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PROPOSED LEG
DEC. 1944 - DEC

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

10000/142/886

PROPOSED LEGISLATION TO PREVENT STRIKES
DEC. 1944 - DEC. 1945

MEMO ON SAFEGUARDS
AGAINST STOPPAGE OF WORK ON
TELEPHONE SYSTEM

Reference : C-3 311.3 of 16 December 1945

1. There can be no question of the Allies requesting the Italian Government to enforce the legislation making strikes unlawful. The war is over and such enforcement would have most unfortunate repercussion both in Britain and America.

2. What is needed is that, whatever the political situation of the country may become, military communications remain untouched.

3. This will be better achieved by an agreement between A.M.H. and the Italian Government, who is in a position, during the "state of war", to take over all forms of telecommunication and may, if necessary replace civilians by military personnel should the need arise. (Art. 20 of the Law of War approved by A.D. No. 1415 of 3 July 1938). The "state of war" still prevails at the present time until it will be declared terminated by a decree. A.M.H. may ask the Italian Government to give their undertaking that the power of militarizing all forms of telecommunications will be assured at the time when the "state of war" shall have ceased. New legislation to this effect might be necessary.

4. It is agreed that the reimposition of Allied military Government will under no circumstances be approved by the Combined Chiefs of Staff and the Government of Great Britain and United States.

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4. It is agreed that the reimposition of Allied Military Government will under no circumstances be approved by the Combined Chiefs of Staff and the Government of Great Britain and United States.

17 Dec 45

on 18 Dec 45
8/c

FILE CLOSED 7 January 1945

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SECRET

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Ref. AC/4177/L.

7th January, 1945.

SUBJECT: Civil Disturbances.

TO : The Director,
Military Railway Services, Italy.

1. In reply to your MS.1/43 of 12th December, 1944, railway personnel in Italian Government territory are divided into two categories. On the mainland they are "mobilitati civili": in Sicily and Sardinia they are "militarizzati".
2. For personnel of either category it is, under the existing law and without further legislation, an offence to strike or to be absent from their posts for more than five days. For "mobilitati civili" the punishments range from six months to ten years; for "militarizzati" the punishments are heavier, and sentences of death can be awarded under Art. 144 of C.M.S. if the offence amounted to desertion in the face of the enemy.
3. Italian military courts have jurisdiction over personnel of both categories for the trial of such offences.
4. In military government territory railway personnel are equally "mobilitati civili" and subject to the above provisions of Italian law. They could, if it was considered necessary or desirable, be tried in AMG Courts for the appropriate offences under Italian law.
5. It would, however, probably be simpler in AMG territory for the cases to be dealt with as violations of the AMG proclamations. Suitable charges could be laid under Procl. Art. IV.13, or Procl. Art. V Secs. 42 and 45. Maximum punishments prescribed by the Proclamation are death (under Art. IV) and imprisonment for life (under Art. V). If, however, it is considered desirable to bring the penalties into conformity with those in Italian Government territory, a directive could be issued for this purpose.
6. The above deals with the judicial remedy for dealing with individual or collective strikes. There is, of course, a further important sanction: if Railway workers struck they would automatically lose the Armed Forces ration scale to which they alone among Government workers are entitled.
7. I hope the above to some extent resolves your anxieties. If, however, you have in mind extra-judicial action needed to break a sudden strike then I suggest a conference between yourself and members of this Commission.

M. S. LUSH

Brigadier.
Chief of Staff.

2 GEN 1345

HEADQUARTERS ALLIED COMMISSIO

APO 394

Office of the Chief of Staff

2 JAN 1945

Tel. 735

2 January 1945

Ref. 3618/- /003.

SUBJECT: Civil Disturbances.

TO : Civil Affairs Section.

1. Reference is made to letter from the Military Railway Services, M.S. 1./43 dated the 12 Dec 44 passed to you for action on 16 Dec. It is understood that only an interim reply has so far been sent on this and there is no copy on file in this Office.

2. It is desired that a full answer should be sent at the earliest possible moment.

Sir, The file is now with PS - the last of the three interested subcommittee and should be returned to us today. It should be possible to reply fully by tomorrow.

Yours

3 JAN 1945

E. Shorden
Chief Staff Officer
to the Chief of Staff.

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COPY

ARMED FORCES ALLIED COMMISSION
AFC 394
LABOR SUB COMMISSION

LEGAL SUB COMMISSION

JRS/rmr

42

REF : 46993 (.465)

TEL: 478904

SUBJECT: Possible Procedure in the event
of Railroad Strike

26 December 1944

TO : Legal Sub-Commission

1. I am generally in accord with the statement by Brig. Waghorn and would stress the necessity of setting up one procedure which would be applicable to railroad employees all over Italy.

2. It is important to note that railroad employees are Government employees, and as such, recipients of the recent wage increase announced for that group. They have already protested as to its inadequacy and particularly about the family allowance portion of this increase, which grants for the average family about 600 lire a month increase for private employees as against only 300 lire per month for Government employees.

3. Railroad workers in AMG territory will benefit by virtue of a proposed Provincial order, now being cleared through your office, which will make D.L.L. 328, granting the above increase, applicable in AMG territory from the date of liberation of the territory or from 16 August 1944, whichever is earlier. Such action, which must be expedited, will remove discontent already expressed by railroad workers in AMG territory regarding the more favorable treatment given such workers in Italian Government territory.

4. It is apparent that existing Italian law already provides adequate penalties for striking, particularly during wartime. Cases in AMG territory, it is agreed, should be dealt with as violations of AMG proclamations. However, it is considered good labor practice in case of a strike or threatened strike, to hold a round the table discussion promptly for competent and thorough discussion of the difficulties, and at such a table should be representatives of railroad management, employees, transportation unions, and the military authorities. It has been our experience that such a free discussion, backed by clear and firm statements by the military authorities of the criticality of the work, generally suffice to restore order. Railroad workers must be reminded that they are the only group of Government employees who have been singled out specially to receive, as heavy workers, the Armed Forces "A" ration scale. This puts them in a preferred position over other Government employees and is a consideration that must not be passed over too lightly. It is felt, however, that the wage increase for Government employees is not too helpful as it affects the railroad group, and it is suggested that the Italian Government be asked to make some special consideration for this group, even if it may be open to charges of discrimination in favoring the railroad employees as against all other groups of Government employees. The suggested consideration, however, might be gone into on the basis of a temporary war measure in a service which is so critically important for the military effort.

JUNIUS R. SMITH, Colonel
Acting Director, Labor Sub-Com

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SECRET

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Draft letter to Brig. WAGHORN.

1. In reply to your MS.1/43 of 12 Dec 44 railway personnel in Italian Government territory are divided into two categories. On the mainland they are "mobilitati civili": in Sicily and Sardinia they are "militarizzati".
2. For personnel of either category it is, under the existing law and without further legislation, an offence to strike or to be absent from their posts for more than 5 days. For "mobilitati civili" the punishments range from six months to 10 years; for "militarizzati" the punishments are heavier, and sentence of death can be awarded under Art. 144 of CPMG if the offence amounted to desertion in the face of the enemy.
3. Italian military courts have jurisdiction over personnel of both categories for the trial of such offences.
4. In military government territory railway personnel are equally "mobilitati civili" and subject to the above provisions of Italian law. They could, if it was considered necessary or desirable, be tried in AMG Courts for the appropriate offences under Italian Law.

5. It would, however, probably be simpler in AMG territory for the cases to be dealt with as violations of the AMG proclamations. Suitable charges could be laid under Proc.1 Art. 14 or Proc. 1 Art. V Secs. 42 and 45. Maximum

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5. It would, however, probably be simpler in AMG territory for the cases to be dealt with as violations of the AMG proclamations. Suitable charges could be laid under Proc. 1 Art. 143 or Proc. 1 Art. V Secs. 42 and 45. Maximum punishments prescribed by the Proclamation are death (under Art. 14) and imprisonment for life (under Art V). If, however, it is considered desirable to bring the penalties into conformity with those in Italian Government territory, a directive could be issued for this purpose.

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6. It should be added that, even if the offence is committed in Italian Government territory, it would probably be desirable for the case to be heard by an Allied Military Court. The trial would be under Italian Law, but the holding of an Allied court would ensure rapidity of justice and a trial uninfluenced by political considerations.

6. The case deals with the judicial remedy for dealing with individual or collective strikes. There is of course all the important sanction: if Railway workers struck they would automatically lose the Armed Forces. A ration scale which they alone among British workers are entitled to.

7. Hope the above ~~answers~~ your question. To some extent resolves your anxiety. If however you have in mind extra-judicial action needed to break a sudden strike

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6. The case deals with the judicial remedy for decline with individual or collective strikes. There is of course with further important sanction: if Railway workers struck they would automatically lose the Armed Forces. A nation-scale bus which they alone among Civil workers are entitled.

7. Hope the above ~~answers~~ your question. To some extent recovers your anxieties. If however you have in mind extra-judicial action needed to break a sudden strike then I suggest a conference between yourself & members of this commission?

WZ

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HEADQUARTERS ALL IED COMMISSION
APO 994
LEGAL SUB-COMMISSION

AC/4177/L.

/rlp.
22 December 1944.

SUBJECT : Civil Disturbances.

TO : Director, Military Railway Service, Italy.

1. Your letter MS.1/43 of the 12th Dec 44 to Brig. Lush, has been passed to this sub-commission for investigation of the legal position and for coordination with the Labor, Transportation and Public Safety Sub-Commissions.

2. The subject is receiving my study and it is hoped to send you a detailed reply in the course of a few days.

For the Chief Commissioner:

W. E. PENNINGTON,
Colonel,
Deputy Chief Legal Advisor?

PERSONAL AND SECRET.

Subject: Civil Disturbances.

Milita Railway Service,
Italy.

Tel: Firebox 49.
Outside Line 843332.

MS.1/43.

To: Brig. M.S. Lush,
Chief of Staff,
H.Q., Allied Commission,
A.P.O. 394.

12 Dec.44.

16 DEC. 1944

1. Although up to date the I.S.R. have been almost entirely free from any form of disturbance or strike I am considerably disturbed at the position which would arise should either a partial or general strike be declared by the I.S.R. workers.

2. We are dependant to a very large measure indeed on their co-operation and at the best the military personnel available would only be able to deal with a small percentage of the total tonnage now handled, nor could they deal with the tonnage of vital military stores involved.

3. I understand that the law differs in Free Italy and Occupied Italy but the railway system must be treated as a whole and it is obvious that whatever measures are taken, they must be equally applicable and effective over the whole system. I would stress this point as, for example, although the Bari Compartimento is in Free Italy, by far the greater percentage of rail capacity in that Compartimento is concerned with the movement of vital military stores, and measures to deal with trouble in that area must be just as effective as those in the occupied area.

4. I think it will also be agreed that whatever steps are taken they must be taken immediately if they are to be effective, and it is essential that everyone concerned is fully aware of what the existing laws are on the subject.

5. Would you please let me know what the position is, as I consider it is essential that whatever action is taken must be on a co-ordinated plan as between Civil and Military.

6. I have addressed this letter to you personally from

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6. I have addressed this letter to you personally from the point of view of security, and also I presume there will be several branches concerned, legal, labour etc.

R.D. Waghorn
(R.D. WAGHORN)

Brigadier,
Director, Military Railway Service.

Copy to:-

Lt.Col. Lindberg, Tn. Sub-Commission, A.C., Building.

Brig. A.T. de Rhé Philipe, C.B., C.B.E., G4 Mov & Tn., AFHQ.

Brig. R.W.L. Fellowes, C.B.E., M.C., Mov., H.Q., A.A.I.

6/2/47

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