

ACC

10000/142/859

59

ENFORCEMENT OF GRAIN COLLECTION
JULY 1944 - MAR. 1945

0839

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

FILE CLOSED 2 March 1945

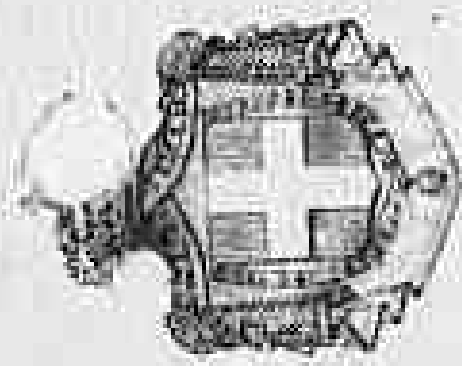
58

CA SECTION

9 MAR 1945

19

- 3 MAR 1945



*Presidenza
del Consiglio dei Ministri*

GABINETTO

AL QUARTIERE GENERALE DEL COMANDO
ALLEATO - Sez. Affari Civili -

R O M A

N. 25824/23240/1.6.1

Risposta al foglio del

OGGETTO: Vice Sindaco.-
Canicatti - Sindaco e

44A

In relazione alla nota 8/12 n. AC./4160/L, si comunica a codesto On.le Comando che nello scorso ottobre al Procuratore del Regno presso il Tribunale di Agrigento fu chiesta l'autorizzazione a procedere contro l'On. Avv. Giovanni Guarino Amella e il Sig. Antonio Cigna, rispettivamente Sindaco e Vice Sindaco del Comune di Canicatti, accusati di avere, abusando delle loro funzioni, sottratto quantitativi di grano all'annasso, contravvenendo al R.D.L. 4 luglio 1944, n. 153.

Poichè, a seguito di accertamenti tecnici e rigorose indagini effettuate, risultò che nei fatti compiuti si dovesse escludere completamente l'esistenza di dolo da parte dei ricordati amministratori, il Ministero dell'Interno, con telegramma del 29 ottobre, comunicò a quello di Grazia e Giustizia di non ritenere opportuno di prosciogliere l'On. Guarino e il Sig. Cigna dalla garanzia amministrativa, nella considerazione che non doveva concedersi l'autorizzazione a procedere a loro carico.

Si reputa opportuno far presente, infine, che per la definizione di tale questione non risulta essere stato interessato il Consiglio di Stato del quale si fa cenno nella nota cui rispondesi.-

Cn.le Comando che nello stesso giorno fu chiesta l'autorizzazione a procedere contro il Tribunale di Agrigento fu chiesta l'autorizzazione a procedere contro l'On. Avv. Giovanni Guarino Amella e il Sig. Antonio Cigna, rispettivamente Sindaco e Vice Sindaco del Comune di Canicattì, accusati di avere, abusando delle loro funzioni, sottratto quantitativi di grano all'ammasso, contravvenendo al R.D.L. 4 luglio 1944, n. 153.

Poichè, a seguito di accertamenti tecnici e rigorose indagini effettuate, risultò che nei fatti compiuti si dovesse escludere completamente l'esistenza di dolo da parte dei ricordati amministratori, il Ministero dell'Interno, con telegramma del 29 ottobre, comunicò a quello di Grazia e Giustizia di non ritenere opportuno di prosciogliere l'On. Guarino e il Sig. Cigna dalla garanzia amministrativa, nella considerazione che non doveva concedersi l'autorizzazione a procedere a loro carico.

Si reputa opportuno far presente, infine, che per la definizione di tale questione non risulta essere stato interessato il Consiglio di Stato del quale si fa cenno nella nota cui rispondesi.

IL SOTTOSEGRETARIO DI STATO

Chas. Counsel

CJO

1-10-100

3 MAR 1945

RECORDED

2 MAR 1945

2014

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/ALGO/L.

/rlp.
22 December 1944.

SUBJECT : GUARINO Amello, Sindaco of Canicattì.

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

1. Reference your RLE 013.34/EXM dated 20 Dec 44.
2. Herewith verbale referred to in above mentioned letter.

By command of Rear Admiral STONE.

Incl: Verbale.

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

4160 ✓

Legal 316

ALLIED COMMISSION
SICILIA REGION HEADQUARTERS
APO 394

FILE: RLE 015.34/EM

20 December 1944

SUBJECT: GUARINO Amelle - Sindaco of Sanicatti.

TO : Headquarters, Allied Commission - APO 394.
(Attn: Legal Sub-Commission-Officer i/c Italian Branch)

46A

1. Thank you for your letter AC/4160/L of 16.12.44 and I will inform you as requested.

2. In the meantime may the verbale forwarded with my letter of 2 December 1944 please be returned as I have little other information with regard to other case.

For the Regional Commission:

sf

41B

~~E.K. MATTHEWS, Captain,~~
Regional Legal Officer.

LEGAL SUB-COMMISSION

CLO

DCLO

Chief Counsel

CJO

Italian Section

C. RKS

22 DEC 1944

46B

(46A)

HEADQUARTERS ALLIED COMMISSION
AIO 394
LEGAL SUB-COMMISSION

ES/rm.

AC/4160/L.

16 Dec. 1944.

SUBJECT : GUARINO Amello - Sindaco of
Canicatti.

TO : Regional Commissioner (attn. R.L.O.),
Sicilia Region.

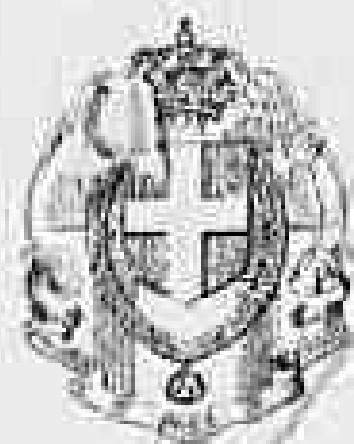
1. Further to AC/4160/L dated 6 Dec. 44 of this
Sub-Commission referring to your RLE 013.34 of 2 Dec. 44.

2. The Consiglio di Stato has now rendered a negative
opinion in respect of the request for authorization to
prosecute the above Sindaco and Vice-Sindaco CIGNA Antonio.

3. Would you please inform this Sub-Commission in due
course of the outcome of the proceedings initiated against
the persons referred to in para 3 of your a/m letter.

By command of Rear Admiral STONE:

G.G. HANNAFORD,
Lt. Colonel,
Officer i/c Italian Branch,
for Chief Legal Advisor.



MINISTERO DI GRAZIA E GIUSTIZIA

*Direzione Generale degli Affari Penali
delle Grazie della Statistica e del Casellario*

Ufficio III
Prot. N° 134.6.619
Risposta al f. N°
del

Roma, 9 dicembre 1944

ALLA COMMISSIONE ARREATA
Sottocommissione legale

R O M A

OGGETTO: Proscioglimento dalla garanzia
amministrativa del dott. GUARINO Giovanni
e CIGNA Antonio, rispettivamente Sindaco
e Vice Sindaco di Canicattì

? 39A

Facendo seguito alla nota per numero del
25 novembre u.s. si comunica che il Consiglio di
Stato ha espresso il parere negativo al prosciogli-
mento dalla garanzia amministrativa chiesto nei
confronti delle persone, in oggetto indicate, per
il reato di omessa consegna di grano agli ammassi.

Sono, pertanto, in corso gli atti necessa-
rii per promuovere l'emanazione del decreto luogo-
tenenziale, con il quale verrà negata la richiesta
autorizzazione a procedere.

per MINISTRO
(A. Spallanzani)

Spallanzani

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

AG/4160/1.

CCM/za.
3 Dec 44.

SUBJECT : Case of CHAMINO Giovanni, Sindaco of Garicatti.

TO : U.S. The Undersecretary of the Presidency of the Council.

1. The case of the sindaco of Garicatti, who is alleged to have inspired local producers to withhold grain from the granai del popolo and encouraged the direct sale of this commodity to consumers, is now pending before the "Consiglio di Stato".

2. Proceedings now pending against producers and consumers for infringing the provisions of Article 1 of RFA No. 155 of 4 July 1944 cannot be resumed or eventually dismissed until the decision of the Consiglio is known. Would Your Excellency therefore be good enough to request the President of the Section concerned to agree to an early date for the examination of the case in point.

3. Your Excellency will certainly recollect that the Minister of Interior gave an adverse opinion when the judicial authorities requested leave to prosecute CHAMINO.

G. S. PARINCHI, Dir.
A/ VP C A Sec
Dep CCM

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/rm.

AC/4160/L.

6 Dec. 1944.

SUBJECT : GUARINO Amelio - Sindaco of Canicatti.
TO : Regional Commissioner (attn. R.S.O.),
Sicilia Region.

1. From the "verbale" you have forwarded, it appears that this case is now before the "Giudice Istruttore".

2. It is obvious that no suit can be satisfactorily conducted against the producers and ~~CONSUMERS~~ concerned without the decision of the "Consiglio di Stato" authorizing proceedings against the Sindaco and his Communal Secretary. When this is known it shall be communicated to you.

3. It appears evident that if the "Consiglio" refuses such authorization and if it becomes evident that the other parties have committed no other offence than to follow the official instructions issued by the "Sindaco" the "Giudice Istruttore" will have no other alternative but to dismiss the whole case.

By command of Comodore STONE:

G.G. HANNAFORD,
Lt. Colonel,
Officer i/c Italian Branch,
for Chief Legal Advisor.

51

✓
4160
ALLIED COMMISSION
SICILIA REGION HEADQUARTERS
APO 394

41A

FILE: RIE 013.34/EKM

2 December 1944

SUBJECT: GUARINO, Amello -- Sindaco of Canicatti.

TO : Headquarters, Allied Commission - APO 394.
(Attn: Legal Sub-Commission, Italian Branch)

40A

1. Reference your letter AC/4160/L of 27.11.44, I am obliged for the further information as to the position in this matter. So far as GUARINO is concerned I had assumed from the letter AC/4160/L of 4.11.44 from VP CA Section that the matter was at an end.

36A

2. In order to save time I enclose copy of a verbale in my possession which I think will give you all the information requested in Para 4 of your letter. This is the only information I have at the moment concerning the 5 producers concerned but further information can be obtained from Agrigento if necessary although this will occasion some delay.

3. It appears to me and it was the opinion of the A.C. Officers who investigated the matter at Agrigento that the action of the Sindaco was well known to all the inhabitants of a small place like Canicatti who therefore felt justified in selling their grain direct to consumers on production of the bolletto. In the circumstances it seems that it is not desirable to prosecute these persons if no action is taken against the Sindaco.

For the Regional Commissioner:

sf

Encl: Verbale.

E.K. Matthews Capt
E.K. MATTHEWS, Captain, 54
Regional Legal Officer.

(40A)

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

CGH/pa.
27 Nov 44.

AC/4160/L.

SUBJECT : Case of GUARINI, Sindaco of Canicattì.
TO : Regional Commissioner, SICILIA Region
(Attn : Regional Legal Officer).

1. This matter is causing a certain amount of difficulty with the Minister of Justice, who is reluctant to agree that the Mayor of Canicattì has exceeded his functions in advising the producers in his Comune not to amass in the normal way.

2. Furthermore his opinion is confirmed by the Ministry of the Interior, who has refused permission to proceed against GUARINI and the matter is now before the "Consiglio di Stato".

3. Finally the Minister of Justice is of opinion that whatever the decision of the "Consiglio di Stato" may be, it will not prevent penal proceedings being taken against the producers unless it can be proved that they acted in good faith, considering the Sindaco's assurances.

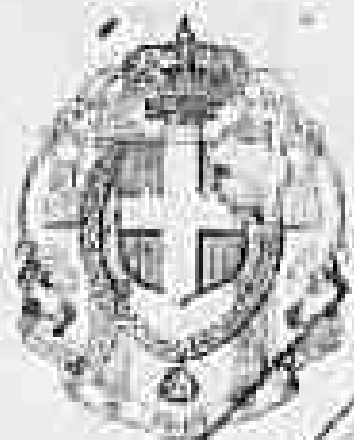
4. In order to enable this Sub-Commission to take a strong attitude in this matter, could the following information be provided, please:

- a) Name of the defendants and charges preferred,
- b) A full account with detailed particulars of the facts alleged against each person concerned.

5. Please treat this matter as urgent.

By Command of Commodore STONE :

G. G. HAINSFORD
Lt. Colonel, 49
Officer i/c Italian Branch,
for Chief Legal Advisor.



MINISTERO DI GRAZIA E GIUSTIZIA

*Direzione Generale degli Affari Penali
delle Grazie della Statistica e del Casellario*

Ufficio I

Roma, novembre 1944

Giul. N°

Risposta al f. N°

del

Al la COMMISSIONE ALLEATA
Sottocommissione legale

OGGETTO Causa Del Sandro Guarino.

ROMA

384

(risposta al f. AC 1460/L
del 24-11-44)

La pratica per autorizzazione a procedere contro l'Avv. Guarino Giovanni e Cipra Antonio, Sindaco il primo, segretario comunale il secondo di Canicatti, imputati di aver sottratto grano all'ammasso abusando delle loro funzioni, è tuttora in corso e si trova presso il Consiglio di Stato pel suo parere, mentre il Ministero dell'Interno ha espresso parere negativo.

La decisione che sarà presa al riguardo non potrà impedire la prosecuzione del processo contro i produttori che parteciparono al fatto, salvo all'Autorità giudiziaria tenere nel debito conto se agirono o meno in buona fede, date le assicurazioni dei suindicati.

Pel MINISTRO

[Signature]

48

dott. Emilio G. G. G. G.

Chief Counsel

27 NOV 1944

38A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/rm.

21 Nov. 1944.

AC/4160/L.

SUBJECT : Case of Sindaco GUARINO.

TO : H.E., the Minister of Pardon and Justice.

1. Your Excellency will recollect that you recently refused to sanction the prosecution in Agrigento of Sindaco GUARINO who was alleged to have inspired local producers of grain to withhold grain from the Granai del Popolo.

2. It is not known whether Your Excellency is aware that there are at least 5 local producers against whom proceedings have been instituted for offences which they committed as a direct result of GUARINO's activities in advising them not to deliver their grain.

3. Your Excellency will probably feel that it is most undesirable that the major offender should go unpunished and his innocent victims should be prosecuted. If so, no doubt Your Excellency will be prepared to issue instructions to stop any further prosecutions in these cases.

4. It is not possible at this moment to supply Your Excellency with the names of the persons concerned, but if Your Excellency is prepared to take the action suggested their names will be obtained.

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

41

4160
ALLIED COMMISSION
SICILIA REGION HEADQUARTERS
APO 394

Legal 37A

FILE: RIE 013.34/EKM

17 November 1944

SUBJECT: Prosecution of Sindaco GUARINA.

TO : Headquarters, Allied Commission - APO 394.
(Attn: Civil Affairs Section)

1. Your letter AC/4160/L of 4.11.44 to the Regional Commissioner is hereby acknowledged. It is noted that it has been decided not to press this matter further. In these circumstances may the Ministry of Justice please be requested to see that there is no prosecution or conviction of the various producers at Agrigento who were caused to commit Amassi offences as a result of the actions of the above man.

For the Regional Commissioner:

E.K. Matthews C.I.P.

E.K. MATTHEWS, Captain,
Regional Legal Officer.

sf

LEGAL SUBCOMMISSION	
1.00	
2.00	
3.00	
4.00	
5.00	
6.00	
7.00	
8.00	
9.00	
10.00	
11.00	
12.00	
13.00	
14.00	
15.00	
16.00	
17.00	
18.00	
19.00	
20.00	
21.00	
22.00	
23.00	
24.00	
25.00	
26.00	
27.00	
28.00	
29.00	
30.00	
31.00	
32.00	
33.00	
34.00	
35.00	
36.00	
37.00	
38.00	
39.00	
40.00	
41.00	
42.00	
43.00	
44.00	
45.00	
46.00	
47.00	
48.00	
49.00	
50.00	
51.00	
52.00	
53.00	
54.00	
55.00	
56.00	
57.00	
58.00	
59.00	
60.00	
61.00	
62.00	
63.00	
64.00	
65.00	
66.00	
67.00	
68.00	
69.00	
70.00	
71.00	
72.00	
73.00	
74.00	
75.00	
76.00	
77.00	
78.00	
79.00	
80.00	
81.00	
82.00	
83.00	
84.00	
85.00	
86.00	
87.00	
88.00	
89.00	
90.00	
91.00	
92.00	
93.00	
94.00	
95.00	
96.00	
97.00	
98.00	
99.00	
100.00	

20 NOV 1944

46

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

(36A)

/rip.

4 November 1944.

AC/4160/L.

SUBJECT : Prosecution of Sindaco GUARINA.

TO : Acting Regional Commissioner, SICILIA Region.

1. It is to be noted that yours RLE 013.34/MC of 19 October 1944 addressed to Legal Sub-Commission did not reach this Hq until 3 November 1944.

2. The Minister of Justice as advised in ours of 14 October 1944, ACC/4160/L after full investigation refused the authority necessary for prosecution.

3. This is a matter primarily of Italian concern and having regard to the lapse of time, the opposition of the High Commissioner to the prosecution and the lack of unanimity of opinion even among our own officers, it has been decided not to press the matter further.

By command of Commodore STONE:

O. B. UPJOHN, Brigadier,
VP C A Sec
Dep CCS

45

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

ALLIED CONTROL COMMISSION
SICILIA REGION HEADQUARTERS
APO 394

Recd (35A)
31 Oct 44

FILE: RLE 013.34/1C

19 October 1944

SUBJECT: Prosecution of Sindaco GUARINA.

TO : Headquarters, Allied Control Commission, APO 394
Attention: Legal Sub-Commission,

1. With reference to your letter ACC/4160/L of 14 October the papers in this case have now been examined by the Regional Legal Officer and it would appear that there will be a travesty of justice if this case is not proceeded with. It seems quite clear that Guarina, in his position as Sindaco, was instrumental in starting a system which would have involved the complete withholding of grain in the commune from the Amassi, and which he must have known was contrary to the Italian Law. Moreover, arising out of the alleged illegal actions of Guarina there are at least five cases pending against grain producers which presumably cannot be proceeded with if the charge against the major offender is dropped.

2. In my opinion, one of the main contributory causes to the failure of the Granai del Popolo in this Island is that, generally speaking, if and when illegalities have been discovered on the part of big producers, no punitive action is taken. Similarly, fearless and impartial steps are not taken to find out whether or not the big producer has offended.

3. Agrigento Province, in which Guarina was a former Sindaco and an influential man, has amassed about 54% of the amount which it should have amassed. Had legal action been taken in this particular case at the proper time, it might have had a very beneficial effect not only on amassing in the province, but throughout the whole Island.

4. I feel that the only way to revive amassing in this Island and to bring the amount amassed up to a total which will prevent the Island starving is to find out if and where the big producers and other influential persons have committed illegalities and to prosecute relentlessly in all appropriate cases. It may be too late and such action may not have the desired result, but this does not seem to me to justify, under any circumstances, the withdrawal of charges in this particular case.

William R. Jordan
WILLIAM R. JORDAN
Colonel, CAC
Acting Regional Commissioner

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

0855

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

785016

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/rm.

14 Oct. 44.

ACC/4160/L.

SUBJECT : Prosecution for Sindaco GUARINA.

TO : Regional Legal Officer (thru RC)
Sicilia Region.

Reference your RLE 013.34/EKM of 5 Oct. 44. this is to inform you that the Minister of Justice verbally informed me that he has considered the above case and has refused authority for the prosecution.

See also 31A, 29A + 28A

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

63

DCLD

(33A)

AGENDA FOR MEETING TO BE HELD ON OCT 12, 1944

- 1) - Magistrates in Naples.
- 2) - Draft decree on constitution of the Court of Assizes.
- 3) - Bar Associations. Reorganizations.
- 4) - Taranto Report:
 - (a) Primo Presidente has written Minister of Justice to retain services of Giudice Cav. Palminteri.
 - (b) Tribunale Civile requires re-invigorating and cleaning up.
- 5) - Bari:

Decree No. 194 "arresto" for minor offences
 L.O. reports on interpretation by Proc. Gen.le
 is ~~not~~ sending out circular.
Min. of Justice
- 6) - Projected decrees:
 - (a) Exploitation of uncultivated agricultural land;
 - (b) Nomination of Commissioners for monuments and fine arts (Firenze).
- 7) - Sicily: Any news of decision in case of application by P.M. Agrigento to prosecute sindaco Guarise under Amasasi law?
- 8) - Planning for Po valley: Progress of constitution of reserve of magistrates. Particulars of statistics in respect to Piemonte, Liguria, Lombardia, Venezia, Emilia.

ACC/4160/L

To R.D. (Hwy) Sicily

Subject: Prosecution for sindaco Guarise

Ref. your L.O. 013.34/EXM of 5 Oct 44 this is to inform you that the Min. of Justice verbally informed me that he has considered the above case & has refused authorizing for the prosecution.

Roma, 13 settembre 1944

Alle LL. EE. i Prefetti
 Alle Sezioni Provinciali dell'Alimentazione
 Ai Consorzi Agrari Provinciali
 Agli Uffici Provinciali Statistico Economici dell'A.
 gricoltura
 Agli Ispettorati Agrari Provinciali e Comparti-
 mentali
 All'Ufficio Nazionale Statistico Economico dell'A.
 gricoltura
 Alla Federazione Italiana dei Consorzi Agrari
 LORO SEDI

e, per conoscenza:

Al Ministero dell'Interno ROMA
 Al Ministero di Grazia e Giustizia ROMA
 Al Commissariato Generale dell'Alimentazione ROMA
 Al Comando Generale dei CC. RR. ROMA
 Al Comando Generale della RR. CC. FF. ROMA
 All'Ecc. Alto Commissariato per la Sicilia PALERMO
 All'Ecc. Alto Commissariato per la Sardegna CAGLIARI

Oggetto: Procedura da seguire per la
 consegna ai Granai del Popolo e per
 l'immissione al consumo dei cereali
 e sfarinati sequestrati.

Al fine di uniformare la procedura da seguire per lo svincolo e
 l'immissione al consumo dei cereali e sfarinati che sono stati oggetto
 di accertamenti da parte degli organi di polizia giudiziaria, e tenuti
 presenti i criteri direttivi del D.L.L. 4 luglio 1944 n. 153 e del R.D.L.
 22 aprile 1943 n. 245, si dispone quanto appresso:

1) Il conferimento o l'immissione al consumo dei cereali, de-
 gli sfarinati e dei cruscami fermati per infrazioni alle vigenti norme
 relative alla consegna dei prodotti sottoposti a particolari discipline
 relative alla consegna in conformità all'art. 6 del D.L. 1.7.1944.

DIREZIONE GENERALE DELLA TUTELA
 ECONOMICA DEI PRODOTTI AGRICOLI

Prot. N. 7092/12/B/5

Circolare N. 106

Oggetto: Procedura da seguire per la consegna ai Granai del Popolo e per l'immissione al consumo dei cereali e sfarinati sequestrati.

Al Ministero di Grazia e Giustizia
Al Commissariato Generale dell'Alimentazione
Al Comando Generale dei CC. RR.
Al Comando Generale della RR. CC. FF.
All'Ecc. Alto Commissariato per la Sicilia
All'Ecc. Alto Commissariato per la Sardegna
CAGLIARI

Al fine di uniformare la procedura da seguire per lo svincolo e l'immissione al consumo dei cereali e sfarinati che sono stati oggetto di accertamenti da parte degli organi di polizia giudiziaria, e tenuti presenti i criteri direttivi del D.L.L. 4 luglio 1944 n. 153 e del R.D.L. 22 aprile 1943 n. 245, si dispone quanto appresso:

1) Il conferimento o l'immissione al consumo dei cereali, degli sfarinati e dei cruscami fermati per infrazioni alle vigenti norme relative alla consegna dei prodotti sottoposti a particolari discipline e sulla macinazione in conformità all'art. 6 del D. L. L. 4-7-1944, n. 153 e dell'art. 23 del R. D. L. 22 aprile 1943, n. 245, viene ordinato dal Prefetto, il quale potrà rispettivamente incaricare della esecuzione i Sindaci nella loro specifica qualità di Presidenti dei Comitati Comunali dell'Agricoltura, per quanto riguarda gli sfarinati, ed il Consorzio Agrario Provinciale, nella specifica veste o qualifica di Ente gestore dei « Granai del Popolo », per quanto riguarda i cereali e cruscami.

2) I conferimenti o le immissioni al consumo devono essere eseguiti con organica rapidità, affinché i prodotti non abbiano a subire

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4160/L.

ART/ap.
8 October 1944.

SUBJECT : GUARINA Amella, Sindaco
of Canicattì.

TO : H. E. The Minister of Justice.

1. We feel that Your Excellency should be informed that this Sub-Commission's Legal Officer in Sicily is apprehensive of the unfavourable effect in this case of a prolonged delay in notifying a decision as to the prosecution of the above named Sindaco and his Vice-Sindaco, Dott. Cigna.

2. At the same time it is appreciated that Your Excellency will desire to have the full facts placed before You, and this we understand has now been done.

3. It will much facilitate the work of the ACC officers in this region to be promptly appraised of the result of this application by the Procuratore del Regno of Agrigento.

Def
A. R. THACKRAH,
Lt. Colonel,
Italian Branch,
for Chief Legal Advisor.

39

Also Dub

2. At the same time it is appreciated that your Excellency will desire to have the full facts placed before you, and this we understand has now been done.

3. It will much facilitate the work of the ACC of-ficers in this region to be promptly appraised of the result of this application by the Procuratore del Regno of Agrigento.

Def

A. R. THACKRAH,
Lt. Colonel,
Italian Branch,
for Chief Legal Advisor.

39

Copy of Agrigento letter also sent

✓ 4100
 ALLIED CONTROL COMMISSION
 SICILY REGION HEADQUARTERS
 APO 394

(30A)

FILE: FILE 013.34/ETC.

5 October 1944

SUBJECT: GUARINA Amelia.

TO : Legal Sub-Commission, A.C.C. HQ. - APO 394.

(28A)

1. With further reference to my letter of 6 Sept. '44 and your reply ACC/4160/L of 11 Sept. '44 I have now obtained and enclose a copy of the application to the Minister of Justice (not to the Minister of the Interior as I was previously informed).

2. I am however informed that the Minister has since received the first application together with a copy of the verbale at his special request and that he is considering the matter. I should be obliged if you could ascertain that my information as above is correct and ask for a speedy decision.

3. It is felt that the Minister should certainly see the Verbale and have the full facts before deciding as the application by itself may possibly put the matter in too favourable a light so far as the accused is concerned.

For the Regional Commissioner:

E.K. Matthews Capt.

E.K. MATTHEWS, Captain,
Regional Legal Officer.

at

Encl: Application.

LEGAL SUB-COMMISSION	
→ CLO	
→ DCLO	
Chief Counsel	
CLO	
Italian Section	
CL RKS	

38

HEADQUARTERS
ARMED FORCES COMMISSION
LEGAL SUB-COMMISSION
APO 39A

~~File~~
ACC/4460/1.

613/pa.
11 Sept. 21.

SUBJECT : GUARDIA Amello.

TO : RIA (Area 10) Region 1.

1. Reference your RIA/01/51/221 of 6 Sept. 21, we are advised by the Ministry of Interior that no application from the Procuratore del Reame has been received in his office.

2. If or when the application arrives the Minister will give it early attention but he points out that the High Commissioner has already advised strongly against the proceedings on the grounds that GUARDIA acted through inadvertence and will not repeat the offence.

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

Copy to : Interior Sub-Commission.

0863

785016

ALLIED CONTROL COMMISSION
SICILY REGION HEADQUARTERS
APO 394

28A

FILE: RLE C13.34/EKM

6 September 1944

SUBJECT: GUARINA Amello - Sindaco, Canicatti.

TO : Chief Legal Officer - Legal Sub-Commission, APO 394.

1. There has been great difficulty in the enforcement of the Amassing of Grain in Agrigento Province where a serious and unsatisfactory grain situation still exists. It appears that the trouble largely rested with the A/M who had quite improperly advised big producers not to amass in the normal way. As a result of pressure by A.C.C. (particularly the Chief Grain Collection Officer, Lt. Col. Walker, and the R.L.C.) it is proposed to take proceedings against the A/M and application has been made by the Procuratore del Regno Agrigento to the Ministry of the Interior for the necessary permission to proceed. This application was forwarded by letter through A.C.C. Channels on 31 August last.

2. Lt. Col. Walker has today expressed the opinion to me with which I entirely agree that the consent of the Ministry should be expedited by all possible means so that the man can be tried. This is likely to have an excellent effect on grain collection. It is therefore suggested that the Ministry be approached by A.C.C. and our interest in the matter made clear with a request that the Ministry will act at once.

3. Considerable local interest is being shown in the matter as the active pressure of the A.C.C. Grain Collection Officers is well known and it is felt that there will be a loss of A.C.C. prestige unless the people see something happening at once. On the other hand there is considerable reluctance if not active opposition on the part of various senior Italian Officials to get on with the job. It is therefore thought necessary to keep a close check on every step to obviate delay.

LEGAL SUB-COMMISSION

CLO

CLO

Chief Counsel

CLO

Italian

C. RKS

For the Regional Commissioner:

E.K. Matthews Capt
E.K. MATTHEWS, Captain,
Regional Legal Officer.

Copy to Lt. Col. Walker

#160
HQ ACC FOR AGRICULTURE SC

SOUTHERN REGION FOR AGRICULTURE
SR/163

SEP 051438B

RESTRICTED

Legal

4555

65/5

RESTRICTED

NONE

27A

REFERENCE CABLE FROM HQ ACC FOGGIA ZONE FP 7. DIRECTIVE FROM
MINISTER OF AGRICULTURE WILL PREVENT ESSENTIAL NEXT STEP IN AMASSING
NAMELY LEGAL PROSECUTIONS AND HEAVY SENTENCES WHICH MAY HAVE SERIOUS
EFFECT NOT ONLY ON WHEAT BUT ALSO ON FORTHCOMING OLIVE OIL AMASSING.
STRONGLY RECOMMEND IMMEDIATE CANCELLATION MINISTER OF AGRICULTURES
TELEGRAM 179177 DATED 30 AUGUST.

DIST
ACTION - Agric SC (2)
INFO - A/CC
ECON SEC
LEGAL SC
FILE (2)
FLOAT



LEGAL SUB-COMMISSION	
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
29	
30	
31	
32	
33	
34	
35	
36	
37	
38	
39	
40	
41	
42	
43	
44	
45	
46	
47	
48	
49	
50	
51	
52	
53	
54	
55	
56	
57	
58	
59	
60	
61	
62	
63	
64	
65	
66	
67	
68	
69	
70	
71	
72	
73	
74	
75	
76	
77	
78	
79	
80	
81	
82	
83	
84	
85	
86	
87	
88	
89	
90	
91	
92	
93	
94	
95	
96	
97	
98	
99	
100	

FOR INFORMATION ONLY

SEP 051853B

RESTRICTED

4760
✓



LEGAL

26A

AGG HQ FOOD SO NONE INFO: AGRICULTURE SO NONE AGG SOUTHERN REGION
 FOR AGRICULTURE
 HQ AGG POGGIA ZONE
 20/03
 27/7
 REF 0219008
 NONE
 PRIORITY

HAVE JUST SEEN TELEGRAM 199177 REPEAT 179177 DATED 30 AUG FROM
 MINISTER AGRICULTURE STATING IT NO ADVISABLE PUBLISH TERMINAL DATES FOR
 AMASSING. THIS PROVINCE ALREADY ISSUED PROVINCIAL DECREE TERMINATIONS
 AMASSING 2ND SEPT PLAINS LATER DATED GIVEN FOR HILL AND MOUNTAIN REGIONS.
 CONSIDER VERY GRAVE SLOWING UP IN AMASSING AND LARGE LOSS WILL OCCUR
 UNLESS TERMINAL DATES FIXED. WITHOUT TERMINAL DATES ALMOST IMPOSSIBLE
 TO PROSECUTE FARMERS. MAY URGENT REPRESENTATION BE MADE THAT MINISTRY
 PERMIT PROVINCE ISSUE SEPARATE DECREE ESTABLISHING TERMINAL DATES WITH
 DUE ATTENTION TO LOCAL DIFFICULTIES AND CIRCUMSTANCES.

LEGAL SUBCOMMISSION	
→ CLK	40
CLK	100
CLK	
CLK	
CLK	
CLK	
CLK	
CLK	
CLK	

Handwritten notes and signatures in the right margin, including "31" and various illegible scribbles.

JFK/es

254
D-4617

4160 ✓
HEADQUARTERS REGION IV
Allied Control Commission
APO/394

27 August 1944.

TO : Legal Sub-Commission
attention Col. Wilner.
SUBJECT : ROME U.P.S.E.A.
FILE N° : R4/AGR/368.

1. Complying with your request we are sending a copy of the letter discussed by phone 27 August 1944.

2. However, in the meantime we have located a copy of the Decree under discussion, and also that the date discussed should be 22 April 1943 and not 22nd April 1944. The Decree N°153, 4th July 1944 is a part of the booklet entitled "Reactivation of Italian agriculture", published July 1944 by the Agricultural Sub-Commission.

3. We will contact Rome UPSEA to learn why they have posted R.D.L.245 dated 22nd April 1943 instead of R.D.L.153 dated 4th July 1944 which was made applicable to AMG territory by endorsement of the Executive Commissioner 14 July 1944.

[Signature]

Agricultural Officer Region IV

33

Enclosure I.-

LEGAL SUB-COMMISSION	
CLO	✓
DCLO	
Chief Counsel	
CJO	
Italian Section	
CLERKS	

0 8 6 7

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

785016

To :

Col. Wilmer

Legal Sub-Commission ACC

Supplementary information to
my letter on subject.

Capt James T. Keim Spec Res.
Agent Region IV

(25B)

COPY.

WAH/is

HEADQUARTERS
ALLIED CONTROL COMMISSION
Agriculture Sub-Commission
APO 394

Tel: 262

24 August 1944.

AGR/7

SUBJECT : Rome U.P.S.E.A.

TO : R.C., Region IV - attention Agricultural Officer.

1. We understand the Rome U.P.S.E.A. has posted a Bill, bearing the date of the 10th of August 1944, by which some Communes in Rome Province are warned that non-deliverers of wheat will be punished under R.D.L.245, dated 22nd April 1944.

2. This will inform you that a new set of penalties were purposely established by R.D.L.N° 153, dated 4th July 1944, which was made applicable to A.M.G. territory by endorsement of the Executive Commissioner, under date 14 July, 1944.

3. It is suggested that if this discrepancy is found to be correct, proper action should be taken.

(Signed) W.A.HARTMAN
Lt. Col.
Director.

*File
place of Carbon.*

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

24A

ACC/4160/L.

26 August 1944.

SUBJECT : Italian Courts - Region 1.

27 AUG 1944

TO : Acting Head, Adm Sec.

1. At the Regional Commissioner's conference it was stated that 8000 people had been arrested in SICILY for violation of the Amassì decree and that the Courts as constituted in SICILY were inadequate to dispose of such cases.

2. At the meeting with the Minister of Justice yesterday I brought this matter to his attention, and also the question of the accumulation of *ordinary* cases in the criminal courts referred to in the last months report of the RLO, Region 1. The Minister stated that he had given instructions that the civil courts in SICILY should function as criminal courts to relieve the congestion and requested that I advise him in two weeks from now of what reports I had from Region 1 in this regard.

3. There are available a few extra judges to go either North or South. With the suspension of judges under the decree of Sanctions against Fascism the Minister prefers, if possible, to keep available as many judges as he can for the northern regions.

4. I am writing to RLO, Region 1, asking him to advise me of the status of cases before criminal courts after he has had an opportunity to see what effect the above instructions of the Minister has had.

*See
Spec.*

Richard H. Wilmer

31

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

PHO

23A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

ACC/4160/L.

26 August 1944.

SUBJECT : Italian Courts - Region 1.

TO : Regional Legal Officer (thru Regional Commissioner), Region 1.

1. With reference to the accumulation of cases in Criminal Courts in Sicily, including particularly cases of violation of the Ammassi Decrees, I have spoken with the Minister of Justice on this subject.

2. He informs me that he has given instructions that the Civil Courts shall also turn their hand to criminal cases in order to relieve the congestion.

3. I suggest that two weeks from this date you send me a report as to the situation in the criminal courts and also let me know whether the Civil Courts are giving attention to criminal cases and to what extent.

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

31

0831



4160
MINISTERO DI GRAZIA E GIUSTIZIA

*Direzione Generale degli Affari Penali
delle Grazie della Statistica e del Casellario*

Roma. 24 agosto 1944

Ufficio 1°
Prot. N° 131-12-207

Risposta al f. N° Acc. 4160
del 1-8-1944

ALLA COMMISSIONE ALLEATA DI CON-
TROLLO SOTTOCOMMISSIONE LEGALE
ROMA

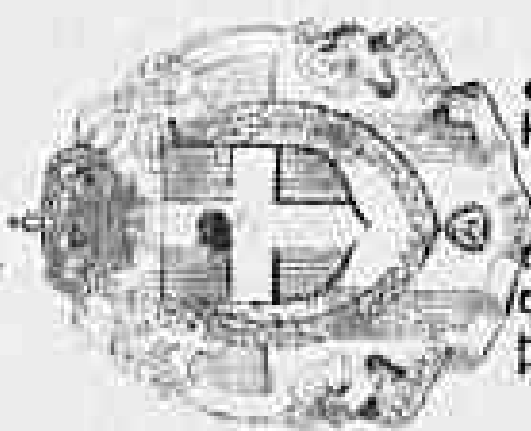
OGGETTO: R.D.I. 4-7-1944 n.153

18A
In data 3 agosto corr. fu trasmessa a codesto Com-
missario la circolare del 28 luglio u.s. n.2887 relativa
ai procedimenti penali per violazione alle norme sull'am-
masso del grano e dell'orzo.

Si trasmette ora copia di altra circolare con la
quale è stata richiamata l'attenzione delle autorità
giudiziarie del Regno su quanto codesta Commissione ha
rilevato col foglio suindicato.

PEL MINISTRO

Borghese



UFF. I°

Prot. 131 - 12 - 207

C I R C O L A R E

M. 2896

Mod. 1347 - NIG

Ministero di Agricoltura e Foreste *228*

ALLI LL.EE. I PROCURATORI GENERALI
AI SIGG. AVVOCATI GENERALI PRESSO
LE SEZIONI DI CORTE DI APPELLO
AI SIGG. PROCURATORI DEL RE

e per conoscenza :

ALLA COMMISSIONE ALLEATA DI CONTROLLO-
STOCOMMISSIONE LEGALE

ALLE LL.EE. I PRIMI PRESIDENTI DI CORTE
APPELLO E

AL MINISTERO DELL'AGRICOLTURA E FORESTE

OGGETTO : Procedimento penale per violazione alle norme sull'am-
masso del grano e dell'orzo.

La Commissione Alleata di Controllo - Sottocommissione legale - ha fatto noto di essere stata informata che da parte di alcune autorità giudiziarie v'è la tendenza ad intendere il R.D.I. 4.7.1944, n. 153 in senso ristretto, e cioè limitato ai soli produttori, mentre il Decreto Ministeriale 2 maggio 1944, n. 20 all'art. I si riferisce chiaramente a "chiunque detiene a qualsiasi titolo grano ed orzo".

Una tale interpretazione escluderebbe dalle sanzioni coloro che concorrono nella violazione delle norme sull'ammasso del grano e dell'orzo, ed in principal modo i trebbiatori; ciò che il succitato decreto del 2 maggio non ha voluto, essendosi con le parole usate nell'art. I, riferito a chiunque detenga grano ed orzo per qualsiasi titolo.

Prego pertanto le E.E. e S.S.L.I. di voler richiamare su quanto sopra le attenzioni delle autorità giudiziarie, riferendomi, giusta le raccomandazioni fatte con la precedente circolare in materia del 28/7/ u.s., n. 288, sulle eventuali decisioni emesse nei sensi rilevati dalla Commissione Alleata di Controllo e sulle altre irregolarità eventualmente constatate.

IL MINISTRO

OGGETTO : Procedimento penale per violazione alle norme sull'am-
masso del grano e dell'orzo.

La Commissione Alleata di Controllo - Sottocommissione legale -
ha fatto noto di essere stata informata che da parte di alcune
autorità giudiziarie v'è la tendenza ad intendere il R.D.L. 4.7.1944.
n.153 in senso ristretto, e cioè limitato ai soli produttori, mentre
il Decreto Ministeriale 2 maggio 1944, n.20 all'art. I si riferisce
chiaramente a "chiunque detiene a qualsiasi titolo grano ed orzo".

Una tale interpretazione escluderebbe dalle sanzioni coloro che
concorrono nella violazione delle norme sull'ammasso del grano e
dell'orzo, ed in principal modo i trebbiatori; ciò che il succitato
decreto del 2 maggio non ha voluto, essendosi con le parole usate
nell'art. I, riferito a chiunque detenga grano ed orzo per qualsiasi
titolo.

Prego pertanto le E.E. e S.S.L.L. di voler richiamare su quan-
to sopra le attenzioni delle autorità giudiziarie, riferendomi, giu-
sta le raccomandazioni fatte con la precedente circolare in mate-
ria del 28/7/ u.s., n.288, sulle eventuali decisioni omesse nei sen-
si rilevati dalla Commissione Alleata di Controllo e sulle altre
irregolarità eventualmente constatate.

IL MINISTRO
TUPINI

PER COPIA CONFORME
IL DIRETTORE DELL'UFFICIO I°



HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

(21A)

ACC/4160/L.

22 August 1944.

SUBJECT : Offences under the "Grenai del popolo" decree in Sicily.
TO : H.E. The Minister of Justice.

1. It has been officially reported to this Sub-Commission that over 8000 cases of offenders against the provisions of RDL 153 of 4 July are now pending before the various competent courts in Sicily.

2. In view of the shortage of judicial personnel and the congestion of prison establishments the situation is becoming more serious every day.

3. It will be therefore necessary to fill as many of the existing vacancies as possible, at a very early date.

4. The requirements for all the Courts in Sicily was handed to Your Excellency by the First President of PALERMO at the beginning of the month.

5. This Sub-Commission would be grateful if the list of appointments which has no doubt been prepared by the competent services of the Ministry could be submitted for consideration at the meeting of Thursday 24 August in order that the necessary transport facilities may be obtained.

6. It is also suggested that in order to relieve the existing pressure on the penal sections of the Tribunali, the civil sections be instructed to sit as a criminal jurisdiction until such time as the arrival of the new officials will enable them to resume their usual duties.

G. G. HANNAFORD.
Lieutenant-Colonel,
Officer i/c Italian Branch,
for Acting Chief Legal Officer.

GGH/wew.

27

ALLIED CONTROL COMMISSION

LEGAL

3099

20A

2 I ROTONELLA 71 83 14 IID

OWNERS OF LANDS LEASED UNANIMOUSLY OBJECT AGAINST APPLICATION AGRICULTURAL
 MINISTERIAL DECREE WHICH IS AGAINST LIBERAL PRINCIPLES CONCEDES HALF PRICE
 OF THE LEASABLE GRAIN. REQUEST INTERVENTION OF THIS COM. COMMISSION TO REVOKE
 SAID DECREE WHICH INSPIRED BY FASCIST COSTUME IS FAVORING UNDUE ENRICHMENT

CONDUCTORS CAUSING SERIOUSLY DAMAGES TO VITAL INTERESTS OF EMPLOYERS.

SITONE GIUSEPPE BIANCO ANDREO
 LEONARDO COSPITO, GIUSEPPE BASILE
 FRANCESCO BASILE GRANDUCCO REGICCO ALBESINI FRANCESCO, PARZIALE GIUSEPPINA,
 DELPO NICOLA, LAPATAGLIA MARIA, VINCENZO ANATI EMILIO COSPITO, COSPITO ANTONIO
 CELESTE RICCIARDULLI, ERACONE, BRACCHETTI ROSINA, TUCCI GIOVANNI, RONDANELLI,
 CULIENZO...

LEGAL SUB-COMMISSION

CLO

DCLO

Chief Counsel

CJO

Italian Section

CL RKS

ACC DEPT

218

ACTION: AGRIC SC (2)

INFO : LEGAL
 A/CC
 SCOM SEC
 ADD SEC
 FILE (2)
 FLANT

AUGUST 15/1945

File
MEMO: Prisons.

TO : A/CLO

4160
(copy in 9049)

19A

I am directed by the A/CC to say that with a view to providing more prison space in Sicily for offenders against the ammarsi laws you may proceed to a further review of cases in AMG Courts in that island. Such review may be left to the discretion of the RC Region I and should aim at the immediate release only of offenders of previously good character who, because of the military conditions prevailing at the time, received sentences out of proportion to the nature of their crimes, but who have at the date of their release served a reasonable and proper sentence.

ADMIN Sec
3 Aug 44.

G. R. Upjohn
G. R. UPJOHN, Col
A/Head, Adm Section.

Copy to: Executive Commissioner.
Public Safety Sub-Commission.

25

Tel. No. 478525

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

ART/ap

(18A)

ACC/4160 L

1 Aug 44

SUBJECT : Interpretation of
RDL No. 153 of 4 Jul 44

TO : H. E. the Minister of Pardon and Justice.

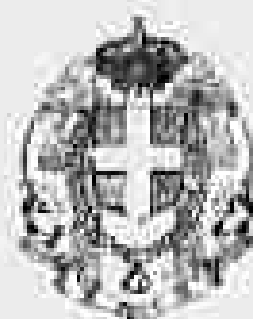
1. Since discussing the above matter at our last conference and arranging with Your Excellency for an interpretative circular to be drafted clarifying the points at issue so that both Italian magistrates and ACC Legal officers should be properly informed, two further points have arisen:-

2. This Sub-Commission has been informed first that there is a tendency on the part of certain magistrates to construe the RDL No. 153 in a narrow sense as applying only to "produttori" whereas reference to the Ministerial Decree of 2 May 1944- No. 24 refers clearly in Article 1 to "whosoever detains by whatsoever title wheat and barley" (da chiunque e per qualsiasi titolo detenuti). Secondly, that such a narrow interpretation would exclude punishment under the decree of persons who co-operate in the commission of the offence (ref. Article 110 C.P.) in some capacity other than a producer, e.g. a thresher.

3. Would Your Excellency kindly consider these matters with a view to including an appropriate direction in the circular. 21

Creep
A. R. THACKERAY,
Lt. Colonel,
Italian Branch,
for Acting Chief Legal Officer

File



4160

17A

Mod 40

Roma

agosto

1944

Ministero di Grazia e Giustizia

DIREZIONE GENERALE DEGLI AFFARI PENALI
DELLE GRAZIE DELLA STATISTICA E DEL CASELLARIOAlla COMMISSIONE ALIENATA
DI CONTROLLO
(Sottocommissione legale)

Ufficio

Dott. N.

Riposta al f. del

Da To N.

OGGETTO Persecuzione penale delle violazioni
all'ammasso del grano e dell'orzo.

In relazione alla questione esaminata nel recente incontro del 26 luglio p.p. sull'argomento indicato in oggetto, si rappresenta a codesta On. Commissione di Controllo quanto segue:

Il decreto legislativo 4 luglio 1944, numero 248, che commina più gravi pene per i contravventori all'ammasso del grano e dell'orzo, non può ritenersi applicabile a coloro che abbiano commesso il fatto anteriormente alla data di attuazione del decreto, quando invece erano applicabili le più tenui sanzioni del R. decreto legge 22 aprile 1943, n°245 espressamente richiamato dall'art.7 del decreto ministeriale 2 aprile 1944, e ciò per il principio generale sancito dall'art.2 comma 3° del codice penale, secondo il quale se la legge del tempo in cui fu commesso il reato e le posteriori sono diverse, si applica quella le cui disposizioni sono più favorevoli al reo.

Nè a diversa conclusione potrebbe giungersi considerando il carattere eccezionale del nuovo decreto poichè anche le leggi temporanee ed eccezionali escludono bensì l'applicabilità di norme anteriori o posteriori eventualmente più favorevoli, ma non hanno efficacia applicativa rispetto al tempo anteriore alla loro attuazione.

./.

2.

./.

.Si potrebbe considerare tuttavia il mancato conferimento ai grandi pubblici, piuttosto che reato continuato, -per il quale occorrerebbe ripetizioni di azioni e di violazioni a termine dell'art.81 cod.pen.,- come reato permanente, per il protrarsi dello stato antigiuridico conseguente all'azione illecita compiuta, fino a quando l'adempimento dell'obbligo di legge o la contestazione giudiziaria non intervengano a far cessare il detto stato di antigiuridicità. Ne conseguirebbe che ogni qual volta l'inadempienza dell'obbligo del conferimento sia stato volontariamente protratto oltre il 9 luglio del corrente anno, -epoca dell'entrata in vigore del citato decreto legislativo, - il reato sarebbe punibile con le più gravi sanzioni contemplate nel decreto medesimo. Non si deve però tacere che questa soluzione offre serie dubbi sotto il profilo della durata della permanenza del reato : (suppongasì il caso di chi immediatamente si disfaccia del prodotto non denunciato).

IL MINISTRO

Carpi

./.

. Si potrebbe considerare tuttavia il mancato conferimento ai grandi pubblici, piuttosto che reato continuato, -per il quale occorrerebbe ripetizioni di azioni e di violazioni a termine dell'art. 81 cod. pen., - come reato permanente, per il protrarsi dello stato antigiuridico conseguente all'azione illecita compiuta, fino a quando l'adempimento dell'obbligo di legge o la contestazione giudiziaria non intervengano a far cessare il detto stato di antigiuridicità. Ne conseguirebbe che ogni qual volta l'inadempimento dell'obbligo del conferimento sia stato volontariamente protratto oltre il 9 luglio del corrente anno, -epoca dell'entrata in vigore del citato decreto legislativo, - il reato sarebbe punibile con le più gravi sanzioni contemplate nel decreto medesimo. Non si deve però tacere che questa soluzione offre serie dubbi sotto il profilo della durata della permanenza del reato : (suppongasì il caso di chi immediatamente si disfaccia del prodotto non denunciato).

IL MINISTRO

Eugenio

4160
Translation

MINISTRY OF PARDON AND JUSTICE

ROME Aug 1944

TO : AGO (Legal Subcommission)

SUBJECT : Penal proceedings for violations of the obligation to
consign wheat and barley.

The following is pointed out to the above Control Commission with reference to the question discussed at the meeting held on 26 July on the above subject:

The legislative decree no. 245 of 4 July 1944 which imposes heavier penalties upon persons violating the "emmeso" of wheat and barley may not be applied to those who committed the act prior to the effective date of this decree at the time when the lighter penalties set forth in R. decree law 22 April 1943, no. 245 were applicable (art. 7 of the ministerial decree 2 April 1944 expressly refers to RDL no. 245); that is so because of the general principle expressed in art. 2, 3rd para of the Penal Code which states that if the law in effect at the time when an offence is committed differs from laws subsequently enacted the law more favorable for the defendant should apply.

The same conclusion must be reached despite the exceptional character of the new decree: although temporary and exceptional laws exclude the applicability of previous or subsequent laws whether or not more favorable for the defendant they cannot be applied in respect to acts committed before their effective date.

The failure to consign to people's granaries could be considered to constitute a "permanent offence" rather than a "continuous offence"; the latter requires repetition of acts and violations according to Art. 81 Penal Code whereas the former involves a continuation of the "antilegal" situation upon an illegal completed act until such time when either the compliance with the law or a judicial intervention cause the termination of the "antilegal" situation. It would follow from the above that whenever the failure to consign voluntarily continues beyond the 9th of July 1944 which is the effective date of the aforesaid legislative decree the offence would be punishable by the heavier penalties contemplated in this

were applicable (art. 7 of the ministerial decree 2 April 1944 expressly refers to RDL no. 245); that is so because of the general principle expressed in art. 2, 3rd para of the Penal Code which states that if the law in effect at the time when an offence is committed differs from laws subsequently enacted the law more favorable for the defendant should apply.

The same conclusion must be reached despite the exceptional character of the new decree: although temporary and exceptional laws exclude the applicability of previous or subsequent laws whether or not more favorable for the defendant they cannot be applied in respect to acts committed before their effective date.

)))
2..

The failure to consign to people's grammaries could be considered to constitute a "permanent offence" rather than a "continuous offence"; the latter requires repetition of acts and violations according to Art. 81 Penal Code whereas the former involves a continuation of the "antilegal" situation upon an illegal completed act until such time when either the compliance with the law or a judicial intervention cause the termination of the "antilegal" situation. It would follow from the above that whenever the failure to consign voluntarily continues beyond the 9th of July 1944 which is the effective date of the aforesaid legislative decree the offence would be punishable by the heavier penalties contemplated in this decree. However, it can not be overlooked that this solution gives rise to serious doubt as to the duration of the permanent character of the offence (supposing the person subject to duty to consign immediately does away with the product which he failed to declare).

THE MINISTER
MUPINI

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
ARO 394

27 Jan 44
(Date)

FROM	TO
Chief Commissioner	
Dep. Chief Commissioner	
Dep. Secretary General	
R.C. & M.G. Section	
Political Section	
Administrative Section	
Education	
Interior	
Legal	
Monument, Fine Arts	
Property Control	
Public Health	
Public Safety	
Economic Section	
Agriculture	
Finance	
Industry & Commerce	
Labor	
Army	
Communications	
Navy	
War Materials	
G - 1	
G - 4	
Hq 2675th Regt	
Hq Comdt (Main)	
Hq Comdt (Rear)	
Adjutant (Main)	
Adjutant (Rear)	
Det Hq & Hq Co	
O.C. British Det	
Translators Pool	
Civil Censorship Group	
Medical Officer	
Security Officer	
Transportation Officer	

FOR:

Signature _____
 Remarks/Recommendation _____
 Information & Return _____
 Approval/Disapproval _____
 Appropriate Action _____
 Investigation & Report _____

REMARKS:

(Initials)

Tel Ext - 563.

HEADQUARTERS
ARMED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

4160
ACC/100/L.

/rlp.
26 July 1944.

MEMORANDUM FOR : Acting Head Admin Sec.

1. At our weekly conference with the Minister today he reported to me that he had just received word from Sicily that ACC had sent a circular to the judges and Procuratori insisting on maximum sentences being given in all cases tried for failure to amass grain. As a result, the Minister stated, the judges had refused to hear amassi cases and the lawyers were refusing to plea. I told him that I knew nothing of any such circular. But I could not help but agree with him that if such circular, as has been reported, had been issued, it was unfortunate to say the least. In answer to a further question he said he thought that the judges and lawyers would resume their work in this type of case and that their action was in the nature of a gesture. However, he gave no assurance that such was the case.

2. As to additional judges and procuratori for the Italian courts in Sicily to take care of amassi penalty cases, the Minister stated that he thought no additional judges and procuratori were necessary although he would be able to tell me accurately about this after Gentile, First President of the Court of Appeals at Palermo arrives in Rome. He is now on his way to Rome for conferences.

Richard H. Viner
RICHARD H. VINER,
Colonel, GAC,
Acting Chief Legal Officer.

*Rep. H checked & found to be
inaccurate.*

21

Minister has been advised

RTH

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4013/L.

26 July 1944.

SUBJECT : Circular on offences against Allied interests (Conditional Suspension of sentences). Circular on provisions concerning penalties for failure to consign wheat and barley.

TO : H.M., the Minister of Pardon and Justice.

1. This sub-commission has the honor to express its full agreement with the text of the above two drafted circulars.

2. The distribution of the circulars at an early date would be greatly appreciated.

G. G. HANFORD,
Lt. Col.,
Officer i/c Italian Branch,
for Acting Chief Legal Officer.

Copy to: File 4160/L.

MINISTRY OF PARDON AND JUSTICE
DIRECTOR GENERAL FOR PENAL MATTERS

OFFICE NO. 1

ACC/4160/L.

ROME, July 1944.

SUBJECT : Penal Proceedings regarding violations of the regulations governing the consigning of wheat and barley.

To the Procuratori Generali
To the Avvocati Generali at the
Courts of Appeal Sections
To the Procuratori del Re

And for information

To the First Presidents of the Courts of Appeal and
To the Ministry for Agriculture and Forestry.

The complete and absolute necessity, in the present state of affairs, to secure the supply of foodstuffs indispensable to the Armed Forces and to the Italian civilian population, renders it urgent that the most rapid and exemplary lawful punishment should be meted out by the judicial authorities in penal proceedings for rationing offences which involve violations of the recent Ministerial Decree of 2 May 1944 published in the Official Gazette No. 24 - Special Series concerning the control of consigning wheat and barley of the harvest now in progress.

It is absolutely indispensable, above all, for the purpose of example for preventative effect, that every evasion of this control should be dealt with immediately with the most effective repressive measures and thus avoid fresh and still graver damage to our martyred and suffering country.

In full agreement with the competent Allied authority, I, therefore, recommend Your Excellencies' most strongly, to dispose, and to watch scrupulously, the proceedings for violations of the duty to consign wheat and barley shall, if at all possible, be dealt with by the "Cirrettissima" process (speedy trial) or if that is absolutely impossible, by a summary investigation to be conducted with the greatest speed and that such proceedings shall be brought to trial by the immediate dispatch of the "richiesta" (Trans. Note:- i.e., the request for trial from the Public Ministero to the giudice) in summary investigation proceedings and of the "decreto di citazione" (T. N.:- i.e., the summons for trial issued by the giudice), and to ensure that they are set down for trial and tried in precedence to all other penal proceedings with the sole exception of the absolute precedence that must be accorded, as set out in the instructions given by circular No. 25022 of 8 March 1944, to all proceedings concerning offences committed to the

ceedings for rationing offences which involved the Official Gazette No. 24 - Special Decree of 2 May 1944 published in the Official Gazette of the harvest now in progress concerning the control of consigning wheat and barley of the harvest now in progress.

It is absolutely indispensable, above all, for the purpose of example for preventative effect, that every evasion of this control should be dealt with immediately with the most effective repressive measures and thus avoid fresh and still greater damage to our martyred and suffering country.

In full agreement with the competent Allied authority, I, therefore, recommend Your Excellencies' most strongly, to dispose, and to watch scrupulously, the proceedings for violations of the duty to consign wheat and barley shall, if at all possible, be dealt with by the "Direttissima" process (summary trial) or if that is absolutely impossible, by a summary investigation to be conducted with the greatest speed and that such proceedings shall be brought to trial by the immediate dispatch of the "richiesta" (Trans. Note:- i.e., the request for trial from the Public Ministero to the giudice) in summary investigation proceedings, in's and of the "Decreto di citazione" (T. N.:- i.e., the summons for trial issued by the giudice), and to ensure that they are set down for trial and tried in precedence to all other penal proceedings with the sole exception of the absolute precedence that must be accorded, as set out in the instructions given by circular No. 25022 of 8 March 1944, to all proceedings concerning offences committed to the prejudice of the Allies. You should also supervise closely that in addition to the exact, exhausting and rapid collection of evidence by the judicial police authorities, notifications of the investigation proceedings preliminary to the trial are executed with the greatest efficiency and care, thereby excluding as far as possible any grounds for adjournment of the hearings and you should require every judge to endeavor in regard to sentences, even where the grant of some benefit of law is involved, to be inspired by those standards of severity which the character of the infringement makes fully legitimate in this present most exceptional state of affairs.

I expect an immediate confirmation and intend to provide for a direct snap control of procedural records on the spot through officials of the Ministry sent out on special missions for this purpose.

In the meantime the Procuratori Generali and Avvocati Generali shall forward to me a summary report on the course, outcome and duration of every proceeding of this type indicating any irregularity which may have occurred.

THE MINISTER

0888

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

/rlp.
27 July 1944.

ACC/4160/L.

SUBJECT : Instructions to P.G. and Adv. Gen. and Proc. del Regno in connection with offences under the Ministerial Decree of 2 May 44 (Arrassini).

TO : See Distribution List.

1. A copy of a circular from the Minister of Justice to all Pubblici Ministeri is enclosed. Sufficient copies are provided for distribution to legal officers.
2. It stresses the necessity of speeding proceedings and urges the officials concerned to keep a strict control on all proceedings initiated in connection with the above type of offence.
3. It is hoped that this document will serve a useful purpose, and it will be the duty of legal officers to see that all Pubblici Ministeri keep to the letter and the spirit of the directives therein contained.

Richard H. Wilmer

RICHARD H. WILMER,
Colonel, C.I.O.,
Acting Chief Legal Officer.

DISTRIBUTION:	
Region 1	17 copies
" 2	12 "
" 3	15 "
" 4	25 "
" 5	15 "
" 6	10 "
" 7	10 "
" 8	15 "
" 9	15 "
RCIE Region	20 "
5th Army	8 "
8th Army	13 "

RLOs (THRU: RLOs) for distribution to legal officers.

To SLOs (THRU: SCAOs).

TO : See Distribution List.

1. A copy of a circular from the Minister of Justice to all Pubblici Ministeri is enclosed. Sufficient copies are provided for distribution to legal officers.
2. It stresses the necessity of speeding proceedings and urges the officials concerned to keep a strict control on all proceedings initiated in connection with the above type of offence.
3. It is hoped that this document will serve a useful purpose, and it will be the duty of legal officers to see that all Pubblici Ministeri keep to the letter and the spirit of the directives therein contained.

cc to all 11 legal officers

RICHARD H. VILLER,
Colonel, CMC,
Acting Chief Legal Officer.

DISTRIBUTION:

Region 1	- 17 copies
" 2	- 12 "
" 3	- 15 "
" 4	- 25 "
" 5	- 15 "
" 6	- 10 "
" 7	- 10 "
" 8	- 15 "
" 9	- 15 "
RCIE Region	- 20 "
5th Army	- 8 "
8th Army	- 13 "

RLOs (TRU: RCOs) for distribution to legal officers.

) To SLOs (TRU: SCAOs).

0 8 9 0

785016

4160

Legal
11A 6879

ALLIED CONTROL COMMISSION
SICILY REGION HEADQUARTERS
APO 394

File : RLE 013.34/PLV

25th July 1944

SUBJECT : Distribution of Official Gazzette re Amassing.

TO : Legal Sub-Commission, A.C.C. Headquarters APO 394

1. Reference your ACC/4104/13/L dated 20th July 1944.
2. The Gazettes referred to were received by this office on the evening of the 14th July and were despatched the following morning. Delay appears to have been on the side of the Italian Authorities.

For Colonel A.N. HANCOCK:

Frank L. Vecchiolla
FRANK L. VECCHIOLLA
Major, JAGD.
Regional Legal Officer.

18

js.

HEADQUARTERS
ALLIED CONTROL COMMISSION
INTERNAL SUB-COMMISSION
APO 594.

10A

23 July 1944.

ACQ/14160/1.

SUBJECT: Prosecution of FINGOCHIARO Aprile

TO: R.I.C. (then Regional Commissioner), Region 1.

1. Reference your RIM 013.03/12V dated 14 July 1944 and first indorsement.

2. From what has been stated there appears to be no jurisdiction whatever to try FINGOCHIARO Aprile by an A.M.C. Court. I see no reason likewise on what basis he could be interned by the Allied Authorities as no question of security appears to arise.

RICHARD H. WILSON.
Colonel, GAF.
Acting Chief Legal Officer.

RHW/maw.

Copy to: R.C. & H.C. Section.

17

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

GGH/pa

9A

REFERENCE : ACC/4160/L.

24 Jul 44.

SUBJECT : Decree-Law of 9th July re granai del popolo.

TO : R.E. The Minister of Pardon and Justice.

1. A serious point of law has arisen in connection with the above due to the fact that decree was signed later than expected.

2. Since producers are bound to bring to the granai their crops as soon as harvested, but as no date has been fixed by which to do so, failure to amass becomes a continuing offence punishable under the new Decree whether the failure to amass started before July 9th or after.

3. However, in cases of persons arrested for non complying with the order to amass, the offence "ipso facto" ceases to be continuous and therefore if the charge was made before July 9th such persons are only punishable under the provisions of April 1943, which as your Excellency is aware, are much more lenient.

4. Therefore, it would appear to be necessary for Your Excellency to forward a circular to the Presidents and Procuratori Generali stressing that offences for non amassing should be punishable under the provisions of the new decree, even if the charge was made before July 9th.

5. A draft copy of your Excellency's circular would oblige in order that this Sub-Commission may send similar directions to RLO in the field.

6. This difficulty was brought to the notice of this Sub-Commission by RLO Region II, who complained that no official Gazette had reached the area under his control on July 21.

15

G.G. HANNAFORD,
Lt. Colonel,
Officer i/c Italian Branch,
for Acting Chief Legal Officer.

Copy to : RLO Region II.

(98)

Con la lettera della 2. Regione in data 20 luglio 1944 si domanda se delle azioni punibili di omesso conferimento ai granai del ~~ma~~ popolo, commesse prima del 2 luglio 1944, possano essere punite con le più gravi pene prevedute da questo nuovo decreto.

Una analoga questione è stata ampiamente dibattuta in questi ultimi anni nella dottrina e nella giurisprudenza penali italiane a proposito della successione fra altre leggi penali in materia anonaria.

E' infatti noto che numerose leggi e decreti si sono succeduti dal 1939 al 1944 per disciplinare gli approvvigionamenti e i consumi; e che in molti casi le leggi successive prevedevano pene meno gravi di quelle precedenti (perche disciplinavano più perfettamente la materia), mentre in altri casi le leggi successive prevedevano pene più severe che non le precedenti. Cosicché, quando il giudizio contro l'imputato si svolgeva sotto l'impero di una legge o di un decreto diverso da quello sotto il cui impero il fatto era stato commesso, il giudice doveva domandarsi quale legge dovesse applicare, se quella vigente al momento del giudizio o quella vigente al momento del reato.

Solo il r.d.l. 22 aprile 1943 n.245 regolava autenticamente la questione, disponendo, all'art. ~~24~~ 34 comma quarto, che le norme del decreto stesso dovevano trovare applicazione anche ai fatti commessi ~~prima~~ ma dell'entrata in vigore del decreto stesso. La giustificazione era che il r.d.l. 22 aprile 1943 n.245 costituisce una specie di testo unico e non porta sensibili modificazioni alle leggi preesistenti. Ma in tutti gli altri casi di successione fra leggi penali anonarie, la questione non è stata autenticamente regolata e deve quindi risolversi ~~xx~~ secondo i principi generali del codice penale.

L'art. 2, terzo comma, del codice penale dispone che "se la legge del tempo in cui fu commesso il reato e le posteriori sono diverse, si applica quella le cui disposizioni sono più favorevoli al reo, salvo che sia stata pronunciata sentenza irrevocabile". E' quindi indifferente se più severa sia la legge vecchia o quella nuova: si applica la più favorevole.

L'art. 2, Comma 4, esclude però l'applicabilità della norma precedente "se si tratta di leggi eccezionali o temporanee".

Tutta la questione è stata dibattuta intorno alla portata di questa ultima disposizione. La più gran parte degli scrittori e molti giudicati (soprattutto delle Corti di merito) sostengono che questa norma è stata dettata unicamente ~~per~~ per regolare il caso in cui, al momento del giudizio, la legge eccezionale sia stata abrogata oppure sia stata sostituita da una legge, ordinaria, meno severa. Il legislatore si è infatti unicamente proposto - come risulta dalla relazione ministeriale al Codice Penale - di impedire che le disposizioni penali di una legge eccezionale

- 2 -

siano condannate ad una specie di inefficacia preventiva in rapporto a quei fatti, da esse validamente vietati, che siano commessi verso l'ultima fase dello stato d'eccezione o che vengano scoperti in quest'ultima fase.

La disposizione dell'art. 2, comma 4, non troverebbe, quindi, applicazione quando alla legge eccezionale succeda un'altra legge eccezionale, che continui a punire (piu' gravemente o piu' mitemente, non importa) i fatti incriminati dalla legge precedente. In questo caso (che e' il nostro) dovrebbe dunque applicarsi l'articolo 2, 3 comma, come se si trattasse di successione tra leggi penali comuni: e il colpevole dovrebbe quindi essere punito secondo le disposizioni della legge meno severa, che - nel caso nostro - e' la legge del tempo del commesso reato.

La giurisprudenza della Corte Suprema di Cassazione si e' pero' opposta, fino a pochi mesi or sono, a questo indirizzo dottrinale e giurisprudenziale, ritenendo che, anche nel caso di successione fra piu' leggi eccezionali, valga il principio dell'articolo 2, 4 comma, e che quindi non possano essere applicate le disposizioni piu' favorevoli al reo, ma debbano essere applicate - in ogni caso - quelle vigenti al tempo in cui il reato fu commesso.

Secondo la Cassazione, insomma, ogni legge eccezionale e' destinata a regolare i fatti commessi sotto il suo impero, qualunque sia la legge successiva.

Come si vede, nessuno dei due indirizzi in contrasto circa l'interpretazione dell'art. 2, 4 comma, consente, nel nostro caso, di applicare il decreto 9 Luglio 1944 a fatti commessi prima della sua entrata in vigore.

Secondo il primo indirizzo, infatti, dovrebbe applicarsi la ~~la~~ legge del tempo del reato perche' piu' favorevole, in applicazione dell'art. 2, 3 comma, codice penale. Secondo l'indirizzo della Corte di Cassazione dovrebbe applicarsi egualmente la legge del tempo del reato, perche' legge eccezionale, e cioe' destinata a regolare tutti i fatti commessi sotto il suo impero, qualunque ~~sia~~ la legge successiva.

Non esiste dunque, nel diritto italiano, nessun principio, in base al quale la legge penale successiva piu' severa possa essere applicata a fatti commessi prima della sua entrata in vigore. Una tale applicazione urterebbe decisamente contro il sistema dell'articolo 2 codice penale. Essa potrebbe realizzarsi solo con un'apposita disposizione di legge al riguardo.

Unica via per applicare il nuovo decreto a fatti commessi prima della sua entrata in vigore e' quella di considerare il delitto di omesso conferimento come un delitto permanente: il che appare perfettamente

- 3 -

corretto, se si pensa che le leggi penali in questione non pongono alcun termine preciso per la consegna del grano. Quindi, se il produttore ha continuato a tenere il grano oltre il 9 Luglio, può essere condannato secondo la legge nuova, anche se l'azione costitutiva del reato si sia iniziata sotto l'impero della legge precedente più mite.

Naturalmente ciò non potrà valere, per materiale impossibilità a continuare il reato, in quei casi in cui l'imputato sia stato arrestato prima dell'entrata in vigore del nuovo decreto. In questi casi il ciclo criminoso è già esaurito prima del 9 Luglio e il reo potrà essere punito soltanto a norma del R.D.L. 22 Aprile, 1943, No. 245.

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

20 July 44

Ref. :- 2201/70/C

Subject:- Decree Law of 9th July regarding the Amnesti

To :- BLO Legal Subcommission 400 ~~Sevino~~ ROME

Copy to:- RC

Copy to:- RSO

1. The new Decree increasing the sentences ^{for} failure to
amnesti has been signed so many weeks later than had been hoped,
that every effort is being made to utilize it to a maximum in
the large number of cases held back till its promulgation.

2. A question of law arises therefore as to what, if any,
cases are excluded from its orbit.

I have contended that since producers are supposed to
amnesti as soon as they have harvested, but since no date has been
fixed by which they must do so, failure is essentially a continuing
offence, and that all defaulters can be prosecuted under the new
Decree, whether their failure started before July 9th or not, since
it continues up to the time of conviction.

3. I find that while several judges and Prosecutors in
Region 2 support my view, almost an equal number do not, and
contend that at least if an arrest or a charge was made prior to
July 9th, the accused can only be tried under the Royal Decree
April 1943.

May this point please be clarified as soon as possible?

4. Incidentally, no copy of the official gazette containing
the new Decree has yet reached either me or most if not all of the
Tribunals!

LEGAL SUBCOMMISSIO

12

10

missed as soon as possible. I find that while several judges and prosecutors in fixed by which they must do so, failure is essentially a continuing offence, and that all defaulters can be prosecuted under the new Decree, whether their failure started before July 9th or not, since it continues up to the time of conviction.

3. I find that while several judges and prosecutors in Region 2 support my view, almost an equal number do not, and contend that at least if an arrest or a charge was made prior to July 9th, the accused can only be tried under the Royal Decree April 1943.

May this point please be clarified as soon as possible?

4. Incidentally, no copy of the official gazette containing the new Decree has yet reached either me or most if not all of the Tribunal!

LEGAL SUBCOMMISSION

CLO

DCLO

Chief Counsel

CJO

Italian Section

CL RKs

Bel

D.E.S. COURTESY, Lt. Col.
R.I.C.
Region II

Legal.
CONFIDENTIAL

7A

1st Ind.

AM/jb

July 18, 1944.

Hq. Sicily Region A.C.C., Palermo,
 To: Executive Commissioner
 H.C. & H.G. Section
 H.Q. A.C.C. Rome
 for Legal sub-commission

1. Herewith opinion of regional legal officer confirming the inadvisability of public prosecution of RINGOCHIARO AFFAIRS. With this view I concur.

2. politically, were criminal proceedings - though justified - taken, a martyr atmosphere would be created which might add sympathy for his cause.

3. The phrase "extreme popularity" in para 3 of Regional Legal Officer's letter is open to question.



Andersen R. Col.
 A. F. RINGOCHI
 Colonel
 regional commissioner

See report at (1A)

LEGAL SUB-COMMISSION	
CLO	1
DCLO	✓
Chief Counsel	
CJO	
Italian Section	
CLERKS	

ALLIED CONTROL COMMISSION
SICILY REGION HEADQUARTERS
APO 394

File : RLE 013.03/FLV

14th July 1944

SUBJECT : Prosecution of FINOCCHIARO APRILE

TO : Regional Commissioner - Colonel A.N. Hancock

1. In pursuance to a cable No.3062, this office was instructed by the Regional Commissioner to look into the advisability of criminal prosecution of Finocchiaro Aprile with regard to his activities concerning the collection of grain.

2. The Legal Office has carefully examined all the papers and documents available in connection with this matter and is of the opinion that there is sufficient evidence to warrant prosecution of Finocchiaro Aprile under Articles 414 and 415 of the Italian Penal Code. The basis for this prosecution is Finocchiaro's speech delivered at REGALBUTO, Province of Enna on the 27th day of May 1944. The parts of the speech which constitute a clear violation of Articles 414 and 415 of the Penal Code are as follows:-
'Noi dichiariamo solennemente che nessuno porterà' agli ammassi un 'chicco di grano. Particolarmente quelli che ci stanno vicini e 'che hanno a cuore la rinascita di questa nostra terra di Sicilia 'dovranno assolutamente astenersi dal farlo. Cio' costituisce come 'un primo ed inderogabile dovere. '

3. It is the further opinion of this office that because of Finocchiaro's extreme popularity and he because he heads the Separatist Movement it would be inadvisable to publicly prosecute Finocchiaro Aprile, but it would be far more expedient to seek his immediate internment on security reasons. If on the other hand prosecution is desired, then this office believes that for reasons of expediency he should be tried by an Allied Military Court.

Frank L. Vecchiolla
FRANK L. VECCHIOLLA

Major, JAGD.

Regional Legal Officer.

js.

Int. file
BY FAST AIR COURIERURGENT *Adm*JM/gmf *6A*HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

ACC/1104/13/L

20 Jul 44

SUBJECT: Distribution of Official Gazette re Amassing.

TO : Regional Commissioner, Region 1.

1. Reference our cable 3077 of 8 July 44.
2. We understand Gazettes referred to have not reached Italian High Commissioner and Courts are therefore unable to impose penalties decreed. Please confirm that decrees were received by you and distributed as required. If decrees have not been received, please cable us and contact Col. Young, now in Sicily, by whom decrees were to be delivered to you.

Copy to: HC & MG Section.

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

not used
~~4/10/44~~
~~4/14/44~~

U. S. RESTRICTED
 Equals British RESTRICTED

file

OUTGO

Admin
(advised)

UPJOHN/INT

9/08

3077

JUL 9 1944

Legal
 11 JUL 1944

RESTRICTED

PRIORITY

ACC REAR FROM ADMIN

IBS FOR ACC REGION ONE

PACKAGES CONTAINING ISSUE OF OFFICIAL GARNETS WHICH INCLUDES INSTANT
 PENALTY ORDER FOR FAILURE TO ANSWER BEING SENT TO YOU BY COURIER
 PLANE MONDAY FOR IMMEDIATE DISTRIBUTION TO ITALIAN PREFECTS PD
 TO IBS FOR ACC REGION ONE FROM ACC REAR FROM ADMIN SIGNED STONE PD
 INSIDE WRAPPINGS WILL BEAR NAMES AND ADDRESSES OF SUCH AUTHORITIES

AUTHENTICATED:

E. J. CHIOLCA
 E. J. CHIOLCA
 G O USA
 Adjutant

DISTRIBUTION:

- 1 File
- 1 Float
- 1 ICC
- 1 Admin
- 1 Legal
- 1 Adj Main

LEGAL SUB.COMMISIC	
LO	
DELO	
Chief Counsel	
CIT	
Italian Section	
PKS	

8

U. S. RESTRICTED
 Equals British RESTRICTED

U. S. RESTRICTED
 Equals British RESTRICTED

- OUT DG

(4A)

WILMER/hft

✓
Encl & file

8/58

4160

✓ 3076

RESTRICTED

ROUTINE

JUL

ACC REAR

IRS, LISTWO

DRASTIC PENALTY DECREE BEING ISSUED EFFECTIVE NINE JULY PD
TO IRS FOR ACC REGION ONE AND LISTWO FOR ACC REGION TWO FROM
ACC REAR FROM LEGAL SIGNED STONE PD YOU WILL HAVE TO USE EVERY
 EFFORT TO PROMOTE QUICK AND VIGOROUS PROSECUTIONS BY ITALIAN
 AUTHORITIES GROWING OUT OF FAILURE TO ARREST

AUTHENTICATED:

E. J. CHIOCCA
 CWO, USA
 Adjutant

DISTRIBUTION:

- 1 - File
- 1 - Float
- 1 - DCC
- 1 - Legal
- 1 - Adj Main

U. S. RESTRICTED
 Equals British RESTRICTED

File 4160
It appears that anyone inciting others
not to amass grain may be arrested & tried
under articles 414 and 415 of the Penal
Code. However as an accused seems to have the
right to ask provisional liberty, the seriousness
of the nature and consequences of the offence
must be rigorously presented to the
judge who under the circumstances would
likely deny the petition.

— LEGAL —

Sec'd by Col. R. H. Miller 11/7/44

ADVANCE HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394
ADMINISTRATIVE SECTION

(2A)

460

19/1.1/48.

10 Jul 44.

MEMORANDUMSUBJECT: Enforcement of Grain Collection.TO: Interior, Public Safety, and Legal Sub Comm.

1 Reference attached appendix "A" to 203/24/CA, dated 6 Jul 44, (copy attached)

2 Following the conference held 6 Jul 44 at which were present -
 Col G. N. Upjohn (Chair) Legal Sub Comm.
 Col H. R. Wilmer Adm Sec.
 Col H. R. Oripes Public Safety Sub Comm.
 Major Wilson Interior Sub Comm.
 Capt H. R. Temple

Appended below are the Minutes, against which are marked the authority responsible for action, in right hand column.

MINUTESAction byReference Para

2a(i) Anty Head Adm Sec to discuss with Actg Chief Commissioners, with a view to the latter arranging for PM to broadcast. Text to be prepared by P. H. B. ? Adm Sec.

2a(ii) question of visits to be taken up on arrival in 1948 Adm Sec.

2a(iii) CLO to write to Regional Legal Officers Regions I & II, calling for vigorous and immediate prosecution, and the imposition of maximum penalties in cases of grain collection evasion. Legal.

CLO to arrange for Air Courier to transport sufficient copies of "Special number of Official Gazette citing AMMAL penalties decrees" to Sicily. Gazette under- stood being printed 8 Jul 44.

2a(iv) Minister of Interior to issue instructions to Prefects in Region II and H.C. Sicily to prosecute grain laws enforcement. Interior.

Cart R.R. Temple Interior Sub Comm.

Appended below are the minutes, against which are marked the authority responsible for action, in right hand column.

		<u>Action by</u>
<u>Reference Para</u>		
2A(1)	Actg Head. Admin. Sec. to discuss with Actg Chief Commissioner, with a view to the letter arranging for PM to broadcast. Text to be prepared by P.W.B. ?	<u>Admin. Sec.</u>
2A(ii)	Question of visits to be taken up on arrival in Rome	<u>Admin. Sec.</u>
2A(iii)	CLG to write to Regional Legal Officers Regions I & II, calling for vigorous and immediate prosecution, and the imposition of maximum penalties in cases of grain collection evasion.	<u>Legal.</u>
	CLG to arrange for Air Courier to transport sufficient copies of "Special number of Official Gazette citing against penalties decreed" to Sicily. Gazette understood being printed 3 Jul 44.	
2A(iv)	Minister of Interior to issue instructions to Prefects in Region II and H.C. singly to prosecute grain laws enforcement.	<u>Interior.</u>
	Special Order of the Day to be issued by Chief of Carabinieri emphasizing their responsibilities in enforcing grain collection, and vigorously arresting and prosecuting grain speculators.	<u>Public Aff.</u>
2A(vii)	Letter re FIMBROCHIANO already in hand. No immediate action on PARTITA and DI BELLAFFRÈ until receipt of evidence in the case of the last named two.	<u>Legal.</u>
2D(iiv)	CLG to interview Minister of Justice and press the importance of rapid trial of offenders in grain cases. (NOTE: Minister of Justice has already stated his willingness to do this)	<u>Legal.</u>
2D(vii)	Public Safety to investigate the possibility of increase in numbers of CCGL in Regions I & II.	<u>Legal.</u>
3A(ii)		

3 Reference 24(iv) and 25(vii). Major Wilson has since reported that the Chief of COMH is this day issuing a "Special Instruction", a copy of which will be obtained.

He stated further that the Commanding General COMH cannot furnish COMH for Region II but is moving an unspecified number up to a 100 to Sicily forthwith.

Copies to: DSC.

1 Executive Commissioner.

1 Security (for Col Young)

R. R. Gripps
R.R. GRIFFS Col.
CWO Admin Sec.

4

APPROVED X "A" TO 203/28/54
dated 6 Jul 54.

28

ENFORCEMENT OF GRAIN COLLECTION LIABILITIES.

ACTION BY

1. The terms of the decrees ordering the collection of grain is to be enforced in Sicily with the greatest vigour. We must expect opposition and obstruction from the people and drastic measures will be necessary.

2. The following action by the Italian Government, ACC and other authorities is recommended :-

A. By the Italian Government.

Adm Sec.
PNC
PWB

- (1) A firm statement should be made by the Prime Minister over the air and in the Press, to be repeated at frequent intervals, making it clear :-

- (a) that the price of L.1000 per quintal will not be increased by war bonus or any other means;
- (b) that the collection of grain will be enforced by every means at the disposal of the Government and that heavy penalties will be enforced on offenders;
- (c) that it is the duty of all Sicilians to make themselves self-supporting as an Island by bringing in the grain for proper distribution

- (ii) This statement to be followed by continuous propaganda and to be backed up by personal tours of the Island by the Minister of Agriculture and if possible the Prime Minister himself (not by under-secretaries), directed towards the collection of grain and not towards political purposes. The High Commissioner and Signor Orlando should carry out similar tours.

Adm Sec.
Adm Sec.

- (iii) Direction is to be given to the High Commissioner and the Italian tribunals that penalties against the decrees must be increased to the maximum and offenders brought immediately to trial.

Adm. Sec.

- (iv) Instructions to be issued by the Ministers of Interior and Agriculture to Prefects and Agriculture Inspectors insisting on drastic action being taken and a Special Order of the day to be issued to the Carabinieri concerning their responsibilities in helping to collect the grain and to arrest speculators.

Adm Sec.
Adm Sec.

that heavy penalties will be enforced on offenders;

(c) that it is the duty of all Sicilians to make themselves self-supporting as an island by bringing in in the grain for proper distribution

(ii) This statement to be followed by continuous propaganda and to be backed up by personal tours of the island by the Minister of Agriculture and if possible the Prime Minister himself (not by under-secretaries), directed towards the collection of grain and not towards political purposes. The High Commissioner and Signor Orlando should carry out similar tours.

(iii) Direction is to be given to the High Commissioner and the Italian tribunals that penalties against the decrees must be increased to the maximum and offenders brought immediately to trial.

(iv) Instructions to be issued by the Ministers of Interior and Agriculture to Prefects and Agriculture Inspectors insisting on drastic action being taken and a Special Order of the day to be issued to the Carabinieri concerning their responsibilities in helping to collect the grain and to arrest speculators.

(v) Arrangements to be made (with MILA) to place the maximum number of Armed Forces (including Carabinieri) at the disposal of the High Commissioner to enforce the decrees.

(vi) The acceleration of the promulgation of the road haulage decree which enforces the formation of the Provincial Comorai to utilise private trucks on call at fixed tariffs.

(vii) The removal from Sicily of the heads of the separatist movement, especially FIMOCCHIO ARILE, AVVOCATO DE MARTINO, RAGON ORLANDO, RUGNO DI BRUNO, and other members of the so-called National Committee for the Independence of Sicily.

Eccon Sec.
Adm Sec.

Adm. Sec.

Adm Sec.
Eccon Sec.

Sec Gen.
MILA

Eccon Sec.

EC & NC Sec.

-2-

ACTION BY:

PC & MG Sec

Political Sec.

B. BY the Vatican.

The intervention with special directions to Cardinal LATTIN (LAVINIA) for a special drive through the Churches.

C. BY A.C.C. Headquarters.

(i) The appointment of Colonel A. YOUNG, Assistant Director of Public Safety Sub-Commission, as officer in charge of enforcement of grain collection under the authority of Regional Commissioner, Region I.

PC & MG Sec

Adm Sec.

MELA

(ii) Arrange for the employment in Sicily of 7000 parole POW about to be made returnable to the Italian Army or for the despatch of two battalions from elsewhere.

PC & MG Sec.

(iii) Arrange for the immediate despatch of inner tubes for motor tyres for requisitioned cars.

Adm Sec.

(iv) Consultation with the Ministry of Justice for the rapid trial of offenders against the decree.

Gen. Gen.

(v) Ramdite consultation with PWB and PWO with the object of getting out forceful propaganda appealing to the emotions of the people and despatching suitable officers for this purpose. The present staff is weak. Draft appeal by Colonel Zellers attached (Appendix "B"). The use of local journalists to be encouraged. Special references to be made to the dangers of inflation in really forceful propaganda.

PC & MG Sec.

(vi) Another appeal to AAI to assist in every manner by provision of transport, military police.

Adm Sec.

(vii) Numbers of Carabinieri to be increased if possible.

D. BY A.C.C. Region I.

(i) Regional Commissioner will convince the High Commissioner and his Giunta Consultative on return to Palermo in order to intensify deliveries to the S. S. and to warn them that no inducement will be forthcoming and that force has got to be used.

Regional Commissioner.

(ii) Similar action with the Committees of Liberation and with local governments in Provinces.

3.

Most of the above also applies to Region II but the collection and distribution is necessary.

2

of getting out forceful propaganda appealing to the people and despatching suitable officers for this purpose. The present staff is weak. Draft appeal by Colonel Zellers attached (Appendix 13). The use of local journalists to be encouraged. Special reference to be made to the dangers of inflation in really forceful propaganda.

(vi) Another appeal to A.I. to assist in every manner by provision of transport, military police.

(vii) Numbers of Carabinieri to be increased if possible.

2. By A.C.C. Region I.

(i) Regional Commissioner will convene the High Commissioner and his Junta Consultiva on return to Palermo in order to intensify deliveries to the granaries and to warn them that no involvement will be forthcoming and that force has got to be used.

(ii) Similar action with the Committee of Liberation and with local governments in Provinces.

3. Most of the above also applies to Region II but the following special action is necessary: 2

A. By A.C.C. Headquarters.

(i) Arrange for permanent use of at least one platoon of 24 - 3 ton trucks for Region II in addition to those already provided from British sources and operating on road haulage (approx. 110).

(ii) Increase Carabinieri by 200, if possible.

4100
SECRET

PRIORITY

ACC RRAR

INS

JUL 7 1944

JULY

Sent on 100th
Council

ACTIVITIES OF PINOCHIAO IS SUBJECT YOUR NO BLUNT ZERO ZERO ZERO POINT ONE DATED
ONE JULY REFERS TO INS FOR ACC REGION ONE FOR REGIONAL COMMISSIONER FROM
ACC REAR FROM ADJUTANT GENERAL TO HIS REMOVAL TO AN INTERVIEW CAMP MUST
INADVISABLE TO RECOMMEND THAT IF EVIDENCE IS SUFFICIENT JUDICIAL AUTHORITIES
BE ADVISED TO PROSECUTE UNDER ARTICLES FOUR ONE FOUR AND FOUR ONE FIVE OF FINAL
CODE FOR INCITING OTHERS NOT TO AMUSE CHARGE TO PINOCHIAO IS ENTITLED TO
APPEAL TO JUDGE FOR PROVISIONAL LIBERTY PENDING TRIAL BUT PROSECUTOR SHOULD
BE INSTRUCTED VIGOROUSLY TO OPPOSE THIS IN VIEW OF NATURE SERIOUSNESS AND
CONSEQUENCES OF OFFENSE TO PLEASE ADVISE AS TO ACTION TAKEN SOONEST

AUTHENTICATED BY:

G. H. Hiver
KNO. CHICAGO
CNO USA
Adjutant

DISTRIBUTION:

- 1 - Adj File
- 1 - Fleet
- 1 - Adj Main
- 1 - INS
- 1 - Interior
- 1 - Legal
- 1 - Admin

This copy of Col. Hiver
Reserved for Philip R. C. 1000
dated 1 July NOT reserved

U. S. SECRET

Equals British

SECRET

0912