

ACC

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9
CONSTITUTION & GOV'T OF ITALY
FEB. 1944 - NOV. 1945

Legal

I am directed by the VP to say that she will not read papers from any S/C in which action is required without the recommendation of the head of the S/C on the matter in question.

CAT
-3 NOV 1944

Col Humphreys base. Unit.

W. H. H. H. H.
-force.

I have come, I have seen, I have not
conspired but I am not surprised.

9-9-44

W. H. H. H. H.

311

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H. D.V.A. HOPKINSON Reg. CMG
FOIAD (H).

Yours

Herewith some observations of the monarchial Charter:
I did not consult any Italian specialist for obvious reasons.
No doubt both deo-christians and tolerant liberals will approve
of it.

Dear

19 November 1945

.APO 394

ALLIED COMMISSION

HEADQUARTERS

LEGAL SUB-COMMISSION

FROM : LT. COL. G.G. H. WILKINSON

4117

4117

8A

DRAFT CONSTITUTIONAL CHARTER

1. I have read carefully the draft constitution submitted to me for opinion. It contains some interesting innovations but also unexpected reminiscences of the immediate political past of the country and a number of deplorable lacunae. The general scheme is to concentrate in the person of the King powers and functions somewhat similar to those exercised by the President of the United States under the Constitution of 1787.

2. In order to render criticisms of the project as objective as possible, it is proposed to give a short account of the constitutional history of the Kingdom of Italy before discussing the document chapter by chapter.

A - History of the Constitution of Italy

3. The "Statute" of 1848, granted to his subjects by the absolute King of Sardinia, Carlo Alberto, was the result of the popular reaction throughout Europe against Metterich's policy of absolutism and its instrument the Holy Alliance created by the Congress of Vienna in 1815 confirmed and developed at Laybach, Troppau and Verona in subsequent years. To these later Congresses however, neither Great Britain or France took part.

The opposition to Metterich's system was constant and vigorous in Italy, where not only the King of Sardinia, but the Pope and the rulers of Tuscany and Two Sicilies were compelled to grant constitutions to their people at about the same time. That Carlo Alberto's Statute was perhaps more liberal than similar instruments produced in Italy was due to two facts: - the imminence of the Austrian War and the influence of Alexandre d'Argennes, Bishop of Vercelli and of Giacinto Borrelli, one of the Crown Ministers. The Statute was modelled on the French Constitution of 1830 and drafted in French. It was however published in Italian in Turin on 4 March 1848 and in Chambery in French on the 5th of the same month.

4. As the other regions of Italy became part of the realm of the House of Savoy, the Statute was extended to them, until finally after the surrender of Rome in 1870 it became the Constitution of the whole Kingdom.

5. The Statute has been considered by most Italian "constitutionalists" as what is known as an "open constitution" or "constitution ouverte" which could be amended by future parliamentary legislation by opposition to the type of constitution in force in U.S.A. or "constitution rigide".

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6. At its origin the "Statute" established without equivocation that if the legislative power was shared between the King and Parliament, the Executive power was vested in the King alone. By way of consequence the King was not only head of the State but also head of the Government.

7. The practical difficulties of this method of government were soon evident and various decrees on the functions of the ministers (D'Aleoglio 1850 to Zanadelli 1901) made it equally clear that if the executive power rests with the King, its exercise is delegated to King's ministers or cabinet.

8. The Statute remained materially unaltered until the advent of Fascism and the law of 1925. However the strength of the constitutional evolution in Italy before that date resulted in certain "de facto" modifications

being applied to the established regime. During the constitutional period extending from 1870 to 1949, it was accepted by all parties concerned that if technically the ministers were appointed by and responsible to the King only, in practice the duration of their ministerial life became dependent upon the confidence or mistrust of the Parliament alone.

9. The Charter law of 24 November 1925 achieved two purposes. It reverted to the old conception of the King being the Head of the Government through his minister the "Chef du Gouvernement" and assumed completely the responsibility of the Government before Parliament. Furthermore it made it possible for the Government to make legislation or Royal Decrees without the previous consent of the existing legislative bodies.

10. The next steps taken by the Fascists were the electoral reform, the creation of the "Grand Conseil" and finally the Labour Charter. The Charter thus accepted became what is known as the "Constitution of the Corporative State".

11. Since the fall of Mussolini and the abrogation of fascist legislation, the original Charter is technically the only constitutional document now in existence. It will be the function of the "Constituent" to prepare and submit to the approval of the Italian people a new constitution.

"2" - Evolution of the Draft of a new official constitution.

12. The current submitted to the sub-commission is divided into two parts -

- (a) A report or "relazione" to the King
- (b) The Charter itself.

13. The report stresses the four principal objects of the Charter, the establishment of a Supreme Court, the reform of the Senate, the King, the rights and duties of citizens.

14. The Charter is divided into ten chapters and 83 articles, (one is missing), (one less than the Charter).

7. - Substance and Structure.

15. Chapter I deals with State religion and the Sovereign. It is the first article of the Charter of the Statute of 1848.

12. The consent attributed to this sub-division is divided into two parts -

- (a) A report or 'relaciones' to the King;
- (b) The charter itself.

13. The report stresses the four principal objects of the charter, the establishment of a Supreme Court, the reform of the justice, the end of the rights and duties of citizens.

14. The charter is divided into two chapters and 33 articles, (one is missing), one less than the Statute.

1. - ~~Relaciones and Relaciones.~~

15. Chapter I deals with State religion and the Government. It is very similar in form to the corresponding chapter of the Statute of 1815.

If certain provisions are maintained, others are quite new. The advisability of these may be open to discussion.

ART. 1 - reaffirms the Roman Catholic religion as being the religion of the Nation. Other religions are guaranteed freedom and protection. The report points out that Catholics being the religion of the majority of Italians and enjoying special privileges under the Government, it is logical that such privileged position should be maintained by the State. It may be pointed out that what is true today may not be so tomorrow and it is possible to envisage a 'de facto' situation whereby Article 1 may become obsolete.

- ART. 2 - Brings the wills law and given access to the throne to male and female heirs "perpetual".
- ART. 3 - Brings from Article 3 of the Statute inasmuch as the Legislative power is vested in Parliament only, and not in King, Senate and Chamber collectively.
- ART. 4 - of the "Statute" is expressed but nowhere in the new charter is it specified in whom, person or body, the executive power is vested. The intention is no doubt that it should be vested in the King, but it does not say so.
- ART. 5 - sets out the procedure for declaring war and making peace. In view of the expected effect of the United Nations which will deal with this and not from an international point of view, is it not rather premature to establish rules which may be in contradiction with an instrument, to which, it is hoped, Italy will eventually become a party. The whole purpose of the article is to remove the sovereign of personal responsibility.
- ART. 7 - 10 - deal with internal procedure and does not differ substantially from the established practice in other constitutional monarchies.
- ART. 11 - 14 - deal with the succession to the throne and confirm the sovereignty of women to the Regency.
- ART. 15 - 16 - article the coronation of the King and Royal Family and the private property of the House of Savoy. The purpose of this King to anyone of the proceeds of his personal debts are strictly, if executed unconditionally, limited.
- ART. 17 - makes it an obligation for the King to graduate from a University and give a series of lectures every year at an University of his choosing. This practice, which may be admirable in looking, appears to be fraught with danger to a country where teachers run high and where individuals are used to indulge in bitter and personal criticism of their rulers. The King may be an outstanding sovereign and not a good lecturer. It appears, to say the least, useless to expose his person and his dignity to the ridicule of a foolish orator.
- ART. 18 - is not understood and has nothing to do with the constitution.
- ART. 19 - seems to be little or no reason for depriving the King of his right to wear his uniform when and wherever he thinks fit.
- ART. 20 - deals with the royal oath and is similar to Article 22 of the present Statute.

ART 15 - 16 - article the contents of the King and Queen's property of the King to be used for the purpose of the King's personal estate and the King's personal estate, if necessary, immediately, if needed.

ART 17 - makes it an obligation for the King to graduate from a university and give a series of lectures every year at an University of his choosing. This provision, which may be admirable in itself, appears to be fraught with danger in a country where bishops and high and noble individuals are used to indulge in bitter and personal criticism of their rulers. The King may be an outstanding sovereign and of a good character. It appears, in any case, that the King, under his personal and his dignity to the ridicule of a feeble parliament.

ART 18 - is not understood and has nothing to do with the Constitution.

ART 19 - states in Article of no reason for believing the King of his right to wear his uniform and to discover he thinks fit.

ART 20 - deals with the royal oath and is similar to Article 21 of the present Statute.

II. - Article and Article of the Statute.

16. The philosophy of law stresses that men living in society are born with duties and only acquire rights. Politically this is never true, at least as far as the electorate is concerned, so that it was perhaps wise to assert the rights of the citizen before asserting his duties.

17. This chapter is by far the most progressive. It is a really serious effort towards a democratic way of life. The new provisions which tend to lift the nation to the level of the Anglo-Saxon or Scandinavian

regimes are the following: -

- (a) Establishment of income tax and death duties as an obligation under the Constitution; (Arts 29 and 30 are however loosely drafted and may lead to misinterpretation).
- (b) Political and social equality for women;
- (c) Complete freedom of the Press;
- (d) Right to work and to holidays;
- (e) Compulsory education;
- (f) Old age pension and compulsory insurance.

18. Two articles however restrict individual freedom. Article 24 on military service and Article 32 restricting the right of asylum.

19. The fundamental provision of the Statute of '46 are otherwise confirmed.

III. - Supreme Constitutional Court.

20. This is a bold experiment. It is not disputed that such a body modelled on the American precedent will serve a useful purpose by ensuring the continuity of the executive and the supervision of the proposed legislation. On the other hand it may be claimed that the Court will become a mere instrument of the executive through the selection of its members.

The two observer members are rather unlikely selected. They are to be the President of the General Organisation of Labour and the President of the National Federation of Employers. A rather unfortunate choice. Both positions were created under the ultra-fascist Labour Charter. The Charter is suspended at present by Allied action and in all probability will be abrogated and in due course replaced by some other instrument. Consequently the two bodies created under its provisions may very well cease to exist altogether.

I do not think that this clause will be very popular in democratic countries.

There may also be some local opposition to the presence on the Council of the States of a body which has been a source of general criticism.

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Declassified E.O. 12356 Section 3.3/NND No. 785016

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I do not think that this clause will be very popular in democratic countries.

There may also be some local opposition to the presence on the Court of the Bishop of Rome who owes two temporal allegiances.

The powers and functions of the Supreme Court are vague. In they stand in the Charter the Court appears to have power not only to interfere with the legislative bodies, but even to control the appointments of Ministers. Is this desirable?

IV. - The Senate.

21. The reform of the Senate is obviously necessary, but is it not politically dangerous at the present stage to try and combine the set up of the old Senate with that of the fascist "Camera delle Corporazioni"?

Is the regulation of labor and of employees were to remain, the regulation in the other branches of qualified representatives of every branch of the national life would constitute an ingenious and practical solution to the always delicate question of popular representation.

V. - Constitutional Position.

22. There is hardly any difference between the text of the Charter and that of the Statute of 1848.

VI. - Regulation according to the Powers of Parliament.

23. These two regulations are wider and clearer than those of 1848. The oath is now to the constitution and not to the King. Some of the Articles however, deal with subjects of minor importance and have no place in such an instrument. What does it matter, for instance, to the future of Italy whether a petition can be presented personally or not to the Chamber? This is a matter of internal regulation and should be dealt with through ordinary legislation.

VII. - Of the Ministry.

24. The drafting of this Chapter is unsatisfactory. Article 69 says that the King appoints the Ministers on the recommendation of the Presidents of the two Chambers "according to the political situation." What does it imply? The resignation of the Ministers is irrevocable. Under Article 70 the King must consult the Chamber Court before appointing Ministers. How far in the exercise of the Chamber Court go? Can they bring about Ministers against the opinion of the Chamber Court or would such appointment be invalid?

Article 71 says "Ministers are responsible". To whom and how does that happen when the Ministry is defeated in either House? What is a vote considered to be a vote of confidence? When does it imply the resignation of the Ministry in Parliament? The Chamber is silent on these essential points.

VIII - Internal Rules.

25. There is no doubt that the system of the Judiciary must be

the fears of Italy whether a petition can be presented peacefully or not to the Chamber. This is a matter of internal regulation and should be dealt with through ordinary legislation.

VII. - Of the Ministry.

24. The drafting of this chapter is unnecessary. Article 69 sets out that the King appoints the Ministers on the recommendation of the President of the two Chambers "according to the political situation." What does it imply? The resignation of the Council is recommended. Under Article 70 the King must consult the Senate Court before appointing Ministers. Now the King must consult the Senate Court first? Can the King appoint Ministers against the opinion of the Senate Court or would such appointment be invalid? Article 71 says "Ministers are responsible". To whom and how does that happen when the Ministry is dissolved in either House? When is a vote considered to be a vote of confidence? When does it imply the resignation of the Ministry in fact? The Chamber is silent on these essential points.

VIII. - Internal Order.

25. There is no doubt that the nucleus of the judiciary must be established by special statute. However, Articles 72, 73, 74 (75 in original) and 77 give initial guarantees to the administration of justice. Article 74 on the nomination of Special Courts is out of place in a constitution. Such provision must have immediate effect and as such as this provision has been entered the article becomes obsolete and must be further revised.

IX and X. - System of Chambers and General Legislation.

26. No constitutional or political questions are involved.

CONCLUSION

27. To sum up there is no doubt that the draft Charter constitutes a gallant attempt towards a more stable form of democracy in Italy by endeavouring to safeguard the continuity of the executive though restricting the scope of its power.

Unfortunately, as already stated, certain provisions which find their origin in one of the most notorious fascist institutions will be severely criticized and may lead to the downfall of the whole scheme. Even if it is considered that the Labour Charter served and will serve a useful purpose, it is certainly politically unwise, at the present stage, to incorporate in such an instrument as the Constitution one of the most discussed social innovation of fascism - the Confederation of Labour and Employers. Furthermore, some of the provisions are not important enough to be included in the Charter, others are certainly unnecessary and even dangerous. On the other hand important questions such as the Ministerial responsibility before Parliament are not even mentioned.

On the whole many objections to the Charter lie more in the form than in the substance. If the dominant and the principles it is intended to establish were carefully revised, more convincingly and sometimes more accurately drafted, the Charter might very well meet what appears to be the innermost but often unconscious desire of a large proportion of the Italian people.

C. G. HANNAH,
Lt. Col.,
Deputy Chief Legal Advisor.

November 1945.

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November 1945.

G.G. HENNINGSEN,
 Lt. Col.,
 Deputy Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

17 November 1944.

SUBJECT : Supervision of the Italian Government.

TO : V.P., C.A.Sec.

The comments of the Legal Sub-Commission on paragraph 2 (b) and (c) of your memo 9/1B/CA of 15 Nov 44 are as follows :-

(a) Withdrawal of Personnel.

At present there are no legal officers south of SALERNO except in the BARI-TARANTO area. These officers must be retained. So long as A.M.G. courts are in operation there can be no argument; even when these courts are discontinued an adequate number of AC legal officers must be retained to ensure that the Italian Courts protect allied interests. As you are aware they have signally failed to do this in the past.

(b) Supervision of Appointments in Italian Government Territory.

The work of the Italian Courts in A.M.G. territory is of direct importance to Military Government. It appears, therefore, necessary to supervise appointments in Italian Government Territory of any officials who are likely to control or have direct contact with Courts in Military Government Territory.

The appointments which come within these categories appear to be :-

- (1) Appointments to Ministry of Justice.
- (2) Appointments to the Court of Cassation.
- (3) Appointments to any Court of Appeal so long as any part of the Territory in the jurisdiction of the court is subject to Military Government.
- (4) Appointments (e.g. Director of Personnel) which involve contact with Italian officials in Military Government Territory.

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

HEADQUARTERS ALLIED COMMISSION
Civil Affairs Section
APO 394

Ref:- 2/18/Gs
SUBJECT:- Supervision of Italian Government
in Italian Government territory.
TO:- Education S/C.
E.P.A.A. S/C.
Legal S/C. ✓
Local Government S/C.
Public Health S/C.
Public Safety S/C.

LEG. SUBCOMMISSION	5A
CO	
CCO	
Chief Counsel	
CI	
Italian Section	
15 Nov '44	
16 NOV 1944	

1. The Chief Commissioner has had a conference with the Prime Minister and Under-Secretary of State for Foreign Affairs with a view to exploring the question as to what functions of Allied Commission might be discontinued in Italian Government territory, and also with regard to withdrawal of Allied Commission personnel.
2. The following tentative proposals were made and I should be glad if you will let me have your comments on them by midday Saturday, November 18.
 - a) With regard to suspension of functions, it was agreed that the only functions which might be terminated were those of Education, and the Prime Minister suggested that we should discontinue supervision of Education in Italian Government territory forthwith. Education to comment please; I think Southern Region's report for October shows a definite need for continued supervision.
 - b) Withdrawal of personnel. The Prime Minister suggested that all personnel south of Salerno might be withdrawn as from January 1, 1945. All Sub-Commissions to comment please. Note: This does not apply to Sicily.
 - c) Supervision of appointments in Italian Government territory. The Prime Minister suggested that we should continue to approve the following appointments only (so far as affects Civil Affairs Section):- High Commissioners for Sicily and Sardinia, Ministers and Under-Secretaries of State, High Commissioners for Migration, Deputy High Commissioners of Migration, Director of Public Security, Chief of the Carabinieri. All Sub-Commissions to comment please.

G. R. Lynton
G.I. DIVISION. Brig.
VF SA SEC.
D.C.G.S.

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(4A)

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

ACC/4117/L.

/rlp.
31 October 1944.

SUBJECT : Jurisdiction of the High Court of Justice.

TO : VP. CA Sec.

1. Lt. Col. Hennesford, Officer i/c Italian Courts has conclusively proved to his entire satisfaction that the High Court of Justice is unconstitutional and that all sentences passed by it are illegal.

2. He is anxious that you should peruse the attached memorial and take such action thereon as you may consider necessary.

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

Incl.

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A.C.L.A.

IS THE HIGH COURT OF JUSTICE CONSTITUTIONAL ?

(4B)

The recent activities of this Court, set out hereunder, have given rise to a certain amount of concern which has been increased lately by the sentiment that not only the Court was exceeding its competence, but that its legal right to operate was open to question :-

On July 27, the present Government of Italy promulgated the decree of sanctions against Fascism.

The decree itself was one of the instruments through which it was hoped to achieve the punishment of fascist criminals and the elimination of fascist officials from the administration. It also provided for the sequestration and disposal of ill acquired riches by profiteers of the past regime.

Article 2 of the Decree, establishing the death penalty for high ranking fascist criminals also created a new criminal jurisdiction, the High Court of Justice in terms very similar to the law by which Mussolini brought into existence the extra constitutional " Tribunale Speciale per la Difesa dello Stato" which was with Hitler's People Courts the most famous star chamber of Europe. *(see Relazione)*

The question is :

Has the present government the right and power to constitute legally a High Court or to determine its jurisdiction.

Generally a body of persons call themselves a government when the functions and powers they exercise are based on the existing Constitution of the Country.

What are the Constitutional text from which the actual Cabinet derives " the exercise of all State powers (D.L.L. 20 July 44 No. 160 and BONOMI's proclamation of even date).

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What are the Constitutional text from which the actual Cabinet derives " the exercise of all State powers (D.L.L. 20 July 44 No. 160 and BONOMI's proclamation of even date).

Neither the pre fascist of fascist constitutions appear to contain these essential provisions. The first sets out that a government derives its authority from the confidence of the Parliament. As for the second it is certainly understood by all that with the fall of fascism all fascist institutions collapsed also and certainly the unwelcomed and self determined " Capo del Governo" on which was based the whole of the fascist constitutional system

(law of 24 Dec 1925 No. 2263). As for establishing a new constitution, this could not be done "de se", but only through an elected constitutive body, as apparently even the members of the actual government did comprehend (D.L.L. of 25 June 44 No. 151).

Furthermore the powers of the government cannot derive from the fact that they have been selected by the King's representative, "the Luogotenente", appointed by dynastic privilege and not through constitutional channels (see Legal Sub-Commission's memorandum on Luogotenenza of 15 Jan 44) because even if accepted the Luogotenenza at his best, is only a component of the constitutional machine.

Therefore, it would appear logical to consider ~~such~~ government when exercising not only executive powers but legislative activity, as being more totalitarian than the defunct fascist regime, which at any rate was based upon the general principles of the then existing constitution, (vote of confidence of the Chamber in 1922, oath to the King etc).

The Italian people and certainly the Allied authorities consider the present governing body, as a "de facto" government, which has become "de jure" only so far as it has been recognized by the other Nations as having at least some constitutional background (successor of the first Badoglio Government, the Luogotenente emanation of the King) ~~etc~~

As far as the exercise of powers is concerned this must be limited by :

- a) Existing National and International Law
- b) The armistice terms.

That is to say that at least part of the powers claimed by the government are derived from an instrument to which the Allies were a party and their exercise is only made possible by the fact of the Allied occupation.

It may be argued that

the government is not a national or international law nor the

King etc).

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It may be argued that

~~The~~ ^{therefore} neither national or international law nor the will of the Allies empowers the present Italian Government to take steps to modify or remodel the fundamental structure of the State as it existed pre fascism. (Fascism being rightly considered as a period of national and international illegality)

The functions of the government therefore should be restricted to :-

- a) implementation of Armistice terms.
- b) administration of the country
- c) protection of fundamental institutions of the Kingdom including the monarchy itself (until such time as the Italian people can decide for themselves) and finally.
- d) the elimination of Fascism through legal means (Armistice terms and declared Italian policy).

If this conclusion is agreed to, it is indisputable that legislation by Decree establishing the High Court of Justice handing over uncultivated lands to the tenants, or regulating the rents in kind etc..... is unconstitutional and as illegal as any similar decree of the so called fascist republican government.

Furthermore whatever the status of the High Court of Justice may be, the constitution of its college and its recent activities are to say the least disturbing.

As first President of the High Court of Justice the government appointed on August 2nd, S.E. Ettore Casati, President of the Supreme Court of Cassation, whose position, culture and reputation appeared to make him an obvious selection.

However upon the pretext that on 21 Oct 41 his inaugural speech at the Supreme Court he had said "I hope for a new ideal of justice in the new european order, now that our soldiers shed their blood and that our people remain firm strengthened by their sacrifices and their certitude", he was promptly forced to resign and replaced by the obscure Consigliere di Cassazione, Lorenzo MARONI, whose only title to fame was to have been displaced from the Court of Ancona where he had created a scandal by openly living with his cook as man and wife. (fascicolo personale Lorenzo Maroni at the Ministry of Justice).

Soon after his nomination the newly promoted counsellor Maroni had declared that if his new functions did not bring him a Procura Generale, he was wasting his time (Reported by S.E. Bassano, Undersecretary for Justice).

The reason why, the first case, that of the famous criminal Caruso was tried by the High Court, when his case fell obviously within the competence of the Court of Assizes may only be explained by the necessity to give to this hybrid jurisdiction some much needed glamour.

Caruso was sentenced long before entering the Court,

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Caruso was sentenced long before entering the Court, (see Press) it was an easy matter and the fact that the principal witness of the prosecution was lynched by an angry crowd did not prevent Caruso from being shot after a trial which beat all Italian speed record for that sort of affair.

It did not appear from the trial that he had done anything which he could have prevented and Allied eye witnesses who followed the case certified that the ridiculous weakness of the prosecution and the extreme ability of the defence would have strongly influenced any Court in any other Country. Nevertheless he got the maximum penalty under the law.

The President, during the trial, made no bones about it and fully justified the confidence placed in him by the authorities.

To a witness for the defence who stated that "Azzolini had done everything in his power for his Country" President Maroni answered "Yes everything except the gold" (Read in the trial report by Sgt. Stein, Legal Sub-Commission - Press).

During the proceedings he never missed a chance of showing that witnesses and counsel for the defence were squandering his and their time.

Now the High Court is undertaking the "epuration" of the Senate and the two first names mentioned are Rainieri born in 1858 and Volpi, senator before fascism.

This act is definitely extra constitutional (Art. 37 Statuto) and no life senators can be dismissed or tried, except by the Senate itself, sitting as a High Court.

It is respectfully requested that the points above set out be considered and appropriate action taken, as it is felt that the pursuance of the activities of the High Court would sooner or later considerably damage the prestige and moral standing of the Allies in Italy.

G. G. H.

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This act is definitely extra constitutional (Art. 37 Statuto) and no life senators can be dismissed or tried, except by the Senate itself, sitting as a High Court.

It is respectfully requested that the points above set out be considered and appropriate action taken, as it is felt that the pursuance of the activities of the High Court would sooner or later considerably damage the prestige and moral standing of the Allies in Italy.

G. G. H.

18

FATD M146

(30)

TO: AFHQ
rptd HQ AAI

13th April 1944

FROM: FATDIA for MACFARLANE

V.16

Gen. MacFarlane

Following is text of announcement referred to in my FATDIA M.145.

"The Italian people know that I have always been with them at their side in difficult times and in happy ones. They know that 8 months ago I put an end to the Fascist regime and brought Italy, notwithstanding every danger and risk, to the side of the United Nations, in the struggle for liberation against nazism.

The Italian Navy, the Air Force and the Army, obedient to my call during the past 8 months have been fighting undauntedly against the enemy, shoulder to shoulder with the Allied Forces. Italian contribution to victory, is, and shall be ever more great. The day shall come when, our deep wounds healed, we shall take once more our place as a free people among free nations.

Putting into effect that what I have suggested to the Allied authorities and to my Government, I have decided to withdraw from public affairs by appointing my son, The Prince of Piedmont, Lt.Gen. of the Realm.

This appointment will become effective by the formal transfer of power on the day on which Allied Troops enter Rome.

This decision, which I firmly believe, furthers national unity, is final and irrevocable."

Loyal Informant

SECRET

PAGE 746

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(2A)

FARGO
Confidential

URGENT

5 FEB 44

10050 MACFARLANE

FREEDOM H. AGENT (INFO)

PARA ONE PD MESSAGE FROM FARGO FROM MACFARLANE PERSONAL PAREN TO
 AFRI FOR AGO FOR CINC CMA MACMILLAN AND CIVIL AFFAIRS RPTD H. AGENT FOR GENERAL ALEXANDER
 PD CITE FARGO SEVEN FOUR SIX PD THE EXECUTIVE JUNT ^{ONE} OF THE SIX PARTIES REPRESENTED
 AT THE RECENT BARI CONFERENCE CAME TO SEE ME THIS MORNING PD THEY CONFIRMED THE BELIEF TO
 COOPERATING TO ME THE IMMEDIATE TASKS WHICH HAD BEEN ENTRUSTED TO THEM BY THE PARTIES
 WHICH THEY REPRESENTED PD THERE WERE AS FOLLOWS PD (ONE) PD TO SECURE THE ABDICATION OF
 THE KING PD (TWO) PD TO PREPARE THE FORMATION OF A GOVERNMENT WITH FULL POWERS INCLUDING
 SOME OF THOSE EXERCISED BY THE HEAD OF THE STATE PD SUCH A GOVERNMENT WOULD CONTINUE IN
 OFFICE UNTIL SUCH TIME AS PROPER ELECTIONS SHOULD BE POSSIBLE AFTER THE LIBERATION ^{OF}
 ALL ITALY PD ^{PP} TWO PD SEVERAL SPEAKERS STRESSED THE FACT THAT THEY REPRESENTED A
 LARGE MAJORITY OF THE POPULATION OF LIBERATED ITALY PD ^{THAT} THEY REPRESENTED THOSE
 ELEMENTS OF THE ITALIAN PEOPLE WHO HAD ALWAYS BEEN ANTI BASH FASCIST PD THAT IT WAS
 SELF BASH EVIDENT THAT THE KING WOULD NEVER BE ABLE TO FORM A BROAD BASH BASED
 GOVERNMENT AND THAT HIS GOVERNMENT WAS AND INEVITABLY WOULD REMAIN WEAK AND WITHOUT
 DEDICATION PD THAT AN UNFORTUNATE SITUATION WAS NOW BEING CREATED IN ITALY BY WHAT

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for Chief Civil Affairs Officer,

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CONTINUEDSECRET

FMCG 746

AMOUNTED TO A COMPLETE POLITICAL DEADLOCK PD THEY EMPHASIZED THE NECESSITY FOR DEALING WITH THE SITUATION WITH URGENCY AS THE SPEEDY SUBSTITUTION FOR THE KING'S GOVERNMENT OF GOVERNMENT BY THE PARTIES WHICH THEY REPRESENTED WOULD ENABLE ITALY TO FULFILL ITS WEIGHT IN THE COMMON FIGHT AGAINST THE GERMANS MUCH MORE EFFECTIVELY THAN AT PRESENT PD PARA (THREE) PD I MADE NO COMMENT ON THEIR STATEMENT BEYOND SAYING THAT THE ALLIED GOVERNMENTS WERE BEING KEPT CLOSELY INFORMED OF THE POLITICAL SITUATION IN ITALY PD I UNDERTOOK TO FORWARD TO THE ALLIED GOVERNMENTS THE PROGRAMME OF WHICH THEY HAD JUST INFORMED ME AND TOGETHER WITH THEIR REPRESENTATIONS REGARDING THE URGENCY OF DEALING WITH THE SITUATION PD I MADE IT QUITE CLEAR THAT THE TRANQUILITY OF THE COUNTRY AND ITS ADMINISTRATION MUST BE PRESERVED PD PARA (FOUR) PD IT WOULD APPEAR THAT THE EXECUTIVE OF THE OPPOSITION PARTIES ARE CONSIDERING TAKING ACTIVE STEPS TO ENDEAVOR TO IMPLEMENT THEIR PROGRAMME PD IT SEEMS STRONGLY CLEAR THAT THEY ARE UNCERTAIN AS TO THE TACTICS THEY SHOULD ADOPT PD THEY WOULD APPEAR ALSO TO BE ANXIOUS TO OBTAIN SOME IDEA OF THE VIEWS OF THE ALLIED GOVERNMENTS ON THE POLITICAL SITUATION IN GENERAL AND ON THE TACTICS THEY MOST SAFELY ADOPT PD THAT THE SITUATION REGARDING THE VIEWS OF THE ALLIED GOVERNMENTS IN THESE RESPECTS REQUIRES CLARIFYING WITH SOME DEGREE OF URGENCY IS BECOMING DAILY MORE APPARENT

INTERNAL DISTRIBUTION:
 Pol. Section
 Legal Sub Comm.
 Brig. Luch

DOWN GRADED
 UNCLASSIFIED

(2)

L.F. NICKEL,
 Lt. Col., ASD,
 Adjutant General.

Col. Lt.
 Officer.

for Confidential

13

SECRET

(1A)

Memorandum on the Abdication of the King and the Italian
Constitution of the "Provisional"

I

Object of this Memorandum

The Allied Governments having concluded an armistice with the Government of the King of Italy, Victor Emanuele III, have been aware of a growing opposition to the Sovereign and his family from a large section of the Italian people.

A.P.M.C. desires to be informed of the legal position if the King desires to abdicate or can be persuaded to do so by one or more of the political parties and in that event to know whether constitutionally it is possible to attain any of the following results.

1. Can the King abdicate in favour of his grandson, thus ignoring the rights of the heir apparent, the Prince of Piedmont.
2. Is there a constitutional machinery by which a son member of the Royal House can be nominated Regent to a minor King, assuming that the King and the Prince of Piedmont can be persuaded to abdicate.
3. Can a Council of Regency be appointed and by whom.

These matters are governed by the Constitution of 1848 (a copy of which is attached) and though a strong party might be willing by a coup d'etat to disregard its provisions, to compel the King to abdicate and to set up some Council of Regency without reference to any constitutional authority, in this Memorandum it will be assumed that no party would wish to act in an unconstitutional manner or if they did so Allied policy would preclude them from taking any such steps.

II

The "Constitution of 1848" (2 March 1848)

The Statute of the Kingdom of Sardinia (Savoy, Piedmont and Savoyia) granted freely to his people, by an absolute monarch, Carlo Alberto, became the Constitution of the Kingdom of Italy when his successor, Victor Emanuele II, finally unified the country after the surrender of Rome in 1870.

Modelled on the French Constitution of 1830, originally written in French, its main dynastical object was to ensure the continuance of the House of Savoy

is attached) and through a strong party machine to set up some disregard its provisions, to compel the King to abdicate and to set up some Council of Regency without reference to any constitutional authority, in this emergency it will be assumed that no party would wish to act in an unconstitutional manner or if they did so Allied policy would preclude them from taking any such steps.

II

The "Constitution of 1848" (2 March 1848)

The Statute of the Kingdom of Sardinia (Avey, Florent and Sardinia) granted freely to his people, by an absolute monarch, Carlo Alberto, because the Constitution of the Kingdom of Italy when his successor, Victor Emmanuel II, finally unified the country after the surrender of Rome in 1870.

Modelled on the French Constitution of 1830, originally written in French, its main dynastical object was to ensure the continuance of the House of Savoy on a throne which its members had occupied as Counts, Dukes and Kings since the XIII century (Lox Salica). In the other hand the "Statuto" was not "une Constitution rigide" (as in U.S.A.) which could not be modified by subsequent Statute; it was considered to be a constitution of the type called "ouverte" and its provisions were from time to time amended by Parliamentary legislation. The fascist government took advantage of this conception when they introduced by Acts of Parliament the Grand Council of Fascism, the Corporations, etc. in the constitutional life of the country. Writers on Constitutional Law, both fascist and anti-fascist, are agreed, however, that though the provisions of the Statuto can be amended, such amendment can only be effected by an agreement between all constitutional bodies - King, Council of Ministers and Parliament, and not by one or even two of them, especially under the present war conditions. (See Grossa Diritto Costituzionale pages 235 & 246; Chiodetti Diritto Costituzionale pages 110 & 159; Orlando Principi di Diritto Costituzionale).

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III

The Regency

As it is plain that a Parliament cannot be convened to amend the Statute until the Germans have been expelled from Italy, it is necessary to consider whether its provisions can be interpreted wisely enough to allow the King to

abdicate in favour of his grandson and to justify the nomination of a Regent or Council of Regency outside the House of Savoy.

(a) Abdication

The King can abdicate although the Statute does not expressly deal with this and his abdication has not to be accepted by the Cabinet or Parliament to become effective; but he must abdicate unconditionally and definitely; thus the heir apparent succeeds to the crown automatically. There are a number of cases of abdication by members of this house, the best known and more recent example being the abdication of Carlo Alberto (succeeded by Vittorio Emanuele II, the founder of Italy) after the defeat of Novara in 1849.

(b) Regent

The problem of the Regent is very carefully and completely gone into in the Statute. A Regent can only be nominated if the King is a minor under 18 years of age or if he is in the state of being physically unfit to reign (arts 12 & 16). The order in which the Regency is established is as follows :-

The nearest male relative (art 13) if over the age of 21.

another male relative if the nearest is under the age of 21 (art 13)

The queen mother (art 14) in the absence of male relatives.

The heir presumptive in cases of physical disability of the King if he has reached the age of 18 (art 16).

In no case can the ^{Regent} be selected outside the Royal House. A Council of Regency is no where mentioned and there are no precedents to justify the view that a regent can be appointed otherwise than in accordance with the above mentioned provisions or that there is any scope for a Council of Regency. It appears, therefore, that the answers to the three questions set out in para 1 of this Memorandum are each in the negative and in these circumstances your attention is drawn to a possible solution of the problem - namely the Laoptentanza.

IV

The Laoptentanza

The Laoptentanza is an old dynastic custom. The "Statute" makes no reference to it, but many heads of the House of Savoy have appointed "Lieutenants or Laoptentanza" "to exercise the same powers as the Count himself, were he present and in full possession of his domains".

Since the "Statute" Laoptentanza have been appointed in 1849, 1905-1915-60-66 and finally in 1915. Though there is no constitutional foundation to this institution, it has been accepted without argument as one of the privileges

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The heir presumptive in cases of physical disability of the King, he has reached the age of 18 (Art 16).

In no case can the Regent be selected outside the Royal House. A Council of Regency is no where mentioned and there are no precedents to justify the view that a regent can be appointed otherwise than in accordance with the above mentioned provisions or that there is any scope for a Council of Regency. It appears, therefore, that the answers to the three questions set out in para 1 of this Memorandum are each in the negative and in these circumstances your attention is drawn to a possible solution of the problem - namely the Luogotenente.

IV

The Luogotenente

The Luogotenente is an old dynastic office. The "Statute" makes no reference to it, but early heads of the House of Savoy have appointed "Locatentens or Luogotenente" "to exercise the same powers as the Count himself, were he present and in full possession of his domains".

Since the "Statute" Luogotenente have been appointed in 1848-50-55-60-66 and finally in 1915. Though there is no constitutional foundation to this institution, it has been accepted without argument as one of the privileges of the reigning sovereign.

The King appoints a Luogotenente when he takes command of the armies in the field or when he has to absent himself from the country for an unexpired period of time.

The Luogotenente is commonly chosen among the members of the Royal Family, but there exist precedents and it is not questioned, that an outsider can be selected.

The powers of the Luogotenente are those contained in the Royal Decree nominating him. There is no limitation.

The Royal Decree is generally countersigned by the Prime Minister (Belindere in 1915).

In short, there is no reason to doubt that the King could vest into the Luogotenente all or part of the powers which he holds under the Constitution, subsequent Statutes and customs.

The heir presumptive in cases of physical disability of the King if he has reached the age of 13 (Art 16).

In no case can the Regent be selected outside the Royal House. Council of Regency is no where mentioned and there are no precedents to justify the view that a regent can be appointed otherwise than in accordance with the above mentioned provisions or that there is any scope for a Council of Regency. It appears, therefore, that the answers to the three questions set out in para 1 of this Memorandum are each in the negative and in these circumstances your attention is drawn to a possible solution of the problem - namely the Luogotenente.

IV

The Luogotenente

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Since the "Statuto" Luogotenenti have been appointed in 1849-50-55-60-66 and finally in 1945. Though there is no constitutional provision to this institution, it has been accepted without argument as one of the privileges of the reigning sovereign.

The King appoints a Luogotenente when he takes command of the armies in the field or when he has to absent himself from the country for an undetermined period of time.

The Luogotenente is customarily chosen among the members of the Royal Family, but there exist precedents and it is not questioned, that an outsider can be selected.

The powers of the Luogotenente are those contained in the Royal Decree appointing him. There is no limitation.

The Royal Decree is generally countersigned by the Prime Minister (see Decree in 1945).

In short, there is no reason to doubt that the King could vest into the Luogotenente all or part of the powers which he holds under the Constitution, subsequent Statutes and custom.

Conclusions

To secure the appointment of a Luogotenente not a member of the Royal Family, two conditions are essential.

- (a) The absence of the King from his Kingdom for an unlimited period of time.
- (b) The Royal Decree signed by him prior to his departure.

In both cases the King's agreement cannot be dispensed with.

Without prejudging what the powers of the Luogotenente would be, in the event of his nomination taking place, the provisions of the Royal Decree should limit their duration until the time when the Italian territory is rid of the enemy and the Italian people in a position to express themselves freely as to the form of government they intend to have.

Furthermore the King himself would have to agree to abide by the rule of the people, a declaration which, in fact, he has already made.

Finally if the powers of the Luogotenente were limited in the spheres to administrative, judicial and nonpolitical activities, his appointment might well be a way out of the present impasse, as no other solution appears to be practicable without violating both the Constitution and the Fundamental Statutes of the Kingdom.

10/1/1944

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well as a way out of the present impasse, as no other means are available without violating both the Constitution and the fundamental statutes of the Kingdom.

10/1/44

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FUNDAMENTAL STATUTE OF THE KINGDOM OF ITALY

Promulgated in Lombardy on Dec. 7, 1852

Carlo Alberto

by Grace of God

King of Sardinia, Cyprus and of Jerusalem, etc.

With Royal loyalty and paternal love we wish to put into effect that which we have announced to our beloved subjects in our Proclamation of the 8th day of the last February, whereby we intended to show - amidst the extraordinary events in which our country was involved at that time - how our faith in our subjects had grown with the gravity of circumstances, and listening solely to the advice flowing from the impulses of our hearts, how firm was our intention to adapt the destiny of our subjects to the spirit of the times, and to the interests and dignity of the Nation.

Considering the broad and strong representative institutions contained in the present fundamental Statute to be the safest means for strengthening the ties of indissoluble affection which bind the nation to our Italic Crown, that nation which offered so much evidence of faith, obedience and love, we have resolved to sanction and promulgate the Statute, in the belief that God will bless our genuine intentions and that this free, strong and happy nation will prove itself ^{to} worthy of an increasing degree of its ancient fame - and that it will be able to merit a glorious future.

For that reason - and relying on our firm conviction and Royal Authority - having heard the opinion of our Council, we have decreed and we do hereby decree the following to be ^{the} perpetual and irrevocable Statute and Law of the Monarchy:

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Promulgated in Lombardy on Dec. 7, 1852

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For that reason - and relying on our firm conviction and Royal Authority - having heard the opinion of our Council, we have decreed and we do hereby decree the following to be perpetual and irrevocable Statute and Law of the Monarchy:

Art 1. The Catholic, Apostolic and Roman Religion is the only State Religion. Other cults which are in existence at present are tolerated according to the laws.

Art 2. The State is ruled by a monarchic representative government. The throne is hereditary according to the Salic law.

Art 3. The legislative power will be exercised collectively by the King and two chambers: the Senate and the Chamber of Deputies.

Art 4. King's person is sacred and inviolable.

Art 5. The executive power is vested in the King exclusively. He is the Supreme head of the State; He commands all the ground and naval forces; He declares war; He concludes peace treaties, treaties of alliance, commercial and other treaties, notifying the chambers as soon as the interest and security of the State allow and adding pertinent explanations. Treaties which involve a financial burden or changes in the State territory will not become effective until the approval of the Chambers is obtained.

Art 6. The King makes appointments for all State offices and issues decrees and regulations necessary for the execution of laws, but he may not suspend laws or make exemptions from their application.

Art 7. Only the King sanctions and promulgates the laws.

Art 8. The King may grant pardons and commute sentences.

Art 9. The King convokes the two Chambers yearly; He may adjourn their sessions and dissolve the Chamber of Deputies; but in the last mentioned case he must convoke another Chamber within four months.

Art 10. The King and each of the two Chambers may propose laws. However, every law imposing taxes or approving the State budgets and accounts will first be presented to the Chamber of Deputies.

Art 11. The King attains his majority at 18 years of age.

Art 12. During the minority of the King, the Prince who is his closest relative in order of succession to the Throne shall act as Regent of the Kingdom, provided that he has attained 21 years.

Art 13. If the Prince, who according to the above should become Regent, is a minor and in consequence of that the Regency devolves upon a more distant relative, the Regent in office will hold the Regency until the King has reached

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Art 14. In the absence of male relatives, the Regency will go to the Queen Mother.

Art 15. Should there not be a Queen Mother, the Chambers convoked by the Ministers within 10 days will nominate the Regent.

Art 16. The preceding dispositions relative to the Regency apply to the case in which the King though being a major in age finds himself physically unable to rule. However, if the heir presumptive of the Throne has completed 18 years, he shall become Regent by force of law.

Art. 17. The Queen Mother is a Guardian of the King until he shall have reached 7 years; from then on the Guardianship goes to the Regent.

Art. 18. Rights exercisable by the civil power in matters of church benefices or concerning execution of remittances of any kind originating abroad, will be exercised by the King. (This Article applied to Sardinian conditions only and is now obsolete.)

Art. 19. The Crown dotation computed from the average allowance of the last ten years shall be maintained during the present reign. The King will retain use of the Royal palaces, villas, gardens and accessories as well as all movables belonging to the Crown, of which there will be made an inventory under the supervision of a responsible Minister.

In the future the above mentioned dotation shall be fixed for the duration of every Reign by the first legislature upon ascension of the King to the Throne.

Art. 20. The King's private property will include, apart from the property which He possesses at present as his own, all the property which He might acquire in the future for a consideration or gratuitously during His Reign.

The King may make both an inter vivos or testamentary disposition of his private property without being bound by the rules of civil laws limiting the disposable quantity. In other respects the King's property is subject to all laws governing other properties.

Art. 21. A law will provide for an annual allowance for the hereditary prince after he has attained majority or before that in case of his marriage; for an appanage of the Princes of the Royal Family and of the Blood Royal on the above mentioned conditions; for the dowry of Princesses and for the

Art 20. The King's private property which He possesses at present as his own, all the property which He might acquire in the future for a consideration or gratuitously during His Reign.

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Art 22. The King, upon ascension to the Throne, takes an oath in the presence of the joined chambers to observe loyally the present Statute.

Art 23. The Regent, before entering his office takes an oath of allegiance to the King and of loyal obedience to the Statute and the Laws of the State.

Rights and Duties of Citizens.

Art 24. All citizens of the Kingdom, whatever their title or grade, are equal before the law. All enjoy equally civil and political rights and may be admitted to civil and military offices with exceptions stated by the laws.

Art 25. They contribute indiscriminately to the expenses of the State in proportion to their fortunes.

Art 26. Individual liberty is guaranteed. No one may be arrested or brought before a court except in cases provided for by law and in accordance with procedures prescribed by law.

Art 27. The home is inviolable. No entry into a home may take place except by force of law and in a form prescribed by law.

Art 28. The press will be free, but a law will restrain abuses. However, bibles, catechisms, liturgical literature and books of prayers may not be printed without previous permission of the Bishop.

Art 29. All properties, without any exception, are inviolable. However, when a legally ascertained public interest so demands, property may be taken in whole or in part for a just compensation in conformity with laws.

Art 30. No tax may be imposed or exacted if not approved by the Chambers and sanctioned by the King.

Art 31. Public debt is guaranteed. Every obligation of the State towards its creditors is inviolable.

Art 32. The right to assemble peacefully and without arms is recognized subject to laws which may regulate its exercise conforming to public interest. This provision does not apply to assemblies in public places or places open to the public which remain entirely subject to police laws.

The Senate.

Art 33. The Senate is composed of an unlimited number of members appointed by the King for life who have attained the age of forty years and belong to the

Art 30. No tax may be imposed or exacted if not approved by the Chambers and sanctioned by the King.

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The Senate.

Art 33. The Senate is composed of an unlimited number of members appointed by the King for life who have attained the age of forty years and belong to the following categories:

1. Archbishops and Bishops of the State.
2. President of the Chamber of Deputies.
3. Deputies of three legislative terms or after six years of service.
4. Ministers of the State.
5. Under Secretaries of State (I Ministri Segretari di Stato).
6. Ambassadors.
7. Envoys extraordinary after three years of service.
8. First Presidents and Presidents of the Court of Cassation (Magistrato di Cassazione) and of the Chamber of accounts (Camera dei Conti).
9. First Presidents of the ^{Councils} Tribunals of Appeal.

10. The Attorney General (Avvocato Generale) of the Court of Cassation and Procurator General (Procuratore Generale) after 5 years of service.
11. Presidents of sections of the Courts of Appeal after 3 years of service.
12. Councillors of the Court of Cassation and of the Chamber of Accounts (Camera dei Conti) after 5 years of service.
13. Attorneys General (Avvocati Generali) or General Fiscal Officers (Fiscali Generali) of the Courts of Appeal after 5 years of service.
14. General Officers of the ground and naval forces. However, Major-generals and Rear-admirals must have held their grade during five years of active service.
15. State Councillors (Consiglieri di Stato) after five years of service.
16. Members of Councils of Division (Consigli di Divisione) after three elections to their presidency.
17. Intendants General (Gl'Intendenti Generali) after seven years of service.
18. Members of the Royal Academy of Sciences after 7 years of membership.
19. Ordinary members of the Superior Council of Public Education after 7 years of service.
20. Those who through their eminent services or merits did honor to the fatherland.

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- 18. Members of the Royal Academy of Sciences after 7 years of membership.
- 19. Ordinary members of the Superior Council of Public Education after 7 years of service.
- 20. Those who through their eminent services or merits did honor to the fatherland.
- 21. Those who for three years have paid three thousand liras of direct tax on account of their property or diligence.
- Art 34. The Princes of the Royal Family are members of the Senate as of right. They sit immediately after the President. They enter the Senate when they attain 21 years of age and acquire the right to vote at 25.
- Art 35. The President and Vice-Presidents of the Senate are appointed by the King. The Senate appoints its Secretaries from its own number.
- Art 36. By force of a Royal decree the Senate is constituted into a High Court of Justice to pass upon crimes of high treason and attacks on the security of the State and to try Ministers ~~impeached~~ ^{IMPEACHED} by the Chamber of Deputies.

In the above mentioned instances the Senate is not a political body. It cannot deal, under penalty of nullity, with other than the judicial matters for which it has been convened.

Art 27. Excepting the case of a flagrant crime, no Senator may be arrested without an order of the Senate. The Senate has an exclusive jurisdiction to try offences attributed to its members.

Art 28. Acts ascertaining in a legal manner births, marriages and deaths in the Royal Family, will be presented to the Senate which will order their deposition in its archives.

The Chamber of Deputies.

Art 39. The elective Chamber is composed of Deputies selected by electoral colleges according to law.

Art 40. No Deputy may be admitted to the Chamber if he is not a subject of the King, has not attained the age of 30 years, is not in enjoyment of his civil and political rights and does not meet the remaining requirements prescribed by law.

Art 41. The Deputies represent the Nation in general and not merely the provinces from which they were elected. No imperative mandate can be imposed upon the Electors.

Art 42. The Deputies are elected for five years: their mandate ceases by force of law upon the expiration of this term.

Art 43. The President, the Vice-Presidents and Secretaries of the Chamber of Deputies are selected by it from its own number at the outset of every session for its entire duration.

Art 44. If a Deputy ceases to function for any reason, the College which had elected him will convene at the earliest possible convenience for a new

political rights and does not meet the remaining requirements prescribed by law.

Art 41. The Deputies represent the Nation in general and not merely the provinces from which they were elected. No imperative mandate can be imposed upon the Electors.

Art 42. The Deputies are elected for five years: their mandate ceases by force of law upon the expiration of this term.

Art 43. The President, the Vice-Presidents and Secretaries of the Chamber of Deputies are selected by it from its own number at the outset of every session for its entire duration.

Art 44. If a Deputy ceases to function for any reason, the College which had elected him will convene at the earliest possible convenience for a new election.

Art 45. Excepting cases of flagrant crimes, no deputy may be arrested or brought before a court on a criminal matter while the Chamber is in session, without a previous consent of the Chamber.

Art 46. No debt warrant may be issued against a Deputy during the session of the Chamber or three weeks before and after the session.

Art 47. The Chamber of Deputies has a right to ~~summon~~ ^{IMPENACH} the Royal Ministers and bring them before the High Court of Justice.

Provisions Common to Both Chambers.

Art 48. The sessions of the Senate and of the Chamber of Deputies begin and end at the same time. An assembly of one Chamber held while the other is not in session is ~~illegal~~ ^{NOT LEGAL}, and its acts are absolutely null.

Art 49. Before admission to their functions the Senators and Deputies swear to be faithful to the King, to obey loyally the Statute and laws of the State, to exercise their functions for the sole purpose of the inseparable welfare of the King and of the fatherland.

Art 50. The office of a Senator or Deputy does not give rise to any right of reward or of indemnity.

Art 51. The Senators and Deputies cannot be held to answer for their opinions expressed and votes given in the Chambers.

Art 52. The assemblies of the Chambers are public. However, upon request in writing of 10 members, the Chambers may deliberate in secrecy.

Art 53. The assemblies and deliberations of the Chambers are neither legal nor valid unless an absolute majority of their members is present.

Art 54. Actions may be taken by a majority of votes only.

Art 55. Every proposal of law must first be examined by Committees appointed by each Chamber for preparatory work. After the proposal has been discussed and approved by one Chamber, it will be transferred to the other for discussion and approval; thereafter it will be presented to the King for signature. The discussions are conducted article by article.

Art 56. If a proposal of law has been rejected by one of the three legislative bodies it cannot again be brought up at the same session.

Art 57. Anyone a major in age has a right to lodge petitions with the Chambers

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Art 58. No one may present a petition to the Chambers in person. The constituted Authorities (Autorita costituite) have a right to address petitions in a collective name only.

Art 59. The Chambers may not receive any deputation or hear anybody else but their own members, the Ministers and Commissioners of the Government.

Art 60. Each Chamber has the exclusive competency to pass upon the validity of the titles to admission of its own members.

Art 61. Both the Senate and the Chamber determine by means of an internal regulation the procedure whereby they will exercise their powers.

Art 62. The Italian language is the official language of the Chambers. However, the French language is optional for members belonging to provinces in which this language is used and for answering such members.

Art 63. The voting is performed by rising or remaining seated as the case may be or by dividing the chamber or by secret scrutiny (isquittinio). The last mode will always be adopted when voting upon a law in its entirety and in matters of personnel.

Art 64. No one may be a Senator ^{and} a Deputy at the same time.

The Ministers.

Art 65. The King appoints and recalls his Ministers.

Art 66. The Ministers have no right to vote in either Chamber unless they are members.

~~Art 67.~~ They always have free access to the Chambers and must be heard whenever they request it.

Art 67. The Ministers are responsible. The laws and the Acts of the Government are of no validity if not signed by a Minister.

The Judiciary.

Art 68. Justice emanates from the King and is administered in his name by the judges appointed by him.

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Art 69. Justice emanates from the King and is administered in his name by the judges appointed by him.

Art 70. The judges appointed by the King with the exception of those of the Mandamento may not be removed after three years of service.

Art 71. Magistrates, ^{tribunals} and judges functioning at the present time are to be retained. The judicial organization may be changed by law only.

Art 72. No one can be tried except by the proper judges. For this reason no extraordinary Tribunals or Commissions may be established.

Art 73. The hearings of the Tribunals in civilian matters and trials in criminal matters will be open to public in accordance with the law.

Art 74. The right of binding interpretation of law may be exercised exclusively by the legislative power.

General Provisions.

Art 74. The communal and provincial institutions and the boundaries of Communes and Provinces are regulated by law.

Art 75. The conscription (leva) of troops is regulated by law.

Art 76. A Communal Militia is established on a basis decreed by law.

Art 77. The State retains its flag: and the blue cockade is the only national cockade.

Art 78. The Orders of Knighthood (Ordini Cavallereschi) at present in existence are retained with their dotations. The latter may not be used for purposes other than those stated in their charter.

The King may create other Orders and prescribe their Statutes.

Art 79. The titles of nobility are to be retained by those who rightly hold them. The King may grant new ones.

Art 80. No one may receive decorations, titles or pensions from a foreign person without an authorization from the King.

Art 81. All laws conflicting with the present Statute are abrogated.

Transitional Provisions.

Art 82. The present Statute will enter into effect from the day of the first assembly of the two Chambers which will take place immediately upon completion of the elections. Until that time an emergency administration shall be provided for by Sovereign measures in forms followed in the past, discarding, however, the interpolations (interpolazioni) and registrations of magistrates which are abolished from now on.

Art 83. For the purpose of executing the present Statute the King reserves the power to take laws concerning the press, elections, communal

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Art 83. For the purpose of executing the present Statute the King reserves for himself the power to make laws concerning the press, elections, communal militia, and a reorganization of the State Council. Until a law regarding the press is published, the prevailing provisions pertaining to it remain in effect.

Art 84. The Ministers are entrusted with and responsible for the execution and full observance of these transitional provisions.

Given in Turin, the fourth day of March, of the Year of Our Lord
one thousand eight hundred and forty eight and of the eighteenth year of our
Reign.

Carlo Alberto.

the Ministers, etc.

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