the principal components of which were ENMI (Enti di Gestione and Istituzioni Insabillare) for bank balances and negotiable instruments, and the Ministry of Corporations (now absorbed by the Ministry of Industry, Commerce and Labour) for commercial enterprises. These organizations had with few exceptions taken over the reorganization and administration of the property of the United Nations pursuant to the Italian Laws of War (Legge di Guerra 8 luglio 1938) and the provisions of Royal Decree No. 610 of 10 March 1943 and where applicable and duly appointed administrators therefor.

Generally speaking the D.P.C. finds that the administrators appointed by the Italian Government, either directly or through the above named organizations, have administered the property well, and ~~with few exceptions, these~~ ^{where} officials continue to perform their functions under the direction of D.P.C. ~~officials~~ ^{present}

3. Expressed in broad terms the position today may be summed up as follows:
- (a) The Italian Government followed its commission of an act of war against the United Nations by sequestration of the property of their nationals.
 - (b) It declared null and void the control and administration (and in some cases liquidation) of such property, pursuant to certain laws still in force, and for the eventual restoration of such property to its lawful

1. The evolution of the Military Government in Italy following upon the advent of the status of co-belligerency and the progressive restoration of legitimacy to Italian Government administration seems to call for a prompt modification of the policy hitherto adopted in the matter of the functions of the Directorate of Property Control. At the inception of Allied occupation of Italy control of all forms of United Nations' property and every state property was envisaged by direct methods (vide Proclamation No. 5), and although in practice the D.P.C. with the restrictions assigned to him, his organization has consistently discharge all the functions assigned to him, his organization has consistently performed acts of an executive nature by taking formal custody of property and acting in the capacity of director or manager thereof. The extent of this formal custodianship has varied in different regions, control becoming lighter as the combat zone moved northwards and the relationship between the United Nations and Italy took on a new complexion.

Whilst the area of liberated Italy grew daily as the Northern and industrial regions came under control so the performance of the functions originally assigned to the D.P.C. became increasingly difficult to fulfill and the responsibility engendered are augmented in a like ratio.

2. On the Italian side of the picture the D.P.C. found himself in the presence of a highly organized and well developed system of control of enemy property, the principal components of which were IMI (Istituti di Gestione and liquidazioni Immobiliare) for immovables, ISCOMI for bank balances and negotiable instruments, and the ex-Ministry of Corporations (now absorbed by the Ministry of Industry, Commerce and Labour) for Commercial enterprises. These organizations had with few exceptions taken over the sequestration and administration of the property of the United Nations pursuant to the Italian laws of War (Legge di Guerra 6 luglio 1938 and the provisions of Royal Decree No. 618 of 10 March 1943) and where applicable had duly appointed sequestrators therefor.

Generally speaking the D.P.C. finds that the sequestrators appointed by the Italian Government, either directly or through the above named organizations, ^{where} ~~these~~ ^{present} have administered the property well, and ~~with few exceptions, therefore, these~~ officials continue to perform their functions under the direction of D.P.C. ~~88~~

3. Expressed in broad terms the position today may be summed up as follows:

- (a) The Italian Government followed its conviction of an act of war against the United Nations by sequestration of the property of their nationals.
- (b) It devised machinery for the control and administration (and in some cases liquidation) of such property, pursuant to certain laws still in force, and for the eventual restoration of such property to its lawful owners.
- (c) Up till the present that the D.P.C. takes custody of the property the responsibility of the Italian Government is absolute, subsequent to that instant it becomes merely partial because although the consequences of the act of war continue until finally determined at the peace table, any alleged prejudice suffered by the owners of the property arising out of its control by the D.P.C., it is submitted, cannot be equitably added to the burden of responsibility of the Italian Government.

acts which may break

(d) The obvious solution is that for the D.P.C. in all future exercise of its functions to avoid ~~the~~ the continuity of the Italian Government's liability up to the point where the property is legally restored to its lawful owner or his properly constituted representative; and in the case of property taken into custody by the D.P.C. from the Italian Government to return it to Italian administration in such manner as to ensure the mechanism of protection for the absent owner, ~~which is functioning~~ the ~~mechanism of~~ ~~protection~~ ~~for~~ ~~the~~ ~~absent~~ ~~owner~~.

le x

(e) But this still leaves unsolved the problem of the determination of the extent of liability for the prejudice, if any, caused to the owner in the course of related control, e.g. prior administration by the Italian Legation, followed by a period of custody or control by the D.P.C.

4. The above considerations having been the subject of explanations and discussion between representatives of the D.P.C. and the Legal Sub-Commission, the following basic principles were agreed upon and recommended to be put into effect as rapidly as possible:-

- (a) that hereafter the D.P.C. would deal only with property belonging to subjects of the United Kingdom and their nationals, including France and its nationals;
- (b) that the D.P.C. would not take control of property which had never been sequestrated when the owners or their representatives are available and able to look after the property themselves;

(c) that the following points of agreement which it would be convenient to fix with the Italian Government be submitted to the consideration of the highest authority.

I. That sequestrations should cease to have effect in regard to the United Kingdom and their nationals by reason of the "Legge di Cassino" and subsequent decrees;

IX. That property formerly subjected to sequestration by the Italian Government, and subsequently taken under control by the D.P.C., should be returned to Italian administration; and that hereafter all other properties dealt with by the D.P.C. should be at once turned over to the Italian Government for administration by its responsible officials until such time as the interests of the Italian administrator is unacceptably delayed and the property consists either partly or wholly of perishable elements, the D.P.C. in order to avert material loss to the absent owner would take interim emergency measures to preserve the assets.

III. That the D.P.C. should be endowed with adequate powers of supervision, control and inspection in order to ensure proper administration of the property in the best interests of the absent owner.

IV. That all changes of administrators of such property must be submitted in advance to the approval of the D.P.C., which shall have the right to require the Italian Government to remove any official whom it considers incapable or who commits irregularities.

(e) But this still leaves unresolved the problem of the determination of the extent of liability for the prejudice, if any, caused to the owner in the case of mixed control, e.g. prior administration by the Italian Regulator followed by a period of custody or control by the D.P.C.

The above considerations have been the subject of explanations and discussion between representatives of the D.P.C. and the Legal Sub-Commission, the following basic principles were agreed upon and recommended to be put into effect as rapidly as possible:-

(a) that henceforth the D.P.C. would deal only with property belonging to citizens of the United Nations and their nationals, including France and its nationals;

(b) that the D.P.C. would not take control of property which had never been sequestrated when the owners or their representatives are available and able to look after the property themselves;

(c) that the following points of agreement which it would be convenient to fix with the Italian Government be submitted to the consultation of the highest authority, *Proprietors of Nations and their nationals by report of the "Legge di Guerra" and subsequent decrees;*

I. That property formerly subjected to sequestration by the Italian Government, and subsequently taken under control by the D.P.C., should be returned to Italian administration; and that henceforth all other properties dealt with by the D.P.C. should be at once turned over to the Italian Government for administration by its responsible officials with such time as the interested parties should demand its restitution. However, where the appointment of an Italian administrator is unavoidably delayed and the property consists either wholly or wholly of perishable elements, the D.P.C. in order to avert material loss to the donor owner would take interim emergency measures to preserve the assets.

II. That the D.P.C. should be endowed with adequate powers of supervision, advice and inspection in order to ensure proper administration of the property in the best interests of the absent owner.

III. That all changes of administrators of such property must be submitted to the office of the Administration of D.P.C., which shall have the right to require the Italian Government to remove any official when it considers it capable of the commission of irregularities.

IV. That an inventory shall be drawn up on return to Italian Government administration of those properties which have been previously taken into custody or controlled by the D.P.C. (An inventory ("verbale") of the state of the property having already been reported at the time of the taking of such custody).

V. That on the restoration of a property to its lawful owner by the Italian Government, the administrator should cause an inventory to be drawn up in

where the Italian administration is contentious only the opening and closing inventories are necessary.

paper form recording the physical state of the property at that date.

5. As a note to VI above, it is suggested that if prior to his retaking possession of the property, the owner calls into question any of the facts recorded in the said inventory, the query could be conveniently referred to a mixed Allied-Italian Committee set up for the purpose of verification and, if necessary, rectification of the inventory.

Property The primary object of providing such a body is to advise some form of protection for the ~~property~~ owners during the procedure of verification by incorporating a third party, representative of both sides, between him and the Italian administrator.

Although such a verified inventory would not constitute per se a judicial act (unless specifically given that character under Italian Law), its existence at any rate would afford a certain level of insurance to owners to prevent any possession of their property.

As has been noted above, para 3 (c), questions arising out of alleged problems suffered by the masses are reserved for determination by the United Nations, but it might be worth considering whether such a device could not be made to serve a useful purpose by the collection of contemporaneous evidence and thus speed up the final proceedings.

A. R. BRACCHI,
M. Polverel,
Italian Branch,
the Acting United Nations Offices.

4154

HEADQUARTERS
ROME REGION
ALLIED CONTROL COMMISSION

cc/ep

23 June 1944

COL. G.R. UPJOHN
LEGAL SUB-COMMISSION
REAR H.Q., A.C.C.

Dear Colonel Upjohn,

I am enclosing herewith a copy of a memorandum
I have to-day sent Colonel Harris.

Very truly yours,

Charles Carroll

CHARLES CARROLL
Lt. Col., Ord. Dept.
DEPUTY DIRECTOR
PROPERTY CONTROL SUB-COMMISSION

Encl: 1

LEGAL SUB-COMMISSION	
CIO	
L.C.O.	
Chief Counsel	
CIO	
Person Section	
CL RKS	

63

HEADQUARTERS
ROME REGION
ALLIED CONTROL COMMISSION

CC/ep


23 June 1944

COL. G.R. UPJOHN
LEGAL SUB-COMMISSION
REAR H.Q., A.C.C.

Dear Colonel Upjohn,

I am enclosing herewith a copy of a memorandum
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Very truly yours,


CHARLES CARROLL
Lt; Col., Ord. Dept.
DEPUTY DIRECTOR
PROPERTY CONTROL SUB-COMMISSION

Encl: 1

62

HEADQUARTERS
ROME REGION
ALLIED CONTROL COMMISSION

CC/ep

MEMORANDUM.

23 June 1944

TO : DIRECTOR, PROPERTY CONTROL SUB-COMMISSION A.C.C.

Property Control, Region Rome.

1. I arrived in Rome at 1600 hours, 20 June 1944, and before 1700 hours, I was in a meeting discussing property control matters with Major Shriver and members of his staff. Meetings of a similar nature have been held each subsequent day.

2. I looked into the work done by the property control officers of this region, and found, as I knew I would, that splendid progress has been made. The work is proceeding most satisfactorily. The point has now been reached where they are in a position to start taking custody of the properties. I asked them to withhold actually taking custody pending further consideration of the matter we now have under discussion with the Legal Sub-Commission and the Italian Government. I considered it necessary to immediately advise the property control officers here of the matters we had been discussing. A decision not to take formal custody would require a change in their procedure, and particularly, a different approach in their conversations with sequestrators, government officials, agents and others. Accordingly, the officers were gathered in a joint conference to consider the effect of the proposed new procedure. This memorandum is prepared for the purpose of setting forth the views expressed in the meeting upon which the accord was unanimous.

3. While, as in the past, it was recognized that there are certain inconsistencies in allowing the Italian Government even in theory to continue to perform functions which had their basis in an act of war on the part of the Italian Government, it was also recognized that because of the limited numbers of property control officers, the interests of all might be better served by the revision of the system which we now have under consideration.

4. However, if the Italian Government is going to function in the field of control of allied interests it is essential that certain safeguards be provided looking toward the time when claims of our nationals must be settled by a joint claims commission. It is highly important therefore, that the responsibility of the Italian Government be a continuing one from the time of initial sequestration to the time of settlement of claims. It was agreed here that if a decree similar to the one which has been discussed is

- 2 -

adopted by the Italian Government, formal custody of property should not be taken here, but that the property control officers should act under Sections 3 and 4 of Proclamation No. 2, exercising supervisory and directive control until the territory is restored to the Italian Government. This of course further assumes that property control officers will continue to maintain a high degree of general supervision when the Italian Government takes over, acting through the duly selected agencies of the Italian Government.

5. The reasoning behind these assumptions is that allied nationals must be put in a position to press their post war claims on a basis of the condition of their holdings at the time of sequestration to the period when they are again placed in possession of their properties. When the Controller of Property has broken the chain of responsibility on the part of the Italian Government by taking formal possession of property under authority equivalent to a general blanket power of attorney authorized by the Military Governor, the reasoning can subsequently be advanced that the responsibility of such government ceased at that point. In order to provide immediate guidance to the region it is the consensus here that any decree should provide:

(a) For the continued right of the Director of Property Control to supervise and provide general direction for the conduct of allied nationals' holdings.

(b) That for the purpose of fixing responsibility, any acts of the Controller of Property shall be considered the acts of the Italian Government. (Such a provision is essential to the establishment of clear responsibility. If we are compelled to negotiate it, it may be difficult to obtain. However, if under the terms of the armistice we may enforce this right, then we may simply compel its incorporation in the decree).

(c) For a prohibition against restrictive legislation or additional legislation without the consent of the Director of Property Control.

6. Certain problems of mechanics will be presented in returning property to the owners or authorized representatives and it is suggested that our files should always reflect the exact situation at the time property is released, preferably by an agreed statement between the representative of the Italian Government and the owner or his representative, or if this is not possible a statement of the Controller of Property indicating his finding as to the true situation.

7. The property control officers here are going ahead with the supervision and control of properties, checking inventories and performing other functions as presently directed, short of taking

- 3 -

formal custody. Several sequestrators here have asked to be relieved of their duties and responsibilities, but their requests have been denied. Any decree should provide for their continuing responsibility until release by the Italian Government or by the Controller of Property.

8. This matter is of prime importance to our sub-commission. It affects our entire policy of operation throughout Italy. It must therefore be determined with all possible speed. Accordingly, I urge you to present the question immediately to Lord Stanegate and, if necessary, to the Chief Commissioner, in order that it may be resolved and the decree amended at once. Once we know what the decision is operations up here will be conducted in conformance with it, so please advise me as soon as the policy is determined.

9. Due to my early departure last Monday afternoon I did not have an opportunity to prepare and forward to Colonel Upjohn a memorandum setting forth the views we expressed or the conclusions we reached in his office that morning. I am therefore sending him a copy of this which I hope will suffice for that purpose.

CHARLES CARROLL
Lt. Col., Ord. Dept.
DEPUTY DIRECTOR
PROPERTY CONTROL SUB-COMMISSION

59

MINUTE SHEET

-2-

The Acting Chief Commissioner.

- 1 THE PAST POSITION - The property of Allied nationals sequestered by the Italian Govt, in the absence of special provision remains subject to the existing Italian law. Under this law, the bare title to the sequestered property remains in the person who was at the time of sequestration the owner but all other rights are suspended and the Italian Govt appoints custodian-managers of the property. In due course of time the sequestration is ended either by confiscation or restitution of the property.
- a and unless and until there is a forfeiture the custodian-manager is regarded as the owners' agent and is accountable to him.
 - b restitution appears to require execution of a document in the nature of an acknowledgement which may or may not according to its terms act as a bar to a claim by the owner against the Government or custodian-manager. While this document is not a document of title, its absence after a sequestration would appear to be a serious blot on the title and prevent free dealing with the property.
- 2 THE RECENT CHANGE AND ITS EFFECTS - The Italian Govt has recently passed a decree ordering the restitution of sequestered property and the handing over of the same to the DFC. It desires execution in each case of the appropriate acknowledgement which the DFC is not bound to do, but, as mentioned above, in the absence of any special provision, his failure to execute an acknowledgement would create a blot on the title.
- a If the DFC accepts the restitution of the property he (in either a personal or representative character) will thereafter act as agent for the owner and in the absence of any special provision the responsibility of the Italian Govt for any further loss or damage which flow naturally from the declaration of and state of war or from the original sequestration ceases. The DFC would also become responsible (either in his personal or representative character) to account for income and outgoings, for acts of misfeasance and for failure to take such steps as a prudent manager should have taken.
 - b It is not reasonable that the DFC should be expected to accept this personal responsibility. There is no body corporate for which he can act as representative nor is it desirable that the Allies should accept this responsibility.
- 3 THE PRESENT POSITION AND ITS EFFECTS - The DFC has already taken custody of certain properties but has not the staff to take direct possession and management. He has found it the best practice to allow the same banks (or other agents) to act for him as were managing under the Italian sequestration. Such management has proved very satisfactory, but the effect of taking possession is to terminate the responsibility of the Italian Govt to compensate the owner for further damage and also to shift from the Italian Govt the responsibility for managing and accounting (vide para 2a above).
- 4 FIRST RECOMMENDATION - The Chief Legal Officer and the DFC are both of opinion that the responsibility for its past actions should continue in the Italian Govt until such time as the owner elects to take repossession of his property by either himself or his agent.
- a It is recommended therefore -
 - i that the DFC should not accept restitution of or take custody of sequestered property which should remain sequestered until the owner requires restitution and takes possession.
 - ii that instead of taking custody the DFC should obtain from the Italian Govt a statement as to each property, specifying the property referred to and its condition and an acknowledgement that it holds the same for the owner free of all claims whether under the sequestering decree or by virtue of any other right.
 - b This course is simple and avoids the inquiries and difficulties referred to in paras 2a & b above.

But this decree was not at our request been published therefore **OVER**

Minute 2 (contin)

- 5 **SECOND RECOMMENDATION** - If the policy recommended in para 4 above is adopted, then -
 - a Where such a course is likely materially to assist the war effort by increasing production, the owners of large commercial concerns or of large agricultural estates should be invited to take repossession of their properties by representatives who should be allowed facilities to travel to Italy for that purpose.
 - b In all other cases owners shall be given the opportunity of taking repossession of their properties by such agents in Italy as they may appoint.
 - c Owners shall on taking possession receive the proper acknowledgment specifying the property and its then condition which should be drawn in such a manner as not to be a bar to any claim for compensation..

- 6 **REASONS FOR URGENCY** - The matter is urgent as a large number of properties in the industrial north may soon have to be dealt with and it is desired to avoid both terminating Italian liability or assuming any liability.

- 7 The matter is one of high policy as the present directive under which the DFO is working leaves him no discretion for it lays down that he "will take custody" of the property of allied nationals.

- 8 **CONSEQUENTIAL QUESTIONS** - If the change of policy recommended is authorized the following matters will require consideration and will be dealt with at a later stage.
 - a The revocation of the de-sequestering decrees and the reversal of the Italian Govt instructions thereunder.
 - b The action to be taken with regard to properties of which the DFO has already taken custody.
 - c The position of the DFO and his staff. Of their three main functions the need for two no longer exist (1) custody of the property of Allied Governments and nationals (1.) the taking custody of enemy state property and the DFO from being a custodian has become a supervisor.

- 9 **SUMMARY FOR ACTION** - Your decision on the point raised by para 4 is requested, please and the recommendation made is accepted then your decision is requested on the points raised in para 5.

ADMIN SEC,
24 Jun 44.

FLANEGATE,

VP.

(Faint mirrored text bleed-through from the reverse side of the page, including words like "ADMIN SEC" and "VP".)

4104/3

201
19

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
PROPERTY CONTROL SUB-COMMISSION
APO 394

20 June 1944

ACC/013.21/CP

Subject: Position of DFC.
To : Chief Legal Officer.

83AxB

1. Your ACC/4014/3/L.
2. I agree with your statement of the conclusions reached at our meeting on 19 June, and have submitted them to the VP Admin section for approval.

C. R. S. Harris

C. R. S. HARRIS,
Lieut-Colonel,
Director of property control.

LEGAL SUB-COMMISSION	
CLO	<input checked="" type="checkbox"/>
ECLO	<input checked="" type="checkbox"/>
Chief Counsel	<input type="checkbox"/>
CJO	<input type="checkbox"/>
Relation Section	<input type="checkbox"/>
CLERKS	<input type="checkbox"/>
	<input type="checkbox"/>
	<input type="checkbox"/>

57

File

AWA
78

HEAD HEADQUARTERS
ARMED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

REFERENCE : *NCC/COM/3/1* 19 June, 1954.
SUBJECT : Position of Director of Property Control
in connection with handing back of property.
TO : Director of Property Control.

- ... 1. I enclose a brief memorandum setting out the conclusions we reached this morning.
2. Please let me know whether or not you agree that this memorandum correctly sets out the conclusions we reached.

GRU/UCV.

GERARD R. URGEN,
Colonel,
Chief Legal Officer.

MEMORANDUM IN CONNECTION WITH CO-OPERATIVE HOLDINGS
 REPRESENTATIVES OF DIRECTOR OF PROPERTY
 CONTROL AND LEGAL-SUBCOMMISSION OF 19 JUNE 1944.

PRESENT : Lieutenant-Colonel Harris)
 Lieutenant-Colonel Carrall) Representing Director
 Major King) of Property Control,
 Colonel Upjohn) Representing Legal
 Colonel Wilmer) Sub-Commission.

It was agreed

(1) that unless otherwise directed by the highest authority it was undesirable to place the D.P.C. in a position where he would take such custody or title as would make it necessary for him formally to hand over properties by deed or otherwise to the true owners, when ultimately ascertained and found.

(2) the functions of the D.P.C should be that of control and supervision only unless otherwise directed by the highest authority.

(3) the most desirable position for the D.P.C. would be for the Italian Government to appoint Banks or other suitable agencies as managers of the properties in question, such managers to be responsible to the Italian Government but subject to the control and supervision of the D.P.C.

(4) a decree or decrees would be necessary to achieve this result by de-sequestering the properties.

(5) The following points will require detailed consideration :-

(a) Whether the D.P.C. can be given the necessary control by Administrative Instruction from the appropriate Government department or whether a decree is required.

(b) A distinction may have to be made between properties over which the D.P.C has already taken custody or exercised control and those over which he will exercise control in the future. While not discussed at the above conference consideration will have to be given as to what control or supervision, if any, the D.P.C. should take over property in Italian Government territory not taken into control prior to restoration of territory to the Italian Government.

It was agreed (1) that unless otherwise directed by the highest authority it was undesirable to place the D.P.O. in a position where he would take such custody or title as would make it necessary for him formally to hand over properties by deed or otherwise to the true owners, when ultimately ascertained and found.

(2) the functions of the D.P.O should be that of control and supervision only unless otherwise directed by the highest authority.

(3) the most desirable position for the D.P.C. would be for the Italian Government to appoint Banks or other suitable agencies as managers of the properties in question, such managers to be responsible to the Italian Government but subject to the control and supervision of the D.P.C.

(4) a decree or decrees would be necessary to achieve this result by de-sequestering the properties.

(5) The following points will require detailed consideration :-

(a) Whether the D.P.C. can be given the necessary control by Administrative Instruction from the appropriate Government department or whether a decree is required.

(b) A distinction may have to be made between properties over which the D.P.C has already taken custody or exercised control and those over which he will exercise control in the future. While not discussed at the above conference consideration will have to be given as to what control or supervision, if any, the D.P.O. should take over property in Italian Government territory not taken into control prior to restoration of territory to the Italian Government.

(c) The method of management and appointment of managers of commercial companies will also require special consideration.

4014/3 File 220
 LIMITAZIONI NELL'APPLICAZIONE DELLA LEGGE DI GUERRA
 ED ABROGAZIONE DELLE NORME RESTRITTIVE IN MATERIA DI BENI APPARTENENTI ALLE NAZIONI UNITE, FRANCIA E LORO CONNAZIONALI.

VITTORIO EMANUELE III

per grazia di Dio e per volontà della Nazione

RE D'ITALIA

Visto la Legge di Guerra, approvata con R. Decreto 6 Luglio 1938, no. 1415, e successive modificazioni apportate con la legge 16 Dicembre 1940, No. 1902;

Visto il R. Decreto 10 giugno 1940, No. 566, riguardante l'applicazione della Legge di Guerra nei territori dello Stato;

Visto il R. Decreto 25 Novembre 1940, no. 1994, riguardante nuove norme circa il trattamento dei beni nemici ed i rapporti economici con le persone di nazionalità nemica;

Visto il R. Decreto 10 marzo 1941, no. 618, che approva il regolamento relativo al trattamento dei beni nemici nel territorio dello Stato.

Visti i RR.DD. Legge 17 giugno 1941, no. 494 e 23 giugno 1941, no. 608, convertiti nella Legge 9 febbraio 1942, no. 379 recante disposizioni sui beni esistenti in Italia ed appartenenti a persone aventi la nazionalità degli Stati Uniti D'America;

Visto il R. Decreto 10 Luglio 1941, no. 619 concernente norme integrative di quelle emanate con i RR.DD.LL. 17 giugno 1941, no. 494 e 23 giugno 1941, no. 608;

Visto il R. Decreto Legge 27 dicembre 1941, No. 1624 circa la applicazione di norme sul trattamento dei beni appartenenti ai cittadini degli Stati Uniti D'America, nonché il decreto del Capo del Governo 12 Agosto 1942 sulle azioni degli stessi cittadini;

Visto il R.D.L. 4 febbraio 1942, no. 11, convertito con modificazioni nella legge 17 luglio 1942, no. 1100, recante nuove norme sulle aziende appartenenti a persone di nazionalità nemica;

Visto il R. Decreto 24 febbraio 1944, con il quale il Ministero delle Finanze è incaricato di reggere per interim il Ministero degli Scambi e Valute;

Visto l'art. 18 della legge 19 gennaio 1939, no. 129;

Visto il R.D.L. 30 ottobre 1943, no. 2113;

Ritenuto che si versa in istato di necessità per causa di guerra;

Sentito il Consiglio dei Ministri;

Sulla proposta del Capo del Governo, Primo Ministro Segretario di Stato, e Ministro degli Affari Esteri e dei Ministri dell'Interno, delle Finanze e Ministro ad interim per gli Scambi

Prodotto
 Contratto
 Foto

1938, no. 1413, e successive modificazioni apportate con la legge 16 Dicembre 1940, No. 1902;

Visto il R. Decreto 10 giugno 1940, No. 565, riguardante l'applicazione della legge di guerra nei territori dello Stato;

Visto il R. Decreto 25 Novembre 1940, no. 1994, riguardante nuove norme circa il trattamento dei beni nemici ed i rapporti economici con le persone di nazionalità nemica;

Visto il R. Decreto 10 marzo 1941, no. 613, che approva il regolamento relativo al trattamento dei beni nemici nel territorio dello Stato.

Visti i RR.DD. "egge 17 giugno 1941, no. 494 e 23 giugno 1941, no. 608, convertiti nella Legge 9 febbraio 1942, no. 379 recante disposizioni sui beni esistenti in Italia ed appartenenti a persone aventi la nazionalità degli Stati Uniti D'America;

Visto il R. Decreto 10 Luglio 1941, no. 619 concernente norme integrative di quelle emanate con i RR.DD.LL. 17 giugno 1941, no. 494 e 23 giugno 1941, no. 608;

Visto il R. Decreto Legge 27 dicembre 1941, No. 1624 circa la applicazione di norme sul trattamento dei beni appartenenti ai cittadini degli Stati Uniti D'America, nonché il decreto del Capo del Governo 12 Agosto 1942 sulle azioni degli stessi cittadini;

Visto il R.D.L. 4 febbraio 1942, no. 11, convertito con modificazioni nella legge 17 luglio 1942, no. 1100, recante nuove norme sulle aziende appartenenti a persone di nazionalità nemica;

Visto il R. Decreto 24 febbraio 1944, con il quale il Ministro delle Finanze è incaricato di reggere per interim il Ministero degli Scambi e Valute;

Visto l'art. 18 della legge 19 gennaio 1939, no. 129;

Visto il R.D.L. 30 ottobre 1943, no. 2113;

Ritenuto che si versa in istato di necessità per causa di guerra;

Sentito il Consiglio dei Ministri;

Sulla proposta del Capo del Governo, Primo Ministro Segretario di Stato, e Ministro degli Affari Esteri e dei Ministri dell'Interno, delle Finanze e Ministro ad interim per gli Scambi e Valute, della Guerra, della Marina, e dell'Industria e Commercio e Lavoro, d'intesa col Ministro per la Grazia e Giustizia;

ABBIAMO DECRETATO E DECRETIAMO

Art. 1) - Le disposizioni della legge di Guerra, approvata con R. Decreto 8 luglio 1938, no. 1415, in materia di beni appartenenti a Stati nemici e loro cittadini, il R. Decreto 25 novembre 1940

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n°1886, la legge 19 dicembre 1940, n°1994, il R. Decreto 10 marzo 1941, n°618, e il R. Decreto Legge 4 febbraio 1942, n°11, convertito con modificazioni nella legge 17 luglio 1942, n°1100, cessano di avere effetto nei confronti delle Nazioni Unite, della Francia e delle persone fisiche e giuridiche che abbiano la nazionalità di tali Stati.

Restano conseguentemente abrogati i provvedimenti emanati, in applicazione degli art.2 e 10 del R. Decreto 8 luglio 1938, n°1415, nei confronti degli Stati e delle persone contemplate nel comma precedente, nonché i RR.DD.LL. 17 giugno 1941, n° 608, convertiti nella legge 9 febbraio 1942, n° 379, il R. Decreto Legge 27 dicembre 1941, n° 1624, il decreto 10 luglio 1941, n°619, ed il decreto del Capo del governo 12 agosto 1942.

Art.2) - Il Ministro delle Finanze col concorso, in quanto necessario, degli altri Ministri interessati, è autorizzato a disporre la revoca dei provvedimenti restrittivi nei riguardi delle già ricordate Nazioni e persone emanati tra 10 giugno 1940 e 1°8 settembre 1943 a norma delle leggi indicate nell'articolo precedente, ed a promuovere l'osservanza delle formalità a tal fine necessario e degli adempimenti che ne derivano.

Art.3) - Lo svincolo di somme di denaro, di titoli o di valori versati o depositati, ai sensi delle disposizioni di legge contemplate nel presente decreto, presso la Banca D'Italia e filiali della Banca stessa o di altro istituto di Credito, nonché dei conti impersonali infruttiferi istituiti ai termini delle leggi stesse, presso l'Istituto Nazionale dei Cambi con l'Estero, deve essere subordinato ad autorizzazione dei Ministri delle Finanze e degli Scambi e Valute.

Art.4) - Con R. Decreto da emanarsi ai sensi della legge 31 gennaio 1926, n°100, potranno essere stabilite norme complementari, integrative e di attuazione del presente provvedimento.

Art.5) - Il presente decreto entra in vigore il giorno successivo a quello della sua pubblicazione nella Gazzetta Ufficiale del Regno e sarà presentato alla Assemblea Legislativa per la sua conversione in legge.

Il Ministro delle Finanze è autorizzato alla presentazione del relativo disegno di legge.

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

SALERNO, 20.4.44

75

160 -X - 4

To: The Prefect
 The Intendants of Finance
 of
 Sicily - Velebria - Lucania - Puglia -
 Sardinia - Salerno
 and for reference
 To: The Minister of the Interior High
 Commissioners for Sicily and Sardinia

Subject: Repeal of decrees on the sequestration of property to citizens of the United Nations and of France.

With a provisions to be published in the Official Gazette of the Kingdom, it is ordered that the regulations of the wartime law approved with the Royal Decree of July, 8, 1938, concerning property belonging to enemy nations and their citizens, cease to be effective as regards persons belonging to the United Nations and to France, and the Ministry of Finance is authorized to order the repeal of the decrees issued between 10 June, 1940 and 8 September, 1943 in view of the above mentioned dispositions of law and the subsequent additions and amendments.

For a speedy execution of the measures prescribed by the above-mentioned provision the Prefects are hereby asked to draw drafts of the decrees repealing and annulling sequestrations at one time made of the property belonging to persons of the afore-mentioned nationalities.

Such decrees must be issued as soon as the provision in general becomes effective, and a copy of them must be sent to the Ministry of Finance and local Office for their execution.

Meanwhile the Intendants of Finance are asked to communicate the above to the trustees of the above-mentioned property, asking them to have ready the administrative and accounting documents which must be shown, together with the final accounts of their management.

As soon as the decrees repealing sequestration are issued, the Intendants of Finance will concern themselves with notification of them, their publication in the Official Gazette of the Kingdom and the transcription in the Conservatoria of Property Records.

The notice must be sent to the interested parties, and whenever this is not possible, to the Director of Property Control, or to an official delegated by the latter with a proper mandate, who will have full right to represent legally the owner of the property.

For this purpose the names of the officials who have been delegated by the Director of Property Control will be communicated to the A.C.C. of every province or region, together with the draft of the mandate by which the necessary powers are conferred upon the above-mentioned officials.

The actual return of the property, which must be effected as a result of the decrees repealing sequestrations, will be accompanied by a proper record of evidence naming the interested party (represented by the Director of Property Control, or by his delegate in his absence), a member of the Finance Office, who will be assisted, if necessary, by a representative of the State's Attorney General, and the trustee of the property.

The record of evidence must specify that the inventory of the property has been verified and that the accounts of the management, are recognized to be in order by the interested party or by the Official of the Property Control Office who

represents him.

A copy of the records of evidence, together with attached accounts and papers, must be later filed in the Finance Office, and copies of them will be sent to this Ministry.

We call the attention of the Prefects to the fact that in some provinces following proclamation No. 6 issued by the Commander of the Allied Forces, the return of property to the Director of Property has already been made.

In such cases a proper prefectural decree repealing and annulling the sequestration likewise must be issued; however, in this decree specific reference must be made to the above-mentioned proclamation and to the subsequent effected of the property, and the statement must be made that it is effective from the date on which the return was made.

Specific instructions will be forthcoming regarding industrial and commercial firms.

We shall welcome acknowledgements of what has been referred to in this letter.

THE MINISTER

Return

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R.D.L. 10 Mar 41. No 618 - G.U. No 163 of 12 July 41 p 2733

Regulations for the treatment of enemy property in 74
Territory of the State.

Art. 14. (Record of restitution of property)

In all cases in which requisitioned property has to be restored a record of the restitution shall be drawn up with the participation of its persons entitled, ^{therein} or of their representatives, armed with a special power of attorney in ~~regular~~ ^{regular} form, and when necessary, with the assistance of a representative of the Government of the State.

The record shall be deposited within 3 days with the Intendencia di Teranga, who shall act in accordance with the provisions of Art. 8.

P.T.O.

It is assumed that restitution is provided for
under (at least during or on the) Sequestration by
the U.S. Govt. Restitution to the persons having

a right thereto or to their properly constituted
representatives of Alien Enemy Commission

39.1

ABROGAZIONE DELLE NORME RESTRITTIVE IN MATERIA DI BENI APPARTENENTI ALLE NAZIONI UNITE
ALLA FRANCIA E ALLE PERSONE DI TALE NAZIONALITA'

VITTORIO EMANUELE III

per grazia di Dio e per volontà della Nazione
RE D'ITALIA

Vista la legge di guerra, approvata con R. decreto 8 luglio 1938, e successive modificazioni apportate con la legge 16 dicembre 1940, n. 1902;

Visto il R. decreto 10 giugno 1940, n. 566, riguardante l'applicazione della legge di guerra nei territori dello Stato;

Visto il R. decreto 25 novembre 1940, n. 1886, che sottopone e sequestrano le navi mercantili appartenenti a privati;

Visto la legge 19 dicembre 1940, n. 1994, riguardante nuove norme circa il trattamento di beni nemici ed i rapporti economici con le persone di nazionalità nemica;

Visto il R. decreto 10 marzo 1941, n. 618, che approva il regolamento relativo al trattamento dei beni nemici nel territorio dello Stato;

Visto i RR. DD. LL. 17 giugno 1941, n. 494, e 23 giugno 1941, n. 608 convertiti nella legge 9 febbraio 1941, n. 379, recante disposizioni sui beni esistenti in Italia ed appartenenti a persone aventi la nazionalità degli Stati Uniti d'America;

Visto il decreto 10 luglio 1941, n. 619, concernente norme integrative di quelle emanate con i RR. DD. LL. 17 giugno 1941, n. 494, e 23 giugno 1941, n. 608;

Visto il R. decreto legge 27 dicembre 1941, n. 1624, circa l'approvazione di norme sul trattamento dei beni appartenenti a cittadini degli Stati Uniti d'America, convertito nella legge 1 marzo 1942, n. 761, nonché il decreto del Capo del Governo 12 agosto 1942, sulle azioni degli stessi cittadini;

Visto il R.D.L. 4 febbraio 1942, n. 11 convertito con modificazione nella legge 17 luglio 1942, n. 1108, recante nuove norme sulle aziende appartenenti a persone di nazionalità nemica;

Visto l'art. 18 della legge 19 gennaio 1939, n. 129;

Visto il R.D.L. 30 ottobre 1943, n. 2/B;

Ritenuto che si versa in stato di necessità per causa di guerra;

Sentito il Consiglio dei Ministri;

Sulla proposta del Presidente del Consiglio dei Ministri, Primo Ministro Segretario di Stato e Ministro degli Affari Esteri, d'intesa coi Ministri dell'Interno, della Grazia e Giustizia, delle Finanze e dell'Industria, Commercio e Lavoro;

ABBIAMO DECRETATO E DECRETIAMO

art. 1

Le disposizioni della legge di guerra, approvata con R. decreto 8 luglio 1938, n. 1415, relative a beni appartenenti a Stati nemici e loro cittadini, il R. Decreto 25 novembre 1940, n. 1886, la legge 19 dicembre 1940, n. 1994, il R. Decreto 10 marzo 1941, n. 618, ed il R. Decreto Legge 4 febbraio 1942, n. 11 convertito con modificazioni nella legge 17 luglio 1942, n. 1100, cessano di avere effetto nei confronti delle Nazioni Unite, della Francia e delle persone fisiche e giuridiche che abbiano la nazionalità di tali Stati.

Restano conseguentemente abrogati i provvedimenti emanati, in applicazione degli articoli 2 e 10 del R. Decreto 8 luglio 1938, n. 1415, nei confronti degli Stati e delle persone contemplate nel comma precedente, nonché i RR. DD. LL. 17 giugno 1941, e 23 giugno 1941, n. 608 convertiti nella legge 9 febbraio 1942, n. 379, il R.D.L. 27 dicembre 1941, n. 1624, convertito nella legge 1 maggio 1942, n. 761, il decreto 10 luglio 1941, n. 619, ed il decreto del Capo del Governo 12 agosto 1942.

centili appartenenti e privati;

Visto la legge 19 dicembre 1940, n. 1994, riguardante nuove norme circa il trattamento

di beni nemici ed i rapporti economici con le persone di nazionalità nemica;

Visto il R. decreto 10 marzo 1941, n. 618, che approva il regolamento relativo al trattamento dei beni nemici nel territorio dello Stato;

Visto i RR. DD. LL. 17 giugno 1941, n. 494, e 23 giugno 1941, n. 608 convertiti nella legge 9 febbraio 1941, n. 379, recante disposizioni sui beni esistenti in Italia ed appartenenti a persone aventi la nazionalità degli Stati Uniti d'America;

Visto il decreto 10 luglio 1941, n. 619, concernente norme integrative di quelle emanate con i RR. DD. LL. 17 giugno 1941, n. 494, e 23 giugno 1941, n. 608;

Visto il R. decreto legge 27 dicembre 1941, n. 1624, circa l'approvazione di norme sul trattamento dei beni appartenenti a cittadini degli Stati Uniti d'America, convertito nella legge 1 marzo 1942, n. 761, nonché il decreto del Capo del Governo 12 agosto 1942, sulle azioni degli stessi cittadini;

Visto il R.D.L. 4 febbraio 1942, n. 11 convertito con modificazione nella legge 17 luglio 1942, n. 1100, recante nuove norme sulle aziende appartenenti a persone di nazionalità nemica;

Visto l'art. 18 della legge 19 gennaio 1939, n. 129;

Visto il R.D.L. 30 ottobre 1943, n. 2/B;

Ritenuto che si versa in stato di necessità per cause di guerra;

Sentito il Consiglio dei Ministri;

Sulla proposta del Presidente del Consiglio dei Ministri, Primo Ministro Segretario di Stato e Ministro degli Affari Esteri, d'intesa coi Ministri dell'Interno, della Giustizia e Giustizia, delle Finanze e dell'Industria, Commercio e Lavoro;

ABBIAMO DECRETATO E DECRETIAMO

Art. 1

Le disposizioni della legge di guerra, approvata con R. decreto 8 luglio 1938, n. 1415, relative ai beni appartenenti a Stati nemici e loro cittadini, il R. Decreto 25 novembre 1940, n. 1886, la legge 19 dicembre 1940, n. 1994, il R. Decreto 10 marzo 1941, n. 618, ed il R. Decreto Legge 4 febbraio 1942, n. 11 convertito con modificazioni nella legge 17 luglio 1942, n. 1100, cessano di avere effetto nei confronti delle Nazioni Unite, della Francia e delle persone fisiche e giuridiche che abbiano la nazionalità di tali Stati.

Restano conseguentemente abrogati i provvedimenti emanati, in applicazione degli articoli 2 e 10 del R. Decreto 8 luglio 1938, n. 1415, nei confronti degli Stati e delle persone contemplate nel comma precedente, nonché i RR. DD. LL. 17 giugno 1941, e 23 giugno 1941, n. 608 convertiti nella legge 9 febbraio 1942, n. 379, il R.D.L. 27 dicembre 1941, n. 1624, convertito nella legge 1 maggio 1942, n. 761, il decreto 10 luglio 1941, n. 619, ed il decreto del Capo del Governo 12 agosto 1942.

Art. 2

Il Ministro delle Finanze è autorizzato a promuovere la revoca dei decreti emanati per sottoporre a sequestro i beni mobili ed immobili appartenenti alle Nazioni Unite, all'Art. 1

Alla revoca dei decreti con i quali le aziende industriali e commerciali appartenenti a persone delle predette nazioni furono sottoposte a sequestro, messe in liquidazione provvederà il Ministro dell'Industria, del Commercio e del Lavoro, d'intesa col Ministro delle Finanze.

Eguale facoltà spetta ai Ministri stessi per quanto concerne le speciali disposizioni ed autorizzazioni date a termine delle norme indicate all'articolo precedente.

Le modalità per la sistemazione dei rapporti derivanti dai poteri di cui si è fatta menzione in precedenza, saranno di volta in volta stabilite dal Ministro delle Finanze nel caso di cui

- 2 -

al primo comma e del Ministro dell'Industria, del Commercio e del Lavoro, d'intesa col Ministro delle Finanze, nel caso di cui al secondo comma.

La riconsegna dei beni alla Commissione Alleata di Controllo (Direttore del Controllo della Proprietà) produce dalla sua data tutti gli effetti della restituzione, di cui all'art. 14 del R. Decreto 10 marzo 1941, n. 618.

Art. 3

Lo svincolo di somme di danaro, di titoli o di valori versati e depositati, ai sensi delle disposizioni di legge contemplate nel presente decreto, presso la Banca d'Italia o filiali della banca stessa o di altro Istituto di Credito, nonché dei conti impersonali infruttiferi istituito ai termini delle leggi stesse, presso l'Istituto Nazionale dei Cambi con l'Estero, deve essere subordinata ad autorizzazione del Ministro delle Finanze.

Art. 4

Con R. Decreto de emersi ai sensi della legge 31 gennaio 1926, n. 100, potranno essere stabilite norme complementari, integrative e di attuazione del presente provvedimento

Art. 5

Con la espressione "Nazione Unite", di cui all'art. 1, s'intendono i seguenti Stati: Stati Uniti d'America, Regno Unito di Gran Bretagna e Irlanda del Nord, U.R.S.S., Cina, Australia, Belgio, Bolivia, Brasile, Canada, Cecoslovacchia, Costarica, Cuba, Repubblica Dominicana, Grecia, Guatemala, Haiti, Honduras, India, Iraq, Jugoslavia, Liberia, Lussemburgo, Messico, Nicaragua, Norvegia, Nuova Zelanda, Paesi Bassi, Panama, Polonia, Saldador, Unione Sud Africa.

Art. 6

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

Il presidente del Consiglio dei Ministri, proponente, è autorizzato a presentare il relativo disegno di legge.

Ordiniamo ecc.

4404/3
72

399.1

Repeal of restrictive provisions concerning property belonging to the United Nations, to France, and to individuals of these nationalities.

Victor Emmanuel III

By the Grace of God and the will of the nation
King of Italy.

Whereas the War Law approved by R.D. 8th July 1938, with later modifications approved by the law 16 December 1940, No.1992; and

Whereas R.D. 10 June 1940, No.566, concerning the enforcement of the war law in the territories of the State; and

Whereas the R.D. 25 November 1940, No.1886, concerning the confiscation of enemy ships belonging to individuals; and

Whereas the law 19 December 1940, No.1994, concerning new provisions concerning the treatment of enemy property and the economic relations with individuals of enemy nationality; and

Whereas the R.D. 10 March 1941, No.618, which approves the regulations concerning the treatment of enemy property in the territory of the State; and

Whereas the R.D.L. of 17 June 1941, No.494, and of 25 June 1941, No.608, embodied in the law 9 February 1942, No.379, carrying provisions concerning property existing in Italy and belonging to citizens of the U.S.A. and

Whereas the R.D. 10 July 1941, No.619, concerning supplementary regulations to those issued with the R.D.L. 17 June 1941, No.494, and 25 June 1941, No.608; and

Whereas the R.D.L. 27 December 1941, No.1624, concerning the enforcement of provisions on estates belonging to citizens of the U.S.A., embodied in the law 1st May 1942, No.761; and

Whereas the Decree of the Chief of Government 12 August 1942, on the actions of these citizens; and

Whereas the R.D.L. 4 February 1942, No.11, embodied with modifications in the law 17 July 1942, No.1100, containing new provisions on firms belonging to people of enemy nationality; and

Whereas Article 18 of the law 19 January 1939, No.129; and

Whereas the R.D.L. 30 October 1943, No.2/B;

Having considered the state of necessity due to the war;

Having heard the Council of Ministers;

Upon the proposal made by the President of the Council of Ministers, First Minister, Secretary of State, in agreement with the Minister of Interior, of Justice, of Finance, and of Industry, Commerce and Labour;

We have decreed and do decree;

Article 1

Provisions of the War Law approved with R.D. 8 July 1938, No.1415, concerning property belonging to enemy governments and their citizens, R.D. 25 November 1940, No.1886, the law 19 December 1940, No.1994, the R.D. 10 March 1941, No.618, and the R.D.L. 4 February 1942, No.1100, are no longer valid in respect of the United Nations, France, and the physical and juridical persons possessing the nationality of these States.

All provisions connected with the enforcement of Arts.2 and 10 of R.D. 8 July 1938 No.1415 with respect to foreign governments and persons contemplated in the previous paragraph are repealed. Also repealed are the R.D.Ls. 17 June 1941 No.494 and 25 June 1941 No.608, embodied in the law 9 February 1942 No.379; the R.D.L.27 December 1941, No.619, and the Decree of the Chief of the Government 12 August 1942, on the actions of these citizens.

the treatment of enemy property and the economic relations with individuals of enemy nationality; and

Whereas the R.D. 16 March 1941, No. 618, which approves the regulations concerning the treatment of enemy property in the territory of the State; and

Whereas the R.D.L. of 17 June 1941, No. 494, and of 23 June 1941, No. 608, embodied in the law 2 February 1942, No. 379, carrying provisions concerning property existing in Italy and belonging to citizens of the U.S. and

Whereas the R.D. 10 July 1941, No. 619, concerning supplementary regulations to those issued with the R.D.L. 17 June 1941, No. 494, and 23 June 1941, No. 608; and

Whereas the R.E.L. 27 December 1941, No. 1624, concerning the enforcement of provisions on estates belonging to citizens of the U.S.A., embodied in the law 1st May 1942, No. 761; and

Whereas the Decree of the Chief of Government 12 August 1942, on the actions of those citizens; and

Whereas the R.D.L. 4 February 1942, No. 11, embodied with modifications in the law 17 July 1942, No. 1100, containing new provisions on firms belonging to people of enemy nationality; and

Whereas Article 16 of the law 19 January 1939, No. 129; and

Whereas the R.D.L. 30 October 1943, No. 2/B;

Having considered the state of necessity due to the war;

Having heard the Council of Ministers;

Upon the proposal made by the President of the Council of Ministers, First Minister, Secretary of State, in agreement with the Minister of Interior, of Justice, of Finance, and of Industry, Commerce and Labour;

To have decreed and do decree;

Article 1

Provisions of the law 12 approved with R.D. 8 July 1938, No. 1415, concerning property belonging to enemy governments and their citizens, R.D. 25 November 1940, No. 1686, the law 19 December 1940, No. 1994, the R.D. 10 March 1941, No. 618, and the R.D.L. 4 February 1942, No. 1100, are no longer valid in respect of the United States, France, and the physical and juridical persons possessing the nationality of those states.

All provisions connected with the enforcement of Arts. 2 and 10 of R.D. 8 July 1938 No. 1415 with respect to foreign governments and persons contemplated in the previous paragraph are repealed. Also repealed are the R.D.Ls. 17 June 1941 No. 494 and 23 June 1941 No. 608, embodied into the law 2 February 1942 No. 379; the R.D.L. 27 December 1941, No. 619, and the Decree of the Chief of the Government 12 August 1942.

Article 2

The Minister of Finance, is authorized to repeal all decrees issued for the purpose of placing under sequestration real estate and personal property belonging to

- 2 -

the United Nations, to France, and to persons having these nationalities.

The Minister of Industry, Commerce and Labour, in agreement with the Minister of Finance, will repeal all decrees by which the industrial and commercial firms owned by persons having the above nationalities were placed under sequestration or liquidated.

Equal power is given to these Ministers for provisions and authorizations concerned with the previous article.

The regulations for the co-ordination of the relations arising out of the powers referred to in the previous paragraphs will be fixed from time to time by the Minister of Finance in the cases contemplated by the first paragraph, and by the Minister of Industry, Commerce and Labour in agreement with the Minister of Finance in the cases contemplated by the second paragraph.

Restitution of properties to the Allied Control Commission (Director of Property Control) has all the effects of a restitution as fixed in Art.14 of R.D. 10 March 1941 No.618.

Article 3

The release of sums of money, bonds, and other amounts paid in and deposited - according to regulations of law referred to in the present decree - with the Bank of Italy and its offices or with other banks, and all other impersonal non-interest-bearing accounts, established according to these laws with the National Institute for Exchange with Foreign Countries, must be approved by the Minister of Finance.

Article 4

Complementary and integrative provisions to the present law may be issued with a Royal Decree to be issued similar to the law 31 January 1926, No.100.

Article 5

The following states are included in the name "United Nations": United States of America, United Kingdom of Great Britain and North Ireland, U.S.S.R, China, Australia, Belgium, Bolivia, Brazil, Canada, Czechoslovakia, Costa Rica, Cuba, S.Domingo Republic, Greece, Guatemala, Haiti, Honduras, India, Iraq, Jugoslavia, Liberia, Luxembourg, Mexico, Nicaragua, Norway, New Zealand, Low-lands, Panama, Poland, Salvador, Union of South Africa,

Article 6

The present decree will come into force on the day following its publication in the Official Gazette of the Kingdom - Special Series - and will be presented to the Legislative Assemblies for its conversion into law.

The President of the Council of Ministers is authorized to present the relative draft of law.

We order, etc.

39.1

ABROGAZIONE DELLE NORME RESTRITTIVE IN MATERIA DI BENI APPARTENENTI ALLE NAZIONI UNITE
ALLA FRANCIA E ALLE PERSONE DI TALE NAZIONALITA'

VITTORIO EMANUELE III

per grazia di Dio e per volonta' della Nazione
RE D'ITALIA

Vista la legge di guerra, approvata con R. decreto 8 luglio 1938, e successive modificazioni apportate con la legge 16 dicembre 1940, n. 1902;

Visto il R. decreto 10 giugno 1940, n. 566, riguardante l'applicazione della legge di guerra nei territori dello Stato;

Visto il R. decreto 25 novembre 1940, n. 1886, che sottopone a sequestro le navi mercantili appartenenti a privati;

Visto la legge 19 dicembre 1940, n. 1994, riguardante nuove norme circa il trattamento di beni nemici ed i rapporti economici con le persone di nazionalita' nemica;

Visto il R. decreto 10 marzo 1941, n. 618, che approva il regolamento relativo al trattamento dei beni nemici nel territorio dello Stato;

Visto i RR. DD. LL. 17 giugno 1941, n. 494, e 23 giugno 1941, n. 608 convertiti nella legge 9 febbraio 1941, n. 379, recante disposizioni sui beni esistenti in Italia ed appartenenti a persone aventi la nazionalita' degli Stati Uniti d'America;

Visto il decreto 10 luglio 1941, n. 619, concernente norme integrative di quelle emanate con i RR. DD. LL. 17 giugno 1941, n. 494, e 23 giugno 1941, n. 608;

Visto il R. decreto legge 27 dicembre 1941, n. 1624, circa l'approvazione di norma sul trattamento dei beni appartenenti a cittadini degli Stati Uniti d'America, convertito nella legge 1 marzo 1942, n. 761, nonché il decreto del Capo del Governo 12 agosto 1942, sulle azioni degli stessi cittadini;

Visto il R.D.L. 4 febbraio 1942, n. 11 convertito con modificazione nella legge 17 luglio 1942, n. 1109, recante nuove norme sulle aziende appartenenti a persone di nazionalita' nemica;

Visto l'art. 18 della legge 19 gennaio 1939, n. 129;

Visto il R.D.L. 30 ottobre 1943, n. 2/5;

Ritenuto che si versa in stato di necessita' per causa di guerra;

Sentito il Consiglio dei Ministri;

Sulla proposta del Presidente del Consiglio dei Ministri, Primo Ministro Segretario di Stato e Ministro degli Affari Esteri, d'intesa coi Ministri dell'Interno, della Giustizia e Giustizia, delle Finanze e dell'Industria, Commercio e Lavoro;

ABBIAMO DECRETATO E DECRETIAMO

Art. 1

Le disposizioni della legge di guerra, approvata con R. decreto 8 luglio 1938, n. 1415, in materia di beni appartenenti a Stati nemici e loro cittadini, il R. Decreto 25 novembre 1940, n. 1886, la legge 19 dicembre 1940, n. 1994, il R. Decreto 10 marzo 1941, n. 618, ed il R. Decreto Legge 4 febbraio 1942, n. 11 convertito con modificazioni nella legge 17 luglio 1942, n. 1109, cessano di avere effetto nei confronti delle Nazioni Unite, delle Francia e delle persone fisiche e giuridiche che abbiano la nazionalita' di tali Stati.

Restano conseguentemente abrogati i provvedimenti emanati, in applicazione degli articoli 2 e 10 del R. Decreto 8 luglio 1938, n. 1415, nei confronti degli Stati e delle persone contemplate nel comma precedente, nonché i RR. DD. LL. 17 giugno 1941, n. 494 e 23 giugno 1941, n. 608 convertiti nella legge 9 febbraio 1942, n. 379, il R.D.L. 27 dicembre 1941, n. 1624, convertito nella legge 1 maggio 1942, n. 761, il decreto 10 luglio 1941, n. 619, ed il decreto del Capo del Governo 12 agosto 1942.

Art. 2

Visto il R. decreto 10 giugno 1940, n. 566, riguardante l'applicazione della legge di guerra nei territori dello Stato;

Visto il R. decreto 25 novembre 1940, n. 1886, che sottopone a sequestro le navi mercantili appartenenti a privati;

Visto la legge 19 dicembre 1940, n. 1994, riguardante nuove norme circa il trattamento di beni nemici ed i rapporti economici con le persone di nazionalità nemica;

Visto il R. decreto 10 marzo 1941, n. 618, che approva il regolamento relativo al trattamento dei beni nemici nel territorio dello Stato;

Visto i RR. DD. LL. 17 giugno 1941, n. 454, e 23 giugno 1941, n. 608 convertiti nella legge 9 febbraio 1941, n. 379, recante disposizioni sui beni esistenti in Italia ed appartenenti a persone aventi la nazionalità degli Stati Uniti d'America;

Visto il decreto 10 luglio 1941, n. 619, concernente norme integrative di quelle emanate con i RR. DD. LL. 17 giugno 1941, n. 494, e 23 giugno 1941, n. 608;

Visto il R. decreto legge 27 dicembre 1941, n. 1624, circa l'approvazione di norme sul trattamento dei beni appartenenti a cittadini degli Stati Uniti d'America, convertito nella legge 1 maggio 1942, n. 761, nonché il decreto del Capo del Governo 12 agosto 1942, sulle azioni degli stessi cittadini;

Visto il R.D.L. 4 febbraio 1942, n. 11, convertito con modificazione nella legge 17 luglio 1942, n. 1109, recante nuove norme sulle aziende appartenenti a persone di nazionalità nemica;

Visto l'art. 18 della legge 19 gennaio 1939, n. 129;

Visto il R.D.L. 30 ottobre 1943, n. 2/B;

Ritenuto che si versa in stato di necessità per cause di guerra;

Sentito il Consiglio dei Ministri;

Sulla proposta del Presidente del Consiglio dei Ministri, Primo Ministro Segretario di Stato e Ministro degli Affari Esteri, d'intesa coi Ministri dell'Interno, della Giustizia e Giustizia, delle Finanze e dell'Industria, Commercio e Lavoro;

ABBIAMO DECRETATO E DECRETIAMO

Art. 1

Le disposizioni della legge di guerra, approvata con R. decreto 8 luglio 1938, n. 1415, relative ai beni appartenenti a Stati nemici e loro cittadini, il R. Decreto 25 novembre 1940, n. 1886, la legge 19 dicembre 1940, n. 1994, il R. Decreto 10 marzo 1941, n. 618, ed il R. Decreto Legge 4 febbraio 1942, n. 11, convertito con modificazioni nella legge 17 luglio 1942, n. 1109, cessano di avere effetto nei confronti delle Nazioni Unite, della Francia e delle persone fisiche e giuridiche che abbiano la nazionalità di tali Stati.

Restano conseguentemente abrogati i provvedimenti emanati, in applicazione degli articoli 2 e 10 del R. Decreto 8 luglio 1938, n. 1415, nei confronti degli Stati e delle persone contemplate nel comma precedente, nonché i RR. DD. LL. 17 giugno 1941, e 23 giugno 1941, n. 608 convertiti nella legge 9 febbraio 1942, n. 379, il R.D.L. 27 dicembre 1941, n. 1624, convertito nella legge 1 maggio 1942, n. 761, il decreto 10 luglio 1941, n. 619, ed il decreto del Capo del Governo 12 agosto 1942.

Art. 2

Il Ministro delle Finanze è autorizzato a promuovere la revoca dei decreti emanati per sottoporre a sequestro i beni mobili ed immobili appartenenti alle Nazioni Unite, alla Francia ed alle persone aventi tali nazionalità.

Alla revoca dei decreti con i quali le aziende industriali e commerciali appartenenti a persone delle predette nazioni furono sottoposte a sindacato e messe in liquidazione provvederà il Ministro dell'Industria, del Commercio e del Lavoro, d'intesa col Ministro delle Finanze.

Esale facoltà spetta ai Ministri stessi per quanto concerne le speciali disposizioni ed autorizzazioni date a termine delle norme indicate all'articolo precedente.

Le modalità per la sistemazione dei rapporti derivanti dai poteri di cui si tratta che precedono, saranno di volta in volta stabilite dal Ministro delle Finanze nel caso di cui

al primo comma e del Ministro dell'Industria, del Commercio e del Lavoro, d'intesa col Ministro delle Finanze, nel caso di cui al secondo comma.

La riconsegna dei beni alla Commissione Alleata di Controllo (Direttore del Controllo della Proprietà) produce della sua data tutti gli effetti della restituzione, di cui all'art. 14 del R. Decreto 10 marzo 1941, n. 618.

Art. 3

Lo svincolo di sommo di denaro, di titoli o di valori versati e depositati, ai sensi delle disposizioni di legge contemplate nel presente decreto, presso la Banca d'Italia o filiali della banca stessa o di altro Istituto di Credito, nonché dei conti impersonali infruttiferi istituito ai termini delle leggi stesse, presso l'Istituto Nazionale dei Cambi con l'Estero, deve essere subordinata ad autorizzazione del Ministro delle Finanze.

Art. 4

Con R. Decreto da emanarsi ai sensi della legge 31 gennaio 1926, n. 100, potranno essere stabilite norme complementari, integrative e di attuazione del presente provvedimento

Art. 5

Con la espressione "Nazione Unite", di cui all'art. 1, s'intendono i seguenti Stati: Stati Uniti d'America, Regno Unito di Gran Bretagna e Irlanda del Nord, U.R.S.S., Cina, Australia, Belgio, Bolivia, Brasile, Canada, Cecoslovacchia, Costarica, Cuba, Repubblica Dominicana, Grecia, Guatemala, Haiti, Honduras, India, Iraq, Jugoslavia, Liberia, Lussemburgo, Messico, Nicaragua, Norvegia, Nuova Zelanda, Paesi Bassi, Panama, Polonia, Salvador, Unione Sud Africa.

Art. 6

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

Il presidente del Consiglio dei Ministri, proponente, e' autorizzato a presentare il relativo disegno di legge.
Ordiniamo ecc.

4102/3

(70)

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
PROPERTY CONTROL SUB-COMMISSION
APO 994

ACC/013.21/CP.

10 April 1944.

Subject: Agreement of IFC with Italian Government and Istituti Gestori.

To : Chief Legal Officer.

1. Herewith draft convention between Ministry of Finance, IFC and banks, setting out the conditions for management of properties.
2. On the technical side this contract is based on the existing contract between EGELI and the banks.
3. I should be grateful for your comments before sending this draft to the Minister of Finance.

C. R. S. Harris

C. R. S. HARRIS,
Lieut.-Colonel,
Director of Property Control.

1 Encl: Draft Convention.

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DRAFT

CONVENTION BETWEEN

THE MINISTER OF FINANCE,
THE CHIEF COMMISSIONER OF THE ALLIED CONTROL COMMISSION,
and
THE BANK OF

Between the Ministry of Finance represented by
the Chief Commissioner of the Allied Control Commission represented
by and the Bank of (in this
convention named as Istituto Gestore) and represented by

is agreed as follows:

whereas:

1. BY Royal Decree Law, the application of
the provision contained in Articles of the Leggi di
Guerra to property of States and Nationals of and
France, has been revoked.

2. The decrees expropriating the said properties have been or
will be revoked.

3. It is desirable that in the absence of the owners, arrange-
ments should be made for the maintenance and preservation of same.

4. Under the Allied Military Government the Director of the
Property Control Sub-Commission of the Allied Control Commission
(hereinafter referred to as the DFC), has taken custody of such prop-
erties.

5. The said DFC is recognized by the Royal Italian Government
as representing, in their absence, the owners of such properties.

6. It is convenient that the Istituto Gestore appointed by
EMMI should continue to manage such movable and immovable prop-
erties under its general supervision.

7. That the parties intend to regulate by a special convention
their reciprocal relations.

reconsigned to the DFC as representing the absent owners.

Art. 1.

The IPC commits the charge to the Manager Institute, which accepts it, to manage the aforesaid properties in conformity with the instructions issued by him and the permission of the Italian Civil Court.

Art. 2.

The Manager Institute, if it has not previously done so, takes charge of the aforesaid properties, etc. The Manager Institute takes charge of sequestrated properties, rendering a descriptive list containing, if possible, an approximate value of sequestrated properties.

When elements necessary for a prompt estimation are lacking, amounts will be subsequently communicated.

Art. 3.

The Manager Institute proceeds to the management of sequestrated properties belonging to enemy concerns, with the judgment of the good father of a family, and according to directives designed for improvement of agriculture.

Art. 4.

With respect to Fire Insurance, both for urban and rural buildings, the following rules will be observed;

If the real property is insured the previous contract will be continued with "ammortamento di vincolo" of the policy in favour of the Istituto Gestore in its capacity as agent for the DFC.

If the real property is not insured, the Manager Institute shall arrange for its insurance with a company approved by DFC, policies being sent out in the name of Istituto Gestore in its capacity as agent for DFC.

take charge of sequestered properties, list containing, if possible, an approximate value of sequestered properties.

When elements necessary for a prompt estimation are lacking, accounts will be subsequently communicated.

Art. 2.

The Manager Institute proceeds to the management of sequestered properties belonging to enemy concerns, with the judgment of the good father of a family, and according to directives designed for improvement of agriculture.

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With respect to Fire Insurance, both for urban and rural buildings, the following rules will be observed:

If the real property is insured the previous contract will be continued with "emotomone di vincolo" of the policy in favour of the Istituto Gestore in its capacity as agent for the IFC.

If the real property is not insured, the Manager Institute shall arrange for its insurance with a company approved by IFC, policies being sent out in the name of Istituto Gestore in its capacity as agent for IFC.

New policies will be current for one year and will automatically be renewable.

Where no liquid assets are available the Manager Institute will advance the necessary funds.

Art. 5.

For fire insurance of movable goods, existing policies will be continued. If movables are not insured the Manager Institute

will agree with IPC as to the advisability of doing so, and the company with which the insurance will be placed. Valuable works of art, furniture, etc, will be insured, the amounts and the insuring contributions being agreed with IPC.

Art. 6.

Existing policies for "responsabilita civilo", "furti", "scorte o Grandine", will be renewed as and when conditions permit. Where no such insurance exists the Manager Institute will agree with IPC on the measures to be taken.

Art. 7.

The Manager Institute is authorized to pay taxes and dues currently or in arrears. In cases where no liquid funds are available the Manager Institute will advance the same required.

Art. 8.

The Manager Institute is authorized to perform of its own initiative all ordinary repairs, and to provide for ordinary maintenance up to a yearly maximum of 5% of the capital value, provided that each single work does not exceed the sum of 5,000 Lire. When liquid funds are not available the Manager Institute will provide the sums required.

Art. 9.

For ordinary maintenance requiring expenditure above the limit laid down in the previous article, for extraordinary maintenance and for works of "miglioramento o trasformazioni fondarie", the previous approval of the IPC must be obtained in writing.

Art. 10.

Keepers, watchmen, door-keepers and gardeners in charge of the custody and maintenance of seized properties will be kept in service

of emergency will be renewed as and when conditions permit. Where
such insurance exists the Manager Institute will agree with IFC
on the measures to be taken.

Art. 7.

The Manager Institute is authorized to pay taxes and dues
currently or in arrears. In cases where no liquid funds are avail-
able the Manager Institute will advance the sums required.

Art. 8.

The Manager Institute is authorized to perform of its own
initiative all ordinary repairs, and to provide for ordinary main-
tenance up to a yearly maximum of 5% of the capital value, provided
that each single work does not exceed the sum of 5,000 Lire. When
liquid funds are not available the Manager Institute will provide
the sums required.

Art. 9.

For ordinary maintenance requiring expenditure above the limit
laid down in the previous article, for extraordinary maintenance and
for works of miglioramento e trasformazione fondiaria, the previous
approval of the IFC must be obtained in writing.

Art. 10.

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Keepers, watchmen, door-keepers and gardeners in charge of the
custody and maintenance of seized properties will be kept in service
in limits strictly necessary; preference will be given to Italian
staff already in the service of the owner.

Art. 11.

In the case of agricultural properties, the Manager Institute
is authorized to meet all ordinary expenses of management, provid-
ing there is a reasonable prospect that the income will be sufficient
to meet expenditures, including taxes. Such expenditures, in the

case of properties condotti in economia, od a colonia od a mezza-dria, shall include seed, fertilizers, stock, and all other expenses which is the liability of the owner. In all cases where a loss is forseen, the Manager Institute will make a full report to DFC.

Art.12.

In cases where the relatives of the owner have been left in occupation of properties, the Manager Institute will leave them in possession provided that they meet taxes and provide for the maintenance of the property. The Manager Institute will in these cases exercise a general supervision, and will report to DFC if in their opinion the occupier either (a) fails to meet tax liabilities, or (b) is guilty of gross negligence in the maintenance of the property.

Art.13.

Leases and current contracts will be continued subject to the rules in force on the blocking of rents. Before renewing any such contract the Manager Institute will obtain the authorization of the DFC. Contracts beyond the term of 12 months will not be eliminated without the approval of the DFC expressed in writing. All new leases will be submitted to DFC for approval.

Art.14.

The Manager Institute will keep accounts in the form laid down by existing regulations, unless otherwise directed by the DFC and the Ministry of Finance. Manager Institute will render statements of account to DFC at such periods and in such form as he or an officer delegated by him may from time to time prescribe.

Art.15.

When the income from any property or other liquid assets part-

in possession provided that they meet taxes and provide for the maintenance of the property. The Manager Institute will in these cases exercise a General supervision, and will report to DFC if in their opinion the occupier either (a) fails to meet tax liabilities, or (b) is guilty of gross negligence in the maintenance of the property.

Art. 13.

Leases and current contracts will be continued subject to the rules in force on the blocking of rents. Before renewing any such contract the Manager Institute will obtain the authorization of the DFC. Contracts beyond the term of 12 months will not be eliminated without the approval of the IPC expressed in writing. All new leases will be submitted to DFC for approval.

Art. 14.

The Manager Institute will keep accounts in the form laid down by existing regulations, unless otherwise directed by the DFC and the Ministry of Finance. Manager Institute will render statements of account to DFC at such periods and in such form as he or an officer delegated by him may from time to time prescribe.

Art. 15.

When the income from any property or other liquid assets pertaining to the same ownership are insufficient to meet the expenses of management the Manager Institute will, after reporting the position to the DFC, advance the funds required on behalf of the Ministry of Finance.

Such advances will be limited to strictly necessary expenditure, i.e., taxes and dues, insurance premiums, custody maintenance, management, and will bear interest at the rate of 1% above the official

- 5 -

discount rate of the Banca d'Italia.

The Manager Institute will provide with the first successive income for the partial or total reimbursement of such advances and the interest accruing thereon.

Settlement of outstanding liabilities will be made twice yearly. Manager Institute will submit to DFC a schedule of advances against each property (together with supporting documents) as at June 30th and December 31st of each year to IFC, who will certify the same and pass to Ministry of Finance for payment. Ministry of Finance will maintain a maintenance account for each property in debit, and debit same with outstanding advances, charging interest at the rate mentioned above.

All surplus income accruing at the end of subsequent six-monthly periods will be applied to the extinction of outstanding advances together with accrued interest thereon.

The Manager Institute will submit to the IFC a schedule of such balances, and remit the same on his instruction to the Ministry of Finance, who will credit the appropriate property maintenance account with the advances so remitted.

Art. 16.

The IFC by the present convention confers upon the Manager Institute the mandate to represent and therefore to take action on his behalf in the name and for account of the owner, in any act of ordinary management, including all matters pertaining to the stipulation of contracts of lease, the presentation of claims, the carrying out and agreement of business (pratiche) dealings, controversies and ascertains before any public office, including financial ^{and} those pertaining to the cassa depositi e prestiti to stand judicially, out-

and pass to Ministry of Finance for payment. Ministry of Finance will maintain a maintenance account for each property in deficit, and debit same with outstanding advances, charging interest at the rate mentioned above.

All surplus income accruing at the end of subsequent six-monthly periods will be applied to the extinction of outstanding advances together with accrued interest thereon.

The Manager Institute will submit to the IFC a schedule of such balances, and remit the same on his instruction to the Ministry of Finance, who will credit the appropriate property maintenance account with the advances so remitted.

Art. 16.

The IFC by the present convention confers upon the Manager Institute the mandate to represent and therefore to take action on his behalf in the name and for account of the owner, in any act of ordinary management, including all matters pertaining to the stipulation of contracts of lease, the presentation of claims, the carrying out and agreement of business (pratiche) dealings, controversies and settlements before any public office, including financial ^{and} those pertaining to the cases necessitate prestati, to stand judicially, actively and passively, always in representation of name and account of the owner, for all controversies concerning the management of the restored properties, but no suit shall be initiated by the Manager Institute without the approval expressed in writing of the IFC.

Art. 17.

The Manager Institute answers for the fulfilling of charges received by the present convention under the dispositions that rule in the civil law the responsibility of persons invested with a

Gratuitous mandate.

Art. 15.

The expenses sustained by the Manager Institute in fulfilling its tasks are to be divided, for each property, into two categories, i.e., (a) specific expenses, and (b) general expenses.

Specific expenses comprise expenses for taking possession of properties (including travelling expenses of witnesses), travelling expenses necessary for the management, expenses for salaries or wages due to persons in charge of single concerns or real properties (directors, agents, watchmen, keepers, gardeners, door-keepers, etc), expenses for dues, taxes, contributions, insurances, judiciary expenses, expenses for fees to professional experts engaged by the Manager Institute, expenses for cultivation, central heating, lighting, elevator door-keeping, and accommodation for town real properties, and expenses for custody, gardening and maintenance. These will be charged to single management, time by time, as incurred by the Manager Institute. All travelling expenses and expenses incurred for fees payable to professional experts will require authorization in writing of the IFC.

General expenses comprise payments for services rendered by the staff of the Manager Institute, including wages and salaries of staff employed by the management, and taking possession, postage, telegraph, telephonic, stationery, printed forms, typewriting, etc.

As compensation for the above general expenses incidental to the management of properties, the Ministry of Finance will pay to the Manager Institute a management fee in respect of each property managed by the said Manager Institute, the amount of which is laid down in the succeeding article. The said fees will be calculated and charged to each property at the end of the working year, and will be

properties (including travelling expenses of witnesses), travelling expenses necessary for the management, expenses for salaries or wages due to persons in charge of single concerns or real properties (directors, agents, watchmen, keepers, gardeners, door-keepers, etc), expenses for dues, taxes, contributions, insurances, judiciary expenses, expenses for fees to professional experts engaged by the Manager Institute, expenses for cultivation, central heating, lighting, elevator door-keeping, and administration for town real properties, and expenses for custody, gardening and maintenance. These will be charged to single managers, time by time, as incurred by the Manager Institute. All travelling expenses and expenses incurred for fees payable to professional experts will require authorization in writing of the IFC.

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As compensation for the above general expenses incidental to the management of properties, the Ministry of Finance will pay to the Manager Institute a management fee in respect of each property managed by the said Manager Institute, the amount of which is laid down in the succeeding article. The said fees will be calculated and charged to each property at the end of the working year, and will be paid to the Manager Institute by the Ministry of Finance, which will debit a special fee account for each property.

ART. 22.

The management fees payable by the Ministry of Finance to the Manager Institute in respect of each property shall be calculated on the following basis:

- (a) On the total capital value of the real property belonging

to each estate:-

- Per mil on the first L.1,000,000.
- " " from L.1,000,001 to L.1,500,000.
- " " " L.1,500,001 to L.2,000,000.
- " " " L.2,000,001 to L.3,500,000.
- " " " L.3,500,001 to L.5,000,000.
- " " " beyond L.5,000,000.

- (b) On capital value of furniture, per cent.
- (c) On building sites, an amount equal to per mil of the estimated value.
- (d) On total gross sale of produce from agricultural property, condotti ed economia a mezzo di a coltura, per cent up to L.50,000.
..... " " " from L.50,001 to L.150,000.
..... " " " beyond L.150,000.

(e) per cent on rents of leased agricultural properties, on rents of town properties, including rimborsamenti duo by tenants on account of heating, hot water, refuse collection, elevator, etc., or on any other reddito della gest. scara.

For the purposes indicated above, the capital value of real prop-
erties shall be calculated on the basis agreed between the Manager
Institute and the AGRI when the properties were sequestrated, or
where no such agreement was reached, on the value determined by the
I.F.E in accordance with circular letter of 8 May 1941, n.257595, of
the Ministry of Finance (Rendiconto Generale dello Stato).

The capital value of furniture in the case of furnished urban
premises shall be calculated as 10% of the capital value as deter-
mined above.

Where real properties contain especially valuable furniture or
art collections, a special fee may be paid to the Manager Institute
by the Ministry of Finance in agreement with the I.F.E. **44**

The management fee, calculated as above, will refer to a whole
working year. In the case of the cessation of the management by the
Manager Institute due to the termination of the

(c) on the basis of the following:

- per cent up to L.50,000.
 - " " from L.50,001 to L.150,000.
 - " " beyond L.150,000.
- (e) per cent on rents of leased agricultural properties, on rents of town properties, including reimbursements due by tenants on account of heating, hot water, refuse collection, elevator, etc., or on any other reddito della gestione.

For the purposes indicated above, the capital value of real properties shall be calculated on the basis agreed between the Manager Institute and the IICLI when the properties were sequestered, or where no such agreement was reached, on the value determined by the I.C.I. in accordance with circular letter of 8 May 1941, L.157555, of the Ministry of Finance (Finanze Generali dello Stato).

The capital value of furniture in the case of furnished urban premises shall be calculated as 10% of the capital value as determined above.

Where real properties contain specially valuable furniture or art collections, a special fee may be paid to the Manager Institute by the Ministry of Finance in agreement with the IIC.

The management fee, calculated as above, will refer to a whole working year. In the case of the cessation of the management by the Manager Institute due to the termination of this agreement or to any other cause, the said fees will be assessed for a fraction of the year, rounded off on the month in which the cessation takes effect.

Where the ownership of the property consists only in usufruct or usufrutto solo, the fees payable to the Manager Institute shall be as follows:

(e) for usufruct, the percentages specified above will be calculated on the capital value reduced by one half.

- 6 -

(b) for usufrutto solo, the fee shall be equal to that established for nuda proprietà, plus the entire contribution established by the present article for sale of produce and for rents.

Art. 20.

In the case of properties which on account of their small value, or for other reasons, were left, with the authorization of ANMLI, to the enjoyment of the owner's relatives, the Manager Institute will be entitled to reimbursement of the specific expenses referred to in Art. 18 above, plus a management fee equal to a third of that part of the fee normally calculated on the capital value, as well as the normal fee in respect of rents based on the incomes actually collected.

Art. 21.

With the liquidation of the established reward and with reimbursement of management specific expenses, the Manager Institute acquires right now, and now for then, to call itself satisfied of any of its own competences and management expenses.

Art. 22.

The Manager Institute shall furnish to the Ministry of Finance and/or to the IFC all such information as they shall from time to time request, concerning the management of the properties committed to their charge, and their authorized representatives shall have power at all times to inspect the books of the Manager Institute relating thereto.

Art. 23.

The parties to this convention reserve to themselves the right to ask for a revision of the scale of fees laid down in the present agreement before March 31 or September 30 of each year, with effect from the first day of the current half year.

Art. 24.

The present convention will remain in force until such time as the prop-

cluded to reimbursement of the specific expenses referred to in Art. 18 above, plus a management fee equal to a third of that part of the fee normally calculated on the capital value, as well as the normal fee in respect of rents based on the incomes actually collected.

Art. 21.

With the liquidation of the established reward and with reimbursement of management specific expenses, the Manager Institute declares right now, and now for then, to call itself satisfied of any of its own competences and management expenses.

Art. 22.

The Manager Institute shall furnish to the Ministry of Finance and/or to the IRC all such information as they shall from time to time request, concerning the management of the properties committed to their charge, and their authorized representatives shall have power at all times to inspect the books of the Manager Institute relating thereto.

Art. 23.

The parties to this convention reserve to themselves the right to ask for a revision of the scale of fees laid down in the present agreement before March 31 or September 30 of each year, with effect from the first day of the current half year.

Art. 24.

The present convention will remain in force until such time as the provisions with which it is concerned are assigned either to their owners or to their duly constituted legal representatives. Notwithstanding, the Ministry of Finance or IRC shall have power at any moment to terminate the same at six months notice.

Art. 25.

The IRC may delegate all or any of his powers with respect to this contract to Regional Property Control Officers or their assistants.

S.L.O. Here with account of our meeting with Colonel Jung.

Ch. Starni/He

SECRET

27/3/44

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Aide Memoire

1. The following general procedure was agreed at a meeting held on 13 March 1944 between His Excellency Col. Jung, Minister of Finance, Lt. Col. C. R. S. Harris, DFC., Lt. Col. J. Bennett and Lt. Comdr. J. Lawler:

- (a) that the Italian Government would cancel all measures sequestrating United Nations and French properties,
- (b) that the Italian Government would, where custody had not already been taken, hand over such properties to DFC or to an officer delegated by him,
- (c) that the Italian Government would in the case of commercial concerns appoint as a "commissario speciale" the persons designated by the DFC, as and when requested to do so.

2. With regard to (b) above, DFC agreed that it might be easier to effect the handover by administrative action rather than by express decree. His Excellency the Minister of Finance undertook to discuss the matter with his colleague the Minister of Justice, and to inform DFC of the result.

3. The following financial points were agreed in principle:

That the Italian Government would advance to the DFC:

- (a) sums required for ordinary maintenance, etc, including payment of taxes, where income from properties was insufficient to meet same,
- (b) in the case of war damaged properties, sums required for urgent temporary repairs to prevent farther serious depreciation in value,
- (c) fees payable to the Istituti Gestori for the management of properties, the said fees to be fixed by agreement with Minister of Finance, DFC, and Istituti concerned,

the terms of the ultimate repayment of these advances to be determined in the peace Treaty.

404/3

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(68)

HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
PROPERTY CONTROL SUB-COMMISSION
APC 394

ACG/613.21/CF.

10 March 1944.

Subject: Property Control in Restored Territory.

To : DCLO.

1. Please see attached draft.
2. My objection to the new Italian decree is that in fact it would mean handing back to the Italian Government property which has been carefully taken away from them in AMG areas. Property Control would thus become a transient and ineffective interlude between two sequestrations.
3. The idea of a *modus vivendi* by executive instruction is attractive because it avoids the constitutional difficulty, but it might lead to trouble later on, and I am therefore inclined to think that a decree on the attached lines would be better; but I should still prefer it to the Italian proposal.
4. I regret that so many bites should have to be taken at this cherry, but I should like to point out (i) that had I been consulted before the second Italian decree was produced I might have been able to prevent the Italian Government barking up what seems to me the wrong tree, and (ii) that proposals substantially the same as those now submitted were embodied in my draft of 29 Feb 44, and that apparently no notice of them has been taken.

C. S. Harris

C. S. HARRIS,
Lieut-Colonel,
Director of Property Control.

1 Encl: Draft proposal for Italian Decree.

42

PH

(68)

Art. I.

The Property Controller of the ACC shall have custody of all property movable and immovable belonging to physical and juridical persons of Allied and French Nationality situated in Italian territory who are unable to manage the same directly or through a legal representative with a power of attorney appointed subsequently to

Art. II

The Minister of . . . will appoint such physical or juridical persons as the DFC may designate to administer the properties specified in Art. I on his behalf and to represent him in all civil acts.

The terms of delegation to such physical or juridical persons shall be embodied in a convention to be agreed between the IPC, the Minister of . . . and the parties concerned.

Art. III

All decrees of sequestration, control, etc, affecting the property of physical or juridical persons of Allied or French nationality are hereby revoked.

All persons who have such property in their charge and have not already declared the same to DFC or officials designated by him, shall deliver a list of the same to the Ministry of Finance, and shall at the request of the said Ministry hand over the same to such of the persons described in para 1 of Art. II as the DFC may designate.

Failure to make such a declaration or to effect such a transmission constitutes an offence, etc...

Art. IV

The Minister of . . . will at the request of the IPC appoint one or

persons as the DFC may designate to administer the properties specified

in Art. I on his behalf and to represent him in all civil acts.

The terms of delegation to such physical or judicial persons shall be embodied in a convention to be agreed between the DFC, the Minister of and the parties concerned.

Art. III

All decrees of sequestration, control, etc., affecting the property of physical or judicial persons of Allied or French nationality are hereby revoked.

All persons who have such property in their charge and have not already declared the same to DFC or officials designated by him, shall deliver a list of the same to the Ministry of Finance, and shall at the request of the said Ministry hand over the same to such of the persons described in para 1 of Art. II as the DFC may designate.

Failure to make such a declaration or to effect such a transmission constitutes an offence, etc...

Art. IV

The Minister of will at the request of the DFC appoint one or more representatives on the Board of Directors of any commercial association of Italian nationality of which Allied or French interests hold 20% or more of the capital.

*For Director of Property Study
read Allied Control Commission*

File ACC/401A/3/L.

Translated on Mar 7/44.

NOTE ON THE DRAFT DECREE-LAW CONCERNING THE CONSTITUTION OF
A COMMISSARIAT FOR THE SAFEGUARDING AND ADMINISTRATION OF THE PROPERTY
OF FOREIGNERS

In the grafting of the above mentioned scheme for a decree, the underlying idea has been to make the interests of Allied subjects entitled to property under administration depend in the most efficacious way on the principle of custodianship; and to this end it is considered that a comprehensive formula achieves the object better than the detailed enumeration to be found in the draft put forward by the Office of the Custodian of property, enumeration which in practice might have the inconvenience of possible omissions.

Moreover, the powers so largely attributed to the Office of the Custodian of Property in relation to the action of the Commissariat, constitute a most ample guarantee offered to the Allied authorities regarding the effective custodianship of the interests administered by the Commissariat.

Occasion is also taken to point out that as the present scheme has not yet been submitted to the Minister of Finance for examination, it does not actually engage the responsibility of the latter in respect of that part which concerns him.

SCHEME FOR DECREE-LAW

CONSTITUTION OF A COMMISSARIAT FOR THE SAFEGUARDING
AND THE ADMINISTRATION OF THE PROPERTY OF FOREIGNERS

ARTICLE I

The Commissariat under the Ministry of Pardon and Justice is hereby constituted with the object of providing for the safeguarding and administration of movable and immovable property of whatsoever nature existing in territory restored to Italian administration belonging to physical as well as legal persons having the nationality of the United Nations or French nationality, who, as a result of the present war contingencies, may find themselves in the impossibility of looking after their own interests either directly or by way of attorney, appointed by power of attorney dated previously to the entry in force of the present decree. Such power of attorney, in order to be valid, must bear the visa of the Director of Property, attached to the Allied Control Commission.

*under
subject
to*

ARTICLE II

The Commissioner shall be assisted by a consultative commission composed of five members.

The Commissioner shall be composed of

The Commissioner shall be chosen from among the directing personnel of Banking institutions by reason of his having accomplished an appreciable part

*CP
13*

Moreover, the powers so largely and... constitute a most ample guarantee offered to the Allied authorities regarding the effective custodianship of the interests administered by the Commissariat.

Occasion is also taken to point out that as the present scheme has not yet been submitted to the Minister of Finance for examination, it does not actually engage the responsibility of the latter in respect of that part which concerns him.

SCHEME FOR DEGREE-LAW

CONSTITUTION OF A COMMISSARIAT FOR THE SAFEGUARDING AND THE ADMINISTRATION OF THE PROPERTY OF FOREIGNERS

ARTICLE I *any of*

A Commissariat under the Ministry of Pardon and Justice is hereby constituted with the object of providing for the safeguarding and administration of movable and immovable property of whatsoever nature existing in territory restored to Italian administration belonging to physical as well as legal persons having the nationality of the United Nations or ~~French~~ nationality, who, as a result of the present war contingencies, may find themselves in the impossibility of looking after their own interests either directly or by way of attorney, appointed by power of attorney dated previously to the entry in force of the present decree. Such power of attorney, in order to be valid, must bear the visa of the ~~Director of Property~~, attached to the Allied Control Commission.

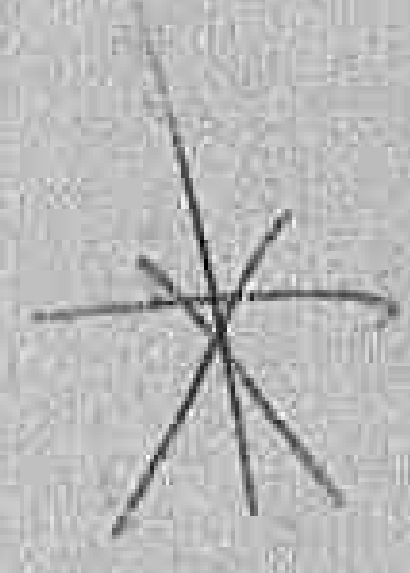
*under
power
of attorney*

ARTICLE II

The Commissioner shall be assisted by a consultative commission composed of five members.

The Commissioner shall be chosen from among the directing personnel of Banking institutions by reason of his having accomplished an appreciable part of his activities in one of the countries of the United Nations or in France, and his ability to treat the affairs interesting the subjects of the said States with special technical competence. He shall be appointed by Royal Decree on the proposal of the Head of Government, acting in accord with the Minister of Pardon and Justice.

The members of the Consultative Commission shall be appointed by Decree of the Head of the Government, choosing one from among the judiciary, on the



proposal of the Minister of Pardon and Justice, one on the proposal of the Minister of the Interior, one on the proposal of the Minister of Industry, Commerce and Labor, and one on the proposal of the Minister of Agriculture and Forests.

The Judicial member shall also exercise the functions of Vice-Commissioner. The functionaries designated must be of a grade not inferior to the 6th.

For the functioning of the Commissariat, the Commissioner has the faculty of applying to the State Civil Administration for other personnel of categories B and C.

ARTICLE III

The Commissioner, after hearing the opinion of the Consultative Commission, shall draw up regulations in order to establish the manner of the Commission's internal working and for the regular keeping of accounts of the properties administered.

These regulations must be approved by an inter-ministerial decree of the Ministries indicated in the second paragraph of the preceding Article II.

ARTICLE IV

The Commissioner may perform in the interests of the persons referred to in Article I above all ordinary administrative acts not exceeding those laid down, and has the option of delegating the performance of them to bodies or to individuals having the necessary qualifications for the strict carrying out of the duties and having their residence or seat at the place or in the province where the property to be administered is situate.

In the case of the Commissioner availing himself of such option, every agreement between the Commissioner and the body or the person to whom the duty has been entrusted, must be expressed in writing and cannot be concluded without the authorization of the Director of Property.

Any agreement entered into without the observance of such formalities is null per se.

The Commissioner, after hearing the opinion of the Consultative Commission, may also take any steps which appear necessary and useful, but the validity of these acts is subordinated to the express authorization of the aforesaid Director of Property.

For assistance, representation and defense in all judicial proceedings the Commissioner shall avail himself of the Services of the State Advocate-General's Department (Avvocatura dello Stato).

ARTICLE V

The Commissioner shall ascertain through the Intendant of Finance or

Commissioner's

by law

drawn down 1/10/1961

✓

✓

ARTICLE III

Not
The Commissioner, after hearing the opinion of the Consultative Commission, shall draw up regulations in order to establish the manner of the Commission's internal working and for the regular keeping of accounts of the properties administered.

These regulations must be approved by an inter-ministerial decree of the Ministries indicated in the second paragraph of the preceding Article II.

by law

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The Commissioner may perform in the interests of the persons referred to in Article I above all ordinary administrative acts not exceeding those laid down, and has the option of delegating the performance of them to bodies or to individuals having the necessary qualifications for the strict carrying out of the duties and having their residence or seat at the place or in the province where the property to be administered is situate.

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Any agreement entered into without the observance of such formalities is null per se.

The Commissioner, after hearing the opinion of the Consultative Commission, may also take any steps which appear necessary and useful, but the validity of these acts is subordinated to the express authorization of the aforesaid Director of Property.

For assistance, representation and defense in all judicial proceedings the Commissioner shall avail himself of the Services of the State Advocate-General's Department (Avvocatura dello Stato).

ARTICLE V *under*

The Commissioner shall ascertain through the Intendant of Finance or other public offices or bodies if any property referred to in Article I is situate in territory restored to Italian administration, and shall compile a detailed list of it indicating the identity of the owners, their nationality, the nature and composition of the property, its situation, together with the cadastral data if consisting of immovables, and their ascertained or presumed value. *(revised)*

A copy of this list shall be transmitted to the Office of the Director of Property.

Intendant = cadastre is the word, it refers to survey of lands for tax purposes and is no different in England. Pictorial - (Pictorial 2000 v. 1 - Studies & Notes etc.)

use English

drawn a picture

ARTICLE VI

Independently of the ex-officio enquiry provided for by the preceding article, persons of foreign or Italian nationality residing in territory restored to Italian Administration, and all bodies of a public or private character, including associations and juridical persons de facto, who hold by whatsoever title property belonging to physical or juridical persons of the nationality of one of the United Nations or French citizens, ^{have} or who may be indebted either in amounts of money or money's worth towards the said persons, are held responsible for making a declaration of it to the Intendant of Finance of the Province where they have their place of residence or sent, within a delay of thirty days from the coming into force of the present decree.

The Intendant of Finance shall transmit the said declarations to the Commissioner.

Failure to make the said declarations constitutes an offense punishable with a fine not exceeding ten thousand lire, or by a severer penalty in the case of a more grave offense ^{even a term of imprisonment.}

ARTICLE VII

In the territories to be restored to the Italian Administration at a later date the Commissary will commence his functions on the date when such restoration takes place.

~~Delay~~ ^{The time} within which declarations must be effected by the individuals specified in Article I, shall start from the same date ^{of public restoration of territory.}

ARTICLE VIII

Whenever the necessity may arise the Commissary shall follow the procedure outlined in Art. 605 and follow, in taking over the property falling under his administration.

In such cases ^{when the Commission is in possession} whether taking charge of movables or releasing real property, no demurrer shall be admissible.

ARTICLE IX

No judicial action may be brought by third parties against the titular owners, in relation to such property as may be under the Commission's administration, unless in accordance with the provisions of the existing special legislation governing the initiating of proceedings against the State

under the Commission's jurisdiction

under the Commission's jurisdiction

Does this include imprisonment?

when

What procedure is this?

What provisions are there?

residence of sent, within a delay of thirty days from the coming into force of the present decree.

The Intendent of Finance shall transmit the said declarations to the Commissioner.

Failure to make the said declarations constitutes an offense punishable with a fine not exceeding ten thousand lire, or by a severer penalty in the case of a more grave offense *or a term of imprisonment.*

ARTICLE VII

In the territories to be restored to the Italian Administration at a later date the Commissary will commence his functions on the date when such restoration takes place.

Delays within which declarations must be effected by the individuals specified in Article I, shall start from the same date. *Administration of territories.*

ARTICLE VIII

Whenever the necessity may arise the Commissary shall follow the procedure outlined in Art. 605 and follow, in taking over the property falling under his administration.

In such cases *when the Commission is functioning* whether taking charge of movables or releasing real property, no demurer shall be admissible.

ARTICLE IX

No judicial action may be brought by third parties against the titular owners, in relation to such property as may be under the Commissary's administration, unless in accordance with the provisions of the existing special legislation governing the initiating of proceedings against the State

ARTICLE X

Expenses accruing from administration or custody of any such property and all judicial expenses incurred in connection with it shall be deducted from the income of the property concerned, together with a quota of the said income in order to insure the functioning of the Commissariat. This quota will be calculated by the Commissariat and shall be approved by the Director of Property.

Whenever the income of any property or the liquid assets thereof are not adequate to provide for the expenses and quota referred to in the preceding paragraph, the Minister of Finance will advance the required amount, even when estimated only approximately by the Commissary if such

38

Does this include imprisonment?

when

What procedure is this?

What provisions are there?

What bank is this? Capital? Commission?

7

Article XIV

The powers ^{herein} ~~herein~~ to the Allied Control Commission may be exercised by any officer of such Commission delegated by it for such purpose.

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CHIEF OF BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D. C.

RECEIVED
MAY 15 1945

advance approved by the Director of Property. Such advances shall be changeable to the owner of the property concerned and their repayment shall have priority over any creditors, even when privileged by statute. The net proceeds of each property shall be deposited by the Commissary with the Bank of Italy in separate accounts--bearing interest. Each account will be entered in the name of the Commissary with special mention of the property concerned being made.

If at any time, to cover administration expenses, the Commissary wishes to draw on any such account he will not be able to do so without the formal authorization of the Director of Property.

ARTICLE XI

The compensation which may be payable to the Commissary and the indemnities of the functionaries of his staff shall be determined by the Minister of Finance after agreement with the Director of Property and shall be chargeable to the owners of property under the conditions specified by Article 10.

Such advances which may be necessary in this connection shall be made by the Minister of Finance, as per Article 4, para 3.

ARTICLE XII

The Director of Property may at any time examine any register, record, or account relating to the administration conducted by the Commissions.

He may also request that any steps be taken which he deems necessary or useful in the interest of the administered property and he may oppose the execution of any steps or acts which he deems prejudicial to such interest.

In either case the Commissioner must comply with the request or the objection of the Director of Property.

In addition to the above, the Director of Property may, through the Commissioner, appoint a representative on the Board of Directors of any Commercial association of Italian nationality of which a member of the United Nations or a French National, be it a physical or juridical person, holds over 20% of the capital stock.

ARTICLE XIII

As soon as the present state of emergency for which the Administration of the Commissioner has been created, shall cease, the owners of the property heretofore administered by the Commissioner or their heirs or successors will immediately regain its possession and full power of disposal of such property. The Commissioner shall be held to render account of his administration to the person legally entitled thereto.

ARTICLE XIV

P. 7. ✓

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GMA D.P.?

or money

return >

ARTICLE XI

The compensation which may be payable to the Commissary and the indemnities of the functionaries of his staff shall be determined by the Minister of Finance after agreement with the Director of Property and shall be chargeable to the owners of property under the conditions specified by Article 10.

Such advances which may be necessary in this connection shall be made by the Minister of Finance, as per Article X, para 3.

ARTICLE XII

The Director of Property may at any time examine any register, record, or account relating to the administration conducted by the Commissions.

He may also request that any steps be taken which he deems necessary or useful in the interest of the administered property and he may oppose the execution of any steps or acts which he deems prejudicial to such interest.

In either case the Commissioner must comply with the request or the objection of the Director of Property.

In addition to the above, the Director of Property may, through the Commissioner, appoint a representative on the Board of Directors of any Commercial association of Italian nationality of which a member of the United Nations or a French National, be it a physical or juridical person, holds over 20% of the capital stock.

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ARTICLE XIV

R.D., 25 Nov 1940, No. 1886, the law 19 Dec 1940 No. 1994, R.D. 10 March 1941, No. 618, R.D. Law 17 June 1941 No. 494, R.D. Law 23 June 1941 No. 608, R. D. Law 10 July 1941 No. 619, R.D. Law 27 Dec 1941 No. 1624, R.D. Law 4 Feb 1942 No. 11, made into law of 1 May 1942 No 761, decree of the Chief of Government, 12 Aug 1942 (published in the Gazzetta Ufficiale 31 Aug, 1942 No. 204) are hereby repealed.

Also repealed is any other legislative or ministerial act containing limitations or impediments of any kind to the free enjoyment of full

P. 7.

What X
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this give
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of property

Right >

Does this
repeal all
Legislati
laws?

power of disposal with property or rights belonging to physical or juridical persons enumerated in Article I above.

Rlp

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Translated on Mar 7/44.

NOTE ON THE TRANSFER OF THE ADMINISTRATION OF THE PROPERTY OF PRISONERS

In the drafting of the above mentioned scheme for a transfer, the underlying idea has been to make the interests of Allied subjects arrested to property under administration depend in the most efficacious way on the principle of ownership; ~~and it is considered that a creative formula achieves the object better than the detailed enumeration to be found in the draft put forward by the Office of the Custodian of Property, inasmuch as it in practice affords the inconvenience of possible variations.~~

However, the powers so largely attributed to the Office of the Custodian of Property in relation to the actions of the Commissariat, constitute a most useful guarantee offered by the Allied authorities regarding the effective ownership of the interests administered by the Commissariat.

Consolidation is also taken to point out that as the present scheme has not yet been submitted to the Minister of Finance for execution, it does not actually engage the responsibility of the latter in respect of that part which concerns him.

SCHEME FOR TRANSFER

CONSTITUTION OF A COMMISSARIAT FOR THE ADMINISTRATION OF THE PROPERTY OF PRISONERS

ARTICLE I

The Commissariat under the Ministry of War and Justice in Italy constituted with the object of providing for the safeguarding and administration of movable and immovable property of the various nations existing in territory transferred to Italian administration belonging to physical as well as ~~juridical~~ ^{juridical} persons having the nationality of the United Nations or ~~of the United Nations~~ ^{of the United Nations}, who, as a result of the present war contingencies, may find themselves in the impossibility of looking after their own interests either directly or by way of attorney, appointed by power of attorney ~~previously~~ ^{previously} to the entry in force of the present decree. Such power of attorney, in order to be valid, must bear the visa of the ~~Ministry of War and Justice~~ ^{Ministry of War and Justice} Allied Control Commission.

ARTICLE II

The Commissariat shall be composed of a ~~Committee~~ ^{Committee} of five members.

The Commission shall be chosen ~~from~~ ^{from} among the directing personnel of ~~the~~ ^{the} ~~Ministry of War and Justice~~ ^{Ministry of War and Justice}

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...to the effect that the Commission of property, be found in the draft put forward by the Office of the Custodian of property, enumerative which in practice might have the inconvenience of possible exist- sions.

Moreover, the powers so largely attributed to the Office of the Custodian of property in relation to the action of the Commissariat, constitute a most ample guarantee offered to the Allied authorities regarding the effective custodianship of the interests administered by the Commissariat.

Occasion is also taken to point out that as the present scheme has not yet been submitted to the Minister of Finance for examination, it does not actually engage the responsibility of the latter in respect of that part which concerns him.

ARTICLE I

CONSTITUTION OF A COMMISSION FOR THE SUPERVISION AND THE ADMINISTRATION OF THE PROPERTY OF BUSINESS

ARTICLE I

A Commission under the Ministry of Finance and Justice is hereby constituted with the object of providing for the safeguarding and administration of movable and immovable property of whatsoever nature existing in territory ~~referred to~~ Italian administration belonging to physical as well as ~~juridical~~ persons having the nationality of the United Kingdom or French nationality, who, as a result of the present war contingencies, may find themselves in the impossibility of looking after their own interests either directly or by way of attorney, empowered by power of attorney ~~shall~~ previously to the entry in force of the present Decree. Such power of attorney, in order to be valid, must bear the visa of the ~~Minister of Finance~~ ~~attached to the~~ Allied Control Commission.

ARTICLE II

The Commission shall be composed of a ~~Commission~~ ~~of five members~~ ~~assisted by a consultative committee~~ of five members.

The Commission shall be chosen from among the directing personnel of Banking Institutions by reason of his having accomplished an appreciable part of his activities in one of the countries of the United Kingdom or in France, and his ability to treat the affairs interesting the subjects of the said States with special technical competence. He shall be appointed by Royal Decree on the proposal of the Head of Government, acting in accord with the Minister of Finance and Justice.

The members of the Consultative Commission shall be appointed by Decree of the Head of the Government, choosing one from among the judiciary, on the

MINISTER OF FINANCE

proposals of the Minister of Pardon and Justice, one on the proposal of the Minister of the Interior, one on the proposal of the Minister of Industry, Commerce and Labor, and one on the proposal of the Minister of Agriculture and Livestock.

The Judicial member shall also exercise the functions of Vice-Commissioner. The functionaries designated must be of a grade not inferior to the 5th.

For the functioning of the Comissariat, the Commissioner has the faculty of applying to the State Civil Administration for other personnel of categories B and C.

ARTICLE III

The Commissioner, after hearing the opinion of the Consultative Commission, shall draw up regulations in order to establish the manner of the Commission's internal working and for the regular keeping of accounts of the properties administered. *of the Comissariat*

Committee

These regulations must be approved by an inter-ministerial decree of the Ministries indicated in the second paragraph of the preceding Article II.

ARTICLE IV

The Commissioner may perform in the interests of the persons referred to in Article I above all ordinary administrative acts not exceeding those laid down, and has the option of delegating the performance of them to bodies or to individuals having the necessary qualifications for the strict carrying out of the duties and having those residences or seats as the place or in the province where the property to be administered is situated.

In the case of the Commissioner availing himself of such option, every agreement between the Commissioner and the body or the person to whom the duty has been entrusted, must be expressed in writing and cannot be concluded without the authorization of the ~~Minister of Property~~ *A.C.C.*

Any agreement entered into without the observance of such formalities is null per se.

Committee

The Commissioner, after hearing the opinion of the Consultative Commission, may also take any steps which appear necessary and useful, but the validity of these acts is subordinated to the express authorization of the ~~Minister of Property~~ *A.C.C.*

For assistance, representation and defense in all judicial proceedings the Commissioner shall avail himself of the Services of the State Advocate-General's Department (*Avvocato dello Stato*).

ARTICLE V

The Commissioner shall appoint through the Intendant of Finance or

ARTICLE III

The Commissioner, after hearing the opinion of the Consultative ^{Committee} ~~Committee~~, shall draw up regulations in order to establish the manner of the Commissioner's internal working and for the regular keeping of accounts of the proportion administered. ^{by the Commissioner}

These regulations must be approved by an inter-ministerial decree of the Ministries indicated in the second paragraph of the preceding Article II.

ARTICLE IV

The Commissioner may perform in the interests of the persons referred to in article I above all ordinary administrative acts not exceeding those laid down, and has the option of delegating the performance of them to bodies or to individuals having the necessary qualifications for the strict carrying out of the duties and having their residence or seat at the place or in the province where the property to be administered is situated.

In the case of the Commissioner availing himself of such option, every agreement between the Commissioner and the body or the person to whom the duty has been entrusted, must be expressed in writing and cannot be concluded without the authorization of the ^{A.C.C.} ~~Ministry of Property~~.

Any agreement entered into without the observance of such formalities is null per se.

The Commissioner, after hearing the opinion of the Consultative ^{Committee} ~~Committee~~, may also take any steps which appear necessary and useful, but the validity of these acts is subordinated to the express authorization of the aforesaid ^{A.C.C.} ~~Ministry of Property~~.

For assistance, representation and defense in all judicial proceedings the Commissioner shall avail himself of the Services of the State ~~Legal~~ ^{General's} Department (Avvocatura dello Stato).

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ARTICLE V

The Commissioner shall ascertain through the Intendant of Finance or other public offices or bodies if any property referred to in article I is situated in territory ~~possessed~~ ^{possessed} by Italian administration, and shall compile a detailed list of it indicating the identity of the owners, their nationality, the nature and condition of the property, its situation, together with the (censural) data if consisting of immovables, and their ascertained or presumed value.

A copy of this list shall be transmitted to the Office of the Intendant ~~of Property~~.

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ARTICLE VI

Independently of the ex-officio enquiry provided for by the preceding article, persons of foreign or Italian nationality residing in territory reserved to Italian Administration, and all bodies of a public or private character, including associations and juridical persons *de facto*, who hold by whatever title property belonging to physical or juridical persons of the nationality of one of the United Nations or France, ~~or who may be involved either in accounts of money or money's worth towards the said persons, are held responsible for making a declaration of it to the Intendant of Finance of the Province where they have their place of residence or seat, within a delay of thirty days from the coming into force of the present decree.~~

The Intendant of Finance shall transmit the said declarations to the Commissioner.

Failure to make the said declarations constitutes an offense punishable with a fine not exceeding ten thousand lire, or by a heavier penalty in the case of a more grave offense, *with a term of imprisonment.*

ARTICLE VII

In the territories to be restored to the Italian Administration at a later date the Commission will commence his functions on the date when such restoration takes place.

DATE ~~within~~ within which declarations must be effected by the individuals specified in article I, shall start from the ~~commence~~ *commence* ~~of~~ *day of any such restoration of territory.*

ARTICLE VIII

Whenever the necessity may arise the Commission shall follow the procedure outlined in Art. 605 and follow, in taking over the property falling under his administration, *of (p.c.)*

In such cases whether taking ~~charge~~ *possession* of movables or ~~immovables~~ *real property*, no dispute shall be admissible.

ARTICLE IX

No judicial action may be brought by third parties against the titular owners, in relation to such property as may be under the Commission's Administration, unless in accordance with the provisions of the ~~existing~~ *existing* legislation governing the instituting of proceedings against *the State*.

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DATES

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No judicial action may be brought by third parties against the titular owners, in relation to such property as may be under the Commissioner's administration, unless in accordance with the provisions of the ~~existing~~ *existing* legislation governing the initiating of proceedings against ~~the~~ *the* State. *1005.82*

ARTICLE X

Expenses accruing from administration or custody of any such property and all judicial expenses incurred in connection with it shall be deducted from the income of the property concerned, together with a quota of the said income in order to insure the functioning of the Commissioner. This quota will be calculated by the Commissioner and shall be approved by the ~~Commissioner~~ *A.C.C.*

However the income of any property or the life is assets thereof are not adequate to provide for the expenses ~~mentioned~~ *mentioned* referred to in the preceding paragraph, the Minister of Finance will advance the required amount, even when estimated only approximately by the Commissioner if such

ACC
advices approved by the Director of Property. Such advances shall be chargeable to the owner of the property concerned and their repayment shall have priority over any creditors, even when privileged by statute. The net proceeds of each property shall be deposited by the Commissary with the Bank of Italy in separate accounts bearing interest. Such account will be entered in the name of the Commissary with special mention of the property concerned being made.

If at any time, to cover administration expenses, the Commissary wishes to draw on any such account he will not be able to do so without the formal authorization of the Director of Property.

ARTICLE XI

The compensation which may be payable to the Commissary and the Indentees of the functionaries of his staff shall be determined by the Minister of Finance after agreement with the Director of Property and shall be chargeable to the owners of property under the conditions specified by article 10.

Such advances which may be necessary in this connection shall be made by the Minister of Finance, as per article 1, para 3.

ARTICLE XII

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The Director of Property may at any time examine any register, record, or account relating to the administration conducted by the Commission.

He may also request that any steps be taken which he deems necessary or useful in the interest of the administered property and he may oppose the execution of any steps or acts which he deems prejudicial to such interest.

In either case the Commissioner must comply with the request or the objection of the Director of Property.

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In addition to the above, the Director of Property may, through the Commissioner, appoint a representative on the Board of Directors of any Commercial Association of Italian Nationality of which a member of the United Nations or a French National, be it a physical or juridical person, holds over 20% of the capital stock.

ARTICLE XIII

As soon as the present state of emergency for which the administration of the Commissioner has been created, shall cease, the owners of the property heretofore administered by the Commissioner or their heirs or successors will immediately regain its possession and full power of disposal of such property. The Commissioner shall be held to render account of his administration to the person legally entitled thereto.

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The compensation which may be payable to the Commissary and the industries of the functionaries of his staff shall be determined by the Minister of Finance after agreement with the Director of Property and shall be chargeable to the centers of property under the conditions specified by Article 10.

Such advances which may be necessary in this connection shall be made by the Minister of Finance, as per Article X, para 3.

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The Director of Property may at any time examine any register, record, or account relating to the administration conducted by the Commission.

He may also request that any steps be taken which he deems necessary or useful in the interest of the administered property and he may oppose the execution of any steps or acts which he deems prejudicial to such interest.

In either case the Commissioner must comply with the request on the objection of the Director of Property.

In addition to the above, the Director of Property may, through the Commissioner, appoint a representative on the Board of Directors of any Commercial Association of Italian nationality of which a member of the United Nations or a French National, be it a physical or juridical person, holds over 20% of the capital stock.

ARTICLE XIII

As soon as the present state of emergency for which the administration of the Commissioner has been ordered, shall cease, the centers of the property heretofore administered by the Commissioner or their heirs or successors will immediately regain the possession and full power of disposal of such property. The Commissioner shall be held to render account of his administration to the person legally entitled thereto.

ARTICLE XIV

R.D., 25 Nov 1940, No. 2506, the Law 19 Dec 1940 No. 1994, R.D., 10 March 1941, No. 618, R.D., Law 17 June 1941 No. 424, R.D., Law 23 June 1941 No. 608, R.D., Law 15 July 1941 No. 619, R.D., Law 27 Dec 1941 No. 1626, R.D., Law 4 Feb 1942 No. 12, same into Law of 1 May 1942 No 761, Decree of the Chief of Government, 14 Aug 1942 (published in the Gazzetta Ufficiale 31 Aug, 1942 No. 204) are hereby repealed.

Also repealed is any other Legislative or ministerial act containing any limitations or impediments of any kind to the free enjoyment of full

power of disposal with property or rights belonging to physical or jur-
idical persons enumerated in article 1 above.

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NOTA ALLO SCHEMA DI DECRETO-LEGGE
CIRCA L'ISTITUZIONE DI UN COMMISSARIATO PER LA
SALVAGUARDIA E LA GESTIONE DEI BENI STRANIERI

Nella redazione del preueto schema di decreto concetto informa-
tore è stato quello di pendere nel modo più efficace alla tutela de-
gli interessi dei sudditi Alleati aventi diritto sui beni amministra-
ti, ed ~~al~~ fine si è ritenuto che una formulazione generica rispon-
desse allo scopo meglio che le dettagliate elencazioni riscontrate
nella bozza predisposta dall'Ufficio del Custode dei Beni, elencazio-
ni che in pratica potrebbero determinare inconvenienti per eventuali
omissioni.

D'altro canto i poteri attribuiti così largamente all'Ufficio del
Custode dei Beni rispetto all'azione del Commissariato, costituiscono
la garanzia più ampia nei confronti delle Autorità Alleate circa l'ef-
fettiva tutela degli interessi amministrati dal Commissariato.

Si ritiene opportuno precisare inoltre che il presente schema,
non ancora sottoposto all'esame del Ministero delle Finanze, non im-
pegna attualmente quest'ultimo per la parte che lo riguarda.

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test

SCHEMA DI DECRETO LEGGE

Istituzione di un Commissariato per la salvaguardia e la gestione dei beni stranieri.

Art. 1

E' istituito, alle dipendenze del Ministero di Grazia e Giustizia, un Commissariato col compito di provvedere alla salvaguardia ed alla gestione dei beni immobili e mobili di qualsiasi natura esistenti nel territorio restituito all'Amministrazione Italiana, i quali appartengono a persone fisiche e giuridiche, di nazionalità di una delle Nazioni Unite o Francesi, che, a causa delle attuali contingenze di guerra, si trovino nell'impossibilità di curare i propri interessi o direttamente o a mezzo di mandati, nominati con procura di data posteriore all'entrata in vigore del presente decreto. Tale procura, per essere valida, deve essere munita del visto dell'Ufficio del Custode dei Beni Stranieri, dipendente dalla Commissione Alleata di Controllo.

Art. 2

Il Commissario è assistito da una Commissione consultiva composta di cinque membri.

Il Commissario scelto tra il personale direttivo degli Istituti Bancari, che per aver svolta una parte notevole della propria attività in una delle Nazioni Unite o nella Francia, possa trattare gli affari interessanti i sudditi dei detti Stati con speciale competenza tecnica, è nominato con Decreto Reale su proposta del Capo del Governo, d'intesa col Ministro di Grazia e Giustizia.

I membri della Commissione consultiva sono nominati con decreto del Capo del Governo, scegliendoli uno fra i magistrati, su proposta del Ministro di Grazia e Giustizia, uno su proposta del Ministero per l'Interno, uno su proposta del Ministero delle Finanze, uno su proposta del Ministro per l'Industria, il Commercio ed il Lavoro, ed uno su proposta del Mini-

Commissariato col compito di provvedere alla salvaguardia ed alla gestione dei beni immobili e mobili di qualsiasi natura esistenti nel territorio restituito all'Amministrazione Italiana, i quali appartengono o persone fisiche o giuridiche, di nazionalità di una delle Nazioni Unite o Francesi, che, a causa delle attuali contingenze di guerra, si trovino nell'impossibilità di curare i propri interessi o direttamente o a mezzo di mandati, nominati con procura di data posteriore all'entrata in vigore del presente decreto. Tale procura, per essere valida, deve essere munita del visto dell'Ufficio del Custode dei Beni Stranieri, dipendente della Commissione Alleata di Controllo.

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Il Commissario scelto tra il personale direttivo degli Istituti Benfici, che per aver svolta una parte notevole della propria attività in una delle Nazioni Unite o nella Francia, possa trattare gli affari interessanti i suddetti dei detti Stati con speciale competenza tecnica, è nominato con Decreto Reale su proposta del Capo del Governo, d'intesa col Ministro di Grazia e Giustizia.

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Il Membro Magistrato esercita anche le funzioni di Vice Commissario.

I funzionari designati debbono essere di grado non inferiore al VI°.

Per il funzionamento del Commissariato, il Commissario ha la facoltà

di richiedere alle Amministrazioni Civili dello Stato altro personale delle categorie B e C.

Art.3

Il Commissario, sentite la Commissione consultiva delibera un regolamento interno per stabilire le modalità del funzionamento del Commissariato e quelle per la regolare tenuta della contabilità dei beni amministrati.

Questo regolamento dev'essere approvato con Decreto Interministeriale dei Ministri indicati nel comma 2° del precedente art.2.

Art.4

Il Commissario può compiere, nell'interesse delle persone di cui al precedente art.1, tutti gli atti di gestione con eccedenti l'ordinaria amministrazione, ed ha le facoltà di delegarne il compimento ad Enti o a persone singole avverti i necessari requisiti per l'esatto espletamento dell'incarico e la residenza o sede nel luogo o nella provincia dove si trovano i beni da gestire.

Nel caso che il Commissario si avvalga di tale facoltà, ogni accordo tra il Commissario e l'Ente o la persona cui l'incarico viene affidato, deve risultare da atto scritto non può essere concluso senza l'autorizzazione dell'Ufficio del Custode dei Beni Stranieri.

L'accordo stipulato senza l'osservanza di tali formalità è nullo di pieno diritto.

Il Commissario può compiere altresì, sentita la Commissione consultiva, gli atti di disposizioni, che appariscano necessari o utili, ma la validità di questi atti è subordinata all'espressa autorizzazione del predetto Ufficio del Custode dei Beni Stranieri.

Per l'assistenza, la rappresentanza e la difesa in giudizio il Commissario si avvale dell'Avvocatura dello Stato.

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Questo regolamento dev'essere approvato con Decreto Interministeriale dei Ministri indicati nel comma 2° del precedente art.2.

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Nel caso che il Commissario si avvalga di tale facoltà, ogni accordo tra il Commissario e l'Ente o la persona cui l'incarico viene affidato, deve risultare da atto scritto e non può essere concluso senza l'autorizzazione dell'Ufficio del Custode dei Beni Stranieri.

L'accordo stipulato senza l'occorrenza di tali formalità è nullo di pieno diritto.

Il Commissario può compiere altresì, sentita la Commissione consultiva, gli atti di disposizioni, che appariscano necessari o utili, ma la validità di questi atti è subordinata all'espressa autorizzazione del predetto Ufficio del Custode dei Beni Stranieri.

Per l'assistenza, la rappresentanza e la difesa in giudizio il Commissario si avvale dell'Avvocatura dello Stato.

Art.5

Il Commissario accerta, e mezzo delle Intendenze di Finanza o di altri Pubblici Uffici ed Enti, i beni di cui al precedente art.1 eiti nel

territorio restituito all'Amministrazione Italiana, e ne compila un dettagliato elenco, che deve indicare le generalità dei proprietari, la loro nazionalità, la natura e la consistenza dei beni, la loro ubicazione, con i dati catastali se trattasi di immobili, ed il loro valore accertato o presunto.

Una copia di questo elenco deve essere trasmessa all'Ufficio del Custode dei Beni Stranieri.

Art. 6

Indipendentemente dagli accertamenti d'ufficio, previsti nel precedente articolo, le persone di nazionalità Italiana o straniera, residenti nel territorio restituito all'Amministrazione Italiana, e tutti gli Enti di natura pubblica o privata, compresi le associazioni e gli Enti di fatto, che detengono, a qualunque titolo, beni appartenenti a persone fisiche o giuridiche di nazionalità di una delle Nazioni Unite o Francesi, o siano debitori di somme o valori verso le persone stesse, sono tenute a farne denuncia all'Intendenza di Finanza della Provincia dove hanno la loro residenza o sede, entro il termine di giorni trenta dalla data di entrata in vigore del presente decreto.

Le Intendenze di Finanza trasmetteranno le denunce loro pervenute al Commissario.

L'inosservanza dell'obbligo delle denunce costituisce reato, punibile con l'ammenda sino a Lire Diecimila, salvo le maggiori pene previste per i reati più gravi.

Art. 7

Per i territori che saranno in avvenire restituiti all'Amministrazione Italiana, il Commissario entrerà in funzione dalla data in cui tale restituzione sarà attuata.

Delle stesse data decorrerà per le persone di cui al comma 1° dell'articolo precedente il termine per la denuncia ivi prevista.

Una copia di questo elenco deve essere trasmessa all'Ufficio del Custode dei Beni Stranieri.

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Indipendentemente dagli accertamenti d'ufficio, previsti nel precedente articolo, le persone di nazionalità Italiana o straniere, residenti nel territorio restituito all'Amministrazione Italiana, e tutti gli Enti di natura pubblica o privata, compresi le associazioni e gli Enti di fatto, che detengono, a qualunque titolo, beni appartenenti a persone fisiche o giuridiche di nazionalità di una delle Nazioni Unite o Francesi, o siano debitori di somme o valori verso le persone stesse, sono tenute a farne denuncia all'Intendente di Finanza della Provincia dove hanno la loro residenza o sede, entro il termine di giorni trenta dalla data di entrata in vigore del presente decreto.

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Dalla stessa data decorrerà per le persone di cui al comma 1° dell'articolo precedente il termine per la denuncia ivi prevista.

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Art.8

Per la presa in consegna dei beni da gestire il Commissario si avvale, ove ne ricorra la necessità, della procedura esecutiva di cui agli art.605 e segg. del codice di procedura civile.

In tal caso, contro il precetto per consegna di beni mobili o rilascio di beni immobili, non sono ammesse opposizioni.

Art.9

Chiunque abbia ragione da far valere contro i titolari dei beni sottoposti alla gestione commissariale, relativamente ai beni medesimi, deve proporre nei confronti del Commissario davanti il giudice competente a norma delle leggi speciali sulla rappresentanza e difesa dello Stato in giudizio.

Art.10

Le spese di gestione e di custodia dei beni amministrati, nonché le spese per eventuali giudizi o procedure giudiziarie, sono detratte dei proventi dei beni, per i quali le spese sono state fatte, assieme ad una quota di contributo alle spese per il funzionamento del Commissariato, commisurate all'entità dei singoli beni secondo un piano di ripartizione formato dal Commissario ed approvato dall'Ufficio del Custode dei Beni Stranieri.

Nel caso che i beni amministrati non producano rendite o non comprendano attività liquide in misura sufficiente per provvedere alle spese ed alle quote di contributo di cui al comma precedente, il Ministero delle Finanze anticipa le somme occorrenti, previa determinazione, anche in linea approssimativa, del loro ammontare da parte del Commissario, d'intesa coll'Ufficio del Custode dei Beni Stranieri.

Le somme così anticipate sono ripetibili a carico del proprietario del bene amministrato, ed il relativo credito ha privilegio sul bene stesso con preferenza su ogni altro credito, ancorchè privilegiato.

Art. 9

Chiunque abbia ragione da far valere contro i titolari dei beni sottoposti alla gestione commissariale, relativamente ai beni medesimi, deve proporre nei confronti del Commissario davanti il giudice competente a norma delle leggi speciali sulla rappresentanza e difesa dello Stato in giudizio.

Art. 10

Le spese di gestione e di custodia dei beni amministrati, nonché le spese per eventuali giudizi o procedure giudiziarie, sono detratte dai proventi dei beni, per i quali le spese sono state fatte, essiere ad una quota di contributo alle spese per il funzionamento del Commissariato, commisurate all'entità dei singoli beni secondo un piano di ripartizione formato dal Commissario ed approvato dall'Ufficio del Custode dei Beni Stranieri.

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Le somme così anticipate sono ripetibili a carico del proprietario del bene amministrato, ed il relativo credito ha privilegio sul bene stesso con preferenza su ogni altro credito, ancorchè privilegiato.

I proventi netti sono depositati dal Commissario presso la Banca d'Italia in conti fruttiferi quanti sono i patrimoni amministrati. Que-

sti conti vanno intestati al Commissario con la specifica menzione del patrimonio cui i proventi si riferiscono.

Qualora nel corso della gestione, e per le esigenze di essa, sia necessario effettuare prelevamenti dalle somme depositate, il Commissario ne chiede l'autorizzazione all'Ufficio del Custode dei Beni Stranieri.

Art. 11

Il compenso per il Commissario e le indennità per i funzionari ed impiegati statali adetti al Commissariato sono determinati dal Ministero delle Finanze, d'intesa con l'Ufficio del Custode dei Beni Stranieri, e gravato sui singoli patrimoni amministrati nella stessa misura determinata nel precedente art. 10 per quote di contributo alle spese per il funzionamento del Commissariato.

Le somme necessarie per il pagamento dei predetti emolumenti sono anticipate dal Ministero delle Finanze che ne rivale nel modo stabilito nel comma 3° del precedente art. 10.

Art. 12

L'Ufficio del Custode dei Beni Stranieri può in qualunque tempo prendere in esame i registri, le scritture ed i documenti contabili relativi alla gestione tenuta dal Commissariato.

Tale Ufficio può altresì richiedere tutti i provvedimenti che reputi necessari ed utili nell'interesse dei beni amministrati, ed opporsi all'esecuzione dei provvedimenti od atti che stimi pregiudizievoli a tale interesse.

Nell'uno o nell'altro caso il Commissario deve provvedere in conformità della richiesta o dell'opposizione.

Inoltre l'Ufficio del Custode dei Beni Stranieri può, a mezzo del Commissario, designare un proprio rappresentante presso il Consiglio d'Amministrazione delle società commerciali di nazionalità italiana,

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Versione fisica c

Stranieri.

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Le somme necessarie per il pagamento dei predetti emolumenti sono anticipate dal Ministero delle Finanze che se ne rivale nel modo stabilito nel comma 3° del precedente art. 10.

Art. 12

L'Ufficio del Custode dei Beni Stranieri può in qualunque tempo prendere in esame i registri, le scritture ed i documenti contabili relativi alla gestione tenuta dal Commissariato.

Tale può altresì richiedere tutti i provvedimenti che reputi necessari ed utili nell'interesse dei beni amministrati, ed opporsi all'esecuzione dei provvedimenti ed atti che stimi pregiudizievole a tale interesse.

Nell'uno o nell'altro caso il Commissario deve provvedere in conformità della richiesta o dell'opposizione.

Inoltre l'Ufficio del Custode dei Beni Stranieri può, a mezzo del Commissario, designare un proprio rappresentante presso il Consiglio d'Amministrazione delle società commerciali di nazionalità Italiana, il cui capitale sociale sia stato conferito, da una persona fisica o giuridica di nazionalità di una delle Nazioni Unite o Francese, in misura superiore al 20%.

Art. 13

Venendo a cessare le cause della gestione Commissariale, di cui al precedente art. 3, i titolari dei beni gestiti od i loro eredi e successori ne ricuperano immediatamente il possesso e la piena disponibilità, ed il Commissario è tenuto a rendere il conto della gestione a chi di ragione.

Art. 14

Sono abrogati il R.D. 25 novembre 1940 n. 1886; la legge 13 dicembre 1940 n. 1924; il R.D. 10 marzo 1941 n. 618; il R.D.L. 17 giugno 1941 n. 494; il R.U.L. 23 giugno 1941 n. 608; il R.D. 10 luglio 1941 n. 619; il R.D.L. 27-12-1941 n. 1624; il R.D.L. 4 febbraio 1942 n. 11, convertito nella legge 1° maggio 1942 n. 761; il decreto del Capo del Governo 12 agosto 1942 (pubblicato nella Gazzetta Ufficiale 31 agosto 1942 n. 204).

E' altresì abrogato ogni altro provvedimento legislativo, o ministeriale, contenente limitazioni o impedimenti di qualsiasi genere al libero godimento ed alla piena disponibilità dei beni e diritti appartenenti alle persone fisiche o giuridiche di cui al precedente art. 1.

NEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

GTU/gaf

ACC/4014/3/L

5 March 1944.

SUBJECT: Personal Liability of Property Control Officers.

TO : Director of Property Control.

Your letter dated 4 March on the a/m subject should be submitted when the rights of the Property Controller in unoccupied territory are defined by a decree of the Italian Government. Until the terms of that decree are finally settled this Subcommittee cannot usefully advise you on your liabilities.

G. R. UPJOHN, Colonel
Chief Legal Officer.

-22

401413

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HEAD HEADQUARTERS
 ALLIED CONTROL COMMISSION
 PROPERTY CONTROL SUB-COMMISSION
 APO 394

4 March 1944.

Subject: Personal Liability of Property Control Officers.

To : Chief Legal Officer.

1. We should like to have your opinion as to whether or not the DPC, Regional CPs or ACPs, can be held personally liable, in the courts of Italy or the courts of the Allied Nations, for damages resulting from their malfeasance, misfeasance, or negligence in the management of property in their custody, or for their negligent failure to take custody of property.
2. Consideration should be given to the possible differences in liability which may exist if the act or omission for which damages is sought occurs in occupied territory or if it occurs, when we are acting under Italian authority, in the King's Italy (transferred territory).
3. We understand, of course, that officers might be punished under military law for their derelictions. Our question is directed to their civil liability.
4. As to acts occurring in occupied territory, we are of the opinion that the officers of Property Control are amenable to military law alone. We are in doubt, however, as to their liability for acts occurring in transferred territory.
5. Will you please give us your opinion as to both classes of cases. This new enquiry is addressed to you because there seems to be a conflict of opinion in communications we have received from the Legal Sub-Commission. (See your letter of 22 Nov 43 and Major Hannaford's comments in his undated "Notes on CP's memorandum of 21 Feb 44").

④

55-52

C. H. S. Harris (57)
 C. H. S. HARRIS,
 Lieut-Colonel,
 Director of Property Control. -21

19

4011/13

Property Control

TRANSLATION

ES/gm

59

Extract from Minutes of the Meeting held 26 Feb. 44

The following is pointed out in regard to the solution proposed by the Allies at the last meeting concerning the control of property owned by nationals of the United Nations:

At the first comprehensive survey of the problem difficulties of both legal and practical character have arisen in regard to the creation of a body (corporation) which would assume the functions of Property Control. It is thought that it would be much easier and more practical to entrust the control to a Commissioner (Commissariato). Such office would be more flexible in its functioning and would be more suitable for a task of essentially administrative character. In the performance of this task the Commissioner's office would take advantage of experts representing various Ministries in this Office. On the other hand the coordinating and executive power should be vested in a person selected for practical reasons from banking circles which are more better prepared to deal with a great variety of problems essentially of economic character. For handling such problems it would be advisable to select a banker who apart from his professional qualifications would be familiar with the Anglo-Saxon atmosphere and language and would possess a good legal background.

The view was expressed by the Allies as to the speed and scope of activities to be undertaken by the Office of the Commissioner for the purpose of safeguarding in a most efficient way the interests of the subjects of the United Nations. On behalf of the Allied Commission the control would be exercised by the Property Controller who would be given abundant powers to exercise broadest control over the conduct of affairs and intervene in any case where modifications or rectifications are requested. Furthermore, he would be given full powers to propose to the Commissioner's office the execution of acts exceeding the scope of ordinary administration whenever the need for such acts should arise in the interest of the administered property.

The members of the Legal Subcommittee agree with the general principles indicated above. A draft will be prepared in accordance with such principles to serve as a basis for discussion at which detailed and definite provisions will be agreed upon. 20

DRAFT

Notes on CP's Memorandum of 21 Feb 44

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General: The twelve points laid down by the Director of Property Control in his memorandum of 21/2/44 in regard to the executive powers to be vested in him to be exercised in Free Italy have been examined in the light of the policy set forth in the Armistice terms in regard thereto.

Before discussing each of these points in turn the following general observations should be made:

- (1) As properly stated in Col. Glenn's letter, up to the date of transfer, the Director of CP derived his authority from the provisions of Proclamation 6.
- (2) On the date of transfer, by Proclamation No. 16, the C in C declared all proclamations to be terminated.
- (3) Consequently all future powers which the Director of CP shall enjoy must now or derive from some form of legislation to be enacted by the present Italian government.
- (4) It stands to reason that the Italian Government cannot vest in any person or institution, powers in excess of their own under their present constitution and existing legislation. Nor can they amend the substance of these Decrees, Ministerial Decrees (provided for by the articles of the RME of War and Neutrality of 8 July 1938) all of which have to be at a later date approved by Parliament. A provision which is always referred to in the last article of such enactments.

The Armistice terms provide for the custody of enemy property by Italian officials (Art 28 para (c)), but say nothing in regard to the executive

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(2) On the date of transfer, by Proclamation No. 16, the C in C declared all proclamations to be terminated.

(3) Consequently all future powers which the Director of CP shall enjoy must now derive from some form of legislation to be enacted by the present Italian government.

(4) It stands to reason that the Italian Government cannot vest in any person or institution, powers in excess of their own under their present constitution and existing legislation. Nor can they amend the substance of those with the legal machinery at their disposal at this time, i.e. Bandi, Royal Decrees, Ministerial Decrees (provided for by the articles of the PDL of War and Neutrality of 3 July 1938) all of which have to be at a later date approved by Parliament. A provision which is always referred to in the last article of each enactment.

19

The Amalstice terms provide for the custody of enemy property by Italian officials (Art 28 para (c)), but say nothing in regard to the executive powers of the Director of CP, therefore, such powers do not result from any international instrument now in existence and a new document between the "High Contracting parties" would have to be drawn embodying the twelve points above referred to. It does not appear that either party is willing to do so at the present juncture.

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Accordingly the Italian Government have endeavored to meet the Director's request in a project of a decree drawn in conformity with the policy laid down in Proclamation No. 6, but within the frame work of their legislation. That this decree is inadequate and incomplete is obvious. It remains, however, to ascertain whether it is possible for the Italian Government to express tangibly in a decree the points insisted upon by the DCP, without running the risk of having such legislation reformed by the Italian Parliament or the Administration of the CP challenged by Allied nationals at the war, whatever the terms of the Peace or even of the Peace Treaty may be.

The DCP's twelve points:

(a) All decrees of control and sequestration against United Nations and French properties issued by the Italian Government to be cancelled.

There is no difficulty in this respect and in practice such property is already considered by the Italian officials as being freed.

(b) The functions of the DCP in respect of such properties to be recognized by the Italian Government.

The Government is in agreement and does not wish to interfere with the administration of the DCP, provided the rights of the owners and third party are safeguarded according to the "Law of the Land", thus conforming to the universally accepted rule of private international law, namely that immovables are governed by the *lex rei sitae*.

(c) All persons to declare all such properties to the DCP (Art 4 Proc 6). There is no difficulty about this.

(d) Confer on the DCP the status of Public Official. There appears to be a misunderstanding in this connection. No person can have the status of Public Official of the Italian Government and at the same time receive from the said government extra territorial rights as claimed by the DCP in subsequent paragraphs.

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- (c) All persons to declare all such properties to the DCP (Art 4 Proc 6).

There is no difficulty about this.

(d) Confer on the DCP the status of Public Official. There appears to be a misunderstanding in this connection. No person can have the status of Public Official of the Italian Government and at the same time receive from the said government extra territorial rights as claimed by the DCP in subsequent paragraphs. A decree would have to be passed beforehand promulgating that AGO officials may possess the status of Public Officials. The extra territorial rights can only be the subject of an international agreement and nothing in the Armistice Terms refers to this particular case. In other words, status and rights cannot derive from the same source; there must be two instruments.

and no person possessing extra territorial rights through an international instrument can become a public official of the government of the territory in which such rights are created. Obviously, there is a contradiction in terms.

53

(b) Confer on the DFC all powers of representation, administration and custody

mainly recognized by the Italian Civil Code, etc. This point presents no difficulty, but such powers are subject to certain obligations under the Code.

(f) Appointment of members of the DFC staff on the Board of Control of Italian Companies in which Allied interests represent one-fifth or more of the capital. This could be the subject matter of a Ministerial Decree and could be worked out without undue technical difficulty. In practice, there may exist certain objections, but 'prima facie' they ought to be fairly easily overcome.

(g) Empowering the DFC to sue in Italian Courts on behalf of Allied owners.

This is a 'de facto' right, provided the DFC can also be sued by third parties either personally or as a public official. In the latter case he would be representing the Italian Government and therefore could not be cited in person.

(h) Indemnifying the DFC from all the legal consequences of his acts, the Italian Government assuming all responsibility for the same, both in respect of property owners and third party. In other words, 'a free pass to heaven during the life of the sinner'; - the equivalent of an Act of Indemnity subject to ratification by Parliament at a later date (vide supra).

This, in all probability, would not be accepted by the Italian Government and probably the Minister of Finance would resign rather than to commit himself and the Italian State. Furthermore, such a clause may not be worth the paper it's written on, if the Italian Parliament rejects it. If the Italian Government became insolvent, no clause in any Peace Treaty could prevent an Allied National or corporation from taking the alternative of suing the DFC in Britain or USA or elsewhere, and there is every reason to believe that the International Court of the Hague or its successor, would sustain such right. (ref. Mostyn)

Fabriges, Modiozo v. Willis, Capt. Gambler etc.). If the functions of the DFC

without undue technical difficulty. In practice, there may exist certain objections, but "prima facie" they ought to be fairly easily overcome.

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Politically, such an indemnifying clause may not be expedient and may entail unlimited complications for the Allied governments if, at any time, some

52

irreparable damage having been caused through the DPC's administration, to the property of a United Nation's citizen or corporation, the Italian Government could plead having been unable to protect such property situated on Italian soil, because of the provisions of a decree imposed under duress by MCC.

(1) Advances of monies by the Italian Government to the AGC for the maintenance, upkeep and taxes on property etc.

This is a matter which could be settled between the DPC, ANA and the Italian Government.

(J)(K)(L) Could be embodied in the decree without undue difficulty.

(1) Advances provided by the Italian Government to the AGO for the maintenance of

upkeep and taxes on property etc.

This is a matter which could be settled between the DFC, AFA and the Italian Government.

(j)(k)(l) Could be embodied in the decree without undue difficulty.

10

REAR HEADQUARTERS
 ALLIED CONTROL COMMISSION
 PROPERTY CONTROL SUB-COMMISSION
 APO 394

COPY
 51

21 February 1944.

Subject: Decree to be passed by the Italian Government.

To : CLO.

1. The draft decree put up by the Italian Government is unacceptable and absurd. The decree should in my opinion do the following:
 - (a) Cancel all decrees of control and sequestration against United Nations and French properties issued by the Italian Government.
 - (b) Recognize the function of the CP (now DFC) to continue his functions in respect of said properties.
 - (c) Impose obligation on all persons who have not already done so to declare such property to DFC, and to hand it over on demand, etc. These obligations should follow those laid down in sections 2, 3 and 4, first sentence of Article IV of Proclamation No. 6.
 - (d) Confer on DFC status of public official.
 - (e) Confer on DFC all powers of representation, administration and custodianship recognized by the Italian civil code, and all powers allowed to controllers and/or sequestrators under Italian war legislation, with respect to United Nations and French property.
 - (f) Confer on the DFC the right to appoint one or more members of the Board of Control of Italian companies in which the Allied interest represents one fifth or more of the capital. This is important as we have already come across cases where we suspect "monkey business".
 - (g) Empowering DFC to sue on behalf of United Nations property owners in the Italian Courts.
 - (h) Indemnifying the DFC from all the legal consequences of his acts, the Italian Government assuming responsibility for the same, both in respect of property owners and third parties.
 - (i) Advancing on the request of the DFC monies necessary for the maintenance and management of properties, including payment of national and local taxes where the income of the property is insufficient, as contemplated in Art. 303 of the Italian War Law (document A attached), such advances to be made on the terms indicated in the draft convention between EGELI and the Banks, who are acting as its agents. (Art. 16-B attached).
 - (j) Imposing penalties on the lines of Article X of Proclamation No. 6.
 - (k) Registration clause (on the lines of article II of the draft decree).
 - (l) Publication of all Declarations of Custody in the Italian Official Gazette.

C.R.S. HARRIS
 Lt. Colonel,
 Director of Property Control.

15

Major General
ES /gmt
105

TRANSLATION

Property Control Draft Decree

ICC/4004/2/A

Trans. by E. Stein - 18-2-44

1.

Control of Foreign Owned Property

Whenever a person of Allied nationality, holding a right in movable or immovable property or in a corporate registered share, is absent (on account of the war) from the place where such right must be exercised, the Property Controller appointed for that purpose by the Allied Governments assumes his representation until his return to that place.

2.

Functions of the Property Controller

The Property Controller represents the absent person in all civil acts and administers their property (Art 357 Cod. Civ.).
If the interest of the absent person is adverse to that of the Property Controller, the Government of the former will appoint a Special Controller (Art 360 Cod. Civ.).

3.

Property Controller's Status as Public Official

When performing their functions both the Property Controller and the Special Property Controller hold the status of a public official.

4.

Inventory

Within ten days after the day on which he has received notice of the absence of a person holding a right mentioned in Art. 1 supra and of the consequent necessity to exercise his functions, the Property Controller must initiate an inventorization of the property belonging to the absent person and complete it within 30 days.

Art. 363 and 369 Cod. Civile will apply to the compilation and content of the inventory excluding, however, the intervention of the guardian (protutore) and of the minor and substituting the tutor for the guardianship judge. If the Property Controller has already assumed the administration of the property at the effective date of this decree, he must provide for an inventory within 10 days after such date.

5.

Performance of Functions of the Property Controller

The Property Controller may perform all acts which are necessary in the interest of the absent person and which do not exceed the ordinary administration as well as the acts contemplated by Art. 374 of the Civil Code.
He may equally undertake the acts mentioned in Art. 375 of the Civil Code upon authorization of the civil Tribunal of the place where the absent person resides.

Whenever a person of Allied nationality, holding a right in movable or immovable property or in a corporate registered there, is absent (on account of the war) from the place where such right must be exercised, the Property Controller appointed for that purpose by the Allied Government assumes his representation until his return to that place.

2. Functions of the Property Controller

The Property Controller represents the absent persons in all civil acts and administers their property (Art. 357 Cod. Civ.).

If the interest of the absent person is adverse to that of the Property Controller, the Government of the former will appoint a Special Controller (Art. 360 Cod. Civ.).

3. Property Controller's Status as Public Official

When performing their functions both the Property Controller and the Special Property Controller hold the status of a public official.

4. Inventory

Within ten days after the day on which he has received notice of the absence of a person holding a right mentioned in Art. 1 supra and of the consequent necessity to exercise his functions, the Property Controller must initiate an inventorization of the property belonging to the absent person and complete it within 30 days.

Arts. 263 and 360 Cod. Civile will apply to the compilation and content of the inventory excluding, however, the intervention of the Guardian (protutore) and of the minor and substituting the pretor for the guardian judge. If the Property Controller has already assumed the administration of the property at the effective date of this decree, he must provide for an inventory within 10 days after such date.

5. Performance of Functions of the Property Controller

The Property Controller may perform all acts which are necessary in the interest of the absent person and which do not exceed the ordinary administration as well as the acts contemplated by Art. 374 of the Civil Code.

He may equally undertake the acts mentioned in Art. 375 of the Civil Code upon authorization of the civil Tribunal of the place where the property is located or where the right must be exercised.

All acts performed without compliance with the rules established by this decree may be annulled upon application of the Property Controller, of the absent person or of his heirs or of any other interested party, within one year after the date of the conclusion of peace.

The Property Controller may sue or be sued in Italian courts for acts undertaken in performance of his functions.

6. Accounting of the Administration

The Property Controller must keep books on his administration and must

After yearly accounts to the Consul of the country of which the absent person is a national.

7. Acts Forbidden to the Custodian

Prohibitions set forth in Art. 378 Civ. Code apply to the Property Controller.

8. Responsibility of the Property Controller

The Property Controller must administer the property of the absent person with the diligence of a good family father (diligenza del buon padre di famiglia). The Property Controller answers to the absent person for all damages caused by a violation of his duties. (Art. 382 Civ. Code).

9. Termination of the Functions

Property Controller ceases to function upon the return of the absent person unless he has been previously removed or substituted by the Government which has appointed him.

10. Final Accounting

The Property Controller whose functions have terminated must immediately surrender the property and must present within two months a final account of his administration to the interested party or to the custodian succeeding him. (Art. 385).

Lit disputes are decided by the Italian judicial authorities according to the ordinary procedure.

11. Registering of the Property Control

The Registrar of the Pasture will provide for an entry of each property control to be made in the appropriate register. Such entry will contain the data indicated in Art. 589 Civ. Code as far as compatible with the present decree.

12. Transitory Provisions

On the effective date of this decree the Property Controller takes the place of the ~~Registrar~~ administering the property belonging to foreign nationals in accordance with the R.D.

*Sequestering
Office
(EGPH)*

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The Property Controller's functions have terminated must immediately surrender the property and, at present within two months a final account of his administration to the interested party or to the custodian succeeding him. (Art. 385).

All disputes are decided by the Italian judicial authorities according to the ordinary procedure.

11. Registering of the Property Control

The Registrar of the Preture will provide for an entry of each property control to be made in the appropriate register. Such entry will contain the data indicated in Art. 389 Civ. Code as far as compatible with the present decrees.

12. Transitory Provisions

On the effective date of this decree the Property Controller takes the place of the ~~Pretore~~ administering the property belonging to foreign nationals in accordance with the R.D.

*Sequestering
of
(EGELI)*

13

121

TRANSLATION by Major R. Theobald on 18:2:44

The following is a translation of the articles of the Italian Civil Code referred to in the Ministry's draft, under each appropriate paragraph:

Ref: Para. 2

Art. 257 cc. Functions of a Custodian ("tutore"). A custodian is responsible for the person of a minor and represents him in all civil acts and administers his property.

Art. 260 cc. Functions of a pro-Custodian ("pro-tutore"). A pro-custodian represents a minor in cases in which the latter's interests are opposed with that of the guardian. If the pro-custodian also finds himself in opposition of interests to the minor, the tutelary judge nominates a special curator. The pro-custodian shall bring about the appointment of a new custodian in cases in which the custodian has failed in or abandoned his office. Meanwhile he has the care of the minor's person, represents him and can perform all acts of conservation and all urgent acts of administration.

Ref: Para 3.

Status of Public Official. A custodian ("curatore") in so far as concerns the exercise of his functions is a public official.

Ref: Para 4.

Art 262 cc. Inventory. A custodian shall proceed to take an inventory of a minor's property within 10 days of his receiving legal notice of his appointment.

The inventory shall be completed within 30 days, unless the tutelary judge uses his faculty of extending the term should circumstances warrant. Making of the inventory. The inventory is drawn up with the assistance of the clerk to the pretorate or of a notary delegated by the tutelary judge, with the intervention of the pro-custodian ("protutore") and, if possible, the minor as well, if he has attained the age of 16 years, in the presence of two witnesses chosen preferably from amongst the nearest relatives or friends of the family.

The judge may permit the inventory to be made without the intervention of the clerk or the notary, if the presumed value of the property does not exceed 15,000 lire.

The inventory is deposited at the pretorate. On the record of deposit the custodian and pro-custodian shall declare its sincerity under oath.

Art 269 cc. Deposit of titles and Securities. The custodian shall deposit cash, bearer securities and all valuables found amongst the property of the minor with a bank designated by the tutelary judge, except when the latter shall otherwise provide for their custody.

The Custodian is not obliged to deposit the sums necessary for the urgent expenses of the maintenance and education of the minor and for

Art. 70
RD. 16 Mar. 42
No. 267 on
Penitentiary.

repealed in a minor in cases in which the latter's interests are opposed with that of the guardian. If the pro-custodian also finds himself in opposition of interests to the minor, the tutelary judge nominates a special curator. The pro-custodian shall bring about the appointment of a new custodian in cases in which the custodian has failed in or abandoned his office. Meanwhile he has the care of the minor's person, represents him and can perform all acts of conservation and all urgent acts of administration.

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The inventory shall be completed within 30 days, unless the tutelary judge uses his faculty of extending the term should circumstances warrant.

Making of the Inventory. The inventory is drawn up with the assistance of the clerk to the praetor or of a notary delegated by the tutelary judge, with the intervention of the pro-custodian ("protutor") and, if possible, the minor's wife, if he has attained the age of 16 years, in the presence of two witnesses chosen preferably from amongst the nearest relatives or friends of the family.

The judge may permit the inventory to be made without the intervention of the clerk or the notary, if the presumed value of the property does not exceed 15,000 lira.

The inventory is deposited at the praetorate. On the record of deposit the custodian and pro-custodian shall declare its sincerity under oath.

Deposit of Titles and Securities. The custodian shall deposit cash, bearer securities and all valuables found amongst the property of the minor with a bank designated by the tutelary judge, except when the latter shall otherwise provide for their custody.

The Custodian is not obliged to deposit the sums necessary for the urgent expenses of the maintenance and education of the minor and for the expenses of administration.

- 11 -

Ref Para. 5

Authorization of Tutelary Judge: Without the authorization of the tutelary judge, the custodian cannot :-

1. Acquire property, except furniture necessary for the use of the minor, for domestic economy and for the administration of the property;
2. realise capital, consent to the cancellation of mortgages or to the release of charges, incur obligations, except when such

Art. 36
RD. 16 Mar. 42
No. 267 of
Ministry.

Art 362 cc.

Art 163 cc.

Art 362 cc.

Art 374 cc.

^{wherein} the necessary expenses for the maintenance of the minor, and for the ordinary administration of his property;

- 3. Accept or refuse estates, accept donations or legacies subject to charges or conditions;
- 4. enter into contracts for the letting of immovables for more than 9 years duration or in any case running for more than 1 year after the minor reaches his majority
- 5. engage in proceedings, unless these concern the denunciation of new constructions (vide Art. 1171 cc) or damages suffered as the result thereof (vide art. 1172 c.c.), actions for possession or expulsion and actions for recovering the fruits or obtaining conservatory measures.

Ref - Para. 6.

Administration accounts: A custodian shall keep regular accounts of his administration and render account every year to the tutelary judge.

Art. 380 cc.

The judge may submit the annual account to the examination of the pro-custodian ("protutore"), and to any near relative or kinsman of the minor.

Ref - Para. 7.

Acts forbidden to the custodian and pro-custodian:

Art. 378 cc.

The custodian and pro-custodian ("pro-tutore"), may not, even at public auction, acquire either directly or by person interposed, the property or rights of the minor.

Nor may he become the tenant of the minor's property without the granting of authorization and caution money being fixed by the judge.

Any act performed in violation of these provisions may be annulled on application by the persons indicated in the preceding article (vide Art. 377 cc.) with exception of the custodian, pro-custodian who have performed them.

The custodian and pro-custodian may not moreover become assignees of any right or credit as against the minor.

Ref - Para. 8.

Responsibility of a custodian and pro custodian.

Art. 376 cc.

The custodian shall administer the property of the minor with the diligence of a good father of a family. He shall answer to the minor for every prejudice caused to him through violation of his (the guardian's) duties.

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Any act performed in violation of these provisions may be annulled on application by the persons indicated in the preceding article (vide Art. 377 cc.) with exception of the custodian, pro-custodian who have performed them.

The custodian and pro-custodian may not moreover become assignees of any right or credit as against the minor.

Ref - Para. 8.

Responsibility of a custodian and pro custodian.

The custodian shall administer the property of the minor with the diligence of a good father of a family. He shall answer to the minor for every prejudice caused to him through violation of his (the guardian's) duties.

The pro-custodian shall incur the same responsibilities in regard to that which concerns his own office.

Ref. - Para. 9.

Rendering of final account.

A custodian who ceases his functions must immediately consign the property and must before the expiration of 2 months present to the tutelary judge a final administration account. *The latter may grant a delay.*

Ref. - Para. 11.

Registration of Custodianship.

The opening and closing of the custodianship, the

Art. 380. cc.

Art. 378 cc.

Art. 382 cc.

Art. 385 cc.

Art. 389 cc.

appointment, expiration and the removal of the custodian or
co-custodian, the results of the inventories, of the accounts
rendered and all the provisions concerning the personal status and
property of the minor shall be recorded by the Clerk in the register
instituted for that purpose at the seat of every tutelary judge.

1.

Custodia dei beni degli stranieri.

In tutti i casi in cui il titolare di un diritto immobiliare o mobiliare o di azioni nominative di società, di nazionalità di uno degli Stati Alleati trovandosi assente (per causa di guerra) dal luogo in cui il diritto stesso deve essere esercitato, ne assume la rappresentanza fino al suo rientro in sede il custode designato all'uopo nominato dai Governi degli Stati Alleati.

2.

Funzione del custode dei beni.

Il custode dei beni rappresenta l'assente in tutti gli atti civili e ne amministra i beni, (Art. 357 Cod. Civ.).

Nel caso in cui l'interesse del l'assente è in opposizione con l'interesse del custode dei beni, il Governo a cui appartiene l'assente nomina un custode speciale (art. 360 Cod. Civ.).

3.

Qualità di pubblico ufficiale del custode dei beni.

Sia il custode dei beni che il custode speciale per quanto attiene all'esercizio delle loro funzioni sono pubblici ufficiali (art. 30 R.D. 16 marzo 1942, n. 267, sul fallimento).

Inventario:

Il custode dei beni nei dieci giorni successivi a quello nel quale ha avuto notizia dell'assenza del titolare di un diritto di cui all'art. 1 e della susseguente necessità dell'esercizio delle sue funzioni deve procedere all'inventario dei beni del l'assente e compierlo nel termine di trenta giorni (art. 362 Cod. Civ.).

Per la formazione e per il contenuto dell'inventario si applicano le disposizioni degli art. 363 e 369

Cod. Civ. escluso l'intervento del protutore e del mi-

2.

funzione del custode - Il custode dei beni rappresenta l'assente in tutti gli atti civili e ne amministra i beni, (Art. 357 Cod. Civ.).

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Sia il custode dei beni che il custode speciale per quanto attiene all'esercizio delle loro funzioni sono pubblici ufficiali (art. 30 R.D. 16 marzo 1942, n. 267, sul fallimento).

4.
Inventario:

Il custode dei beni nei dieci giorni successivi a quello nel quale ha avuto notizia dell'assenza del titolare di un diritto di cui all'art. 1 e della susseguente necessità dell'esercizio delle sue funzioni deve procedere all'inventario dei beni del l'assente e compierlo nel termine di trenta giorni (art. 362 Cod. Civ.).

Per la formazione e per il contenuto dell'inventario si applicano le disposizioni degli art. 363 e 369 Cod. Civ. escluso l'intervento del protutore e del minore è sostituito al giudice tutelare il pretore.

Nel caso che trovansi già nell'amministrazione e dei beni, il custode deve provvedere all'inventario nei 10 giorni dalla entrata in vigore del presente decreto.

5.

Esercizio delle funzioni del custode.

Il custode dei beni può compiere tutti gli atti necessari nell'interesse dell'assente che non eccedano la semplice amministrazione, nonché quelli contemplati nell'art. 374 del Cod. Civ..

Può fare altresì gli atti di disposizione di cui all'art. 375 del Cod. Civ. con autorizzazione del tribunale civile del luogo dove situati i beni dove deve esercitarsi il diritto.

Gli atti compiuti senza l'osservanza delle norme dettate nel presente decreto possono essere annullati su istanza del custode dei beni, dell'assente o dei suoi eredi e aventi causa, entro un anno dalla data del trattato di pace.

Per tutti gli atti inerenti alle sue funzioni il custode dei beni può convenire ed essere convenuto in giudizio innanzi la Magistratura italiana.

6.

Contabilità della AM - amministrazione.

Il custode dei beni deve tenere regolare contabilità della sua amministrazione e renderne conto ogni anno al Consolo della Nazione a cui appartiene l'assente (Art. 380 del Cod. Civ.).

7.

Atti vietati al custode - art. 378 cod. civ.

Valgono per il custode dei beni i divieti di cui allo art. 378 cod. civ.

8.

Responsabilità del custode dei beni.

Il custode dei beni deve amministrare il patrimonio dell'assente con la diligenza del buon padre di famiglia.

Egli risponde verso l'assente di ogni danno e nei casi di violazione il proprio dovere. (Art. 382

tribunale civile del luogo dove si trova il bene deve esercitarsi il diritto.

Gli atti compiuti senza l'osservanza delle norme dettate nel presente decreto possono essere annullati su istanza del custode dei beni, dell'assente o dei suoi eredi o aventi causa, entro un anno dalla data del trattato di pace.

Per tutti gli atti inerenti alle sue funzioni il custode dei beni può convenire ed essere convenuto in giudizio innanzi la Magistratura italiana.

6.

Contabilità della AM -
amministrazione.

Il custode dei beni deve tenere regolare contabilità della sua amministrazione e rendere conto ogni anno al Console della Nazione a cui appartiene l'assente (Art. 380 del Cod. Civ.).

7.

Atti visitati al custode - Valgono per il custode dei beni i divieti di cui alle art. 378 cod. civ.

8.

Responsabilità del custode - Il custode dei beni deve amministrare il patrimonio dell'assente con la diligenza del buon padre di famiglia.

Egli risponde verso l'assente di ogni danno a lui cagionato violando il proprio dovere. (Art. 382 Cod. Civ.)

9.

Cessazione della funzione - Il custode dei beni cessa dalle sue funzioni al rinvio dell'assente, salvo non venga anteriormente rimosso o sostituito dal Governo che l'ha nominato.

10
Conto finale.

-- Il custode che cessa dalle sue funzioni deve far subito la consegna dei beni e presentare entro due mesi il conto definitivo della sua amministrazione all'interessato e al custode subentrante. (Art. 385).

Le contestazioni sono decise dall'Autorità giudiziaria italiana secondo il rito ordinario.

11.

Registro della custodia -- Per ogni custodia deve essere iscritta a cura del cancelliere della Pretura su apposito registro un art. 10, in cui debbono essere segnati i dati contemplati nell'art. 389 Cod. Civ., in quanto compatibili col presente decreto.

12.

Disposizioni transitorie. -- Il custode dei beni all'atto della entrata in vigore del presente decreto subentra al sequestratario dei beni dei cittadini stranieri di cui al RR. DD.

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PROPOSALS FOR THE COMPLETION OF THE MEMORANDUM
ON SCOPE AND POWERS OF THE DIRECTOR OF PROPERTY CONTROL UNDER
ITALIAN LAW.

Paragraph 2 a:

to have the Italian Govt. abrogate all existing public and civil laws restricting such rights of ownership in time of war:

new letter d:

The nationals of the said United Nations are liberated from all direct or indirect taxes till the 1. January of the year following to the reinstatement in their property. The said property will be free till the 1. January of the fifth year following to the reinstatement of all taxes of war of each species.

new letter e:

The nationals of the said United Nations will be liberated for their property under Italian law and the rents and interests of them from all restrictions of the Italian Foreign Exchange Regulations and are entitled to the free transfer of principal and interest of the said property in their country till the 1. January of the tenth year following to the reinstatement. The Italian Govt. is obliged to give all permissions needed at that behalf.

new letter f:

The D.P.C. has the power to obtain any information by the former administrators of the said property, by all Italian authorities and banks and by every Italian subject being in the occupied territory. The D.P.C. or his deputy has the power to control the settlements of administration.

Page 2 Paragraph 2:

Treatment of Aliens
 = Trattamento dello Straniero

Art. 16

are contained in the Preliminary Dispositions = Disposizioni Preliminari.

Page 2 new Paragraph 3:

Art. 16 Preliminary Dispositions is also applicable to property of Allied Nationals, if the United Nations don't hold reciprocity. Art. 1705 Mandato senza rappresentanza will be not applicable for actions of the former administrator not approved by the D.P.C. or the real owner.

Page 2 new Paragraph 4:

The Italian Govt. transfers all rights of public or civil law as far as possible to the D.P.C. concerning the said property. The Italian Govt. will place at disposal of the D.P.C. all indexes and all declarations, which can serve for the execution of his functions. The Italian Govt. and all Italian authorities are obliged to assist to the D.P.C. in any way, placing at his disposal all functions of his administration as justice. All documents concerning the reinstatement in the said property will be free from all public taxes and stamps in Italy. The enemy property is to place at disposal of the D.P.C. or his deputy. Also at this function the Italian Govt. and all Italian authorities are obliged to assist to the D.P.C. in any way. Also all Italian banks

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are obliged to furnish to the D.P.C. all statements and declarations requested from him.
It is reserved to publish further orders concerning the administration and the liquidation of such property.

HEADQUARTERS
ARMED SERVICES COMMISSION
LEGAL SUB-COMMISSION
APO 394

34

RDH/vlg.
22 January 1946.

SUBJECT : Points for discussion with Italian Government.

TO : Director of Property Control.

1. Reference your letter of 19th January 1946, subject as above.
2. The question of applying existing Italian war legislation to the property of governments and nationals of the nations specified in paragraph 1 of your letter is primarily one of policy rather than of law and should be taken by you as such. If the policy is determined affirmatively, the legal sub-commission will discuss with the Ministry of Justice the necessary amendment of existing law.
3. The matters mentioned in the second paragraph of your letter are presently under consideration with the Ministry of Justice.

RICHARD H. WILSON,
Lt. Col., GSC,
Deputy Chief Legal Officer.

PROPERTY CONTROL
 ALLIED MILITARY GOVERNMENT
 PROPERTY CONTROL - POINTS TO

13 January 1944.

33

Subject: Points for discussion with Italian Government.

To : Director of Legal Sub-Commission.

1. Property of Axis Nationals.

The Italian Government should be requested at some stage to take action with regard to property of Axis Nationals. The simplest thing would be to ask them to apply their existing war legislation, which was applied to Allied Nationals, to Axis Nationals. With respect to Germany the matter is quite simple, but the course in respect to other Axis powers is not so clear. As far as I am aware the Italian Government is not at war with Japan, Hungary, Rumania, Bulgaria or Finland. The question therefore arises whether we should ask them to sequestrate the properties of the nationals of these countries. I do not know how much of such property exists in Italy, but the principle seems rather important.

2. PC's relation to Italian Government.

I think it is clear that under ACG Property Controller must have the right to bring action in Italian civil courts in the case of owners, and this would imply that owners could be sued by third parties for actions taken by him or under his directions. That does not appear to be very desirable, but I don't see how it can be avoided. It would be even more undesirable to ask the Italian Government to put Property Controller into a position in which he would be outside the law 'Quod non placet legis habet vigorem' would not be an acceptable maxim, though he will have to be given personal immunity from judicial process.

I should be obliged if you could let me have your views on these points- (a) as to policy (b) as to date when approach to the Italian Government would be desirable.

C. R. S. HARRIS,
 Lt Col,
 Director of Property Control.

4102 (?)
 (4)

HEADQUARTERS
 ALLIED MILITARY GOVERNMENT
 A.P.O. 512
 LEGAL SUB-COMMISSION

AMG/6013/GP

22 NOVEMBER 1943

SUBJECT: Allied Property

TO : Property Control Sub-Commission

1. Reference your 6013/GP dated 14 November 1943
 the answers to your questions are as follows:

(A) It will be necessary for the Italian Government to enact by decree a law entitling you to carry on your executive functions and this law will be the authority empowering you to act and it will plainly also bind the Allied Owner as a legislative act of the Sovereign State within which the property whether real or personal is situated.

(B) 1. Yes. Plainly in face of the act or decree the Allied Owner could not successfully sue in Italy and no authority is known to this Sub-Commission which would entitle an Allied Owner in England or U.S.A. to sue anyone there on their return for carrying out in a foreign country certain powers conferred by the laws of that country.

2. No. An act by conferring certain powers on an individual does not make that individual either the agent of the state or the owner.

2. In the above circumstances I have not thought it necessary to deal with your para 2 in detail but I would point out that your views expressed in 2 (c) are unsound to the point of heresy. There is no difference in occupied territory before or after the Armistice.

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GERALD UPJOHN
 Colonel
 Deputy Chief Legal Officer

