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

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LEGAL SITUATION IN REGION 2, APULIA & BARI
MAY 1944 – FEB. 1945

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AC 4150

65A

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

/mt.
14 February 45.

Ref: AC/4135/1/L.

SUBJECT : Liaison Officer at Bari.

TO : Chief of Staff.

1. In view of the difficulties which have been experienced with the Bari courts in the past, coupled with their great importance in view of thieving from Allied arms depots in the vicinity, it is recommended that Maj BOYD-CARPENTER (Legal) be appointed Assistant Liaison Officer at Bari.

2. R.C. SOUTHERN Region concurs in this view.

G. R. UPJOHN, Brig.,
VP CA Section,
DCOS AC.

Copy to: Establishment Section.

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Central File

64A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4150/L. /pa.
26 Oct 44.

SUBJECT : Outstanding cases Region 2.

TO : Regional Commissioner, Southern Region.
(Attn. for Regional Legal Officer).

1. On receipt of L-3020 of 23 October 44, a search was made to see whether any papers relating to the cases in question were at this HQ.

2. While no papers expressely relating to these cases were found, a copy letter from Lt.Col.Cousins (then RLO Region 2) to L.O.Bari was found which refers to the cases of " PALDO and 4 others" and "ARDITO and 2 others". Owing to the identity of names and the number of defendants it is thought that these must be the same cases. If so, it is clear that these cases are to be tried by the Italian courts, no application for an Allied Military Court having been made.

3. Copies of this Letter are attached for information of your HQ and Major Boyd-Carpenter.

BY COMMAND OF COMMODORE STONE :

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

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QQEX

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION 2

REF: 2201/74/D 1°

19 June 1944

SUBJECT: Special Cases Bari.

TO : L.O. Bari.

1. It is requested that all letters from you will please be numbered.

2. Ref. your letter of 13.6.44 enclosing six applications for AMG Courts, i.e. in re

(a) - FALCO & 4 others
(b) - SERAFINA & 1 other
(c) - CORALLO & 7 others
(d) ARDITO & 2 others
(e) - LOGRIECO.

After careful perusal, it is felt that only No. (e) can be recommended to RC & IG Section for trial by AMG Court; in view of the present numbers of such cases and for the shortage of personnel with which to hold AMG Courts. Papers regarding the first four cases are therefore returned for trial by Italian Assise Court.

3. Representations are being made to No° 6 Subarea & No° 52 Area that all future applications for AMG Courts should be recommended by the Area or Subarea Commander.

D.E.S. COUSINS, Lt Col.,
R.L.O.
Region 2

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4150
C

file 103A

HEADQUARTERS
SOUTHERN REGION, ALLIED CONTROL COMMISSION
LEGAL DIVISION
APO 394, U. S. ARMY

L- 3020

23 October 1944

SUBJECT: Outstanding cases Region 2.

TO : Chief Legal Officer, Legal Sub-Commission, A.C.C.,Rome.

1. Attached hereto is a copy of a letter this day received from Major Boyd-Carpenter.

2. Would it be possible for you to contact Lt.Col.Cousins and ascertaine the whereabouts of these files.

L.F. Dawson
L.F. DAWSON, By E.T. Fay Capt
Lt.Col., G.L.,
Regional Legal Officer.

ETK/pv

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TIP. A. DE VITO - NAPOLI

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ALLIED CONTROL COMMISSION
BARI ZONE

REF: BZ/LEG/2/6148/b 18 Oct 44

SUBJECT: Outstanding cases Region 2.

TO : R.L.O. Southern Region ACC, Naples.

1. May it be ascertained whether cases of:
   (a) ARDITO Giuseppe; LEONE Ottaviano and SUGLIA Giovanbattista
   (b) FALCO Giuseppe; DI GENNARO Giuseppe; DI GENNARO Gennaro; MENDUCCI, Cataldo and PERRONE Luigi

were put by H.Q. Region 2 for trial by a Military Court and if so with what result.

2. All the persons involved in first named case, and the first named accused in second case are detained in BARI goal, and the Italian Courts have instructions NOT to proceed with their cases on the grounds that they are under consideration for trial by Allied Military Courts.

3. No trace can be found of any application by Region 2 for an Allied Military Court.

4. It is believed by Captain German who wrote unofficially to Lt.Col.Cousins on the subject, that a set of papers in these cases was taken by Lt.Col.Cousins to Rome early in September with a view to making application for an Allied Military Court, but no decision on any such application has been received in either case.

5. A set of papers in the first namedcase has been found at Taranto where it is believed to have been left by Lt.Col. Cousins, but no papers in second case can be found later than a letter from RLO Region 2 dated 20.8.44 instructing Procuratore Militare to forward all papers to RLO.

/s/ J.A. BOYD+CARPENTER
/t/ J.A. BOYD-CARPENTER
Major, LO,
Apulia & Calabria.

SOUTHERN REGION
ALLIED CONTROL COMMISSION
BARI ZONE

REF: BZ/Leg/2/6148

3 Oct 44

SUBJECT : Special Legal Activity report, month September, 44 on Allied interests cases in Bari, Taranto, Brindisi and Lecce provinces.

TO : RC, HQ ACC Southern Region, Naples
(copy to CLO Legal Subcommission ACC HQ, Rome).

1. Attention is invited to Legal activity report for period 1 Sept - 30 Sept 44 on Allied cases in Bari, Taranto Zones of ACC Southern Region.

2. AMG Courts: one.
AMG vs Aldo Martellucci, tried on 26, 27, 28 Sept 44 at Bari by AMG General Military Court on charges of violation of Section 59 and 61 of Italian Military Code (Espionage). Defendant dropped from German plane 28 May 44 near Monopoli, arrested same day in civilian clothes at Bari, later admitted to have been sent on mission to organize partisan bands. Defence was that defendant had no intent to carry out mission. Defendant found not guilty of violation of Section 59 CPMG; found guilty of Section 61 CPMG: sentenced to death. Court constituted of Major Boyd-Carpenter (B), Captain German (B), Captain Coleman (A); Prosecuting Officer Major Little (A); Defence Officer 1st Lt. O'Leary (A). Record is being prepared, will be forwarded despatch.

3. Allied interests cases in Italian courts.

a. Tribunali (Military & Civil), Courts of Appeal:

Attention is invited to fact that the total number of Allied cases actually tried by Italian courts of this area (Military Tribunali of Bari, Taranto and Lecce; Civil Tribunali of Bari, Trani, Taranto, Lecce and Brindisi; Bari Court of Appeals, Lecce Court of Appeals, Bari Court of Assizes) is more than 2 times the number of Allied cases tried by these courts during the preceding month of Aug 44 (i.e. in Sept 969 cases with 1408 defendants, in Aug 443 cases (901 defendants).

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from German plane 28 May 44 near Monopoli, arrested same day in civilian clothes at Bari, later admitted to have been sent on mission to organize partisan bands. Defence was that defendant had no intent to carry out mission. Defendant found not guilty of violation of Section 59 CPMG; found guilty of Section 61 CPMG: sentenced to death. Court constituted of Major Boyd-Carpenter (B), Captain German (B), Captain Coleman (A); Prosecuting Officer Major Little (A); Defence Officer 1st Lt. O'Leary (A). Record is being prepared, will be forwarded despatch.

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b. Pretori Courts (44): Reports received from 36 out of the 44 Pretori Courts of Bari - Taranto area, reflect that these courts during month of Sept 44 disposed of 179 petty Allied interests cases, and that on 30 Sept 44 there were pending in these courts 74 Allied cases (with 132 defendants).

The 8 Preture not reporting were Grottaglie, Martina Franca (Taranto jurisdiction); Fasano, Francavilla F., Mesagne, Ostuni, S.Vito dei N. (Brindisi jurisdiction); Otranto (Lecce jurisdiction).

Of the 166 Allied cases disposed of, Bari Pretura disposed of 103, Barletta 9, Trani 15, Taranto 11.

This L.O. has had no opportunity to check the accuracy of these figures, as he has done with the superior Courts.

These courts are under various Procuratori del Regno and are poorly supervised; they are allowed to try petty Allied

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cases, such as possession of Allied goods, of value of 200 lire or less.

c. Italian Military Units: 18 Italian Military Units reporting in Bari Area disposed of 75 Allied cases (223 defendants) during month of Sept 44. These Units deals cases where Allied property involved is 200 lire or less.

No reports from such Units in Taranto Area have been received.

d. Total of Allied cases definedly reported tried by Italian Courts and Italian Military Units during month of Sept 44:

All Military Tribunali . . .	427	cases	591	defendants
All Civil Tribunali	335	"	520	"
All Juvenile Tribunali . . .	65	"	90	"
All Preture, except: Grottaglie, Martina Franca, Fasano, Francavilla F., Mesagne, Ostuni, S.Vito dei N., Otranto	179	"	222	"
18 Military Units	75	"	223	"
All Courts of Assizes	2	"	7	"
Total.	1083		1653	
All Courts of Appeal. . . . . (Appealed Allied cases)	207	"	297	"
Total	1290	"	1950	"

e. Allied cases received during month of Sept 44:

All Military Tribunali. . . .	476	"	665	"
All Civil Tribunali . . . . . (except Taranto)	255	"	365	"
All Juvenile Tribunali . . .	34	"	50	"
All Preture, except: Grottaglie, Martina Franca, Fasano, Francavilla F., Mesagne, Ostuni, S.Vito dei N., Otranto).	131	"	165	"
18 Military Units (not reporting)	---		---	
	896		1245	

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Ostuni, S.Vito dei N., Otranto	179	"	222	"
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18 Military Units (not reporting)	---		---	
	896		1245	
All Civil Courts of Appeals	237		331	
Total	1133		1576	

(with figures from Taranto Civil Tribunale, 8 of 44 Preture and 18 Military Units not included because this information not received).

f. Allied cases pending on 30th Sept 44.

All Military Tribunali . . . (except Taranto)	642	cases	1062	defendants
All Civil Tribunali . . . . (except Taranto)	592	"	950	"
All Juvenile Tribunali . . .	61	"	81	"
All Preture, except: Grottaglie, Martina Franca, Fasano, Francavilla F., Mesagne, Ostuni, S.Vito dei N., Otranto	74	"	132	"

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18 Military Units (not reporting)		cases		defendants
All Courts of Appeals	301	"	402	"
Total	1670		2627	

(figures from Taranto Civil and Military Tribunals, 8 of 44 Preture and 18 Military Units not included because this information not received).

g. Sentences: Work of analysing the adequacy of sentences has been performed by Capt. German for Bari Area, and Major Boyd-Carpenter for Taranto Area. Captain German states that there has been a definite increase in adequacy of sentences in Allied cases during the past month. Major Boyd-Carpenter states that on the whole he has found sentences to be adequate.

h. Bari Province

(1) Bari Military Tribunale disposed (by trial) of 316 Allied interests cases (425 defendants) during 1st to 30th September period, as compared to 141 Allied cases (209 defendants) so disposed of during August 44 and 177 Allied cases (258 defendants) so disposed of during July 44.

On 30th Sept 44 there were pending before this Tribunale (including its Procura Militare and Istruttore) 404 Allied cases (681 defendants, as compared to 468 Allied cases (792 defendants) pending on 31 August 44.

During the month of Sept 44 this Tribunale received 259 new Allied interest cases (333 defendants).

Above figures disposed of cases, do not include 7 Allied cases (19 defendants) sent to Civil Tribunali. Do not include 76 cases (108 defendants) misdirected to this Tribunale, which patently were intended for Civil Tribunali.

Military Tribunale Bari has territorial jurisdiction over Provinces of Bari, Foggia, Matera and Potenza, but approximately 90% of all cases received originate in Bari Province.

Commencing 31st of August continuous advisory liaison has been constantly maintained with Gen.di Brig. Carasi Mario, President of this Tribunale, and Lt.Col. Grilli,

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Commencing 31st of August continuous advisory liaison has been constantly maintained with Gen.di Brig. Carasi Mario, President of this Tribunale, and Lt.Col. Grilli, newly appointed Procuratore Militare, with the aim and the object of; increasing number of Allied interest cases tried, insuring that sentences given were adequate.

Emphasis of these objects were accomplished by numerous conferences with Procuratore Militare and staff, and by personal visits to Offices of Tribunale and Procura.

By 6th Sept 44 organization was completed of a 2nd Section of this Military Tribunale to devote its time exclusively to the trial of Allied interest cases. This 2nd Section tried its first case on 15th Sept 44. There are now 2 Sections of this Court sitting 6 days a week, morning and afternoon, trying only Allied interest cases.

On 13th September 44, H.E. Palermo, Undersecretary of War, contacted this LO and a day was spent with Gen. Di Nisio, Comandante Militare delle Puglie, Lt.Col. Grilli,

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Procuratore Militare, and staff officers, in planning an increase in number of cases tried. Emphasis was laid on fact that sentences were inadequate and that suspended sentences should be given only in most exceptional cases, of which there were to be few.

It was agreed, that in view of the accumulation of pending Allied cases additional officers with legal background would be provided and assigned to staff of Procuratore Militare, in order to expedite preparation of Allied interests cases.

Newly appointed acting Procuratore Militare Lt.Col. Grilli was formerly member of Trani Tribunale, Bari Province, is a man of energy, ability and determination; he has quickly grasped the seriousness of the situation, is working hard to remedy it. This LO considers Lt.Col. Grilli the right man for this Bari situation and is of the opinion that he should be kept in his present position till this backlog of Allied cases are disposed of. This LO is confident that unless some unforeseen circumstance arises this Tribunale will dispose of more than 400 Allied cases during the month of October 44.

From 2nd to 4th Oct 44 inclusive this Tribunale tried 52 Allied cases (56 defendants).

(2) Bari Civil Tribunale disposed (by trial) of 149 Allied interest cases (239 defendants) during 1st to 30th Sept 44 period, as compared to 107 Allied cases (335 defendants) so disposed of during August 44 and 173 Allied cases (235 defendants) so disposed of during July 44.

(In addition 14 cases were closed during Sept 44 because defendants are unknown; 1 case with 1 defendant sent to ACC; 32 cases with 53 defendants sent to jurisdiction of other courts, and are reflected in other totals).

On 30th Sept 44 there were pending before this Tribunale (including its Procura del Regno and Istruttore) 173 Allied cases (310 defendants) as compared to 258 Allied cases (447 defendants) pending on 31st Aug 44.

During the month of Sept 44 this Tribunale received 111 new Allied interests cases (with 165 defendants).

This Tribunale was 65 cases short of trying twice as

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During the month of Sept 44 this Tribunale received 111 new Allied interests cases (with 165 defendants).

This Tribunale was 65 cases short of trying twice as many cases in Sept 44 as in Aug 44. Its failure to do so is due to confusion caused by necessary transfer of Procuratore del Regno, continued absence on vacation of new Procuratore del Regno, who did not assume duty until 22nd September; absence on vacation and for other reasons during Sept of 4 out of 6 regular Sostituti Procuratori, absence on vacation of 1 Istruttore Judge during the first 5 days of Sept, absence on vacation of otherIstruttore Judge during first 14 days of Sept, absence on vacation of 7 out of 20 Judges of the Tribunale.

These difficulties were overcome in part by the Procuratore del Regno of the Minori Court, acting as Procuratore del Regno of the Tribunaleand by Pretore of Modugno and Vice Pretore of Bari, acting as Substitutes and 42 more Allied cases were tried in Sept than were tried in Aug 44.

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During the last week of Sept acting 1st President of Court of Appeals Cervelli added a second Section to try exclusively Allied cases.

1st President Court of Appeals believes that difficulty of this Tribunale is due to lack of clerks, and lack of energy on part of some of the judges. Office of the Cancelleria is not well organized, disciplinary measures have recently been taken against two clerks, for desobeying orders of their superiors. Procuratore del Regno Ferrari having only been present since 22nd Sept 44 it is not possible to justly estimate his energy or administrative ability.

This Tribunale, if carefully supervised, can and will dispose of more than 200 Allied interests cases during the month of October. 1st President of Court of Appeals has difinedly promised this LO that he will personally use supervisory pressure to obtain such result during month of October.

(3) Trani Civil Tribunale disposed (by trial) of 49 Allied interest cases (93 defendants) during 1st to 30th Sept 44 period, as compared to 17 Allied cases (28 defendants) so disposed of during Aug 44 and 19 Allied cases (32 defendants so disposed of during July 44.

On 30th Sept 44 there were pending before this Tribunale (including its Procura del Regno and Istruttore) 83 Allied cases (190 defendants) as compared to 102 Allied cases (247 defendants) pending on 31st Aug 44.

During the month of Sept 44 this Tribunale received 30 new Allied interest cases (with 36 defendants).

Accompanied by the newly appointed acting 1st President of Court of Appeals, Bari, and Procuratore Generale, Bari, this LO visited the Civil Tribunale at Trani, and the day was spent in conference with all the judicial officials persuading them to:

(a) get an accurate record of the number of pending Allied interest cases and defendants,
(b) try 4 times as many Allied interest cases in each of the months of Sept and Oct, as had been tried in any of the 3 previous months,
(c) cease giving suspended sentences except in the most exceptional of cases, and to give adequate sentences in all cases.

Althe this Tribunale tried 3 times as many Allied cases

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period, as compared to 17 Allied cases (26 defendants) so disposed of during Aug 44 and 19 Allied cases (32 defendants so disposed of during July 44.

On 30th Sept 44 there were pending before this Tribunale (including its Procura del Regno and Istruttore) 83 Allied cases (190 defendants) as compared to 102 Allied cases (247 defendants) pending on 31st Aug 44.

During the month of Sept 44 this Tribunale received 30 new Allied interest cases (with 36 defendants).

Accompanied by the newly appointed acting 1st President of Court of Appeals, Bari, and Procuratore Generale, Bari, this LO visited the Civil Tribunale at Trani, and the day was spent in conference with all the judicial officials persuading them to:

(a) get an accurate record of the number of pending Allied interest cases and defendants,
(b) try 4 times as many Allied interest cases in each of the months of Sept and Oct, as had been tried in any of the 3 previous months,
(c) cease giving suspended sentences except in the most exceptional of cases, and to give adequate sentences in all cases.

Altho this Tribunale tried 3 times as many Allied cases in Sept as tried in Aug (i.e. 49 as compared to 17) Tribunale can easily dispose of 75 Allied cases during October 44 and thus clean up its back accumulation of Allied cases.

1st President of Court of Appeals states that one difficulty with this Tribunale is that its President was dismissed because of age on the 1st of January 44, but was called back in February 44. Tribunale President considers his dismissal illegal and feels so deeply about the matter, that his mind is distracted from his work.

1st President of Court of Appeals assures that he will assume responsibility of seeing that in the future this Tribunale handles Allied cases with greater despatch.

(4) Bari Juvenile Tribunale disposed (by trial) of 32 Allied interest cases (41 defendants) during 1st to 30th Sept 44 period, as compared to 21 Allied cases (24 defendants) so disposed of during Aug 44

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On 30th Sept 44 there were pending before this Tribunale 3[illegible] Allied cases (44 defendants), as compared to 27 Allied cases (35 defendants) pending on 31st Aug. 44

During the month of Sept 44 this Tribunale received 25 new Allied interest cases (with 35 defendants).

1. Taranto Province

(1) Taranto Military Tribunale reported by telegram that " it dipposed (by trial) of 65 Allied interest cases (96 defendants) during 1st to 30th Sept 44 period", as compared to 18 Allied cases (28 defendants) so disposed of during August 44, and 19 Allied cases (28 defendants) so disposed of during July 44 and 20 Allied cases (30 defendants) during June 44.

Procura Militare of this Tribunale reports that 186 new cases with 290 defendants were received during month of Sept 44.

Results of telephone calls by this LO to Major Boyd-Carpenter on 1st and 3rd Oct 44, indicate that in Major Boyd-Carpenter's opinion it is impossible to obtain at this date (30th) reliable figures of number of Allied cases actually pending on 30th Sept 44 before Military Tribunale.

Since this Tribunale definedly stated to this LO and Italian Under Secretary of War, Palermo, on 14th Sept 44 that they had pending on 14th Sept 44 177 cases,(of which 36 cases were already set for trial during Sept, 25 ready to be set for trial, 116 under instruction, total 177) and since during the full month of Sept 44 the Procura Militare received 186 new Allied cases, of which only a small proportion was received during 1 - 15 Sept period,(see para para 1 Major Boyd-Carpenter's letter 22nd Sept 44 to this LOstating from 15 Aug to 15 Sept.68 new cases were received) and since only 65 cases were disposed of by trial, this LO concludes that there must be now (30th Sept 44) over 200 Allied interest cases pending in this Tribunale.

If such is the case, then the suggestion made by this LO and concurred in by Under Secretary of War Palermo, that a second Section of this court be devoted exlusively to trial of Allied cases, until the accumulated Allied cases are reduced to a much lower figure, should be immediately complied with.

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Carpenter on 1st and 3rd Oct 44, [illegible]
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If such is the case, then the suggestion made by this LO and concurred in by Under Secretary of War Palermo, that a second Section of this court be devoted exlusively to trial of Allied cases, until the accumulated Allied-cases are reduced to a much lower figure, should be immediately complied with.

Although this Tribunal disposed of more cases in Sept alone, than it disposed of during the entire months of June, July and August 44, it still falls short of its capabilities, and should during October and November be able to reduce its accumulated Allied cases to less than 100.

In addition to 65 Allied cases disposed of by trial this Tribunal reports that it sent 3 cases back to Procura Militare for further inquiry, 2 cases to other courts for action, 12 cases adjourned because defendants cannot be found. Thus this Court appears to have dealt with 84 Allied cases of which 65 were disposed of by trial.

(2) Taranto Civil Tribunale, in answer to telegram of Procuratore Generale Bari, reported that they had disposed (by trial) of 61 Allied interest cases (78 def-

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endants during 1st to 30th Sept 44 period, as compared to 65 cases (83 defendants) so disposed of during Aug 44 and 66 Allied cases (166 defendants) so disposed of during July 44.

Results of telephone calls by this LO to Major Boyd-Carpenter on 1st and 3rd October 44 indicate that in Major Boyd-Carpenter's opinion it is impossible to obtain at this date (3 Oct 44) reliable figures of Allied cases actually pending on 30th Sept 44.

Absent figures giving number of Allied interest cases received during Aug and Sept 44 LO can only estimate that probable number of Allied pending cases on 30th September 44 are between 100 and 200. Major Boyd-Carpenter reports to RLO Naples on 9th Sept 44 (Copy to this LO) that this Tribunal had 111 Allied cases ready for trial and 91 pending in Procura, total 202 pending.

This Tribunal responding to inquiry of Procuratore Generale Bari, states that on 15 Sept 44 total Allied pending cases were 125 (195 defendants, of which 63 (89 defendants) ready for trial in Tribunal and 62 (106 defendants) were pending in office of Procuratore del Regno.

Therefore is reasonable to assume that despite fact Civil Tribunal sent approximatively 90 cases to jurisdiction of Taranto Military Tribunal and disposed of by 61 by trial, pending Allied cases range between 100 and 200.

This Tribunal under advisory ACC supervision and continued pressure from Senior Italian legal officials of Bari should certainly be able to dispose of 100 Allied cases during October 44.

This Tribunal is one of the only 2 Tribunals in the Bari - Taranto Zone that tried less Allied cases in September than in August 44 (61 in Sept and 65 in Aug).

1st President of Appeals Court, Bari, states that this Tribunal is understaffed for the amount of work they have to deal with, need a 3rd Section allowing them 16 judges instead of 11.

j. Lecce Province

(1) Lecce Military Tribunale disposed (by trial) of 46 Allied interest cases (70 defendants) during 1st to 30th

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defendants) were pending in office of Procuratore del Regno.

Therefore is reasonable to assume that despite fact Civil Tribunal sent approximatively 90 cases to jurisdiction of Taranto Military Tribunal and disposed of ~~by~~ 61 by trial, pending Allied cases range between 100 and 200.

This Tribunal under advisory ACC supervision and continued pressure from Senior Italian legal officials of Bari should certainly be able to dispose of 100 Allied cases during October 44.

This Tribunal is one of the only 2 Tribunals in the Bari - Taranto Zone that tried less Allied cases in September than in August 44 (61 in Sept and 65 in Aug).

1st President of Appeals Court, Bari, states that this Tribunal is understaffed for the amount of work they have to deal with, need a 3rd Section allowing them 16 judges instead of 11.

i. Lecce Province

(1) Lecce Military Tribunale disposed (by trial) of 46 Allied interest cases (70 defendants) during 1st to 30th Sept 44 period, as compared to 18 Allied cases (42 defendants) so disposed of during Aug 44 and 29 Allied cases (53 defendants) so disposed of during July 44.

On 30th Sept 44 there were pending before this Tribunale 238 Allied cases (381 defendants) as compared to 253 Allied cases (415 defendants) pending on 31st Aug 44

During the month of Sept 44 this Tribunale received 31 new Allied interest cases (with 42 defendants).

Above figures were obtained by this IO from President of Military Tribunale and Military Procuratore at Lecce on 30th Sept 44.

Altho this Tribunale tried 2 times as many Allied cases in Sept 44 as in Aug 44, Tribunale has not been giving necessary priority to Allied cases.

On 30th Sept 44 had backlog of 238 Allied cases, of which only 31 were received in Sept 44. English speaking President Viganoni and acting Procuratore Militare Lt. Col. Marsano are both very intelligent men. Admit the seriousness

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of the situation, agree to try a remedy it during Oct 44, by giving strict priority to Allied cases. President insists he has only 3 Judges, 1 President, 2 Judges "relatori" therefore can only operate 1 section. President desires 3 Judges, 2 Judges "relatori" and 3 additional Substitutes Procuratori for second section. Even if new section is not added to deal with Italian cases, existing section can dispose of 140 cases a month without difficulty. Has only disposed of an average of 35 cases monthly during past 3 months.

Recommend a strong letter from War Ministry to President of this Tribunale, insisting on priority of trial of Allied cases and that existing section be immediately devoted exclusively to this duty until backlog of Allied cases falls below 75 pending cases.

(2) Lecce Civil Tribunale disposed (by trial) of 12 Allied interest cases (31 defendants) during 1st to 30th Sept 44 period, as compared to 18 Allied cases (42 defendants) so disposed of during Aug 44 and 29 Allied cases (53 defendants) so disposed of during July 44.

On 30th Sept 44 there were pending before this Tribunale (including its Procura del Regno and Istruttore) 24 Allied cases (45 defendants).

During the month of Sept 44 this Tribunale received 17 new Allied cases (with 31 defendants).

Altho Allied cases pending in this Tribunale are few, this LO has again advised Lecce judicial Officials that Allied cases must be given trial priority, handled with despatch, and sentences must be adequate.

Since sub-section of Bari Court of Appeals at Lecce is in same building, this Tribunale can be handled by indirect supervision thru 1st President and Procuratore Generale, Bari, allowing LO time for other duties.

This Tribunale is one of the only 2 Tribunals in the Bari-Taranto Zone that tried less Allied cases in Sept 44 than in Aug 44 (12 in Sept and 18 in Aug).

(3) Lecce Juvenile Tribunale disposed (by trial) of 33 Allied interest cases (49 defendants) during 1st to 30th Sept 44 period.

On 30th Sept 44 there were pending before this Tribunale 28 Allied cases (37 defendants), as compared to

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dants) so disposed of during July 44.

On 30th Sept 44 there were pending before this Tribunale (including its Procura del Regno and Istruttore) 24 Allied cases (45 defendants).

During the month of Sept 44 this Tribunale received 17 new Allied cases (with 31 defendants).

Altho Allied cases pending in this Tribunale are few, this LO has again advised Lecce judicial Officials that Allied cases must be given trial priority, handled with despatch, and sentences must be adequate.

Since sub-section of Bari Court of Appeals at Lecce is in same building, this Tribunale can be handled by indirect supervision thru 1st President and Procuratore Generale, Bari, allowing LO time for other duties.

This Tribunale is one of the only 2 Tribunals in the Bari-Taranto Zone that tried less Allied cases in Sept 44 than in Aug 44 (12 in Sept and 18 in Aug).

(3) Lecce Juvenile Tribunale disposed (by trial) of 33 Allied interest cases (49 defendants) during 1st to 30th Sept 44 period.

On 30th Sept 44 there were pending before this Tribunale 28 Allied cases (37 defendants), as compared to 21 Allied cases (24 defendants) pending on 31st August 44.

During the month of Sept 44 this Tribunale received 9 new Allied interest cases (with 15 defendants).

k. Brindisi Province

(1) Brindisi Civil Tribunale disposed (by trial) of 64 Allied interest cases (79 defendants) during 1st to 30th Sept 44 period, as compared to 17 Allied cases (64 defendants) so disposed of during Aug 44 and 53 Allied interest cases (79 defendants) so disposed of during July 44.

On 30th Sept 44 there were pending before this Tribunale 212 Allied cases (405 defendants) of which 115 (195 defendants) are pending in Court, 89 (174 defendants) pending in Office of Procura, 8 (36 defendants) in Giudice

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Istruttore's Office.

During the month of Sept 44 t. s Tribunale received 97 new Allied interest cases (with 133 defendants).

Above figures were obtained by direct visit of this LO to Brindisi on the 30th Sept 44.

Tribunal tried 3 times as many Allied cases in Sept, as it did in Aug 44, nevertheless it has only disposed of an average of 52 Allied cases a month, during past 4 months, has back log of 212 Allied cases. Tribunale should try and dispose of 150 Allied cases in Oct and 100 Allied cases each following month until backlog falls below 75.

Acting 1st President of Court of Appeals , Bari, and Procuratore Generale are issuing directives to this effect.

Tribunale not well organized, is understaffed; Procuratore del Regno, whose family lives in Molfetta (90 Km away), desires promotion, needs good Substitute badly, has 1 who is young, and commutes every day to Lecce (40 Km away) by train. Recommend a strong Substitute be placed here for 3 months period, if same is possible.

Continued and steady pressure will have to be applied to all branches of this Tribunale by Italian officials, and weekly check made by ACC LO to obtain proper results from this Tribunale.

1st President of Court of Appeals, Bari, states: Brindisi difficulty caused by lack of personnel; that 1st President of Tribunale and President of 1st Section are newly appointed, and when assumed responsibility 2 or 3 months ago, they undoubtly found Tribunale in bad conditions with many pending cases.

1; Courts of Appeals.

(1) Bari Court of Appeals disposed (by trial) of 121 Allied interest cases (200 defendants) during 1st to 30th Sept 44 period, as compared to 43 Allied cases (70 defendants) so disposed of during Aug 44 and 15 Allied cases (19 defendants) so disposed of during July 44.

On 30th Sept 44 there were pending before this Tribunale 94 Allied cases (171 defendants), as compared to 107 Allied cases (181 defendants) pending on 31st Aug 44.

During Sept 44 this Court received 108 new Allied

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for 3 months period, if same is possible.

Continued and steady pressure will have to be applied to all branches of this Tribunale by Italian officials, and weekly check made by ACC LO to obtain proper results from this Tribunale.

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On 30th Sept 44 there were pending before this Tribunale 94 Allied cases (171 defendants), as compared to 107 Allied cases (181 defendants) pending on 31st Aug 44.

During Sept 44 this Court received 108 new Allied interest cases (with 190 defendants).

This court hears appeals from Bari, Trani , Foggia and Lucera Tribunali.

Bari Assize Court disposed of 2 Allied cases (7 defendants) during Sept 44, had pending on 30th Sept 44 3 Allied cases (4 defendants).

(2) Lecce Court of Appeals disposed (by trial) of 86 Allied interest cases (97 defendants) during 1st to 30th Sept 44 period, as compared to zero Allied cases in Aug 44, and 50 Allied cases (61 defendants) so disposed of during July 44.

On 30th Sept 44 there were pending before this Tribunale 207 Allied cases (231 defendants), as compared to 164 Allied cases (179 defendants) pending on 31st Aug 44.

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During the month of Sept 44 t' s Tribunale received 129 ne allied interest cases (wi.. 141 defendants).

This Court hears appeals from the Tribunals of Lecce, Brindisi and Taranto.

4. Personnel changes in Bari Military Tribunale

a. On 6th Sept 44 Lt. Col. Colamussi Giovanni was discharged from further duty with this Tribunale.
On 9th Sept 44 Major Campanella Vincenzo was discharged from further duty with this Tribunale.
On 9th Sept 44 Major Crispo Alfredo was discharged from further duty with this Tribunale.

New Judges of this Tribunale appointed on 9th Sept 44 were: Lt. Col. Comunale Filiberto, Lt. Col. Maggio Gennaro, Major Scamarcio Michele, Captain Vannucci Nullo, Captain Frava Piero, Captain Binna Igino, all assumed duties on 6th Sept 44.

For other recent changes in personnel of this Tribunale see exhibit 1 attached hereto.

b. On 12 - 13 Sept 44 Under Secretary of War, Palermo, visited this Tribunale and conducted a thorough investigation into personnel, and other matters.

Accompanied by this LO he spent considerable time with Bari Military Tribunale, insisting strongly that priority should be given to Allied cases; that they should be tried with despatch; that sentences must be adequate; suspended sentences should be given only in most exceptional cases, of which there were to be few.

His assistance has been invaluable. Later in the absence of this LO he made a speech to the officers of the Tribunale to the same effect.

On 14th Sept 44 Under Secretary Palermo accompanied by this LO visited Taranto and repeated same admonitions to Taranto Military Tribunale.

5. Checking missing cases.

This LO's report deals only with cases which have been actually received by Italian Courts from Allied and Italian Police agencies. No attempt has been made to include in the report cases still in Police hands and not yet received by Italian Courts.

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5. Checking missing cases.

This LO's report deals only with cases which have been actually received by Italian Courts from Allied and Italian Police agencies. No attempt has been made to include in the report cases still in Police hands and not yet received by Italian Courts.

Prior to 1st June 44 some arrests were made where no complaint concerning same ever sent to or received by Italian Courts. Obviously it is a Police and not a legal function to prepare arrest reports and see that they are actually put in the hands of the Italian Courts.

Capt German during past months has been checking arrest reports of Police agencies against cases actually received by Italian Courts and has been attempting to trace missing cases. This LO is of the opinion that responsibility of proving cases actually were sent and received by Courts is a Police function and all Italian and Allied Police Agencies should obtain receipt for cases definitely placed in hands of Italian Courts. Legal Officer at Bari should be immediately relieved of this responsibility so he can devote all his time strictly legal duties of which there are many.

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6. Newly appointed (1st Aug 44) acting 1st President of Bari Court of Appeals Cervelli Giovanni, deserves special mention, he has cooperated with this LO in all matters and his advise on many things has been of great value. He is liked and respected by his subordinates.

7. This LO arrived at Bari 30th Aug 44, investigation reflected that during June, July and August there had been an appreciable slow down of trial of Allied interest cases and that due to a general state of disorganization and large number of deferred judicial vacations being taken in Sept, the assignment presented considerable more difficulty than had been previously anticipated.
A trip to Taranto on 31st August indicated that the trial of Allied interest cases in the Taranto area had slowed down even more than at Bari. When Major Boyd-Carpenter arrived 1st Sept 44 it was agreed, he would proceed to Taranto to supervise that area, which altho having less pending cases than Bari was desperately in need of attention.
Effort was immediately made throughout the whole Bari-Taranto area to obtain the exact number of pending Allied interest cases and defendants in all Courts, speed up trial of Allied interest cases, and see that adequate sentences were imposed.
System of diverting more Allied cases to Pretori Courts was considered and temporarily disgarded because of lenght of time required to get system in motion and iron out confused jurisdictional disputes.

Brig. Palmer 54 area and Major Rhys-Roberts G 2 54 area were immediately contacted by this LO as suggested by CLO.

Major Rhys-Roberts reviewed theft of war materials situation in presence of Brig. Palmer, and this LO was advised, that since their HQ was moved out of Bari Area 1 Sept 44, all further contacts would have to be made with new CO of 54 Area.

This LO and Captain German on 2nd Oct 44 again reviewed the situation on theft of war materials with Major Satchell new DAAG 54 Area and new Major Sexton-Mills G2 54 Area.

Both Officers, (Major Sexton-Mills in particular) are still concerned over the number of thefts of war

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Allied interest cases and defendants in all Courts, speed up trial of Allied interest cases, and see that adequate sentences were imposed.
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This LO and Captain German on 2nd Oct 44 again reviewed the situation on theft of war materials with Major Satchell new DAAG 54 Area and new Major Sexton-Mills G2 54 Area.

Both Officers, (Major Sexton-Mills in particular) are still concerned over the number of thefts of war materials taking place at 14 British Ammunition Depot, Bitonto.

Analysis of recent cases of theft from this Depot reflect that no one individual case is of sufficient importance to justify an AMG Court.

Policy on AMG Courts is completely understood by Major Satchell DAAG, himself a lawyer.

This LO recommends that Capt. German's suggest of an AMG Court to be held at Bitonto instead of Bari, for the trial of 10 or 12 small cases be given careful consideration.

Should this suggestion be adopted, such cases should be carefully prepared for trial by prosecuting Officer, thoroughly investigated before trial by Police Agencies concerned.

It is submitted that under present wartime conditions with lack of judicial personnel, missing co-defendants, witnesses, documents, and all other wartime imponderables

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it is impossible to completely remedy the Bari-Taranto situation in the short space of 1 month.

LO feels much has been accomplished by ACC legal activity in Sept that will be reflected by increased Italian Court activity thruout the whole of the month of Oct 44.

8. Recommendations:

Recommend that strong attempt should be made by ACC Legal Officers Bari-Taranto Zones, to persuade Italian Civil and Military Tribunali to increase number of Allied cases tried in Oct 44 over number tried in Sept 44 by the following numbers.

Bari Military Tribunale increase of 120 cases; Bari Civil Tribunale increase of 60 cases; Trani Civil Tribunale increase of 60 cases; Taranto Military Tribunale increase of 120 cases; Taranto Civil Tribunale increase of 100 cases; Lecce Military Tribunale increase of 110 cases; Lecce Civil Tribunale increase of 20 cases; Brindisi Civil Tribunale increase of 70 cases.

Should this aim and object be accomplished, accumulation of Allied cases pending in those Tribunali can be reduced by 630 cases.

Bari Military Tribunale will probably obtain this increase without much additional advisory supervision, all other Tribunali will need constant pressure from higher Italian Officials to show proper increase in trial of Allied cases.

It will also be necessary to constantly insist on adequate sentences, and that suspended sentences should be given only in most exceptional of cases.

Donald C. Little

(3 inclosures)

Donald C. Little
Major CMP - AUS
LO for Bari and Taranto
Zones Southern Region ACC.

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Civil Tribunale increase of 70 cases.

Should this aim and object be accomplished, accumulation of Allied cases pending in those Tribunali can be reduced by 630 cases.

Bari Military Tribunale will probably obtain this increase without much additional advisory supervision, all other Tribunali will need constant pressure from higher Italian Officials to show proper increase in trial of Allied cases.

It will also be necessary to constantly insist on adequate sentences, and that suspended sentences should be given only in most exceptional of cases.

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LO for Bari and Taranto
Zones Southern Region ACC.

(3 inclosures)

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Changes
in the Staff of the Bari Military Tribunals
during the month of Sept 44

Tribunals : Brig. General Cassel Mario, arrived on 26th June 44. Assumed duty of President on the 4th July 44.

His predecessor was Reserve Brig. General Medis Mario, who left duty of President on 15th June 44

In the period between 15th June and 3th July inclusive, Lt. Col. Natale Pasquale functioned as acting President of the Military Tribunals.

Judges : Lt. Col. Sclamussi Giovanni was discharged on 6th Sept 44 from duty.
Major Campanella Vincenzo was discharged on 9th Sept 44 from duty.
Major Crispo Alfredo was discharged on 9th Sept 44 from duty.

Lt. Col. Cannuale Filiberto, Lt. Col. Maggio Gennaro, Major Scamarcio Michele, Capt Vennucci Nello, Capt Prava Piero, Capt Binno Igino, were appointed and assumed duty on 6th Sept 44.

Procura : Lt. Col. Grilli Giovanni was appointed new Procuratore Militare on the 14th Aug 44 and assumed duty on same day.
His predecessor Lt. Col. Furlan Luigi left on same day.
On the 14th June 44 Lt. Giuseppe Sapienza was appointed as new and additional Substitute Procuratore Militare; assumed duty on same day.
On 11th Sept 44 Lt. Guariglia Cron[illegible] was

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functioned as acting President of the Military Tribunals.

Judges : Lt. Col. Colamussi Giovanni was discharged on 8th Sept 44 from duty.
Major Campanella Vincenzo was discharged on 8th Sept 44 from duty.
Major Crispo Alfredo was discharged on 8th Sept 44 from duty.

Lt. Col. Comunale Filiberto, Lt. Col. Maggio Gennaro, Major Scamarcio Michele, Capt Vannucci Italo, Capt Preva Piero, Capt Bruno Igino, were appointed and assumed duty on 6th Sept 44.

Procura : Lt. Col. Grilli Giovanni was appointed new Procuratore Militare on the 12th Aug 44 and assumed duty on same day.
His predecessor Lt. Col. Furlan Luigi left on same day.
On the 14th June 44 Lt. Giuseppe Sapienza was appointed as new and additional Substitute Procuratore Militare; assumed duty on same day.
On 11th Sept 44 Lt. Guariglia Crocco was attached to the Procura office, dealing with Allied cases as collaborator. Assumed duty on same day.

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Judicial Personnel

Procura Generale - Bari.

1. DE SANTIS Giuseppe - Procuratore Generale. In charge before and during the vacations period.
2. GUIDI Salvatore - Subst.Procuratore Generale, in charge before and during vacations period.
3. FERRARA Luciano - Subst.Procuratore Generale, in charge until 20 Aug 44; on vacation from 21 Aug to 21 Sept 44; since 22 Sept transferred to Procura del Regno as chief.
4. TALLARIGO Cesare - Subst.Procuratore Generale since 29 Aug 44 (formerly Procuratore del Regno Bari).

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Procura del Regno - Bari.

1. FERRARA Luciano - Procuratore del Regno, in charge since 22 Sept 44 (formerly Subst.Procuratore Generale).
2. ABBONDANZA Amerigo - Subst.Procuratore, in charge before and during vacations period (Acting Procuratore untill Ferrara took charge).
3. BONSEGNA Mario - Subst.Procuratore, on vacation from 17 July to 16 Aug 44; since then suspended for reasons of health.
4. RAINONE Carlo - Subst.Procuratore, on vacation from 28 Aug to 27 Sept 44.
5. BIANCHI Guido - Subst.Procuratore; enlisted since 1940; actually POW of Germans.
6. ROTONDO Michele - Subst.Procuratore, had been on vacation from 20 July to 19 Aug 44; actually in charge.
7. MEZZINA Francesco - Subst.Procuratore, on vacation from 18 Aug to 16 Sept 44; now transferred to Tribunale Foggia as judge.
8. CIASCA Rocco - Auditor acting Subst.Procuratore; on vacation from 4 Aug to 3 Sept 44; since then obtained a further leave of 30

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22 Sept 44 (formerly Subst.Procuratore Generale).

2. ABBONDANZA Amerigo - Subst.Procuratore, in charge before and during vacations period (Acting Procuratore untill Ferrara took charge).

3. BONSEGNA Mario - Subst.Procuratore, on vacation from 17 July to 16 Aug 44; since then suspended for reasons of health.

4. RAINONE Carlo - Subst.Procuratore, on vacation from 28 Aug to 27 Sept 44.

5. BIANCHI Guido - Subst.Procuratore; enlisted since 1940; actually POW of Germans.

6. ROTONDO Michele - Subst.Procuratore, had been on vacation from 20 July to 19 Aug 44; actually in charge.

7. MEZZINA Francesco - Subst.Procuratore, on vacation from 18 Aug to 16 Sept 44; now transferred to Tribunale Foggia as judge.

8. CIASCA Rocco - Auditor acting Subst.Procuratore; on vacation from 4 Aug to 3 Sept 44; since then obtained a further leave of 30 days for reasons of health.

9. TURI Giuseppe - Pretore of Modugno, attached for the period of 2 months beginning 21 July 44; in charge also during vacations period.

10. LONGO Francesco - Auditor, Vice Pretore of Bari attached for a period of 6 months beginning 1 Aug 44; in charge also during vacations period.

<u>Procura dei Minori - Bari.</u>

1. ABBONDANZA Amerigo - Subst.Procuratore; in charge before and during vacations period; untill 22 Sept 44 also Acting Procuratore del Regno, Bari.

Procura del Regno - Trani (over)

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Procura del Regno - Trani.

1. RONGETTI Vittorio - Procuratore, on vacation from 15 Aug to 15 Sept 44.
2. STEA Vito - Subst.Procuratore; in charge before and during period of vacations; Acting Procuratore from 15 Aug to 15 Sept 44.
3. DI STASO Nicola - Subst.Procuratore; on vacation from 15 Aug to 15 Sept 44.
4. LERARIO Francesco Paolo - Subst.Procuratore, in charge; on vacation from 1 July to 31 July 44.

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Court of Appeals - Bari.

1. CUOMO Giovanni - First President; pensioned 1 Sept.
2. CERVELLI Giovanni - Pres.of Section; Acting First President since 1 Aug 44; did not go on vacation.
3. MASI Tommaso - Pres.of Section; on vacation from 1 Aug to 29 Sept 44.
4. CAGGIANELLI Alfredo - Pres.of Section; on vacations since 1 Aug; pensioned since 1 Sept 44.
5. ROBERTI Michele - Pres.of Section, in charge before and during vacations period.
6. LUPALI Alessandro - Counsellor; on vacation from 1 Aug to 29 Sept 44.
7. LAMONICA Luigi - Counsellor; in charge before and during vacations period.
8. SOLE Giosuè - Counsellor; on vacation from 1 Aug to 29 Sept 44.
9. CIBELLI Michele - Counsellor; on vacation from 1 Aug to 29 Sept 44.
10. CRISPO Luigi - Counsellor; on vacation from 1 Aug to 29 Sept 44.
11. CIACCIA Angelo Raffaele - Counsellor; in charge before and during vacations period.
12. STRANIERO Pasquale - Counsellor; on vacation from 1 Aug to 29 Sept 44.

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4. CAGGIANELLI Alfredo - Pres.of Section; on vacations since 1 Aug; pensioned since 1 Sept 44.

5. ROBERTI Michele - Pres.of Section, in charge before and during vacations period.

6. LUPALI Alessandro - Counsellor; on vacation from 1 Aug to 29 Sept 44.

7. LAMONICA Luigi - Counsellor; in charge before and during vacations period.

8. SOLE Giosuè - Counsellor; on vacation from 1 Aug to 29 Sept 44.

9. CIBELLI Michele - Counsellor; on vacation from 1 Aug to 29 Sept 44.

10. CRISPO Luigi - Counsellor; on vacation from 1 Aug to 29 Sept 44.

11. CIACCIA Angelo Raffaele - Counsellor; in charge before and during vacations period. 167

12. STRANIERO Pasquale - Counsellor; on vacation from 1 Aug to 29 Sept 44.

13. CASAVOLA Vittorio - Counsellor; in charge before and during vacations period.

14. ELIANTONIO Michele - Counsellor; on vacation from 1 Aug to 29 Sept 44.

15. DE LUCE Antonio - Counsellor; on vacation from 1 Aug to 29 Sept 44.

16. PANSINI Giovanni - Counsellor; on vacation from 1 Aug to 29 Sept 44.

17. DE MARI Giovanni Battista- Counsellor; in charge before and during vacations period.

18. D'ALESSANDRO Gaetano - Counsellor; stays at S.Vittore del Lazio can not return because of lack of means of transportation.

19. DE RENZO Giulio - Counsellor; on vacation from 1 Aug to 29 Sept 44.

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20. DE CICCO Francesco - Counsellor; in charge before and during vacations period.

21. CHIEPPA Lorenzo - Counsellor; on vacation from 1 Aug to 29 Sept 44.

22. CAIZZI Enrico - Counsellor; in charge before and during vacations period.

23. MAGGI Amerigo - Counsellor; as enlisted officer attached to Milit. Court Bari.

24. SPINELLI Giuseppe - Counsellor; on vacation from 1 Aug to 29 Sept 44.

25. CALDERAZZI Luigi - Counsellor; on vacation from 1 Aug to 29 Sept 44.

Tribunale - Bari

1. GALLO Vittorio - President of Tribunale: since 21 Aug on vacation.

2. LEZZA Sergio - President of Section; since 1 Aug Acting President of Tribunale.

3. SCARDACCIONE Giuseppe - Pres. of Section; on vacation from 1 Sept to 30 Sept 44.

4. FRAGOLI Giuseppe - Pres. of Section; on vacation from 1 Aug to 31 Aug on vacation.

5. PARMIGIANI Stefano - Judge; since 15 Sept 44 on vacation.
6. DE CARLO Ariberto - " " 22 " " " "
7. LOVERRE Vittorio - " " " " " " "
8. BUONO Lelio - " " " " " " "
9. BARTOLI Saverio - " from 1 Aug to 31 Aug "
10. PANZINI Giuseppe - " " " " " " "
11. FRATE Pasquale - " " 1 Sept to 30 Sept "
12. MAGARELLI Ugo - " " 1 Aug to 31 Aug "
13. PAGLIARULO Vito - " " 1 Aug to 31 Aug "
14. AMATI Domenico - " " 1 Aug to 31 Aug "
15. CERVELLI Antonio - " " 1 Sept to 30 Sept "
16. MORGESE Vitantonio - " since 22 Sept on vacation
17. MEDICH Tommaso - " since 22 Sept on vacation
18. MEZZINA Nicolò - " from 1. Aug to 31 Aug vacation.
19. MACARONE-PALMIERI Enrico - " from 1 Aug to 31 Aug "
20. COLAPINTO Vito - " from 1 Aug to 31 Aug
21. GIANCASPRO Carlo - Instruction-Judge; from 6 Aug to 5 Sept

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3. SCARDACCIONE Giuseppe - Pres. of Section; on vacation from 1 Sept to 30 Sept 44.

4. FRAGOLI Giuseppe - Pres. of Section; on vacation from 1 Aug to 31 Aug on vacation.

5. PARMIGIANI Stefano - Judge; since 15 Sept 44 on vacation.
6. DE CARLO Ariberto - " " 22 " " " "
7. LOVERRE Vittorio - " " " " " " "
8. BUONO Lelio - " " " " " " "
9. BARTOLI Saverio - " from 1 Aug to 31 Aug "
10. PANZINI Giuseppe - " " " " " " "
11. FRATE Pasquale - " " 1 Sept to 30 Sept "
12. MAGARELLI Ugo - " " 1 Aug to 31 Aug "
13. PAGLIARULO Vito - " " 1 Aug to 31 Aug "
14. AMATI Domenico - " " 1 Aug to 31 Aug "
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18. MEZZINA Nicolò - " from 1. Aug to 31 Aug vacation.
19. MACARONE-PALMIERI Enrico - " from 1 Aug to 31 Aug "
20. COLAPINTO Vito - " from 1 Aug to 31 Aug "
21. GIANCASPRO Carlo - Instruction-Judge; from 6 Aug to 5 Sept 44 on vacation.

22. Jandolo Antonio - Instruction-Judge; from 15 Aug to 14 Sept on vacation.

Tribunale -Trani-

1. DE STEFANO Vincenzo - President; pensioned as from the 1st Sept 44.

2. ANTONACCI Palmo - Presid. of Section; on vacation from 1 Aug to 30 Aug. 44.

3. GRILLI Giovanni - Judge; Attached to the Military Tribunale, Bari.
4. SCARINGELLA Cataldo - Judge; on vacation from 1 to 30 Aug.
5. TRAVERSA Pietro - " attached to the Mil. Tribunale, Bari.
6. INSABATO Saverio - " on vacation from 1 to 30 Aug 44.
7. BARTOLI Antonio - " in charge before and during period vacation.
8. BAFFI Federico - Judge; on vacation from 1 to 30 Aug.

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9. PER ORE-CAPANO Pasquale - Judge; in charge before and during period of vacation.

10. STRANIERO Ignazio - Judge; in charge before and during vacation period.

11. SCELSI Leonardo - Acting judge; in charge before and during period vacation.

12. MOTTI Giuseppe - Acting judge; in charge before and during vacation period.

13. SERRANO Ruggiero - Acting judge; in charge before and during vacation period.

14. SASSI Vito Paolo - Acting judge; on vacation from 1 Aug to 30 Aug 44.

15. DE CESARE Domenico - Judge; on leave for sickness.

Pretura Unificata - Bari -

1. APICELLA Mario - First Pretore; still in charge.
Of 11 officials only 7 are actually in ch
charge. 2 are attached to Procura, Bari
1 is enlisted.

182

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

29 Sept 44

From : Court of Appeals, Bari

To : Chief Legal Officer for Apulia, Bari

Subject: Paper for forms and register.

I beg to inform you that the offices of this Court, of the Section of Court of Appeals of Lecce and of the Tribunale of this jurisdicition complain about the lack of paper, of forms and registers, since their suppliers did not receive the correspondent allotment.

We did our best to face the situation, utilizing also many forms out of use, by cutting the blank page; but this is not possible for the original of sentences, for the records of trials and for many other acts, for which we necessary need the whole page of paper.

As we don't know how to make up for the lack of printed forms and especially for the big registers, we are now finishing, I am begging you to draw the attention of the Allied Control Commission to this matter, so that the same can grant allotments of paper for the Judicial Offices above mentioned. Light paper is needed for the printed forms, and heavy one for the registers.

(sgd) 1st President

G. Cervelli

161

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60A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUBCOMMISSION
APO 394

MW/pa.
6 Oct 44.

MX/4450/L.

SUBJECT : Italian Military Tribunal at BARI.

TO : R.L.O. (MMIU: Regional Coordinator) Southern Region).

1. I enclose herewith three copies of a report just submitted to this H by the Italian Minister of War. It is dated 25 Sept 44.

2. Any irregularities or any unauthentic developments in the work of the Tribunale Militare at Bari should be promptly reported to me.

RICHARD H. WILSON,
Colonel, CAC,
Chief Legal Advisor.

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

4150

59A

Subject: Tribunal Militare - Bari

Military Mission
Italian Army,
H.Q. M. ..
AC/65
4 October 1944

To : Legal Sub Commission, ACC
(for Lt. Col. G.G. Hamilton)

51A

Reference your ACC/4130/L of Sept 4th.

1. Attached for information, is a copy of reply from H.E. the Minister of War, to this Hq letter AC/65 of 7 Sept addressed to Ministry of War (copy to you).

55A

F. J. Noakes

F. J. Noakes, Lt Col,
for Major General,
M. M. I. A.

EJN/wlc

Plenzi circulate

RMEV

153

(57B)

COPY TRANSLATION

From: Ministry of War
To: Maj. Gen.Browning.

Ref 301681/CA
Date 25.9.44

Subject: Inquiry on functioning of the BARI Mil.Tribunal.

1. In compliance with your communication of Sept 7th, I have ordered an Inquiry to be held by H.E.PALERMO into the functioning of the Military Tribunal of BARI in order to ascertain the position regarding the deficiencies reported by the Legal Branch of ACC. The following are the results of the inquiry.

2. No indication of probation sentences in weekly reports of cases dealt with.

There is no doubt that this is a regrettable omission which may have given rise to the suspicion of criminal act, committed with the intention of concealing from the Allied Authorities the granting of this benefit. The inquiry, however, shows that the facts were, by no means, artfully concealed.

Responsibility for the omission rests exclusively with Lt.SELIS - whose duty it was to make out the reports and who misunderstood the directive given by the President at the time and also misunderstood the present President, Gen. MADIA, whose directives were not sufficiently clear and precise.

In the forms requested by Maj COHEN, in the column decisions, it was considered necessary to indicate only the most important factors of the decision, omitting that which had no direct bearing on the actual sentence.

Another omission reported is that of some cases from the list of cases to be heard during any one session.

Lt. SELIS is also responsible for this omission but in this case it must be pointed out that :-

(a) Said lists were made out on the day of receipt to better ensure attendance, but in this way, on the other hand, it was quite possible that the documents some cases might be held by the Mil. Procurator General's Office, or the President of the Court and it might be omitted from the list in the belief that it had been withdrawn from the roll. Other omissions may have been due to cases having been fixed forhearing at the last minute though scheduled for a later date.

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(b) If any case has been omitted from the warning list, it has nevertheless been included in the list of cases heard for the following week and consequently not concealed from the Allied representatives.

5. Hearing of cases.

It is advisable to submit some statistical data :-

From Nov 1943 to August 1944 the following cases were heard :-

- 398 for theft to the detriment of the Allies with 600 accused. Of these 6 were given sentences of over 4 years, 18 sentences of over 2 years, 70 sentences of over 8 months, 418 sentences of under 8 months (of these 85 were granted probation), 88 were acquitted.

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-921 for illegal possession of Allied Mil property. With 1292 accused, of these 43 were given sentences ranging from 8 months to 2 years, 1080 sentenced to less than 8 months (of these 257 were granted probation) 169 were acquitted.

- 7 for receiving Allied property, with 32 accused. Of these, 2 men were sentenced to 5 years, 3 to 2 to 4 years, 7 to 8 months to 2 years, 15 to less than 8 months (of these 4 were granted probation), 5 were acquitted.

- 4 for Sabotage with 12 accused. Of these 9 were given sentences ranging from 9 to 17 years, one to over 4 years, 2 were acquitted.

This data shows that :-

- out of 1576 sentenced, only 366 were granted probation.

- it would appear that a general policy of leniency has been adopted in respect of crimes against Allied property, leniency which equally outstanding where crimes against It. Mil. Administration are concerned.

In view of all the above and of investigations carried out in respect of individual cases, I do not consider that the functioning of the Bari Mil Tribunal can be classified as scandalous.

4. As regards cases where breaches of regulations regarding night fishing are concerned, there has definitely been leniency shown from the first months. Lt.Col.FURLAN cannot however be held responsible for this since as far back as July 17th, he called the attention of the President of the Court to this matter, asking him to deal with such cases with exemplary severity.

This warning and request now insisted upon will not fail to have an immediate effect.

5. Gen. MADIA and Lt.Col.FURLAN have both been replaced and released. I have ordered that Lt.SELIS be replaced and replacement of other personnel is under way.

As a result of the inquiry I do not consider it is necessary to take any further action and that the measures taken and those being taken are sufficient to ensure an improved functioning in accordance with your wishes.

The Minister

(sgd) A.CASATI

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

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(sgd) A.CASATI

hh.

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

CONFIDENTIAL

584

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4150/L. /ap.

11 September 1944.

SUBJECT : Legal situation in Bari.

TO : Regional Legal Officer (THRU RC), Southern Region.

1. Upon my return to this Headquarters after two days' absence, I have received your letter L-20090 dated 7 September 1944.

2. I agree entirely as stated previously on the telephone that a copy of Major Franklin's report should not be sent to the Italian Army authorities. As a matter of fact I have sent a letter to the Army Sub-Commission giving a synopsis of the situation in Bari. That has been taken up with the Italian Army authorities and I find that the Chief of Cabinet of the Ministry of War (Under-Secretary) has gone to Bari to make a personal investigation.

3. I think this must be an affair for the Italians to sort out themselves to begin with and later we can judge whether it has been done well or badly. I think it will be well for you to advise Major Little of this step in case he does not know of it, in order that he may advise you of any change in respect to the Italian Military Tribunal at Bari. If the Tribunal is shaken-up or reconstituted, I think it would be worth while after he has taken the matter up with the Italians to send to the Tribunal a few cases, not at first ones of real importance, to see how they get along with them and to feed in cases gradually.

4. Colonel Chapman informs me that in Naples the Italian Military Tribunal has always been most cooperative and does good work which shows it can be done if it is in the hands of cooperative people.

5. It would be appreciated if you will pass on to me any

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

1. Upon my return to this Headquarters after two days' absence, I have received your letter L-2009C dated 7 September 1944.

2. I agree entirely as stated previously on the telephone that a copy of Major Franklin's report should not be sent to the Italian Army authorities. As a matter of fact I have sent a letter to the Army Sub-Commission giving a synopsis of the situation in Bari. That has been taken up with the Italian Army authorities and I find that the Chief of Cabinet of the Ministry of War (Under-Secretary) has gone to Bari to make a personal investigation.

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4. Colonel Chapman informs me that in Naples the Italian Military Tribunal has always been most cooperative and does good work which shows it can be done if it is in the hands of cooperative people.

5. It would be appreciated if you will pass on to me any information you receive.

156

RICHARD H. WITMER,
Colonel, CAC.,
Chief Legal Officer.

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

C O N F I D E N T I A L

4150

HEADQUARTERS
SOUTHERN REGION, ALLIED CONTROL COMMISSION
LEGAL DIVISION
APO 394, U.S. Army

L-2009 Q

7 September 1944

SUBJECT: Major Franklin's Report.

TO : C.L.C., Legal Sub-Commission, A.C.C., HQ, C.M.F.

1. I attach hereto copies of correspondence which has passed between Major Boyd-Carpenter and myself.

2. This correspondence speaks for itself.

3. As I myself am unaware of the contents of Major Franklin's report a copy thereof not having been supplied to me I have given Major Boyd-Carpenter the instruction set forth in my letter to him.

4. I confirm my telephonic conversation with you of today's date (7 September 1944) in the course of which you agreed with my instructions to Major Boyd-Carpenter.

For the Regional Commissioner:

T. B. Dawson

T. B. DAWSON,
Lt. Colonel, G.L.,
Regional Legal Officer.
Southern Region.

LEGAL SUB-COMMISION
CLO
DCLO
Chief Counsel
CJO
[illegible]
CLERKS

155

C O N F I D E N T I A L

CONFIDENTIAL

57B

HEADQUARTERS
SOUTHERN REGION, ALLIED CONTROL COMMISSION
LEGAL DIVISION
APO 394, U.S. Army

L-

7 September 1944.

SUBJECT: Major Franklin's Report.

TO : Legal Officer (Att:Major Boyd-Carpenter) at Taranto
c/o Commissioner for Bari Zone, A.C.C. C.M.F.

1. Your letter dated 4 September 1944 refers.

2. I have not myself to date seen a copy of Major Franklin's report and no repeat no Italian Authority including General Traina is to have a copy of it pending further instructions.

3. The translation of this report into Italian will proceed as further at this stage.

4. Please let me have a copy of the report.

5. The above instruction is confirmed by the C.L.O. with whom I have just been in telephonic communication.

L.F. DAWSON,
Lt.Colonel, G.L.,
Regional Legal Officer,
Southern Region.

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

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L.F. DAWSON,
Lt.Colonel, G.L.,
Regional Legal Officer,
Southern Region.

CONFIDENTIAL

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

570

ALLIED CONTROL COMMISSION
Legal Office - Taranto

TO: R.L.O.,
Southern Region, ACC.
NAPLES

Taranto, 4th September 44

Subject: Major Franklin's report.

1. On visiting Taranto I discovered that on instructions stated to have been given by Major Franklin, a copy of his report on Military Tribunal of Bari was being translated into Italian and transmitted to General Traina. Original of the report was forwarded to C.L.C. on 29/8/44.

2. As this would appear to raise a point of some importence, I have suspended such action pending instructions from you.

/s/ T.A. BOYD-CARPENTER
/t/
Major
Legal Officer -Taranto.

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

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/s/ T.A. BOYD-CARPENTER

/t/

Major

Legal Officer -Taranto.

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

14150

PERSONAL

Army Sub Commission, MTA.
H.Q., A.C.C.

AC/65.
Sept 44.

H.E. The Minister of War.

Your Excellency,

1. I enclose a copy of letter, ACC/4150/L dated 4 Sept from the Chief Legal Officer A.C.C. to this Sub Commission.

2. It discloses what appears to be a scandalous state of affairs as regards the TIGNUMALI MILITARI at RAHI.

3. I am to request that you will make immediate and searching investigation into the whole matter, informing me as to the action taken.

4. You will doubtless wish to explain your views on the above to the Chief Legal Officer A.C.C. at the meeting at the Ministry of Justice on Friday, 8 Sept (see ACC/4086/4/L. dated 5 Sept sent to H.E. the Minister of Pardon and Justice.)

L. Browne

Major General.
Army Sub Comm, A.C.C.

tvs.LB.
3.C.

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

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3. I am to request that you will make immediate and searching investigation into the whole matter, informing me as to the action taken.

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L. Browning

Major General.
Army Sub Comm, A.C.C.

152

tvs.LR.
S.c.
encl.1.

copy to: Lt. Col. G.C. HATHAWORD.
Officer i/c Italian Branch,
Legal Branch, A.C.C.

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

Mod 1347 M.G.

Ministero di Grazia e Giustizia

UFFICIO SUPERIORE DEL PERSONALE

Uff. 2° 1752/02407

Roma, 9 settembre 1944

A S.E. il Primo Presidente
ed a
S.E. il Procuratore Generale
della Corte d'Appello di

BARI

OGGETTO: Processi di competenza dei Tribunali militari alleati.

E' stato autorevolmente riferito a questo Ministero che alcuni processi di competenza del Tribunale Militare Alleato di Bari, già iscritti per essere svolti davanti a detta Corte, sono stati, invece, giudicati dal Tribunale italiano, che avrebbe inflitto agli imputati pene inadeguate.

Le LL.SS. vorranno, pertanto, vigilare personalmente al fine di evitare l'eventuale ripetersi dell'incresciose inconveniente, dando, al riguardo, precise disposizioni ai dipendenti uffici giudiziari per la scrupolosa osservanza delle norme sulla competenza dei Tribunali Militari Alleati.

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S.E. il Procuratore Generale
della Corte d'Appello di

BARI

Cases within the jurisdiction of Allied Military Courts Bari

OGGETTO: Processi di competenza dei Tribunali militari alleati.

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IL MINISTRO 151

f. Togliatti

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HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

51A

ACC/4150/L. /pa.

4 Sept 44.

Report : Tribunali Militari at Bari.

TO : Army Sub-Commission.

1. As you know, while the right has been reserved whereby Allied Military Courts may be held in Italian Government Territory, it was the determined policy of the Allied Control Commission that only cases of exceptional importance should be tried by such courts in that territory. That means that other cases affecting the Allied interests not so tried are referred to the Italian Civil and Military courts for trial. These cases generally are those of theft of Allied goods and injuries to Allied personnel. Generally the Italian Civil Courts have functioned satisfactorily in this regard, although the civil courts in Bari were for a long time the exception. However, with certain changes of personnel and the setting up of a special section to deal with that type of case it is believed that the civil court situation there will radically improve.

2. Under the Italian Military Code of War certain of these cases may be tried before Italian Military Tribunals. The Tribunal at Bari undertook to try some of these cases and because their procedure is more expeditious it was thought that they would be able to render valuable assistance in disposing of a large number of cases, which inevitably seems to arise at a seaport and military center such as Bari. However, it has developed that the work of this Tribunal was badly done and on the whole the results were most unsatisfactory. Those in direct charge proved to be most uncooperative as will be noted below. Unless the efforts now being made by Gen.TRAINA prove to be fruitful, it will mean that many of the cases which the Tribunal could easily dispose of will have to be tried by Allied Military Courts, although with a helpful and cooperative attitude on the part of the Italian Military Tribunal this could be avoided.

3. In order to ensure that the A.C.C. Legal Officer should have full information as to the progress and treatment of cases affecting Allied interests before the Italian Courts, it was arranged between Major Cohen, then Provincial Legal Officer at Bari, and Gen.Madia, the then President of the Tribunale Militare, that a report should be submitted to the Legal Officer every week showing the cases that had been disposed of during the past week with the exact sentences in each case, and a list of cases awaiting trial. However, as events occurring in the past few months have proved the Italian Military authorities have failed to carry out the agreement.

4. At the end of last June the Regional Legal Officer referred certain [illegible] cases to this HQ for decision as to whether they should be tried by AMG or by the Italian Military Tribunal. These cases concerned sabotage at ammunition

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

dumps and as the Allied authorities took a grave view of them, trial by AMG Courts was ordered and the necessary orders and charges forwarded at the beginning of July to Region II. But on communicating the charges to the Italian authorities the Provincial Legal Officer learnt for the first time that these cases had already been tried by an Italian Military Tribunal. No notification had been given to him that they were about to be so tried and in fact these specific cases were omitted from the list of cases docketed to be tried by the Italian Military Tribunal during the periods covered by the list. On consulting the weekly reports the Legal Officer found that they had been dealt with not as sabotage but as petty theft and punished accordingly. e.g. removing and carrying away rope grummets from shells was tried as "theft of a few pieces of rope", and was punished by a few months imprisonment .

The persons responsible seem to be :

(a) Lt.Col.FURLAN, the then Procuratore Militare, since he was the head of the office that made up the list of cases for trial by the Italian Military Tribunal, and a Major TRAVERSA who actually did the work and admits passing the case for trial by the Italian Courts but pleads over-work as an excuse, which since he has dealt with nearly two thousand cases this year, may well be true.

(b) Lt. SILLI who was responsible for preparing the list of forthcoming cases for the Provincial Legal Officer. He can give no reasonable explanation as to why these particular cases were omitted from the list and not brought to the notice of the Legal Officer.

(c) The members of the Italian Military Court who imposed such a ridiculous penalty and failed lamentably to grasp the full significance of the charges before them cannot be held free from blame. They are Lt.Col.NATALE,President, and Lt.Col. BELLINI, technical member.

(d) In certain of these cases Allied Military witnesses who could have explained the same significance of the acts charged were not called by the Prosecution.

While the fault for this may lie primarily with Major TRAVERSA it also lies with everybody connected with the case who apparently chose to ignore the six page report of the English Sergeant.

5. Investigations carried out by the Provincial Legal Officer consequent on discovering these cases brought to light what is regarded as a graver neglect of their agreement by the Italian authorities. The Legal Officer discovered that the Tribunale Militare had been making a practice of suspending sentences imposed in cases affecting Allied interests, thus effectively nullifying any deterrent effect. But the Legal Officer was not being informed that these suspensions were being allowed so that while from the weekly report he was under the impression that the guilty parties were serving terms of imprisonment they were in fact

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walking about to all intents free men. Strong representations stop the granting of such suspension of sentence would have been made at once had the Legal Officer been aware of it for the whole object of penalty in such cases is to deter other would-be offenders .

The person responsible for failing to bring this suspension of sentence to the knowledge of the Legal Officer would appear to be Lt.SILLE. It was his job to prepare the weekly report. He made the list of cases decided by the Tribunale Militare. He omitted in reporting sentences imposed to add that sentence had been suspended.

6. One more instance of the ost lackadaisical way in which Bari Tribunale Militare has carried out its duties in respect to the Allies is the matter of prosecutions for infringements of the night fishing regulations.

Night fishing was causing some anxiety to the Naval authorities and Capt. GERMAN, Legal Officer wrote to the then Procuratore Militare Lt.Col. FURLAN asking him to explain the matter to the Tribunale and to insist on heavy penalties being imposed by the Courts for any infringements.- Capt. German had to repeat his request and although Lt.Col.Furlan stated that he had advised his colleagues verbally he certainly never issued anything in the nature of a written " directive" to cover the matter.

7. From the above it will be seen that the Tribunali Militari at Bari are to put it mildly not co-operating to the full extent of their ability. The only other explanation is that the personnel there is so inefficient as to demand immediate replacement. Gen.MADIA retired on 1st July, Lt.Col.Furlan was suspended by Gen.TRAINA, who has promised to do his best to remedy the disastrous state of affairs, of which, it should be added, he says he was in complete ignorance until it was brought to his notice by the Allied authorities.

It is felt that investigation should be made by the Italian Army into the whole matter and such disciplinary action taken as is deemed fit. We shall be glad to supply any further details that may be necessary.

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

DH

4150

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION 2

50A

REF : 2201/74/B

26.8.44

SUBJECT : Report on the Tribunale Militare Bari.

TO : C.L.O., Legal Subcommission ACC, Rome

Copy to : No 2 District (Italian annexures not attached)
6 Base Sub Area (annexures not attached)
RLO Southern Region (annex. " ")

36A

Further to this HQ letter of even number of 27.7.44, a full inquiry into the recent working of the Tribunale Militare of Bari has been made by Major Franklin together with General Traina, Procuratore Generale Militare, to whom he acts as Liaison Officer.

Attached please, is copy of his report.

A. From it, and from inquiries of my own, I endorse his view that no definite anti Allied conspiracy existed. But it seems clear that an anti Allied attitude, based largely on the tardy appearance of any effective ACC control in Apulia, months after it had enjoyed a measure of license, radiated from general Ledice late Commander of the 9th Army Corps, and infecting several suberdinate offices.

It is considered that such is most clearly illustrated by the fact that while during a period of 5 weeks, farcical suspensions of sentences were given in 67 cases affecting Allied interests, both Colonel Furlan to me personally, and later Lieut.Sellis during the inquiry had the effrontery to suggest that they had no idea ACC could wish to know of whether sentences notified to them for offences against Allied interests were suspended! From the end of February onwards, no judicial authorities have been left in the slightest doubt that the whole purport of LO's appointment was to ensure that offences against Allied interests were tried and sentences imposed which would be a deterrent to others. The excuses rendered by those two officers reflects an intention to flout Allied interests.

Moreover, out of 3232 Allied cases tried by the Italian Courts up to the end of July, the fact that alone in the sabotage cases and four other unimportant cases, have they failed to notify forthcoming trial cannot be considered as other than deliberate flout

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Moreover, out of 3232 Allied cases tried by the Italian Courts up to the end of July, the fact that alone in the sabotage cases and four other unimportant cases, have they failed to notify forthcoming trial cannot be considered as other than deliberate flouting of Allied interests.

In these circumstances, I feel that General Ladice and General Madia having been removed for reasons quite inconnected with the matter of the Tribunale Militare, the only party so far penalized for it has been Colonel Furlan.

1. In the case of Col.Furlan, it is submitted that HQ require :the War office to return him to civil life.
2. Although Lieut.Sellis was admittedly a subordinate, the part played by him was indefensible, and it is submitted that he also should be suspended from office and returned to civil life.
3. In the cases of Lt.Col.Bellini, Lt.Col.Natale and Major

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Montaruli it is recommended that they be severely reprimanded and transferred to Catanzaro where Allied interests are few and comparatively unumportant.

4. In the case of Major Traversa, whereas this officer was grossly negligent, he has in other respects rendered good service to the Allied cause, and after interviewing him, I agree with General Traina that others more culpable than he have tried to 'frame him'. He is clearly very contrite for his short comings, and I recommend his retention as serving our interests.

In addition, I recommend a paragraph in the "Gazzetta del Mezzogiorno" to the effect that for exhibiting sympathies inimical to the Allies in the course of their work in the Tribunale Militare, disciplinary measures (as decided upon) have been taken against the officers to be specified by name.

B. Lacunae in the Italian judicial system were fully discussed and remedies decided upon at the CLO's recent conference at this HQ. The urgency of two points is respectfully stressed.

1. Any action taken to ensure the imprisonment of persons awaiting trial for offences against Allied interests will remain abortive unless either Tuturano Camp is handed over to the Italian Prison authorities for reception of civilians undergoing sentence, or unless the Military authorities will now give practical effect to solving the prison problem by construction. I visited Bari prison this day, and conditions there continue to equal those scandals of which we accuse the Germans in their treatment of prisoners. Cells designed for single persons continue to be tenanted by eight.

2. A Decree Law legalizing appeal against suspended sentences by the Tribunali Militari, in the same way as they are possible in the case of the Tribunali Civili.

D.E.S.COUSINS, Lt.Col.
R.L.O.,
REGION 2.

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R.L.O.,
REGION 2.

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ALLIED CONTROL COMMISSION
LEGAL OFFICE - APULIA -

Tarar , August 24,44

IMC/I

CONFIDENTIAL

To: Chief Legal Officer
A.C.C. Region 2

Subject: Italian Military Court, Bari.

1. I have been instructed to enquire into the working of the Italian Military Court, Bari, to see whether the complaints made in a report by Capt. German dated 19 July 1944 were justified and to what extent and to make recommendations to ensure their proper working in the future. I was not asked to enquire into the methods of the italian police.

2. The report contains complaints, first about three specific cases Di Bari et al, Marino et al, and Barone et al, secondly about the failure to notify the suspension of sentences to the LO, thirdly about those persons who although sentenced to terms of imprisonment during the period 20.5 - 23.6 are still at liberty and fourthly about the infliction of inadequate sentences in night fishing cases. Finally, it appears that five cases were submitted for possible trial by A.M.G. Court of these five only one was considered suitable for recommendations by RLO: this case was the only one found to have been already tried by the italian courts and though there is no complaint about the result it is suggested that the trial was expedited to circumvent trial by A.M. G. Court.

3. 1) Case of Di Bari et al.
These three women were found to be in possession of a certain quantity of powder by the Carabinieri of Palo del Colle who searched their dwelling places at the request of the English Police. The women were denounced by the CC.RR. to the Military Tribunal for theft with aggravating circumstances: they were not arrested: no copy of any report by SIS or other English police body is with the papers. The charge shown in the order to proceed by Major Traversa of the Procuratore Militare's department is "retention of articles intended for military use" art C.P.M.P.

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Major Traversa appears to have been at fault in not having charged these woman in the order to proceed with retention of articles of armament under art. 166 C.P.M.P. and the proclamation of 2.2.43 which carries a minimum penalty of 5 years. He had no adequate explanation to offer for this failure.

He did however issue an order for their arrest.

The primary responsibility is however in my submission with the CC.RR. These woman could not have been charged with theft or sabotage on the evidence in the file.

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I do not think the Tribunal, of which Lt. Col. Colamussi was president and Cap. Orgitano legal member (giudice relatore)are to blame except for a misplaced act of clemency in respect of Masiello as they awarded the sentence asked for by the P.M., which was only 3 months less than the maximum for the offence charged. I do not think moreover that it follows that they believed the accused's story which is cited as part of the evidence. In the cases of Di Bari the grant of suspension was obligatory not discretionary art. 146 C.P.

11) Case of Marino and De Gennaro.

These two men were arrested by the CC.RR. Bitonto and were denounced under arrest to the Pretura Bitonto for theft. The Carabinieri report of 21 st April does not in any way correspond to the SIS report of the same date addressed to the Carabinieri Bitonto. The Carabinieri report says inter alia that Marino was caught by an English sergent with a sack full of pieces of hemp rope stolen from the place where the munitions were parked. It adds that Marino confessed to the theft which he said was done with the object of selling the little pieces of rope to a rope merchant in Bitonto " to make some lire to buy bread because he lives in misery". Subsequently De Gennaro, a rope merchant, was found in possession, of similar pieces of rope and arrested. The report of SIS remained at all times in the file but was never translated or read. The Pretura Bitonto after interrogating both accused sent the papers to the Procuratore Militare. In the order to proceed Marino was charged with the aggravating circumstances set out in arts 61 no II and 625 no 7 C.P. and Di Gennaro with ricettazione. A warrant was issued for their arrest. The case was omitted from the list of cases for hearing given to A.C.C. In the hearing on June 20th at which Lt.Col. Natale was president and Lt.Col. Bellini technical member, the Procura Militare represented by Major Montarulli asked for 2 years imprisonment and 1500 lit. fine, with the extenuating circumstance of the small value of the articles stolen in respect of Di Bari and in respect of De Gennaro for six months imprisonment and 1500 lt.fine. The Tribunal declared that the aggravating circumstance set out in art. 625 no 7 were not proved "as the Court does not see from what point of view the little pieces of rope can be intended for public service", and condemned Marino to 6 months imprisonment and 600 lit. fine and De Gennaro to 4 months imprisonment and 400 lit.fine. They state they belived the little pieces of rope to be the remains of the rope tying up the parcels which had therefore already filled view it

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The Carabinieri are to blame in this case because their report differed so radically from the SIS report. Their fault however is a relatively light one compared with that of every one else who was concerned in this case and who failed to notice 6 pages of English untraslated. Major Traversa's excuse is an oversight due to overwork, which is not unjustified as he has since January 1st investugated 1986 cases affecting allied interests with 2791 accused The others have no explanation, Major Montarulli says he asked for an adequate sentence and therefore blames the tribunal, It.Col. Natale is apologetic, It.Col. Bellini, whom I blame most for this inexcusable oversight is evasive. It.Selis, secretary of audience, who was responsible for compiling the lists had no adequate explanation to offer of the omission though he tried several: he first said the cases of Marino and Barone were omitted as they were only set down for hearing at the last moment: this is not so as

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this case was set down on 26.5 for hearing on 20.6 and the case of Barone on 3.6 for hearing on 23.6: other cases of less importance had also been omitted but he could instance only 3 or 4 during a test period of two months. Finally he said he didn't realize the importance of the lists, which he thought were only for the use of the clerks in compiling the register. Nevertheless on my view there is at present no evidence of a conspiracy to withhold this case from the Allied Courts for either financial reasons or reasons of prestige: there is no evidence that the Italian authorities were aware of the possibility that the case might be judged by the Allies on the 26th of May when the hearing was fixed or on the 11th of May when the case came to the President's office. Further if it was the desire to face the Allied Military Tribunals with an autrefois acquit it is to be presumed that pains would have been taken to try the case properly in accordance with Italian law, not to leave a loop-hole for re trial as in this case. Finally I find Lt.Col. Furlan ti blame in that he did not initiate an appeal on the points of law involved and Major Montaruli in that he did not recommend such an appeal. Lt.Col. Furlan's excuse for not appealing in this and other cases was that he could not initiate an appeal if it was not recommended by his subordinate. In my view such an attitude in the head of an office is flippant and irresponsible. Major Montaruli's explanation was that as he had asked for two years penalty and the Court had awarded less, his coscience as a magistrate was clear, an attitude I find no less flippant.

111) Case of Barone, Natale et al.

The above were denounced on 6th May in arrest to the Procuratore Militare by the Questura; a copy of the SIS report and translation being sent with a short covering note. In the first order to proceed Major Traversa charged Barone with culpable sabotage art.158 (2) A.C.M.G. and the remaind with receipt art. 648 C.P.A. direction to cite Lts. Lovie and Crocker and Sgt.Sharman was included in the order. The charges were subsequently modified to include both theft with aggravating circumstances and culpable sabotage in respect of Barone. The order was endorsed "witnesses as in previous order". These however were not cited by oversight. The case was passed from the Procuratore's office to that of the president on May 24th and on June 3rd the hearing was fixed for June 23rd. The case was omitted from the list of current cases. The Procura Militare was represented at the hearing by Lt. Lorini

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The Tribunal, president Lt.Col. Colamussi technical member 2nd Lt.Francisci found Barone guilty of culpable sabotage and theft with the aggravating circumstances of article 625 no C.P. on the ground that the articles stolen were intended for public use but rejected the aggravating circumstances of no 2 of that article in that removing the bullets from the belting did not imply damage, transformation or change of the purpose which they were to serve, and of article 61 no 11 in that anyone could easily have perpetrated the crime. The Tribunal further found that there was no proof that the remaining three knew of the illegal origin of the munitions and therefore charged the charge to that of retention of objects of military armament article 166 C.P.M.P. The court took into account in all cases the small value of the objects stolen and in Ruggiero's case the fact that he was a minor and a student compelled to alternate work and study.

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I find that Major Traversa was at fault in not checking that the English witnesses were called: it is to be noted however that their evidence is only against Barone and appears to have been given full value in the decision it is not technical in character.

I find Lt.Selis was at fault in not notifying L.O. Bari of the hearing . He gives as his excuse the following: Lt.Col. Maggi asked for this case to be omitted from the list so that it could come before a Court of which he was a member. Accordingly it was cancelled from the list and put on General Madia's table for Lt.Col. Maggi's request to be considered. General Madia refused the request and had it restored to the list nut Lt.Selies forgot to notify L.O. of its reinstatement. I do not think that evidence existed in this case to justify a condemnation for culpable sabotage or theft except in Barone's case not for wilful sabotage in his case; in Italian law a man is not considered to intend the natural consequences of his own acts v art.43 and 83 C.P.

I do think however that the court was mistaken in rejecting the aggravating circumstances set out in articles 625 no 2 and 61 no 11 also in charging Ragno and the other two under art. 166 C.P.M.P. without the proclamation. I further find the court was at fault in awarding a suspended sentence in a case of this seriousness.Finally I think Lt.Col. Furlan was at fault in not initiating an appeal on the points of law on which the court went wrong and Lt. Larini in not ptoposing an appeal. The latter is on leave and I have not been able to find out why he failed to propose an appeal.

4. In my view the failure to notify L.O. of the suspension of sentences is quite indefensible: it is an act of bad faith, significant of a desire to avoid A.C.C. control and collaboration I consider this failure much more serious than the failure to comply with ACC. wishes in certain individual cases.I find that it was the President's Office and not the Procura Militare who are responsible for this. However inasmuch as the Procuratore Militare is responsible for the administration of the Tribunal and should have seen that the information given was adequate and gave a true picture of the situation, he cannot escape blame.

The presentation of weekly reports was first according to Lt. Selis arranged between General Madia and Major Cohen. It has been impossible to obtain General Madia's version of what occurred owing to his having retired on July 1st by reason of age. Lt.Selis says that Major Cohen said he wanted only "the decision of the Court" that he understood this to justify him in omitting to state whether or not a sentence was suspended. The first return was prepared under

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5. I have examined the files in all of the 96 cases complained of in Captain German's report. In every case I find either that there is some reason to account for the absence of the condemned person from gaol or that he is serving or has served his sentence.

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In 29 of those cases the Court suspended the sentence: in 48 the condemned person was not arrested at the time the sentence was promulgated and has appealed. He cannot be arrested to serve his sentence until no further appeal is possible.

In one case the condemned person had served his sentence before trial, in two others he had been transferred to Melfi gaol by reason of the overcrowding in the Bari gaol. In one case he was traced in gaol. In 15 cases warrant had been issued for the arrest of the person condemned by the Court, at the time of Capt. German's report. 9 of these warrants are still outstanding, 3 have been executed, in 1 case execution has been suspended under article 146 C.P.and in another under article 147 and one condemned person is already serving another sentence. In 30 of the cases in which the condemned person has appealed he was never arrested by English or Italian police; in three cases he was released by the English police and in 6 by the Italian police. In one case it is not possible to ascertain on whose authority he was released, in 2 cases libertà provvisoria was granted by the Procura del Re, Trani, and 3 by the Procura Militare, in one case he could not be traced and in two cases a soldier detained by his unit was released after one month in accordance with italian law there having been no warrant issued for his arrest. It is in my submission clear from the above that the circular of General Traina dated 8 May regarding provisional liberty is being observed and it seems unlikely that there is any dishonesty in the office of the Procura Militare.

6. Lt.Col. Furlan does not appear to have communicated the contents of Capt. German's letter or night-fishing in writing to the Tribunal: he says he did so orally but General Madia's evidence being unavailble we cannot check,this. Nor does he appear to have communicated this letter to his subordinates. For this omission he alone is liable.

7. Capt. German suggested at some date in June that 5 cases then pending should be tried by Allied Military Courts in respect of only one of those cases was application made by R.I.O. to A.C.C. HQ. for an Allied Military Court. Copy of his letter is attached. It seems at first sught a strange coincidence that only this case should have been decided hitherto. On examination of the cases however we find that the case of LoGrieco was completed by the Procura Militare on 15th June and included

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I have been unable to obtain a vision of the other two cases but I am convinced by examination of these three cases that there is at present no evidence showing a conspiracy to withhold the case of Lo Grieco from the Allied Military Courts. The decision to submit the Lo Grieco case only for trial by Allied Military Court could not have been taken earlier than June 17th by which time that case had already been set down for trial and the first hearing of the Serafini case held.

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Recommendations and Remedies. Inasmuch as Marino has never been charged with sabotage he can and will be tried on that charge

Lt.Col. Furlan has already been suspended by Generale Traina and application made to the Comando Supremo for his retirement into civil life. General Madia has retired. It is my view that Lt. Selis can no longer serve in any capacoty in which he is likely to deal with cases involving Allied interests: however in view of the fact that he has always been in a subordinate capacity, I submit that his transfer is sufficient and it is unnecessary to insist on his retirement. In my view Major Mataruli and Lt.Col. Natale should be severely admonished. Major Traversa has already expressed great regret at his mistakes and in my view any action taken in his regard should be modified by reason of his past good work innour interests and the anxiety which all his colleagues show to " frame " him as being the pro-Allied member of the office. I think and so does Generake Traina that the Military Courts would be better without Lt.Col. Bellini but perhaps for equality of treatment a very severe rebuke would be sufficent.

Lt.Col. Grilli has been appointed the new Procuratore Militare and it is hoped that under his guidance and after the present lesson the Court will function well. This hope is reinforced by the fact that the General commanding IX Corps whom I regard as the inspiration and focus of anti-Allied feeling in Apulia has recently been replaced. Certain points of General importance arose during the enquiry and were discussed in conference with C.L.O. They are embodied in two directives of General Traina, copies of which are attached.

They are as follows:

1) It is not sufficient to limit the grant of libertà provvisoria, it is necessary also to direct Procurator to exercise them discretion of issuing a warrant for arrest in almost all cases.
2) It is necessary again to check the tendency of Courts to grant suspended sentences.
3) It is necessary for the Courts to check that the arrest warrants issued by them are carried out.

I further suggest that the Police should contact L.O. at an earlier stage in all important cases. It is not sufficient only to attend the hearing of such cases but it is necessary to see that such charges are made as will ensure an adequate sentence. Finally I much doubt whether the directive of General Traina

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I further suggest that the Police should contact L.O. at an earlier stage in all important cases. It is not sufficient only to attend the hearing of such cases but it is necessary to see that such charges are made as will ensure an adequate sentence. Finally I much doubt whether the directive of General Traina can be put into effect unless gaol accomodation available to the italians is increased e.g. by the surrender of Brindisi gaol.

Major
Legal Officer -Apulia-

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R.PROCURA GENERALE MILITARE
PRESSO
LA SEZIONE DI TRIBUNALE SUPREMO MILITARE

506

CIRCOLARE N°14 Ostuni, li 18 agosto 1944 -

N°236/Gab. di prot.

O G G E T T O: Repressione reati in danno Alleati.-

AI SIGG.RR.PROCURATORI MILITARI DEI TRIBUNALI MILITARI TERRITORIALI GUERRA
BARI - CATANZARO - NAPOLI - ROMA - SARDEGNA -SEZ.AUT.
SASSARI - TARANTO - SEZ.AUT.LECCE - PALERMO -SEZ.AUT.
CATANIA
E DEL TRIBUNALE MILITARE DI GUERRA DEL CORPO ITALIANO DI LIBERAZIONE
P.M.155

^^^^^^^^

In taluni centri - specie Bari e Brindisi - la frequenza dei reati in danno degli Alleati non accenna a diminuire.-

Occorre quindi applicare ancora più rigidamente le direttive impartite con la circolare n°8 del 6 maggio c.a. intensificando l'azione repressiva al fine di stroncare tale dannosa attività.-

Pertanto interesso vivamente i Sigg.Procuratori Militari perchè con criteri di massimo rigore curino la emissione degli ordini di cattura a carico dei responsabili dei reati in oggetto, riducano ai casi assolutamente lievi e pietosi la concessione della libertà provvisoria, diano direttive ai pubblici ministeri di udienza per le adeguate richieste delle pene, e perchè si oppongano al dilagare della consessione della sospensione condizionale della pena.-

Vorranno richiamare l'attenzione dei Sigg.Presidenti e dei Giudici nella constatazione che l'applicazione di pene miti, il largheggiare nel beneficio della sospensione condizionale è in aperto contrasto col persistere del fenomeno dellinquenziale, ed in conseguenza è necessario prendere le opportune misure per conseguire il risultato di estirpare totalmente la dolorosa piaga.-

Si tenga presente che le pene comminate dagli articoli 164 e 165 codice penale militare pace che prevedono e reprimono i reati di distruzione ed alienazione di oggetti di armamento, equipaggiamento ed effetti di vestiario furono notevolmente inasprite con il bando 2 febbraio 1943 - pubblicato nella Gazzetta Ufficiale 9 febbraio 1943 n°32 "Amministrazione della Giustizia Militare nei territori dichiarati o considerati in stato di guerra"- che, innovando in parte agli stessi articoli aggiunge l'ipotesi"oggetti costituenti armamento militare di cui il colpevole sia venuto comunque in possesso".-

Correlativamente l'articolo 3 citato bando, commina le stesse pene contro chiunque in territorio in istato di guerra acquista od a qualsiasi titolo

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Occorre quindi applicare ancora più rigidamente le [illegible] te con la circolare n°8 del 6 maggio c.a. intensificando l'azione repressiva al fine di stroncare tale dannosa attività.-

Pertanto interesso vivamente i Sigg.Procuratori Militari perchè con criteri di massimo rigore curino la emissione degli ordini di cattura a carico dei responsabili dei reati in oggetto,riducano ai casi assolutamente lievi e pietosi la concessione della libertà provvisoria,diano direttive ai pubblici ministeri di udienza per le adeguate richieste delle pene, e perchè si oppongano al dilagare della concessione della sospensione condizionale della pena.-

Vorranno richiamare l'attenzione dei Sigg.Presidenti e dei Giudici nella constatazione che l'applicazione di pene miti,il largheggiare nel beneficio della sospensione condizionale è in aperto contrasto col persistere del fenomeno dellinquenziale, ed in conseguenza è necessario prendere le opportune misure per conseguire il risultato di estirpare totalmente la dolorosa piaga.-

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Correlativamente l'articolo 3 citato bando,commina le stesse pene contro chiunque in territorio in istato di guerra acquista od a qualsiasi titolo ritiene alcuna delle cose provenienti dai reati preveduti negli articoli 163 e 164.-

In base a tali disposizioni al colpevole del reato represso con l'art. 166,e 3 bando citato,può essere inflitta nei casi ordinari la reclusione fino a tre anni,e ricorrendo la circostanza aggravante,fino a dieci anni.- Pene assai più gravi possono essere inflitte quando l'alienazione concerne armi od oggetti costituenti armamento comunque venuti in possesso del militare.-

La competenza per tali reati è sempre all'autorità giudiziaria militare.-

X

Mi è occorso rilevare che in qualche procedimento al fine di portare presto in giudizio gli imputati si è omesso di fare tradurre rapporti della Polizia Alleata.-

Tale manchevolezza non ha consentito avere la piena conoscenza dei fatti denunciati ed in conseguenza la sentenza non ha inflitto adeguata sanzione.-

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Ricordo pertanto l'obbligo di curare che di tutti i verbali e le denuncie venga unita agli atti la traduzione integrale.-

E' poi anche necessario che nei fatti di maggiore rilievo vengano chiamati al dibattimento i verbalizzanti Alleati onde ottenere tutti i possibili chiarimenti al fine di stabilire la entità dei fatti e di accertare tutte le responsabilità penali.-

I ricorsi avverso le sentenze di condanna per i reati in esame debbono essere trasmessi a questo Ufficio quanto più sollecitamente possibile.-

x

Frequentemente gli imputati di furto e sabotaggio vengono condannati solamente per il furto in quanto ritiene la sentenza essere evidente che il fine unico propostosi dal colpevole era quello di sottrarre qualche cosa come fili telefonici,polvere pirica,cordicelle speciali...ecc.

In tali casi i Sigg.Procuratori Militari debbono interporre ricorso perchè apertamente violato l'articolo 83 codice penale che prevede l'ipotesi di colui che cagiona evento diverso da quello voluto e di disporre che in tal caso è responsabile a titolo di colpa dell'evento non voluto,quando il fatto è preveduto dalla legge come delitto colposo,se poi anche ha cagionato l'evento voluto si applicano le norme sul concorso dei reati.-

L'articolo 155 u.p.c.p.m.g. reprime l'ipotesi del sabotaggio colposo e cade acconcio osservare che trattasi di colpa assai grave per la quale la sanzione deve essere adeguata in quanto è evidente che tagliando un filo telefonico si interrompe il servizio,il bossolo dal quale viene tolta la polvere diviene inefficiente e simili.-

x

Particolare cura dovrà essere posta nella compilazione degli elenchi dei procedimenti da discutere,degli esiti delle udienze(ove dovranno specificarsi tutte le aggravanti del reato,le attenuanti concesse, la pena inflitta,precisando se con beneficio della sospensione,se l'imputato è detenuto,a piede libero,in libertà provvisoria)- ed in genere in tutte le comunicazione richieste dagli ufficiali della Commissione Alleata di Controllo.-

Considero grave colpa qualsiasi inesatezza od omissione.-

x

Notevole è il numero dei procedimenti portati all'udienza e rinviati per varie cause che una maggior attenzione dovrebbe fare evitare.-

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si di colui che cagiona evento diverso da quello voluto e di dispone che in tal caso è responsabile a titolo di colpa dell'evento non voluto,quando il fatto è preveduto dalla legge come delitto colposo,se poi anche ha cagionato l'evento voluto si applicano le norme sul concorso dei reati.-

L'articolo 185 u.p.c.p.m.g. reprime l'ipotesi del sabotaggio colposo e cade acconcio osservare che trattasi di colpa assai grave per la quale sanzione deve essere adeguata in quanto è evidente che tagliando un filo telefonico si interrompe il servizio,il bossolo dal quale viene tolta la polvere diviene inefficiente e simili.-

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Considero grave colpa qualsiasi inesatezza od omissione.-

x

Notevole è il numero dei procedimenti portati all'udienza e rinviati per varie cause che una maggior attenzione dovrebbe fare evitare.-

E' ben noto il disagio dei testimoni e degli stessi imputati per presentarsi al dibattimento,non lieve è il lavoro degli uffici per portare il processo al dibattimento,onde il rinvio deve avvenire solo in casi eccezzionalissimi,e nei prospetti di udienza me ne dovrà esser dato conto dettaglitamente e non con l'uso di frasi generiche ed ormai stereotipate.-

x

Appena la sentenza diverrà definitiva dovrà provvedersi per la esecuzionezione con la massima sollecitudine possibile.-

La forza pubblica dovrà dare immediata esecuzione agli ordini di cattuta,o trasmettere i verbali di vane ricerche.-

Tali verbali saranno sollecitati trascorsi venti giorni dall'invio degli ordini di cattura.-

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Copia dei verbali di vane ricerche di condannati per reati in danno degli Alleati dovrà essere sollecitamente inviata all'ufficio legale Alleato di collegamento con preghiera di informare se ha notizie per facilitare l'arresto del condannato.-

x

In questo tormentoso periodo nel quale gli Alleati stanno compiendo fatiche memorabili pel conseguimento della Vittoria,ormai vicinissima,dobbiamo mostrare con la nostra energica rapida azione la piena comprensione delle complesse ingenti necessità delle forze Alleate a dar continua prova della volontà di collaborare nel miglior modo possibile.-

Gradirò cenno di assicurazione.-

IL PROCURATORE GENERALE MILITARE DEL REGNO ff.
F/to(Ten.Gen. Francesco Traina)

P. C. C.
IL CANCELLIERE CAPO
-Magg.Carlo Gallina-

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

F/to(Ten.Gen. Francesco Fraina)

P. C. C.
IL CANCELLIERE CAPO
-Magg.Carlo Gallina-

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Con nota 222 Gab.del I5 agosto I944 il Procuratore Generale Militare informò il Comando Supremo Militare e lo S.M.R.E.sez.Giustizia;che da inchiesta eseguita nel Tribunale Militare Territoriale di Guerra di Bari era emerso che nello svolgimento e nelle informazioni in merito a reati in danno degli Alleati erano state commesse delle irregolarità Pertanto ritenne necessario sostituire temporaneamente nella Direzione della R.Procura Militare il Ten.Col.G.M.r.a.FURLAN Luigi con il Ten. Col.G.M.r/a.GRILLI Giovanni e propose che il Ten.Col.FURLAN venisse inviato immediatamente in congedo.

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Ud/G

R. PROCURA GENERALE MILITARE

PRESSO LA

SEZIONE DI TRIBUNALE SUPREMO MILITARE

PER LE TERRE LIBERATE

Prot. N. 239 Gab. Allegati _____

Risposta al foglio del _____

N. _____

OSTIA, li 21 agosto 1944

Al R.PROCURATORI MILITARI DEI TRIBUNALI MILITARI

- LORO SEDI -

OGGETTO: Circolare Ministero Giustizia reati in danno Alleati.-

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A seguito ed in relazione alla circolare di questo ufficio n°14 del 13 corrente, oggetto "Repressione reati in danno degli Alleati" trasmetto copia della circolare avente per oggetto " Reati commessi in pregiudizio degli Alleati e sospensione condizionale della pena" emanate da S.E.il Ministro della Giustizia il 28 luglio u.s. e inviata a questo Ufficio dal Ministero della Guerra.-

Le direttive date tanto autorevolmente da S.E.il Ministro della Giustizia alla Magistratura Ordinaria coincidono con quelle impartite con la circolare di questo Ufficio n°14 dianzi cennata, e dimostrano che il deplorevole fenomeno è considerato dalla Autorità Giudiziaria Ordinaria con gli stessi criteri di giusta severità.-

Prego dare comunicazione della presente anche al Presidente ed ai Giudici di cotesto Tribunale.-

IL PROCURATORE GENERALE MILITARE DEL REGNO ff.

(Ten.Gen. Francesco Trezza)

Ogni lettera un solo argomento ed indicare nella risposta il numero di protocollo e l'ufficio cui si risponde.

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

A seguito ed in relazione alla circolare di questo ufficio n°14 del 18 corrente, oggetto "Repressione reati in danno degli Alleati" trasmetto copia della circolare avente per oggetto " Reati commessi in pregiudizio degli Alleati e sospensione condizionale della pena" emanata da S.E.il Ministro della Giustizia il 28 luglio u.s. e inviata a questo Ufficio dal Ministero della Guerra.-

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Prego dare comunicazione della presente anche al Presidente ed ai Giudici di cotesto Tribunale.-

IL PROCURATORE GENERALE MILITARE DEL REGNO ff.
(Ten.Gen. Francesco Traina)

Trattare per ogni lettera un solo argomento ed indicare nella risposta il numero di protocollo e l'ufficio cui si risponde.

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b/d COPIA

(50E)

MINISTERO DI GRAZIA E GIUSTIZIA
Direzione Generale affari penal

Ufficio I

Roma, 28 luglio 1944 -

Prot. N°2286

OGGETTO: Reati commessi in pregiudizio degli Alleati e sospensione condizionale della pena.-

ALLE LL.EE.I PROCURATORI GENERALI PRESSO LE CORTI DI APPELLO
AGLI AVVOCATI GENERALI PRESSO LE SEZIONI DI CORTE DI APPELLO
AI SIGG.PROCURATORI DEL RE
e,per conoscenza;
ALLE LL.EE. I PRIMI PRESIDENTI DI CORTE DI APPELLO
AL MINISTERO DELLA GUERRA
AL MINISTERO DELLA MARINA
AL MINISTERO DELL'AERONAUTICA

Con circolare 8 marzo c.a. n.25022 ebbi già occasione di segnalare, ai competenti uffici del pubblico ministero, la necessità di assicurare la più rapida e rigorosa repressione di quei reati che,per essere commessi in danno dei Governi militari Alleati,delle loro forze armate o delle persone ad esse appartenenti, debbono considerarsi,nelle attuali contingenze di guerra,come menomativi dello sforzo bellico contro il comune nemico tedesco.

Mi viene ora segnalato autorevolmente che,anche rispetto ai reati suddetti,alcune autorità giudiziarie applicano,con eccessiva larghezza e frequenza, il beneficio della sospensione condizionale della pena,frustando così in sostanza quelle direttive di giusto rigore che,nella attuale momento,devono ispirare le decisioni della autorità giudiziaria nella considerata materia.-

13

Reputo perciò necessario richiamare la particolare attenzione dell

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più rapida e rigorosa repressione di quei reati che,per essere commessi in danno dei Governi militari Alleati,delle loro forze armate o delle persone ad esse appartenenti, debbono considerarsi,nelle attuali contingenze di guerra,come menomativi dello sforzo bellico contro il comune nemico tedesco.

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13.

Reputo perciò necessario richiamare la particolare attenzione dell'E.V.e SS. LL.sul concetto che,per il combinato disposto degli articoli 133 e 164 cod.pen.,il potere di concedere la sospensione condizionale del giudice,non può,nel pratico esercizio della potestà giurisdizionale,non essere ispirato al criterio della obiettiva gravità del reato;la quale va a sua volta oculatamente valutata caso per caso,tenendo conto,fra l'altro,dell'oggetto del reato e delle circostanze generali di tempo e di luogo in cui l'attività delittuosa si avvera,essendo ovvio che la medesima azione

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penalmente illecita possa assumere carattere di gravità assai diverso col variare della situazione generale, sociale e politica del momento in cui si verifica, e col mutare dell'oggetto del reato e degli interessi collettivi che a tale oggetto, in un determinato momento risultano connessi.-

Non mi par dubbio di conseguenza che, nelle speciali contingenze attuali del Paese, qualsiasi reato commesso in pregiudizio degli interessi delle Nazioni Alleate assume obiettivamente il carattere di una particolare gravità, denunciando nell'autore una spiccata capacità a delinquere, che raramente può conciliarsi con la previsione che il colpevole si asterrà dal commettere ulteriori reati venendo in tal modo a mancare il presupposto giuridico fondamentale per l'applicabilità della sospensione condizionale della pena.-

Prego peratanto le EE.e SS.LL. di voler urgentemente provvedere, alla stregua delle suesposte considerazioni, affinchè l'accenato criterio restrittivo venga sostenuto col massimo impegno da tutti gli organi P.M. dinanzi alle rispettive autorità giudiziarie, anche mediante eventuali opportuni mezzi di impugnazione.-

Gradirò intanto un cortese cenno di assicurazione.-

IL MINISTRO
F/to Tupini

PER COPIA CONFORME
IL CANCELLIERE CAPO
(Magg. Carlo Gallina)

Declassified E.O. 12356 Section 3.3/NND No. 795016

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Gradirò intanto un cortese cenno di assicurazione.-

IL MINISTRO
F/to Tupini

PER COPIA CONFORME
IL CANCELLIERE CAPO
(Magg. Carlo Gallina)

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

C o p y

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION 2

REF : 2201/74/D I°

19 Jun 1944

SUBJECT :- Special Cases Bari

To :- L.O. Bari

1. It is requested that all letters from you will please be numbered.

2. Ref your letter of 13.6.44 enclosing six applications for AMG Courts, i.e. in re

(a) Falco & 4 others
(b) Serafina & 1 other
(c) Corallo & 7 others
(d) Ardito & 2 others
(e) Logrieco.

After careful perusal, it is felt that only No (e) can be recommended to RC & MG Section for trial by AMG Court; in view of the present numbers of such cases & for the shortage of personnel with which to hold AMG Courts. Papers regarding the first four cases are therefore returned for trial by Italian Assise Court.

3. Representations are being made to No 6 Subarea & No 52 Area that all future applications for AMG Courts should be recommended by the Area or Subarea Commander.

D.E.S.COUSINS, Lt. C[illegible],
R.L.O.
REGION 2.

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

4150

RLO Region 2

HQ ACC FROM LEGAL FROM WILMER
HQ ACC 2206

24 AUG 44

RESTRICTED
ROUTINE
LEGAL

REF YOUR CABLE NINE ZERO TWO SPACE FIFTY OBLIQUE FORTY EIGHT PD PAREN TO RLO REGION TWO FROM HQ ACC FROM LEGAL FROM WILMER PAREN PD NO OBJECTION TO EMPLOYMENT OF MAGISTRATE IF QUALIFIED FOR YOUR PURPOSES FROM ALL STANDPOINTS.PD HOWEVER AS NUMBER OF ITALIAN JUDICIAL PERSONNEL IS LIMITED DO NOT TAKE ANYONE AWAY FROM ACTIVE JUDICIAL WORK

4150

ALLIED CONTROL COMMISSION

INCOMING MESSAGE

3704

TO: ACC HQ

SIGNAL MESSAGE CENTER No: /24

FROM: RLO REGION 2 CLASSIFICATION: NONE

REFERENCE No: PRECEDENCE: NONE

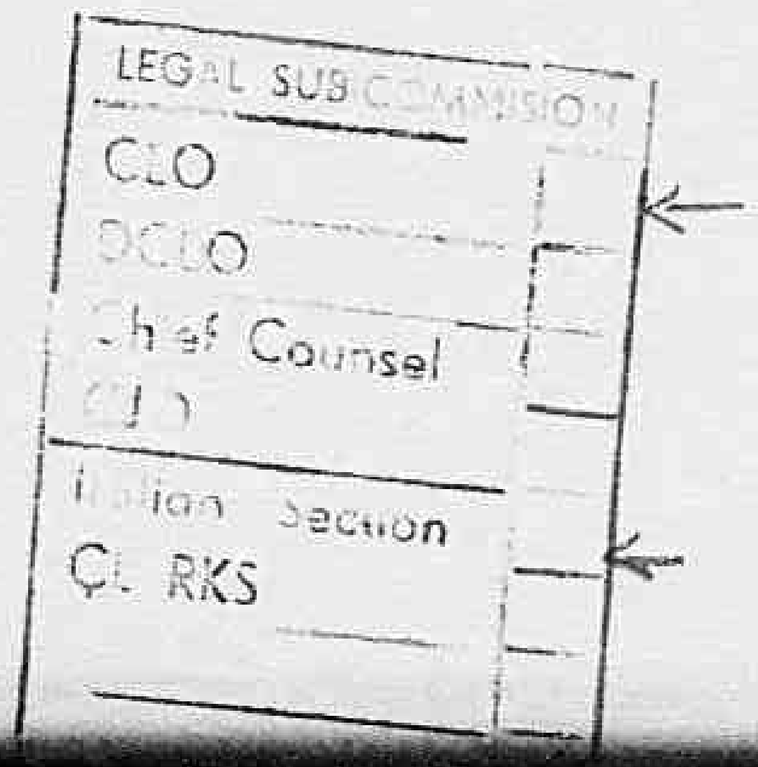
DATE AND TIME OF ORIGIN: AUG 231100B OFFICE OF ORIGIN:

ST RM BARI 902 50/48

REI ACC/4150/L OF 19. 8. 44. HAVE DISCUSSED CHOICE OF AN AVOCATO WITH PROCURATORE GENERALE WHO STRONGLY RECOMMENDS MAGISTRATE INSTEAD SAYS A MAGISTRATE ASSISTS PLOT FOGGIA WITH GOOD EFFECT AND THAT HE COULD FIND ONE FOR BARI HAVE YOU ANY OBJECTION - MOURIN

DIST

ACTION - LEGAL (2)
INFO - A/CC
ADM SEC
FILE (2)
FLOAT



131

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

ST RM BARI 902 50/48

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DIST

ACTION - LEGAL (2)
INFO - A/CC
ADM SEC
FILE (2)
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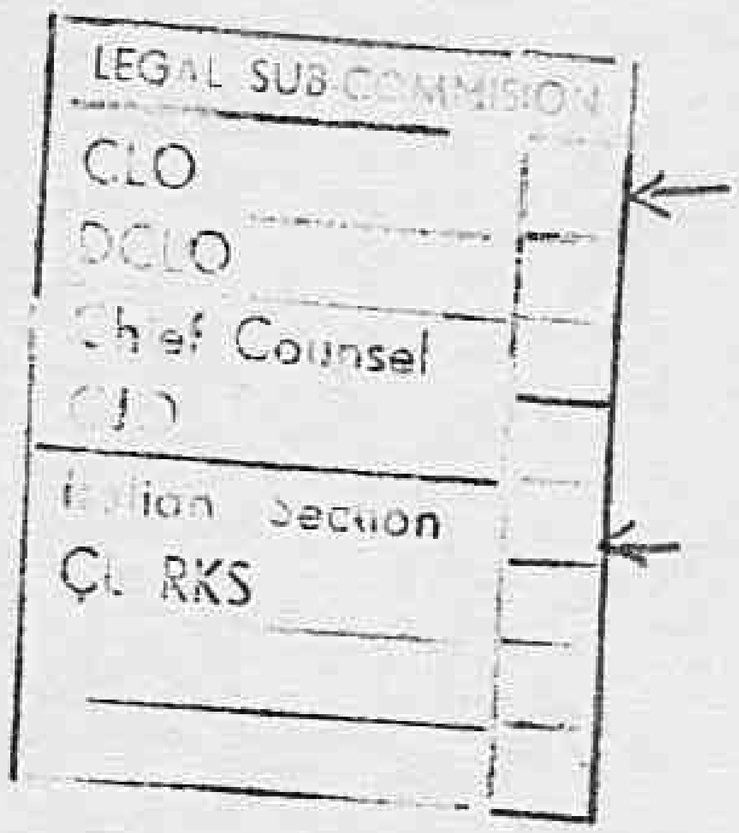

131

AUG 241300B

DATE and Time of RECEIPT .....

Distribution:

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

Partial + not full 4150

47A

MINUTES OF MEETING HELD AT BARI ON 16 AUG 44

Present :

Col. Wilmer
Lt.Col. Dawson
" " Cousins
Major Franklyn
Capt. German
Lt. Bryce

General Traina

WCB/ap
19 Aug 44

Gen. Traina listed the difficulties that were met with respect to his 9 military courts : (1) Scarcity of personnel (2) Crowded prisons, (3) Lack of transport for investigating magistrates, accused, witnesses etc.- He claimed that " libertà provvisoria" had to be granted to make room in the prisons for others.
He proposed a court of one judge to make tours of the district.

Col.Wilmer stated that his main concern at present was the case of a person committing an offence against Allied interests being granted conditional liberty. He wanted them held in prison.

Gen.Traina explained further difficulties he had to deal with, including lack of office equipment when he started but especially lack of transport which prevented him making personal inspections. He admitted that the situation was not good but said that his liaison officers had reported well to him and he had no idea that the situation was so bad.
In reply to a question by Col. Wilmer, he said that he noticed that there was excessive "libertà provvisoria" being granted. He spoke to the Procuratore Militare and to the President of the Tribunale about it also to the Commander of the Army Corps Lecce. As General Gadia was due to retire he waited for the arrival of the new President on 1st July.

Capt.German stated that the new President had tried some cases but

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Capt.German stated that the new President had tried some cases but that he could give no details.

Col.Wilmer Asked whether the General was aware of the number of sentenced persons at present at liberty.

Gen.Traina Stated that he did not wish to defend anyone but he would like to explain the idea behind conditional liberty.

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Major Franklyn then said that with regard to the theft of "grummets" at Bitonto he felt convinced that there was no conspiracy behind this trial. He blamed the Commander IX Army Corps for the whole general official tone. He said that many people were trying to blame Major Traversa but that he personally was convinced that Traversa was co-operating well. He (Traversa) had handled 1,297 cases.

Changes in officials that had already been made

(1) Corps Commander changed 1/8/44

(2) Procuratore Militare Fouland suspended (as Gen.Traina could not dismiss only suspend)

(3) New President of the Court 1/7/44

He suggested that it was possible to try the "grummets" case again as sabotage instead of theft.

(4) Further suggested changes included a new clerk to the audience and a new judicial auditor

Col.Wilmer and Lt.Col.Dawson were not in favour of this.

Lt.Col.Dawson asked for some tangible information on what has been done.

Major Franklyn said that of the 97 cases of sentenced persons not in prison all had been dealt with in accordance with the Italian law. 60 had not been in custody prior to trial and therefore could not be sent to prison until either their appeals had been heard or the time for filing an appeal had passed.

Col.Wilmer asked if this was discretionary.

Major Franklyn stated that it was unless and until made obligatory. In reply to further questions by Col. Wilmer he stated that General Traina could issue a general directive but that he could not really order that in cases affecting Allied interests there should be no libertà provvisoria (condizionale?) However he could say that a person arrested for such an offence should not be granted libertà provvisoria either before trial or pending appeal.

Capt.German Said that there would not be room in the prisons

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Capt. German — said that there would not be room in the prisons to do this.

Gen. Traina — stated that only first offenders were granted conditional liberty.

Maj. Franklyn — said that suspension of penalties should be reported but that this had not been done. The Procuratore Militare pretended that he did not know that we were interested.

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Col. Wilmer then asked if the General could issue a directive to say that any person arrested for an offence against Allied interests should be kept in jail.

Major Franklyn said that could be done.

Col.Wilmer also asked for a directive to say that persons convicted of such offences should not be granted conditional liberty.

General Traina agreed that he could do this but did not advise it.

Capt.German claimed that this had always been the Allied policy and the reason for the special forms issued for arrest in such cases was to have a speedy trial and no provisional liberty.

Col.Wilmer in reply to a statement to the effect that in many cases the Allied police released a person arrested for such an offence pending trial said that he would take the matter up with the P.P.M.

Maj.Franklyn in regard to the 97 persons at liberty after sentence repeated that all these had been accountedfor. He said that two directives were necessary. (1) regarding suspended sentences and (2) regarding mandato cattura.

Col.Wilmer asked who was responsible for seeing that persons sentenced were in fact serving their sentences.

Col.Cousin said that it should be the prisons officer but that there was not one.

Col. Wilmer said that he would take this matter up with Public Safety.

Lt.Col.Dawson mentioned a special decree whereby the military Tribunals could try cases where the accused had

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Col.Cousin — said that it should be the prisons officer but that there was not one.

Col. Wilmer — said that he would take this matter up with Public Safety.

Lt.Col.Dawson — mentioned a special decree whereby the military Tribunals could try cases where the accused had taken advantage of the state of war. He said that it was followed in Tripolitania.

Gen.Traina — agreed that that was so in cases where the offence had been facilitated by war conditions e.g; bomb damage.

Gen.Traina — was asked to prepare directives on libertà provvisoria and on suspending of sentences. He objected that there were difficulties and in reply to Col. Wilmer's statement that he looked to him to put them right said that He would do his best as he always had done.

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Col. Wilmer said that in any case of difficulty at any time Gen. Traina should contact the R.L.O.s so that A.C.C. could help him.

Gen. Traina in conclusion stated that he thought that the changes he had made would benefit the situation. It was his opinion that Maj. Traversa was hard working but had made mistakes.

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HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

46A

ACC/4150/L. 19 August 1944.

SUBJECT : Legal Situation in Region 2.

TO : R.L.O. (thru Regional Commissioner), Region 2.

1. Reference your 2201/70/H dated 16 Aug 1944.

2. Confirming what I said to you in BARI a few days ago, I think it inadvisable to change the arrangements referred to which appear to be working smoothly. I do suggest that you secure the services of an Italian lawyer who can relieve Capt. German of much of the detailed work.

3. Any such civilian employee must be screened before he is employed. The salary limit is 9600 lire per month.

RICHARD H. WILMER.
Colonel, CAC,
Acting Chief Legal Officer.

RHW/wcw.

126

(45A)

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/ /rlp.
14 August 1944.

SUBJECT : AMG cases in Region II.

TO : Acting Chief Legal Officer.

The following is a summary of the cases authorized for trial by AMG Courts in Region II:

A.	Name and Offence	Report to ACC	Charges to Reg II	Trial	Result & Remarks
(1)	Lecce Spy Case Chironi Romualdo & 37 others-espionage	20/4/44	6/5/44	23/5/44	Nine convicted - Sentences ranging fr 20 yrs to 6 yrs imprisonment.
(2)	Piscupo Francesco and 3 others Rifling U S Meil bags	8/5/44	15/5/44	26/5/44	
(3)	Barletta Spy Case	21/5/44			26/7/44 - Letter fr Deputy Executive Com ordering accused to be sent to Padula Internment Cmp for the duration.
(4)	D'Istanto Ciro murder	31/5/44	23/6/44	11/7/44	Guilty - 13 yrs imprisonment
(5)	Mastrovito Cosimo	31/5/44	23/6/44	10/7/44	Guilty - Death
(6)	Gaudio Mastone	4/7/44	- -	7/8/44	(a) RLO, Reg II to prepare charges
(7)	Berlendis Riccardo espionage	5/8/44			(a) Transferred to Reg V
(8)	Da Birardi Michele sabotage	20/6/44	12/7/44	7/8/44	

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B. Cases where trial by AMG authorized, but which ~~was~~ were in fact tried by Italian Courts.

These may be divided into two:

I. Bitonto theft and sabotage trials.
Accused: (a) (Dr. Bari (b) (Mannio (c) (Berone

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

	3 others Rifling U S Mail bags				
(3)	Barletta SPY Case	21/5/44			26/7/44 - Letter fr Deputy Executive Com ordering accused to be sent to Padula Internment Cmp for the duration.
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These may be divided into two:

I. Bitonto theft and sabotage trials.
Accused: (a) (Dr. Bari (b) (Mannio (c) (Barone
(Masiello (De Gennaro (Ragno
(Virgillio (Chiappesini
(Rugini

(i) Application was made for the trial of all the above. On 5/6/44 Brig Lush wrote to Admin Sec: Chief Legal Off stating ".....The proceedings are not..... in anything like final form nor does the Regional Commission give any special reason why the cases should be tried by AMG Courts nor does he state that the District Commander has so ordered.

My recommendation is that the case should be dealt with by the Itelian Court." (See Bitonto File - Flag 1)

(ii) RLO, Reg 2 states in report of 27/7/44 that he received this letter. (See Flag G: Legal Situation File)

(iii) There is no copy of any corespondence to indicate any change of policy but charges sent to Reg 2 on 23/6/44. (Bitonto File Flag 2)

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

(iv) RLO, Reg 2 states that order was not changed until 26/6/44 by which time the Italian Courts had already dealt with the accused.

(v) He further states that he first knew of these cases on 5/5/44 and that full police reports were not received when his Hq first received notice of the case and it was not until 25/5/44 that those were forthcoming after renewed application to the Allied police 6 BaseSub-Area.

(vi) Re (a)

1. Those accused were tried by Italian Court on 20/5/44. That is sixteen days before Brig Lush's letter recommending trial by Italian Courts was written. It would seem therefore that the Italian authorities never considered that AMG might went to try these accused themselves. (see Capt: G's report also letter from RLO. Hqrs F & G legal dir: Sols)

2. The accused were sentenced to 5 months imprisonment each, of which only Virgilio is serving sentence. Mascello's sentence was suspended on grounds of age (72) and of De Bari the prison authorities had no knowledge.

3. The charge against them was of being in possession of military explosives (14lbs) and the court came to the conclusion that they did not intent to sabotage the war effort, but had simply taken the explosive away from some children.

(vii) Re (b) (Hqrs F. & G)

1. They were tried by Italian Courts on 20/6/44. No notification of the trial being given to RLO.

2. They were not charged with sabotage but of theft of a few ~~pieces~~ strips of rope as the court apparently did not realize the significance of this "rope" (in fact grummets for shells)

3. No ~~expert witnesses~~ safety-fuse sentences was called or asked for.

4. Sentence: Marino 6 months and 600 lire) suspended
De Gennaro 4 months and 400 lire)

(viii) Re (c) (Hqrs F & G)

1. Accused tried by Italian Court 23/6/44. First notification to RLO 1/7/44.

2. Court found only Baroni guilty of sabotage and that not intentional sabotage,- and sentenced him to 4 years and 4000 lire fine.
NOTE This sentence is stated as being 4 months in Capt: G's report but 4 years in translation of proceedings.—

Court found Ragno, Chiapperoni and Reggino guilty of receiving military armament and sentenced them respectively to 9 months, 9 months and 6 months, the sentences in Ruggiero's case being suspended on the grounds of his youth (17).

3. Italian authorities at first claimed that they had asked for expert witnesses in this case, but, later, Substitute Procuratore Militare admitted this was not so. He had intended to, but request never made. (Hqrs F)

12.

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(ix) From the above it seems that either

1. The Italian authorities were deliberately trying to prevent AMG Courts hearing these cases or

2. They acted in complete ignoranceof AMG being at all interested in the matter. In this respect RC, Reg 2 states that "Inorder to obviate another rung in the ladder whereby applications for AMG Courts are submitted to you it has been the practice for such case to be sent directly to this Hq and for the LO concerned to be notified officially when the application is approved and for him then to notify the Italian authorities." *It is not clear how this worked but it seems possible that some of the trouble might originate here — (Flag C. Legal C.I.T. File)*

II. Case of Logrico - sabotage.

(i) application for trial by AMG court was made by Reg 2 by letter dated 20/6/44.

(ii) Application recommended and forwarded to Legal Sub-Commission by Brig Lush on 25/6/44.

(iii) Charges and order for AMG Court sent by letter dated 12/7/44.

(iv) There is no indication in the files as to how or why the accused came to be tried by Italian Courts. But on the form of "Cases for Trial by AMG" sent to Reg 2 "for Trial already by Italian Courts" has been written. *(10 July 44)*

No mention is made of this case in any reports from Reg 2.

W. G. BRYCE.
1st Lt.,
Italian Branch.

4150

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

44A

16.8.44

Ref. :- 2201/70/H

Subject:- Trial by AMG Court

To :- C.L.O., Legal Subcommission ACC, Rome.

Ref ACC/4129/11/L of 12.8.44, it should first be pointed out that the facts upon which Brigadier Palmers complain is based were supplied to him largely by this HQ. with which there is full cooperation. Also, that apart from the surreptitions trial of the sabotage cases, but for the diligence of the Legal department, the full facts connected with the functioning of the Tribunale Militare would never have come to light.

1. It is a facts that the Subarea Commander applied for AMG Courts for the trial of 5 cases of theft and sabotage of ammunition, involving 11 persons. In every such case, this HQ. recommended the application. In the cases of:

(a) Bi Bari, Masiello and Virgilio - trial by the Italian Court took place on 20.5.44, five days before receipt of the Police depositions from 6 Base Subarea. An AMG Court was refused on 5.6.44, but subsequently ordered on 25.6.44.

(b) Marino and Gennaro - the trial by the Italian Court took place on 20.6.44 without prior notification to the LO, and without witnesses for the prosecution being called. An AMG Court refused on 5.6.44 was subsequently ordered on 25.6.44.

(c) Barone, Bagno, Chiapperini and Ruggero - trial by the Italian Court took place on 23.6.44, without prior notification to the LO and without witnesses for the Prosecution being called. An AMG Court refused on 5.6.44 was subsequently ordered on 25.6.44.

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(d) Logrieco - trial before the Italian Court took place on 22.6.44. An AMG Court was ordered on 12.7.44.

The Subarea Commander asked for AMG Courts for trial of 4 other similar cases involving 14 persons. In view of the refusal for same

Declassified E.O. 12356 Section 3.3/NND No. 795016

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122

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The Subarea Commander asked for AMG Courts for trial of 4 other similar cases involving 14 persons. In view of the refusal for same of 5.6.44, in respect of the above cases, the RC decided against forwarding any recommendation on 19.6.44

2. In the case of Berardi Michele, trial by AMG Court took place on 9.8.44. This HQ. could not be more fully aware of the seriousness of these cases of Sabotage. As RLO no one has regretted more than I, that as President of the AMG Court, I was among the majority of the Court which was unable to pass the Death sentence desired by the Military authorities as a deterrent, which however is authorized only for intentional Sabotage. But as President, and for reasons set out in my judgement, I am unable to consider the accused was by Italian Law guilty of more than aggravated theft and unintentional Sabotage. The accused was sentenced to 20 years imprisonment and the Court readily recommended the request of 6 Base Subarea that sentences should in such cases be served overseas as a deterrent.

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

On my request, the Press published the findings of the Court, and the recommendation made. The wisdom of the suggestion as a deterrent was apparent from the fact that within one hour of the end of the trial, the convicted mans brother, a priest, visited the Prosecuting officer, the Regional Commissioner and myself, and begged - not for reduction of sentence - , but that sentence should not be served overseas.

3. In consultation with GSI (B) at No 2 District, it has been agreed that all persons involved with above thefts and sabotage, on whom suspended sentences were passed by the Military Tribunal, will be taken into custody as being dangerous to Security. An appropriate article on the subject will be published in the Press.

4. To remedy the scandalous disclosures about the Tribunale Militare, as soon as possiblr after my return from Rome, I sent for Generale Traina. I remain convinced that this officer is one of the few really cooperative and efficient Italian officers with whom ACC deals, and that he had no reasonable means of knowing what was transpiring. I informed the General of the extremely serious view taken of the matter by Col Upjohn and yourself and that your first inclination was that as head of the department concerned he was responsible, and that his removal would be required. It was explained that owing to his past help and cooperation I had requested instead that he should be given the opportunity of making a searching inquiry with Major Franklin, and of taking the necessary action. I stipulated for the immediate dismissal of the Procuratore Militare Colonel Furlan, of Major Traversa his deputy and of any other officers involved. The seems that the General has power only to suspend.

When the inquiry is concluded, a full report will be rendered to you. In the meantime, Colonel Furlan has been suspended from office, and application to the Commando Supremo, to be supported by this HQ., will be made for his dismissal. The inquiry so far tends to show that the part played by Major Traversa was rather that of a negligent dupe, but that at least two other officers are more seriously involved.

Further comment will be postponed until the end of the inquiry. 121

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

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D.E.S.COUSINS,Lt.Col.
R.L.O.
Region II

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

Legal SC

4150

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION 2

Nº 0.396	11.VIII44

~~11.8.44~~

9865

43A

REF : 2201/70/A

SUBJECT : Reorganization of the work of the Legal Department Region 2.

TO : C.L.O., Legal Subcommission ACC, Rome.
Copy to : D.P.M., No 2 District.

HEADQUARTERS
13 AGO 1944
A.C.C.

No - employ of lawyer filed data in index

1. When, at the end of February, Region 2 took over Apulia, the machinery for dealing with crimes affecting Allied interests was practically non existent, and little if any co-operation obtained between the Allied police on the one hand, and the Italian police and judicial authorities on the other.

Neither appreciated the technical requirements of the other, and matters were at an impasse.

2. The Legal branch of Region 2 then being larger, and it being essential to get things going, it undertook a great deal of work which strictly speaking was police and not legal. It entailed tracing from the moment of their origin, every case that had occurred affecting Allied interests, and this in turn involved extensive correspondence regarding stages preliminary to each case being denounced to the judicial authorities, and therefore to its becoming a Legal as opposed to a police concern. That practice has continue up to date.

3. More particularly in view of the possibility and even the desirability of further reductions in the staff of the Legal branch in Region 2, it is submitted that the time has come for it to abandon the purely police part of its work hitherto.

It is therefore proposed to canilize such through the local APMs on the one hand, and judicial returns through the Procuratori Generali on the other when a suitable person has been selected for the Civil Procuratore.

4. Such will presuppose that the Legal branch will not concern itself henceforth in any case until it has been reported

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

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It is therefore proposed to canilize such through the local APMs on the one hand, and judicial returns through the Procuratori Generali on the other when a suitable person has been selected for the Civil Procuratore.

4. Such will presuppose that the Legal branch will not concern itself henceforth in any case until it has been reported to a judicial authority, and is therefore ready for instruction or for trial. Since 15% of cases reported never come to trial and another 40% have necessitated considerable correspondence to ascertain to what judicial authority they have been sent, and on what date they have been sent etc. etc., it will be seen that much labour will be economized.

5. It is therefore proposed that the weekly returns from APMs to LOs shall include all such information up to the receipt of the case by the judicial authorities.

(a) The old APM reports contain the following headings

(1) Date of offence
(2) Date of arrest
(3) Name and address
(4) Remarks

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

(5) Allied Police Ref no
(6) Italian police reference no:(seldom filled in)
(7) Handed over to.

(b) The new APM reports would contain the first five headings as hitherto, and as no 6, "Reported to what judicial authority, for what offence, and on what date".

It is proposed that Registers should continue to be kept by the Los, and still contain information as follows.

(1) LOs reference number
(2) Name of accused
(3) Date of offence
(4) Date of Arrest
(5) Short particulars
(6) Section under which charged and before what judicial authority
(7) Interlocutory procedings
(8) Sentence asked for by the PM
(9) Particulars of the Decision
(10) Particulars of any Appeals
(11) Comments.

The first six items would however be merely a registration of facts supplied in the APMs returns, but excluding correspondence by the Legal branch. From the time of each case being denounced to a judicial authority, it becomes clearly a matter of purely Legal concern.

6. Then proposals have been discussed with the DPM No 2 District and accepted in General principle. It must however be stressed that for complete success, it is essential for the Procuratore Generale Civil to be a efficient and cooperate official such as Commendatore Vita. Then the Legal branch in Region 2 could shortly be reduced to one officer.

D.E.S.COUSINS,Lt.Col.
R.L.O.
Region II

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

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D.E.S.COUSINS,Lt.Col.
R.L.O.
Region II

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File
4150

(42A

RIO REGION 2

HQ ACC

1726

12/8/44

RESTRICTED

ROUTINE

LEGAL SUB-COMMISSION

I SHALL BE AT REGION TWO HEADQUARTERS SHORTLY BEFORE NOON WEDNESDAY ONE SIX AUGUST PD

PAREN TO RIO REGION TWO FROM HQ ACC LEGAL PAREN I WILL WANT TO SEE YOU FRANKLIN

GERMAN AND GENERAL TRAINA THAT DAY PD FROM WINTER ACLO

11b

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

CONFIDENTIAL. 41A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

ACC/4150/L.

11 August 1944.

SUBJECT : Report on BARI situation.

TO : F.L.O. (thru R.C.), Region 2.

1. This Sub-Commission has received from the Ministry of Justice a copy of the report of Sig. GIANTANTONIO who went to BARI to report on the Court situation.

2. I am enclosing a copy of a synopsis of this report. The original report is quite long and we are not able to have it copied immediately.

3. Yesterday we discussed the report with the Minister and he fully appreciates the difficulties under which you have been working at BARI. Apparently TALLARICO has been placed in a position where he cannot do much harm and apparently you will have someone else to work with in so far as allied cases are concerned. The set up of the Special Session should be of real assistance.

4. I think it not unlikely that the Minister will find some means of getting rid of both the First President of the Court of Appeal and the Procuratore Generale, although it is agreed that the worst figure in the whole affair from our standpoint is TALLARICO. What I have said above concerning the First President and the Procuratore Generale must be regarded as confidential and should not be mentioned to the Italians at all.

5. When you have completed your factual report, which I mentioned to you when you were last here, please send me two copies thereof.

6. Because the BARI situation has been our worst experience by far of any of our dealings with the Italians I would appreciate it if you would give me frequent reports, as you deem necessary, of the situation there. I am hopeful that the situation will show improvement but certainly remain to be convinced after all the past history.

RICHARD H. [illegible],
Colonel, CAC,
Acting Chief Legal Officer.

RHW/wcw.

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

BEST COPY POSSIBLE

~~4129~~ 411 Ends + file

COPY-rlp

SUBJECT : Trial by AMG Court. 4150

6RSA/161/73
8 Aug 44 40A

HQ 2 District

I wish to complain in the most forceful terms and ask that my complaint be forwarded to higher authority to be implemented by the strongest possible action.

I have to report that the lack of support given to the military authorities in the suppression of sabotage cases by ACC has reached a stage that makes security of military stores (particularly in the 14 BAD, BITONTO), completely farcical.

I have made representation for an Allied Military Court to try for sabotage no less than 8 cases involving 29 persons. So far, the only result of my appeal has been to arrange for AMG Court in one solitary case, which is due to take place on the 8 Aug 44, the man in question having been arrested on 16 May 44. This is the case of Rimardi, Michele, who is charged with sabotage and theft of ammn. At the same time, an AMG Court has been convened to try Gaudio Martire on the charge of murder of an Allied soldier.

I am bound to point out in the strongest possible terms that the actual murder of one Allied soldier is a matter of very little importance compared with potential murder of unknown numbers of Allied soldiers fighting in the front line, by the sabotage of ammn which is at present going on in 14 BAD.

It is understood that ACC ordered the trial by AMG Court of three other cases involving nine persons, but that by some means or another, these persons were found to have been tried already by the Italian authorities themselves and given sentences of such a trivial nature as seriously to bring into disrepute the whole ACC legal system.

In the first of these cases, De Feri, Masiello and Virgilio, all three were awarded five months imprisonment for being in possession of explosives. Only one, however, is serving sentence. The second case concerns Marino and De Gennaro, charged with the sabotage of ammn by theft of the grummets protecting the driving bands of heavy caliber shells. For this offence, Marino was sentenced to six months imprisonment and fined 600 lire, while De Gennaro had been sent to prison for four months and fined 400 lire, BUT IN BOTH CASES THE SENTENCES HAD BEEN SUSPENDED. The final case of Perone, Ruggero, Chiapperino and Regui who were charged with sabotage, was again treated with contemptuous leniency.

I ask that a stringent enquiry be made into these cases with a view to discovering whether there is sufficient evidence to indict the Italian authorities concerned for conspiracy and as a result to vitiate the sentences imposed and re-try all three cases with due regard to the gravity of the charges.

116

That two of these three cases to which I have referred were found to have been

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to have been tried already by the Italian authorities themselves and given sentences of such a trivial nature as seriously to bring into disrepute the whole ACC legal system.

In the first of these cases, De Bari, Masiello and Virgilio, all three were awarded five months imprisonment for being in possession of explosives. Only one, however, is serving sentence. The second case concerns Marino and De Gennaro, charged with the sabotage of ammn by theft of the grummets protecting the driving bands of heavy caliber shells. For this offence, Marino was sentenced to six months imprisonment and fined 600 lire, while De Gennaro had been sent to prison for four months and fined 400 lire, BUT IN BOTH CASES THE SENTENCES HAD BEEN SUSPENDED. The final case of Barone, Ruggero, Chiapperino and Pegui who were charged with sabotage was again treated with contemptuous leniency.

I ask that a stringent enquiry be made into these cases with a view to discovering whether there is sufficient evidence to indict the Italian authorities concerned for conspiracy and as a result to vitiate the sentences imposed and re-try all three cases with due regard to the gravity of the charges.

118

That two of these three cases to which I have referred were found to have been tried without the inveriable notice (given weekly to ACC LO) of cases to be tried in the ensuing week, when the order for their trial by the AMG Court was made, passes all possibility of coincidence, and it is abundantly obvious that the Italian authorities are not only failing to cooperate properly with the ACC Legal Authorities, but are very successfully making a laughing stock of the Allied security measures.

It is utterly impossible, with the limited guard personnel available to this HQ, to safeguard WD property essential to the successful prosecution of the war, unless, when offenders are apprehended after considerable effort on the part of all concerned, they are tried and, if found guilty, given exemplary sentences. At the moment, the whole picture is one of connivance at wrong doing, condonation of offences and contempt for Allied authority. If any proof were need of the dire results of this mismanagement, I have to inform you that since the publication of the trivial sentences referred to above in the town of BITONTO, the pilferage rate in [illegible] almost trebled culminating in the destruction of some five thousand more [illegible] the theft of the silk parachutes and 15,000 rds of M.M.G. ammn by the [illegible] striplcss belts.

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I am informed that the excuse used by the Italian legal authorities to justify their frivolous treatment of these serious cases is that the parties charged have only committed "unintentional sabotage." This phrase covers the theory that the criminals had as their primary motive personal gain and not the direct intention to sabotage the ammunition. That the ammunition is in fact effectively sabotaged is never questioned, but is treated as purely incidental to the offence of pilferage and is not taken into consideration. This prevarication is intolerable. If a man steals to enrich himself and in so doing effects a sabotage, then he is a saboteur and should be so treated. It is a well settled maxim of all civilised legal systems that a man is taken to intend the natural consequences of his own acts. When the act of theft naturally has as its consequence the neutralization or destruction of ammunition, then it is sabotage. I ask that this view may not only be represented, but enforced with the utmost vigour in future.

Brigadier,
Comd 6 Base Sub Area.

TER/FTM

Copy to ACC LO
62 SUB
14 BAD
AE

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FBI

Copy to ACC LO
62 SIB
14 BAL
AQ

SER/INIT

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HEAD QUARTERS
ALLIED CONTROL COMMISSION
R.C. AND M.G. SECTION
A.P.O. 534

8 AUG. 1944

Ref/254/167/C.A. 7 August 1944.

SUBJECT: Italian judicial situation at Bari.

TO : Regional Commissioner, Region 2.

1. This is in answer to your letters
2201/74/D 5/7/44,
7201/74/A 15/7/44,
2201/74/A 16/7/44.

2. R.C. and M.G. have discussed with the Administration Section the problem which you outline. It is understood that the Legal Sub Commission has received a long report relative to the Italian Military Tribunals, has received a short report from the R.C.C. Region 2 and a copy of the report of Signor Giamboccio of the Ministry of Justice who has returned from Bari. It is also understood that as a result of a conference here between the R.C.C. and the Legal Sub-Commission, 3 August 1944, that he will submit a detailed report giving factual data as to the failures of the Italian Civil Courts to function properly.

3. The Legal Sub Commission advises this section that it will discuss with the Minister of Justice the report of Signor Giamboccio and his recommendations.

William C. S. Dillard
Major

for NORMAN R. FIELD,
Colonel,
Deputy Executive
Commissioner.

LEGAL SUB-COMMISSION
CJO
DCJO
Chief Counsel
CJO
Italian Section
CL RKS

Administration Sec. (2 copies)

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H150

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AGENDA FOR MEETING TO BE HELD ON
2 AUGUST 1944

1. Report of Mr.Giannantonio on BARI Courts.

2. Sardinia.
   a. Progress on draft decree authorizing the Primo Presidente of Court of Appeal to recruit Cancellieri.

3. Amnesty.
   Discussion on Circular to be issued in newly restored territory. (Art.7 last clause-date of beginning of Allied occupation).

4. Fascist Republican Laws.
   Progress.

5. Draft Decree on marriages of Allied Forces as submitted by Ministry.
   Discussion.

6. Application of new amnesti-penalties decree.
   Written reply as promised to Lt.Col.Hannaford's letter not received.

7. The future of the Court of Appeal Section Lucera.
   (See Art.5 RDL 27 Of 31 Jan 1944.)

8. Tribunale of Velletri.
   At this Tribunale there is only the President and 2 judges one of whom was mentioned as being considered for return of Genzano di Rome. There should be at least one more judge in addition to President and 2 judges.
   (This Sub-Commission's letter of 30 July 44). Also attitude of President refusing to open Court.(This S/C's letter of 31 July 4154)

9. Indennita di Toga.
   Status of Officials retained by Fascist Republic Government and those dismissed by such Government in respect to Payment of this allowance.(4039/5).
   Necessity for new legislation.

10. When will the Draft Decree on Amendments to CPP be enacted.

11. Progress of Draft Decree on Bar Association.

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12. Property of partisans, jews, antifascists etc.
Necessity for immediate action.

13. Taranto Court.
Intended vacation for one month.

14. Position of First Presidency of Court of Appeal Palermo.
(Comm.Gentile)

15. Death Penalty Decree.

16. Approval of Draft Decree on unlicensed sale of liquor. etc.

Aurisio Lenzo

SYNOPSIS

On report on BARI TRIBUNALE - Penal Proceedings of interest to the Allies-

The mission had two objects (1) to arrange that one section of the Bari Tribunale should try all the cases of interest to the Allies without any increase of personnel. (2) enquire as to what steps if any were being taken by the judicial authorities against gang headed by Rubino Giuseppe reported by the Allied Military Police as having committed offences against persons and property.

Lt.Col. Cousins added a third namely to investigate the situation regarding 275 cases of interest to the Allies the nominal list of which did not correspond with that prepared by the Procura del Regno.

In attaining these objects it was necessary to consider not only cases of interest to the Allies but other cases too and to arrange their distribution.

On arrival at Bari I presented myself to Lt.Col.Cousins and to Capt. German and to the heads of the Court and the Tribunale.

From the list produced by the Substitute Procuratore del Regno, in the absence on leave of the Procuratore del Regno, the following facts emerged.

(1) PROCURA DEL REGNO - 8 Sept. 43 - date of mission

(a) Total cases of interest of the Allies	936
" " " " " " pending	 75
(b) Total cases of all kind submitted during 1944	6124
" " pending 7/7/44	1060
Including " due to war	574

(2) Investigating Office -

(a) Total cases pending	124
Including " of interest of the Allies	14

(3) TRIBUNALE -

(a) Total cases submitted in 1944	1214
(b) Total cases of interest to the Allies decided 1 January 44 - 30 June 44 (mostly in May & June)	198
(c) Cases of interest to the Allies pending	 99
(d) Cases other than cases of interest to the Allies pending	597
Including those pending for reason of war	222
" " date of trial fixed	163

The figures given first (before the mission) differ slightly from the above because cases in course of transit between the Procura del Regno [illegible] Investigating office and the Tribunale were not taken into considera-

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(b) Total cases of all kind submitted during 1944 6124
" " pending 7/7/44 1660
Including " due to war 574

(2) Investigating Office -
(a) Total cases pending 124
Including " of interest of the Allies 14

(3) TRIBUNALE -
(a) Total cases submitted in 1944 1214
(b) Total cases of interest to the Allies decided 1 January 44 - 30 June 44 (mostly in May & June) 198
(c) Cases of interest to the Allies pending 99
(d) Cases other than cases of interest to the Allies pending 597
Including those pending for reason of war 222
" date of trial fixed 163

The figures given first ([illegible] before the mission) differ slightly from the above because cases in course of transit between the Procura del Regno and the investigating office and the Tribunale were not taken into consideration having been discharged by the one from his register and not yet entered by the others in theirs.

Some steps had been taken by the Italian judicial authorities to speed up trials of cases of interest to the Allies with which I dealt, but which did not fulfill the object of my mission.

I ordered the following provisions, which appear in the minutes of a meeting held on 8 July 44 as which were approved by the heads of the Allied Legal Office, to be carried out, as was undertaken by letter by the President of the Tribunale and the acting Procuratore del Regno.

(1) The Procura del Regno had assigned only one substitute do deal with cases of interest to the Allies (Dott.Mario Bonsegna) generally estimated as conscientious and of good character). But from the number of cases still pending it appeared that it was necessary to provide some assistance to Dott.Bonsegna; it also appeared that Ministerial Directive No.25022 8 March

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4 was not being fully complied with; furthermore it appeared that in the investigation office the said cases were not assigned to one particular magistrate;

Therefore Substitute Procuratore Ciusca was ordered to help Bonsegna; the the investigating office was asked to speed up their work and to assign all the cases of interest to the Allies to one particular magistrate. Attention was drawn to the provisions of the aforesaid ministerial circular; it was agreed that in case of delay by the Procuratore Militare, the Procuratore del Regno would draw the Procuratore Militare's attention to this circular and if necessary inform the Ministry of Justice;

The Procuratore del Regno was asked to ensure the speedy resolution of all other cases pending avoiding all ~~in~~justifiable delay.

The Procuratore del Regno gave assurance of carrying out the undertaking in the letter above and said that in future cases of interest to the Allies would be assigned to the investigating magistrate Dott.Giancaspro Carlo;

(2) Regarding the Tribunale it was necessary to adopt three different policies .

(a) Month of July. The hearings of cases of interest to the Allies had already been fixed and assigned by the President as before to the second Section (mixed) and some to the fourth (penal). No Change was possible as the lists were already prepared but it was possible to fix for July hearings of all the pending 99 cases, with two exceptions, by the second Section holding extraordinary hearings if necessary, and by the fourth Section hearing two extraordinary hearings on the 26 and 29 July.

In this way the Bari Tribunale will hear during July more than 100 cases of this kind a figure never before reached.

(b) The holiday period - August and September-

The President of the Tribunale had ordered that of the two Sections functioning during the period, one, the penal, should deal with cases of interest to the Allies in four settings a week, the other, the mixed, should hold three settings a week when it would deal with other urgent matters.

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The President of the Tribunale had ordered that of the two Sections functioning during the period, one, the penal, should deal with cases of interest to the Allies in four settings a week, the other, the mixed, should hold three settings a week when it would deal with other urgent matters.

It was decided (i) that the first section should be composed of five magistrates; (ii) that in the event of an increase in the number of cases of interest to the Allies the sittings should be increased to six per week; (iii) that if there were not sufficient cases of interest to the Allies to occupy the four sittings the Section would deal with other cases.

As regards the second Section (mixed) it was decided that in the event of other cases increasing, its sittings should be increased from three per week.

(c) 1st October et seq.

Changing the original arrangement it was decided that all cases of interest to the Allies should be dealt with by the fourth Section which shall ~~hold~~ hear if necessary six instead of four sittings per week.

Similarly in regard to other types of cases the President of the Tribunale was asked to increase if and when necessary the penal sittings of the second and third mixed sections from two to four per week and if necessary to create "Bis" sections,

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so that the date for hearing will always be fixed within twenty days of the arrival of the case at the Registry. The President of the Tribunale gave assurance that in this way date of hearing for all 212 pending cases of type other than of interest to the Allies will be fixed.

In accordance with instructions I told the President of the Tribunale and the Acting Procuratore del Regno to inform the Magistrates dealing with cases of interest to the Allies that their ~~active~~ work will be especially appreciated by Your Excellency.

Apart from the measures taken I think that it is necessary for the proper functioning of the service to fill every vacancy in the Procura del Regno and the Tribunale and to resume the eight hour office day with a mid-day break instead of the present uninterrupted six hours. But to do this many magistrates would have to be given back their houses at Bari, now requisitioned, as at present they live in the surrounding country and traveling to work is difficult .

With regard to the second object of the mission, the gang headed by Rubino Giuseppe. No report was received by the Bari judicial officer and the Procuratore Generale only learnt of the matter on the 4 July through a request for particulars from the Ministry. The Procuratore Generale asked the Commander of the CC.RR. for a report but to date no reply has been received.

In any case if the Allied Control Commission is of the opinion, as I understood from the Legal Office at Bari, that the action of this gang do not constitute an offence there is nothing to prevent the fact not being reported to the judicial authority and the avoiding any proceedings.

As regards the third object i.e. the difference between the two lists, enquiries were made in the General register of the Procura del Regno and it was discovered that some of the 275 had already been dealt with, others had been sent to the Corte d'Assise for judgement, and others were pending with the Procura del Regno, the investigation office or the Tribunale. But while the 275 cases did not include all the cases on the register of the Bari judicial office, there were about eighty which appeared never to have reached the Procura del Regno. Of the latter the majority had been transmitted, according to the list, at the legal office , to the Procura del Regno by the Procura Militare; a few of the others referred to reports made by the Questura or by the RR.CC.; there was no indication of the authority that had

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CC.RR. for a report but to date no reply has been received.

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The Allied Legal Office was asked for more particulars as to cases where the details were not known. This proposal agreed by the legal office is now being carried out by the Acting Procuratore del Regno.

To avoid further differences between the figures of the Allied Legal office and the Procura del Regno I proposed with full approval of Lt.Col.Cousins and Capt.German first that the Procura del Regno and the Tribunale should daily communicate to the Allied

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Legal Office the receipt and disposition of all cases of interest to the Allies; secondly that in cases of difference the legal office at the end of each week would ask for the necessary clarification for the Procura del Regno; thirdly that cases of interest to The Allies should be marked in the general register and in the register of the Procura and of the Tribunale/each folder by a particular mark which will make identification easier..

I must say before bringing this note to a close that either when I met Lt.Col.Cousins or when I left him he stated that he persisted in his demand to your Excellency that the First President, the Procuratore Generale and the Procuratore del Regno should be substituted saying that more energetic men were required as heads of the Courts and men less ~~obstructionist~~ destructive than Tallarigo needed as Procuratore del Regno. He proposed that Avvocato Generale De Vita should be transferred from Lecce to Bari ~~for~~ act at least six months as substitute Procuratore Generale and that Substitute Lanzaro should be transferred from Cosenza to Bari to and as Procuratore del Regno/

He added that Avvocato De Vita had in no way solicited such a transfer and that when asked had declared that he was ready to accept the position only to help the Allies it being in his own interest to return to his place at Naples.

In their turn the heads of the Courts asked me to inform Your Excellency that they for the proper Execution of the agreement, insisted on the carrying out of the proposal made in the report sent to the Ministry whreby they requested that of the two "uditori" acting as judges transferred from the Taranto Procura to the Bari Tribunale one shall be substituted by giudice aggiunto DISTASO for reasons given in the report.The Procuratore Generale also mentioned a reprimand received from the Allied Legal Office in respect of ~~assumed~~ irregularities in the service which as a matter of fact were confirmed to the difference in figures concerning cases of interest to the Allies. He stated that/the Legal Office where they had been summoned for this purpose; he showed great concern over the threat , made at this meeting of a possible proposal of transfer of both the heads of the Court; he also referred to me an incident that took place between

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own interest to return to his place at Naples.

In their turn the heads of the Courts asked me to inform Your Excellency that they for the proper Execution of the agreement, insisted on the carrying out of the proposal made in the report sent to the Ministry whereby they requested that of the two "uditori" acting as judges transferred from the Taranto Ire ur to the Bari Tribunale one shall be substituted by giudice aggiunto DISTAS for reasons given in the report. The Procuratore Generale also mentioned a reprimand received from the Allied Legal Office in respect of ~~assumed~~ irregularities in the service which as a matter of fact were confirmed to the difference in figures concerning cases of interest to the Allies. He stated that/the Legal Office where they had been summoned for this purpose; he showed great concern over the threat , made at this meeting of a possible proposal of transfer of both the heads of the Court; he also referred to me an incident that took place between Procuratore del Regno Tallarigo ~~Ruf~~ and Capt.German. This incident confirmed to me by Tallarigo ~~Ruffo~~ when he called on me before my departure consisted in Tallarigo, after a reprimand from Capt.German due to his delay in reporting, getting up to go out saying that a high Italian official could not continue relations with one who did not show him due respect. The incident was dropped at the intervention of Lt.Col.Cousins who was present but afterwards the Procuratore Generale in agreement with the request of Tallarigo to change him with the deputy Procuratore Generale Dott.Ferrari made the proposed change. From the above fact it is easy to draw the conclusion that relations between the Allied Legal Office and the heads of the Court and of the Procura del Regno were not cordial. Such lack of cordiality was responsible for the necessity of my mission to Bari because otherwise the direction made by me would have been issued by the head of the judicial offices. This lack of cordiality is due in my opinion to the lack of tact on the part of the head of the "Pubblico Ministero"

ooo the reprimand had been given in the premises of/

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TRANSL. NOTE

(i.e. Procuratore Generale - Procuratore del Regno) who perhaps out of an exa grevated opinion of their own independance never gave full collaboration nor showed eagerness to carry out the demands of the legal Office especially in regard to the difference of figures in cases of interst to the Allies, difference which also appear still to exist as regards other judicial officer in Apulia.

Your Excellency will decide whether to adopt and if so which, the provisions suggested by Lt.Col.Cousins and those of the heads of the Court and the Procuratore Generale.

I am sure that unless cordial relation ~~or~~ re-establishment between the legal office and the judicial officers by personal contact and by efficient cooperation especially on the part of the Procura del Regno, the differences of figures which the Allied Legal Office in anxious to eliminate will not be avoided and further complaints will be forthcoming from that office.

I thought it right to draw the attention of the judges especially of the Procura del Regno to the necessity for cordial relationship which will make the solving of the difficulty more easy and which is due to those who have liberated us from Nazi-fascist rule, and I spoke of this necessity too to Capt.German; after complaining that he had never been able to establish a workable cooperation due to Tallarigo's difficult character, he noted, for later reports, the two magistrates assigned to investigate cases of interest to the Allies; both Bonsegna and Giancaspro.

In thanking your Excellency for the faiththat you placed in me in entrusting me with this mission I consider it right to state that its accomplishment was greatly facilitated not only by the heads of the Bari judicial officers and specially the Acting Procuratore del Regno Dott.Abbondanza, but also by the kind cooperation of Lt.Col.Cousins and Capt.German who with traditional Anglo-American courtesy showed their full satisfaction with my work/.

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A Sua Eccellenza
il MINISTRO DI GRAZIA E GIUSTIZIA
ROMA

OGGETTO: Tribunale di Bari. Provvedimenti penali interessanti gli Alleati. Relazione.

Alleg. 1 fascicolo di documenti di 48 fogli.

La missione affidatami dall'E.V. con la lettera in atti aveva il seguente duplice obbietto: 1°. curare che, senza aumento di organico, fosse espletato da una sola sezione del tribunale di Bari il giudizio dei processi interessanti gli Alleati; 2°. accertare se e quali provvedimenti fossero in corso presso l'autorità giudiziaria di Bari contro gli irregolari volontari, che, capitanati da tale Rubino Giuseppe, si sarebbero resi colpevoli, secondo un rapporto della polizia militare alleata, di reati contro la persona e la proprietà.

A tali obbiettti, su richiesta del T.Col. Cousin dell'Ufficio legale alleato di Bari, se ne aggiungeva un terzo, in buona parte connesso col primo: accertare presso il tribunale di Bari l'esistenza, il corso e l'eventuale definizione di n. 275 processi interessanti gli Alleati, giusta l'elenco nominativo in atti, consegnatomi dal detto Ufficio legale e non corrispon

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O G G E T T O : Tribunale di Bari. Provvedimenti penali interessanti gli Alleati. Relazione.

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Ora, sul primo obbietto, è, innanzi tutto, da rilevare che l'incarico affidatomi con la richiamata lettera era, come

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si è detto, di curare che, senza aumento di organici, fosse affidato ad una sola sezione del tribunale di Bari il giudizio dei processi interessanti gli Alleati, ma evidentemente frustato lo scopo precipuo dell'incarico, e cioè di ottenere la sollecita trattazione dei detti processi e la uniformità di giudizio nella loro definizione, se non si fosse regolata anche la istruttoria dei processi in parola, e si sarebbe inoltre mal compreso lo spirito dell'incarico se lo si fosse limitato al regolamento dell'istruttoria e del giudizio dei processi interessanti gli Alleati, prescindendo dal corso e dalla definizione degli altri processi.

Dimodochè, in sostanza, l'incarico era più ampio di quello che non emergesse dall'espressione letterale, ed occorreva non solo regolare l'istruttoria ed il giudizio dei processi interessanti gli Alleati, al fine di ottenere una sollecita ed uniforme definizione, ma occorreva, inoltre, armonizzare i provvedimenti, necessari per un tale regolamento, con tutto l'altro lavoro del tribunale, che non doveva subire ingiustificati ritardi.

D'altra parte, non dovevasi dimenticare che l'obbietto della missione concerneva gli uffici giudiziari di Bari, retti da magistrati, che rivestono anche gradi molto elevati, ed aveva uno speciale interesse per la Commissione alleata di controllo, per cui, mentre era necessario conseguire l'intento, usando i dovuti riguardi verso i Capi della corte e del tribunale, era ancora doveroso tenersi continuamente a contatto con l'ufficio

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istruttoria dei processi in parola, e si sarebbe inoltre mal compreso lo spirito dell'incarico se lo si fosse limitato al regolamento dell'istruttoria e del giudizio dei processi interessanti gli Alleati, prescindendo dal corso e dalla definizione degli altri processi.

Dimodochè, in sostanza, l'incarico era più ampio di quello che non emergesse dall'espressione letterale, ed occorreva non solo regolare l'istruttoria ed il giudizio dei processi interessanti gli Alleati, al fine di ottenere una sollecita ed uniforme definizione, ma occorreva, inoltre, armonizzare i provvedimenti, necessari per un tale regolamento, con tutto l'altro lavoro del tribunale, che non doveva subire ingiustificati ritardi.

D'altra parte, non dovevasi dimenticare che l'obbietto della missione concerneva gli uffici giudiziari di Bari, retti da magistrati, che rivestono anche gradi molto elevati, ed aveva uno speciale interesse per la Commissione alleata di controllo, per cui, mentre era necessario conseguire l'intento, usando i dovuti riguardi verso i Capi della corte e del tribunale, era ancora doveroso tenersi continuamente a contatto con l'ufficio legale alleato di Bari, accogliendone le fondate richieste e comunicando allo stesso i risultati raggiunti.

Con tali direttive, appena arrivato a Bari, mi presentavo al Ten.Col. Cousin ed al capitano German dell'Ufficio legale al-

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leato, nonchè ai Capi della corte e del tribunale.

Curavo, quindi, che il presidente del tribunale ed il sostituto procuratore del Regno, che sostituiva il procuratore del Regno in ferie, mi comunicassero con gli appositi elenchi in atti, nominativi o numerici, i dati relativi ai processi interessanti gli Alleati e quelli relativi agli altri processi.

Da tali elenchi, che controllavo per quanto mi era possibile, emerge che nella procura del Regno pervenivano, dal settembre 1943 alla data della mia missione, n. 936 processi interessanti gli Alleati, e che di questi erano pendenti, all'atto della mia missione, n. 75 processi. Emerge, inoltre, che il lavoro penale della procura era costituito dai 6124 processi pervenuti nel corso del 1944, con una pendenza alla data del 7 luglio di n. 1060 processi, di cui 574 sospesi per ragioni di guerra. Nell'ufficio di istruzione, poi, erano pendenti n. 14 processi interessanti gli Alleati su un totale di pendenza di 124 processi. E nel tribunale, mentre erano pendenti n. 99 processi interessanti gli Alleati e ne erano stati definiti nel corso del 1944 sino al 30 giugno, ed in buona parte nel maggio e nel giugno, n. 198, risultava, peraltro, che nel corso del 1944 erano pervenuti per il giudizio, in tutto, n. 1214 processi, e di essi, esclusi quelli interessanti gli Alleati, erano pendenti n. 597 processi, di cui 222 sospesi per ragioni di guerra e 163 già fissati per l'udienza.

In effetti, è opportuno notarlo, la pendenza per i pro-

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senti gli Alleati e quelli relativi agli altri processi.

Da tali elenchi, che controllavo per quanto mi era possibile, emerge che nella procura del Regno pervenivano, dal settembre 1943 alla data della mia missione, n. 936 processi interessanti gli Alleati, e che di questi erano pendenti, all'atto della mia missione, n. 75 processi. Emerge, inoltre, che il lavoro penale della procura era costituito dai 6124 processi pervenuti nel corso del 1944, con una pendenza alla data del 7 luglio di n. 1060 processi, di cui 574 sospesi per ragioni di guerra. Nell'ufficio di istruzione, poi, erano pendenti n. 14 processi interessanti gli Alleati su un totale di pendenza di 124 processi. E nel tribunale, mentre erano pendenti n. 99 processi interessanti gli Alleati e ne erano stati definiti nel corso del 1944 sino al 30 giugno, ed in buona parte nel maggio e nel giugno, n. 198, risultava, peraltro, che nel corso del 1944 erano pervenuti per il giudizio, in tutto, n. 1214 processi, e di essi, esclusi quelli interessanti gli Alleati, erano pendenti n. 597 processi, di cui 222 sospesi per ragioni di guerra e 163 già fissati per l'udienza.

In effetti - è opportuno notarlo - la pendenza per i processi interessanti gli Alleati veniva, in un primo tempo, indicata dagli uffici giudiziari in una cifra minore, ma si trattava di errore dipendente da omissioni, dovute, in buona parte, al fatto che nessun ufficio includeva negli elenchi i processi,

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che, rimessi dalla procura del Regno all'ufficio di istruzione od al tribunale, mentre erano stati discaricati dalla procura, non erano ancora pervenuti agli altri uffici.

Constatavo, poi, che vari provvedimenti erano stati presi dai Capi degli uffici giudiziari di Bari per agevolare il servizio, in ispecie nella sollecita trattazione dei processi interessanti gli Alleati, ma tali provvedimenti, se anche negli ultimi tempi avevano avuto un benefico effetto, non esaurivano il precisato obbietto della mia missione.

Disponevo, perciò, nei colloqui avuti coi Capi degli uffici giudiziari di Bari un organico piano di lavoro, che, completando i provvedimenti già presi dai detti Capi, non solo assicurasse la sollecita ed uniforme trattazione, in istruttoria ed in giudizio, dei processi interessanti gli Alleati, ma ancora non pregiudicasse il corso e la definizione degli altri processi; curavo che le disposizioni prese venissero consacrate, come un raggiunto accordo, nel verbale in atti dell'8 luglio; e, dopo avere avuto dai Capi dell'ufficio legale di Bari, cui comunicavo personalmente i risultati raggiunti col fascicolo di documenti in atti, l'assicurazione che le disposizioni [illegible] no di loro piena soddisfazione, ottenevo che l'accordo avesse la sua esecuzione, come con le lettere in atti mi confermavano il presidente del tribunale ed il ff. procuratore del Regno.

Ora dal richiamato accordo emergono i seguenti provvedimenti che trovano la loro ragione giustificatrice nelle consi-

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teressanti gli Alleati, ma tali provvedimenti, se anche negli ultimi tempi avevano avuto un benefico effetto, non esaurivano il precisato obbietto della mia missione.

Disponevo, perciò, nei colloqui avuti coi Capi degli uffici giudiziari di Bari un organico piano di lavoro, che, completando i provvedimenti già presi dai detti Capi, non solo assicurasse la sollecita ed uniforme trattazione, in istruttoria ed in giudizio, dei processi interessanti gli Alleati, ma ancora non pregiudicasse il corso e la definizione degli altri processi; curavo che le disposizioni prese venissero consacrate, come un raggiunto accordo, nel verbale in atti dell'8 luglio; e, dopo avere avuto dai Capi dell'ufficio legale di Bari, cui comunicavo personalmente i risultati raggiunti col fascicolo di documenti in atti, l'assicurazione che le disposizioni [illegible] no di loro piena soddisfazione, ottenevo che l'accordo avesse la sua esecuzione, come con le lettere in atti mi confermavano il presidente del tribunale ed il ff. procuratore del Regno.

Ora dal richiamato accordo emergono i seguenti provvedimenti che trovano la loro ragione giustificatrice nelle considerazioni che si espongono nei riguardi di ciascuno di essi:

1°. Per l'istruttoria la procura del Regno aveva avuto cura di affidare ad un solo sostituto, il dott. Mario Bonsegna, che gode generale stima per laboriosità e dirittura di caratte-

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re, i processi interessanti gli Alleati, ma, pur tenendo conto del numero dei detti processi: 936, pervenuti alla procura del Regno dal settembre 1943, non del tutto giustificata appariva la pendenza di 75 processi, tanto più che per la sollecita definizione di essi non si era tenuta sempre presente la circolare n. 25022 dell'8 marzo u.s., all'uopo emessa da questo Ministero; e, d'altra parte, non si era avuta cura di affidare anche nell'ufficio di istruzione ad un solo magistrato la trattazione dei processi in parola.

Si disponeva, pertanto, nel richiamato accordo che fosse cura del procuratore del Regno di ottenere che la pendenza dei processi in istruttoria per i reati interessanti gli Alleati fosse sensibilmente ridotta in breve tempo, facendo coadiuvare il dott. Bonsegna dal sostituto Ciasca, sollecitando l'ufficio di istruzione e pregando quest'ultimo di assegnare d'ora in poi i processi in parola allo stesso magistrato. Si richiamava, poi, per l'esatta osservanza la citata circolare di questo Ministero; e, nel caso in cui si fosse ripetuto l'inconveniente della rimessione con ritardo da parte dei procuratori militari dei processi per competenza, si invitava il procuratore del Regno a richiamare sul detto inconveniente l'attenzione degli stessi procuratori militari, ed eventualmente quella di questo Ministero.

Si pregava, d'altra parte, il procuratore del Regno a curare la sollecita definizione di tutti gli altri processi in i-

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Si pregava, d'altra parte, il procuratore del Regno a curare la sollecita definizione di tutti gli altri processi in istruttoria, evitando qualsiasi ingiustificata pendenza.

Di tutte le disposizioni che precedono il procuratore del Regno assicurava l'esecuzione con la lettera in atti, con la quale comunicava, altresì, che l'ufficio di istruzione avrebbe

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d'ora in poi assegnato i processi interessanti gli Alleati al giudice istruttore dott. Giancaspro Carlo.

2°. Nei riguardi, poi, del tribunale occorreva regolare il servizio in modo diverso per il mese di luglio, per il periodo feriale, comprendente i mesi di agosto e settembre, e per il successivo periodo ordinario che ha inizio col prossimo 1° ottobre.

Per il mese di luglio il presidente del tribunale aveva seguito il sistema, già attuato nei mesi precedenti, di affidare i processi interessanti gli Alleati alla seconda sezione, promiscua, e, poichè le due udienze penali della stessa non erano sufficienti, aveva assegnato alcuni processi alla quarta sezione, penale.

Ora, non potendosi tale sistema modificare poichè in buona parte i ruoli di udienza erano stati già formati, si riteneva opportuno disporre che esso rimanesse immutato, ma si otteneva che tutti i 99 processi pendenti fossero fissati per le udienze del mese di luglio, tranne di uno già rinviato in agosto e di altro sospeso per essere la parte lesa in Inghilterra; che la seconda sezione, nonostante il lavoro civile da ultimare prima delle ferie, espletasse tutti i processi assegnatile, rinviandone, eventualmente, la prosecuzione ad udienza straordinaria; e che la quarta sezione tenesse due udienze straordinarie nei giorni 26 e 29 per definire i processi fissati per i detti giorni.

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In tal modo, nel mese di luglio, dovranno essere definiti nel tribunale di Bari oltre 100 processi interessanti gli Alleati, costituiti dai 97 fissati e dai 19 ultimati nella prima udienza del mese; e tale numero non è stato mai prima raggiunto.

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Parimenti, per il periodo feriale (agosto e settembre), si approvavano le disposizioni all'uopo date dal presidente del tribunale, il quale delle due sezioni funzionanti in detto periodo aveva stabilito che una, penale, trattasse i processi interessanti gli Alleati in quattro udienze la settimana, ed altra, promiscua, trattasse, tenendo tre udienze la settimana, gli altri processi urgenti o contro detenuti, in conformità dell'art. 91 dell'Ordinamento giudiziario.

Senonchè si riteneva opportuno aggiungere nel richiamato accordo che la prima sezione fosse composta in ciascun mese, da quattro magistrati, aumentati poi dal presidente a cinque, che dessero le maggiori garanzie per laboriosità e conoscenza della materia penale; che, ove i processi interessanti gli Alleati dovessero aumentare di numero, sì da non consentire la fissazione dell'udienza nello stesso giorno dell'arrivo in cancelleria e per una data non eccedente i venti giorni dal detto arrivo, si aumentasse il numero delle udienze della sezione penale da quattro a sei; e che, ove invece il numero dei processi interessanti gli Alleati non fosse sufficiente a coprire le quattro udienze della detta sezione, questa trattasse altri processi.

D'altra parte, per la regolarità del servizio nei riguardi dei detti ultimi processi, si disponeva che, nel caso in cui essi dovessero aumentare di numero, sì da non consentire la sol-

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altra, promiscua, trattasse, tenendo tre udienze la settimana, gli altri processi urgenti o contro detenuti, in conformità dell'art. 91 dell'Ordinamento giudiziario.

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D'altra parte, per la regolarità del servizio nei riguardi dei detti ultimi processi, si disponeva che, nel caso in cui essi dovessero aumentare di numero, sì da non consentire la sollecità fissazione delle udienze, si aumentassero le tre udienze alla settimana della sezione promiscua.

Infine, per il periodo ordinario, che, come si è detto, avrà inizio col prossimo primo ottobre, si riteneva opportuno disporre, innovando completamente al sistema già seguito dal tri-

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bunale ed in conformità del precipuo obbietto della mia missione, che i processi interessanti gli Alleati fossero trattati esclusivamente dalla quarta sezione. Questa, se le esigenze del servizio lo richiedessero, terrà, invece di quattro, sei udienze alla settimana, come, del resto, viene comunemente praticato nei grandi tribunali, allorchè, giusta quanto avviene per Bari, la sezione penale è composta di quattro magistrati.

D'altra parte, per la regolarità del servizio nei riguardi degli altri processi, si è invitato il presidente del tribunale a tenere presente la eventuale necessità di aumentare le udienze penali della seconda e terza sezione, promiscua, da due a quattro; ed, in ogni modo, si è disposto che, mediante l'aumento del numero delle udienze e mediante anche l'eventuale composizione di sezioni "bis", sia evitata ogni pendenza, conseguendo che tutti i processi, anche quelli non interessanti gli Alleati, siano fissati per un'udienza che non vada al di là del ventesimo giorno dall'arrivo del processo in cancelleria.

Pure dalle dette disposizioni il presidente del tribunale ha assicurato l'esatta esecuzione ed ha aggiunto che al più presto fisserà i 212 processi pendenti, relativi a reati non interessanti gli Alleati.

Non si è mancato, infine, di pregare il presidente del tribunale ed il ff. procuratore del Regno, in conformità delle istruzioni dell'E.V., di far noto ai magistrati, che attenderan-

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Non si è mancato, infine, di pregare il presidente del tribunale ed il ff. procuratore del Regno, in conformità delle istruzioni dell'E.V., di far noto ai magistrati, che attenderanno all'istruzione ed al giudizio dei processi interessanti gli Alleati, che del disagio e del maggior lavoro, cui potranno trovarsi eventualmente sottoposti, e sopratutto del risultato positivo della loro missione sarà tenuto particolare apprezzamento da parte dell'E.V. All'uopo, sia il presidente del tribunale

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che il procuratore del Regno si sono riservati di fare le segnalazioni del caso.

In tal modo credo di avere adempiuto la missione affidatemi nel su precisato obbietto, ma, per la migliore regolarità del servizio, ritengo che sia opportuno coprire i posti vacanti di magistrati e funzionari di cancelleria e segreteria sia nella procura del Regno che nel tribunale, e ritengo, altresì, che sia opportuno ripristinare negli uffici giudiziari di Bari, come in tutti gli altri uffici, l'orario giornaliero in due turni di otto ore complessive, eliminando quello unico, attualmente vigente, di sei ore.

Non devo, peraltro, tacere che, col ripristino dei due turni dell'orario giornaliero, dovranno essere restituite ai magistrati ed agli altri funzionari giudiziari di Bari le abitazioni agli stessi requisite, sì da evitare che essi continuino ad alloggiare con le rispettive famiglie in paesi vicini, dove giornalmente sono costretti ora a recarsi con disagi, che non possono non ripercuotersi sulla prestazione di un regolare servizio.

Nei riguardi, poi, del secondo obbietto della missione è da notarsi che, giusta assicurazioni avute dal procuratore generale e dal procuratore del Regno, non è ancora pervenuto agli uffici giudiziari di Bari alcuna denuncia a carico della "colonna volontari" capitanata da tal Rubino Giuseppe. Il procuratore generale ha aggiunto che solo il 4 c.m. veniva a cono-

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la procura del Regno che nel tribunale, e ritengo, altresì, che sia opportuno ripristinare negli uffici giudiziari di Bari, come in tutti gli altri uffici, l'orario giornaliero in due turni di otto ore complessive, eliminando quello unico, attualmente vigente, di sei ore.

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Devo rilevare che fino al giorno della mia partenza da Bari non era pervenuta dai RR.CC. alcuna risposta, sebbene questa fosse stata sollecitata.

In ogni modo, se la Commissione alleata di controllo ritenesse, come mi è sembrato comprendere da quanto mi diceva l'ufficio legale alleato di Bari, che nei fatti commessi dalla "colonna volontari" non sussistano, in ispecie per il movente che li ha determinati, estremi di reato, penso che nulla vieta che i fatti stessi non siano portati a conoscenza dell'autorità giudiziaria, evitando così qualsiasi procedimento.

Circa, infine, il terzo obbietto, devo premettere che, allorchè riferivo al T.Col. Cottsin, in presenza del maggiore Franklin e del capitano German, i risultati della missione affidatami dall'E.V., il detto Colonnello mi pregava di accertare l'esistenza, il corso e l'eventuale definizione di n. 275 processi, che, pur dovendosi ritenere pervenuti alla procura del Regno in base ai dati in possesso dell'ufficio legale alleato, non trovavano, peraltro, corrispondenza negli elenchi e nelle comunicazioni della procura del Regno, dell'ufficio di istruzione e del tribunale.

Aderivo alla richiesta, che ritenevo in buona parte connessa col primo obbietto della missione affidatami dall'E.V.; e, non appena ricevevo l'elenco dei 275 processi, curavo che fossero effettuate presso la procura del Regno, l'ufficio di istruzione ed il tribunale le opportune ricerche.

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Da tali ricerche, senza dubbio difficoltose, dovendosi, fra l'altro, controllare la rubrica del registro generale della procura del Regno, composta di oltre 7.000 nomi, emergeva che dei 275 processi alcuni erano definiti, altri erano stati

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rimessi alla Corte di assise per il giudizio, ed altri, infine, erano pendenti presso la procura del Regno, l'ufficio di istruzione od il tribunale. Senonchè, mentre nei detti 275 processi non figuravano tutti quelli inclusi negli elenchi nominativi in atti degli uffici giudiziari di Bari, circa ottanta non figuravano mai pervenuti alla procura del Regno. Di questi ultimi buona parte, secondo l'elenco dell'Ufficio legale, risultava rimessa alla procura del Regno dalla procura militare, alcuni, ma in tenue numero, si riferivano a denunce che sarebbero state trasmesse dalla questura o dai CC.RR., e per altri, infine, non risultava l'autorità che li avrebbe trasmessi.

Il risultato delle indagini facevo noto al capitano German e poi al T.Col. Cossin; e, per le maggiori ricerche atte ad eliminare ogni diversità fra i dati dell'Ufficio legale e quelli degli uffici giudiziari, proponevo che la procura del Regno facesse le opportune richieste alla procura militare, alla questura ed ai carabinieri per il rintraccio dei processi mancanti che risultavano rimessi dai detti uffici, mentre per i processi, di cui non risultava la provenienza, l'Ufficio legale doveva dare migliori indicazioni.

La proposta, approvata dall'Ufficio legale, è ora in corso di esecuzione da parte del ff. procuratore del Regno, che curavo partecipasse all'incontro coi due ufficiali.

Inoltre, al fine di evitare ulteriori eventuali diversità fra i dati dell'Ufficio legale e degli uffici giudiziari, ed al

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sa alla procura del Regno dalla procura militare, alcuni, ma in tenue numero, si riferivano a denunce che sarebbero state trasmesse dalla questura o dai RR.CC., e per altri, infine, non risultava l'autorità che li avrebbe trasmessi.

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Inoltre, al fine di evitare ulteriori eventuali diversità fra i dati dell'Ufficio legale e degli uffici giudiziari, ed al fine di agevolare il servizio ed il controllo, proponevo che la procura del Regno ed il tribunale comunicassero giornalmente all'ufficio legale l'arrivo ed il movimento di tutti i processi interessanti gli Alleati; che, in caso di divergenza, alla fine

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di ogni settimana, l'Ufficio legale chiedesse gli opportuni chiarimenti alla Procura del Regno che dovrà fare le necessarie indagini, comunicandone l'esito; e che i processi interessanti gli Alleati, nel registro generale e nella rubrica della procura e del tribunale, come anche nella copertina, fossero controdistinti da un segno particolare che ne agevolasse le ricerche ed impedisse di considerare come concernente reati comuni un processo relativo invece a reati interessanti gli Alleati.

Anche tali proposte venivano trovate del tutto soddisfacenti dal T.Col. Cousin e dal cap. German e saranno osservate.

Non devo tacere, prima della chiusura della presente relazione, che il T.Col. Cousin, sia all'atto della mia presentazione, sia a quello del mio congedo, mi pregava di riferire alla E.V. che egli insisteva nella richiesta fatta della sostituzione del primo presidente, del procuratore generale e del procuratore del Regno, assumendo che come Capi della corte occorrevano magistrati più energici ed a reggere la procura del Regno occorreva un magistrato che non fosse ostruzionista come il Tallarigo. Proponeva che fosse trasferito da Lecce a Bari, per almeno sei mesi e per esercitarvi le funzioni di procuratore generale, l'avvocato generale De Vita, e che fosse inoltre trasferito a Bari da Cosenza, per esercitarvi le funzioni di procuratore del Regno, il sostituto Lanzara. Aggiungeva che l'avvocato generale De Vita non aveva in alcun modo sollecitato il

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A loro volta, i Capi della corte mi pregavano di riferire all'E.V. che essi, per una più sicura esecuzione dell'accordo intervenuto, insistevano per l'accoglimento della proposta formulata nel rapporto, inviato a questo Ministero, col quale chiedevano che dei due uditori con funzioni di giudice, trasferiti dalla pretura di Taranto al tribunale di Bari, uno fosse sostituito dal giudice aggiunto Di Staso per le ragioni dette nel rapporto stesso. Accennava, poi, il procuratore generale ad un richiamo avuto dall'ufficio legale Alleato su pretese irregolarità del servizio, che poi si delimitavano alle diversità di dati relativi ai processi interessanti gli Alleati. Precisava che tale richiamo era stato rivolto a lui ed al Primo presidente nei locali dell'ufficio legale dove erano stati all'uopo convocati; mostrava il suo vivo disappunto per essere stata minacciata in tale incontro l'eventualità di una proposta di trasferimento di entrambi i Capi della Corte; e mi riferiva, inoltre, un incidente avvenuto fra il procuratore del Regno dott. Tallarigo ed il capitano German. Tale incidente, che mi veniva confermato dal Tallarigo allorchè mi si presentava prima della partenza, consiste nel fatto che il Tallarigo, a seguito di un richiamo del capitano German, cui si sarebbe presentato con ritardo, si sarebbe alzato per andarsene, dicendo che un alto funzionario italiano non poteva continuare ad avere rapporti con chi non usava verso di lui i dovuti riguardi. L'incidente non

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tuito dal giudice aggiunto Di Stefano per le ragioni dette nel rapporto stesso. Accennava, poi, il procuratore generale ad un richiamo avuto dall'ufficio legale Alleato su preteso irregolarità del servizio, che poi si delimitavano alle diversità di dati relativi ai processi interessanti gli Alleati. Precisava che tale richiamo era stato rivolto a lui ed al Primo presidente nei locali dell'ufficio legale dove erano stati all'uopo convocati; mostrava il suo vivo disappunto per essere stata minacciata in tale incontro l'eventualità di una proposta di trasferimento di entrambi i Capi della Corte; e mi riferiva, inoltre, un incidente avvenuto fra il procuratore del Regno dott. Tallarigo ed il capitano German. Tale incidente, che mi veniva confermato dal Tallarigo allorchè mi si presentava prima della partenza, consiste nel fatto che il Tallarigo, a seguito di un richiamo del capitano German, cui si sarebbe presentato con ritardo, si sarebbe alzato per andarsene, dicendo che un alto funzionario italiano non poteva continuare ad avere rapporti con chi non usava verso di lui i dovuti riguardi. L'incidente non avrebbe avuto ulteriore corso per l'intervento del T.Col. Cousin, che si trovava presente, ma, a seguito di esso, il procuratore generale, accogliendo la preghiera del Tallarigo per un suo cambio col sostituto procuratore generale dott. Ferrari, fece

Dai suesposti fatti è facile trarre la persuasione che i

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rapporti fra l'Ufficio legale alleato ed i Capi della corte e della procura del Regno non sono molto cordiali. A tale mancanza di cordialità deve farsi risalire la vera ragione della necessità della mia missione a Bari, in quanto che diversamente le disposizioni da me date avrebbero potuto essere emesse direttamente dai Capi degli uffici giudiziari. E la detta mancanza di cordialità dipende, a mio avviso, in special modo, dalla mancanza di tatto dei Capi del pubblico ministero, che, mossi forse da una esagerata opinione della propria indipendenza ,non hanno mai prestato tutta la loro opera, né mostrato tutto il loro interessamento per l'evasione delle richieste dell'Ufficio legale, nei riguardi sopratutto della diversità dei dati dei processi interessanti gli Alleati, diversità che sembra tuttora esistere anche per gli altri uffici giudiziari delle Puglie.

Vedrà l'E.V. se e quali provvedimenti sia opportuno prendere nei riguardi delle proposte del T.Col. Coltsin, dei Capi della Corte e del procuratore generale.

Io sono sicuro che, se non si ristabiliranno fra l'Ufficio legale e gli uffici giudiziari cordiali rapporti con incontri personali e con una fattiva cooperazione da parte in ispecie della procura del Regno, non si elimineranno, nonostante le disposizioni da me impartite, le diversità di dati, che l'Ufficio legale ha vivo interesse di eliminare, e non cesseranno da parte del detto ufficio ulteriori lamentele.

Sulla necessità, pertanto, di tali cordiali rapporti, che

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za di cordialità dipende, a mio avviso, in special modo, dalla mancanza di tatto dei Capi del pubblico ministero, che, mossi forse da una esagerata opinione della propria indipendenza, non hanno mai prestato tutta la loro opera, né mostrato tutto il loro interessamento per l'evasione delle richieste dell'Ufficio legale, nei riguardi sopratutto della diversità dei dati dei processi interessanti gli Alleati, diversità che sembra tuttora esistere anche per gli altri uffici giudiziari delle Puglie.

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Sulla necessità, pertanto, di tali cordiali rapporti, che rendono più facile la soluzione di ogni divergenza, e che sono, peraltro, doverosi verso chi ci ha liberati dal dominio nazi-fascista, ho ritenuto opportuno richiamare l'attenzione dei magistrati sovratutto della procura del Regno, e la stessa necessi-

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tà ho fatto presente al capitano German, il quale, dopo aver lamentato che non si sia potuto stabilire mai una diuturna cooperazione per il carattere difficile del Tallarigo, ha ritenuto opportuno prendere nota, per gli ulteriori rapporti, dei due magistrati addetti all'istruzione dei processi interessanti gli Alleati: il dott. Bonsegna e il dott. Giancastro.

Nel ringraziare l'E.V. della fiducia in me riposta con l'affidarmi la missione in obbietto, ritengo mio dovere farle noto che l'evasione di essa mi è stata agevolata, non solo dal cordiale concorso dei Capi degli uffici giudiziari di Bari, in particolar modo dal ff. procuratore del Regno dott. Abbondanza, ma ancora della premurosa cooperazione del T.Col. Cousin e del capitano German, i quali, con la tradizionale gentilezza anglo-americana, hanno sempre mostrato la loro piena soddisfazione per l'opera da me svolta.

Salerno 15/Luglio 1944: Ricevuta a Roma il 18/7. per mancanza di mezzi di trasporto da Salerno a Roma =

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Salerno 15/Luglio 1944: Ricevuta a Roma il 18/7. per mancanza di mezzi di trasporto da Salerno a Roma =

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Ito: Luigi Giannantonio

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4150 File

(36A)

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

27 July 1944

Ref. :- 2201/74/B

Subject:- Bari Military Tribunal

To :- CLO Legal Subcommission ACC Rome
Copy to RC
" " PC Bari
" " LO Apulia
" " LO Bari

Attached please is a report on preliminary investigations made in connection with the functioning of the Tribunale Militare Bari.

1. The nine cases which should have been tried by AMG Court constitute what has been termed the Bitonto Ammunition theft case. It was first brought to the attention of this HQ. on 5.5.44, but since full police reports on it were not attached, it was not until after a renewed application for same to 6 Base Subarea, that these were received on 25.5.44, i.e. 4 days after trial by the Italian Courts of the case against di Bari, Masiello and Virgilio.

Application was made to HQ. ACC. in 2201/74/D of 28.5.44 for trial of all cases by AMG Court.

On 5.6.44 in 264/37/CA, the Executive Commissioner notified that the cases should NOT be tried by AMG Court.

On 26.6.44 this order was reversed, and instructions received for their trial by AMG Court. They had then already been tried by the Italian Courts..

2. It is agreed that in future the Italian judicial authorities will be notified of the possibility of any cases being tried by AMG Court, although there are objections to so doing.

Moreover, even if such practice had hitherto been observed, it would in no way have prevented what in fact occurred. The Italian authorities would have been notified to procede with the trials following 264/37/CA of 5.6.44 (see above) and not again notified to the contrary until after the trials had taken place.

3. The verbal and written explanations regarding the

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It was first brought to the attention of this HQ. on 3.5.44, but since full police reports on it were not attached, it was not until after a renewed application for same to 6 Base Subarea, that these were received on 25.5.44, i.e. 4 days after trial by the Italian Courts of the case against di Bari, Masiello and Virgilio.

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2. It is agreed that in future the Italian judicial authorities will be notified of the <u>possibility</u> of any cases being tried by AMG Court, although there are objections to so doing.

Moreover, even if such practice had hitherto been observed, it would in no way have prevented what in fact occurred. The Italian authorities would have been notified to procede with the trials following 264/37/CA of 5.6.44 (see above) and not again notified to the contrary until after the trials had taken place.

3. The verbal and written explanations regarding the functioning of the Tribunale Militare Bari, are profoundly unsatisfactory, and their general tone renders it impossible to consider them as bona fide.

In particular, the following examples are given.

(a) It is strange, that in 5 months, the only cases even known to have been omitted from the weekly returns of forthcoming trials, are precisely two cases of sabotage, and therefore in which the Allies would be particularly interested.
No explanation for same has been given, although specially requested.

(b) In these same cases, no attempt was made to call the British Military Police, who were the Chief witnesses and easily available.

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Without that evidence, the charges were framed in the most lenient manner possible, and ridiculous sentences passed without even notice of four being suspended out of nine.

(c) In respect of 96 persons sentenced to imprisonment for offences against Allied interests, the attempted explanation on page 9 of the attached report, is not even plausible. Sixty eight of these are apparently accounted for as being under appeal, or serving sentence, or whose arrest is ordered. But.

(1) What about the other 28 to make up the number of 96 as shown on page 2 of the report?

(2) The orders for arrest have been found to have been dated June 6th, and still ineffective on July 19th.

(d) The suggestion made verbally by the Procuratore Militare, and later by Major Traversa that the Court had no idea ACC would wish to be informed of any suspension of sentences for offences affecting their interests is grotesque.
For five months, successive LOs have constantly emphasized that their function was to be informed of full particulars which would enable them to gauge the rate and manner in which such cases were treated by the Courts, and whether sentences imposed were adequate as deterrents. It was explained that for this reason a weekly return was required of all forthcoming trials and of the precise sentences imposed, every one of which would be scrutinized.

(e) In spite of the fact that on representations by the Naval authorities, the LO Bari requested the Procuratore Militare on May 25th for cases of night fishing to be given exemplary penalties, in nine such cases tried recently, suspended sentences were imposed in every instance.

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4. In the circumstances represented above, and in the attached report, it is considered essential for an inquiry by Public

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(d) The suggestion [illegible] Militare, and later by Major Traversa that the [illegible] had no idea ACC would wish to be informed of any suspension of sentences for offences affecting their interests is grotesque.
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(e) In spite of the fact that on representations by the Naval authorities, the LO Bari requested the Procuratore Militare on May 25th for cases of night fishing to be given exemplary penalties, in nine such cases tried recently, suspended sentences were imposed in every instance. 30

4. In the circumstances represented above, and in the attached report, it is considered essential for an inquiry by Public Safety officers of ACC. HQ. who should have access to the Prisons, to the judges of the Tribunale, the Procuratore Militare and his deputy, as also to any Cancelieri of the Court who may be involved.
To assist them it is suggested that General Traina (now returned from Sicily) and Major Franklin should be in attendance.

5. Since it is stated by the Procuratore Militare, that in the Tribunale Militare (unlike, the Tribunali Civili) there is no appeal against a suspension of sentences, it is requested that the Law may forthwith be amended pro tanto.

D.E.S. COUSINS, Lt. Col.
R.L.O.
Region II

Particular attention is requested to the last page. The part I've underlined may well be the key to the whole situation. (The last four letters were received subsequent to the report)

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(36 B)

REPORT OF LEGAL OFFICER

re

TRIBUNALE MILITARE

19 July, 1944.

At the beginning of July, orders were received from H.Q. A.C.C. that the following cases

(1) (a) Di Bari, (b) Masiello, (c) Virgilio - possession of explosives,
(2) (a) Marino, (b) De Gennaro - sabotage,
(3) (a) Barone, (b) Ragno, (c) Chiapperini, (d) Ruggero - sabotage,

should be tried by A.M.G. Courts.

I°) On checking up with the register in this office, I found that Di Bari, Masiello, Virgilio (1) had been tried on 20 May 1944 (due notification of trial having been sent to this office and each accused sentenced to 5 months imprisonment). On checking up these sentences with the prison authorities I found that they had no notice of any sentence against Di Bari, that the sentence against Masiello had been suspended (without any notification to me) and that Virgilio was serving her sentence.

II°)(2)That this case had been tried on the 20th June (without any notification of trial to this office) and was included in the previous week's report of sentences imposed and which had arrived in this office on the previous day to the communication from H.Q. A.C.C. The proper charge against the accused should have been sabotage, - in view of the fact that had been removing the rope grummets from shells (the latter are in very short supply, are imported from the U.K. and shells are not allowed to be issued to the Forces without these grummets) - whereas in part of fact they had been charged with stealing "a few pieces of rope" and the following sentences imposed:

Marino	6 months	+ 600 lire fine.	
De Gennaro	4 "	+ 400 "	" .

On checking up these sentences with the prison authorities, I again found that the sentences had been suspended without any notification to this office.

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III°) I found that the above case (3) had been tried on 23 June - again without any notification of trial to this office, although I receive a list each week of the cases to be heard during the following week. I had received this list as usual but cases (2) and (3) had not been included. The following sentences had been imposed:

(a) Barone	4 months	+	1000 lire fine.
(b) Ragno	9 "	+	--

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(c) Chiapperini 5 onths
(d) Ruggero 6 "

and on checking up these sentences with the prison authorities I found that the last sentence (d) had been suspended again without any notification to this office.

As a result of these investigations my suspicions were aroused and I checked through with the prison authorities every sentence imposed by the Tribunale Militare from 20th May to 23rd June 1944. This investigation disclosed the following results:

DATE	N° of cases decided	N° of cases of which Prison authorities have no knowledge, i.e. persons not in custody.	N° of cases suspended but not notified as such in weekly returns	Other remarks.
20 - 26 May	55	16	10	1 case pardoned (1 year) without notice.
27May - 2June	35	11	10	---
3 - 9 June	37	19	2	---
10 - 16 June	63	25	8	---
17 - 23 June	75	25	5	---
Total	265	96	39	1

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I at once communicated my findings to the R.L.O. (Lt. Col. Cousins) and on 7 July a meeting was held at which the following were present: Lt. Col. Cousins, Capt. German, President of Tribunale Militare (he had replaced the former President - Gen. Maddia - on the 1st July, 1944), and the Procuratore Militare. The position was put before them and Lt. Col. Cousins demanded an explanation in writing of the following incidents:

(a) Why such a minor and deceptive charge had been made in the case of (2).
(b) Why charges in (2) and (3) had been heard without any notification to this office and leniency of sentences.
(c) An explanation of the fact that the prison authorities had no notification of the sentences of imprisonment imposed in 96 cases, and why in 39 cases sentences had been suspended without any notification to the Legal Officer, Bari.

At the same time appeals were entered in the cases of (2) and (3).

For the following week ending 7 July 1944, I found that out of 62 cases decided, sentences were suspended in 28 cases. As a result I sent the following letter to the President:

To: President, Tribunale Militare.
From: L.O. Bari.
Subject: (1) Suspended sentences
(2) Cases dismissed for lack of evidence.
(3) OBERTI Giovanni.

(1) I am surprised to observe that in the week ending 7 July out of a total of 62 cases heard, the sentence imposed was suspended in no fewer than 28 cases. I was not aware - in point of fact I have still not received any official notification of a change of President in this Court - and consequently had no opportunity of discussing with you the policy under which we had hoped (until recent investigations) that this Court had been working.

The total value of goods belonging to the Allied Forces stolen during each month reaches a figure which is a disgrace to the Italian people for whom we are working, and it is obviously no deterrent to the perpetration of these thefts if the culprit becomes cognisant of the fact that he has merely to appear before the court and receive a suspended sentence. These remarks are applicable not only to adults but also to minors who we consider are being used to a large extent to commit the actual theft. It is obvious therefore that each theft - though comparatively trivial in itself - must be regarded as one of a cumulative total and punished with a sentence that will deter any

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repetition or imitation. I shall be obliged for your assistance in carrying out this policy and all suspensions of sentence will of course be notified to me.

(2) 7 cases dismissed for lack of evidence.

Please inform me whether in any case any Allied Military personnel necessary for the proving of the case failed to appear. If the latter is the case, was the witness's presence requested ?

(3) The sentence on this case would have the appearance to me on its face value to be excessive. I have no doubt that there is a perfectly adequate explanation and I should be obliged if you would give me the reason for this particular sentence. (Conviction 4.7.44.)

Bari, 12 - 7 - 44.

A.C.J. German, Capt.
Legal Officer, Bari.

In the return from the Tribunale Militare for the week ending 14th July, I find that out of a total of 49 cases decided, suspensions were granted in 24 cases while a further 10 cases were either dismissed for lack of evidence or granted judicial pardon. It will be remembered that this is during the week following the discussion on suspended sentences between Lt. Col. Cousins, Capt. German, the President of the Tribunale Militare and the Procuratore Militare. In view of the fact that I had written the Procuratore asking him to stress the seriousness of the charge of fishing in prohibited waters - in view of the fact that damage was being done to our boom defences - I can only regard the suspension in these cases as a deliberate flouting of our wishes. I wrote the following letter in respect of this last week's report:

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To: President, Tribunale Militare

From: Legal Office.

Subject: Sentences.

I notice in the return of sentences for the week ending July 14th that out of a total of 49 cases decided, suspension of sentence was granted in 24 cases and a further 10 cases were either dismissed or granted judicial pardon.

The suspension in all the cases of fishing during the hours of night is entirely beyond my comprehension, especially in view of my letter to the Procuratore Militare, dated 25 May 1944 which I repeat herewith:

Ref. Nº 6112/5
To: Procuratore Militare
From: L.O. Bari.
Subject: Fishing in prohibited waters;

Our authorities wish me to stress the seriousness of the above named class of crime. I shall be much obliged therefore if it could be made clear to any persons coming before your court charged with this offence that the maximum penalty will be imposed in all cases.

Bari, 25 May, 1944.

A.C.J. German, Capt.
Legal Officer, Bari.

In view of the fact that it is now obvious that the Court, appears to wish in many cases to make a farce of any proceeding affecting Allied Interests and entirely ignore our requests, I am going to ask for a full inquiry by higher authority into the past working of this Court and to endeavour to ensure that in future the proceedings will take some slight cognisance of the wishes of the Allied Military Government.

With reference to the meeting with the R.L.O. no one has yet made any attempt to explain why the cases of (1) BARONE & others, and (2) MARINO & others were omitted from the list of cases due to be heard that week, forwarded to this office.

Bari, 15.7.44.

A.C.J. German, Capt.
Legal Officer, Bari.

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Again, in spite of this correspondence, a sentence of 2 months imprisonment imposed on Ruggiero Francesco for "fishing during the hours of night" was suspended (18 July, 1944).

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LIST OF DOCUMENTS ENCLOSED.

A. Letter from Procuratore Militare.

B. Letter from Maj. Traversa (Sostituto Procuratore Militare).

C. Letter from President, Tribunale Militare.

D. Report of hearing of case of DI BARI & others.

E. Report of hearing of case MARINO & DI GENNARO.

F. Report on hearing of case BARONE & others.

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TRANSLATION.

PROCURA MILITARE DEL R..
TO/ LEGAL OFFICE = A?O.U. = BARI.

Bar., 9 July, 1944.

Nº 1512

Subject; Information

In accordance with our verbal agreement, I beg to inform you of the following:

The Procuratore Militare del Regno - in order to reach uniformity of direction in the instructions of cases affecting Allied Interests has entrusted Maj. Pietro Traversa with this exclusive task since the 1st January 1944, ordering denouncements to be forwarded to said magistrate without any preliminary examination, he giving the maximum guarantee because of his capacity, correctness and experience.

This system is still being followed.

The deputy Procuratore Maj. Traversa, interrogated about the cases of MARINO, DE GENNARO, - BARONE, RAGNO, CHIAPPERINI, RUGGERO, - and DI BARI, MASIELLO, VIRGILIO, - handed over to me a written statement which I enclose herewith for your attention.

Either the first President or the President of the Court will be able to report about the last actions before trial and the sentences imposed by the examining Court in the above three cases, since the Procura do not interfere any more with cases after their forwarding to the President for trial.

Consequently only the President of the Court will be able to give explanations about the suspension of the sentence and the failure to communicate to your office.

Regarding the 96 cases of conficted persons of which the Prison Direction affirm to have no notice at all, I herewith attach a list compiled by the executive office of this Procura, showing in front of each name the legal position of the convicted person.

It is pointed out that the sentence cannot be carried out in cases where the defendant has put in an appeal to the Supreme Court, until the decision of the latter is taken. Furthermore, sentences imposed on defendants, for whom the Court has granted conditional suspension of the same, cannot be carried out.

About the case of Vito di Melo's sentence to 1 year imprisonment, cancelled by judicial pardon, we informed your office with list 82 dated 29 April, 44.

It will be observed that in this case the Prosecution had put in appeal.

(sgd)
THE PROCURATORE MILITARE DEL REGNO.

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"A"

OBSERVATIONS OF L.O. ON LETTER N° 1512 OF PROCURATORE MILITARE.

The Procuratore Militare first appears to attempt to avoid any responsibility by transferring any blame that may be to one of his subordinates, Maj. Traversa. Any responsibility that may not attach to the latter is transferred to the Court itself.

Ref . Para 7 I have analysed his list which shows the following results:

Appeals	58	
Suspensions	35	
Serving Sentences	5	(although denied by Prison authorities)
Orders issued for arrest	15	

The fact remains that never has this office received one single notice of appeal or one single notice of suspension of sentence.

He has since informed me by letter that there is no appeal against a suspension of sentence by the Military Tribunal. Letter as follows:

"" With respect to your letter of the 4th July regarding the request to put in an appeal against the sentences of MARINO FRANCESCO = DE GENNARO DONATO,= BARONE NATALE = RAGNO FRANCESCO = CHIAPPERINI MICHELE = RUGGERO VITO, - we communicate that the prosecutor of the hearing did not put in the appeal because, in the cases in question, the punishment required by the State - through its representative - had been inflicted, also if the sentence had been applied with the benefit of conditional suspension.

Furthermore this office is sorry not to be able to comply with your request to put in appeal at the Supreme Tribunal in the above cases, because the conditional sentence - being a privilege the exercise of which is at the judging magistrate's discretion - exempts from the determining hypothesis of art. 387 C.P.M.G."

THE PROCURATORE MILITARE DEL REGNO
(ten. Col. Luigi FURLAN)

I am investigating this point.

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"B"

REPORT

TRANSLATION.

of letter from Maj. Traversa, Sostituto Procuratore Militare.

Since the 1st January 1944, the undersigned has been entrusted with the reception, instruction and sending on to trial of all cases affecting Allied Interest.

I°) In the case BARONE - RAGNO - CHIAPPERINI + RUGGERO, the charge of "theft and sabotage" arose for the 1st, and the summons to Court of the witnesses W. LOVIE, N.W. CROCHER and Sgt. SHAMAN was requested.

The others were charged with receiving, because there was no proof that they had been the authors of the abstraction of ammunition.

II°) DI BARI, MASIELLO, VIRGILIO (all of them women), having only been found in possession - in their respective homes - of explosive powder, and for lack of proof that they had abstracted it themselves, were charged with " receiving of objects destined for a military use", and that for the purpose of keeping the case with this Military Tribunal, because if they had been charged of receiving (= ricettazione) only, the competence would have been of the ordinary Tribunal.

It will be observed that they were denounced in provisional liberty, and this office ordered their arrest, because convinced of the necessity to treat such crimes severely. -

III°) In the case of MARINO and DE GENNARO, the charge was of theft of ropes, which had happened near the ammunition dumps.

In fact the accused were denounced by the Carabinieri for theft and receiving respectively, and the charges were considered correct, because the object were not among those mentioned by art. 158 C.P.M.G., nor could it be held that the ammunition had been damaged (that at least was the line of conduct of this Office).

Generally our law provides imprisonment for sabotage, and the capital sentence only in case that the preparation or war-efficiency of the State had been compromised, a circumstance which up to now has never occurred.

I add that in all the cases where ammunition had been touched the purpose or motive of the crime had never been the one of rattening the war, but only that of obtaining a profit by transforming the ammunition belts in cotton for sewing or for making stockings (in point of fact these belts are sold for more than 100 lire per meter on the black market).

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or recovering the metal of the cartridges or finally to obtain the powder for the use of hunting or fishing.

==========0==========

As a rule of procedure the Prosecution - with the request of the issuing of summonses - also requests the President of the Court to order the summons of witnesses, giving their full particulars.

Bari, 8 July, 1944. (Sgd)

The S. Procuratore Militare del Regno
(Magg. Pietro TRAVERSA).

"B"

OBSERVATIONS OF L.O. ON LETTER FROM MAJ. TRAVERSA (SOSTITUTO PROCURATORE MILITARE).

(a) He states that he asked for witnesses W. Lovie, N.W. Crocher and Sgt. Sharman as witnesses in the Barone case. No such request was made to this office and I have confirmed that neither the persons concerned nor their unit ever received any such request. I have not confirmed whether or not he requested the Court to call these witnesses.
(b) He admits the general knowledge of theft of ammunition belts and subsequent black market dealing in same. This knowledge should have debarred any leniency whatever to be shown.
(c) His ability to suggest that the stripping of these belts does not endanger the preparation or the war efficiency of the state only further convinces me of the absolute feebleness and uselessness of this man.

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"C"

TRANSLATION.

Nº 249 - P. of letter from President of Tribunale Militare. Bari, 11 July, 1944.

TERRITORIAL MILITARY TRIBUNAL
OF WAR.

To: ALLIED CONTROL COMMISSION; Legal Liaison Office.

For attention to:

COMMAND OF THE IX ARMY CORPS . . . . . P.M. 67.
PROCURA MILITARE . . . . . B A R I.

Subject: Sentences imposed by Tribunals and to which the order of conditional suspension of punishment has been added.

In relation to verbal request:

1) I have examined the reports made since 17 April 44 and compiled according to suggestions made by Maj. COHEN in this office on the 19 April 44, and I have found that the order of suspension of the punishment imposed has never been communicated to the Legal Office A.C.C.
2) Because of the period of time fixed for the furnishing of the present information, I have not been able to contact my predecessor, Gen. MADIA, who is discharged and absent from Bari.
I have interrogated the senior Judge, who told me:
"The order of suspending the sentence was never communicated, since "being an institution of the code of our country for those who had "never before been convicted, its concession does not affect the "nature of the crime and therefore neither the grade of the punish- "ment. Conditional punishment, far from being a damage to the re- "pression of crimes, constitutes an efficient means - since it does "not deprive us of Labour - and stimulates persons to abstain from "the committing of further crimes. In point of fact the prévision "was applied to old people, women with families, minors aging between "14 and 18 years and to some cases where the minimum responsibility "of the accused and the period of his custody (generally from 30 to " 50 days) has suggested such application."
3) Regarding the cases, MARINO AND DE GENNARO; DI BARI, MASIELLO, and VIRGILIO; BARONE, RAGNO, CHIAPPERINI, and RUGGERO, disposed of by this Military Tribunal, Iforward copy the sentences imposed during the hearings of respectively the 20/6,20/5,23/6 which shows the legal motives of the affirmation of responsibility and the reasons which induced the Court to grant conditional suspension of punishment for some defendants.

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4) Regarding the case of URIA Michele, disposed of by this Tribunal in the hearing of the 12th June, 1year of the sentence has been pardoned in application of the R. Decree of amnesty of the 5th April 1944, N°96.
5) For the other remarks made by your Office, the Military Procura is competent.
6) I have ordered that in the present and in future returns also the conditional suspension of punishment be indicated.
7) Copy of the present - except enclosures - was sent to the command of the IX Army Corps for due attention, and for reasons of disciplinary dependence, and to the Military Procura of the Tribunal.

THE BRIGADIER GENERAL
President of the Military Tribunal
(Mario Carasi)

(Sgd).

OBSERVATIONS OF L.O. ON LETTER FROM THE PRESIDENT OF COURT. (BRIG. GEN. CARASI.)

This officer only assumed his present position on the 1 st July 1944, taking over office from Gen. Maddia on that date, and his letter in my view does not assist in the slightest in producing the required explanation. Whether or not the question of notification of suspended sentences was ever actually put into writing is immaterial in my opinion. The watching brief of A.C.C. in all cases affecting Allied Interests was explained fully by my predecessor Maj. Cohen (this is within the knowledge of Lt. Col. Cousins - the R.L.O.) and I have on more than one occasion discussed the subject. To alledge that it was unmaterial - as far as we were concerned - whether a suspension of sentence was granted or not, is sheer impertinence and they were well aware that we wished to know exactly the position and ultimate result of each case affecting our interests. The Tribunals Civile have always notified us of suspensions and appeals.
It will be especially observed that no attempt has been made to explain why the two particular cases (Barone & others; Marino & others) were omitted from the list of cases due for hearing during that particular week.

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N° 5773/44 of the case "D"
date, 20th May, 1944.

Ref. N- 12064
N° 2E 2112/44 R.U.

IN THE NAME OF HIS MAJESTY
V I T T O R I O E M A N U E L E III.
PER GRAZIA DI DIO E PER VOLONTA' DELLA NAZIONE.
RE D'ITALIA.

THE TERRITORIAL MILITARY TRIBUNAL OF BARI
consisting of

Lt. Col. Ftr.	COLAMUSSI	GIOVANNI	President
Capt.	ORGITANO	PAOLO	Judge
Lt. Col.	AGOSTINELLI	ORONZO	"
Cpt.	SAVINO	NICOLANGELO	"
Capt.	MACAIONE	ANTONIO	"

has pronounced the following

S E N T E N S E.
in the case against

1° DI BARI Filomena fu Nicola and di Colasuonno pasqua, born 23/5/1929 at Palo del Colle, resident there.
2° MASSIELLO Teresa etc. " 3/11/1872 at Palo del Colle, resident there.
3° VIRGILIO Laura etc. " 14/9/1896. at Trani, resident at Palo del Colle....free-present.

A C C U S E D.

of receiving articles destined for military use (art. 166 C.P.M.G., 15 - 47 C.P.M.G.), because being in possession on the 8th March 44 in Palo del Colle of explosive powder of the Allied Military Administration.

Fact and law.

With statement of the 8/3/44 the CC.RR. of Palo del Colle denounced in state of arrest and on designation of the Allied Military Police, Di Bari, Filomena - Masiello Teresa and Virgilio Laura on that same day in Palo del Colle; in occasion of a search made in their houses, they had been found in possession: De Bari of 5 kg of explosive powder and of an empty tin-box, Massiello of 2.500 kg and Virgilio of 0.200 kg of the same powder and of an empty canvas sack, all property of the Allied Army.
The three women were tried for the drime of receiving articles destined for military use.
In their interrogations Di Bari declared that the quantity of powder found in her house had been collected by some children on the road, and she, for fear they might do themselves harm, had taken it home; that were wicks full of explosive powder. Massiello affirmed she had received a certain quantity of explosive powder from Virgilio who had it

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because her son Michele had collected it. Virgilio confirms that particular; The Judges remark that the CC.RR. carried out the search in the accused's houses, because during that period of time thefts of explosives were recorded, and the search had a positive result. The three accused should have returned the quantity of explosive of which they had come in unlawful possession to the legal owner, but instead they retained it, certainly for private use, perhaps for lighting the fire. So the crime, is proved, because of the confessions of the accused, who should have known the absolute prohibition to detain, for any reason; articles of the Allied Forces, and therefore they are sentenced for the crime they are charged of.
As for punishment the Judges have inflicted on them five months of military imprisonment each, to be substituted by ordinary imprisonment for an equal period of time, besides the payment of the Court-expenses. They suspend the punishment for 5 years for Masiello, because of her advanced age, according to law.

P.Q.M.

Having heard the prosecution and defence, having read art. 166 C.P.M.G. 15 and 47 C.P.M.G. 163 - 168 C.P. 487-488 C.P.P. 613 CPP., the Tribunal declares Di Bari Filomena, Masiello Teresa, Virgilio Laura guilty of the crime with which they are charged and sentences them to five months each, the military imprisonment to be substituted by ordinary imprisonment for the same period of time, and all of them to the payment of the Court-expenses. It suspends the punishment inflicted in Masiello Teresa for 5 years according to law, and orders her release, if she is not detained for other reasons.

Bari, 20-5-44.

On the original signatures follow.

Virgilio Laura has appealed to the Supreme Mil. Trib. on the 21-5-44.
THE CANCELLIERE MILITARE (sgd) LT. G. GUERRIERI.

The present sentence has been recorded in Chancery on the 10/7/44.
THE CANCELLIERE MILITARE LT. G.GUERRIERI.
Vº THE PROCURATORE MILITARE DEL RE LT. COL. LUIGI FRULAN.

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OBSERVATIONS OF L.O. ON CASE OF DI BARI & OTHERS. 75

Any Court that is prepared to believe that over 14 lbs. in all of explosive powder has been collected in the streets by children, would in my opinion be prepared to accept any "cock and bull" story. The only conclusion I can draw is that they did not face up to the facts of the case and did not wish the charge to entail serious consequences.

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N° 9240/44 of the case
date 20. June, 44.

TRANSLATION.

"E"

F ord. N° 12755
N° 3354/44 R.U.

IN THE NAME OF HIS MAJESTY
V I T T O R I O E M A N U E L E III.
FOR THE GRACE OF GOD AND THE WILL
OF THE NATION
KING OF ITALY.

THE MILITARY TRIBUNAL OF WAR
consisting of

Lt. Col	NATALE	PASQUALE	PRESIDENT
"	PELLINI	ALBERTO	Judge
"	TOMMASO	TAMBURLINI	"
Maj.	CRISPO	ALFREDO	"
Capt.	MACALDONE	ANTONIO	"

Has pronounced the following

S E N T E N C E.
in the case against

1° MARINO FRANCESCO di Giacomo 19 years old
2° DI GENNARO DONATO di Crescenza 54 " "

A C C U S E D

the 1st of the crime as set forth in art. 61 N°II 624 625 N°7 C.P. for having taken possession of some pieces of hemp rope, abstacting them from the Allied Ammunition dump, where he was working as a handy man, committing the crome against things destined for public service;
the 2° of the crime as set forth in art. 648 C.P. for having received pieces of hemp rope stolen to the Allied Forces. Ascertained at Bitonto on the 17/4/44.

Fact and law:

With statement of the 21st April N°294 the CC.RR. of Bitonto reported: "On the 17th of this month at about 1500 hrs, the local English Command delivered us the workman Marino Francesco, ~~identified as such~~ mentioned in subject, who was surprised on the same day by the English Sgt. Gempason with a little sack full of pieces of rope, stolen at the place where ammunitions are deposited. Marino, when interrogated in this office in the presence of the English Major of the local detachment, tried at first to deny, but then he did not fail to confess that he had done all that in order to sell the pieces of rope to some rope-maker of Bitonto, in order to gain a few lire for the pruchase of bread, as he was living in wiser conditions. During the investigations we were informed that De Gennaro Donato, he, too ~~identified~~ mentioned in subject, was keeping in his house pieces

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of rope of the Allied Army. We went at once to said house, together with the beforementioned English Officer and there we found De Gennaro with ~~him~~ half a sack full of those ropes which he was unthreading.

Marino and De Gennaro were arrested: the first admitted having collected a few pieces of rope on the ground near the place where he was working at the dependence of the English, in order to make a longer rope of them with which to tie his goat, and denied having sold De Gennaro any pieces of said rope; De Gennaro on his part denied the charge, affirming that the small pieces of rope found in his house had been collected in the street by his 11 years old son Francesco.

After the collection of the necessary documents, Marino and De Gennaro were handed over for trial to this Tribunal to answer for the crimes with which they are respectively charged.

Remarks of the Judges.

From the beforementioned statement all elements of proof for the decision of the present case can be gathered.
Marino has admitted to have collected - near the place of the ammunition dump - the small pieces of rope which were sequestrated, andiit is without doubt that he was in the enclosure, because employed at the dependence of the Allied Military Authority, proprietor of the said small pieces of rope. So the theft is proved, and also the aggravations of art. 61 N°II P.C. (abuse of relation of the lending of work).
The aggravation provided by art. 625 N°7 P.C. does not apply-(was brought up against Marino).
The latter aggravation departs from the presumption that the crime was committed against objects destined for public service; but the Court cannot see in those small pieces of rope such a destination. They are no ropes of a certain length and consistence, but pieces of rope as the denouncing statement ascertains beyond doubt, and so it is believed that the little pieces of rope were the rests of the packing-ties of the ammunition which is deposited at the place: Relics, therefore, which had already served their purpose, and not things destined for public service. And that facts are exactly like that, we can learn from the statement of complaint where no mention is made that the little ropes had been destined for public service; and therefore Marino is denounced for simple theft only.
Therefore the aggravation according to art. 625 N°7 C.P. does not apply in his case.
Also the crime of receiving ~~xf~~ with which De Gennaro is charged, is fully proved. It is not credible that he (or his son) had found the ropes on the road, since they are of the same type as the ones stolen by Marino. According to circumstances under which the crime was carrid out, the following sentences were passed:

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6 months imprisonment and 600 lire fine for Marino (basic punishment = 5 months + 500 lire fine, increased for aggravation of art. 61 N°II C.P).

4 months imprisonment and 400 lire fine for De Gennaro.

Both of them were sentenced to the payment of the Court expenses, and the tax of the sentence. Because of their good penal record, conditional suspension of the punishment was ordered. The granting of that benefit was advisable because of the smallness of the value of the stolen objects, which were then received, and of the very small damage caused and the minor age of Marino, who is only 19 years old.

For these reasons

the Tribunal, having seen art. 624 - 61 N°II 648 - 163 - 164 C.P. 483,488 C.P.P. declares Marino Francesco guilty of the crime with which he is charged, excluding the aggravation as set forth in art. 625 N°7 C.P. and sentences him to 6 months impr. and 600 lire fine. Declares De Gennaro guilty of the crime with which he is charged and sentences him to 4 months impr. and 400 lire fine. Sentences both of them to the ~~punishment~~ payment of expenses, and tax of sentence. Orders that for both of them the punishment be suspended for 5 years as by law.

Bari, 20 June, 44.
On the original signatures follow.
The present sentence is definite on the 23 June 44.
" " " has been recorded in chancery on the 10/7/44.
THE MILITARY CHANCELLOR LT. C. GUERRIERI.
V° THE PROCURATORE MILITARE DEL R.. LT.COL. LUIGI FURLAN.

OBSERVATIONS OF L.C. ON CASE OF MARINO AND DEGENNARO.

If the evidence in this case had been properly considered, the importance and difficulty of obtaining rope "grummets" would have been fully realised. The fact that the charge refers only to "a few pieces of rope" can only mean one of two things:
(a) that the evidence - if read - was ignored, or
(b) that no consideration was paid to the evidence.

No attempt was made to call the material witnesses.

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Nº 9563 of the case
date 23rd June, 44.

TRANSLATION.

Ref. Nº 12720
Nº 3393/44 R.U.

"F"

IN THE NAME OF HIS MAJESTY
V I T T O R I O E M A N U E L E III.
e. t. o.

THE TERRITORIAL MILITARY TRIBUNAL OF WAR BARI
consisting of

Lt. Col	COLAUSSI	GIOVANNI	PRESIDENT.
S. LT.	DE FRANCISCI	PIETRO	JUDGE.
MAJ.	CRISPO	ALFREDO	"
CAPT..	PINI	ANGELO	"
CAPT.	MACAIONE	ANTONIO	"

Has pronounced the following

S E N T E N C E.

in the case against

1º BARONE Natale di vincenzo etc. born on the 28/12/1888 at Bitonto, resident there, farmer, married, illiterate.
2º RAGNO Francesco fu Giuseppe etc. born on the 25/12/1900 at Bitonto, resident there, farmer, married, illiterate.
3º CHIAPPERINI Michele fu Giovanni etc. born on the 21/7/1900 at Bitonto, resident there, handy man, married, illiterate.
4º RUGGERO Vito di Gius. etc. born on the 18/4/1927 at Bitonto, resident there, student, unmarried.

A.C C U S E D

the 1st of: (a) aggravated theft (art. 61 Nº11 - 624-625 Nº2-7 C.P. 15 - 232 C.P.M.G.)
(b) sabotage (art. 15-158u.c. 232 C.P.M.G. in relation to art. 83 C.P.)

the 2nd and 3rd of receiving (648 C.P. 15-232 C.P.M.G.)

Fact and law.

On the 5th May 44 the above named individuals were denounced to the competent authorities by the English Mil. Police; they are responsible of various crimes to the damage of the military administration.
The facts and relative investigations carried out in order toarrive at the identification and arrest of the accused, can be summarized as follows: On the 25 April 44, on walking along the S. Spirito - Bitonto road, Lt. N.W. Crocker and Lt. W. Lovie, both of the Royal Army Service Force, heard a suspicious sound in the direction of the 14th Base Ammunition Depot, as of boxes being removed from the piles.

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Out of curiosity the two silently approached the point where the noied had come from, and saw a man in the act of placing a canvas belt for ammunition in a sack, whilst a child of about 10 years appeared to help him.
At the sight of the two officers the stranger tried to escape, abandoning on the ground the sack with the stolen ropes, where also very many cartridges - evidently taken out of the belts - were lying, but soon he was caught and accompanied (though he again tried to escape) to Bitonto, where he was handed over to the CC.RR. together with the boy.
After the two had been identified as Barone Natale (56 years old) and Giorgio Giuseppe (10 years old) from Bitonto, a search made in their houses gave the following results: In Barone's house a claw made of canvas stripes and material for the stuffing of ammunition boxes was found. In Giorgio's house nothing was found.
Having intensified investigations,(the great number of cartridges found on the ground, of which many were unserviceable, made the police suspect the existance of other culprits, most probably among the ammunition workers themselves) during a search made in Ragno's and Chiapperini's house, the police found 3 canvas belts, one cartridge and one ammunition box with the first,- two cartridges and two belts in a dark box with the second.
Having searched the second group of Italian workmen (they, too, attached to ammunition-service) on the following day, Ruggero was found in possession of 7 projectiles.
When interrogated (Giorgio Giuseppe was not charged because of his youth), the four accused declared themselves innocent of the charge; Barone stated that he had been stopped by the two officers while he was quietly returning home from work, Ragno affirmed that he had taken the objects found in his house on Christmas Day 1943 at Molfetta, when he was working on a ship, Chiapperini that he knew nothing about what had been found in his house, and Ruggero that he had collected the seven projectiles which he had found without the cartridges, in good faith, for the purpose of having a watch chain made of them.
When sent for trial to this Tribunal in order to answer for their crimes of unintentional sabotage and aggravated theft (Barone), and receiving (the remaining three) they re-affirmed to-day in the hearing their plea of innocence, Barone stating that he had been stopped by the English officers because they had taken Giorgio Giuseppe for his son, and that nothing else had been found in his house,-Ragno, Chiapperini and Ruggero confirming substantially the statement they had made to the English Military Police.
This Court holds that there can be no doubt about the responsibility of the accused for the crimes with which they are charged.
The written statements of the two English officers who surprised Barone,

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the search made by the police and the discovery of the objects in the accused's possession, the statement made to the agents by the little Giorgio Giuseppe, which fully confirms the statement of the English Military Police, constitute such elements of proof that in their unanimity they render superfluous any further investigations or witnesses, showing the pleas of innocence of the four accused to be completely lacking of any logical foundation and signing in a clear and doubtless way the limits of their reponsibility.

The statements made by Barone regarding his innocence are made nil not only by the evidence of CROCKER AND LOVIE who surprised him in the very act of putting the ammunition belts in a sack, by his attempt to escape which shows his guilt, but also by the statement of Giorgio Giuseppe who affirmed to have seen the man filling the sacks with belts, to have stopped in order to help him, and at last the searches made in his house which resulted in the discovery of other belts and stuffing for ammunition boxes.

The latter circumstance renders ridiculous Barone's assertion, i.e. to have been stopped, because the two officers had taken Giorgio for his son, because nothing was found in the boy's house, in contrast to what had happened in Barone's house, so that it can reasonably be presumed that similar criminal designs were not new to him.

Similarly proved is the responsibility of the other three accused, since Ruggero has confessed to have collected the seven projectiles which were found in his possession, on the ground; Ragno's assertion to have taken the belts and boxes at Molfetta on Christmas Day 1943 show themselves unfounded, because from investigations it results that the belts were new and of the type issued only by 14th B.A.- besides Ragno was unable to explain the possession of the cartridge.

So the opinion is more trustworthy, according to which the accused had collected or received the objects in a recent period of time, and not from Molfetta, but most probably from the very 14th B.A.

Chiapperini, at last, clearly shows his guilt through his very defence thesis which lacks of any logical sense, because it cannot reasonably be supposed that in a small apartment of two rooms, two cartridges, and two belts in a big box may pass unnoticed. It is more reasonable, instead, to maintain that he was unable to furnish any more truthful explanation.

Having considered the above, and fully proved the responsibility of the accused for the crimes with which they are charged, the Tribunal holds that in Barone's act the extremes of unintentional sabotage (as in "subject") and the crime of aggravated theft are to be found (art. 625 N°7 C.P.).- Regarding the hypothesis of sabotage there is nothing to say.

Barone, with his action, i.e. removing the cartridges from the belts

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and throwing them on the ground, damaged and perhaps made the ammunition useless, action provided for by Art. 158 C.P.M.G.
However in his doing so we cannot find the extremes of malice understood as a free and conscious will to damage the soldiers.
It is indeed pointed out that the very English denouncers did not think the accused to be chargeable for all the acts of sabotage committed at 14th B.A. Really they write in their statement that "there is no doubt that the accused are to be deemed responsible of having commited part of the damage which was caused" and such an opinion is found correct by the outcome of the trial, for there is no evidence that Barone removed the cartridges in order to gain explosive powder or ratten the war effort of the enemy. (sic).
In fact it has to be taken into consideration, that as well Crocker's and Lovie's statements - in which they affirm only to have seen Barone taking the rounds out of the bolts and putting the same back in the sack - as also Giorgio Giuseppe's evidence which is most creditable because of the innocence of the boy and the results of the search made in Barone's house, clearly show that the purpose of the latter had been to take possession of the canvas belts.
In fact the witnesses only speak of the canvas belts, and only canvas belts were found in the accused's possession.
Barone cannot be charged even with unintentional deterioration of the cartridges (as an assumption), because besides the lack of any positive element of proof, the consideration has to be made that the ammunition dump is situated at a public road, in such a position that it makes one think, how it could reasonably be possible that he had simultaneously had the intention of carrying out such criminal activity, just as the very persons who denounced him seem to think, according to the above quoted words.
But the accused, though not intending its results, with his intentional conduct has caused an unlawful event provided for and set forth by the law as unintentional crime, of which he is now responsible.
Regarding the theft it is clearly proved that he intended to take possession of the canvas belts, as in fact he did.. So Barone has to answer for aggravated theft as set forth in Art. 625 N°7 C.P. because it is beyond doubt that the ammunition canvas belts, which had to serve a war purpose, are objects destined for public service.
On the other hand the hypothesis of the aggravation as in art. 625 N°2 C.P. does not apply in this case, as it is clear that according to penal law there is a violation of objects when the object is damaged, transformed or its destination changed, which hypothesis cannot be considered as having occurred in this case, because taking out the rounds of the belts does not produce any damage, transformation or change of destination. But not even the hypothesis according to art.

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

61 N°11 C.P. adapts itself to Barone's action, because it is evident that said aggravation which is applicable against him who commits a crime with the facilitation of the knowledge of the place, things or persons, cannot continue to exist when the facilitation of the crime disappears, because owing to the very position of the objects, the crime is easily discovered by anybody.
The other three accused's legal position is much different:
Ragno and Chiapparini were caught in possession of some objects, and from no source whatever can we presume that they had stolen them, received them as a gift, or collected them from the ground.
No element supports such opinion, whilst in favour of the accused there is the consideration that anybody could easily take possession of ammunition and the other objects existing at 14 B.A. and presumably they received them through other channels.
Nor can we assume that the same facility of taking possession which applies to others can be considered an element of proof for the two because it is evident that in order to fix the responsibility for theft a doubtless proof of the "taking possession"invito domino" is necessary.
The same observations apply to the crime of receiving, as in the papers any direct proof is lacking, which could establish - in the two persons' case - the receiving of the objects with the knowledge of their criminal origin.
Nor can such knowledge be gathered from the nature of the objects,found, because in Ragno's house only three belts and one cartridge andoone empty box was found, whilst in Chiapperini's house 2 cartridges and two belts were found, objects which for their very nature and for their small absolute value, could very well be thought to be of lawful origin, especially considering that in the neighbourhood there were big ammuntion dumps, so it is quite possible - as happens very often - that they had been abandoned by the soldiers themselves, because considered useless, or for other reasons.
Similar considerations also apply to Ruggero, who was found in possession of 7 projectiles, in whose favour there is - besides the lack of any proof of theft or receiving - the spontaneity of his confession, which is credible either because made to the police the very first moment, when it can be presumed that he had not been able to organize a line of conduct for his defence, or because of the moral appearance of Ruggero, a student, who - in order to gain his living - is compelled to alternate study and work. But if Ragno, Chiapperini and Ruggero cannot be considered responsible of receiving, the hypothesis of art. 166 with referance to art. 164 C.P.M.G. fits them well because it is clear that such a crime - of above all a conventional nature - does not require as psychical element an even generic intention.

Considering fully proved the responsibility of the accused for the above crimes, it has been deemed just to inflict on Barone, in consi-

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deration of the major dangerousness shown by his conduct, the punishment of 3 years imprisonment and 1500 lire fine, reduced to one third for the small value of the objects,-for the theft,- and 2 years imprisonment for the crime of sabotage.
For Ragno, Chiapperini and Ruggero, in consideration of the entity of the objects and the development of the facts, of their moral appearance as it appeared in the hearing we think it just to inflict the punishment of 9 months imprisonment (reduced to one third for Ruggero).
By law the expenses of the trial are at the expense of the accused.
For Ruggero, in consideration of his youth, his particularly ø moral appearance - for he is a high-school student, compelled to alternate (as mentioned before) his study with work in order to gain his living - the development of facts, which let us presume in the accused a conduct dominated rather by youthful light-heartedness than by a criminal instinct, the entity of the objects found in his possession, and the sincerity of his conduct, which makes us believe that with maximum probability Ruggero will not fall back to criminal activity of any kind, it is found just to suspend his sentence conditionally, ordering the sentence not to be recorded.

P. Q. M.

Having seen art. 163-175-624-625-N°7, 648 C.P. 164-166 C.P.M.G. 47 C.P.M.G. 483-488 C.P.P.
the Court declares Barone Natale guilty of sabotage and aggravated theft according to art. 625N°7 C.P., th para thus modified, and with the extenuating circumstance of the small value (for the latter crime-) and sentences him to altogether 4 years imprisonment and 1000 lire fine. Declares Ragno, Chiapperini and Ruggero guilty of receiving military armament, thus modified the para, and sentences Ruggero to 6 months, Ragno and Chiapperini to 9 months military imprisonment substituted for the three of them with ordinary imprisonment for an equal period of time.
All of them to the expenses of the trial.
Orders the sentence for Ruggero to be suspended for 5 years under the providions of the law, and the sentence not to be recorded.

Bari, 23 June, 44?
Signature follow in the original.

Barone Natale has appealed on the 23-6-44 to the Supr. M.T.
THE CHANCELLOR (sgd) LT. G. PERAZZOLI.
THE present sentence is deposited in chancery (10/7/44).
THE MILITARY CHANCELLOR (sgd) LT V. ANTUOFERNO.
V° IL PROCURATORE MILITARE DEL RE sgd. LT. COL. FURLAN.

66

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

OBSERVATIONS OF L.O. ON CASE OF HAWKINS AND OTHERS.

No attempt was made by the Court to call the principal witnesses in this case - Mrs. Lovie and Crocker - in spite of the fact that the Procuratore Militare states that he requested that these witnesses should be called. I observe that the prosecution states that they accepted the evidence for the prosecution. All I can ask is for the examining authorities of this report to glance at that evidence and then decide if - in view of the evidence for the prosecution and the leniency of the sentence - they are prepared to accept the word of the Court that they did in fact do so.

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

CONCLUSIONS

Although I realise that it would be extremely difficult to prove my assertions, I am convinced that the failure to notify this office of the suspension of sentences in a large number of cases has been deliberate. The same remarks apply to the cases where appeals have been made and not notified to this office, as it is quite obvious that if we had no notice of these it would have been impossible for us to check up on the final result of these cases - our definite objective;;

Bari has never excelled itself in the matter of co-operation as far as legal matters are concerned and I feel that they were more than satisfied in misleading us into thinking that all these persons were serving terms of imprisonment whereas in fact they had only suffered the stigma of a prison sentence. As previously stated - no one has made the slightest attempt to explain why the case of

(a) MARINO and DI GENNARO
(b) BARONE & OTHERS

was omitted from the list of cases to be heard during the ensuing week. This list is the only check I have on what cases will be heard and I have not discovered any other cases that have been heard without inclusion on this list. Does it not appear then rather strange - to say the least of it - that two cases of the greatest importance to Allied Interests should be tried without inclusion in the official list forwarded to this office, and then punished with a sentence of almost farcical leniency.

The President of the Court has been changed during the current month, and I feel it would be a benefit to all concerned if the Procuratore Militare was also displaced. It is the view of the I.O. that the complaints against the judicial personel in this town are not only as a result of incompetency or idleness. I have already reported to H.Q. the fascist background of a number of the officials and I feel that the time has arrived when this latter aspect - as well as judicial shortcomings - should be made the subject of a very strict and searching enquiry.

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

TERRITORIAL MILITARY TRIBUNAL OF WAR
B A R I.

Bari, 27 July, 1944.

TO: A.C.C. LEGAL OFFICE, BARI.

Ref. Nº 271-P
Subject: Sentences.

I refer to the letter of same subject of the 15th July, which I received with much delay.

Regarding fishing at night in prohibited waters, there exists no mention in our papers of the letter of the 25th May sent to the Procuratore Militare. On the other hand I transmit copy of the letter which the Military Procura has sent to this Tribunal on the 17-7-44 (which arrived on the 21st July).

The Tribunal will comply with the instructions received.

With reference to the meeting with the R.L.O. regarding the Barone case and others, I confess not to have understood the request very well and thought that the explanation was competence of the Procura.

I have checked up and it is really an omission due to negligence of the Chancery of the hearing of this Tribunal. I have severely reprimanded the personel, that the inconvenient must not repeat itself.

THE BRIGADIER GENERAL
President of the Military Tribunal
-Mario Carasi-

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

C O P Y

MILITARY PROCURA OF THE KING
with the
TERRITORIAL MILITARY TRIBUNAL OF WAR
B A R I.

N °1553/p

Bari, 17 July, 1944.

Subject: Communication.

To: PRESIDENT OF THE MILITARY TRIBUNAL SEAT

Regarding the dayly returns I call the President's attention to the necessity of reducing the granting of conditonal suspensions of the punishment ot exceptionally rare cases.

The above has been repeated in reports made by me to the Judges in the then President's Cabinet.

Examples should be made of persons who are fishing at night in prohibited areas, nor should conditional sentences be granted in such cases, as I have recommended other times, because fishing may be an easy pretext, whilst the hidden and substantial purpose may be different and harmful to the war interests.

THE PROCURATORE MILITARE DEL REGNO
(sgd) Lt. Col. Luigi Furlan.

This is a true copy.
THE MILITARY CHANCELLOR
-Lt. Selis Giovanni-
(sgd).

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

TERRITORIAL MILITARY TRIBUNAL OF WAR.

B A R I.

Bari, 27 July, 1944.

To: A.C.C. LEGAL OFFICE
B-A-R 1.

Ref. N° 270-P
Subject: Paronæ - Ragno - Chiapperini - Ruggero.

Further to your request - regarding above subject - of the 12/7/44.

I am late in replying because the information received by this Office was not correct, as the Substitute Procuratore Militare - interrogated by me - affirms that the presence ofW. Lovie and N.W. Crocker and Sgt. Sharman was not actually requested.

Therefore there has been no negligence on the part of the Chancellor's office of the hearing.

The substitute Procuratore Militare, Maj. Traversa, justifies the failure to request their presence by making it derive from an omission which has materially to be ascribed to the typist, but which of course falls back on him personally.

In order to enable your office to get a clearer view of the incident, I transmit copy of Maj. Traversa's Justification.

THE BRIGADIER GENERAL
President of the Military Tribunal
-Mario Carasi-

61

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

c o p y

TO THE HON. PRESIDENT OF THE MILITARY TRIBUNAL OF WAR

B A R I.

Regarding the failure to summon the witnesses for the prosecution in the case against Barone Natale, charged with sabotage, and others charged with receiving, I comply with the duty of declaring that there has been no omission or negligence on the part of the Chancellor's Office of the hearing.

In point of fact this appeared to be so, because in a report hurriedly addressed to the Procuratore Militare, I had incorrectly affirmed to have requested the summons of the witnesses, but the truth is that in that request was omitted what I had ordered in red chalk letters in the order of proceeding.

The omission has materially to be ascribed to the typist, but it falls of course back on me personally, for I had not noticed it at the moment I signed the request of the decree of summons.

If in the preceding report I affirmed something different, this incorrectness is due to the hurry to reply, and the fact that I did remember a true circumstance, i. e; to have ordered the summons of the witnesses with chalk in the order of proceeding, on which the request for the decree of summons is based.

My office is burdened with a gigantic number of denouncements which are disposed of with summary procedure as rapidly as possible, which may produce some inconvenients.

From the 1st January to the 24th July I have sent to trial or however treated in instructions 2450 persons accused of crimes affecting Allied interests. Almost every day I am bothered by defenders or by the parties who come to implore leniency. Normally I am alone in this branch of the service and am assisted by two willing soldiers, who are, however, without any professional preparation.

There was a period of time when I remained with only one soldier, because the other had to be lent for some manual service. On the other hand justice has not suffered any damage in the case of Barone, because responsibility was affirmed and the witnesses could have had no influence on the quantity of the punishment.

I had to expose the above in order to eliminate an unpleasant inconvenient and to enable you to reply to the request of the Legal Office of A.C.C.

Bari, 25 July, 1944.

THE SUBSTITUTE PROCURATORE MILITARE
(Sgd) Maj. Pietro Traversa.

This is a true copy.
THE MILITARY CHANCELLOR
-Lt. Selis Giovanni-
(sgd)

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HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

27 July 1944.

Tel. Ext. 563.

REFERENCE : AGO/4129/11/L.

SUBJECT : Bari Courts.

TO : R.L.O. (thru R.C.) Region 2.

1. Reference your 2201/74/B dated 19 July 1944.

2. The Public Safety Sub-Commission and this Sub-Commission are of the opinion that this matter is a local one that must be dealt with by Regional Headquarters. There are neither the legal officers or Public Safety officers at HQ to conduct the investigation which has been proposed, and unless the Executive Commissioner otherwise directs your Regional HQ will have to sort this matter out itself.

3. I have received the report dealing with Mr. Giannantonio's brief report. So far he has not reported back to the Ministry of Justice and at the Minister's request I telegraphed you yesterday to ask you to expedite his return. From the standpoint of Italian judicial personnel the Minister does not want to take any action until he has had an opportunity of talking with Mr. Giannantonio - hence his presence here is much desired.

RICHARD H. WILMER.
Colonel, C.A.C.,
Acting Chief Legal Officer.

RHW/wow.

59

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

Legal S. C

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MODULARIO T. - Telegr. - 62

Via e indicazioni eventuali d'ufficio

-11 S HM BARI 500-23/28-30-13+210-

-2201/744/ G REF 977 OF 25.7.44- GIANNANTONIO

LEFT OSIENSIBLY FOR ROME 14.7.44- ALLIED

COMMISSION CONTROL RLO REGION 2-21

HEADQUARTERS 21 JUL 1944 A. C. C.

58

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

Fatevi correntisti postali.

Pagamenti e riscossioni in tutte le località del Regno. Fra correntisti i pagamenti e le riscossioni mediante polizze sul conto corrente sono esenti da limitazione di somma ed in generale da qualsiasi tassa

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

TELEGRAMMA

777

SUBCOMMISSION ACC ROME

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

415

file

33A

ADD HEADING FOR FILE

FE ADD LEGAL

977

26

ADDRESS SUBJECT

DEPTH:

Legal Sub-Committee

IMPORTANT THAT CLEARANCE RECEIVED BEFORE DESPATCH OF JUDGES COPIES ENTER TO ADD HEADING FOR FILE FROM FE ADD FROM LEGAL FILE PLEASE DO NOT SEND CASE TO SET HER HERE AS REMIT FOR DATE CIRCULATION AGENDA NEC REPORT TO MINISTER

57

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

HEADQUARTERS
ALLIED CONTROL COMMISSI
Legal Sub-Commission
APO 394

JM/pa

32A

Tel.No. 563

REFERENCE : ACC/~~4015~~ 4150/L. 25 Jul 44

SUBJECT : Judicial and Prison situation, Bari.

TO : Director, Public Safety Sub-Commission.

1. Attached is the letter which I propose to send to R.C. & M.G. Section if you agree it is a proper record of the agreement reached at our discussion this morning.

2. As regards the PERLA case, I understand that you will consider the desirability of his detention in the light of the further investigation which you have instituted.

RICHARD H. WILMER,
Colonel, C.A.C.,
Acting Chief Legal Officer.

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

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

JM/pa

(31A)

Tel.No. 563

REFERENCE : ACC/4150/L. 25 Jul 44

SUBJECT : Italian Judicial and Prison situation, Bari.

TO / R.C. & M.G. Section.

1. Reference letter to you from R.C. Region II :-

2201/74/A of 13/7/44
2201/70/A of 13/7/44
2201/74/A of 14/7/44.

of which copies were sent to this Sub-Commission.

2. You are already aware of the action which I have taken on the Legal side. See my ACC/4129/11/L of 16/7/44 enclosing copy letter to RLO Region II. The matter of unserved prison sentences at Bari is also being raised by me with the Ministry of Justice.

3. The general situation at Bari was to-day discussed between ~~Chief~~ Director, Public Safety ~~Officer~~ Sub-Commission, and myself.

4. We agreed that the matter is one to be dealt with locally by the R.C. There are neither Legal nor Public Safety Officers available from H. . to conduct an enquiry as asked by the R.C.; and even if there were, we would not consider such a course to be either necessary or desirable.

5. If you agree will you please inform R.C.Region II accordingly? May copies of your reply please be sent to Public Safety and Legal Sub-Commissions?

58

RICHARD H. WILMER,
Colonel C.A.C.,
Acting Chief Legal Officer.

Copy to : Public Safety Sub-Commission.

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

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

RDW/pa

REFERENCE : ACC/4150/L. 22 July 44.

SUBJECT : Italian Court at Bari.

TO : RLO (thru Regional Commissioner) Region 2.

1. Please bring with you when you come here on 1 August complete report on Bari situation.

RICHARD H. WILMER,
Colonel, C.A.C.,
Acting Chief Legal Officer.

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

WF 129/11

Legacy SC 3879
6L.1.2 (29A)

HEADQUARTERS
ALLIED CONTROL COMMISSION
ROUTINE IT

22 July 1944

Ref. :- 2201/74/B

Subject:- Sentences imposed by the Tribunale Militare -Part-

To :- SLO Legal Subcommission ACC - ROME -

13A

1. Ref ACC/~~4C~~S/3/I of 18.7.44, it is regretted that the copy of this HQ Letter of 13.7.44, addressed to you must have been mislaid in transit.
Attached please is another copy.

2. It is agreed that certainly Major Franklin should participate in the inquiry requested, but recent incidents of which I will tell you verbally make it clear that an inquiry by the Italian authorities would be useless, and it is felt to be essentially a Public Safety matter/.

HEADQUARTERS
24 JUL 1944
A. C. C.

B.H. Lowrie
B.H. LOWRIE, Lt.Col.
R.L.S.
Region II.

Secy Acting C.L.O.
25/7/44. No action
called for
25/7/44.

5/3

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

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION 2

HEADQUARTERS
FCO 1
2 AUG 1944

REF: 2201/70/J

19.7.44

SUBJECT : Procuratore Generale Militare.

TO : C.L.O., Legal Subcommission ACC, Rome.

Ref the CLO's verbal inquiry regarding the future of General Traina, the following information has been received from the War Office.

1. No decision has yet been reached as to whether he will be replaced as Procuratore Generale Militare, and at any rate for the moment he remains as such. He recently had a long interview with the Minister of War, and it would seem very likely he will remain in office, since while civilian judges at Rome went mostly into hiding, a large number of the Tribunale Militare compromised themselves by taking the oath to the Fascist Republic.

2. General Pescatori has temporarily assumed Presidency of the Supreme Court vice General Mercalli, removed from Office.

General Traina and Major Franklin are in Sicily and should return on 22.7.44.

LEGAL SUB-COMMISSION
CLO
DCLO
Chief Counsel
CAO
Italian Section
CL RKS

D.E.S.COUSINS Lt.Col.
R.L.C.,
REGION 2.

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

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION 2

Legal 3190 92 LUG 1944 (27A)

REF: 2201/74/B

19.7.44 C.C.

SUBJECT : Bari Courts.

TO : C.L.O., Legal Subcommission ACC, Rome.

Ref ACC/4129/11/L of 16.7.44.

1. It is indeed appreciated that every effort must be made to avoid the situation setforth in the letter of the Regional Commissioner 2201/74/D of 5.7.44, and it is for that reason that the Regional Legal Branch has undertaken inquiries which strictly speaking are police and not legal matters.

It is therefore greatly hoped that full support will be given to the proposal that a full inquiry may be conducted by a representative of the Public Safety Branch at HQ ACC, who it is suggested might be assisted by General Traina and an LC.

2. Ref para 6 of your letter, a full report was sent to you on July 16th. The apparent delay in making it was due to the fact that I was absent four days holding AMG Courts at Taranto, and the final interview with Signor Giannantonio had to be postponed till my return.

D.E.S.COUSINS Lt.Col.
R.L.O.,
REGION 2.

51

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

Tel Ext - 673.

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

26A

AGC/4256/3/L.

/mlp.
18 July 1944.

MEMORANDUM TO : HC & MG Section.

SUBJECT : Sentences imposed by Tribunale Militare, Peri.

1. With reference to letter of Regional Commissioner, Region II dated 14 July 44, I am sending herewith copy of letter which I have sent to the RLO, Region II.

2. I will be glad to see a copy of the RCs letter of 13 July referred to of which no copy has come to the Legal Sub-Commission.

Encl, 1

R. H. WILMER,
Colonel, GSC,
Acting Chief Legal Officer.

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

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4066/3/L. /rlp.
18 July 1944.

SUBJECT : Sentences imposed by Tribunale Militare, Bari.

TO : Regional Legal officer (THRU: Regional Commissioner), Region II.

1. I have received today a copy of the letter from Regional Commissioner to RC & SD Section reference the above subject. He refers to a letter, 13 July 1944, of which I have received no copy.

2. Major Franklin has been working with the office of the Procuratore Militare and it seems to me that he is the officer who should straighten out the entire affair. Therefore, it would seem to me that the investigation suggested should be at least participated in by Major Franklin.

RICHARD H. WILMER,
Colonel, CAC.
Acting Chief Legal Officer.

Copy to: RC&D Section.

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

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION 2

Legal C.S.C 3012
5604
24A

REF: 2201/74/A

14 July 1944

SUBJECT : Sentences imposed by Tribunale Militare, Bari.

TO : RC & MG Section, ACC ~~Naples~~. Rome

copy to : C.L.C., Legal Subcommission ACC, ~~Salerno~~. Rome

23A

1. Further to this HQ letter of even number of 13.7.44, a further report from the Procuratore Militare suggests that a Major Traversa may be one of the officials chiefly responsible for the situation.

2. But since the familiar shielding of brother officers has already commenced, it is respectfully stressed that the official inquiry should not be left to the Italian authorities, but should be conducted by representatives of the Public Safety branch as soon as General Traina, the Procuratore Generale Militare has returned from Sicily next week.

HEADQUARTERS
17 LUG 1944
A. C. C.

John T. ZELLARS
Col. Inf.
Regional Commissioner

48

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

4006/3

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION 2

Legal

4572

2962
23A

REF: 2201/74/A

13 July 1944

SUBJECT: Sentences imposed by the Tribunali Militari.

TO : RC & MG Section, ACC Naples.

Copy to: CLC, Legal Subcommission ACC, Salerno.
R.F.C., Region 2.

1. Further to this HQ letter 2201/74/D of 5.7.44, a comparison has been made of returns submitted during five separate weeks by the Tribunale Militare to the LC Bari, with those it has sent to the Director of Prisons.

From the attached proforma, it will be seen that 96 persons condemned to imprisonment during 5 weeks have never been heard of by the Director of the Prison. While wholesale granting of provisional liberty pending possible appeals, may be cited by the Tribunale as a jejeune excuse for this class, it is impossible to imagine any prima facie excuse in respect of the 39 persons reported to the LC as having been condemned to various terms of imprisonment, and having been notified to the Director of the Prison as having sentences suspended.

2. The new Presidente of the Tribunale, Generale Carrassi, and the Procuratore have been interviewed and instructed to report on the official to be held responsible.

This action has not been taken, but a report and attempted explanationx has been received which is wholly unsatisfactory, and ~~in part even frivolous.~~ p.s.

It is therefore submitted that it is essential for an inquiry to be held by representatives of the Public Safety Division, and it would be appreciated if such should be detached to report to this HQ as soon as possible.
Suggest that Bari insufficient staff, to undertake such an inquiry

LEGAL SUB
CLO
DCLO
Chief Counsel

John T. CHILLARS
Col. Inf.
Regional Commissioner

42

Il Sig. ...

desidera co...

Motivo: ...

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

DATE	Nº of cases decided	Nº of cases of which Prison - authorities have no knowledge, i.e. persons not in custody	Nº of sentences suspended but not notified as such in weekly returns	Other remarks
20 - 26 May	55	16	10	1 case pardoned(1 year)without notice
27 May- 2 June	35	11	10	--
3 -,9 June	37	19	2	--
10 - 16 June	63	25	8	--
17 - 23 June	75	25	9	--
Total	265	96	39	1

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

(22A)

RHW/gar

HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

ACC/4129/L 7 Jul 44

SUBJECT: A.M. Courts in Apulia.

TO : MLO Region 2 (then R.C.).

1. It having been brought to our attention that some Italian official in Apulia had questioned the right to hold A.M. Courts in any part of the 4 Provinces because of the wording of Art. 3 of the ROI No. 31 as amended by ROI No. 112 (the word "matitubo" was used) we mentioned this to the Minister of Justice yesterday. He agrees that any such contention is without merit.

2. In the event you experience any difficulty please let me know and the Minister will take the necessary action.

RICHARD H. WILDER
Colonel, CMP.
Acting Chief Legal Officer.

Copy to ACC/4150/L

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGIONE II

5 July 1944

Ref. :- 2201/74/D

Subject:- Bitonto Ammunition theft case and Bari Tribunali Militari

To :- RC & MG Section ACC Naples
Copy to:- CLO Legal Subcommission ACC ~~Salerno~~
Copy to:- RPC

A. Ref ACC/4129/11/L of 23.6.44, an AMG Court had been fixed for July 17th but in the absence of further instructions from you, it is regretted that those three cases cannot now be so tried, since they have already been tried by the Italian Military Tribunal of Bari.

The circumstances are as follows.

1. In order to obviate another rung in the ladder whereby applications for AMG Courts are submitted to you, it has been the practice for such case to be sent direct to this H.Q. to the L.C. concerned to be notified officially when the application is approved, and for him then to notify the Italian authorities.

2. In the instant cases, included in the weekly returns of forthcoming trials received by the LO Bari, was that fixed for June 20th of Marino & De Gennaro for "theft of a few pieces of rope". Naturally he did not identify such with any of the Bitonto Ammunition theft cases. It was later notified to the LO, that these persons had received 6 and 4 months imprisonment respectively, and it now transpires that without any notification to the LO, the Prison Governor was instructed that both sentences were suspended.

3. Without any notification whatever of forthcoming trial, Barone, Chiapperini, Bagno and Ruggiero were on 1.7.44 notified as having also been tried on June 23rd, and received sentences of 4 years, 9 months and 9 months. It is significant that none of the SIB (the chief witnesses for the prosecution) were ever called to give evidence.

4. Di Bari, Masiello and Virgilio have now been notified as having been tried for "theft of 2.5 Kilograms of explosives" and each to have received 5 months imprisonment. Furthermore, inquiries reveal that Di Bari is not, and never has been in prison, and

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

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3. Without any notification whatever of forthcoming trial, Barone, Chiapperini, Bagno and Ruggiero were on 1.7.44 notified as having also been tried on June 23rd, and received sentences of 4 years, 9 months and 9 months. It is significant that none of the SIB (the chief witnesses for the prosecution) were ever called to give evidence.

4. Di Bari, Masiello and Virgilio have now been notified as having been tried for "theft of 2.5 Kilograms of explosives" and each to have received 5 months imprisonment. Furthermore, inquiries reveal that Di Bari is not, and never has been in prison, and that the sentence on Masiello was suspended without the LO's being so informed.

B. Suspicious having arisen from the above facts, a check was made of returns received by the LO from the Tribunale Militare during two separate weeks, with notifications sent by it to the Director of the Prison.

1. In the week ending June 30th, out of a total of 75 persons tried, 25 who were sentenced to terms of imprisonment have never before or since trial been sent to prison, and the Director of the Pris was instructed that sentences on 9 others were suspended, without any notification to that affect to the LO.

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2. In the week ending May 26th, out of a total of 55 persons tried, 16 who were sentenced to imprisonment have never been heard of by the Director of the Prison, and sentences on 10 others were suspended without the LO's being so informed.

The Director of Bari Prison states that there can be no question of persons sentenced by the Tribunale Militare being imprisoned elsewhere.

There is of course no guarrantee that any civilian tried for offences affecting Allied interests is actually serving his sentence, since there is no Prisons officer to check the matter. In the circumstances reported above the likelihood of a ramp with financial benefit to some official cannot be excluded, but would be difficult to prove.

The President of the Tribunale Militare and his Procuratore will be required to give an explanation of the Bitonto trials and it may be considered that a representative of the Public Safety Branch should visit Bari to investigate the prison sede of the question.

In the meantime it is assumed thatnnot even in the case of Barone Bagno, Chiapperini and Ruggiero can be quashed and,a retrial by AMG Court ordered instead.

John T.ZELLARS.,
Colonel Inf.,
Regional Commissioner
Region II

43

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

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John T.ZELLARS.,
Colonel Inf.,
Regional Commissioner
Region II

42

SUB-COMMISION
O
O
Chief Counsel
CCO
Italian Section

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

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

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ACC REAR

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JUL [illegible]

1944

CIANFARONIO OF MINISTRY OF JUSTICE EXPECTED ARRIVE BARI WEDNESDAY TO INVESTIGATE ITALIAN COURT SITUATION FD TO DISTWO FOR ACC REGION TWO FOR REQ FROM ACC REAR FROM LEGAL SIGNED STONE FD PLEASE ARRANGE TO SEE HIM AND GIVE HIM ALL POSSIBLE ASSISTANCE

AUTHENTICATED:

E. J. Chiocca

E. J. CHIOCCA
CWO, USA
Adjutant

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HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

19A 2250

24 June 44

Ref. :- 2201/73 copy to 70 J

Subject:- Legal Situation in Apulia Proposed transfer of Vita Giacomo.

To :- C.L.O., Legal Subcommission A.C.C., - SALERNO -
Copy to L.O. APULIA
L.O. BARI

attached at C. attached at B

1. Ref ACC/4039/L of 16.6.44, and further to this H.Q.letter of even number of 22.6.44 para 4, Commendatore Vita is already in the 4th grade, and therefore the proposed transfer is no promotion, though admittedly he would prefer amenities at Rome to their notable absence at Bari.

2. But it is submitted that the removal of this excellent official from Apulia at this time, would be extremely prejudicial to Allied interests. Outstanding among the Italian judiciary, he has shown real cooperation and desire, untarnished by personal considerations, that the Italian Legal system should effectively serve the Allied cause.

3. The Commendatore cannot under existing Law be promoted to be 3rd grade Procuratore Generale at Bari Court of Appeal, since he has not yet completed even one of the minimum three years in the 4th grade. But it is urgently desired for him to replace the supine di Santis. This could be effected by restoring the Avvocatura Generale from Lecce to Bari, leaving vacant the post of Procuratore Generale, and instructing Vita to act as such de facto.

4. In addition to many obvious advantages of the proposal, it is estimated that within 3 weeks of its being put into effect, ACC Legal officers in Apulia could be reduced to 2 (As from 1.7.44 there will be 3 there including the RLO) and later even to 1, since all police returns could be submitted direct from District H.Q., and all civilian returns direct from the Procura Generale.

41

5. With the progressive decrease in ACC personnel, the

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

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41

5. With the progressive decrease in ACC personnel, the objective now pursued by this department is ultimately to canalize legal concerns in Apulia into District 2 and the Procura Generale, with one ACC. LO to coordinate the two. But the prerequisite of this aim is a first rate acting holder of the Procura Generale at Bari.

With the departure of Major Barkhouse; legal matters in Lucania will anyway have to go by the board, though every effort will be made to maintain active control during the Amassi.

6. It is desired to stress that the proposal in no way emanated from Vita, with whom the RLO & LO Apulia discussed it. While extremely cooperative, he is naturally fearful of the Ministry's thinking him an intriguer backed by Allied Support. Moreover his attitude is quite genuinely that out of a sense of duty he agrees, though asks that a time limit be set on his activities as proposed. And it is suggested this should be six months.

D.E.S.COUSINS, Lt.Col;
R.L.O.
Region II

Action on the letter
on file 4039

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

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

19B

22 Jun 44

Ref.: 2201/74/A.

Subject : Legal Situation at Bari.

To : C.L.O. Legal Sub-Commission A.C.C. - Salerno.

1. Further to this H.Q. letter of even number of 20.6.44, seventeen days have now elapsed since the CLOs visit to Bari and certain arrangements made by him with the Italian Judicial authorities. Nevertheless, not only has the Special Section of the Tribunale not been set up on the grounds that additional personnel is required, but still no reports have been received of any cases the Pretorian Courts may have tried affecting Allied interests.

2. Consequently on 21.6.44, the RLO, & LOs Apulia and Bari saw the Procuratore del Re. The new groundsfor profound dissatisfaction were explained to him, and there followed the usual endless.prevarications, evasions and new excuses. As regards the non rendering of the reports from the Pretorian Courts for instance, the Procuratore stated that there was of course no particular reason for supposing they had tried any such cases, and that the suggestion had merely been made first to Major Palmieri and later to the CLO as a possibility.

3. Checking of cases on the LOs register with a representative of the Procuratore is proceding and should be completed in about 10 days. While admittedly, fault as yet incalculable in degree may be attributed to the various Italian police forces, much may be implied from the Procuratore's excuse that some 500 of the registered cases in arrears belonged to the competence of the Tribunale Militare. Explanations as to why this should be so, were evasive.

4. For nearly four months, Legal officers have struggled with the supine Bari trio, consisting of Presidente Cuomo, Procuratore De Santis and Procuratore del Re Tallarigo, and it is hardly possible further to evade the conclusion that these officials are not merely non cooperative but - in the case of Tallarigo particularly - obstructive as well.

This official was therefore informed that a request would be made to you for his removal. If grading so permits , it would be appreciated if Lanzara, Procuratore del Re at Cosenza may be appointed in his place.

Recommendations regarding a substitute for Di Santis will be rendered after I have consulted Vita Giacomo 23/6/44.

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

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Recommendations regarding a substitute for Di Santis will be rendered after I have consulted Vita Giacomo 23/6/44.

D.E.S.COUSINS, Lt.Col.
R.L.O.
Region II .

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

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

Copy for file 4150

HEAD HEAD QUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

AGS/4039/L

16 June 1944

SUBJECT: Promotion and Transfer of VERA Ciaccio.

TO : ROB (thru RC) Region 2.

1. This Ministry proposes to promote the above official, Avvocato Generale della Sezione di Appello, Lecce, to the grade of Consigliere della Corte Suprema di Cassazione or Sostituto Procuratore Generale and to transfer him to the last mentioned Supreme Court.

2. May this Subcommission have your opinion at your earliest convenience?

A. R. TRACTMAN, Lt. Col.
for Chief Legal Officer.

3

SUBJECT : Italian Judicial Officials.

CONFIDENTIAL
Allied Control Commission

TO : RLO, Region 2

Ap/2 (19 D)

22 June 44.

Your Ref.2201/77/B

1. Commendatore Vita is already on the 4th grade and accordingly his transfer to the posts suggested in the Court of Cassation would not be a promotion.

2. It would be a very great loss to the administration of justice in Apulia if Commendatore Vita were to be transferred to Rome as in him alone of the civilian magistrates have we found all the elements necessary for colloaboration. In the first place, he understands that in the higher interest of Italy Italian law must so applied so as adequately to protect Allied troops and material and that this requires alteration of administrative practice and occasionally a modification of what appears the primary interpretation of the law, and in the second place he has the necessary elasticity of mind, authority, technical skill and bodily activity to see that this is done.

3. In the Lecce Section of the Court of Appeal District directed by him legal administration though it could be improved, gives no reason for complaint. In the remainder of the district we have found many causes for complaint, the Procuratore Generale lacking in my view the mental elasticity and bodily activity referred to in the previous paragraph and the Procuratore del Re all the requirements.

4. Accordingly it would be highly desirable if Comm. Vita could be substituted for Grande Ufficiale De Santis as Procuratore Generale. This would make it possible in my view to dispense with at least 2 if not 3 of the legal officers in Region 2 as all Police reports could be submitted direct from District HQ and all civilian Court returns direct from the Procura Generale. The P.M., at the seat of the Court which gives a decision, has only 3 days to appeal: in most cases accordingly it is necessary to write to the Procuratore Generale to suggest an appeal: this is often labour wasted as he himself appeals. This waste of labour could be saved if the Procura Generale submitted the returns showing where it has appealed.

5. Comm. Vita cannot under the existing Italian law be promoted to the 3rd grade, Procuratore Generale di Corte d'Appello, as he has not yet completed even one of the minimum three years in the

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

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5. Comm. Vita cannot under the existing Italian law be promoted to the 3rd grade, Procuratore Generale di Corte d'Appello, as he has not yet completed even one of the minimum three years in the 4th grade. It is however possible to restore the Avvocatura Generale from Lecce to Bari and leave the Procura Generale vacant: further the Avvocato Generale could be given the functions of Procuratore Generale de facto, though not de jure. This would have the further advantage that all appeals would be heard in Bari instead of part in Bari and part in Lecce, making for economy in transport and A.C.C. legal personnel.

6. Commendatore Vita had asked for a transfer to Cassation in his own grade: he would however be prepared to serve in the capacity suggested in the preceding paragraph for a limited period. I think 6 months should be sufficient. It must however in my respectful submission in his and our interests be made quite clear to the Ministry that he has not sought this temporary advancement but accepts it only for the purposes of collaboration.

7. For this purpose I respectfully submit a visit of a Region 2 officer to Salerno is essential. In any case it is of the very highest importance that the Ministry should not know that Comm.Vita has been consulted. For this reason I have marked the letter confidential.

?

Legal Liaison Officer-Apulia.

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

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

GHQ/exp

18A

NEAF HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
A.P.O. 394

AGC/4150/1.

SUBJECT: Legal Affairs - ANKARA

7th June 1944

TO : R.L.O. (thru R.C.) Region II

1. Confirming conversations 4/5th June 1944, Col Upjohn - Lt. Col. Cousins.

(a. Iocco Case

(i) Lt. Col. Cousins will bring the file of the Iocco case to Palermo probably three or four days after the end of the week.

(ii) I confirm sending you the following signal (ref 2870 dated 6 June 1944) :-

"Please transmit following. Confirm that death sentence must be imposed if accused guilty of major offences under Articles 257 and 261. Recommendation for mercy may be properly announced in open court."

(iii) I reaffirm all that I said on the necessity of permitting full cross examination of witnesses on important and material matters even if security officers are opposed to such a course. If they decline to be cross examined the whole of their evidence must be stricken out.

b. Future cases in A.M.G. Courts.

(i) Lt. Col. Cousins will submit a panel of names including names of legally qualified officers from Hq 2 District. If there is any difficulty about this I will ask for assistance from Hq A.A.I. (J.A.G.).

(ii) The whole question of the trial of spy and fascist cases in A.M.G. Courts must be reviewed in the light of the Iocco case, when we have the record.
In particular, in the SQUIZZATO case you may consider it desirable to make some revised recommendation and you are at liberty to do so.

(iii) You are re-sending the so called Taranto railway theft case the papers in which were sent back to you yesterday by D.C.L.O. (Ref AGC/4129/6/1, dated 6 June 1944).

(iv) This Hq has under consideration the MINEO ammunition theft case (in reality three cases) sent up by R.O. on 25th May and the MANCUSO case and D'ISANTO case sent up by you (per Major Franklin) on 31st May.

37

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c. Personnel.

D.C.I.O. confirms that he agreed with you that Major Backhouse would be at 24 hours notice, but at the same time unless the Germans withdraw from Region 5 at a very great rate he is unlikely to be required for some time.

2. Capt. German will have discussed the conference at Bari with you. The results were not entirely satisfactory but some progress was made. My own impression is that the Courts can perfectly well undertake the work required if they choose to do so. It may well be necessary to obtain the removal of the Procuratore Generale and Procuratore del Re however before anything is done effectively.

It will be your duty to see that the special Section now set up not only keeps abreast of current cases but makes a substantial inroad into the arrears and if this requires them to sit on three or four days a week they must do so. If as alleged by the Procuratore Generale they can get through the work in two sittings a week, well and good.

The figures were of course quite irreconcilable but I want Capt. German (i) to insist on getting in the reports from the Praetorian Courts and (ii) to weed out the old cases where Allied witness are no longer available. Save in very important cases it is now no use trying to get witnesses to return from anywhere North of Rome. Will you also please obtain from 315 FSS full particulars as to the allegations of fascism against the officials mentioned by ~~him~~ Capt German

3. I await General Erdini's list of prerequisites as soon as possible.

4. I will take up with the Minister of Justice two matters discussed with the Procuratore Generale namely, the interpretation of Art 166 of Military P.C. and Art 640 of the C.P. and also the question of an interpreter.

With regard to the requisition of a car the Procuratore Generale must do this locally.

C. R. HEWETT,
Colonel,
Chief Legal Officer.

Copy to: Executive Commissioner

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

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JUNE 6 18-08 B

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PRIORITY

ADC MEAN

MMLA IFTD DESTRO

INTERNATIONAL PATCHED ADJ SEC
JUN 6 1944
MEAR HQ. R.C.O.

PLEASE TRANSMIT FOLLOWING TO CONSIDER THAT DEATH SENTENCE MUST BE IMPOSED IF ACCUSED GUILTY OF MAJOR OFFENCES UNDER ARTICLES TWO FIVE SEVEN AND TWO SIX ONE FD TO MMLA FOR ADC LEGAL REVIEWER FOR CONSIDERATION FOR ACTION TO FOR INFO WHOM ADC MEAR FROM LOCAL SIGNIF MOFAF AND FD RECOMMENDATION FOR MERCY - MAY BE PROPERLY ANNOUNCED IN OPEN COURT

AUTHENTICATED:
E. J. CHICCA
CPO RCA
Asst Adj

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35

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PLACE BARI

Number of cases registered up to date:	Number of cases tried up to date by:	Number during past month of: May	Number of cases tried by Civil Courts in past month:
2109	(a) Civil Courts 121	Arrests reported 429 (in 349 cases)	(a) Assaults on Allied personnel: 2
	(b) Military Courts 485		(b) Thefts: 41
			(c) Unlawful possession 26
			(d) Miscellaneous: 1

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

MAY (1 - 31)

ber during past h of: May	Number of cases tried by Civil Courts in past month:	Number of cases tried by Military Court in past month.
rests reported 429 (in 349 cases)	(a) Assaults on Allied personnel: 2	(a) Assaults on Allied Personnel: 222
	(b) Thefts: 41	(b) Thefts 60
	(c) Unlawful possession: 26	(c) Unlawful possession 162
	(d) Miscellaneous: 1	(d) Miscellaneous: 70
	70	292

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

PLACE Marietta

MONTH OF May

Number of cases registered up to date:	Number of cases tried up to date by:	Number during past month of: (Since 1st) May.	Number of cases tried by Civil Court in past month:
674	(a) Civil Courts 34	(a) arrests reported 171 (in 151 cases).	(a) Assaults on Allied personnel: ---
	(b) Military Court 65		(b) Thefts: 17
			(c) Unlawful possession: 8
			(d) Miscellaneous: 1

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

MONTH OF May (1st - 31)

Number during past Month of:(Since 1st) May.	Number of cases tried by Civil Court in past month:	Number of cases tried by Military Court in past Month:
(a) arrests reported 171 (in 151 cases).	(a) Assaults on Allied personnel:	(a) Assaults on Allied pers.
	(b) Thefts: 17	(b) Thefts: 21
	(c) Unlawful possession: 8	(c) Unlawful Possession: 26
	(d) Miscellaneous:	(d) Miscellaneous:

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

PROSPETTO RELATIVO AI PROCEDIMENTI PENALI PER FURTI IN DANNO DELLE FOR

FINE MAGGIO 1944

Uffici	Denunzie pervenute	Archiviazione	In istruttoria (assolti)	In dibattimento (già sentenziate)	Rinviati a Giudizio non ancora celebrato (Procedimenti Definiti)	Inviati per competenza (Appacchi a Cancelleria Pres. Trib. Corte Assise)	In som
Corte App. Bari	—	—	—	—	—	—	
Co App.Lecce	28	—	—	8	II	—	
R. Proc. Bari	499	I	4	I07	59	242	
" " Brindisi	650	I		305	I03	I4I	
" " Lecce	75	—	4	9	8	32	
" " Taran.	518	I	3	258	65	—	
" " Trani	160	—	1	20	18	75	
PR inor. Bari	67	7	—	17	18	5	
Pr. Minor. Lecce	168	17	—	40	45	24	
	2165	27	12	764	327	519	

BARI 1. giugno 19

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

PROCEDIMENTI PENALI PER FURTI IN DANNO DELLE FORZE ARMATE ALLEATE

FINE MAGGIO I944

	In dibattimento (già ammessi)	Rinviati a giudizio non ancora celebrato	Inviati per competenza	In istruttoria sommaria	In Istruttoria formale	Totale pendenze
Procedimenti Definiti				Pendenti		
	-	-	-	-	-	-
	8	II	-	9	-	9
	I07	59	242	75	+ II	= 86
	305	I03;	I4I	88	+ I2	= I00
	9	8	32	20	+ 2	= 22
	258	65	-	183	+ 8	= 191
	20	18	75	37	+ 9	= 46
	17	18	5	20	+ -	= 20
	40	45	24	42	+ -	= 42
	764	327	519	474	42	516

BARI 1. giugno 1944

IL PROCURATORE GENERALE DEL RE

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

PLACE BARI

Number of cases registered up to date	Number of cases tried up to date by	Number during past month of : (April)	Number of ca by Civil Co past month:
	(a) Civil Courts: 51	Arrests reported 700 in 552 cases	(a) Assaults personne
	(b) Military Court: 363		(b) Thefts: 22
			(c) Unlawfu 7
			(d) Miscel 1

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

MONTH OF APRIL (1st - 30st)

tried	Number during past month of : (April)	Number of cases tried by Civil Courts in past month: (April)	Nº of cases tried by Mil. Court in past mo
s:	Arrests reported 700 in 552 cases	(a) Assaults on Allied personnel: === (b) Thefts: 22 (c) Unlawful possession: 7 (d) Miscellaneous: 1	(a) Assaults: 1 (b) Thefts: 28 (c) Unlawful possess: 136 (d) Miscellaneous: 1
urt:			

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

Rule

GRU/pn

154

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

30 May 1944

ACC/4150/L.

SUBJECT : Visit of inspection to Bari .

TO : Major Palmieri, Region III .

1. Attached is a ~~copy~~ translation of a letter which will be handed to Signor Fioramonte in connection with his journey with you to Bari .

GERALD R. UPJOHN,
Colonel,
Chief Legal Officer .

24

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

~~Telegram~~ 4150

301

ALLIED CONTROL COMMISSION
JONIO (TARANTO) PROVINCE
Legal Office - Apulia.

1414

To; C.L.C.
A.C.S. H.Q.,
Salerno.

Subject: Disciplinary Punishments. 14 May, 44

I yesterday discussed with General Traina your proposal to increase the disciplinary powers of unit commanders in order to enable them to impose deterrent penalties in cases of theft of goods to the value of less than 200 lire. He told me the War Ministery are reluctant to increase the powers of Regimental Commanders: he further objected that soldiers punished disciplinarily could not be sent to ordinary military or civil prisons and that the special prisons kept by corps for such offenders would become overcrowded. He made the counter suggestion that the limit of 200 lire be lowered and the great increase of cases coming before the Military Courts be dealt with by an alteration in the Code of Procedure applicable to permit cases being heard by one judge. I pointed out that the overcrowding of gaols was not an overwhelming objection as prisoners could be included in the special labour battalions now being formed (the putting into practise of the relevant Royal Decree being within the discretion of the Ministry of War) and that much time must elapse before alterations to the Codes of Procedure and Rules for the organisation of the Military Courts can become effective. I submit with respect that pressure on the Ministry of War (if possible a conversation between Col. Upjohn and Gen. Orlandi) is alone likely to have the effect of securing the required amendment. =

F/L Apulia — Major
L.O. - Apulia.

Copy to R.C.I.C., Region .

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

Rec 24.5 E.

4150

13A

HQ ACC, APO
Sec'y Gen
Incmg Rec'd 12 May AM
By DPE

TO: General MASON MAC FARLANE

TO : Capt. A.J. GERMAN

The self-styled Chief Chancellor of the Bari Court Mr. R.DESANTIS, in expressing publicly his disdain for the general stoppage of telephone service by the Allies, has called them "MASCALZONI" (rascals) and has added "Let them beware".

This threat can only be explained by the mentality of Desantis who is still strongly attached to Fasdism: it is clear that he hopes for the return here of Farinacci to whom he is bound spiritually , that is to say his daughter was the god-child of the Farinaccis, and from his long-term assignment as Bari correspondent of the "Regime Fascista", a newspaper diretted by Farinacci.

He who publicly shows such feelings toward the Allies cannot be tolerated in a public office of the Italian Democratic State,from which it is necessary that he be removed without delay.

The Godfather of the "Cremonese".

It is well known that the "Ras" of Cremona had a representative in Bari, of whom he was also Godfather, in the person of Comm. De Sanctis,chancellery official of the Court of Appeals,also correspondent of the "Regime Fascista".

It is also well known that the shadow of the"great man"is constantly unfurled by the local godfather, now alluring, now threatening, according to whether to delude the naive or bend the wayward in keeping with the trend of the times.

And well, after nine months from the fall of the myth,the Godfather is still raging about and the responsible heads have not had the sense to purge him,who for a time has shown solidarity with the famous defender of the assassins of Mattecotti.

IL COMPARE del "CREMONESE,,

È notorio che il Ras di Cremona avesse in Bari un suo rappresentante, del quale era anche compare, nella persona del comm. De Sanctis, funzionario di cancelleria della Corte di Appello, corrispondente pure di « Regime Fascista ».

È notorio altresì che l'ombra del « grande » venisse costantemente sbandierata dal compare locale, ora allettatrice, ora minacciosa, a seconda che dovesse illudere gli ingenui o piegare i ritrosi in conformità dello stile dell'epoca.

Ebbene, dopo nove mesi dalla caduta del mito, il compare impera ancora e i capi responsabili non hanno avuto la sensibilità di epurare colui che, per un tempo, ha solidarizzato col famigerato difensore degli assassini di Matteotti

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

A. Limongelli

Pace con indulgenza

Nella conferenza dell'I. A. O. di Filadelfia il rappresentante del Governo Cecoslovacco, dott. Masarjk, ed alcuni delegati britannici hanno combattuto la tendenza verso una pace indulgente nei riguardi dei paesi vinti delineatasi nelle osservazioni fatte dal rappresentante dei lavoratori americani, Robert Watt.

Noi non sappiamo che cosa precisamente si debba intendere per indulgenza. Se indulgenza fosse il lasciare impuniti gli autori dell'immane crimine che si è compiuto in Europa, niuno oserebbe negare il suo consenso alla tesi del dott. Masarjk. Se indulgenza fosse il lasciare nelle mani delle classi che hanno scatenato la guerra i mezzi per creare in un non lontano avvenire una nuova attrezzatura bellica che conduca ad un altro conflitto, Dio ci salvi da questa [illegible]

Declassified E.O. 12356 Section 3.3/NND No. 795614

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

HQ ACG, APO 394
Sec'y Gen.
Rec'd 19 May 1945
By DFE

From: G. B.
Mr Bari
Bari

13B

Al Generale MISTER MASON MAC FARLAN

Al Capt. Mister A J GERMAN

Il sedicente cancelliere capo della corte di Bari signor R.DESANTIS, nell'esprimere pubblicamente il suo sdegno per l'avvenuto blocco del telefono del genero da prte degli Alleati, ha chiamato MASCALZONI gli Alleati ed ha soggiunto: " STIANO ATTENTI "

Questa minaccia si spiega unicamente con la mentalità del Desantis ancora fortemente legato al Fascismo: é chiaro che egli spera nel ritorno qui di Farinacci al quale é stretto dal vincolo della parentela spirituale, in gergo detto comparizio (sua figlia ebbe padrini a cresima i coniugi Farinacci) e dalla sua decennale carica di corrispondente da Bari di "Regime Fascista" giornale diretto dallo stesso Farinacci.

Colui che pubblicamente mostra tali sentimenti verso gli Alleati non può essere tollerato in un pubblico ufficio dello Stato Democratico Italiano, donde é necessario che sia allontanato senza ritardo.

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

SPINELLI Giuseppe
CIACCA A. Raffaele — Court of Appeal — Bari
AVEZZA Lorenzo — " " " — "
Gen. Federale. DENZA Ludovico — Sostituto Proc. Gen.
Squadrista. PONZU Mario — " Proc. del Re.
GUIDI Giseppe — " " Gen.
DE SANTIS Giuseppe — Proc. " Gen.
Squadrista. COLA Vittorio
Squadrista 1° Pretore (name unknown)
" LORUSSO Vincenzo — Vice Pretore.

Further information
Avv Fico (employed FS Bari)

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

124

File

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
A.P.O. 394

ACC/4150/L

29th May 1944

Subject: Visit of Inspection to BARI

TO : Comm. Fieramonti,
Italian Ministry of Justice. SALERNO.

1. It is understood that the Minister of Justice has directed that you should proceed with Major Palmieri, Allied Control Commission, to BARI on 31st May 1944 to investigate the Court situation at BARI. The investigation will take three or four days.

2. Arrangements have been made for you to travel with Major Palmieri by air leaving NAP IES about 1200 hours, 31st May 44.

3. A seat has been reserved for you on the courier to Naples leaving Palazzo di Giustizia, Salerno at 1000 hours on 31/5/44.

4. On arrival at Provincia Building, Naples, please meet Major Palmieri at Room 37, Air Transport Office (Lt. Roberts, telephone Vapor 184).

5. Your pass is attached herewith, also travel orders.

6. It will be necessary for you to obtain sleeping accomodations. If you can not make your own arrangements, please inform Major Palmieri as soon as possible (telephone Naples 50964).

R. H. HILLER
Colonel, CAC
Deputy Chief Legal Officer.

Copy to: Major L.L. Palmieri, Main HQ ACC.

26

COPY.

11A

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION 2

28 May 1944.

Ref : 2201/73.

SUBJECT : Legal Situation - Apulia.

TO : Executive Commissioner, H.Q., A.C.C.

7A

1. Reference your 267/5/CA of 25 May, a copy of the minute to which you refer was addressed to me. It conveys a true picture of the position, and from the moment Apulia became a part of this Region, the problem has been constantly tackled and reported upon, both in normal and in special reports.

2. Besides the R.L.O. this H.Q. has only three legal officers, two of whom are in Apulia, and they are closely in touch with all Tribunali there. One legal officer has been posted to Region 5, but remains temporarily on loan.

3. The true position has been difficult to discover. The L.Os. after many investigations found serious cases (including five murders of an Allied soldier) that appeared to have been completely shelved owing to movements of units, and the utter lethargy of the Italian Courts prior to 11 Feb.

4. It is only since May 1st that the situation has developed sufficiently, and multifarious reports received regularly, so that statistics are available.

Attached is a pro-forma showing the position in Apulia as at 15.5.44.

5. Suggestions for coping with the situation are contained in the R.L.O's report to the C.L.O. in this H.Q. letter 2201/61B of 11.5.44, para.5, a copy of which para is attached.

5A 2B

6. The H.Q. letter 2201/73 of 20.5.44 was addressed to the P.R.O. in pursuance of the verbal instructions at the C.L.O's conference on 2.4.44 that R.L.Os should keep him informed of data which might be of interest to him.

A copy was sent to the C.L.O.

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

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A copy was sent to the C.L.O.

24

(Sgd) JOHN T. ZELLARS.

JOHN T. ZELLARS.
Col. Inf.
Regional Commissioner.

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

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

118

PLACE : APULIA.

Number of cases registered up to date	Number of cases tried up to date by	Number during above period of	Number of cases tried by Civil Courts during above period.	Numbe... durin...
3517 Old cases yet to be registered. At Bari 700 At Barletta 250	(a) Civil Courts 535 (b) Military Courts 481.	(a) Arrests reported 159 (b) Charges reported 122	(a) Assaults on Allied personnel. 1. (b) Thefts 56 (c) Unlawful possession 47 (d) Miscellaneous 2	(a) (b) (c) (d)
Total 3517 plus 950	Total 1016	Total 281	Total 106	

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

PERIOD : 1st - 15th May, 1944.

during period	Number of cases tried by Civil Courts during above period.	Number of cases tried by Military Courts during the above period.
rests reported 159	(a) Assaults on Allied personnel. 1.	(a) Assaults on Allied personnel Nil.
harges reported 122	(b) Thefts 56	(b) Thefts 60
	(c) Unlawful possession 47	(c) Unlawful possession 113
	(d) Miscellaneous 2	(d) Miscellaneous Nil.
al 281	Total 106	Total 173

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

COPY.

Ref: 2201/61/B.

11 May, 1944.

11C

5. At present it would seem, that only one of two solutions will be proposable :

(a) That the Italian Military Penal Code be amended to enable the functioning of Summary Courts consisting of one Staff Officer (instead of the present 5) together with a representative of the Pubblico Ministero, armed with adequate powers of punishments.

or (b) The stablishment of A.M.G. Summary Courts at each of the four, until all arrears are cleared off.

23

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

(10A)

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

AGC/4150/L. /mp.
27 May 1944.

SUBJECT : Legal situation of courts in Apulia.

TO : Regional Legal Officer (THRU: Regional Commissioner), Region II.

1. Referring to my AGC/4150/L dated 26 May 44 and in particular to para. 4 (d) President Cuomo and Procuratore Generale attended the conference with the Minister yesterday evening. The unsatisfactory state of affairs at Bari was very forcibly pointed out to the Minister and the figures attached to your 2201/76/C dated 21 May were given to him: the remarks in para. 7 of your 2207/73 dated 28 May commencing "At Bari for instance" was read to him as were the remarks in para. 3 of your 2201/61/B dated 11 May.

2. The Primo Presidente and the Procuratore Generale read long extracts from directives sent by them to members of the Tribunals and in relation to the necessity for expediting trials of offenses involving Allied interests, and they categorically stated that there were no such cases outstanding in the Bari area except about 15 per Tribunale making 75 in all (of course a very small figure if true) all of which were fixed for trial before 10 June.

3. In view of statement as to the number of cases outstanding which, of course, was not accepted, there was no alternative except to appoint representatives of the sub-commission and the Ministry to investigate the matter.

4. I have accordingly appointed Major Palmieri and the Minister has appointed Piermonti to investigate the matter. They will arrive at Matera on Wednesday night and will proceed to Bari on Thursday evening for the investigation.

5. You will have ready prepared by then, the necessary detailed figures to support your statistics already given to this sub-commission so that there may be no delay in the investigating of the Committee.

6. My signal no. 2216 of today's date refers to the above.

7. Major Palmieri estimates that he will be there 3 or 4 days and that his report will be ready by the time that I arrive on Sunday evening.

8. President Cuomo has been transferred to the Court of Cassation and Vaccarello, President of a Section of the Court of Appeal in Naples has been appointed in his place. The last named has done excellent work in Naples and I hope to bring him over on Sunday with me.

(Sgd) Richard H. Palmer
Lt. Col. G.S.C. D.L.O.
for GERALD E. UPJOHN,
Colonel,
Chief Legal Officer.

Copy to: Executive Commissioner.

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

27 MAY 1944

LEGAL
UEJ CHEN/hrt

8454

9A

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MAY 2712278

✓

415(A)

Entire m & ab

- OUTGOING

RESTRICTED

PRIORITY

ACC NAR

DISTWO RPTD ACC MAIN

POSITION OF CASES AFFECTING ALLIED INTERESTS WHICH ARE OUTSTANDING AT BARI

PD TO DISTWO FOR REGION TWO FOR ALO RPTD ACC MAIN FOR LIAISON FOR INFO FROM ACC

READ FROM LEGAL, SIGNED MACFARLANE PD CONFERENCE WITH MINISTER OF JUSTICE CUOMO

AND DE SANTIS TODAY PD CUOMO STATED THAT NO CASES OUTSTANDING EXCEPT ABOUT SEVEN

FIVE THE TRIAL OF WHICH WAS FIXED BEFORE TEN JUNE PD THESE FIGURES WERE NOT

REPEAT NOT ACCEPTED BY US IN VIEW YOUR STATISTICS SUPPLIED TO US PD MAJOR

PALMIERI OF THIS SUBCOMMISSION AND FIELMONTI OF MINISTRY WILL COME OVER TO

MATERA ON WEDNESDAY EVENING THIRTEEN MAY TO INVESTIGATE POSITION BARI ON

THURSDAY PD INSTRUCT YOU PREPARE FIGURES OF CASES OUTSTANDING AT BARI IN CIVIL

NOT REPEAT NOT MILITARY COURTS AT THIS DAY SO THAT MATTER IS READY FOR IMMEDIATE

INVESTIGATION THURSDAY PD VACCARIELLO IS BEING TRANSFERRED TO BARI TO REPLACE

CUOMO

AUTHENTICATED:

E. J. Chiocca

E. J. CHIOCCA
CWO, USA
Asst Adj

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(84.)

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

26 May, 1944.

REFERENCE : ACC/4150/L

SUBJECT : Legal Report for period 1 - 15 May.

TO : R.L.O. Region 2 (thru Regional Commissioner).

1. I have to acknowledge your 2201/70/8 dated 21 May and 2201/73 dated 20 May.

2. You must appreciate that unsatisfactory and even bad situations must be expected to arise and that officers of A.C.C. are placed in Regions and provinces for the purpose of dealing with them and advising H.Q. if some situation arises which cannot be dealt with in the Region.

3. A letter written in unnecessarily panic stricken terms to the P.R.O. is not the proper way of communicating the position in Regions to this H.Q.

4. Briefly the situation appears to be as follows :-

(a) When the C.L.O. visited you last month and just after the new system was introduced it was agreed that it must be given a fair chance to run.

(b) On the first fortnights showing it appears that the system will require additional stimulus if not revision.

(c) With regard to the recommendation made in your 2201/61/8 dated 11 May para 5 (a) please instruct Major Franklin to discuss this matter with General Traina and let me have his proposals for amendment of the Penal Code. In this connection you may inform General Traina that the Chief Commissioner sent a priority cable to A.F.H.Q. on 13 May asking that he (General Traina) be permitted to go to North Africa with a view to obtaining the release of some P.O.W. but no reply has been received and he should not therefore expect any immediate personnel from this source.

(d) With regard to the situation at Bari President Guamo and Procuratore Generale De Santis were due to visit the Minister on the 18th May but so far have not arrived. I propose at today's meeting with

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

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(d) With regard to the situation at Bari President Guamo and Procuratore Generale De Santis were due to visit the Minister on the 18th May but so far have not arrived. I propose at today's meeting with the Minister to ask him to appoint an Inspector to investigate the position there as soon as possible.

(e) I shall myself come over on Sunday 4 June to Matera and I shall be glad if you will arrange for me to meet the officials at Bari on Monday morning 5 June.

14

GERALD R. UPJOHN.
Colonel.
Chief Legal Officer.

GRU/mcw.

Copy to : Executive Commissioner.

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

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Page

File

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HEADQUARTERS,
ALLIED CONTROL COMMISSION,
APO 394

Regional Control and Military Government Section.

Ref: 267/5/CA. 23rd May 1944.

SUBJECT: Legal Situation - Apulia.

TO : Regional Commissioner,
Region II.

1. The Public Relations Officer has shown to me a minute addressed to him (No.2201/73 of 20th May) by the Regional Legal Officer, Region II.

2. The minute, if it conveys a true state of affairs, testifies to conditions which require instant enquiry. In particular it is alleged that 5 Allied soldiers have been killed (presumably by civilians) during a period of abandon.

3. If this state of affairs is true it is clearly the duty of the Regional Legal Officer to report the matter to you and I should be glad if you would report on this minute, written for reasons unknown to the P.R.O., and the methods you intend to employ in order to combat the evil.

M. S. Gibbs

Brigadier,
Executive Commissioner.

MSL/JC.

Copy to: Chief Legal Officer.
Public Relations Officer.

18

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

4150

290

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

21 May 44

Ref. :- 2201/70/G
Subject:- Legal Report for period 1st - 15th May
To :- C.L.O. Legal Subcommission ACC. - SALERNO -

1. Attached hereto are proformas showing in statistical form, the legal situation in Region II.

2. From figures shown in the consolidated return for Apulia, it will be seen that there is little cause for satisfaction.

3. Paras 9 & 10 of this H.Q. letter 2201/73 of 20.5.44, addressed to the Public Relations Branch with copy to you, refer please.

D. E. S. COUSINS, Lt.Col.
R.I.O.
Region II

DES/im

LEGAL SUB COMMISSION
CLO
DCLO
Chief Clerk
CIO
Italian
CLERKS

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

CASES AFFECTING ALLIED INTERESTS

Place: APULIA

Number of cases registered up to date	Number of cases tried up to date by:	Number during period 1st - 15th May	Number of cases tried by Civil Courts in period 1st-15th May
3517	(a) Civil Courts 535	(a) Arrests reported 159	(a) Assaults on Allied Personnel 1
	(b) Military Courts 481	(b) Charges reported 122	(b) Thefts 56
			(c) Unlawful possession 47
			(d) Miscellaneous 2
Total	Total	Total	Total
3517 + old cases still unregistered At Bari 700 At Barletta 250	1016	281	106

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CASES AFFECTING ALLIED INTERESTS

Period: 1st - 15th MAY 1944

Number during period 1st - 15th May	Number of cases tried by Civil Courts in period 1st-15th May	Number of cases tried by Military Courts in period 1st-15th May
(a) Arrests reported 159	(a) Assaults on Allied Personnel 1	(a) Assaults on Allied Personnel Nil
(b) Charges reported 122	(b) Thefts 56	(b) Thefts 60
	(c) Unlawful possession 47	(c) Unlawful possession 113
	(d) Miscellaneous 2	(d) Miscellaneous Nil
Total 281	Total 106	Total 173

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

PLACE Bari

Number of cases registered up to date	Number of cases tried up to date by:	Number during past month of: (Since May 1st)	Number of cases by Civil Courts month:
1611	(a) Civil Courts 68	(a) arrests reported 46	(a) Assaults on personnel =
	(B) Military Courts 382	(b) charges reported	(b) Thefts 8
			(c) Ulawful pos 9
			(d) Miscellaneo =

For Bari there are still 700 cases unregistered and unclassified.

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

MONTH OF May (1st - 15th)

ases date by:	Number during past month of: (Since May 1st)	Number of cases tried by Civil Courts in past month: Since 1/5	Number of cases tried by Military Courts in past month:
rts	(a) arrests reported 46	(a) Assaults on Allied personnel =	(a) Assaults on Allied personnel =
Courts	(b) charges reported	(b) Thefts 8	(b) Thefts 31
		(c) Ulawful possession 9	(c) Unlawful possession 88
		(d) Miscellaneous =	(d) Miscellaneous. =

till 700 cases unregistered and unclassified.

A/C Seaman. Capt.

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

9

PLACE TARANTO

Number of cases registered up to date	Number of cases tried up to date by May	Number during past month of 1-15 May	Number of cases by Civil Courts past 14 days
737 cases involving 1250 persons	(a) Civil Courts 2 10	(a) arrests reported 20 (excluding prostitutes arrested for examination)	(a) Assaults on A personnel 1
	(b) Military Courts 37	(b) Charges reported 52	(b) Thefts 13
			(c) Unlawful poss 21
			(d) Miscellaneous 2
			7 by "direttissi

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

MONTH May (1-15)

Number during past month of 1-15 May	Number of cases tried by Civil Courts in past 14 days	Number of cases tried by Military Courts in past 14 days.
(a) arrests reported 20 (excluding prostitutes arrested for examination)	(a) Assaults on Allied personnel 1	(a) Assaults on Allied personnel Nil
(b) Charges reported 52	(b) Thefts 13	(b) Thefts 11
	(c) Unlawful possession 21	(c) Unlawful possession 2
	(d) Miscellaneous 2	(d) Miscellaneous N. 11
	7 by "direttissima"	

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

CASE AFFECTING ALLIED INTERESTS

PLACE BRINDISI

Number of cases registered up to date	Number of cases tried up to date by	Number during period 1st - 15th May	Number of cas Civil Courts 1st - 15th Ma
769	(a) Civil Courts 248	(a) arrest reported 44	(a) Assaults on personnel
	(b) Military Courts 16 (+ 21 to be tried 16.5.44)	(b) Charges reported 70	(b) Thefts 26
			(c) Unlawful pos 17
			(d) Miscellaneou

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

CASE AFFECTING ALLIED INTERESTS

Number during period 1st - 15th May	Number of cases tried by Civil Courts in period 1st - 15th May.	Number of cases tried by Military Courts in period 1st-15th May
(a) arrest reported	(a) Assaults on Allied personnel	(a) Assault on Allied personnel
44		
(b) Charges reported	(b) Thefts	(b) Thefts
70	26	6
	(c) Unlawful possession	(c) Unlawful possession
	17	6
	(d) Miscellaneous	(d) Miscellaneous

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

PLACE LUCANIA

CASES AFFECTING ALLIED INTERESTS

Number of cases registered up to date	Number of cases tried up to date by	Number during past month of	Number of cases tried Civil Courts in past month
52	(a) Civil Courts 14	(a) arrest reported 10	(a) Assaults on Allied personnel
	(b) Military Courts	(b) Charges reported 23	(b) Thefts 1
			(c) Unlawful possession --
			(d) Miscellaneous 2
52	14	33	3

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

CASES AFFECTING ALLIED INTERESTS

MONTH - to 15 May

s te	Number during past month of	Number of cases tried by Civil Courts in past month	Number of cases tried by Military Courts in past month
	(a) arrest reported 10	(a) Assaults on Allied personnel	(a) Assaults on Allied personnel
rts	(b) Charges reported 23	(b) Thefts 1	(b) Thefts --
		(c) Unlawful possession --	(c) Unlawful possession --
		(d) Miscellaneous 2	(d) Miscellaneous --
	33	3	

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

20 May 1944

Ref. :- 2201/73

Subject:- The Legal Situation in Apulia

To :- Public Relations Branch H.Q. A.C.C. - NAPLES -

Copy to C.L.O. Legal Subcommission ACC. - SALERNO -
Copy to R.C.

1. From the time of the Armistice, the Apulian provinces were never subject to AMG. A supervision, necessarily perfunctory, was exercised by a mere handful of ACC officers, which included no member of the Legal Division.

Consequently the population revelled in license and immunity.

2. On 11.2.44 Region II took over four Apulian provinces, but it was not until the end of the month that winding up of AMG in Calabria, admitted of the appointment of a Legal Liaison Officer in Apulia, in the person of Major A.W.L.Franklin. In him, ACC has been fortunate. He is the very man for the job. It soon became obvious that that this task was far beyond the efforts of one man. Situated at Taranto, he was given two assistant Legal Officers, at Bari and Brindisi respectively.

3. Besides inumerable contacts to be made with the Italian judicial hierarchy, personnel of the British District and Subareas, domestic difficulties had to be overcome, such as office accommodation in towns filled beyond saturation, and the impossibility of obtaining clerks or typists.

But by mid March, the plans had been drawn for the machinery with which to cope with a task for which there was no precedent.

4. Of offences affecting Allied interests, the picture presented was of a staggering number of cases of pilfering and receiving stolen property. Individually trivial, in aggregate these represent a serious drain on the war effort. Estimates of daily loss to the Allied cause have been as high as Lst 50,000, and none lower than Lst 10,000.

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

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Of more serious cases, there have been comparatively few, but there are 5 cases of killing of Allied soldiers during the period of complete abandon, which yet remain untried.

5. To cope with such circumstances, a register was opened at each of the four Apulian ports. In those were entered particulars of all offences affecting Allied interests which had occured in the past 5 months, and those still occuring. The registers are so devised as to enable the progress of each case to be noted until final judgement.

The variety of sources of such informations, and the irregularity with which returns were received made the work very slow.

But by the end of April, 2690 cases had been registered and only some 700 had been tried.

(continued)

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6. By agreement between ACC Hd Qrs and the Ministries of War and Justice, it is the Procuratori del Re who receive notification of all offences, and who determine on which shall be tried by the Italian Civil, and which by the Italian Military tribunals under Article 15 of the Criminal Code of War. Contrary to expectation, it is the Civil Tribunals who have so far proved more diligent in trying cases, than have the Military. Alone at Bari, the position is just the reverse.

7. Great difficulties have been encountered, born of Italian Law, procedure and temperament. On recommendations from Region 2, every effort has been made by Hd Qrs ACC, and with success, to curtail some of the worst features of the cumbersome Law and procedure, but that is not easy and it is slow. The multiplicity of judges deemed necessary to function in any trial, constitutes a serious drag in a country where judicial personnel is far below requirements. And the Italian lethargy and apathy is not wholly surmountable. At Bari, for instance, in answer to profound dissatisfaction expressed by the RLO that only 5 cases had so far been tried in the Civil Courts, the Primo Presidente solemnly protested that judges, who were mostly over 50 yeras of age, could hardly be expected to hold Court for more than 4 hours a day. Indeed, it would be some progress, if they spent even that! The CLO is being requested to secure removal of the official in question, but in view of the paucity of judges, it will merely mean he will have to be reemployed elsewhere.

Again from the time of his induction on 8.3.44 to 23.4.44, the President of the Court of Appeal at Potenza elected to absent himself on holiday.

8. The duties of the Legal Liaison Officers are arduous and manifold. The registers demand considerable office work. Important trials have to be attended in person, and every sentence imposed has to be scrutinized. With exceptions, these are not on the whole unsatisfactory. Weakness in the Italian Law and personnel have to be ferreted out and reported for cure if possible by Hd Qrs ACC in conjunction with the Italian Government.

Since the situation is largely one of Public Safety, close liaison is necessary with the various police authorities who British and American have been most cooperative. The press is u utilized, and weekly reports of trials and sentences imposed are published in the local journals as a deterrent to the population at large. But perhaps above all, there has to be al- most daily contact with the Italian judicial authorities both

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9. But from the beginning of May statistics are becoming available, and they give cause for no complacency.

(a) Old cases affecting Allied interests which have actually been registered number 3517, but another 950 yet remain to be scrutinized and registered. And of this total, only 1016 have as yet been tried.

(b) In the week preceding 1st of May, arrests and charges were approximately 400, so that the period 1st to 15th May should be considered as relatively quiet, since only 281 were reported. As against this, Italian courts tried only 279 cases in the same forthnight.

Admittedly, one trial often involves a considerable number of

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jointly accused persons, but even so, it is glaringly obvious that no appreciable headway is being made in clearing off the vast arrears of old cases affecting Allied interests.

10. After consideration, the Chief Commissioner has ordered the trial by AMG Courts of two cases - one of Security, and one of robbery of American mails on the 10.4.44. In the light of such precedent, there are likely to be at least three others. It is admitted this decision is welcomed by Region 2 for psychological reasons.

But short of general reimposition of AMG Court, which would mark so flagrant a retrogression from ACC policy and interests, there is but one course that can be advocated to deal with petty crimes. It is the alteration of Italian Law and procedure, to admit of inumerable Summary Courts consisting of a single Staff Officer (as opposed to the present 5 in a Military tribunal) and one representative of the Ministero Pubblico, armed with adequate powers of punishment for offences against Allied interests.

And now will have to be tackled, the long unsolved problem of the Civil prisons. At present every jail in Region 2 is crowded beyond all limits. Bari jail, for instance, has a capacity of 750 and inmates ammounting to 1666, several of whom are in the tertiary stage of syphilis.

11. Otherwise, the present impasse cannot fail to become universally known, and the consequences of that are obvious.

Please God, the Allied Armies will sweep on, and to some extent the difficulty of the situation may pass with them.

Higher authority alone can assess the importance to be attached to any immunity from crime at the four Apulian ports.

D.E.S. COUSINS Lt. Col.
RLO
REGION 2

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

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REGION 2

ALLIED SUB-COMMISION
CLO
DCLO
Chief Counsel
CJO
Italian Section
CL RKS

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

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HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.G. SECTION
APO 394

Ref/283/107/CA

23 May 1944

SUBJECT: Bari - Functioning of the Courts.

TO : Legal Sub-Commission.

110

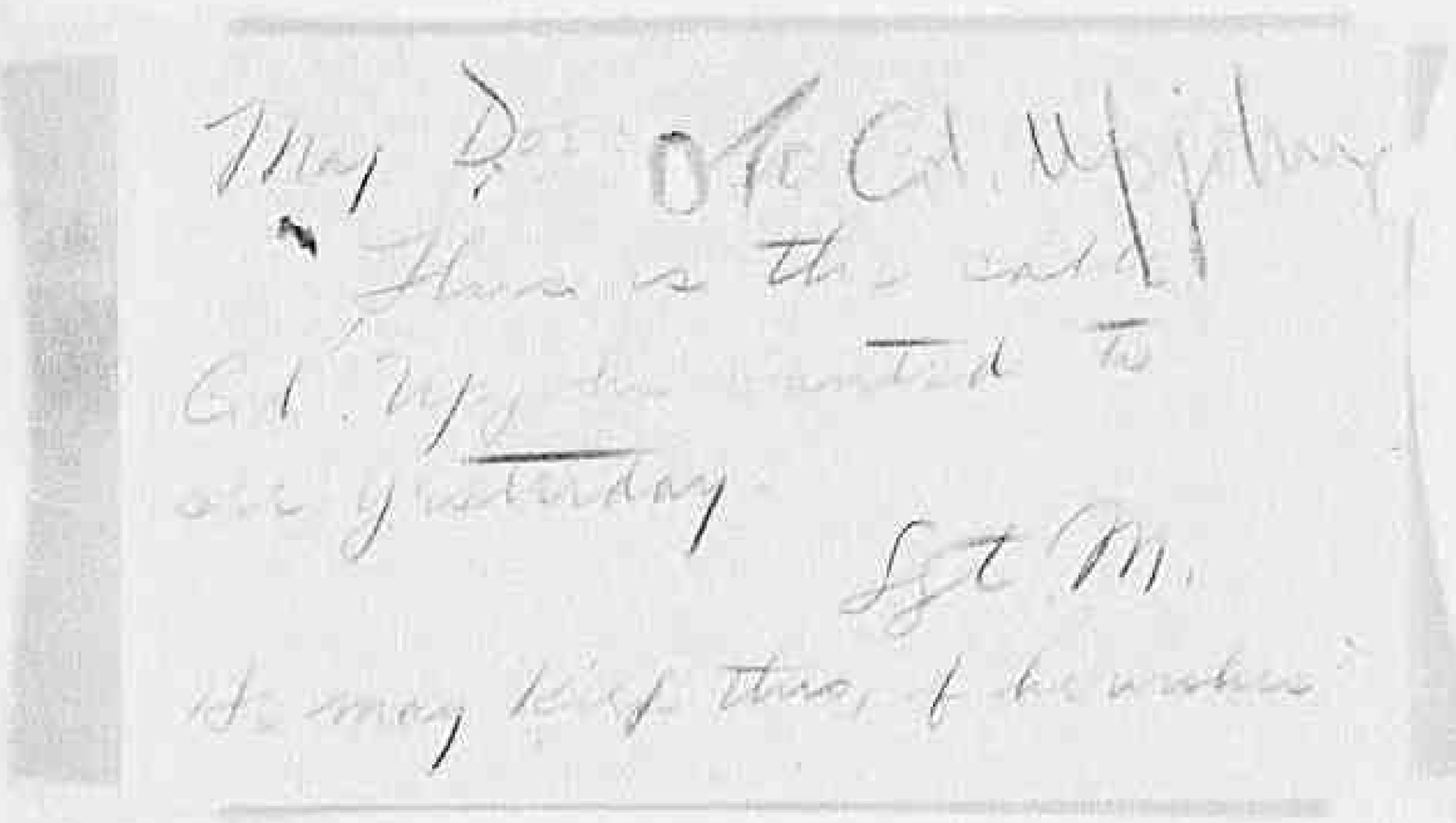
1. With reference to letter from Region II to you (Ref. 2201/61/13) dated 11 May 44, may this Headquarters be advised of the action you propose taking, with a copy of your reply to Region II.

NORMAN E. FISKE
Colonel
Deputy Executive
Commissioner

LEGAL SUB-COMMISSION
CLO
DCLO
Chief Counsel
[illegegible]
[illegible] Section
CLERKS

Acad in Corfu.
28 May 44

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



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

CONFIDENTIAL

M197

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4149

ACC MAIN (GEN MACFARLANE C CCSM)

13th. May. 1944.

CONFIDENTIAL

PRIORITY

V16

GEN MACFARLANE

A.F.H.Q.

AS YOU KNOW CMA ONE OF MY PRINCIPAL DIFFICULTIES IN THE JUDICIAL FIELD LIES IN THE INADEQUATE SUPPLY OF ITALIAN JUDGES AND LEGAL OFFICERS PD PARIS TO ADVISE FOR MOS FROM ACC MAIN FROM MACFARLANE PERSONAL PARIS I UNDERSTAND THAT A CONSIDERABLE NUMBER COULD BE FOUND IN THE RANKS OF PRISONERS OF WAR HELD BY US PD PARA TWO PD IF YOU CAN OBTAIN SANCTION I WOULD LIKE TO SEND GENERAL TRAINA CMA WHO IS APPROXIMATELY JAG OF ITALIAN ARMY CMA TO NORTH AFRICA IN THE FIRST INSTANCE TO SEE WHAT PERSONNEL IS AVAILABLE PD HE WOULD BE ACCOMPANIED BY AN OFFICER OF ACC PD PARA THREE PD GRATEFUL IF YOU WOULD LET ME KNOW EARLIEST POSSIBLE YOUR REACTIONS TO THIS PROPOSAL PD IT IS VERY NECESSARY TO EXPLORE EVERY POSSIBILITY OF FINDING REINFORCEMENTS FOR THE ITALIAN JUDICIARY AS THE PROBLEM WILL INEVITABLY BECOME ACUTER THE MORE PERFECTLY WE TRANSFER TO ITALIAN ADMINISTRATION

NOEL MASON MACFARLANE
Lieutenant-General,
Chief Commissioner.

CONFIDENTIAL

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

Q 726

GRU/ 2A

NEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

ACC/4001/2/L

15 May 1944

SUBJECT: Functioning of Courts.

TO : RLO Region 2.

110

In view of the unsatisfactory state of affairs set out by you in your 2201/61/B dated 11 May, I propose to speak very sharply to the judicial officials when I visit Bari on 22 May.

In these circumstances you may deem it better not to arrange for any public appearance with pretty speeches. I leave it to you.

C. R. UPJOHN
Colonel
Chief Legal Officer.

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

11 May 1944

Ref. :- 2201/61/B cop to 60/A

Subject:- Bari - Functioning of the Courts

To :- C.L.O. Legal Subcommission A.C.C. SALERNO

Copy of this letter is in ~~Sender~~ Prom file.

1. Statistics regarding trials in Apulia are now becoming available and a L.L.O.s have been instructed to complete the attached proforma with their monthly reports, which will enable the salient features of the situation to be easily appreciated.

2. Meanwhile however, it has now become clear that the out-look, particularly at Bari, is far from satisfactory.

In that town, new cases are reported at the rate of 184 a week, whereas trials are at the rate of 5 in the civil and 68 in the military tribunals a week.

3. Before these figures became available, but when early this month it became clear that the Civil Tribunals were not playing their part, the Primo Presidente, Procuratore Generale and Procuratore del Re were requested to meet the R.L.O. The Procuratore del Re TALLARIGO, who is particularly unsatisfactory forbore to appear in person, but sent his substitute instead.

An explanation was requested as to why the Civil Tribunals appeared to be doing nothing appreciable at all. The 3 officials resorted to an entirely spurious technical excuse, which Major HANNAFORD has since corroborated to be such to the D.R.L.O. Profound ~~disat~~dissatisfaction was expressed and immediate and drastic improvement advised.

The officials in question are warned that unless between 15.5.44 & 22.5.44, a 1000% increase occurs as a start, in the number of trials in the Civil Courts, a request will be made to you for their removal en bloc.

Primo Presidente CUOMO expressed himself "molto ferito" at his promotion to be Primo Presidente at Naples having been disapproved by A.C.C.

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

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4. But however abysmal the present inertia of the Civil Courts at Bari, the chief grounds for concern are that even if they will henceforth function up to the maximum of their capacity, it cannot possibly be envisaged that even the Civil and Military Tribunals together will be able to keep abreast of cases on the Scale at present reported.

And though not as serious, the situation at Taranto would seem very similar.

A special midmonth rendering of the attached proforma has been called for from L.D.Os., and the situation will then be self evident.

5. At present it would seem, that only one of two solutions will be proposable.

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(a) That the Italian Military Penal Code be amended to enable the functioning of Summary Courts consisting of one Staff Officer (instead of the present 5) together with a representative of the Pubblico Ministere, armed with adequate powers of punishments.

or (b) The establishment of A.M.G. Summary Courts at each of the four, until all arrears are cleared off.

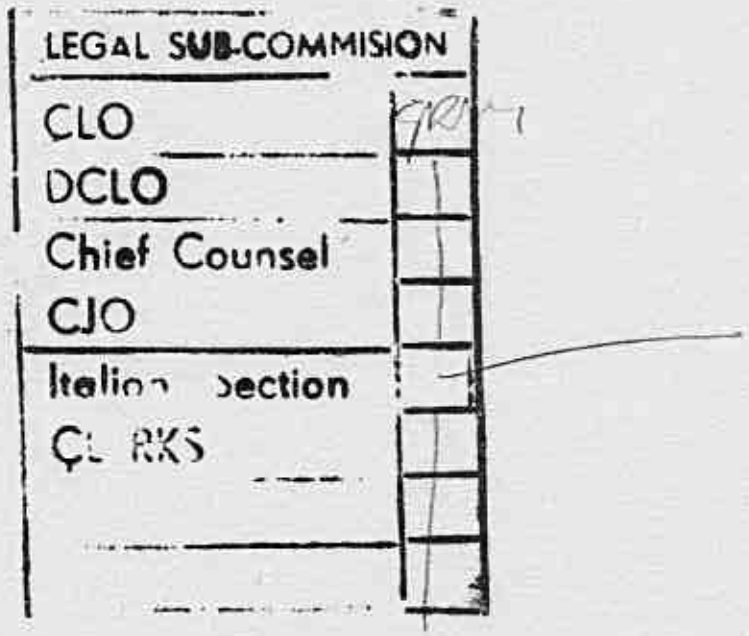
6. More particularly since the situation at Barletta has not yet really been appraised, it will be clear that at the rate even only 1500 new cases a month from Apulia as a whole (a conservative estimate!), the prison situation becomes even more glaingly acute.

D.E.S.COUSINS,Lt.Col.
R.L.O.
Region II

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

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

D.E.S.COUSINS,Lt.Col.
R.L.O.
Region II



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

PLACE _____

Number of cases registered up to date	Number of cases tried up to date by	Number during past month of	Number of cases tried by Civil Courts in past month
	(a) Civil Courts	(a) arrests reported	(a) Assaults on Allied personnel
	(b) Military Courts	(b) charges reported	(b) Thefts
			(c) Unlawful possession
			(d) Miscellaneous

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

_____ MONTH OF _____

Number during past month of	Number of cases tried by Civil Courts in past month	Number of cases tried by Military Courts in past month
(a) arrests reported	(a) Assaults on Allied personnel	(a) Assault on Allied personnel
(b) charges reported	(b) Thefts	(b) Thefts
	(c) Unlawful possession	(c) Unkawful possession
	(d) Miscellaneous	(d) Miscellaneous

20

COMANDO
COMMISSIONE ALLEATA DI CONTROLLO
REGIONE II

(1A)

Rif: 2201/61/B cop. al 60/A. 11 Maggio 1944.

OGGETTO : Bari- Funzionamento dei Tribunali.

AL : CAPO UFFICIO LEGALE - Sottocommissione Legale ACC., Salerno.

1. Divengono ora disponbili dati statistici relativi ai processi nella Puglia e gli Ufficiali Legali di Collegamento hanno ricevuto istruzioni di compilare l'unito modulo da allegare ai loro rapporti mensili, in maniera da consentire che le caratteristiche più importanti della situazione possano facilmente essere prese in esame.

2. Nel frattempo, tuttavia, è risultato chiaro che la situazione, specie in Bari, è molto poco soddisfacente.
In quella città, vien riferito si verifica una media di 184 nuovi casi per settimana, mentre vien trattata una media di 5 processi per settimana nei Tribunali civili e di 68 per settimana in quelli militari.

3. Prima che si fosse a conoscenza di tali cifre, ma quando di mese in mese diveniva sempre più chiaro che i Tribunali civili non facevano quanto necessario da parte loro, il Primo Presidente, il Procuratore Generale ed il Procuratore del Re furono invitati ad incontrarsi con l'Ufficiale Legale di collegamento. Il Procuratore del Re TALLARIGO, del quale si è particolarmente insoddisfatti, si astenne dal presentarsi personalmente ma mandò invece il suo sostituto.
Fu richiesta una spiegazione sul perchè i Tribunali Civili non sembrava facessero assolutamente nulla di apprezzabile. I 3 funzionari si appligliarono a scuse di carattere tecnico del tutto false, che lo stesso Maggiore HANNAFORD ha già confermato essere tali all'Ufficiale Legale Regionale Supplente. Fu ad essi espressa profonda insoddisfazione e si richiese un immediato e completo miglioramento della situazione.
I funzionari in parola sono stati avvertiti che, a meno che tra il 15. 4. 44 ed il 22. 5. 44, non ha luogo, come

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

2. Nel frattempo, [illegible] situazione, specie in Bari, è molto poco soddisfacente.

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I funzionari in parola sono stati avvertiti che, a meno che tra il 15. 4. 44 ed il 22. 5. 44, non ha luogo, come inizio, un aumento del 1000% nel numero dei processi trattati dai Tribunali Civili, sarà a voi avanzata richiesta circa la loro rimozione in blocco.

Il Primo Presidente Cuomo ha fatto presente di essere stato "molto ferito" dal fatto che la sua promozione a Primo Presidente in Napoli non è stata approvata dall' A.C.C.

4. Ma per quanto profonda sia l'attuale inerzia della Corte Civile di Bari, il principale motivo di preoccupazione è costituito dal fatto che, se anche detta Corte prenderà a funzionare al massimo della sua capacità, non è possibile prevedere che i Tribunali, anche se insieme quelli civili e militari, saranno in grado di tener testa al numero di cause che viene riferito si presentano attualmente.

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E, la situazione a Taranto, sebbene non così grave, sembra essere molto simile.

E' stata richiesta agli Ufficiali Legali di collegamento uno speciale invio quindicinale del modulo allegato, per cui la situazione sarà di per se stessa chiara in proposito.

5. Al momento sembra si possa proporne l'adozione di una delle due seguenti soluzioni:

(a) che il Codice Penale Militare Italiano sia modificato in maniera da permettere che le Corti di prima istanza possano funzionare con la presenza di un solo Ufficiale (invece dei 5 attualmente richiesti) insieme ad un rappresentante del Pubblico Ministero, dotati di adeguati poteri per irrorare le pene.

o (b) che siano istituite delle Corti Sommarie AMG in ciascuno dei quattro porti fino a quando tutto l'arretrato non sia esaurito.

6. Inoltre, più particolarmente si fa presente che diviene sempre più chiaro che, poichè la situazione di Barletta non è stata ancora accertata, anche alla media di soltanto 1500 nuovi casi al mese per tutta la Puglia (stima del tutto prudenziale!), la situazione delle prigioni diviene sempre più acuta.

F.to T.Col. D. E.S. COUSINS
Ufficiale Legale Regionale
Regione II

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

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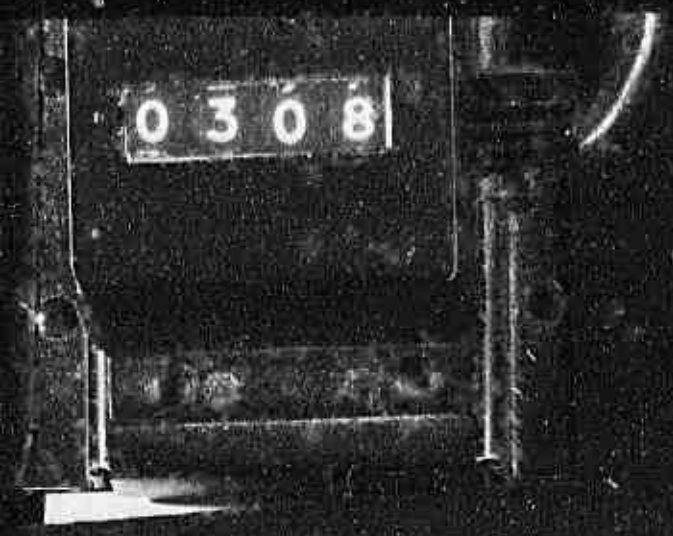
Regione II

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