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

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BILLETING IN ITALIAN TERRITORY

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

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FILE CLOSED 8 December 1943

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No

8 December, 1943

Subject: Draft Circular on
Bulletins in Italian Territory

To: Administrative Director

The Legal Sub-Commission submits the following comments with respect to the draft a-7 HQ circular forwarded to this HQ by Bongadix, General Holmes with his letter of 28 November 1943:

1. It is suggested that the Circular should draw a distinction between occupied and unoccupied Italian Territory. It is at least debatable whether under the Armistice Terms the right to billet troops in unoccupied Territory has been reserved, and even if it has been reserved, the procedure for obtaining billets in unoccupied

should draw a distinction
occupied and unoccupied Italian
territory. It is at least debatable
whether under the Armistice terms
the right to billet troops in unoccupied
territory has been reserved, and even
if it has been reserved, the procedure
for obtaining billets in unoccupied
territory would be different. There
the Italian authorities would obtain
the billets for the troops and they should
not be done directly by the D.C. or
other Allied officers. In reaching
these conclusions we have considered
the following:

a. The provision mentioned in
General Holmes' letter regarding the
Italian Government to make available
such local resources or services as
the United Nations may require.

This is

contained in Article 19 of the Armistice Terms which seems clearly to apply only to occupied territory. Article 21 (B) relating to unoccupied territory has no such provision, although Article 21 (A) reserves to our forces a right of passage over unoccupied territory and provides that such forces will be afforded all the necessary facilities and assistance in performing their functions. The latter provision might be construed as an undertaking to provide ~~troops~~ billets for troops in transit, but.

Could ~~not~~ ~~either~~ ~~our~~ ~~construction~~ hardly be construed as authorizing our troops to obtain their own billets. This Sub-Commission has heretofore suggested that the ^{in unoccupied territory} power to make representations, which would include billets (FM 27-10, par. 335-6 and Amendment 12 to 420)-

letter, provision may be made to provide troops as an undertaking to transport, but billets for troops in transit, but.

could not be constructed as authorizing hardly be constructed as authorizing our troops to obtain them or would billets. This Sub-Commission has

heretofore suggested that the ^{in unoccupied territory} ~~in unoccupied territory~~

power to make requisitions, which would include billets (FM 27-10).

par. 335-6 and Amendment 12 to Manual of Military Law, par. 420) - should be obtained through a

supplemental agreement.

That further consideration should be given to this.

It is suggested that no statement in the Circular that no payment for billets will be made as the unit, but that payment as

to be made by the Italian authorities. In General Holmes' letter it is stated that this

provision was inserted, on

the basis that under the Amistice

Whenever any person has been so detained the Chief Legal Officer of the Allied Military Government or the senior Legal Officer of the Province shall be so informed, and he shall review the circumstances under which the detention was ordered. If the Legal Officer certifies that he agrees with the opinion of the detaining officer, the detention may continue for a period of not longer than three months, subject to renewal for further periods of three months upon like certificates. If the Legal Officer does not agree, then the question may be submitted to higher authority for decision. Any person so detained may be released at any time by the Military Authority who ordered the detention.

Section 2. Provisions of this article not to apply to civilian internees. Nothing in this article contained shall prevent the internment of public officials or other civilians as civilian internees pursuant to the provisions of international law.

ARTICLE VIII

Effective Date

This Proclamation will become operative in each province or part thereof within the occupied territory on the date of its first publication therein.

R. R. L. ALEXANDER

GENERAL

GENERAL OFFICER, COMBAT ZONE THE ALLIED FORCES AND
MILITARY GOVERNMENT

Dated:

1943

The Italian Government will be responsible to the bulletins. This view is not necessarily correct, for there is no provision in the Armistice by which the Italian Government undertakes to pay directly the expenses of occupation. ~~and under international law the~~ responsibility to the bulletins is on the occupying power. Certainly it would appear that if our forced requisition bulletins ~~are~~ they should attend to payment, and look to the Italian Government for reimbursement. If the Italian Government provides the bulletins under Article 19 in occupied territory or under Article 21(A) in unoccupied territory, or under any supplemental agreement, it would seem to be necessary to require the bulletins

requestion billets should attend to payment, and look to the Italian Government for reimbursement. If the Italian Government provides the billets under Article 19 in occupied territory or under Article 21(A) in unoccupied territory, or under any supplemental agreement, it would seem to be entirely proper to require the billets to look to them for payment. This may be primarily a matter of accounting, but in our view our forces should comply with their duty to pay for whatever they requisition, and should not require the person from whom property is requisitioned to seek payment from the Italian Government.

3. Of course the undertaking of the Italian Government in Articles 19 and 21(A) to supply our forces with services

Military Government of the United States, which is a military government, and the military government of any such state, shall be subject to the provisions of the present law.

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ARTICLE IV

Violations of the Italian Penal Code

Any person who violates any provisions of the Italian Penal Code or the ordinances of any command may, at the direction of the Military Governor or under his authority, be brought to trial before a Military Court, and on conviction by such court, may be punished as provided by such code or ordinances.

ARTICLE V

Collective Fines

Any mayor or other principal representative of any command may be charged and tried as representing the members thereof with any offense for which such members are alleged to be collectively responsible and in the event of his being convicted of such offense in his representative capacity, and collective responsibility being established, a collective fine may be imposed upon such command.

ARTICLE VI

Defenses under International Law

It shall be a defense to any charge before a Military Court that the alleged offense was an act of lawful belligerency or otherwise privileged under principles of international law.

ARTICLE VII

Arrest and Detention

Section 1. Arrest and search. Any authorized member of the Armed Forces may:

(a) Arrest or search any persons suspected of having committed or

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ARTICLE VII

Arrest and Detention

Section 1. Arrest and Search. Any authorized member of the Allied Forces may:

- (a) Arrest or search any persons suspected of having committed or being about to commit offenses under this or any other provisions taken or ordered;
- (b) Enter and search any place and seize and take away any property for the purpose of investigating any such offense or arresting the offender or preventing any such offense where there are grounds for believing that it is intended to be committed.

Persons arrested shall be brought to trial as soon as practicable before a Military Court convened in the locality unless detained under the provisions of the next section.

Section 2. Detention. Any person suspected of committing or intending to commit a war offense or to engage in any political or other activity in the interest of the enemy or its armed forces or hostile to the Allied Forces or the Allied Military Government, may be detained pending further investigation, if in the opinion of competent Military Authority it would be prejudicial to the safety of the Allied Forces to permit such person to remain at large.

and facilities does not necessarily imply an obligation to supply them at their expense. It is our view, however, that the provisions would be so construed, for even if it were not, we could call upon the Italian Government under Article 23 to supply the currency to make the relative payments.

4. It is assumed that the allied forces propose to pay for bullets, as distinguished from property requirements. Paragraphs 410-2 and 416-21 of Amendment 12 seems to contemplate that British forces shall not pay for bullets, but ~~not~~ paragraphs 335-340 of FM 27-10 provide for payment for all property, requisitioned, including bullets. See also FM 27-5, pages 47-8.

5. The Circular should use the

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for bullets, but ~~not~~ paragraphs
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for payment for all property requisitioned,
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pages 47-8.

5. The Circular should use the
term "bindao" and not "Podesta"
which was the Fascist equivalent.
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