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ALLOCATION OF CASES BETWEEN CIVILIAN & MILITARY COURTS
MAY 1944

FILE CLOSED 9 May 1944

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
AFO 394

GCH/emf

ACC/4142/L

9 May 1944

SUBJECT: Allocation of cases between military and civil courts.

TO : LO Apulia (thru RLO).

1. Your suggestions are welcomed and the matter will be taken up with the Minister of Justice in agreement with the Minister of War.
2. Art. 648 of CP appears to be adequate to meet most cases when the charge of receiving can be substantiated.
3. It is noted that Art. 166 of the CPM of peace, which refers to Art. 165 for the penalty to be inflicted in cases of destruction, disposal, purchase or receivership of military clothing (not equipment) provides for the same maximum amount of imprisonment as Art. 712 of CP (i.e. 6 months) less the fine.

G. C. HANNAFORD, Major
Officer i/c Italian Branch
for Chief Legal Officer.

4142 (1A)
Chief Legal Officer (through RCLO)

SUBJECT: Allocation of cases as between Military and Civilian Courts.

The application of Article 15 of the Military Penal Code of War may result in an unequal distribution of cases as between Military and Ordinary Tribunals, as has been the case in Bari recently, where all property cases other than theft were sent for trial by the Military Court under Article 166 M.P.C.

This problem has been solved in the Bari area by agreement between military and civil procurator^a as the following lines:

- purchase of articles of suspicion origin. ?*
allocation of sentences against enemy forces
Receiving
- 1) no cases are to be tried under article 712 C.P., the penalty being inadequate.
 - 2) Where a single article only of military clothing is concerned the case is to be tried under article 166 C.P.M.
 - 3) *members of* Where other Military equipment or a larger number of articles of clothing are concerned the case is to be tried under article 648 C.P.: there can be little doubt that, as it is illegal for Allied Military personnel to sell, exchange or give away, military clothing or equipment, the Military equipment found in civilians' possession is derived from a crime.

This agreement ensures an equal distribution of cases as between military and civil courts and severe

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punishment of all cases.

The distribution can be adjusted by altering the amount of clothing necessary to make the case one of receiving.

It is submitted that a directive from the Ministry of Justice requiring similar arrangements to be brought into effect in other circondarie would be most opportune.

A.W.L. Franklin

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Major A.C.C.
L.L.O.

