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

ACC

10000/142/906

GENERAL ORDE
MAR. 1946 – JA

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

10000/142/906

GENERAL ORDERS, VENEZIA GIULIA (LEGAL OPINIONS)
MAR. 1946 – JAN. 1947

Memo to Chief Commissioner:

As directed, an examination has been made of Venizia Giulia AMG G.O. 70, and our comments thereon are set out in writing on the Memorandum here attached. We are keeping our notes until you decide if further action is necessary. Should you follow our recommendation we will have our notes typed, in order that the drafters of the connected order would have the paragraph by paragraph comments of the Sub-Commission.

19 Oct 46.

Lawrence
Lt. Col. Inf
C. L. A.

16½.

15

E & Com. Please see 22A & 23A -

Attached some further observations on V.G. Order 70. They are of a more general nature, but I believe them relevant & perhaps you might wish to show them to CC pending C-in-C's return.

G. G. Hampson
Hdqrs

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attached. We are keeping our notes until you decide if further action is necessary. Should you follow our recommendation, we will have our notes typed in order that the drafters of the corrected order would have the paragraph by paragraph comments of this Sub-Commission.

19 Oct 46.

Reinecke
Exec. Sec
C. L. A.

16½

15

E. A. Conn. Please see 22A & 23A -

Attached some further observations on U.C. order 70. They are of a more general nature, but I enclose them relevant & perhaps you might wish to show them to CC pending C-in-C's return.

G. G. Hampson
Lt Col
DCLA

31st Oct 46.

6

C.L.A.

CC has seen further views at 24A. He feels that we should have further opportunity to review the situation if action is taken as recommended at para 3 of 22A. & para 4 when we send the Ltr to CC is in definite agreement with para 2 of 24A. Will you please watch developments. M Carr. Brig 5/XI
E.C.

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1993

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HEADQUARTERS ALLIED COMMISSION
LEGAL SUB-COMMISSION

AC/A188/4L.

5 April 1946.

MEMO TO : 2.

Chief Commissioner (Through Executive Commissioner).

I understand that Chief Commissioner disagrees with Para. 5 on the ground that, if in V.G. AMG passes legislation which embodies the full substance of the Italian legislation there is no need to mention the fact in the preamble.

May I point out that even if this point of view was technically correct, which it is not according to the precedents I have quoted, it must be remembered that AMG does not and cannot implement the full substance of the Italian legislation concerned.

For instance there is no Court of Cassation operating in V.G. and all sentences of Special Courts of Assises are reviewed by the local Court of Appeal. There is no Italian decree which recognises the validity of such procedure.

Also AMG extends the jurisdiction of the Special Courts of Assizes of V.G. to fascist crimes and offences committed before 8 September 1943, such offences do not fall within the province of these Courts in Italy.

The disposal of assets confiscated from fascist does not follow the same rules in Italy and in V.G. The grounds which would enable the Courts of the returning Sovereign to challenge any decisions of the present judicial administration working under AMG are considerable, and it is still my opinion that it remains the duty of this Sub-Commission to endeavour to reduce them to a minimum.

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

C&A

Delivered by me will draft telegram

Issued DS/CA DS/574

C.C. & undersd.

P.T.O

Ex Co.
Draft submitted 5/11

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NOTE. - The argument that it is unwise to quote italian legislation in an AMG order does not appear to tally with the draft order on Jewish property, submitted by V.G., where the Italian decree is quoted article by article as suggested.

1995

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1991

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1996

1491

4188/4

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
VENEZIA GIULIA
LEGAL DIVISION

44A

JIK/EM

Legal

32

CONFIDENTIAL

Reference : VG/AMG/LD/180/378

31 January 1947

Subject : Crimes Committed in Zone B.

To : HQ. ALLIED COMMISSION
Attribution: Chief Legal Adviser.

39A

1. Reference your AC/4188/4/1 27 January 1947.

2. Signal 13 November 1943 from AFHQ to Allied Military Government Venezia Giulia copy of which was sent Alcom, Rome, states "REF. ALCOM LETTER 29 OCT. 46 FILE AC/4132/1 SUBJECT EXTRADITION TO ZONE B TO YOU NOW SEEN.
PARA. REGARDLESS LEGAL POSITION DESIRE COURTS IN ZONE A SHALL NOT TRY OFFENCES COMMITTED IN ZONE B. TO TRY SUCH CASES IS CONSIDERED LEGALLY IMPRACTICABLE AND POLITICALLY UNDESIRABLE."

4132/2

3. The above quoted message would seem to answer yourpara 2 of above mentioned.

For the Senior Civil Affairs Officer:

CHARLES M. MUNNECKE
Lt. COLONEL
CHIEF LEGAL OFFICER

LEGAL SECTION M.G. 331
GSB 3A
USCB
CHIEF COUNSEL
ITALIAN SECTION
Rec'd 4 FEB 1947

DOWNGRADED TO UNCLASSIFIED

160

N. B. LACAB

for the reply see file 4188/4, foreg. 1

FEB 10 1947

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

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
VENEZIA GIULIA
LEGAL DIVISION

JIK/TM

CONFIDENTIAL

Reference : VG/AMG/LD/180/378 31 January 1947

Subject : Crimes Committed in Zone B.

To : HQ. ALLIED COMMISSION
Attribution: Chief Legal Adviser.

1. Reference your AC/4108/4/1 27 January 1947.

2. Signal 13 November 1945 from AFHQ to Allied Military Government Venezia Giulia copy of which was sent Alcom, Rome, states "REF. ALCOM LETTER 29 OCT. 46 FILE AC/4132/1 SUBJECT EXTRADITION TO ZONE B TO YOU NOW SEEN. PARA. REGARDLESS LEGAL POSITION DESIRE COURTS IN ZONE A SHALL NOT TRY OFFENCES COMMITTED IN ZONE B. TO TRY SUCH CASES IS CONSIDERED LEGALLY IMPRACTICABLE AND POLITICALLY UNDESIRABLE."

3. The above quoted message would seem to answer yourpara 2 of above mentioned.

For the Senior Civil Affairs Officer;

DOWN GRADED TO UNCLASSIFIED

CHARLES M. MUNNECKE
Lt. COLONEL
CHIEF LEGAL OFFICER

159

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850.
4188/4

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
VENEZIA GIULIA

LEGAL DIVISION

FILE
43A

JSR/zs
22 Jan. 47

FILE REF. : VG/AMG/LD/152/271

SUBJECT : Proposed Orders.

TO : LEGAL SUB COMMISSION
(Attn: Lt.Col. Hannaford)
HQ. ALLIED COMMISSION,
R O M E

H. ALCOM
RECD
Hre 11 30
23 JAN 19
LEGAL DIVISION

Ref. telephone conversation (lt.Col.Hannaford-Major Reakes).

1. General Order No. 79 is based on the Italian Decree published in the Italian Official Gazette No. 128 of June 4, 1946 D.L.L. 5 May 1946 No. 393.

2. It is felt that this law should be made applicable to "the Territory" and after many consultations between Property Control, Legal and persons affected it was decided to put the matter through. Before doing so however it was considered that the matter should be pre=sented to you for your views.

3. The Jewish Community are anxious for the Order to be published as they consider the full benefits of I=talian legislation should be made applicable here. They consider they could straighten out their own affairs if this was done.

4. A news paper report (Basic news published by Allied Information Services, V.G.) on 4 Dec. 1946 in reporting the activities of the Council of Foreign Minis=sters (UNO) stated "An agreement was also reached that "unclaimed Jewish property in Rumania and Hungary should "be administered by local organisations and not by an "international refugee organisation as previously clai="med by Britain and the United States."

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There is still no info for Rumania & Hungary re whether the Peace Treaty is in force yet?

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5. By Trieste Area Order No. 3 provision was made for the continued Administration of the Jewish Community of Trieste (A.M.G. Gazette No. 4 dated 15 Oct. 1945) and Area Order No. 41 authorized elections for the Council of the Jewish Community of Trieste (A.M.G. Gazette No. 14 dated 15 March 1946). The Community is recognised and there would seem to be no objection to making full use of it to handle their own affairs. The Jewish Community has a legal persona under Italian Law.

6. Certain property still in the hands of the "State" illegally taken away by the Fascist Government must be returned to the rightful owners. These owners will require to prove their right in a Court of Law and for this purpose should raise an action against the holder. The Italian Decree for this purpose permits the suing of the "State". This cannot be done in Venezia Giulia nor can A.M.G. permit an action against it. It has been proposed that property Control should devest itself of this property to say the Intendente di Finanza and power be given to raise an action against them. (Art. XII).

7. It is felt that there is no need for delay in publishing this Order but that immediate effect should be given to it.

8. The Jews are principally congregated in Trieste and to publish the Order now would help Property Control and enable a start to be made in returning or getting back of property which had been taken away. The property is, so far as is known, in Trieste and the bulk of it belongs to the Jews. There is ~~Rosa~~ little property held for Pola

9. The Order conforms to the Italian Legislation in all respects save Art. V which has been added by this Headquarters. The reason for this addition is that there was German Military Government in Venezia Giulia and a German High Commissioner was appointed who issued Orders while the Germans were in occupation. This German High Commissioner confiscated much of the Jewish property and sold it and it is considered that the Jews should now be given the opportunity of either recovering this property or lodging claims. So far as Venezia Giulia is concerned this is probably the most important and essential clause.

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10. Your views in the matter would be much appreciated. It is regretted that this explanatory letter was not ready when ~~Lt~~.Col. Carnes called at this Headquarters.

For the Senior Civil Affairs Officer:

J.STEWART REAKES
Major, R.S.F.
D/CHIEF LEGAL OFFICER

Copy to Property Control (Maj.Board)

Duplicates
in 4005
4188/1

155

N.B. ~~for the reply see file 4188/1, post~~

2001

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

BASIC NEWS

4 DECEMBER 1946

No. 419 PUBLISHED BY ALLIED INFORMATION SERVICES, VENEZIA GIULIA Two Lire

Joint Merger Statement

NEW YORK, 3 — United States Secretary of State James Byrnes at a press conference announced the conclusion of a United States and British agreement for a economic merger of their occupation zones of Germany.

The plan which becomes effective January 1, makes the United States and Great Britain equal partners in a program to make the resultant German economic unit self-sufficient no later than 1950, with an eventual saving in costs to taxpayers of the United States and Great Britain. The British and American zones of Germany will continue to be politically independent.

«The agreement contemplates an economic Secretary Ernest Bevin, Byrnes said:

In a joint statement with British Foreign program designed to make the area self-sustaining in three years. By this program it is expected not only to decrease the cost of occupation of the area, but to make possible the gradual restoration of a healthy non-aggressive German economy, which will contribute materially to the economic stability of Europe.»

The agreement, details of which have been negotiated in the past two weeks in Washington, was signed by Secretary Byrnes and Secretary Bevin on Monday night following the conclusion of a meeting of the Council of Foreign Ministers.

In announcing the agreement, Byrnes renewed his invitation and expressed the hope that the Soviet Union and France will see their way clear to join in the agreement.

A joint statement declared:

«The two Secretaries of State declare that they considered this agreement a first step in the economic unification of Germany as a whole, which they hope will lead to discussions with other occupying powers for the extension of these or similar arrangements to other zones of occupation.

«The agreement provides for two classes of imports into the merged zone — those such as food and medicine for prevention of diseases and unrest, and those for the restoration of peaceful German industries.»

Byrnes said that the immediate costs of the program will be greater in 1947 than it would have been if the two zones remained separate. But he explained that at the end of that year, under the unified plan, it is expected that the two zones by operating together will attain an economic self sufficiency, which would not be possible if the two zones remained separate.

British Soldier Killed

JERUSALEM, 3 — It is now officially stated here that a British soldier was killed, and one wounded, when a jeep in which they were travelling struck a mine near Hadera, between Haifa and Telaviv.

A report that a second soldier was wounded has not yet been confirmed. (Reuter)

Indian Question Reviewed

LONDON, 3 — The «Daily Herald» in the course of a review of the recent British efforts to find a solution for Indian's difficulties observes, «a hurried but fateful conference takes place in London this week. Four Indian leaders — Pandit Nehru, of the Congress Party, Jinnah and Liaquat ali Khan, of the Moslem League, and Sardar Baldev Singh, of the Sikhs, are accompanying Lord Wavell, Viceroy, at the meetings with the Prime Minister and other members of the Cabinet. It is unavoidable that the conference should be brief. The Viceroy and Indian representatives have to return to India in time for the opening of the Constituent Assembly on December 9.

It was in the hope of ending the deadlock which threatens to wreck the Assembly's prospects that the British Government on November 26 suggested an eleventh-hour London meeting.

Although the efforts of the Labour Government to establish Indian freedom have suffered many setbacks, they had been admirable in their consistency and enterprise. Today's position is that the dispute has arisen over an interpretation of the British Cabinet mission proposals for the procedure of the Constituent Assembly proposals to which both the Congress Party and the Moslem League had agreed — and in consequence Jinnah has announced the League will not take part in the Assembly.

With this object in mind Attlee said, «to ensure successful meeting of the Constituent Assembly, and thus assisting a rapid smooth progress towards the goal of Indian freedom, the British Government suggested an emergency conference in London this week. Difficulties to be overcome are very formidable, but for the sake of India's 400 million people, and for sake of world progress, we hope good will and sincerity will surmount them».

The «Times» under the heading «Indian prospects» observes: «It is the earnest hope of the people of this country that success will crown the conversations which begin today between the Government and the representatives of the main Indian parties, whose presence in London is warmly welcomed. For India and Britain alike the issue is vital. If a satisfactory understanding between the parties represented at the conference will enable these differences to be adjusted by constitutional means, it will expedite the process of ending British responsibility for the governance of India, in circumstances which will favour friendly cooperation between the two countries in the international field.

«Success of this policy rests upon the assumption that major communities attach so much importance to the autonomy of India that they are prepared to cooperate, both in forming a central government of a broadly representative character, to which Britain can make over her power, and in evolving in a freelyelected constitutional assembly a structure of their own state.

«It is clear that the decision taken this week by the Indian representatives in London will affect, not only the fortunes of their own countrymen, but also many millions of Asiatics, whose developing sense of nationalism inclines them to study the Indian political scene with close attention the Cabinet mission has made a contribution of great value in ingenuity to the difficult task of maintaining India as a single international unit, while assuring to the Moslems the security from the perils attending the perpetual minority status.

«Upon the Congress Party representative rests the even heavier responsibility of rising above aspirations to his own great organisation, and adjusting his vision to the needs of the minorities, of his country as whole, and of the general structure of international security. Happiness or misery of the Indian millions now hangs in the balance. Wisdom and moderation must inspire the London discussions, if the imminent peril is to be successfully averted.» (LPS)

Completion Treaties Contemplated

WASHINGTON, 3 — Secretary of State James F. Byrnes told a press conference Tuesday that he expected the Council of Foreign Ministers to complete their work on the important questions of the Italian and other treaties in the next few days, and take up the question of treaties with Germany this week.

Byrnes said that, before he would agree to a meeting in Europe to discuss the German question, he would aks the Council of Foreign Ministers to agree in New York upon the agenda, which would justify such a meeting in Europe. He would notthink of flying the ocean unless was with a hope of accomplishing some good.

Byrnes said that the agreement as to an agenda of the Council of Foreign Ministers' meeting was always a difficult one and took time and should be done in New York. If questions of no great importance were to be discussed at the European meeting on the German question, he thought they could be done as well in New York as across the ocean.

He recalled that at an earlier meeting of the Conference of Foreign Ministers he had asked that special deputies be appointed to study the German problem. He thought the agenda decided upon here should give certain questions for the deputies to answer. He said he had received requests from the representatives of the Belgian, Netherlands, Czech, Polish and Luxembourg Government for a hearing at the Conferenze of Foreign Ministers on the German talks. (Reuter)

«Veto» Still Unsettled

LAKE SUCCESS, N. Y., 3 - A fourteen-nation subcommittee of the General Assembly's Political Committee, after a five-hour deliberation, failed to agree Monday on a resolution to be submitted to the Assembly on the veto question.

The subcommittee had before it six resolutions which it had been asked to reconcile into one draft. Before adjourning the discussion until tomorrow, the subcommittee asked the chairman to collaborate with the secretariat with the intention of forming a suggested draft for submission.

Indian H. P. S. Menon proposed that the General Assembly should recommend that the Security Council take account of its experience of the past few months and the lessons learned by the Security Council. By so doing it would create such conditions and develop such practices as would enable the Council to adopt agreed decisions, and «thus fulfil its heavy responsibilities under the Charters.

(Reuter)

2002

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

AMG Providing Hot Lunches

TRIESTE, 3 — A. M. G. has arranged for school lunches to be given free of charge to children attending either a public elementary school or kindergarten in Zone «A». School lunches were started in Gorizia Commune during October, and are now in full swing throughout the territory. On November 18th, the first day of commencement in Trieste Commune, 2,280 lunches were served to children at school and this figure was increased to 4,400 by November 25th. Reports from both communes continue to show a steady increase as written requests are received daily by school authorities from parents wishing their children to have the advantage of these free meals at school.

It is the aim of A. M. G. that all elementary schools will in time have their own kitchens, and these are now being repaired or built wherever possible. Schools with kitchens at present too small to cater for all the children requiring lunch are now drawing ready-cooked hot meals from the Commune. They are being brought to the schools in containers until further space or buildings are available. All the food prepared and cooked for the school lunches is provided by A. M. G., and also the funds for the purchase of new kitchen equipment. This year school boilers purchased in this way are being made in a local factory, where last year they were ordered from Milan until local industries were restarted. In each Commune there is a kitchen supervisor to ensure that all catering, preparation and cooking of food is carried out according to instructions and the advice of expert dieticians, and that food is kept in cupboards with hygienic precautions taken.

A.M.G. regards the school lunches as of primary importance to children of kindergarten and elementary school age, and it is hoped that as many parents as possible will take full advantage of the free meals offered their children as a help towards the building of a sound physique in mind and body of the young. (UNN)

Guardian on Schumacher

LONDON, 3 —The influential *Manchester Guardian* writes: French criticism of the visit to London of Doctor Schumacher and other representatives of the German Social Democratic Party did not come as a surprise to the Social Democrats, for the party representatives from the French zone of Germany, who were to have accompanied them, were prevented from doing so. Doctor Schumacher's comment in an interview Monday was to contest the assumption on which the French disapproval of his visit appeared to be based — that he was here at the invitation of or for talks with the British Government.

«We are not here as guests of the British Government,» he said. «We are here as representatives of a party visiting the British Labour Party. We are not representatives of a foreign government as there is no German government. Therefore, we are in position to carry on conversations with a government, and there can be no question of our doing so.»

Asked if he would meet the members of the British Government, he said, that if so it would be as members of the Labour Party not as members of the government. Doctor Schumacher has already met Hynd, minister in charge of German and Austrian affairs several times in Germany.

About the condition of Germany, Doctor Schumacher had nothing reassuring to say. One or two recent announcements of the Control Commission might be forced to be taken as signs of a British intention to improve matters, but the improvement itself he said, was not to be too hopeful since the recent cut in coal exports from Germany was offset by bad news of the electric power situation. It appeared that electric power was to be exported in increasing quantities. The western European countries bordering on Germany had, he said, increased their demands for power.

«As a result the manufacturing industries are being closed down even further,» he said. «These industries are quite essential to any economic improvement in Germany. It looks as though we shall have coal now, but shall not be able to use it for want of power.»

He added that in the steel industry some encouragement had been gained from the Control Commission's announcement that the two big steelworks of Hoesch R. G. and Bochumer Verein were not to be dismantled this winter. Against it, Doctor Schumacher set his misgiving about the British determination to carry through their plans for socialising the Ruhr steel industry.

The British policy has been clearly stated in this matter. It is that the German steel industry should be publicly owned, and the owners should not recover possession of it. Obviously the German executive head of bi-zonal economic administration is not in a position to reverse this policy. Doctor Schumacher's doubts are perhaps most important as an indication of the lack of confidence of the Social Democrats in new bi-zonal administrations. (Reuter)

USSR Changes MG Policy

BERLIN, 3 — Marshal Sokolovsky, Supreme Commander of the Soviet Military Administration in Germany, has instructed all presidents of the provinces and states in the Soviet occupation zone to transfer their full powers to the provincial diets and newly elected governments, according to the American News Service in Germany. (Reuter)

Bellenger Fixes Repatriation

LONDON, 3 — Approximately 8,300 Austrian and German prisoners of war are being repatriated from the Middle East in November and December, according to War Minister Frederick Bellenger, in a parliamentary reply Tuesday.

He said early 2500 Germans will be repatriated each month from January to June of next year but facilities were not available for the movement of more than this number.

The situation thereafter should improve, and he expected that at least 5,000 a month would then be repatriated. (Reuter)

Auriol Elected President

PARIS, 3 — Vincent Auriol, outstanding Socialist, was elected President (Speaker) of the French National Assembly Tuesday for the third successive term defeating his Communist and Radical rivals.

It was thought he would be unopposed but at the last moment the Communist party put up veteran Communist Marcel Cachin, who was France's first Communist Senator, to oppose him and the Radicals nominated Alexandre Varenne, former Governor of Indochina.

The voting was: Vincent Auriol 284 votes, Marcel Cachin 170 votes, Alexandre Varenne 98 votes. (Reuter)

Veto Sub-Committee Appointed

LAKE SUCCESS, 3 — The fourteen nation sub-committee appointed by the Political and Security Committee of the U. N. Assembly on Monday began the consideration of various resolutions concerning the unanimity rule in the Security Council. The sub-committee will attempt to draft a compromise resolution regarding the veto power.

Major powers as well as authors of the resolutions are represented on the sub-committee, appointed Monday by a 33 to 8 vote. Nations who have presented resolutions on the veto are Argentina, Australia, Cuba, Peru, Philippines and the Soviet Union. Others on the sub-committee are China, France, United Kingdom, United States, Denmark, Poland, India and Venezuela.

The resolutions run all the way from a proposed revision of the U. N. Charter to a proposed vote of confidence in the future work of the Security Council.

U. S. Delegate Tom Connally on Tuesday told the Committee that the U. S. supports the unanimity rule in the Security Council. But, he emphasized, «We urge upon the Security Council the utmost liberality, and utmost tolerance in its approach to questions that come before it». He reiterated his view that the veto power must not be used to impede or hinder the operation of the Security Council, or would eventually have to be limited. «If the Security Council is to wield the influence which we hope it will wield in the world,» he added, «it must have the confidence not alone of the U. N., but of the peoples of the world.»

Connally stressed the point that the U. S. does not seek revision of the U. N. Charter at this time, but wants to see more accomodation of views among the major powers. In the long run, he commented, «No nation can walk the road of peace alone. It must have associates. It must have the rest of the world. No nation alone can attain world dominion. That dream has been shattered over the centuries by would — be conquerors, whose dust now reminds us of the falsity of their ambitions. So it is a question of living together in peace, living together in harmony.»

Connally said the U. S. supports «in the main» the revised Australian proposal for consultation between the Security Council members and for the adoption of new methods of procedure to make sure that the veto power is not used to hinder the Council's work. He said, however, that the U. S. does not support the paragraph in the Australian proposal which censures the Security Council for its activities during the past year.

«It is either live in peace together or march down the broad highway that leads to hell,» Connally concluded.

Soviet Delegate Andrei Vyshinsky introduced a resolution calling upon the Assembly to express renewed confidence in the U. N. organs, including the Security Council. He pointed out that the major powers all agreed the unanimity rule should apply only to issues of vital concern, but that the powers seemed to hold different opinions over which issues are of vital concern.

United Kingdom's Sir Hartley Shawcross put forward a plan for procedures governing the use of the veto power. The plan calls for a Big Five consultation if a veto seems probable, other points in plan include: Use of veto only on questions of vital importance to all United Nations, agreement not to use veto against a proposal on grounds that it does not go far enough; agreement that questions should be brought before Security Council only after other means of settlement have been tried; formula to be devised for definition a word «dispute» and a procedure whereby a permanent member of the Council might abstain

2003

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

TEXT OF MERGER AGREEMENT

LONDON, 3 — A communique from the British and United States Governments on the integration of their two zones in Germany, issued in London as a White Paper Tuesday afternoon is signed by Ernest Bevin for Britain, and James James F. Byrnes for the United States. The full text is as follows:

Representatives of the two governments have met at Washington to discuss the questions arising out of the economic fusion of their zones of occupation in Germany. They have taken as a basis of their discussion the fact that the aim of the two governments is to achieve an economic unity of Germany as a whole, in accordance with the agreement reached at Potsdam on August 2, 1945.

The arrangements set out hereunder for the United States and the United Kingdom zones should be regarded as the first step towards the achievement of the economic unity of Germany as a whole, in accordance with that agreement. The two governments are ready at any time to enter into discussions with either of the other occupying powers with the view to an extension of these arrangements to their zones of occupation.

Agreement has been reached on the following:

1 - *Date of inception.* This agreement for the economic fusion of the two zones shall take effect in January 1947.

2 - The zones shall be treated as a single area for all economic purposes. All imports into the area including food shall be pooled in order to produce a common standard of living.

3 - *German administrative agencies.* The United States and the United Kingdom Comenanders-in-Chief are responsible for the setting up under their joint control German administrative agencies necessary to the economic unification of the two zones.

4 - *Agency for foreign trade.* Responsibility for foreign trade will rest initially with the joint export-import agency (United States-United Kingdom) or such other agency as may be established by the two commanders-in-chief. This responsibility shall be transferred to a German administrative agency for foreign trade under joint supervision to the maximum extent permitted by restrictions, existing in foreign countries at any given period.

5 - *Basis of economic planning.* The aim of the two governments is the achievement by the end of 1949 of of a self-sustaining economy for the area.

6 - *Sharing of financial responsibility.* Subject to the provision of necessary appropriations, the governments of the United States and the United Kingdom will become responsible on an equal basis for the costs of approved imports brought into account after December 31, 1946, (including stocks on hand financed by the respective governments), insofar as these cannot be paid for from other sources in accordance with the following provisions:

A) - For this purpose imports of the area shall be divided into two categories: Those imports required to prevent disease, (category A), which are financed in decreasing amounts by appropriated funds, and those further imports, (including A materials), however financed, which will be required if the economic state of the area is to recover to the extent sufficient to achieve the aim laid down in paragraph 5 of this agreement (category B).

B) - It is the intention of the two governments that the full cost of category A imports shall be defrayed as soon as possible subject to sub-paragraph (C) below from proceeds of exports. Any portion of the cost of category A imports which is not met by exports' proceeds will be defrayed by the two governments in equal shares from appropriated funds.

C) - Proceeds of exports from the area shall be collected by a joint export-import agency and shall be used primarily for the provisions of category B imports, until there is a surplus of export proceeds over the cost of these imports.

D) - In order to provide funds to procedure category B imports:

1 - The Government of the United Kingdom will make available to the joint export-import agency the sum of 29,300,000 dollars in the settlement of an understanding reached in September 1945, for the pooling of proceeds of exports from the two zones in proportion to the import expenditures, which shall be credited to the United States contribution.

2 - In addition to this sum, accumulated proceeds of exports from the United States zone will be made available to the joint export-import agency for the purchase of category B imports.

3 - The Government of the United Kingdom will provide category B goods at the request of the joint export-import agency to the value equal to that of the United States contribution under sub-paragraph one and two above.

4 - The Governments of the United States and the United Kingdom will make available to the joint export-import agency in like amounts their respective shares of the sum to be used for financing the purchases of essential commodities for the German economy, under provisions and Sweden of accord dated July 18, 1946, between the governments of the United States, upon ratification by the government of the United Kingdom and France on the one hand and Sweden on the other.

5 - Any further sums, which are agreed by the joint export-import agency to be required for the purchase of category B imports, shall be provided by the two governments on an equal basis in such a manner as they may agree. To the extent that either government advances sums for the purchase of raw materials for processing on special terms as regards security and repayment the other government may advance equal sums on similar terms.

6 - Costs incurred by the two governments for their two zones before January 1, 1947, and for the area thereafter, shall be recovered from future German exports in the shortest practicable time consistent with the rebuilding of German economy on healthy and non-aggressive lines.

7 - *Relaxation of barriers to trade.* With a view to facilitating the expansion of German exports, barriers in the way of trade with Germany should be removed as rapidly as world conditions permit. To the same end the establishment of an exchange value for the mark should be undertaken as soon as this is practicable. Financial reform should be affected in Germany at an early date, and the exchange of full technical and business communications between Germany and other countries should be facilitated as soon as possible. Potential buyers of German goods should be provided access to both zones to the full extent that facilities permit, and normal business channels should be restored as soon as possible.

8 - *Procurement.* Determination of import requirements shall be the responsibility of the joint export-import agency. Procurement of these requirements shall be dealt with as follows:

1 - Procurement of category A imports to the extent that they are financed from appropriate funds of either government shall be the responsibility of that government.

2 - Procurement of category B imports and category A imports, to the extent that they are not financed by appropriated funds, shall be the responsibility of the joint export-import agency with such assistance from the two governments as may be desired. Unless otherwise agreed upon the provisions will be subject to:

(a) procurement shall be from the most economical sources of supply. However, sources shall be selected to the fullest extent practicable so as to minimize the drain on dollar resources of the United Kingdom.

The two governments will establish a joint committee in Washington with the following responsibilities: (a) in case of commodities in short supply, to support the requirements of the joint export-import agency before the appropriate authorities. (b) To determine where necessary the sources of supply, and to designate the procurement agencies having regard to the financial responsibilities and exchange resources of the two governments.

«With respect to (A) above, the two governments agree to assist the committee in obtaining the requirements of the joint export-import agency, having regard to all other legitimate claims on the available world supply.

With respect to (B) above where financial responsibility rests with one government and the designated sources of supply is in a territory under the authority of the other government the latter, if so requested, will accept the responsibility for procuring those supplies as an agent for the former.

9 - *Currency and banking arrangements.* Bipartite finance committee will be authorized to open accounts with the approved banks of countries in which the joint export-import agency is operating, provided that agreements are negotiated with those countries for credit balances to be transferred on demand into dollars or sterling. The bipartite finance committee will be authorized to accept payment of the balances in either dollars or pounds sterling, whichever in the judgment of the export-import agency may be the better utilized in financing essential imports.

10 - *Food.* The two governments will

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support to fulfilment that appropriated and other funds will permit an increase in the present ration standard to 1800 calories for the normal consumer as soon as world food supplies permit. This standard is accorded as the minimum which will support reasonable economic recovery. However, in view of the current world food supply the ration standard of 1550 calories for the normal consumer must be accepted at present.

11 - *Imports for displaced persons.* Subject to any international agreement subsequently to be made for the maintenance of displaced persons within both zones, supplementary rations and other benefits which may be provided for displaced persons in excess of those available to German citizens, must be brought into Germany without cost to German economy.

12 - *Duration.* It is the intention of the two governments that this agreement shall govern their mutual arrangements for the economic administration of the area, pending an agreement for treatment as an economic unit, or until amendment by mutual agreement. It shall be reviewed at yearly intervals.

(Signed) ERNEST BEVIN
(Signed) JAMES F. BYRNES
New York, 2nd December, 1946.»
(Reuter)

Bevin Describes Merger

NEW YORK, 3 — Ernest Bevin, British Foreign Minister, described the new Anglo-American merger agreement as the «beginning of the end of our economic troubles, as far as Germany is concerned.» Bevin, who was addressing a press conference, said «the agreement is not in any way directed by antagonism toward any other government. It was born from sheer necessity and we still hope it will be possible to bring in the other zones.»

Bevin explained that the plan originated in the talk held in Paris to decide what should be done to deal with the dilemma that resulted from the nonfulfilment of the economic clause of the Potsdam Agreement. This was the clause laying down that Germany under occupation should be as one economic unit.

Bevin summarised the objectives of the plan as follows: Firstly — to put an end to the dilemma, which had arisen out of rival claims of the distressed ex-occupied countries of Germany, and of economic necessity of putting order in to chaos in Germany itself.

Secondly — It built industry in Germany — under such a control that it would not be aggressive — which would serve Europe, and the rest of the world and Germany itself.

Thirdly — To remove the standard of living from the level permanently below normal for the largest single population in Europe which if perpetuated might threaten the whole of Western European living standards.

Fourthly — To alleviate the burden on British and American taxpayers by enabling Germany to make adequate exports to pay for her own essential minimum imports.

He admitted that the three i year economic plan represented by the agreement raised the whole question of the level of industry in Germany, and said this would have to be gone into by the Allies.

Regarding exports, which Germany will send abroad to pay progressively for her imports, it is expected that among the early deliveries will be coal, textiles, pharmaceutical products, chemicals, and ceramics, all of which are at present short in world supply. Partly finished goods from the Ruhr will also be among early deliveries. (Reuter)

Big Four Progress

NEW YORK, 3 — The Council of Foreign Ministers made some progress on a few small outstanding points but left aside the problem of the Danube and the important question of compensation.

An agreement was also reached that unclaimed Jewish property in Rumania and Hungary should be administered by local organisations, and not by an international refugee organisation as previously claimed by Britain and the United States.

Soviet Foreign Minister Molotov then surprisingly withdrew opposition to the insertion in the Italian treaty of an agreement between Italy and Austria on South Tyrol. General agreement also appeared to be reached on the inclusion of Albania as an Allied country, benefitting from the treaties, but there was some delay in preparing the final draft.

The question of the membership of Italy on the International Financial Commission in Greece was also disposed of by barring Italy from the commission henceforth.

A long discussion was then held on the old stumblingblock: whether any country not ratifying the treaties shall derive the benefits therefrom. British Foreign Secretary Bevin said that supposing the Big Four signed the treaties, they would be obliged to withdraw their troops, but supposing Yugoslavia did not sign, she could then keep her troops in occupation.

Molotov finally agreed on the principle that no country shall benefit without ratification of the treaty, and the question has now been sent to deputies for drafting.

France, the United States and Russia accepted no change in the Greek-Bulgarian frontier, but Bevin asked until tomorrow to consider this, although he said he thought it acceptable in principle. No fortifications shall be constructed on either side of the frontier from the time of ratification of the treaty.

Lastly, the Foreign Ministers agreed that Greece and Yugoslavia should each receive 150 million dollars reparations from Italy and Bulgaria. But the Ministers were unable to agree in what proportion the sums should be paid by Italy and Bulgaria.

Notice to Farmers

TRIESTE — The Provincial Inspector for Agriculture announces that the many farmers not having complied with the order holding them responsible for notifying their local offices of agricultural economic statistics of their total maize produce for the season are still being invited to do so.

Agriculturalists found in contravention of this regulation will be charged under General order No. 61 and tried by the A.M.G. Tribunal. (UNN)

Ammunition Dump Explodes

PARIS, 3 — An ammunition dump near Strasbourg blew up Monday night with a tremendous explosion, heard thirty Kilometres away, and setting fire to houses in the nearby village of Bernhard Biller. Although there were no casualties windows throughout the area were shattered. (Reuter)

German Responsibility Increases

STUTTGART, 3 — Major General Frank Keating, representing General Lucius Clay, Deputy Governor of the United States zone, forecast a «tremendous increase in German responsibility» when he opened the fifteenth meeting of the German Council of States in the United States zone.

«As you venture into the new area of government it is understood changes will occur not only in the German Government, but also in the operation of the Military Government,» Keating said.

«The evolution will be characterised, largely by a tremendous increase in German responsibility. Likewise, the Military Government will change through the gradual decrease in operating responsibilities. If we did not intend to remove a number of Military Government obstables.»

The Military Government's directive outlining the relationship between the German and the occupying power at present, debars Germans from all activities, under International agreements, from four power matters, and also from matters relating to basic policy decisions of a Anglo-American bipartite board, and rights of the occupying powers. (Reuter)

Antartic Expedition Underway

WASHINGTON, 3 — Led by Rear Admiral Richard Byrd veteran polar explorer, «Operation Highjump» to the Antarctic got under way Monday, when most of the thirteen ships of the United States Naval Task Force sailed from Atlantic and Pacific ports.

Described as the most ambitious expedition to the Antarctic ever undertaken, the force will carry out an aerial survey of four million square miles of still unexplored Antartic during the coming South Polar summer.

The expedition will be equipped with planes fitted with new services able to determine the nature of the mineral resources beneath the vast Icecap. (Reuter)

Canada Accepts German Scientists

OTTAWA, 3 — The Canadian government has announced that it will admit a number of German scientists and technicians to Canada on a temporary basis for «industrial and educational purposes.» The Germans will be thoroughly investigated before admission, which in each case must be recommended by the National Research Council and the Director General of Defense Research. The Germans will perform duties for which no Canadian personnel are available, the annouuncement added. (USIS)

Wavell, Nehru in England

LONDON, 3 — Within two hours of arrival by air from India, Viceroy Wavell had his first meeting with Prime Minister Clement Attlee at 10 Dowing street, and outlined the present position of the political deadlock.

Earlier in the day the special plane bringing the Viceroy, with Leader Pandit Nehru, President of the Moslem League, Ali Jinnah, League Secretary, Liaquat Ali Khan and Sikh Leader Sardas Baldev Singh for talks with the British Government on the Indian constitutional situation, landed at a London airport.

From the early hours of the morning representatives of Indian communities in Britain kept arriving at the airport. (Reuter)

2003

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Copy

HEADQUARTERS, ALLIED MILITARY GOVERNMENT, VENEZIA GIULIA

Office of the Senior Civil Affairs Officer ACB/el/jen

42A

VG/AMG/ 22 November 1946.

Colonel A. L. Hamblen
Assistant Chief of Staff,
Allied Force Headquarters.

My dear Colonel,

Reference is to my letter VG/AMG/4 of 18 October. I have now received another letter from Colonel Gold and in order to make the whole situation as clear as possible I enclose a copy.

In my opinion, nothing would be more fortunate for this headquarters in its present position than the return of Lt. Colonel Gold, and it would be very desirable that he return in the grade conferred upon him by his terminal promotion if this is possible.

This would enable me, without embarrassment, to make him Chief Legal Officer, a position which he occupied with very great distinction for a long time during the most critical period of this operation.

You will note that Colonel Gold is not only willing but anxious to get back on the job as soon as possible. I hope that your headquarters will do everything possible to facilitate and expedite this most desirable eventuality and you can consider that all requests made by him in this connection have my full support and approval.

Sincerely,

ACB

ALFRED C. BOWEN
Colonel, J.A.G.D.
Senior Civil Affairs Officer

Copies to:
~~[illegible]~~
✓ Col. Weber AC Rome.

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2005

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COPY Inclosure

Chernin & Gold
Attorneys and Counsellors at Law
300 Press Building
Binghamton, New York

12 Nov 1946

Dear Colonel,

Thanks very much for your letter of 29 October. I am, of course, deeply grateful for your interest.

I have decided that it would be best to return in a military status if possible, since I feel I could be more useful that way.

I have nothing to hold me here for the next year or so, no dependents, and not much interest as yet in private practice, although it is very lucrative in these times.

I am writing the Adjutant General today asking for certain information and will apply formally for return to active service.

One matter I must ask about is the question of limited service. On account of my eyes, I entered the Army and served in limited service The general rule for return to active service is fitness for general service-but I am told that this can be waived. Could you ask AFHQ to cover this point in communicating with the War Department?

I was promoted upon release to Lt. Colonel, having had the necessary time in grade. Naturally, I would like to come back in that grade, if possible. I believe if the representations from AFHQ are strong enough, it will be permitted, although, I am told that the general rule is to the contrary.

Finally, since I have decided to do it, I would appreciate any help AFHQ can give in hurrying up the application in the War Department. If accepted, I would like also to skip the boat ride and come by plane, although I realize that

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2007

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there is probably little you can do about that from your end.

I talked with the head of the Recruiting Service here, a Major, who advised very strongly that I enclose your letter with the one I am writing to the Adjutant General, and I am doing so.

Will you kindly write me as to developments from your end?

Again, many thanks for your interest and help, and with kindest wishes,

Sincerely,

/s/ A Gold

2008

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

Copy

Col Weber's copy

41A

HEADQUARTERS, ALLIED MILITARY GOVERNMENT, VENEZIA GIULIA

Office of the Senior Civil Affairs Officer ACB/hm

VG/AMG/4

16 November 1946

Subject: Arbitration Boards; Civil Suits.

Memorandum to: Legal Division.

1. I refer to your VG/AMG/LD/99/3558 of 16 November 1946.

2. The proposal of Avv. BUDA which of course applies only to civil causes provides substantially for the handling of lawsuits by arbitration commissions consisting of lawyers exercising the powers of judges pro tempore and is not dissimilar to schemes frequently resorted to in the United States when courts get behind in their work.

3. I am personally opposed to these makeshifts and substitutes in principle and think it extremely important that they be used exclusively as emergency measures. Court work should be done by courts.

4. I particularly dislike the idea of resorting to "crutches" of this kind when I am satisfied that the arrears of court business are due largely to lack of interest, application, and diligence on the part of the judges whose duty it is to handle these matters expeditiously.

5. I would much prefer that action to relieve the pressure of arrears should take the form so far as possible of exerting pressure on the judges to do their job. Whether this method has been carried to the limit is for you rather than for me to decide. If it has, then I will waive my objections and agree to the institution of the scheme proposed by Avv. BUDA which I gather has your approval.

6. Before submitting an order, however, please clear the matter in all its aspects with your professional superiors at Allied Force Headquarters and/or Allied Commission.

/s/ Alfred C. Bowman

/t/ ALFRED C. BOWMAN
Colonel, J.A.G.D.
Senior Civil Affairs Officer

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Copy to:
Asst. Chief of Staff, G-5
Allied Force Headquarters

Chief Legal Advisor,
Allied Commission.

COPY

2009

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4188/4

INCOMING MESSAGE

HEADQUARTERS ALLIED COMMISSION

Legal. FILE HOA

Originator's Reference: C11401
Date/Time of Origin: JAN 301341A

Message Centre No: H/9511
Date Time Rec'd: JAN 301800
Precedence: ROUTINE

FROM: AFHQ G-5

TO: AMG VENEZIA GIULIA ,INFO : AIOM ROME

UNCLASSIFIED:

Order 70 already exists. Reur 8/4 of 28 January 47. Approve publication revision embodying suggested amendments.

AC DIST

INFO ACTION : LEGAL

INFO : CHIEF COMMISSIONER

EX COMGR

FLOAT

FILE

INFO - ACTION

LEGAL SUB - COMMISSION

CJO - CLA	5
DCLO	
CHIEF COUNSEL	
ITALIAN SECTION	
Recd	31 JAN 1947

2010

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FILE
3 9A

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL DIVISION

AG/4108/4/L

LJG/ns
27 January 1947.

SUBJECT : Crimes committed in ZONE B.

TO : S.C.A.O. VENEZIA GIULIA
(Attention: Chief Legal Officer).

1. Reference is made to your letter 13c/AMG/LD/180/2425 dated 20 August 1946, subject as above.

2. Attention is invited to paragraph 3 of this communication. Request is made that this office be informed regarding the present status of this matter.

By command of Rear Admiral STONE :

L.J. GILBRIDE,
Major IGD,
Chief Counsel,
for Chief Legal Advisor.

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

LEGAL

MU/FO

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
13 CORPS

LEGAL DIVISION

20 August 1946

Reference No.: 13C/AMG/LD/180/2425

Subject : Crimes committed in Zone B.

To : Allied Commission, Legal Sub-Commission.

attachment 14 ff

1. Ref your AC/4188/4/L dated 8 Aug 1946.

2. This matter is under investigation by the investigation section of the Court of Appeals at Trieste.

3. When investigation is completed, you will be advised and necessary comments supplied.

for the Senior Civil Affairs Officer:

Charles M. MUNNECKE
Lt. Colonel
Chief Legal Officer

LEGAL SUB COMMISSION
CHIEF LEGAL ADVISOR
DEPUTY CHIEF LEGAL ADVISOR
CHIEF COUNSEL
STAFF OFFICER
ITALIAN SECTION
MEMBERS REVIEW BOARD
AUG 26 1946

Brought forward 9 Sept

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2017

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file 4188/4

Col. Ahnweck telephoned that they have no previous correspondence from Leg. Div. on this matter.

30/11/ C. A. Section unable to find any previous correspondence on this subject. Leg. Div. has given previous opinions on this gun, but they cannot be traced.

6906

400.5

Legal Div

CA1/21

34A

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
13 CORPS

VENEZIA GIULIA
LEGAL DIVISION

Reference: VG/AMG/LD/104/3526 14 November 1946

Subject : Assumption of Family Name.

To : HEADQUARTERS, ALLIED COMMISSION. APO, 394
(for Civil Affairs Section).

1. Reference is made to this H.Q.'s letter No. 13 G/AMG/41/4/174 dated 6 Feb. 1946, subject: Proposed Order for Assumption of Family Name.

2. It was understood at that time, that the Italian Prime Minister did not agree with the issuing of the proposed Order, because it could have substantially furnished further propaganda material for the Slovenes in Venezia Giulia.

3. We have recently noted in the Italian Gazette No. 250, of Nov. 4th 1946, that the Prefect of Bolzano has issued some decrees by which persons deprived of their Family Name owing to the decree No. 417 of 10 Jan. 926 are now authorized to reassume their former name.

A.1.c

4. The situation here has not changed in the meantime and there are still many persons asking and urging to re-obtain their former names through a simple procedure. It seems to us that it would appear quite unfair not to grant them the same opportunity as the people of Bolzano.

5. If a formal Order stating the principle of the re-assumption of former Family Name is still considered dangerous and unadvisable, we could manage to instruct each Area President (Prefect) in the Territory to collect the applications and issue same decrees in the same way as it has been made by the Prefect of Bolzano.

6. We request you therefore to discuss the matter with the Italian Prime Minister and to let us know your views and recommendations in the matter.

For the Senior Civil Affairs Officer :

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LEGAL SUB-COMMISSION

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4. We have recently noted in the Italian Gazette No. 250, of Nov. 4th 1945, that the Prefect of Bolzano has issued some decrees by which persons deprived of their family Name owing to the decree No. 417 of 10 Jun. 1926 are now authorized to resume their former name.

A.I.2

5. The situation here has not changed in the meantime and there are still many persons asking and urging to re-obtain their former names through a simple procedure. It seems to us that it would appear quite unfair not to grant them the same opportunity as the people of Bolzano.

6. If a formal Order stating the principle of the re-assumption of former family Name is still considered dangerous and unadvisable, we could manage to instruct each Area President (Prefect) in the Territory to collect the applications and issue ...ew decrees in the same way as it has been made by the Prefect of Bolzano.

7. We request you therefore to discuss the matter with the Italian Prime Minister and to let us know your views and recommendations in the matter.

For the Senior Civil Affairs Officer :

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CHARLES L. KUHLMAN
Lt. COLONEL
CHIEF LEGAL SECTION

LEGAL SUB - COMMISSION	
CJO - CLA	
DCLO	
CHIEF COUNSEL	
ITALIAN SECTION	
Recd	NOV 20 1946

Copy V.

Copy V.G.

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2015

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

FROM: LT.COL.S.G.HANNAFORD

HQ ALLIED COMMISSION
LEGAL DIVISION
APO 794

24 January 1947.



Dear Reakes,

Col. Weber has passed me your letter of 20 January referring to our notes on the draft of G.O. 70.

We and I both feel that you are in a much better position, being on the spot, to judge whether the decree will serve a useful purpose or not. Therefore you will have to take the responsibility of having it published in its present form if you think so fit.

Col. Weber and I are grateful that you have decided to enclose some of our suggested amendments in the decree and as you write that there was no need to consult the Allied Commission at all, we are both extremely grateful of the courtesy shown to us in doing so. (Para 2 of second page of notes on G.O. 70 refers).

Yours

2916

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

Confidential

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
VENEZIA GIULIA

36A

LEGAL DIVISION

JSR/zs
20 Jan. 47

TO:

Col. J.C. WEBER,
C.L.C.
LEGAL SUB COMMISSION,
HQ. ALLIED COMMISSION,
R O M E

Dear Col. WEBER,

Ref. our telephone conversation I send you draft of Order No. 88 (replacing General Order No. 70 -ex= propriation of Profits). In revising the old Order No. 70 we have taken the opportunity of encluding the amendments to the original Italian Law as set out in D.L. C.P.S. 19 Nov. 1946 No. 392, translation of which I enclose for your use. We have thus brought the Order up to date. The new passages I have marked with a red pencil for easy reference.

We have also taken the opportunity of including the bulk of the amendments suggested by your Sub Commission. These I have not marked but can easily be checked from the Notes prepared at your Headquarters. I am sending you unofficially a copy of our reply to the points rai= sed in the Notes received from your HQ. These I do not propose to send out officially nor do I intend anyone else at this Headquarters to see. We had to go over the Notes point by point and did so.

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As there is some urgency in the matter this HQ.

2017

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proposes to get on with the printing work for the ~~text~~ next issue of the Gazette on 1st February. If you do not approve of the Order as it stands may we hear from you soon say in four days from receipt either by signal or telephone. I am sorry to ask you to do this but time is getting so short and with so much on hand we should like to hand over in a more or less complete state.

I wish you the compliments of the Season - a bit late but nevertheless sincere. If you do come to Trieste and I hope you do, do come and have dinner with my wife and I.

Kind regards,

Yours sincerely

J. Hudson Reaks-Hay

PS. I am sending this to you by the hands of the Lt.Col. ATKINSON .

Duplicate in file AE/4005/L, f.a. 292A

2018

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

Not received.
Please Kindly Trace.
20 Jan.

JBR/as

REPLY TO NOTES ON VENEZIA GIU-
LIA GENERAL ORDER No. 70 MADE
BY HQ. ALLIED COMMISSION.

GENERAL

The Order is not considered ultra vires. A.M.G. have power at their discretion to apply Italian legislation if it considers it should be applied, and can use Italian legislation, modified if necessary to suit the peculiar conditions existing in Venezia Giulia.

The Italian State cannot lose by collection of this money they still have commitments for Venezia Giulia and any sums collected will be off set against sums due. In any case financial matters will be and must be the subject of adjustment at a near future date.

NOTES IN ANSWER TO THE POINTS
RAISED ON THE ORDER.

---

1. The Order was not prepared or published under pressure. This Order is an important and essential step in the legislation for defascism and epuration and had been under consideration for some time.

2. The Order is being applied by Italians as is customary with all taxes collected. Tax payers are well protected by the normal Finance rules of procedure. The allegations against the Order apply equally to the Italian Decree. The word "estate" might have been used but there are objections to this.

3. The Order is being reconsidered with a view to amendment where necessary.

4. No comments.

2019

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ORIGINAL ORDER No. 70

1. This Order has had considerable study by experts in finance administration.

2. The policy is a decided one of Defascism and Epuration at Headquarters AG. Defascism and Epuration were carried out in Italy by the Italian Government under Supervision of Allied Commission. In Venezia Giulia it has to be carried out by Allied Military Government. There was no need to apply to AMGOT.

3. No two translations could ever be the same.

4. This is necessary. This Order is a consolidated one.

5. The word "state" would have been preferable but this Headquarters was asked not to use it. Hence Finance Administration or Public Treasury where necessary. No definition is considered necessary.

6. No comments.

COMMENTS ON ARTICLES OF THE ORDER.

7. Art. 1 Sec. 1 (a) This is what the Italian decree provides.
Art. 1 Sec. 2 (b) Order is in order.
Art. 2 Sec. 3 - being amended.

Art. 11 "Pei gerarchi fascisti" cannot be translated by "members of high rank". What is the beginning of high rank. It literally means members above the ordinary rank and file. The Italian uses those words. We can incorporate the words in brackets after the English. Being amended.

Art. 14. (Sec. 2) This was done deliberately. No one can be expected to make a declaration if he has not received notice. It is for Intendente di Finanza to prove notification. Notification is by messenger who gets a receipt for the letter. It seems to be a point of little moment. Being amended.

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2020

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Art. 15(Sec. 1). The Italian Law is not definite. It does not mean " found guilty" but presumed or considered. It must be proved to have been done for the purpose of avoiding action. The section is clear and no amendment is considered necessary.

Art. 15(Sec. 2). Opposition is generic and includes Appeal. The Text is wider and means opposition. The word " waived" might be used in place of "remitted". The word remitted is a technical word used regularly in Finance and its meaning is perfectly understood. It is not recommended that it be altered.

Art. 17. Not of great importance. Attempted to keep close to the Italian. A.G. say so arrive at the same meaning.

Art. 18. In via eccezionale "By way of exception". Instead of making it an exception we said may order. The benefit is to the people affected. Of little account.

Art. 19. Change not considered necessary. The Order is clear.

Art. 22.(Sec.2). An English equivalent is necessary and if qualified by the It. phrase helps. The suggestion is not helpful.

Art. 28. Lien or want is stands for is clearly shown in the statutes referred. Ranking or general ranking is surely, technical also. 28 (2) Book credits. Agree, to use "written obligations to pay".

Sec. 3 - No - the Italian use the word priority. Preferable to the word rank which is an English technical word.

Art. 29 (Sec. 1). The Text is clear. But with shall be made.

Art. 30 Fine deliberately because in Italy they pay their taxes in 6 instalments whereas as in U.K. they pay in 3.

Art. 31 (Sec. 1) Unnecessary. No change proposed. The suggested amendment uses words that are not English and is a literal

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translation avoided by this Headquarters to strengthen the wording.

Free to be amended to "free"

Sec. 2 (a) Not essential. If abuse or guarantee is given (in any form) there would be an administration. The Italian was ambiguous and we made a clear cut case of this.
Sec. 2(b)"Completamento" cannot be translated. It does not appear in any dictionary. It means "the carrying out" the making of an inventory which is what was said.

Sec. 2 (a) Translation is clear and correct. It is not technical but a plain translation.

Art. 32 (Sec. 1). Inasmuch Italy necessary already covered. Will amend.

Sec. 2) No comment.

Art. 33 (Sec. 1). There is not practical concurrent on the share certificate. The designation is against the share itself.

Art. 34 (a). No better translation possible. It is to draw the distinction in Italian law between the legal status of an individual and a body-corp or partnership. Law will be amended.

Art. 35 - The shareholder. Sing and not plural. The Italian is vote not vote and the translation of vote for vote is entirely wrong.

Art. 36 - The correct authority would be A.F.C. but we shall not be more. We could have put "state" but this was objection. Finance Administration was approved of and used deliberately. Being the permanent body dealing with the application of the Order.
The interested party "should be the aggrieved party". Shareholder might be a better word.

Art. 42 (Sec. 1) Amend "action" to read "duration", "then" to read "than".

Sec. 3) Being in the Italian Text there is no need to go further. Where possible Ita-

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lian insertions should be kept to a minimum.

Art. 43 (a) - No need. It is in the Italian text.
(b) - No comment. The trginal is considered better.
(c) - Amend formally to formerly.
The request would not be accepted by the Ufficio del Registro unless presented in legal form.
Being amended.
Declaration of invalidity might be better but nullity is clear.

Art. 44 It was desired by this Headquarters.

Art. 45 (Sec. 1). No explanation is given as to why this does not seem satisfactory. It is in the Italian Decree and they are not incongruous nor are they linked together.

The clause objected to seems clear. It finalises the action and those not on lists cannot be proceeded against.

Art. 47 - This is a measure which will take place in a short time and it was felt that A.M.G. should make the decisions. It is felt that this power should not be left with Finance Administration and that it is an Allied Military Government policy matter.(i.e. military reasons.)

Art. 48 - Not of great importance. The Italian text is clear. For Credit substitute Right to payment.

Art. 49 - These time limits have been extended both here and in Italy. (General Order 78 Art. 4).

FINAL: In operation this Order has worked most satisfactorily to date and only Art. 5 has given difficulty. Here the objection is not to the Art. 5 but to the extent of its application which is the same as the Italian Law.
Opportunity is being taken to bring the Order up to date by incorporating later Italian Legislation.

Trieste. 3 Jan. 1947.

35A

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
VENEZIA-GIULIA

D.L.C.P.S. 19 NOVEMBER 1946, N°.392.

AMENDMENTS AND ADDITIONS TO D.L.I. 26 MARCH 1946, N°.134, CONCERNING THE INSERTION INTO THE FISCAL SYSTEM OF REGIME PROFITS EXPROPRIATION

Art. 1

The fourth and fifth paragraphs of art.1 of D.L.L. 26 MARCH 1946 are hereby amended as follows:

"If it has not been provided for by the sentence of conviction, the judge who has pronounced such sentence shall settle any disputes (incidenti) arising therefrom during the execution in accordance with the rules of the Penal Procedure Code. If the sentence of conviction has been passed before the effective date of this Decree, the confiscation shall be ordered, on request of the Finance Minister, by the judge who has pronounced the sentence.

If for any reason whatever the crime becomes extinguished, the effects of the confiscation already ordered shall remain in force; and if the confiscation has not yet been ordered, the Penal Court in whose jurisdictional territory the property lies, shall provide.

The Court shall provide at the request of the Finance Minister, by order "in Chambers" (Ordinanza in Camera di Consiglio), after summoning the parties concerned, or, in case of death of the person against whom the confiscation is ordered, the heirs of such person. The parties may be assisted by Counsel in their defence. Appeal against the Order may be taken to the Court of Cassation.

Art. 2.

Within fifteen days of the date on which the confiscation sentence or order has become effective, the

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Art. 1

The fourth and fifth paragraphs of art.1 of D.L. 26 MARCH 1946 are hereby amended as follows:

"If it has not been provided for by the sentence of conviction, the judge who has pronounced such sentence shall settle any disputes (incidenti) arising therefrom during the execution in accordance with the rules of the Penal Procedure Code. If the sentence of conviction has been passed before the effective date of this Decree, the confiscation shall be ordered, on request of the Finance Minister, by the judge who has pronounced the sentence.

If for any reason whatever the crime becomes extinguished, the effects of the confiscation already ordered shall remain in force; and if the confiscation has not yet been ordered, the Penal Court in whose jurisdictional territory the property lies, shall provide.

The Court shall provide at the request of the Finance Minister, by order "in Chambers" (Ordinanza in Camera di Consiglio), after summoning the parties concerned, or, in case of death of the person against whom the confiscation is ordered, the heirs of such person. The parties may be assisted by Counsel in their defence. Appeal against the Order may be taken to the Court of Cassation.

Art. 2.

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Within fifteen days of the date on which the confiscation sentence or order has become effective, the "cancelliere" (Tribunal official) shall give notice thereof to the "Intendenza di Finanza" in the place of residence of the judicial authority by whom the confiscation has been ordered.

Art. 3.

On request of the Finance Administration, the confiscation sentence or order shall be issued in as

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many copies as are the "Intendenze di Finanza" in whose jurisdictional territory lies the property liable to confiscation.

As an exception to the provisions of art.476 of the Code of civil procedure, each of the said copies shall be executive in terms of art.475 of such code.

Art. 4

The "Intendente di Finanza" of the locality where real property liable to confiscation is located shall provide for the transcription of the confiscation sentence or order with the "Conservatoria of registri immobiliari" (Office keeping real property registers).

The "Intendente di Finanza" shall also proceed, by the issue of an appropriate order, to the specification of the personal and real property liable to confiscation.

Such order shall be notified to the party against whom the confiscation sentence has been pronounced or to his or her successors in title, as well as to third parties (if any) possessing or holding the property, with the intimation to deliver such property within 10 days.

After expiry of this time-limit, the "Intendenza di Finanza" shall proceed to the administrative execution and transfer of ownership by means of its officials, with the assistance, if necessary, of the police.

Art. 5.

Any persons who has an interest in opposing the execution of the confiscation may bring an action before the judicial authority competent both as regards the territory and the value involved.

Such apposition shall not suspend the execution, which may only be suspended by the "Intendente di Finanza" by an order issued after consultation with "Avvocatura dello Stato" (State legal Office) in which the reasons for such suspension are to be given.

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Art. 4

The "Intendente di Finanza" of the locality where real property liable to confiscation is located shall provide for the transcription of the confiscation sentence or order with the "Conservatoria of registri immobiliari" (Office keeping real property registers).

The "Intendente di Finanza" shall also proceed, by the issue of an appropriate order, to the specification of the personal and real property liable to confiscation.

Such order shall be notified to the party against whom the confiscation sentence has been pronounced or to his or her successors in title, as well as to third parties (if any) possessing or holding the property, with the intimation to deliver such property within 10 days.

After expiry of this time-limit, the "Intendenza di Finanza" shall proceed to the administrative execution and transfer of ownership by means of its officials, with the assistance, if necessary, of the police.

Art. 5.

Any person who has an interest in opposing the execution of the confiscation may bring an action before the judicial authority competent both as regards the territory and the value involved.

Such apposition shall not suspend the execution, which may only be suspended by the "Intendente di Finanza" by an order issued after consultation with "Avvocatura dello Stato" (State Legal Office) in which the reasons for such suspension are to be given.

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Art. 6.

Art.4 of D.I.I. 26. MARCH 1946, N°.134, is hereby amended as follows:

"The Finance Administration or the Public Prosecutor may request security sequestration of the

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movable property of persons against whom penal action has been commenced for any of the crimes considered by art.2, by the 1st and 2nd para of art.3 and by art.5 of D.L.I. 27 JULY 1944, N°.159.

Sequestration may also be requested in the cases set forth in art.9 of D.L.I. 27. JULY 1944, N°.159 and in the fifth para of art.1 hereof. In such cases, the sequestration shall be requested by the judicial Authority in whose jurisdictional territory the property or most of the property liable to confiscation is located.

The sequestration, shall be carried out under the rules of procedure provided by the Penal Procedure Code.

Art. 7

Within 60 days of the publication of this Decree, any persons who, in terms of art.5 of D.L.I. 26 MARCH 1946, N°.134, are liable to expropriation proceedings, shall declare to the competent District direct tax office any transactions made directly or through middlemen with the German invader as well as any requisitions suffered and services rendered, giving the amount involved in the transaction, requisition or service as well as the amount of the relative expenses and losses and of the net profit earned.

In the case of wound-up companies, the declaration shall be filed by the persons who were in charge of their management at the time of such transactions, requisitions and services.

Any person who fails to submit the declaration shall be punishable with a fine up to 100.000 Lire plus an amount equal to the profits assessed. Any person who makes a false declaration shall be punished with a fine amounting to the difference between the net profit declared and the profit finally assessed.

Directors of joint-stock companies, of limited partnerships in office on the effective date of this decree, those who will be in office until all obligations deriving from the expropriation of regime profits are fulfilled, as well as liquidators shall be jointly and severally liable for the debt derived from such expropriation, regardless of the time of the assessment or collection. 136

Directors in office on 14. JULY 1945 and those who have been in office until the effective date of

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sequestration shall be requested by the Judicial Authority in whose jurisdictional territory the property or most of the property liable to confiscation is located.

The sequestration, shall be carried out under the rules of procedure provided by the Penal Procedure Code.

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In the case of wound-up companies, the declaration shall be filed by the persons who were in charge of their management at the time of such transactions, requisitions and services.

Any person who fails to submit the declaration shall be punishable with a fine up to 100.000 Lire plus an amount equal to the profits assessed. Any person who makes a false declaration shall be punished with a fine amounting to the difference between the net profit declared and the profit finally assessed.

Directors of joint-stock companies, of limited partnerships in office on the effective date of this decree, those who will be in office until all obligations deriving from the expropriation of regime profits are fulfilled, ~~EX~~ as well as liquidators shall be jointly and severally liable for the debt derived from such exprcpriation, regardless of the time of the assessment or collection.

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Directors in office on 14. JULY 1945 and those who have been in office until the effective date of this Decree, together with the liquidators, shall be jointly and severally liable for the debt referred to in the foregoing para, whenever one or more of the following conditions occur:

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a) if the company or partnership has been created after 14. JULY 1945 from an individual firm, an unregistered firm, a limited or unlimited partnership;

b) if the company or partnership has been dissolved prior to the assessment of war profits;

c) if it may be presumed that the constitution or management of the company or partnership was pre-arranged in order to create a total or partial insolvency with respect to the debt deriving from ~~XXXX~~ the expropriation of regime profits.

Art. 8.

The second para of Art.6 of D.L.L. 26. MARCH 1946, N°.134 is hereby repealed and substituted by the following:

"If any of the conditions set forth in the first and third para of Art.7 of D.L.L. 27. JULY 1944, N°.159 occur in favour of any of the persons specified in the foregoing para, ~~or~~ of his (or her) heirs, the person concerned or, within the limits of the respective hereditary rights, his (or her) heirs, shall be entitled to furnish the evidence referred to in Art.10 hereof.

Anyhow, the persons specified in the foregoing para or their heirs shall be entitled to prove that any patrimonial increases occurred after 3. JANUARY 1925, or after the more recent date on which they assumed office, derive from the economical events set forth in the second and third para of Art.17 hereof".

Art. 9.

Art.13 of D.L.L. 26. MARCH 1946, N°.134, is hereby amended as follows:

In ordering the total confiscation in accordance with art.9 of D.L.L. 27. JULY 1944, N°.159 and art.1 hereof, or the sequestration in accordance with art. 9 and 32 hereof, the competent judicial authority may, on request of the interested party and after hearing the opposite reasons of the "Intendenza di Finanza", allocate a monthly sum as subsistence to the person concerned or to dependents entitled to be maintained under art.

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arranged in order to create a total or partial insolvency with respect to the debt deriving from XXXX the expropriation of regime profits.

Art. 8.

The second para of Art.6 of D.L.L. 26. MARCH 1946, N°.134 is hereby repealed and substituted by the following:

"If any of the conditions set forth in the first and third para of Art.7 of D.L.L. 27. JULY 1944, N°.159 occur in favour of any of the persons specified in the foregoing para, ~~a~~ of his (or her) heirs, the person concerned or, within the limits of the respective hereditqry rights, his (or her) heirs, shall be entitled to furnish the evidence referred to in Art.10 hereof.

Anyhow, the persons specified in the foregoing para or their heirs shall be entitled to prove that any patrimonial increases occurred after 3. JANUARY 1925, or after the more recent date on which they assumed office, derive from the economical events set forth in the second and third para of Art.17 hereof".

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Art. 10.

The second para of art.21 of D.L.L. 26. MARCH 1946, N°.134, is hereby repealed and substituted by the following:

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"The settlement of such disputes shall lie, in first instance, within the competence of a Special Section of the Area Tax Commission consisting of a President appointed by the Finance Minister (on the nomination of the President of the Tribunal of the Chief Town of the Province and after consulting the "Intendente di Finanza" and the Provincial Delegate for the expropriation) and of four regular and four deputy members, also appointed by the Finance Minister, on the nomination of the Prefect, and selected from among citizens of sure uprightness and competence. Such nominations are not binding.

Art. 11

The words: "the fulfilment of the formalities shall be exempt from the mortgage tax and the relative emoluments and fees", contained in the second para of art.32 of D.L.I. 26. MARCH 1946, N°. 134, are hereby repealed.

The following para is to be added to the said art.32:

"Deeds relating to the mortgage security, bank guarantee or surety, as well as deeds relating to the security sequestration and mortgage duties, as well as from emoluments and fees due to the keeper (conservators) of real property registers and to the Registry Office".

Art. 12.

The following para is added to art.41 of D.L.I. 26. MARCH 1946, N°.134.

"If the non-existence of regime profits has been finally recognized, or if the taxpayer has fully settled his debt for the amount of regime profits assessed, the "Intendente di Finanza", by regular decree and on request of the party concerned, shall consent to the cancellation of the mortgage, against payment of the tax specified in art.14 of tariff A appended to the law 25 JUNE 1943, N°.540, to be only levied on the amount of regime profits finally assessed and paid (the portion of debt which it has been recognized as not being due is exempt from the tax).

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deputy members, also appointed by the Finance Minister, on the nomination of the Prefect, and selected from among citizens of sure uprightness and competence. Such nominations are not binding.

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Art. 13.

The following paras are addedd to art.42 of D.L.L. 26. MARCH 1946, N°.134:

"The registration of the legal mprtgage referred to in the foregoing para shall be made in accordance with the provisions of art.32.

Should the "Intendente di Finanza" require any

++ proceedings, are exempt from stamp ~~XXXXXX~~ taxes, registration

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other real or personal guarantee, the lifting of the sequestration shall be subject to the giving of such guarantee.

The decree lifting the sequestration is to give a time-limit for the release of the property, which may be witnessed by an official of the Finance Administration.

The former sequestrator shall file with the "Intendenza di Finanza", within one month from the date in which the property was re-delivered, the final accounts relating to his period of management. Such accounts shall be submitted by the "Intendente di Finanza" to the owner of the property for approval.

If either the owner or the "Intendente di Finanza" fail to approve, the accounts shall be transmitted by the "Intendente" to the President of the Tribunal who, after hearing the owner, the sequestrator and the "Intendente" shall make known his decision by an inappelable "ordinanza" (order).

The President of the Tribunal shall in any case assess, after discussion with the above parties, the compensation due to the sequestrator.

If the latter fails to submit the accounts within the aforesaid time-limit, he will lose the right to such compensation, without prejudice to other penalties provided by the law.

Art. 14

The fifth para of art.44 of D.L.L. 26. MARCH 1946, N°.134, is amended as follows:

"Such pre-emption must be exercised within and not later than 20 days from the adjudication, by means of a declaration to be deposited by "Intendenza di Finanza" with the competent judicial office (cancelleria giudiziaria) and to be transcribed, by order of the said "Intendente", in the real-property registers".

The following paras are added to the same article:

"For the exercise of the right of pre-emption, the "Intendente di Finanza" shall notify to the interested party the injunction to hand over the shares, which by order of the same "Intendente" shall be endorsed to the name of "Direzione Generale

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the final accounts relating to his period of management. Such accounts shall be submitted by the "Intendente di Finanza" to the owner of the property for approval.

If either the owner or the "Intendente di Finanza" fail to approve, the accounts shall be transmitted by the "Intendente" to the President of the Tribunal who, after hearing the owner, the sequestrator and the "Intendente" shall make known his decision by an inappelable "ordinanza" (order).

The President of the Tribunal shall in any case assess, after discussion with the above parties, the compensation due to the sequestrator.

If the latter fails to submit the accounts within the aforesaid time-limit, he will lose the right to such compensation, without prejudice to other penalties provided by the law.

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The following paras are added to the same article:

"For the exercise of the right of pre-emption, the "Intendente di Finanza" shall notify to the interested party the injunction to hand over the shares, which by order of the same "Intendente" shall be endorsed to the name of "Direzione Generale del demanio" with the words:for pre-emption in accordance with art.44 of D.L.L. 26. MARCH 1946, N°.134". 13

For shares in limited partnerships, the right of pre-emption shall be exercised under a decree of the President of the Tribunal (to be issued on request of the Intendente di Finanza), ordering the transfer of the shares to the State Treasury.

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JSR/as

37B

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
VENEZIA GIULIA

GENERAL ORDER No. 88 (7th revised)

(cancelling G.O. 7th 23 Sept. 1945)

CONFISCATION OF PROPERTY AND RESTRICTIONS UPON DEALINGS IN PROPERTY AFFECTED THEREBY

WHEREAS it is the policy of the Allied Military Government to suppress fascism all its forms and ,

WHEREAS it is necessary to provide for the confiscation of property of persons convicted of fascist offences and/or collaboration with the German invader and to provide for the expropriation of profits unlawfully gained by certain persons by reason of their having held political office/or otherwise during the fascist regime - in most part of Venezia Giulia administered by the Allied Forces (hereinafter referred to as the "Territory")

NOW, THEREFORE, I, HAROLD R. BOSLEY, Colonel, A.A.G.D. Senior Civil Affairs Officer, hereby

order:

Part I

CONFISCATION OF PROPERTY OF PERSONS CONVICTED FOR OFFENCES CONSIDERED IN PROCLAMATION No.5 AND IN GENERAL ORDER No. 33

ARTICLE I

Section 1 - The following property shall be confiscated in favour of the Public Treasury.

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[illegible]

Whereas it is the Policy of the Allied Military Government to suppress fascism in all its forms and ,

Whereas it is necessary to provide for the confiscation of property of persons convicted of fascist offences and/or collaboration with the German Invader and to provide for the expropriation of profits unlawfully gained by certain persons by reason of their having held political office or otherwise during the fascist regime - in that part of Venezia Giulia administered by the Allied Forces (hereinafter referred to as the "Territory")

We, THORNTON, I. ARTHUR J. BOWEN, Colonel, A.A.G.D. Senior Civil Affairs Officer, hereby

O R D E R:

PART I

CONFISCATION OF PROPERTY OF PERSONS CONVICTED FOR OFFENCES COMMITTED IN CONTRAVENTION TO PROCLAMATION NO. 5 AND IN GENERAL ORDER NO. 55

ARTICLE I

Section 1 - The following property shall be confiscated in favour of the Public Treasury.

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a) The property of persons convicted of any of the crimes under Article I of General Order No. 55(further measures against crimes of a fascist nature).

b) The property in whole or in part of any person convicted of any offence under Articles I or II of Proclamation No. 5 in proportion to the gravity of the offence and after taking into account the provisions of Article IV of General Order No. 55.

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Section 2 -

1/ In the case of penal action the confiscation shall be ordered by the judicial authority who pronounces the sentence of conviction. In other cases it shall be ordered by the competent judicial authority on the request of the Intendente di Finanza.

2/ In case of partial confiscation the judicial authority shall determine the particular property to be confiscated.

3/ If it has not been provided in the sentence, the judge who has pronounced ~~the~~ sentence shall make ~~such~~ provision ~~by decree ("decreto") setting forth~~ regulations laid down in accordance with the ~~rules~~ for "incidenti di esecuzione" the penal procedure code. If the sentence of conviction has been passed before the effective date of this Decree, the confiscation shall be ordered, ~~upon request of the Finance Intendant~~, by the judge who pronounced the sentence, on request made by the Intendente di Finanza.

4/ If for any reason whatever the crime becomes extinguished, the effects of the confiscation already ordered shall remain in force, and if confiscation has not yet been ordered, the penal court in whose jurisdictional territory the property lies, ~~shall proceed~~, may order confiscation.

5/ The Court shall, make such provisions on ~~motion~~ the request of the Intendente di Finanza ~~concerned~~, by order "in Chambers" (camera di consiglio), after summoning the parties concerned, or, in case of death of the person against whom the confiscation is ordered after summoning

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dente di Finanza.

4) In case of partial confiscation the judicial authority shall determine the particular property to be confiscated.

5) If it has not been provided in the sentence, ~~of conviction~~, the judge who has pronounced ~~the~~ sentence shall make ~~such~~ provision ~~by decree ("decreto") setting forth~~ in accordance with the regulations laid down in the penal procedure code for "incidenti di esecuzione" if the sentence of conviction has been passed before the effective date of this Decree, the confiscation shall be ordered ~~by decree of the Court of Appeal~~, by the judge who pronounced the sentence, on request made by the Intendente di Finanza

6) If for any reason whatever the crime becomes extinguished, the effects of the confiscation already ordered shall remain in force, and if confiscation has not yet been ordered, the penal Court in whose jurisdictional territory the property lies, ~~shall proceed~~, may order confiscation.

7) The Court shall, make such provision on ~~decree~~ as the request of the Intendente di Finanza ~~Court~~, by order "in Camera" ("ordinanza in Camera di Consiglio), after succoning the parties concerned, or, in case of death of the person against whom the confiscation is ordered, the heirs of such person. The parties may be assisted by Counsel in their defence. Appeal against the order may be taken to the Court of Appeal, acting as Court of Cassation.

the summoning

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Section 3 - Within fifteen days from the date on which the confiscation sentence or order has become effective, the "Conciliare" (tribunal official) shall give notice thereof to the "Intendenza di Finanza" ~~which proceeded with the~~

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~~[illegible]~~

Section 4 - ~~[illegible]~~ Additional copies of the confiscation sentence or order shall be issued at the request of the Intendente di Finanza ~~[illegible]~~ to other Intendente di Finanza concerned. ~~[illegible]~~

~~[illegible]~~

As an exception to the provisions of art. 476 of the Code of civil procedure, each of the said copies shall be executive in terms of art. 475 of such Code.

Section 5 - The "Intendente di Finanza" of the local ty where real property liable to confiscation is located shall provide for the registration of the confiscation sentence or order at the "Conservatorie dei registri immobiliari" (office keeping real property registers).

The "Intendente di Finanza" shall also issue an Order ~~[illegible]~~ for the sequestration of the personal and real property liable to confiscation.

Such order shall be notified to the party against whom the confiscation sentence has been pronounced or to his or her successors in title, as well as to third parties (if any) possessing or holding the property, with an intimation to hand over such property within 10 days.

After expiry of such time-limits, the "Intendente di Finanza" shall proceed to the administrative execution and transfer of ownership ~~[illegible]~~, with the assistance, if necessary, of the police.

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As an exception to the provisions of art. 475 of the Code of Civil procedure, each of the said copies shall be executive in terms of art. 475 of such Code.

Section 5 - The "Intendente di Finanza" of the locality where real property liable to confiscation is located shall provide for the registration of the confiscation sentence or order with the "Conservatorie dei registri immobiliari" (Office keeping real property registers).

The "Intendente di Finanza" shall also issue an Order specifying the personal and real property liable to confiscation.

Such order shall be notified to the party against whom the confiscation sentence has been pronounced or to his or her successors in title, as well as to third parties (if any) possessing or holding the property, with an intimation to hand over such property within 10 days.

After expiry of such time-limit, the "Intendente di Finanza" shall proceed to the administrative execution and transfer of ownership [illegible], with the assistance, if necessary, of the police.

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Section 6 - Any persons who has an interest in opposing the execution of the confiscation may bring an action before the competent judicial authority [illegible].

Such opposition shall not suspend the execution, which may only be suspended by the "Intendente di Finanza" by an order issued after consultation with "Avvocature delle Stato" (State

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Legal Files) in which the reasons for such suspension are to be given.

ARTICLE 2

Section 1 - Except as provided for by Section 1 of Article 4 of this Order the following transactions shall be null and void so far as the Public Treasury is concerned.

a) Deeds of gratuitous transfer ("atti a titolo gratuito") effected during the five years preceding 25 July 1943 by persons convicted of any of the crimes considered by Article 1 of General Order No. 53 or by Articles I or II of Proclamation No. 5;

b) any deeds disposing of rights in property ("atti di disposizione") effected after such date by persons whose property is subject to confiscation.

Section 2 - Property purchased during the five years preceding 25 July 1943 by the spouses of persons convicted for any of the crimes mentioned in the foregoing Article shall so far as claims by the Public Treasury is concerned, be considered as the property of the convicted person.

Section 3 - The provisions set forth in sections 1 and 2 of this Article shall be applicable also in cases where the ~~crime~~ Il reato is extinguished. (~~Whether such~~ sia estinto).

~~Section 4 - Any deeds disposing of rights (Atti di disposizione") effected after 8 September 1943 by persons who put themselves voluntarily and actively in the~~

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of this Order the following transactions shall be null and void so far as the Public Treasury is concerned.

a) deeds of gratuitous transfer ("atti a titolo gratuito") effected during the five years preceding 25 July 1943 by persons convicted of any of the crimes considered by Article I of General Order No. 93 or by Articles I or II of Proclamation No. 5;

b) any deeds disposing of rights in property ("atti di disposizione") effected after such date by persons whose property is subject to confiscation.

Section 2 - Property purchased during the five years preceding 25 July 1943 by the spouses of persons convicted for any of the crimes mentioned in the foregoing Article shall so far as claims by the Public Treasury is concerned, be considered as the property of the convicted person.

Section 3 - The provisions set forth in Sections 1 and 2 of this Article shall be applicable also in cases where the ~~case~~ crime is extinguished. (~~Le reato~~ sia estinto).

~~Section 4 - In cases disposing of rights ("atti di disposizione") executed after such date by persons whose property is subject to confiscation, in accordance with Article 1 of this Order, shall likewise not be effective as regards the Public Treasury, except as provided for by Article 17.~~

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ARTICLE 3

Section 1 - The Finance Administration or the Public Prosecutor may request security sequestration of the movable property of persons against whom penal action has been commenced for any of the crimes considered by Arts. I and II of General Order No. 53 and by Articles I and II of Proclamation No. 5.

Such sequestration may also be requested in the cases set forth in Article 9 and in ~~the~~ before para ~~4~~ of Section 2, Art. 1 hereof. In such cases, the sequestration shall be requested by the judicial authority in whose jurisdictional territory the property or most of the property liable to confiscation is located.

The sequestration, shall be carried out under the rules of procedure provided by the Penal Procedure Code.

Section 2 - Within 60 days ~~from~~ before the publication of this ~~Order~~ decree, any person who, in terms of art. 5 ~~of P.D. No. 1~~ hereof, ~~has~~ is liable to expropriation proceedings, shall declare to the competent District direct tax office any transactions made directly or through middlemen with the German invader as well as any requisitions suffered and services rendered, giving the amount involved in the transactions, requisition or service as well as the amount of the relative expenses and losses and of the net profit earned.

In the case of ~~companies~~ companies which have ceased activity, the declaration shall be filed by the persons who were in charge of their management at the time of such transactions, requisitions and services.

Any person who fails to submit the declaration shall be

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Such sequestration may also be requested in the cases set forth in Article 9 and in ~~the~~ fourth para ~~4~~ of Section 2, Art. 1 hereof. In such cases, the sequestration shall be requested by the judicial authority in whose jurisdictional territory the property or most of the property liable to confiscation is located.

The sequestration, shall be carried out under the rules of procedure provided by the Penal Procedure Code.

Section 2 - Within 60 days ~~from~~ the publication of this ~~Decree~~ Order, any person who, in terms of art. 5 ~~of D.L.L. 26 March 1945, No. 159,~~ hereof are liable to expropriation proceedings, shall declare to the competent District direct tax office any transactions made directly or through middlemen with the German invader as well as any requisitions suffered and services rendered, giving the amount involved in the transactions, requisition or service as well as the amount of the relative expenses and losses and of the net profit earned.

In the case of ~~companies~~ companies which have ceased activity, the declaration shall be filed by the persons who were in charge of their management at the time of such transactions, requisitions and services.

Any person who fails to submit the declaration shall be 128 punishable with a fine up to 100,000 lire plus an amount equal to the profit assessed. Any person who makes a false declaration shall be punished with a fine amounting to the difference between the net profit declared and the profit finally assessed.

Directors of joint-stock companies, of limited partnerships in office on the effective date of this decree, those who will be in office until all obligations ~~ensuing~~ arising from the expropriation of regime profits are fulfilled, as well as liquidators

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shall be jointly and severally liable for the debt derived from such expropriation, regardless of the time of the assessment or collection.

Directors in office on 14. July 1945 and those who have been in office until the effective date of this Order, together with the liquidators, shall be jointly and severally liable for the debt referred to in the foregoing para, whenever one or more of the following conditions occur:

a) if the company or partnership has been created after 14 July 1945 from an individual firm, an unregistered firm, a limited or unlimited partnership;

b) if the company or partnership has been dissolved prior to the assessment of war profits;

c) if it may be presumed that the constitution or management of the company or partnership was pre-arranged in order to create a total or partial insolvency with respect to the debt arising from the expropriation of regime profits.

ARTICLE 4.

In ordering the confiscation of property the appropriate judicial authority may allocate definite assets or an income as subsistence to the persons concerned or to dependents entitled to receive maintenance under Articles 433 and subsequent Articles of the Civil Code.

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been in office until the effective date of this ~~Law~~, together with the liquidators, shall be jointly and severally liable for the debt referred to in the foregoing para. whenever one or more of the following conditions occur:

a) if the company or partnership has been created after 14 July 1945 from an individual firm, an unregistered firm, a limited or unlimited partnership;

b) if the company or partnership has been dissolved prior to the assessment of war profits ,

c) if it may be presumed that the constitution or management of the company or partnership was pre-arranged in order to create a total or partial insolvency with respect to the debt ~~existing~~ arising from the expropriation of regime profits.

ARTICLE 4

In ordering the confiscation of property the appropriate Judicial Authority may allocate definite assets or an income as subsistence to the persons concerned or to dependents entitled to receive maintenance under Articles 433 and subsequent Articles of the Civil Code.

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PART. II

EXPROPRIATION OF ASSETS ACQUIRED FROM FORMER REGIME

ARTICLE 5

Section 1 - All profits derived after 8 September 1943, from contracts for work or for supplies or any other transactions concluded, either directly or through middlement, with the German invader, are hereby expropriated to the Public Treasury.

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Section 2 - Any transaction carried out shall, where the party was aware or could not possibly ignore as being in the interest of the German invader, be deemed to be a transaction within the meaning of Section 1 above.

Section 3 - The profits referred to in Section 1 of this Article shall include those profits derived from requisitions or any other compulsory service.

ARTICLE 6

Section 1 - Any increase of property after 3 January 1925, to persons who, after such date, have held any of the positions hereinafter specified, shall be expropriated as fascist regime profits, to the Public Treasury:

a) member of the Fascist Grand Council;

b) member of the Fascist Government (Minister, Under - Secretary of State, High Commissioner);

c) secretary, vice-secretary or member of the National Directorate of the Fascist Party;

d) President, Public Prosecutor or member of the Special Tribunal for the Defence of the State;

e) General or Consul of the voluntary fascist militia (M.V.S.N.) on active permanent service, except welfare officers or officers belonging to one of the special militia branches.

f) official or informer of the O.V.R.A.;

g) "Prefetto" or "Questore" appointed by reason of fascist pro-liferations.

h) Chief of a diplomatic mission or Governor of a Colony if the

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shall include those profits derived from requisitions or any other compulsory service.

ARTICLE 5

Section 1 - Any increase of property after 3 January 1925, to persons who, after such date, have held any of the positions hereinafter specified, shall be expropriated on fascist regime profits, to the Public Treasury:

a) member of the Fascist Grand Council,

b) member of the Fascist Government (Minister, Under - Secretary of State, High Commissioner),

c) secretary, vice-secretary or member of the National Directorate of the Fascist Party,

d) President, Public Prosecutor or member of the Special Tribunal for the Defence of the State,

e) General or Consul of the Voluntary Fascist Militia (M.V.S.N.) on active permanent service, except welfare officers or officers belonging to one of the special militia branches,

f) official or informer of the O.V.R.A.;

g) "Prefetto" or "Questore" appointed by reason of fascist qualifications,

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h) Chief of a diplomatic mission or Governor of a Colony if the appointment was made by reason of fascist qualifications;

i) Federal Secretary;

l) Fascist member of Parliament (Camera dei Deputati) who after 3 January 1925, remained or became a member of the party during his term of office or voted any fascist bills.

m) "Podestà nationals".

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a) Senator appointed after 3 January 1925 and subsequently removed from office under O.L. No. 159, of 27 July 1944.

b) President of a fascist Confederation; (Confederazione fascista).

Section 2 - If any of the persons specified in Section 1 hereof, or any of the heirs of such person,

a) opposed fascism before the beginning of the 1940-1945 war, or

b) took an active part or particularly distinguished himself or herself by acts of gallantry in the struggle against the Germans;

such person, or within the limits of their respective rights, their heirs, shall be permitted to produce the evidence specified in Article 19 of this Order.

Section 3. The persons specified in this section or their heirs shall be entitled to prove that the patrimonial increases arise after 3 January 1925, or after that date on which they assumed office, arise from the patrimonial increases as specified in Section 2 art. 17 hereof.

Section 3 x Being in here from opposite page.

ARTICLE 7

Any increase of property acquired after 3 January 1925 by the persons hereinafter specified shall subject to the provisions of Art. 19 be presumed to be profit accrued from fascist regime.

a) Members of the Academy of Italy;

b) Persons who have held any of the following positions:

i) member of the National Council of the fascist party;

ii) inspector of the fascist party;

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a) opposed fascism before the beginning of the 1940-1945 War, or

b) took an active part or particularly distinguished himself or herself by acts of gallantry in the struggle against the Germans;

such person, or within the limits of their respective rights, their heirs, shall be permitted to produce the evidence specified in Article 10 of this Order.

~~Persons~~. The persons specified in ~~corresponding para~~ This section or their heirs shall be entitled to prove that ~~no~~ the patrimonial increases ~~created~~ after 5 January 1925, or after ~~the~~ 4 ~~date on~~ that- ~~which~~ increases as specified ~~they~~ assumed office, ~~origin~~ arise from ~~the patrimonial assets~~ in section 2 art. 17 hereof.

Section 3 x Being in lieu from opposite page

ARTICLE 7

Any increase of property acquired after 5 January 1925 by the persons hereinafter specified shall subject to the provisions of Art. 10 be presumed to be profit accrued from fascist regime.

a) Members of the Academy of Italy;

b) Persons who have held any of the following positions:

i) member of the National Council of the fascist party;

ii) inspector of the fascist party;

iii) federal vice-secretary;

iv) federal inspector;

v) political secretary of a Commune having a population of not less than ~~20,000~~ 20,000;

vi) officer of the fascist voluntary militia (M.V.S.N.) on permanent active service having a grade higher than of "centurione"(Captain);

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Section 2 - Any transaction carried out thrll, where the party was aware or could not possible ignore as being in the interest of the German invader, be deemed to be a transaction within the meaning of Section 1 above.

Section 3 - The profits referred to in Section 1 of this Article shall include those profits derived from requisitions or any other compulsory service.

ARTICLE 6

Section 1 - Any increase of property after 3 January 1925, to persons who, after such date, have held any of the positions hereinafter specified, shall be expropriated as fascist regime profits, to the Public Treasury:

a) member of the Fascist Grand Council;

b) member of the Fascist Government (Minister, Under - Secretary of State, High Commissioner).

c) secretary, vice-secretary or member of the National Directorate of the Fascist Party;

d) President, Public Prosecutor or member of the Special Tribunal for the Defence of the State;

e) General or Admiral of the voluntary fascist militia (M.V.S.N.) on active permanent service, except welfare officers or officers belonging to one of the special militia branches.

f) official or informer of the O.V.R.A.;

g) "Podestà" or "Rettore" appointed by reason of fascist qualifications;

h) Chief of a diplomatic mission or [illegible]

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Section 2 - The profits referred to in the preceding section shall include those profits derived from requisitions or any other compulsory service.

ARTICLE 6

Section 1 - Any increase of property after 3 January 1925, to persons who, after such date, have held any of the positions hereinafter specified, shall be expropriated as fascist regime profits, to the Public Treasury:

a) member of the Fascist Grand Council;

b) member of the Fascist government (Minister, Under - Secretary of State, High Commissioner).

c) secretary, vice-secretary or member of the National Directorate of the Fascist Party;

d) President, Public Prosecutor or member of the Special Tribunal for the Defence of the State;

e) General or Consul of the voluntary fascist militia (M.V.S.N.) on active permanent service, except welfare officers or officers belonging to one of the special militia branches.

f) official or informer of the "O.V.R.A.";

g) "Prefetto" or "Podestà" appointed by reason of fascist qualifications.

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h) Chief of a diplomatic mission or Governor of a Colony if the appointment was made by reason of fascist qualifications;

i) Federal secretary;

l) Fascist member of Parliament (Camera dei Deputati) who after 3 January 1925, remained or became a member of the party during his term of office or voted any fascist bills.

m) "Consigliere nazionale".

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Section 3. The provisions set forth in Article 10 of this Order may also be applied in favour of persons mentioned in category (q) to (o) of Section 1 of this article whose owing to the minor importance of the political actions or because of this having been acquitted by an equivalent commission or other bodies dealing with sanctions against fascism, they are deemed to be worthy of such consideration

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a) Senator appointed after 3 January 1925 and subsequently removed from office under Del. No. 159, of 27 July 1944.

c) President of a Fascist Confederation, (Confederazione Fascista).

Section 2 - If any of the persons specified in Section 1 hereof, or any of the heirs of such person.

a) opposed fascism before the beginning of the 1940-1945 war, or

b) took an active part or particularly distinguished himself or herself by acts of gallantry in the struggle against the Germans;

such person, or within the limits of their respective rights, their heirs, shall be permitted to produce the evidence specified in Article 17 of this Order.

~~Whenever~~, The persons specified in ~~the preceding paragraph~~ this section or their heirs shall be entitled to prove that ~~the~~ the patrimonial increases ~~received~~ if after 3 January 1925, or after ~~the date on~~ that- which they assumed office, ~~arose~~ arise from ~~the commercial events~~ increases as specified in Section 2 Art. 17 hereof.

Section 3 * Being in lieu from opposite page.

ARTICLE I

Any increase of property acquired after 3 January 1925 by the persons hereinafter specified shall subject to the provisions of Art. 17 be presumed to be profit accrued from fascist regime.

a) Members of the Knighthood of Italy;

b) Persons who have held any of the following positions:

i) member of the National Council of the fascist party;

ii) inspector of the fascist party;

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a) opposed fascism before the beginning of the 28th October War, or

b) took an active part or particularly distinguished himself or herself by acts of gallantry in the struggle against the Germans;

such person, or within the limits of their respective rights, their heirs, shall be permitted to produce the evidence specified in Article 10 of this Order.

~~Nevertheless~~, The persons specified in this section or their heirs shall be entitled to prove that the patrimonial increases ~~exceed~~ after 3 January 1925, or after ~~the date on~~ which they assumed office, ~~arise~~ from increases so specified ~~patrimonial rights~~ ~~exceeds~~ in Section 2 Art. 17 hereof.

Section 3 x Being in lieu from opposite page

ARTICLE 7

Any increase of property acquired after 3 January 1925 by the persons hereinafter specified shall subject to the provisions of Art. 10 be presumed to be profit accrued from fascist regime.

a) Members of the Academy of Italy;

b) Persons who have held any of the following positions:

i) member of the National Council of the fascist party;

ii) inspector of the fascist party;

iii) federal vice-secretary; 125

iv) federal inspector;

v) political secretary of a Commune having a population of not less than 20,000;

vi) officer of the fascist voluntary militia (M.V.S.N.) on permanent active service having a grade higher than of "centurione" (Captain);

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ANNEXE 9

Except where the Articles mentioned in Art. 1° of this Order are applicable, the increase of property acquired after 3 January 1925 in the case of persons who, holding political office or through any activity of professional men, advisers or mediators in financial politics of private, public or semi-public character, have obtained at any time represented or controlled by them, contracts for works or supplies and concessions from the State, Provinces, Communes or bodies supervised or controlled by the State. Increases in the property of properties (procedimiento di stima) or reports who acted in the above mentioned transactions, are compensations received therefor shall also be considered as taxable profits.

ANNEXE 9

a) persons who have substantially more than one half of the stock of one public undertaking or account for them;

b) persons, who, already January 1925, have directed or supported financial situation of their own or of other persons, the prosperous and political action of the result of results;

c) "gedeckt" of other terms of provisions or "prelati" of privileges.

e) "podestà" or chief towns of provinces or "presidi" of provinces.

ARTICLE 8

Except where the evidence mentioned in art. 1° of this Order is applicable, the increases of property accrued after 1 January 1925 shall be presumed as Fascist regime profits in the case of persons who, holding political offices or through the activity of professional men, advisers or middlemen in influencial positions or taking advantage of their connections and influence with prominent fascist personalities, have obtained at conditions of particular favour to themselves, their relatives or firms represented or controlled by them, contracts for works or supplies and concessions from the State, Provinces, Communes or bodies supervised or controlled by the State. Increases in the property of promoters (procacciatori di affari) or agents who acted in the above mentioned transactions, and compensations received therefor shall also be considered as regime profits.

ARTICLE 9

Any increase accrued after 1 January 1925 in the property of the persons or bodies hereinafter specified shall subject to the provisions of art. 10 be considered as fascist regime profits:

a) Ascendants, descendants, the spouse of any of the persons mentioned in the foregoing articles, or persons who have been living with them in concubinage;

b) individuals or private corporate bodies or non corporate bodies (persone fisiche o giuridiche private ed enti non riconosciuti) who have been associated or participated

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with any of the persons mentioned under letter (a) of this article and in the foregoing articles. Only increases in property derived from such association or participation shall be deemed to be Fascist regime profits.

c) Private corporate and non corporate bodies, nine tenths of whose shares or stock were at 31 Dec. 1942 held by any of the persons specified under (a) and (b) of this Article and foregoing Articles.

ARTICLE 10

Section 1 - The expropriation of the increases of property as provided for in Articles 7, 8 and 9 shall not be or shall only partially be effected, if evidence can be produced that such increase was not, or was only partially due to (a) the position or office held or to the activity of the persons concerned, in the cases referred to in Art. 7, (b) to the conditions of particular favour obtained in the cases referred to in Art. 8 or (c) to the existence of relationships or interests in the cases referred to in Art. 9.

Section 2 - If persons not included in Articles 6, 7, 8 and 9 have increased their properties after 3 January 1925 to considerably above the ordinary measure as to cause the presumption that fascist corruption has been instrumental therein, the profits exceeding the normal increase shall be subject to ex-propriation as fascist regime profits, except where contrary evidence can be produced.

For determining the normality of increases of property, the im-

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whose shares or stock were at 31 Dec. 1945 held by any of the persons specified under (a) and (b) of this Article and foregoing articles.

ARTICLE 10

Section 1 - The expropriation of the increases of property as provided for in articles 7, 8 and 9 shall not be or shall only partially be effected, if evidence can be produced that such increase was not, or was only partially due to (a) the position or office held or to the activity of the persons concerned, in the cases referred to in Art. 7 (a) to the conditions of particular favour obtained in the cases referred to in Art. 8 or (a) to the existence of relationships or interests in the cases referred to in Art. 9.

Section 2 - If persons not included in articles 7, 8 and 9 have increased their properties after 3 January 1925 so considerably above the ordinary measure as to cause the presumption that fascist corruption has been instrumental therein, the profit exceeding the normal increase shall be subject to ex-propriation as fascist regime profits, except where contrary evidence can be produced.

In determining the normality of increases of property, the importance of the activity displayed, the nature and size of the enterprise, the work and the capital invested shall be taken into account.

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ARTICLE 11

All profits from fascist political activity, from any activity in support of fascism or of the german invader, from any position held under the fascist regime, from any favour shown by the fascis

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party, or by fascist office holders (dei governi fascisti) or by the German invaders, acquired by persons other than those included in the categories specified in the foregoing articles, shall be expropriated to the public Treasury.

Article 12

In case of death of the persons subject to expropriation proceedings, such proceedings shall be initiated or continued against the heir in the same way and with the same rights and obligations as if such proceedings had been carried out against the predecessor in title.

The heir shall be liable for the expropriated profits of his predecessor in title within the limits of the property inherited.

Article 13

In ordering the total confiscation or the sequestration the competent judicial authority may, on request of the interested party and after hearing the "Intendente di Finanza", allocate a monthly sum as subsistence to the person concerned or to dependents entitled to be maintained under art. 433 and subsequent articles of the Civil Code, taking into account the particular family conditions and the income on the confiscated or sequestrated property.

PART III

DECLARATION OF RIGHTS FOR THE PURPOSE OF ASSESSMENT OF PARTIAL WAR PROFITS

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In case of death of the persons subject to expropriation proceedings, such proceedings shall be initiated or continued against the heir in the same way and with the same rights and obligations as if such proceedings had been carried out against the predecessor in title.

The heir shall be liable for the expropriated profits of his predecessor in title within the limits of the property inherited.

ARTICLE 13

In ordering the total confiscation or the sequestration the competent judicial authority may, on request of the interested party and after hearing ~~[illegible]~~ the "Intendenza di Finanza", allocate a monthly sum as subsistence to the person concerned or to dependents entitled to be maintained under art. 433 and subsequent articles of the civil code, taking ~~into~~ account ~~=~~ the particular family conditions and ~~=~~ the ~~[illegible]~~ income ~~[illegible]~~ on the confiscated or sequestrated property.

PART III

DECLARATION OF ASSETS FOR THE PURPOSE OF ASSESSMENT OF FASCIST REGIME PROFITS

Article 14

Section 1 - For the purpose of assessment of fascist regime profits, all persons included in any of the categories specified in articles 6 and 7 shall, within thirty days from the effective date of this Order, file a declaration with the competent District Direct Tax Office specifying the following:

a) The assets owned by them on 3 January 1923 or on the day they assumed their offices, or on the day on which they became the

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vived in the circumstances existing then with the usage of this order.

b) The assets, directly resulting by operation, possessed by the said persons, as of December 15th, and affected adversely by the provisions of this order.

c) The assets which during the period from the date specified under Section 1 (a) of this Article to the effective date of this order have been acquired or have ceased to be part of the property of the said persons or their nominees, with the qualification in each case of the effect or contribution of such assets and at the value therefor, the value being taken as at the date when they became part of the property of the person concerned and that at the date they ceased to be part thereof.

Section 15

Section 1 - Any person who, for the purpose of evading notice by the Public Treasury with regard to property belonging to persons considered to be Soviet Russian nationals, alienates or in any way transfers such property to third persons or conceals the same and any person who purchases, receives, conceals such pro-

of this Order.

c) The assets which during the period from the date specified under Section 1 (a) of this Article to the effective date of this Order have been acquired or have ceased to be part of the property of the said persons or of their nominees, with the specification in each case of the origin or destination of such assets and of the value thereof, the value being that as at the date when they became part of the property of the person concerned and that at the date when they ceased to be part thereof.

Section 2 - On request of the District Direct Tax Office, the "Intendente di Finanza" may order any person suspected of being within the scope of Articles 5, 6, 9 and 11 or his heirs, to file with the said office, within thirty days from ~~such order~~ date of receipt of the declaration referred to in Section 1 of this Article.

ARTICLE 15

Section 1 - Any person who, for the purpose of avoiding actions by the Public Treasury with regard to property belonging to persons considered to be fascist regime profiteers, alienates or in any way transfers such property to third persons or conceals the same and any person who purchases, receives, conceals such property or takes part in such purchasing, receiving or concealing shall be punished by imprisonment (reclusione) up to ten years and/or with a fine (multa) up to 100.000 lire.

Section 2 - Without prejudice to the penal action considered in Section 1 of this Article, any person who fails to submit the declaration referred to in the foregoing Article, or delays its submission or omits to declare one or more of the assets possessed, or gives false information as to the origin or destination

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shall be punished by a penalty equal to one tenth of the value as finally assessed for the purpose of this Order.

Such penalty shall be remitted if no opposition is made to the assessment as proposed by the District Direct Tax Office.

Apart from the provisions of the foregoing paragraphs the failure to declare single assets possessed during the five years preceding 25 July 1943 shall be punishable by a penalty equal to their value.

ARTICLE 16

Section 1 - Any person holding assets belonging to the persons specified in Articles 6 and 7 shall declare such assets within thirty days from the effective date of this Order.

Section 2 - Without prejudice to the penal action considered in Section 1 of Article 15 hereof, any person failing to submit the declaration described in the foregoing paragraph, shall be punishable by a penalty equal to the value of the non-declared assets, unless such person is in a position to prove that through no fault of his own he was unaware of the actual position of the owner or through circumstances beyond his control he was unable to file the declaration.

Section 3 - The provisions of Section 1 of this Article shall apply to banks and credit institutions for persons whose names have been reported to them by the "Intendance of Finance".

PART IV

ASSESSMENT OF THE BASE OF PROPERTY

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to declare single assets possessed during the five years preceding 2, July 1943 shall be punishable by a penalty equal to their value.

ARTICLE 16

Section 1 - Any person holding assets belonging to the persons specified in Articles 6 and 7 shall declare such assets within thirty days from the effective date of this Order.

Section 2 - Without prejudice to the penal action considered in Section 1 of Article 15 hereof, any person failing to submit the declaration described in the foregoing paragraph, shall be punishable by a penalty equal to the value of the non-declared assets, unless such person is in a position to prove that through no fault of his own he was unaware of the actual position of the owner or through circumstances beyond his control he was unable to file the declaration.

Section 3 - The provisions of Section 1 of this Article shall apply to banks and credit institutions for persons whose names have been reported to them by the "Intendencia de Finanzas".

P A R T IV

ASSESSMENT OF INCREASE OF PROPERTY

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ARTICLE 17

Section 1 - Increase of property will be arrived at by taking into account all assets which have been added, even through nominees, to the property of the person involved, after 3 January 1925 or later when the person assumed the offices, or when the circumstances set out in Articles 5, 6, 7, 8, 9 and 11 materialized.

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Section 2 - The undernoted property shall not be considered as part of the increase:

a) Assets held originally.

b) The yield from such original assets.

c) Reinvestment derived from conversion or sale of such original assets.

The following shall also not be considered as part of the increase. Assets received by inheritance or donation from members of the same family and the yield therefrom, as well as the assets derived from the conversion or sale of such assets, provided that they have not been derived from profits liable to expropriation from the predecessors in title. For the purpose of this paragraph, the family shall be considered as formed by those persons who, under the Civil Code are entitled to maintenance.

Section 3 - A further 15% shall be added to the increase as assessed in accordance with the provisions of this Article for the presumed possession of jewels, money and valuable furniture.

ARTICLE 18

Upon request of the "Intendence d Finanza" the Special Section of the Area Tax Commission may order that certain assets acquired from particular fascist Regime profits, be expropriated to the Public Treasury in lieu or on account of the ultimate assessment. The value of such assets, as accessed by the said Commission shall be deducted from the whole profit liable to expropriation.

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original assets.

The following shall also not be considered as part of the increase. Assets received by inheritance or donation from members of the same family and the yield therefrom, as well as the assets derived from the conversion or sale of such assets, provided that they have not been derived from profits liable to expropriation from the predecessors in title. For the purpose of this paragraph, the family shall be considered as formed by those person who, under the Civil Code/are entitled to maintenance.

Section 3 - A further 15% shall be added to the increase as assessed in accordance with the provisions of this Article for the presumed possession of jewels, money and valuable furniture.

ARTICLE 18

Upon request of the "Intendente di Finanza" the Special Section of the Apeal Tax Commission may order that certain assets acquired from particular fascist Regime profits, be expropriated to the Public Treasury in lieu or on account of the ultimate assessment. The value of such assets, as assessed by the said Commission shall be deducted from the whole profit liable to expropriation.

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ARTICLE 19

Section 1 - The assessment of profits accrued from fascist Regime shall be made by the District Direct Tax Office in whose District the person concerned has his residence under the same rules as apply to the assessment of war Profits Tax in so far as not inconsistent with this Order.

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Section - 2 - In case of unknown residence or death of the person concerned, the assessment shall be made by the District Direct Tax Office of the District in which the person involved had his last residence.

The same provision shall be also applicable as regards the submitting or filing of declarations by persons who are bound to do so by virtue of this Order.

ARTICLE 20

The power of the Area Tax Commission to increase the assessment made by the Direct Tax Office and to assess omitted profits in the cases referred to in Article 43 of the Consolidated Text (Testo Unico) approved by R.D. 24 August 1877, No. 4021 and in Article 98 of the Regulations approved by R.D. 11 July 1907 No. 961, shall cease on the 31 December of the third year following the year of the final assessment.

PART V

DISPUTES AND APPEALS CONCERNING ASSESSMENT OF REGIME PROFITS

ARTICLE 21

Section 1 - The provisions in force for the Special War Profits Tax, excluding those concerning the appeal to judicial authorities, shall also apply to the settlement of disputes concerning the assessment of fascist regime profits.

Section 2 - The settlement of such disputes shall lie, in first

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mitting or filing of declarations by persons who are bound to do so by virtue of this Order.

ARTICLE 20

The power of the Area Tax Commission to increase the assessment made by the Direct Tax Office and to assess omitted profits in the cases referred to in Article 43 of the Consolidated Text (Testo Unico) approved by R.D. 24 August 1877, No. 4021 and in Article 90 of the Regulations approved by R.D. 11 July 1907 No. 560, shall cease on the 31 December of the third year following the year of the final assessment.

PART V

DISPUTES AND APPEALS CONCERNING ASSESSMENT OF PROFITS TAXES

ARTICLE 21

Section 1 - The provisions in force for the Special War Profits Tax, excluding those concerning the appeal to judicial authorities, shall also apply to the settlement of disputes concerning the assessment of Israel regime profits.

Section 2 - The settlement of such disputes shall lie, in first instance, within the competence of a Special Section of the Area Tax Commission, consisting of a President (appointed by the Allied Military Government on the nomination of the President of the Tribunal of the Chief Town of the Area, and after consulting the "Intendente di Finanza") and of four regular and four deputy members selected from among the members of the Area Tax Commission, who shall be appointed by the Allied Military Government. Such nominations are not binding.

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ARTICLE 22

Section 1 - The Federal Section of the Area Tax Commission shall decide all questions relating to the assessment and collection of taxes, duties and imposts in accordance with the laws of the Federation.

Section 2 - The Federal Section of the Area Tax Commission shall have jurisdiction to hear appeals from decisions of the Provincial Commissioners in all cases in which the value in dispute is not less than [illegible] pounds.

Appeal may be made to the Federal Commissioner against the decision of the Special Section of the Area Tax Commission, the Territorial Commissioner shall have the power to affirm, reverse or modify such decision.

The decisions on such appeals shall be final except as to points of law when appeal shall lie to the Supreme Court.

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ARTICLE 23

Section 1 - The Federal Section of the Area Tax Commission shall decide all questions relating to foreign (italian) nature and capacity of persons, except the right or capacity to be brought before the Commissioners (appointed at above in plaintiff) shall be in any case excluded from the competence of the Special Section.

Should any of the above questions arise, the Special Section, if it considers such question important in the decisions of the dispute, may suspend the proceedings until the competent authorities shall decide, the "Tribunale di Simmaria", say, impossible shall institute or continue with the proceedings.

ARTICLE 24

Section 1 - The Federal Section of the Area Tax Commission shall decide all questions relating to the assessment and collection of regime profits, levy or withholdings.

The decisions on such questions shall be final as to points of law. All forms of taxing [illegible] shall be [illegible] jurisdiction, [illegible] vitiae.

servable by the Allied Military Government.

ARTICLE 22

Section 1 - The Special Section of the Area Tax Commission shall decide all questions relating to the assessment and to the liquidation of regime profits, save as aforementioned.

The decisions on such questions shall have no effect as to third parties.

Section 2 - All questions relating to forgery (faux), status and capacity of persons, except the right or capacity to be brought before the Commissions (capacité d'ester en justice) shall in any case be excluded from the competence of the Special Section.

Should any of the above questions arise, the Special Section, if it considers such questions important to the decisions of the dispute, may suspend the proceedings until the Competent Court takes known the decision. The "Intendant of Finance", may, however, institute or continue with the relative proceedings.

ARTICLE 23

Section 1 - The Special Section of the Area Tax Commission shall have all powers of making investigations, visits, inspections controls and request for information, as are conferred upon Direct Tax Officials, and on the Commissions for the Assessment of the Special War Profits Tax.

Section 2 - The Special Section of the Area Tax Commission shall also have the power to secure, directly or through the Judicial Police, the dwellings of the persons involved and of third parties in accordance with the provisions of the Code of Penal Procedure.

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The refusal abstaining from testimony in the cases provided for by Article 352 of the Penal Code shall not be admitted in proceedings carried on by the Special Section of the Area Tax Commission.

Section 3 - Any person who, being summoned as a witness or an expert, does not comply therewith or makes false declarations, shall be punishable in accordance with Article 366, 372 and 373 of the Penal Code.

Any person who does not obey the orders of the Special Section of the Area Tax Commission shall be punishable by imprisonment (reclusione) not exceeding 6 months and/or to a fine (multa) of from 1000 Lire to 10,000 Lire.

Section 4 - Public Administrations and Public Bodies, if aware that fascist regime profits had been made, shall immediately advise the Direct Tax Office thereof. Individuals of such Public Administrations and Public Bodies who are responsible for making such declaration shall, in case of non compliance, be punished in accordance with the preceding Section.

Section 5 - The powers referred to in Section 1 of this Article for the purpose of assessment of fascist regime profits, investigations of property and of segregation, are conferred also on the "Intendenza di Finanza" with effect also against third parties.

The "Ispettorato Compartimentale delle Imposte Dirette" is hereby entrusted with the supervision and control of all services and operations connected with the execution of fascist regime

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Section 3 - Any person who, being required to a return or declaration, expert, does not comply therewith or makes false declaration, shall be punishable in accordance with Article 366, 372 and 373 of the Penal Code.

Any person who does not obey the orders of the Special Section of the Area Tax Commission shall be punishable by imprisonment (reclusione) not exceeding 6 months and/or to a fine (multa) of from 1000 Lire to 10.000 Lire.

Section 4 - Public Administrations and Public Bodies, if aware that fascist regime profits had been made, shall immediately advise the Direct Tax Office thereof. Individuals of such Public Administrations and Public Bodies who are responsible for making such declaration shall, in case of non compliance, be punished in accordance with the preceding Section.

Section 5 - The powers referred to in Section 1 of this Article for the purpose of assessment of fascist regime profits, investigations of property and of sequestration, are conferred also on the "Intendenza di Finanza" with effect also against third parties.

The "Ispettore Compartimentale delle Imposte Dirette" is hereby entrusted with the supervision and control of all services and operations connected with the expropriation of fascist regime profits. He will in conjunction with the "Intendenza di Finanza" order direct Tax Officials and Special Sections of Area Tax Commissions to exercise the powers contained in this Order and to report to him when requested to do so the results of such investigations, visits, inspections and controls.

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ARTICLE 24

The hearings of the Special Section of the Area Tax Commission for the expropriation of fascist regime profits shall be public, and in the discussion between the District Direct Tax Office and the taxpayer, the latter may be assisted by one of the persons authorized in accordance with Articles 33 and 34 of R.D.L. 7 August 19, 6, No. 1639.

The District Direct Tax Office may be assisted by the "Avvocatura dello Stato". The "Ispettore Compartimentale delle Imposte Dirette" may attend the hearings in order to support the District Direct Tax Office in the discussion with the taxpayer, without, however, taking part in the decision; the decision shall be made secretly by a majority of votes immediately after the discussion and after the interested party and the "Ispettore Compartimentale delle Imposte Dirette" have retired.

ARTICLE 25

Section 1 - Appeal may be lodged against the decision of the Territorial Commission only on questions of jurisdiction (assoluto difetto di giurisdizione) and will be made before the Court of Appeal functioning as Court of Cassation. The appeal must be made by the debtor or by the Finance Administration within forty-five days from the pronouncement of the Decision.

Section 2 - The "Ispettore Compartimentale delle Imposte Dirette" may, however, after the term fixed in the preceding Section, 5th [illegible] order the Territorial Commission to proceed

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and the taxpayer, the latter may be assisted by one of the persons authorized in accordance with Articles 33 and 34 of R.D.L. 7 August 1936, No. 1639.

The District Direct Tax Office may be assisted by the "Avvocatura dello Stato". The "Ispettore Compartimentale delle Imposte Dirette" may attend the hearings in order to support the District Direct Tax Office in the discussion with the taxpayer, without, however, taking part in the decision; the decision shall be made secretly by a majority of votes immediately after the discussion and after the interested party and the "Ispettore Compartimentale delle Imposte Dirette" have retired.

ARTICLE 25

Section 1 - Appeal may be lodged against the decision of the Territorial Commission only on questions of jurisdiction (assoluto difetto di giurisdizione) and will be made before the Court of Appeal functioning as Court of Cassation. The appeal must be made by the debtor or by the Finance Administration within forty-five days from the pronouncement of the decision.

Section 2 - The "Ispettore Compartimentale delle Imposte Dirette" may, however, after the term fixed in the preceding Section 1 but within two years, order the Territorial Commission to proceed with the rectification of any assessment, even after the latter has become final, on the ground that facts of great importance ~~[illegible]~~ have not been taken into account in the former proceedings.

ARTICLE 26

The provisions set forth in Article 22, in Sections 1, 2, 3

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and 4 of Article 23, and in Article 24 of this Order shall apply to the Territorial Commission.

P A R T VI

SETTLEMENTS BY AGREEMENT

ARTICLE 27

Section 1 - An agreement entered into between the District Direct Tax Office and the person concerned is subject to the prior approval of the "Ispettore Compartimentale delle Imposte Dirette".

Negotiations for the conclusion of the agreement are subject to prior notification of the assessment.

Section 2 - The agreement shall be recorded in a document signed by the representative of the District Direct Tax Office and by the person concerned.

P A R T VI

PRIVILEGES AND OTHER PROVISIONS IN FAVOR OF THE PUBLIC TREASURY

ARTICLE 28

Section 1 - The right of (privilegio generale) to payment of the Public Treasury ~~in~~ fascist regime profits shall be a general lien on all movable and immovable property of the debtor, and as far as the movable property is concerned shall have priority over the other rights to payment specified in number 15 of Article 2778 of the Civil Code and so far as immovable property is concerned shall have priority over the rights to payment specified in number 5 of Art. 2780 of the said Code.

The Finance Administration can waive, as to certain assets (privilegio)

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Section 1 - Any agreement entered into between the District Direct Tax Office and the person concerned is subject to the prior approval of the "Ispettore Compartimentale delle Imposte Dirette".

Negotiations for the conclusion of the agreement are subject to prior notification of the assessment.

Section 2 - The agreement shall be recorded in a document signed by the representative of the District Direct Tax Office and by the person concerned.

PART VI

PREFERENCES AND OTHER PROVISIONS IN FAVOR OF THE PUBLIC TREASURY

ARTICLE 28

Section 1 - The ~~privileges~~ right of (privilegio generale) the Public Treasury to payment of fascist regime profits shall be a general lien on all movable and immovable property of the debtor, and so far as the movable property is concerned shall have priority over the other rights to payment specified in number 1) and so far as of Article 2776 of the Civil Code ~~mortgages~~ immovable property is concerned shall have priority over the rights to payment specified in number 3 of Art. 2778 of the said Code.

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The Finance Administration may waive, as to certain amounts, the privilege (privilegio) referred to in the foregoing paragraph, if the remaining property is deemed to be a sufficient guarantee for the liability.

Section 2 - The ~~claims~~ Public Treasury shall not have priority to any mortgage registered before 25 July 1943, if such mortgage is not to be considered null and void in accordance with the provisions of Article 43 of this Decree, nor to written obligations to pay (redditi chirografari) ~~claims~~, contracted ~~before~~ prior to 25 July 1943.

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Section 1 - Creation granted to corporations of companies wishing to be constituted in terms of this Order including creation for financing purposes for in Section 3 (d) of Article II of this Order, shall have priority over the Public Treasury for taxes [illegible] regime profits.

ARTICLE 25

Section 1 - The Director of Internal Revenue, in accordance with the provisions of the National Internal Revenue Code, may require the filing of a bond together with any return, declaration, statement or schedule required under the provisions of this Code, in such amount as may be deemed necessary to secure the payment of the tax or taxes, including interest and penalties due or which may be due from the taxpayer.

Section 2 - The Director of Internal Revenue may, in his discretion, require the filing of a bond to secure the payment of any tax, interest or penalty, or the performance of any act by any person liable therefor under the provisions of this Code or the rules and regulations issued thereunder.

Section 3 - The bond required to be filed under the preceding section shall be executed by the taxpayer as principal and by a surety company duly accredited and authorized to transact business in the Philippines as surety, as obligees, and shall be conditioned upon the faithful performance by the principal of all the obligations imposed upon him by this Code or by the rules and regulations issued thereunder. The bond shall remain in force and effect until the obligations of the principal shall have been fully complied with, or until the liability thereon shall have been released by the Commissioner of Internal Revenue or his duly authorized representative.

Section 1 - The District Direct Tax Office, in accordance with Article 109 of the Regulations approved by R.D.L. 11 July 1937, No. 3?0, may make a provisional entry in the tax rolls the whole amount of the profits not yet finally assessed, such provisional entry, however, shall be limited to a maximum of 25% of the said amount in cases where the person concerned has requested a settlement by agreement. This limitation shall cease if the settlement by agreement is not reached within 60 days from the day on which, in accordance with the provisions of the aforesaid Article 109, the whole amount becomes registrable.

Section 2 - If agreement is reached before decision by the Area Tax Commission, the person concerned shall be entitled to have the payment of the amount agreed upon spread over two years, with the option of earlier payment, upon which discount at rate of 6% per annum will be granted.

In accordance with the foregoing paragraph any person concerned whose property consists of immovable property for at least of three fifths of its net amount and with whom an agreement has been reached, may at any time obtain from the Finance Administration permission that the payment by instalments of his remaining debt for fascist regime profits be elayed for two further years, provided he agrees to pay to the Public Treasury interest of 6% per annum on the balance still due.

Section 3 - Subject to the provisions of Articles 41 and 42, the collection of assessed fascist regime profits shall be governed by the same rules as govern the collections of war profits, with

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the exception that the collector shall not be liable for the unpaid collected amounts.

ARTICLE 50

Upon the abandonment of the Unit the aforementioned Gas become final, if the person concerned fails to pay two successive installments then he shall be declared bankrupt at the request of the Tesauderie di Finanze. Irrespective of whether he is a trader or not.

ARTICLE 51

Section 1 - The Lieutenante di Finanze, if he suspects that any person concerned might evade the payment of Direct Taxes, may seize, the accumulated profits, but in this case only in order to guarantee the collection of Taxation relative profits (Tax relative

d) if the surety contained in section 1 of this Article is not given, the Lieutenante di Finanze may request de judgement for the purpose of preservation (Sequestro Conservativo) of all money, Investable and Tovable Property pertaining to the person concerned.

Imprisonment may also be imposed for surety granted by third parties, but in this case only in order to guarantee

Section 2 -

If the surety consisted in section 1 of this Article is not redeemed, then sufficient amount may be liable 2d Notary.

If the surety is composed by a mortgage, the registration relating thereto shall be made for the total value of the asset, and shall be effective up to the amount of the liability to the Fiscal Treasury, subject to the provision of Article 2d hereof.

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for the purpose of preservation (including conservative) of all money, immovable and movable property pertaining to the person concerned.

Confiscation may also be required for surety remained by court parties, but in this case only in order to guarantee the collection of forfeit regime profits (item mentioned penalties provided for in code "Fiber"), declared items confiscation with the German Invader, for the conclusion of which such surety was granted.

b) If the application is made on ourselves, the application, shall have all the powers necessary for the management of the property concerned.

Section 2 -

a) If the surety contemplated in section 1 of this Article is one given, the Intendancy of Finance may release application (including conservative) of preservation for the purpose of all money, immovable and movable property pertaining to the person concerned.

ARTICLE 13

Section 1 - The Intendante de Finance, it be suspects that one person concerned might evade the payment of forfeit regime profits, may require, even before the notification of the assessment, that sufficient surety be given.

If the surety is constituted by a mortgage, the registration relating thereto shall be made for the total value of the asset, and shall be effective up to the amount of the liability to the Public Treasury, subject to the provision of article 23 hereof.

Section 2 -

mits of ordinary administration and may, following an authorization by the Finance Administration make such financial arrangements as is necessary for the resumption and continuation of the concern's activity.

6) The sequestration shall be requested by the Intendente di Finanza of the area where the District Direct Tax Office competent for the assessment of the fascist regime profits is situated, regardless of the location of the property, and shall be ordered by the President of the Tribunal of the Chief Town of the Area. In particularly urgent cases, the sequestration may be ordered by the President of the Tribunal in whose Area the sequestration is to be carried out. The sequestration shall not be subject to any further confirmation and shall remain in force until the formalities for execution on the debtor's property have been completed, or until the assessment has been declared null and void.

Section 3 - Deeds relating to the mortgage security, bank guarantee or surety, as well as deeds relating to the security sequestration, shall be exempt from stamp-rate- and registration and mortgage duties, as well as from emoluments and fees due to the keeper (conservatore) of real property registers and to the Registry Office.

ARTICLE 32

Section 1 - The sequestration shall be made in accordance with Articles 678 and 679 of the Code of Civil Procedure, excluding, in any case, the application of Articles 674, 675 and 680 of the said Code. The assets specified under Article 520 of the same Code shall be left in such custody as may be arranged by the Intendente di Finanza. The sequestration may also relate to books, documents

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of the area where the District Direct Tax Offices competent for the assessment of the fascist regime profits is situated, regardless of the location of the property, and shall be granted by the President of the Tribunal of the chief town of the area. In particularly urgent cases, the sequestration may be ordered by the President of the Tribunal in whose Area the sequestration is to be carried out. The sequestration shall not be subject to any further confirmation and shall remain in force until the formalities for execution on the debtor's property have been completed, or until the assessment has been declared null and void.

Section 3 - Deeds relating to the mortgage security, bank guarantee or surety, as well as deeds relating to the security sequestration and mortgage duties, as well as from emoluments and fees due to the keeper (conservatore) of real property registers and to the Registry Office", shall be exempt from stamp taxes and registration dues.

ARTICLE 32

Section 1 - The sequestration shall be made in accordance with Articles 675 and 679 of the Code of Civil Procedure, excluding, in any case, the application of Articles 674, 675 and 680 of the said Code. The assets specified under Article 520 of the same Code shall be held in such custody as may be arranged by the Intendente di Finanza.

Sequestration may also be applied to books, registers, models, documents and any other thing which may be used to ascertain the origin of the profits. 112

Section 2 - In ordering the sequestration, the Judicial Authorities shall remove from office the "nominees" who had been previously entrusted with the management of certain assets or groups of assets.

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ARTICLE 33

Section 1 - The sequestration of shares shall be made against the share and shall be notified to the issuing Company for annotation on the shareholders' register.

In the case where sequestration of shares is made by notification to the issuing Company, the latter, if it does not hold the share certificates, shall take note of the distraint, which shall have effect on all shares registered under the name of the person against whom the sequestration has been obtained, and on the share certificates when they subsequently come into possession of the issuing Company.

Section 2 - The Intendente di Finanza who has requested the sequestration may ask the issuing Company to enter on the share certificates and in the shareholders' register the particulars of the sequestrator, who shall thus be put in a position legally enabling him to exercise the rights referred to in Article 35 of this Order.

ARTICLE 34

The precautionary measures provided for in Article 31 may also be required from the persons specified under Articles 5, 6, 7, 8, 9 and 11 or their heirs, as well as from the following:

a) persons who acted as nominees;

b) legatees, donees and other persons in favour of whom the person concerned has effected deeds disposing of rights (atti di disposizione) after 25 July 1943, or deeds of gratuitous transfer (atti a titolo gratuito) during the five years preceding 25 July 1943. Such provisions shall have effect [illegible]

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to the issuing Company, the latter, if it does not hold the share certificates, shall take note of the distraint, which shall have effect on all shares registered under the name of the person against whom the sequestration has been obtained, and on the share certificates when they subsequently come into possession of the issuing Company.

Section 2 - The Intendente di Finanza who has requested the sequestration may ask the issuing Company to enter on the share certificates and in the shareholders' register the particulars of the sequestrator, who shall thus be put in a position legally enabling him to exercise the rights referred to in Article 35 of this Order.

ARTICLE 34

The precautionary measures provided for in Article 31 may also be required from the persons specified under Articles 5, 6, 7, 8, 9 and 11 or their heirs, as well as from the following.

a) ~~Union~~ persons who acted as nominees;

b) legatees, donees and other persons in favour of whom the person concerned has effected deeds disposing of rights (atti di disposizione) after 25 July 1943, or deeds of gratuitous transfer (atti a titolo gratuito) during the five years preceding 25 July 1943. Such provision shall have effect only, if the guarantees taken with respect to the person concerned and his heirs appear insufficient. 111

ARTICLE 35

The shareholder whose shares have been sequestrated shall re the right to vote carried by those shares. If his vote, in a dec vote the sequestrator may, in accordance with Article 2377 of th

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11 Code, exercise the right to vote himself. Any dispute shall be settled as provided for in Article 36.

The sequestrator shall substitute the shareholder in any action which he is entitled to take as a shareholder. The sequestrator may attend all the meetings of the issuing Company.

ARTICLE 36

In request of the ~~sequestrated~~ requestrated party, the Finance Administration may authorize the sequestrator to exercise the rights of recession (recesso) and option or to effect payments required on shares, using for such purpose the available funds derived from the management of the sequestrated assets.

ARTICLE 37

The sequestration of property in the hands of third parties shall be carried out in the same way as provided for in the direct sequestration of a debtor's property, subject to prior notification of distraint (precetto di pignoramento) to the third party and without complying with the other provisions of Article 543 and subsequent articles of the Code of Civil procedure.

ARTICLE 38

The settlement of disputes (incidenti) arising during the sequestration proceedings shall be within the competence of the judicial authority who ordered the sequestration.

The filing of any dispute shall not interrupt the sequestration proceedings.

ARTICLE 39

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In request of the ~~[illegible]~~ sequestrated party, the Finance Administration may authorize the sequestrator to exercise the rights of recession (recesso) and option and to effect payments required on shares, using for such purpose the available funds derived from the management of the sequestrated assets.

ARTICLE 17

The sequestration of property in the hands of third parties shall be carried out in the same way as provided for in the direct sequestration of a debtor's property, subject to prior notification of distraint (precetto di pignoramento) to the third party and without complying with the other provisions of Article 543 and subsequent articles of the Code of Civil Procedure.

ARTICLE 18

The settlement of disputes (incidenti) arising during the sequestration proceedings shall be within the competence of the judicial authority who ordered the sequestration.

The filing of any dispute shall not interrupt the sequestration proceedings.

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ARTICLE 19

Section 1 - Expenses, duties and indemnities relating to acts required for the sequestration shall be advanced by the Finance Administration and recovery will be made from the debtor. All administration expenses shall be met from the debtor's assets.

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Section 2 - For investigations, surveys and other measures for the obtaining of evidence to be carried out at the request of individuals who have an interest per se in such investigations carried out at their expense, a deposit in advance may be required in the Special Section of the Rome Tax Commission as decided. Such expenses shall be estimated and shall be subject to adjustment.

Section 3 - If the non-existence of excess profits has been finally recognized, or if the taxpayer has fully settled his debt for the amount of excess profits assessed, the "Intendente di Finanza", by regular decree and on request of the party concerned, shall consent to the cancellation of the mortgage, against payment of the tax specified in art. 11 of Lawir 4 appended to the law 29 June 1939, No. 940, to be only levied on the amount of excess profits finally assessed and paid ~~the entries of which have been recognized to be not owing and to exempt from payment~~.

ARTICLE 40

At the request of the person concerned, and after hearing the Intendente di Finanza and the Ispettorato Compartimentale delle Imposte Dirette, the President of the Tribunal may order, on the ground of new facts, the lifting, the reduction or conversion of the registration into a legal mortgage, a bank guarantee (fideiussione bancaria) or surety, specifying the property to be mortgaged, the amount of the guarantees, the amount and nature of the surety and the time limit for the registration of the mortgage or for the granting of the guarantee or surety.

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"The registration of this legal mortgage entered on the
foregoing page shall be made in accordance with the provisions
of Art. 31

Second Case "Incendiarie di Filmiera" relative and [illegible]
[illegible] other real or personal
property, the listing of the consideration shall be made to

the giving of such guarantee.

The decree fixing the sequestration will fix a time-limit for the release of the property, at which one of the official of the Finance Administration may be present.

The former sequestrator shall file with the "Intendenza di Finanza", within one month from the date On which the property was re-delivered, the final accounts relating to his period of management. Such accounts shall be submitted by the "Intendente di Finanza" to the owner of the property for approval.

If either the owner or the "Intendente di Finanza" fail to approve, the accounts shall be transmitted by the "Intendente di Finanza" to the President of the Tribunal who, after hearing the owner, the sequestrator and the "Intendente" shall decide the dispute by Order (Ordinanza) against which there will be no appeal.

The President of the Tribunal will assess, after discussion with the above parties, the fee payable to the sequestrator.

If the sequestrator fails to submit the accounts within the above said time-limit, he will forfeit such fee, without prejudice to other penalties provided by the law.

Article 61

The Intendente di Finanza, either ex officio or at the request of the interested party, may order that recent realms profits be directly paid to the Public Treasury (Tesoreria provinciale)

If the person concerned fails to pay the amount due within the time limit fixed, the Intendente di Finanza shall entrust

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was re-delivered, the final accounts relating to his period of management. Such accounts shall be submitted by the "Intendente di Finanza" to the owner of the property for approval.

If either the owner or the "Intendente di Finanza" fail to approve, the account shall be transmitted by the "Intendente di Finanza" to the President of the Tribunal who, after hearing the owner, the sequestrator and the "Intendente" shall [illegible] against which there will be no appeal.

The President of the Tribunal will in camera session, after consultation with the above parties, fix the fee payable to the sequestrator.

If the sequestrator fails to submit the accounts within the above time-limit, he will forfeit such fee without prejudice to other penalties provided by the law.

Article 41

The Intendente di Finanza, either ex officio or at the request of the interested party, may order that recent receipts be directly paid to the Public Treasury (Tesoreria provinciale)

If the person concerned fails to pay the amount due within the time limit fixed, the Intendente di Finanza shall instruct the competent Tax Collector with the collection of the above amount plus any accruals due for delay in payment and the Collector's commission (aggio). The amount due for delay in paying (indennità di mora) shall be paid to the Public Treasury.

The Collector's commission (aggio) will be fixed by the Ispettore Compartimentale delle Imposte Dirette.

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ARTICLE 42

Section 1 - For the execution (esecuzione) on the debtor's immovable property one ~~auction~~ auction only shall be held. The minimum price shall be the value of each asset as finally valued by the Commission. If the Commission has not determined the value ~~then~~ the value of the asset shall be determined by the Uffizio Tecnico Erariale.

If the auction is unsuccessful, the asset shall be transferred by right to the Public Treasury.

Section 2 - For the execution (esecuzione) on movable property, subject to the provision of Section 1 concerning the minimum price, in the event of the first auction being unsuccessful another auction shall be authorized by the Intendente di Finanza, in accordance with Article 59 of the Consolidated Text (Testo Unico) of the Law regarding the collection of direct taxes and amendments thereto, who may then order the transfer of the movable property to the Public Treasury.

Section 3 - In any case the Public Treasury shall have the right of pre-emption on the property subjected to auction sale at the price reached in the final auction.

Such pre-emption must be exercised within and not later than 20 days from the adjudication, by means of a declaration to be deposited by "Intendenza di Finanza" with the competent judicial office (cancelleria giudiziaria) and to be ~~transcribed~~ registered, by order of the said "Intendente", in the real-property registers.

For shares, securities and partnerships, the right of pre-

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If the auction is unsuccessful, the asset shall be transferred by right to the Public Treasury.

Section 2 - For the execution (esecusione) on movable property, subject to the provision of Section 1 concerning the minimum price, in the event of the first auction being unsuccessful another auction shall be authorized by the Intendente di Finanza, in accordance with Article 53 of the Consolidated Text (Testo Unico) of the Law regarding the collection of direct taxes and amendments thereto, who may then order the transfer of the unsold property to the Public Treasury.

Section 3 - In any case the Public Treasury shall have the right of pre-emption on the property subjected to auction sale at the price reached in the final auction.

Such pre-emption must be exercised within and not later than 20 days from the adjudication, by means of a declaration to be deposited by "Intendenza di Finanza" with the competent judicial office (cancelleria giudiziaria) and to be ~~annotated~~ registered, by order of the said "Intendente", in the real-property registers.

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For shares, securities and partnerships, the right of pre-emption may be exercised even before the beginning of the execution proceedings (procedura esecutiva). In the case of securities the value will be on the basis of the Stock-Exchange quotations, or failing such quotations, on the values determined by the Stock-Brokers' Committee. In the case of partnerships the value will be determined by the Chamber of Commerce.

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Section 4 - For the exercise of the right of pre-emption, the "Intendente di Finanza" shall notify the interested party the injunction to hand over the shares, which by order of the same "Intendente" shall be endorsed in the name of "Direzione Generale del Demanio" with the words: for pre-emption in accordance with art. 42 of His Order.

For shares in limited partnerships, the right of pre-emption shall be exercised under a decree of the President of the Tribunal (to be issued on request of the Intendente di Finanza), ordering the transfer of the shares to the Public Treasury.

ARTICLE 43

If the debtor's property is insufficient to cover his debt to the Public Treasury, the following transactions will be null and void so far as the Public Treasury is concerned.

a) Deeds of gratuitous transfer (atti a titolo gratuito) made by the debtor during the five years preceding 25 July 1943, except those made on moral ground or for the public interest.

b) All deeds disposing of rights (atti di disposizione) made after 25 July 1943, except those made in payment of a due and real debt, from which it appears that it was not created for the purpose of artificially burdening the debtor's property with liabilities.

c) Other non-gratuitous deeds disposing of rights (atti di disposizione non a titolo gratuito) if evidence exists that the actual owner or possessor of property formerly possessed by the debtor knew or could have known, at the time he acquired the

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

For shares in limited partnerships the right of pre-emption shall be exercised under a decree of the President of the Tribunal (to be issued on request of the Intendente di Finanza), ordering the transfer of the shares to the ~~Treasury~~ Public Treasury.

ARTICLE 11

If the debtor's property is insufficient to cover his debt to the Public Treasury, the following transactions will be null and void so far as the Public Treasury is concerned.

a) Deeds of gratuitous transfer (atti a titolo gratuito) made by the debtor during the five years preceding 25 July 1943, except those made on moral ground or for the public interest.

b) All deeds disposing of rights (atti di disposizione) made after 25 July 1943, except those made in payment of a due and real debt, from which it appears that it was not created for the purpose of artificially burdening the debtor's property with liabilities.

c) Other non-gratuitous deeds disposing of rights (atti di disposizione non a titolo gratuito) if evidence exists that the actual owner or possessor of property ~~formerly~~ possessed by the debtor knew or could have known, at the time he acquired the ownership or the possession that such person existed amongst his predecessors in title and that he made fascist regime profits.

Nullity of such deeds will be sought by the Intendente di Finanza

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against the debtor and the person in whose favour the deed was granted.

The judicial request for nullity shall be registrable.

The right to take action for nullity shall expire within two years from the day in which the decision of expropriation has become irrevocable.

ARTICLE 44

Before the Public Treasury and for the purposes of the realization of its credit for fascist regime profits, property acquired within the five years prior to 25 July 1943 by the spouse of the debtor shall be considered as owned by the latter.

PART VII

PROCEDURE

ARTICLE 45

Section 1 - Within one month from the date of publication of this Order, the Intendence di Finanza shall prepare and send to the Allied Military Government, lists containing the names of the persons subject or to be subjected to expropriation proceedings in accordance with the provisions of Article 3, 6, 7, 8, 9, 11 and 12.

Within one month from the receipt of the lists publication will be made thereof in the Allied Military Government's Gazette and copies of the same shall be deposited, at the Ufficio Tavolari, at the Offices of the Pubblico Registro Automobilistico, of the Pubblici Registri Navali, of the Pubblico Registro Aeronautico,

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become irrevocable.

ARTICLE 44

Before the Public Treasury and for the purposes of the rectification of its credit for fascist regime profits, property acquired within the five years prior to 25 July 1943 by the spouse of the debtor shall be considered as owned by the latter.

PART VIII

PROCEDURE

ARTICLE 45

Section 1 - Within one month from the date of publication of this Order, the Intendente di Finanza shall prepare and send to the Allied Military Government, lists containing the names of the persons subject or to be subjected to expropriation proceedings in accordance with the provisions of Article 5, 6, 7, 8, 9, 11 and 12.

Within one month from the receipt of the lists publication will be made thereof in the Allied Military Government's Gazette and copies of the same shall be deposited, at the Ufficio Tavolare, at the Offices of the Pubblico Registro Automobilistico, of the Pubblico Registro Navale, of the Pubblico Registro Aeronautico, as well as the Stock-Exchanges. After the publication and the deposit of the said lists, no action for the declaration of nullity, as provided for in Article 43, may be asked for, for deeds disposing of rights subsequently effected, or if the persons who effected the same or their predecessors in title are not included in the said lists.

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Section 2 - After expiration of the term of prescription established in Article 48 and after the expropriation proceedings have been completed or the debt towards the Public Treasury has been settled, the Finance Administration shall declare, by an Order to be published and deposited as provided for in Section 1 of this Article, that the reasons for the inclusion of certain persons in the said lists no longer exist.

Section 3- The Finance Administration may at any time authorize the alienation of certain assets by persons included in the lists, under such particular conditions as it may deem proper for the best guarantee of the Public Treasury's credit.

ARTICLE 46

Upon request of the Intendente di Finanza, the competant judge may order suspension, until completion of the judgement of assessment, of any proceedings ipcourse or instituted for distraint or bankruptcy against persons subject to the assessment or against persons against whom measures of guarantee have been or are taken.

ARTICLE 47

At the request of the sequestrator or of any person concerned payment of credits having priority over the credits of the Public Treasury in accordance with Sections 2 and 3 of Article 28, and of other credits the payment of which appears to be an evident advantage for the administration and for the preservation of the sequestrated property, may be made, subject to prior approval

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served as provided for in Section 1 of said Article, and the reasons for the inclusion of certain persons in the said lists no longer exist.

Section 3.- The Finance Administration may at any time authorize the alienation of certain assets by persons included in the lists, under such particular conditions as it may deem proper for the best guarantee of the Public Treasury's credit.

ARTICLE 46

Upon request of the Intendente di Finanza, the competent judge may order suspension, until completion of the judgement of assessment, of any proceedings ingcourse or instituted for distraint or bankruptcy against persons subject to the assessment or against persons against whom measures of guarantee have been or are taken.

ARTICLE 47

At the request of the sequestrator or of any person concerned payment of credits having priority over the credits of the Public Treasury in accordance with Sections 2 and 3 of Article 28, and of other credits the payment of which appears to be an evident advantage for the administration and for the preservation of the sequestrated property, may be made, subject to prior approval of the Allied Military Government.

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PART IX

PRESCRIPTION

ARTICLE 48

The action of the Finance Administration for the assessment of fascist regime profits shall prescribe on 30 June 1948. Notification of the proposed assessment shall suspend prescription for

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the duration of the proceedings before the Special Section of the Area Tax Commission and of the Territorial Commission. The right to payment of the Public Treasury for fascist regime profits shall prescribe within five years from the date on which the assessment has become final. The prescriptive period shall be suspended by demand for payment to the Treasury (Tesoreria) or by presentation of the "Cartella Esattoriale di pagamento."

x—

PART X

Effective Date

ARTICLE 49

This Order shall take effect on the date of its publication in the Allied Military Government Gazette.

Trieste, _____ 1947.

ALFRED C. BOWEN
Colonel, J.A.G.D.
SENIOR CIVIL
AFFAIRS OFFICER

x- Part X

Cancellation of General Order 70

Shall take effect from the date of publication of this Order. General Order No. 70 is hereby cancelled.

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

of the Public Treasury for taxes which shall become
within five years from the date on which the assessment has become
final. The prescriptive period shall be suspended by demand for pay-
ment to the Treasury (Tesoreria) or by presentation of the "Cartel-
la Esattoriale di pagamento."

x—

P A R T X

Effective Date

ARTICLE 49

This Order shall take effect on the date of its publication in the Allied Military Government Gazette.

PALERMO, _____ 1947.

ALFRED G. DONAN
Colonel, J.A.G.D.
REGION CIVIL
AFFAIRS OFFICER

x- Part X

Cancellation of General Order 70

Article effect- from the date of publication of this Order, General Order No. 70 is hereby cancelled.

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MEMORANDUM TO THE EXECUTIVE COMMISSIONER:

1. Let us suppose an order is issued wherein you are named as a member of a military court which is to try a man for his life. The court thereafter sits, and after hearing the evidence, you conclude that the man is "Not Guilty". But I come to you and say, "See here, Brigadier, you must enter a finding of "Guilty" in this case." After recovering from your astonishment, you say to me, "The judicial function, - that is, the act of deciding this case, - cannot be shared. It must be wholly exercised by me, or by you. If you, Weber, want a verdict of "Guilty" entered in this case, you should have wholly assumed the function of deciding this case yourself. I will not be a party to entering a judgment in this case, as my act, when in reality it is your act."

2. As pointed out in my memorandum to the Chief Commissioner, I have not recommended that the r e v i e w s o f c a s e s be wholly undertaken by the S.C.A.O., or wholly undertaken by the judicial officer appointed for that purpose. Quite to the contrary, all that I have recommended is the observance of the rule that whoever undertakes the task of passing judgment on a case must wholly assume the exercise of such function free from interference from others.

3. In observing such premise, the S.C.A.O. relinquishes none of the powers vested in him, including the power to make rules not inconsistent with established law. Having made such rules, he is not permitted to resort to the expedient of applying them in a given case as his act under the guise of being the act of another. To obtain such result, he must wholly assume the function in his own name and evidence the same as his act and deed.

4. In the many cases which I have tried, no one has yet undertaken the doubtful task of telling me what judgment I should render therein. In all my service with occupational government, I have yet to tell one of my judges what decision he must render in the case before him.

5. The principles I have announced have been rigorously followed from the beginning of occupational government. It is much too late to depart from them. As I have pointed out in the memorandum to the Chief Commissioner, actually there is no need for the S.C.A.O. to tell a judicial officer the decision to be rendered in a case. It is wholly within his power to review any case over which he has jurisdiction as a Regional Commissioner. By the simple process of wholly assuming the judicial function of review as his act and deed, he lawfully exercises the powers vested in him and lawfully achieves the result he desires.

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JOHN E. WEBER
Colonel, Infantry
Chief Legal Adviser

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that the man is "Not Guilty". [illegible] Brigadier, you must enter a finding of "Guilty" in this case." After recovering from your astonishment, you say to me, "The judicial function, - that is, the act of deciding this case, - cannot be shared. It must be wholly exercised by me, or by you. If you, Weber, want a verdict of "Guilty" entered in this case, you should have wholly assumed the function of deciding this case yourself. I will not be a party to entering a judgment in this case, as my act, when in reality it is your act."

2. As pointed out in my memorandum to the Chief Commissioner, I have not recommended that the r e v i e w o f c a s e s be wholly undertaken by the S.C.A.O., or wholly undertaken by the judicial officer appointed for that purpose. Quite to the contrary, all that I have recommended is the observance of the rule that whoever undertakes the task of passing judgment on a case must wholly assume the exercise of such function free from interference from others.

3. In observing such premise, the S.C.A.O. relinquishes none of the powers vested in him, including the power to make rules not inconsistent with established law. Having made such rules, he is not permitted to resort to the expedient of applying them in a given case as his act under the guise of being the act of another. To obtain such result, he must wholly assume the function in his own name and evidence the same as his act and deed.

4. In the many cases which I have tried, no one has yet undertaken the doubtful task of telling me what judgment I should render therein. In all my service with occupational government, I have yet to tell one of my judges what decision he must render in the case before him.

5. The principles I have announced have been rigorously followed from the beginning of occupational government. It is much too late to depart from them. As I have pointed out in the memorandum to the Chief Commissioner, actually there is no need for the S.C.A.O. to tell a judicial officer the decision to be rendered in a case. It is wholly within his power to review any case over which he has jurisdiction as a Regional Commissioner. By the simple process of wholly assuming the judicial function of review as his act and deed, he lawfully exercises the powers vested in him and lawfully achieves the result he desires.

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JOHN K. WEBER
Colonel, Infantry
Chief Legal Adviser

17 December 1946

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File confiscations &
Fascist Profits
AFHQ

file

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HEADQUARTERS ALLIED COMMISSION
APO 794
Office of the Executive Commissioner

3 October 1946.

Chief Legal Adviser.

1. CC spoke to me yesterday on a decree which is said to be promulgated in Venezie Giulia regarding confiscation of Fascist profits.

CC stated that there had been comment in the Italian press on this subject and he would let me have a copy of the article. In the meantime you might obtain from PRO.

Do you know anything of this decree and were we consulted?

Even if its follows precisely any Italian law on the subject the point arises as to whose account the money is to be impounded. Will you investigate and let me know the result.

2. CC raised the point as to whether we should enact in Venezie Giulia punitive or similar type of legislation without AFHQ or CCS approval. He thought it was for consideration as to whether all General Orders or Orders whichever is applicable should not be submitted to AC for covering approval.

M. CARR,
Brigadier,
A/Executive Commissioner.

MC/KR

Copy of article from PRO

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File

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HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL DIVISION

SUBJECT : Venezia Giulia

December 1946

TO : Chief Commissioner

1. Following your instructions the question of

Loans to Industry

made by A.M.G., Venezia Giulia, was discussed at length with the G.O.C. and the C.A.O. of V.G. The G.O.C., V.G. states the procedure adopted was based on the following:

2. AFHQ issued Directive No 307/307 (AG-5) dated 26 June 1945 to the Commander of the 5th Army regarding the creation of the Venezia Giulia Zone, in which it is stated, among other things, that Venezia Giulia would be administered as a MILITARY REGION.

3. It also states that the laws of the Italian Government as on the 8th of September 1943, would be the basic law for this Region.

4. Further, that "no steps will be taken which support or may appear to support or prepare for any ultimate disposition of the area to any claimant nation."

5. By the same AFHQ order the Italian Government was "excluded" from the territory.

6. In that part of Italy latterly administered by A.M.G. Italian decrees were implemented in the territory so administered by endorsement, the endorsement specifically excluded the decrees from being operative in Venezia Giulia.

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7. In Venezia Giulia any new Italian Government decree that is considered desirable to apply in Venezia Giulia, is

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enacted not by "Implementation" but by the issue of a regional order.

7. The choice of decrees to be enacted in Venezia Giulia, is left to A.M.G. (para 7 AFHQ Directive).

8. Regarding rehabilitation loans to Industry: the procedure in Italy, by an Italian decree, is that the loans are made by a Bank and the Bank is guaranteed by the Government. In case of default the Italian Government has the right to reimburse the Bank and take possession of the security given for the loan. The S.F.O. considers that if this Italian decree were implemented in Venezia Giulia, it would give the Italian Government, in case of default, the right to take possession of Industry of Venezia Giulia, and this obviously would be in conflict with the claims referred to in para (5).

9. Under the Italian decree, the Italian Government voted a credit to cover its possible liabilities under guarantee. Venezia Giulia is barred from using an Italian Government credit, as to do so would also be in conflict with the instructions referred to in para (3).

In addition, the Banks in Venezia Giulia - with Head Office in Italy - were not disposed to make advances of low funds under the guarantee of A.M.G. Therefore, in view of the different situation existing in Venezia Giulia, if it was desirable to finance Industry, - and that is not disputed, - it could only be done by the issuing of an independent order, which was the reason why order No 184 was issued.

10. The Finance Sub-Commission were aware of the procedure, and this was stated by the Director of the Finance Branch of the Economic Section - Lt.Col. Timsons - in his report to the Acting Vice President of the Economic Section on the 20th of April 1946.

11. The comments of the S.A. are:- 99

i. In A.M.G. territory advances to Industry were made from

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the local treasury section of Banca d'Italia by order of A.M.A. for the purpose of financing firms essential to the war effort. Usually these firms were creditors of the Italian Government either on "old" account or on account of goods supplied to or in course of production for the Allied and, as such, an occupational cost to be borne by the Italian Government.

2. It is laid down by Decree 674 that, in making such advances, the State Budget (C.G.) procedure is to be followed. This requires the submission of a budget on the appropriate A.M.A. form, the approval of which by the C.G. authorises the C.P.O. (or budget officer at Regional H.Q.) to issue an "order of credit" on the local Tesoreria (Banca d'Italia - Treasury Section) in favour of the Intendente di Finanza for the approved amount. The C.G. forms covering the advance are to be sent to A.C. for revision and onward transmission to the Italian Treasury.

3. The Intendente, in paying over the advance, obtains a formal acknowledgment. No interest accrues on the advance and no mortgage is registered on the immovable property of the firm receiving the advance. The amount advanced is entered by the Intendente in and outstands on a "special account (Capitolo) in his books.

4. The Italian Decree, to which reference is made in A para 2 makes provision for rehabilitation loans to rehabilitate Industry through the Banks. In the terms of the Decree and for the setting up a fund by the Treasury, up to which amount the Treasury may guarantee the Banks. Only in the case of a default, therefore, are Government funds utilised.

5. Thus, two different ways of financing are apparent (a)advances from Treasury funds on accounts receivable from the Government (either accrued or to be accrued) and (b)loans by the Banks under Italian Government guarantee.

6. In V.G. loans totalling L 1,8 million (approximately) were first made out of A.M.A. (AFA) funds and, not being legitimate expenditure, were repaid to the extent of L 800 million in June and July 1946. - (The balance of L 1 million is expected to be repaid in the near future) out of so-called "State" funds, claimed by G.C.C. to be the "State" of V.G.

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the funds were obtained by an "order of credit" on the Banca d'Italia - Treasury Section and are, therefore, Italian Government funds until and unless the liability on the account with the Treasury Section is assumed by the ultimate Government of the area, if other than Italian.

7. Under the Italian decree (A para 2) such loans would, in Italy, be made by banks, even by the Commercial Banks (Banca Commerciale Italiana, Credito Italiano, Banco di Roma) which have in recent times obtained legal powers to make medium term loans. Long term loans are made against property by these banks with the powers of a "credito fondiario".

8. Recourse to the local Treasury was made by reason of the reluctance of the local branches of the Banks to advance against the guarantee of A.M.G., either because of the Banks' constitution or the limitation of "local" lending powers under the banks' internal regulations.

9. U.S. Order No 14 was issued on the 1st August 1945. Under this Order loans for a total of L.U.17,500,000 (inclusive of those mentioned in A para 6) have been made. A list is attached showing the amounts and repayments to date.

10. The Order differs from the Italian decree in that it regulates the loans by A.M.G. from Treasury Funds. The U.S. procedure has been followed, but has been adapted by the inclusion of a repayment date; an interest charge of 3% by the inscription of a mortgage in the name of A.M.G. on the immovable property of the firm; and the issuance of a policy of insurance in favour of A.M.G. The relative U.S. forms have not, so far, been forwarded to A.C.

11. Under the Order, applications are first examined by a local Committee of experts which makes its recommendations to the C.A.O.

12. In the course of discussions with the Directors of the Banca d'Italia, Credito Italiano and other banking officials in Trieste I was informed that the Committee is functioning in its preliminary examination. The general banking opinion there is favourable to the Order as it felt it enables a

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such vested interests to be given to local industry on terms favourable to the borrower. The interest, amortization and exchange registration clauses are considered as inductive to repayment. In answer to a direct question as to whether A. .I. was required to finance for the eventual government I received the answer in the affirmative.

14. In my opinion, the applications are examined with care and discrimination and financially, the loans are not questioned. I consider that order of the above terms could be given on the lines of the Italian terms and loans made by the banks under the appropriate arrangements with the respective Central Institutions. Failure on the part of the local banks to use their existing banking funds in A... for this purpose is inflationary.

15. But, even if the banks had refused to cooperate, for political fears, and A. .I. is called upon to act in the emergency, in any case, it should have used the U.S. procedure as laid down by Finance C/C I.C. as the "Government" for the time being and not a system which, rightly or wrongly, might give cause to the belief that Allied funds were involved.

16. Finally, figures given to me in Trieste of "Actual" account to 30 June 1947 show a Deficit on a 7.167 billion Lire of Revenue a 1.577 million. Ordinary Expenditure 4.600 million Extraordinary Expenditure 1.190 million Total 5.790 million. U.S. forces are not sent to A.M.G. and it follows that the limitation of the over-draft on the "Actual" account lies solely within the discretion of the C.A.C.

Col

(Sgd.) L.H. [illegible]
Colonel, U.S.
Financial Adviser

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Copy

23.11.1946

LIST OF LOANS GRANTED TO INDUSTRY

Name			Amount	Amounts reimbursed
Cantieri S.Giorgio, Trieste	ship yards	L	40.000.000.-	
ILVA Impresa lavori navali, Trieste	"	"	9.000.000.-	
G.Deltrone S.A., Trieste	clothing manufacturers	"	6.000.000.-	
Umberto Nicoglia, Trieste	ship constructer	"	5.000.000.-	
Cotificio e Canapificio Triestino	Hemp jute factory	"	117.000.000.-	
Pastificio Triestino, Trieste	pasta factory	"	40.000.000.-	
Solvay & Co Monfalcone	Chemical factory	"	100.000.000.-	
AQUIL, Trieste	oil refinery	"	150.000.000.-	
Cantieri Riuniti dell'Adriatico, Trieste	Ship yards	"	900.000.000.	
Silvio Martinscai, Trieste	" "	"	40.000.000.-	L 4.500.000.-
Enrico Sperco & C., Trieste	"	"	11.000.000.-	" 250.000.-
Cantieri Palermo, Trieste	"	"	20.000.000.-	
Francesco Pecchenini, Trieste	Stone quarry	"	20.000.000.-	
Various small shipyards (together)		"	6.5000.000.-	300.000.-
Viotti & Co., Trieste	Chemical factory	"	3.000.000.-	
		L	1.467.500.000.-	L 5.050.000.-

The reimbursement has just started.

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MEMO TO THE CHIEF COMMISSIONER

1. As directed, I have made a trip to Trieste with Colonel Battensby (E) for the purpose of inquiring into the position taken by Venezia Giulia in relation to the matter of loans to industry authorized to be made there. The whole situation was explored in a series of conversations, the subject matter of which was agreed upon and later reduced to writing. This position is reflected in paragraphs 1 to 10 of the written summary hereto attached (See Flag "A").

2. Briefly stated, the attitude of Venezia Giulia in this connection may be summarized as follows:

a. With the occupation of Northern Italy, including Venezia Giulia, the Supreme Allied Commander, by a directive dated 26 June 1945 A.G. 387/207 GS(-O, elected to constitute Venezia Giulia into a region s e p a r a t e and apart from the remaining portions of occupied Northern Italy. The reasons for such decision were not precisely stated therein, but it was fairly to be assumed that the uncertain political future of Venezia Giulia was the moving cause. (Use of the term "Venezia Giulia" in this memorandum with reference to times subsequent to the Morgan Agreement, dated 9 June 1945, is intended to include only that part of the whole region so named which is under Allied Military Government and known as Zone "A".)

b. Inasmuch as Italian law as it existed on 9 September 1945 was adopted as the basic law of Venezia Giulia, Italian decrees promulgated after that date were not to be implemented. Furthermore, the Italian Government was expressly excluded from Venezia Giulia. Owing to these premises, and the instruction in the directive that "no steps will be taken which support or may appear to support or prepare for any ultimate disposition of the area to any claimant nation", there was vested in Military Government, Venezia Giulia, an i n d e p e n d e n c e in the selection of Italian decrees to be instituted, and by the same token an i n d e p e n d e n c e in the wording of the substance thereof, which i n d e p e n d e n c e was to be exercised by Military Government, Venezia Giulia, in i t s sound discretion. 9

c. That changes in the substance of the decree of the Italian Government authorizing loans to industry were necessary for the purposes of Venezia Giulia, in that if loans were granted under the provisions of the Italian decree and default was thereafter made in the payment of [illegible] the Italian Government would be entitled to foreclose

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paragraphs 1 to 10 of the written summary hereto attached (See Flag "A").

2. Briefly stated, the attitude of Venezia Giulia in this connection may be summarized as follows:

a. With the occupation of Northern Italy, including Venezia Giulia, the Supreme Allied Commander, by a directive dated 28 June 1945 A.C. 387/207 GSG-O, elected to constitute Venezia Giulia into a region s e p a r a t e and apart from the remaining portions of occupied Northern Italy. The reasons for such decision were not precisely stated therein, but it was fairly to be assumed that the uncertain political future of Venezia Giulia was the moving cause. (Use of the term "Venezia Giulia" in this memorandum with reference to times subsequent to the Morgan Agreement, dated 9 June 1945, is intended to include only that part of the whole region so named which is under Allied Military Government and known as Zone "A".)

b. Inasmuch as Italian law as it existed on 8 September 1943 was adopted as the basic law of Venezia Giulia, Italian decrees promulgated after that date were not to be implemented. Furthermore, the Italian Government was expressly excluded from Venezia Giulia. Owing to these premises, and the instruction in the directive that "no steps will be taken which support or may appear to support or prepare for any ultimate disposition of the area to any claimant nation", there was vested in Military Government, Venezia Giulia, an i n d e p e n d e n c e in the selection of Italian decrees to be instituted, and by the same token an i n d e p e n d e n c e in the wording of the substance thereof, which i n d e p e n d e n c e was to be exercised by Military Government, Venezia Giulia, in i t s sound discretion.

c. That changes in the substance of the decree of the Italian Government authorizing loans to industry were necessary for the purposes of Venezia Giulia, in that if loans were granted under the provisions of the Italian decree and default was thereafter made in the payment of a loan, the Italian Government would be entitled to foreclose a lien and would thus come into Venezia Giulia, though expressly excluded from the region by the directive of the Supreme Allied Commander. Therefore, to avoid such situation and to indicate clearly by its action that it was not concerned in the ultimate political disposition of the territory, it was deemed advisable that Venezia Giulia draw the order containing the features described by the Financial Adviser, Col. Battensby, in his report to the Chief Commissioner, incorporated in this file.

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3. The foregoing raises the question as to whether Military Government, Venezia Giulia, was correct in assuming that i t s elected position regarding this matter was within the boundaries of the directive of the Supreme Allied Commander. After carefully reading that directive, and weighing the intent of the language used therein, I am led to the conclusion that Military Government, Venezia Giulia, has given a greater breadth in its interpretation of the terms thereof than was really warranted. This conclusion is based upon the following:

a. With the collapse of enemy resistance the Supreme Allied Commander was confronted with the problem of establishing an occupational government for the newly liberated areas of Northern Italy under International Law. Included among such areas, of course, was Venezia Giulia. Though the Italian State continued as sovereign over all of such areas, including Venezia Giulia, the Supreme Allied Commander, as head of the occupying force, had power to and in fact did set up Allied Military Government therein in lieu of government by the Italian State.

b. It is of no legal consequence that in following this course the Supreme Allied Commander elected to treat Venezia Giulia as a region s e p a r a t e from the rest of Northern Italy for administrative purposes. The l e g a l pattern of occupational government in all Northern Italy, including Venezia Giulia, remained the same. Italian sovereignty over all of this territory was fully recognized by establishing there as basic law the Italian law as it existed on 9 September 1943. In the case of Venezia Giulia the additional instruction that "no steps will be taken which support or may appear to support or prepare for any ultimate disposition of the area to any claimant nation" in no way altered the legal pattern to be followed in that area. The most that can be said of this instruction is that it was a timely warning by the Supreme Allied Commander to Allied Military Government (Italy) that administrative procedure to be followed in Venezia Giulia must rigidly adhere to the law of occupation with utmost political disinterest, leaving to the political agencies of the Allies the solution of the political future of Venezia Giulia. Under the plain language used by the directive, Venezia Giulia, like all other regions of occupied Italy, was to continue under the technical administration of the Allied Commission, which, in the chain of command to higher authority, acts for the Supreme Allied Commander.

c. The setting apart of Venezia Giulia as a s e p a r a 93
region fell far short of establishing it as an i n d e p e n d e n t region clothed with the attributes of an "independent state". Any assumption, expressed or implied, that Venezia Giulia is an "independent state" violently collides with the mandate of the Supreme Allied Commander that "No steps will be taken which support or appear to support or prepare for any ultimate disposition of the area to any claimant nation", for the obvious reason that thereby indication is given to the world that the territory in question is earmarked for ultimate possible disposition other than to Italian sovereignty.

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c. The setting apart of Venezia Giulia as a s e p a r a t e region fell far short of establishing it as an i n d e p e n d e n t region clothed with the attributes of an "independent state". Any assumption, expressed or implied, that Venezia Giulia is an "independent state" violently collides with the mandate of the Supreme Allied Commander that "No steps will be taken which support or appear to support or prepare for any ultimate disposition of the area to any claimant nation", for the obvious reason that thereby indication is given to the world that the territory in question is earmarked for ultimate possible disposition other than to Italian sovereignty.

d. Furthermore, it cannot be seriously contended that by making Venezia Giulia into a s e p a r a t e region it became an i n d e p e n d e n t region. If it became an independent region it would have been independent for all purposes, including

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personnel, supply, and administration, as well as legislation. Against such contention is a long course of dealing wherein the principle has been recognized that the region, while s e p a r a t e, has been fully answerable in the chain of command to higher authority.

e. Likewise the contention that an independent legislative power became vested in Military Government, Venezia Giulia, because of adoption there of Italian Law as it existed on 9 September 1943, with consequent non-implementation of Italian Decrees in the area thereafter, is untenable. Such premise loses sight of the conditions that:

(1) At all times during occupation the choice of decrees to be implemented in occupied territory has been vested in higher authority.

(2) The directive in this instance plainly stated that the separate region of Venezia Giulia was to function under the technical guidance of the Allied Commission.

f. In consideration of all factors bearing upon this matter together, it becomes apparent that though for special reasons, no doubt political in character, Venezia Giulia was set apart from the remainder of Northern Italy to be operated as a s e p a r a t e r e g i o n, like other regions it was under the technical supervision of the Allied Commission; that to foreclose political agitation, in lieu of implementing Italian decrees by endorsement thereon as was done in other regions, implementation there was to be accomplished by regional orders that the regional orders of Venezia Giulia were to contain the subject matter of Italian decrees decided upon by higher authority for implementation; and that to avoid political implications, no steps would be taken in the wording of such regional orders which would support, or appear to support, or prepare for, any ultimate disposition of the area to any claimant nation.

4. Upon examination the reasons advanced in support of the loan procedure authorized by the order of Military Government, Venezia Giulia, fail to have the merit claimed for them. As one example of this, it is urged that had such loans been made after the pattern of the Italian decree, upon default in payment the I t a l i a n Government would be entitled to foreclose liens and seize the properties concerned, though the Italian Government was expressly excluded from Venezia Giulia. This conclusion is considered to be erroneous. Under International Law, during occupation, the government of the Italian State was excluded not only from Venezia Giulia but from a l l of occupied Italy. In all of such territory, within the framework of its authorized powers under International Law and the Armistice terms, occupational government acted under its own right of control. If, in the exercise of such control it was authorized to make loans, a necessary incident thereto was the power to receive payment, or, in default, to foreclose liens against security.

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5. However, aside from all of this, and perhaps more important, is the question whether it was the intent of the original Italian enabling decree that in disbursing funds thereunder the unqualified legal relationship of debtor and creditor was to be established. The contrary would appear to be the case. In Republican Italy, as in the case of every state, there are broad powers vested in Government known as "police powers". Broadly defined, these permit government to do any act within constitutional boundaries that has for its object the preservation of the life, health, morals and well-being of the people of the state. If the people of the state are protected, the state is protected, the state being "We, the people". Threatened with grave unemployment disorders, serious enough to challenge the very existence of the state, under the broad police powers vested in government, and the mandatory duty to exercise them, the Italian Government justifiably might have parcelled out Italian funds either as a "dole" (this was done in Britain, as I recall), through a W.P.A. (this was done in the United States), or as loans to private industry (subsidies), for the purpose of relieving unemployment unrest (as seemingly was contemplated by the Italian decree). The last plan of course, had the virtue that to the extent that ventures thereunder were successful moneys would come back into the Italian Treasury for further use. On the other hand, if loans so made proved uncollectible, as moneys expended lawfully, within the range of permitted choice of methods, no one could complain thereof. Liens and their foreclosure under such circumstances necessarily would become matters of secondary, not primary, importance. The Italian decree with which we are concerned, without doubt, was passed under the broad police powers vested in the Italian Government. It was optional to Allied Military Government whether the decree should be implemented in Venezia Giulia, admittedly under Italian sovereignty. If decided in the affirmative, transactions thereunder would not be "loans" in the true sense, according to best interpretation, but, rather, expenditures by way of subsidy made for the Italian state in the region of Venezia Giulia. By following the decree (observed elsewhere by Government in Republican Italy), unquestionably such authorized expenditures by Allied Military Government could never be successfully challenged by the Italian State. Thus construed, Allied Military Government simply would be following a plan authorized for the expenditure of Italian funds by government under authority of the Italian State.

6. Therefore, while Venezia Giulia has proceeded with transactions of this kind as though lending out taxpayers' money on security, careful study of all considerations in this connection reveals the circumstance that disbursement of such moneys was actually made under an authority of much broader intent, and this seems to have been understood by all except, perhaps, Venezia Giulia. The Italian decree, in terms, refers to loans, but it is believed that thereunder the relation of lender - borrower, with its incidents of liens and foreclosures, was but collateral to the main purpose of granting a subsidy to industry for the relief of unemployment, and that in promulgating the subject matter of the decree in Venezia Giulia it would have been better to have followed it closely rather than to substitute therefor that which was contained in the order issued.

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7. It is interesting to observe that there is distinct evidence

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7. It is interesting to observe that there is distinct evidence that two conflicting viewpoints exist side by side and at the same time at Venezia Giulia concerning the present status thereof. In an envelope hereto attached (see Flag "B") will be found two revenue stamps which I personally obtained from civilians who purchased cigarettes in Trieste.

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These stamps recite, "Monopoly of the S t a t e Venezia Giulia". Unquestionably, these stamps have been issued with knowledge, if not design, on the part of Military Government, Venezia Giulia. The other view is set out in a statement of educational policy, given to the press, and published in "Basic News", (88th Division), Page 13, which I attach for information (see Flag "C"). Thus, both of these views having been brought to public attention, the question arises as to which of them the world at large should believe. From the long and illuminating discussions in which I participated at Trieste, I came to the conclusion that whatever reference has been made to the "State of Venezia Giulia" in prior local writings and discussions was a resort to terms employed in describing the i n d e p e n d e n c e of Venezia Giulia not only from Italian sovereignty, but sub-consciously from other authority. In this connection it is considered unnecessary that I refer again to the position I have heretofore taken on the distinction between "State" and "Government". In my opinion my views on this subject are in accord with the proclamation of General Alexander, as referred to in the educational news item (Flag "C") and the language and intent of the pertinent directive. If it is seriously contended that the directive making Venezia Giulia a separate region was broad enough to make it an independent region and, by virtue of that fact, a "state", then only by the operation of mystic powers could this be true, for it was beyond the powers of the Military Governor by use of military orders to create a "state" where none existed. If, on the other hand, local reference to the "State of Venezia Giulia" was made to convey the idea that Venezia Giulia was i n d e p e n d e n t of Allied Control, an equally false position was taken, if my interpretation of the Supreme Allied Commander's directive is sound.

R E C O M M E N D A T I O N S

8. The remedy to be applied in this case is simple. If what has been said regarding educational policy of Allied Military Government is correct (see Flag "C"), the acceptance thereof by all concerned is all that is presently required. In my opinion, the well-considered directive issued by the Supreme Allied Commander to the Eighth Army leaves little to be desired. Therein the position of Venezia Giulia is described as that of a separate Region, functioning like other regions under a chain of command to higher headquarters. For political reasons, in the discharge of legislative functions by Venezia Giulia, Italian decrees decided upon by higher authority for implementation therein should be contained in its regional orders, in lieu of conventional implementation by endorsement on the decrees themselves. In shaping regional orders containing the subject-matter of such decrees, care should be taken not to indicate therein any preference or leaning in favor of any nation claiming that territory.

9. If and when problems arise, the solution of which may not be arrived at by use of this simple guide, it will then be necessary that a different formula be prescribed. As shown from the discussion herein,

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in prior local writings and discussions was a resort to terms employed in describing the i n d e p e n d e n c e of Venezia Giulia not only from Italian sovereignty, but sub-consciously from other authority. In this connection it is considered unnecessary that I refer again to the position I have heretofore taken on the distinction between "State" and "Government". In my opinion my views on this subject are in accord with the proclamation of General Alexander, as referred to in the educational news item (Flag "C") and the language and intent of the pertinent directive. If it is seriously contended that the directive making Venezia Giulia a separate region was broad enough to make it an independent region and, by virtue of that fact, a "state", then only by the operation of mystic powers could this be true, for it was beyond the powers of the Military Governor by use of military orders to create a "state" where none existed. If, on the other hand, local reference to the "State of Venezia Giulia" was made to convey the idea that Venezia Giulia was i n d e p e n d e n t of Allied Control, an equally false position was taken, if my interpretation of the Supreme Allied Commander's directive is sound.

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9. If and when problems arise, the solution of which may not be arrived at by use of this simple guide, it will then be necessary that a different formula be prescribed. As shown from the discussion herein, the legislative decree in question presented no such problem. It is not considered necessary that the language of this directive be clarified by additional writing. In unusual situations an oral explanation of the reasons for the language used in the directive, and its intent, would go far in establishing a uniform understanding. As the necessity might arise, this could well be done at a conference of personnel duly assembled for such purpose.

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10. Concerning loans already made in Venezia Giulia, to avoid future controversy it is desirable that they be regularized under the procedure which should have been followed there in the first instance. Such procedure contemplated getting authorization from the Italian state for expenditures to be so made in its behalf, and the consent of higher Allied authority to expend these funds. Too much care cannot be taken in protecting our Governments from claims occasioned by irregular action in this regard. As these loans were made, germs of future controversy were definitely planted. It is highly desirable that they now be eradicated. This can but be attempted as outlined below in recommendations made by the financial director, in which I join.

JOHN X. WEBER
Colonel, Infantry
Chief Legal Adviser

ADDITIONAL JOINT RECOMMENDATIONS AND REMARKS

1. That further loans to industry under V.G. Order No. 134 be forthwith suspended.

2. That supporting papers for the loans already made by A.M.G. from the local Treasury (V.G.) be forwarded to Allied Commission.

3. On receipt of these papers it is planned to approach the Italian Government, through the Banca d'Italia, with a view to the transfer of these loans to the banks under guarantee of A.M.G.

4. It is our opinion that funds taken from the Local Treasury by A.M.G. are in fact, Italian Government funds, and that the Government will recognize this.

5. We propose that the Italian Government be asked to "earmark" an amount in favour of A.M.G. from the funds allocated under the Italian Decree covering rehabilitation loans to industry.

6. The amount to be so "earmarked" should be sufficient to cover guarantees to be given by A.M.G. to the banks for loans already granted, or to be approved in the future.

7. V.G. Order No. 134 should be rescinded and a new order issued

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JOHN K. WEEGR
Colonel, Infantry
Chief Legal Adviser

ADDITIONAL JOINT RECOMMENDATIONS AND REMARKS

1. That further loans to industry under V.G. Order No. 184 be forthwith suspended.

2. That supporting papers for the loans already made by A.M.G. from the local Treasury (V.G.) be forwarded to Allied Commission.

3. On receipt of these papers it is planned to approach the Italian Government, through the Banca d'Italia, with a view to the transfer of these loans to the banks under guarantee of A.M.G.

4. It is our opinion that funds taken from the Local Treasury by A.M.G. are in fact, Italian Government funds, and that the Government will recognize this.

5. We propose that the Italian Government be asked to "earmark" an amount in favour of A.M.G. from the funds allocated under the Italian Decree covering rehabilitation loans to industry.

6. The amount to be so "earmarked" should be sufficient to cover guarantees to be given by A.M.G. to the banks for loans already granted, or to be approved in the future.

7. V.G. Order No. 184 should be rescinded and a new order issued following the subject matter of the Italian Decree.

8. If the Italian Government does not accept these proposals, a re-examination of the position of these loans will then be necessary.

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9. In any case, any future loans to industry in Venezia Giulia should be subject to technical control of Allied Commission as laid down in AFHQ A.C. 387/207 G.E.-O of 26 June 1945.

10. Turning from the question of loans to that of the overdraft account in the name of A.M.G. with the Banca d'Italia Trieste, we consider that the Provincial, Comunal, State and "Special Expenditure" Budgets approved by A.M.G., and charged to this account, should be sent to the Allied Commission for official communication to the Italian Government.

Col

Lt Col. Inf.

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Col Zachemik

Col

Thornton

Col. Inf.

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31A

MEMORANDUM TO THE CHIEF COMMISSIONER:

1. The letter of the S.C.A.O., Venezia Giulia, Subject: "Coordination between Legal Divisions of AMG Venezia Giulia and Higher Echelons", received in response to your letter of 7 November 1946, is set out at Flag"A".

2. In this connection it is a well settled rule of law that certain acts are so personal in nature as to be incapable of lawfully being done through an agent. For example, a person required to take an oath cannot discharge this obligation by having an agent take it for him. Nor can a judge of a court perform his judicial function by appointing an agent to act for him in this behalf.

3. In recognition of this well-established principle of law, "Consolidated Instructions for Allied Military Courts" wisely provides that the act of Judicial Review (in effect the function of an Appellate Court) should be performed by the Chief Commissioner and Regional Commissioners, o r by Judicial Officers appointed by them f o r t h a t p u r p o s e. Under such rules it is entirely within the province of the Chief Commissioner and the Regional Commissioners to retain full and final review powers over all cases within their respective fields of operation. Where this situation might exist it would be perfectly proper that the Judicial Officer concerned be required to review such cases and make recommendations regarding them. In these circumstances, of course, final judicial decisions rendered would be those of the Chief Commissioner or Regional Commissioner, as the case might be, rather than of such Judicial Officer.

4. Insofar as death penalty cases are concerned the Chief Commissioner has thus retained his right of final decision, though in every case of this kind, before exercising it, he has sought the advice of the Chief Judicial Officer. At no time has the Chief Judicial Officer been directed to perform the function of review in such cases as agent for the Chief Commissioner. As permitted by the rules, in cases involving punishment less than death, the Chief Commissioner has delegated the Judicial function to the Chief Judicial Officer, whom he has appointed f o r t h a t p u r p o s e. In the judicial determination of these cases, the Judicial Officer acts according to his own conscience. There is no pretense of this being the agent conscience of the Chief Commissioner. This is in accordance with the letter and spirit of the rules and conforms with the law. When granted, it is within the power of the Chief Commissioner or Regional Commissioner to revoke such delegated authority not only as to all cases but as it might apply to any individual case. Thus, the judicial conscience which measures a given case must be wholly that of the Chief Commissioner or Regional Commissioner on the one hand, or that of the appropriate judicial officer on the other. There is no compromise ground in between. 87

5. The principles above referred to always have been rigorously followed in the Allied Commission and, in fact, in Allied Military Government since the days of their inception. Adherance thereto in no way

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2. In this connection it is a well settled rule of [illegible] acts are so personal in nature as to be incapable of lawfully being done through an agent. For example, a person required to take an oath cannot discharge this obligation by having an agent take it for him. Nor can a judge of a court perform his judicial function by appointing an agent to act for him in this behalf.

3. In recognition of this well-established principle of law, "Consolidated Instructions for Allied Military Courts" wisely provides that the act of Judicial Review (in effect the function of an Appellate Court) should be performed by the Chief Commissioner and Regional Commissioners, or by Judicial Officers appointed by them for that purpose. Under such rules it is entirely within the province of the Chief Commissioner and the Regional Commissioners to retain full and final review powers over all cases within their respective fields of operation. Where this situation might exist it would be perfectly proper that the Judicial Officer concerned be required to review such cases and make recommendations regarding them. In these circumstances, of course, final judicial decisions rendered would be those of the Chief Commissioner or Regional Commissioner, as the case might be, rather then of such Judicial Officer.

4. Insofar as death penalty cases are concerned the Chief Commissioner has thus retained his right of final decision, though in every case of this kind, before exercising it, he has sought the advice of the Chief Judicial Officer. At no time has the Chief Judicial Officer been directed to perform the function of review in such cases as agent for the Chief Commissioner. As permitted by the rules, in cases involving punishment less than death, the Chief Commissioner has delegated the Judicial function to the Chief Judicial Officer, whom he has appointed for that purpose. In the judicial determination of these cases, the Judicial Officer acts according to his own conscience. There is no pretense of this being the agent conscience of the Chief Commissioner. This is in accordance with the letter and spirit of the rules and conforms with the law. When granted, it is within the power of the Chief Commissioner or Regional Commissioner to revoke such delegated authority not only as to all cases but as it might apply to any individual case. Thus, the judicial conscience which measures a given case must be wholly that of the Chief Commissioner or Regional Commissioner on the one hand, or that of the appropriate judicial officer on the other. There is no compromise ground in between.

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5. The principles above referred to always have been rigorously followed in the Allied Commission and, in fact, in Allied Military Government since the days of their inception. Adherence thereto in no way forecloses the provision of new regulations to be observed by judicial officers in the performance of their functions. Such regulations have been in existence from the beginning and have been added to from time to time. The prime function of courts is to administer the law as they find it, and not as they consider it should be. It is one thing to prescribe rules for a court to observe, it is something else again when it is sought to control the exercise of the judicial conscience in the application of such rules.

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6. In paragraph 5 of his letter the S.C.A.C. states that he is not in agreement with the recommendation made that the principles above announced should be followed in Venezia Giulia. In effect, therefore, he disagrees with the rules promulgated in Consolidated Instructions. It is believed, however, that he might be in full accord in this connection if the rules, as here explained, were understood and abided by on the part of all concerned. Occupational law is not to be confused with Courts Martial law, and they have little in common. Unlike occupational law, Courts Martial law does not deal with rights of property. Even in the matter of review they widely differ. There is no provision in Courts Martial law for the review function to be performed by a judicial officer a p p o i n t e d f o r t h a t p u r p o s e.

7. Not to be confused with revision of sentence on review is the power to pardon an offender (either before or after conviction) or any offense punishable by law (amnesty). This power exists in some manner in every type of government. Generally it is vested in that branch to which is delegated the duty to chart the political course which that government must take. This is so because in most cases in which the power is exercised, there is no question as to the guilt of the accused. In most cases, pardon, or amnesty, is granted for reasons bottomed on expediency rather than to correct an injustice done the accused. Because of this premise, the power of pardon or amnesty is universally an executive and not a judicial function.

8. If further answer is to be made to the letter of the S.C.A.C. it is recommended that he and his legal staff be informed of the distinctions above referred to.

JOHN K. WEBER,
Colonel, Infantry
Chief Legal Adviser

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ROUTINE

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AFHQ SIGNED SACMED CITE FHGEG

AMG VENEZIA GIULIA INFO ALCOM ROME

FILE

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SUSPENSION OF ACTION WITHDRAWN, REF OUR FX 73044 OF 4 NOVEMBER. SOME MINOR ALTERATIONS OF TEXT WILL BE NECESSARY LETTER FOLLOWS.

H ALCOM RECD hrs 1420 NOV 29 1946 LEGAL DIVISION

LEGAL SUB - COMMISSION
C/O. G.
DSLO
CHIEF COUNSEL
ITALIAN SECTION
Recd NOV 29 1946

AC DIST

INFO ACTION : CHIEF COMMISSIONER 2

INFO : EX COMMISSIONER

FILE

SKELETON

RESTRICTED

NOV 29 1946

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FILE
1.9A

HEADQUARTERS ALLIED COMMISSION
A.C.C. 794
LEGAL DIVISION

AG/4183/4/Za

JJS/ms
19 November 1946

SUBJECT : Venezia Giulia General Order N° 70

TO : Assistant Chief of Staff, G-5, AFHQ.
(Attention Maj.Oldfield)

1. In accordance with telephone request there is forwarded herewith a copy of notes prepared on the subject of Venezia Giulia General Order N° 70 based upon a careful study made thereof.

2. For purposes of convenient reference copies of this order in both the English and Italian texts, arranged in juxtaposition, are also enclosed.

For the Chief Commissioner :

L.J. OTTENDORF,
Major, AUS,
Chief Counsel,
for Chief Legal Advisor.

Incls.

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4185/4

FILE 94E

MEMORANDUM ON VENEZIA GIULIA ALLIED MILITARY GOVERNMENT
GENERAL ORDER 70

1. This Order carries signs of having been prepared and published under pressure. It was not submitted to the Legal Division Allied Commission before publication but, following the Chief Commissioner's attention being drawn to it by newspaper comment, has been carefully scrutinised by that Division.

2. The English version of Allied Military Government Proclamations and Orders prevails. The English of this Order leaves much to be desired. It is substantially a not very good translation of the provisions of an Italian Decree of the Lord Lieutenant - N° 134 of 1946. It bears in the preamble that "Whereas it is the Policy of the Allied Military Government to suppress fascism in all its forms..." therefore the Order is made. This statement is considered objectionable : if only because it is irrelevant, the Order being aimed at the confiscation of the profits etc. of the regime and not against the regime's future or present activity. The lack of precision in the English of the Order is a serious defect. Parts of the Order are incomprehensible and parts are wide-open to misinterpretation. An Order which leaves those administering it to decide interpretation according to individual taste, and which would embarrass any Court into constructive legislation to interpret it, is a bad one. There are a number of misprints in the Order : two at least are really serious "action" where the word intended is"auction" and "formally" where the word intended is "formerly". Two expressions are frequently used in the Order and are not interpreted "Public Treasury" in whose favour the profits etc. are expropriated and property confiscated and "Finance Administration" which has onerous duties under the Order. It is left doubtful who is to receive the profits which are expropriated and the property, or proceeds of it, that is confiscated. This doubt is accentuated by a definition of Public Treasury in one Article of the Order as "Public Treasury (Tesorerie provinciale)" as the authority to whom payment of fascist regime profits may be ordered. The identification of "Public Treasury" in

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Legal Division Allied Commission before publication but, following the Chief Commissioner's attention being drawn to it by newspaper comment, has been carefully scrutinized by that Division.

2. The English version of Allied Military Government Proclamations and Orders prevails. The English of this Order leaves much to be desired. It is substantially a not very good translation of the provisions of an Italian Decree of the Lord Lieutenant - Nº 134 of 1946. It bears in the preamble that "Whereas it is the Policy of the Allied Military Government to suppress fascism in all its forms..." therefore the Order is made. This statement is considered objectionable : if only because it is irrelevant, the Order being aimed at the confiscation of the profits etc. of the regime and not against the regime's future or present activity. The lack of precision in the English of the Order is a serious defect. Parts of the Order are incomprehensible and parts are wide-open to misinterpretation. An Order which leaves those administering it to decide interpretation according to individual taste, and which would embarrass any Court into constructive legislation to interpret it, is a bad one. There are a number of misprints in the Order : two at least are really serious "action" where the word intended is"auction" and "formally" where the word intended is "formerly". Two expressions are frequently used in the Order and are not interpreted "Public Treasury" in whose favour the profits etc. are expropriated and property confiscated and "Finance Administration" which has onerous duties under the Order. It is left doubtful who is to receive the profits which are expropriated and the property, or proceeds of it, that is confiscated. This doubt is accentuated by a definition of Public Treasury in one article of the Order as "Public Treasury (Tesoreria provinciale)" as the authority to whom payment of fascist regime profits may be ordered. The identification of "Public Treasury" in this Article as the "Tesoreria provinciale" raises the assumption that wherever the expression is used elsewhere in the Order it has a different meaning.

The various time limits under the Order are not satisfactory, and one of which expires 30 from 23rd September 1946 gives the position some urgency.

3. It is the recommendation of the Legal Division Allied

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Commission

(a) that all action under the Order be suspended forthwith

(b) that the Order be re-written in its entirety.

4. In view of the recommendation (b) above, and indeed in obtaining the information to prepare this Memorandum, this Division has prepared lengthy notes on the Order, Article by Article. If the recommendation (b) is accepted a copy of these notes could be made and forwarded to Allied Military Government Venezia Giulia in supplement to the generalized criticisms of this Memorandum.

Declassified E.O. 12356 Section 3.3/NND No. T85016

FILE

AC/ATIS/4 /L

NOTES ON VENEZIA GIULIA GENERAL ORDER Nº 70.

GENERAL

1. Is not A/G Order 70 "ultra vires" considering that it affects solely the internal politics of Italy and is designed to punish offences committed by Italians against the Italian State before Allied occupation?

2. Such offences, having been committed to the detriment of the Italian State, should not the Italian State become the ultimate beneficiary of the confiscations effected under the Order?

3. If however the publication of the Order is still considered politically necessary should not the text be drafted by Italian lawyers in Italian following as closely as possible previous Italian legislation on the subject?

The question of "profits of the Regime" is a typical and intricate example of Italian political graft. Very few foreigners, if any, would be able to determine accurately what the Italians call a legitimate profit and when it becomes illicit agoila.

4. It must also be remembered that Italian legal drafting is much more loose than in Anglo Saxon statutes. The intention of the legislator is always thought and the judge given considerable freedom of interpretation of the Statutes. This appears clearly in the "motivazione" or summing up of the judgments and sentences pronounced by Italian Courts.

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As far as the Order itself is concerned the following general remarks are put forward

1. This Order carries signs of having been prepared and

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1. Is not A.G Order 73 "ultra vires" considering that it affects solely the internal politics of Italy and is designed to punish offences committed by Italians against the Italian State before Allied occupation?

2. Such offences, having been committed to the detriment of the Italian State, should not the Italian State become the ultimate beneficiary of the confiscations effected under the Order?

3. If however the publication of the Order is still considered politically necessary should not the text be drafted by Italian lawyers in Italian following as closely as possible previous Italian legislation on the subject?

The question of "Profits of the Regime" is a typical and intricate example of Italian political craft. Very few foreigners, if any, would be able to determine accurately what the Italians call a legitimate profit and when it becomes illicit wealth.

4. It must also be remembered that Italian legal drafting is much more loose than in Anglo Saxon statutes. The intention of the legislator is always thought and the judge given considerable freedom of interpretation of the Statutes. This appears clearly in the "motivazione" or summing up of the judgments and sentences pronounced by Italian Courts.

81

As far as the Order itself is concerned the following general remarks are put forward

1. This Order carries signs of having been prepared and published under pressure. It was not submitted to the legal Division Allied Commission before publication but, following the Chief Commissioner's attention being drawn to it by adverse Italian newspaper comment, has been carefully scrutinised by that Division. It does not appear that the newspaper criticism was justified.

2. The English version of Allied Military Government proclamations and Orders prevails. The English of this Order, however, leaves much to be desired. It is substantially a not very good translation of the provisions

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of an Italian Decree of the Lieutenant General - 5th July of 1946. The lack of precision in the English of the Order is a serious defect. Parts of the Order are incomprehensible and parts are wide-open to misinterpretation. An Order which leaves those administering it to decide interpretation according to individual taste, and which would embarrass any Court into constructive legislation to interpret it, is a bad one. There are a number of misprints in the Order : two at least are really serious: "action" where the word intended is "auction" and "formally" where the word intended is "formerly". Two expressions are frequently used in the Order and are not interpreted - "Public Treasury" in whose favour the profits etc. are expropriated and property confiscated and "Finance Administration" which has onerous duties under the Order. It is left doubtful who is to receive the profits which are expropriated and the property, or proceeds of it, that is confiscated. This doubt is accentuated by a definition of Public Treasury in one Article of the Order as "Public Treasury (Tesoreria provinciale)" as the authority to whom payment of fascist regime profits may be ordered. The identification of "Public Treasury" in this Article as the "Tesoreria provinciale" raises the assumption that wherever the expression is used elsewhere in the Order it has a different meaning.

The various time limits under the Order are not satisfactory, and one of which expires 10 days from 23rd September 1946 gives the position some urgency.

3. It is the recommendation of the Legal Division Allied Commission.

(a) that all action under the Order be suspended forthwith (without public announcement)

(b) that the Order be substantially re-written and re-printed in its entirety.

4. In view of the recommendation (b) above, and indeed in obtaining the information to prepare this memorandum, this Division has prepared lengthy notes on the Order, Article by Article. If the recommendation (b) is accepted a copy of these notes could be made and forwarded to Allied

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two at least are terribly serious. [illegible] intended is "Auction" and "formally" where the word intended is "formerly". Two expressions are frequently used in the Order and are not interpreted - "Public Treasury" in whose favour the profits etc. are expropriated and property confiscated and "Finance Administration" which has onerous duties under the Order. It is left doubtful who is to receive the profits which are expropriated and the property, or proceeds of it, that is confiscated. This doubt is accentuated by a definition of Public Treasury in one Article of the Order as "Public Treasury (Tesoreria provinciale)" as the authority to whom payment of fascist regime profits may be ordered. The identification of "public treasury" in this Article as the "Tesoreria provinciale" raises the assumption that wherever the expression is used elsewhere in the Order it has a different meaning.

The various time limits under the Order are not satisfactory, and one of which expires 30 days from 23rd September 1946 gives the position some urgency.

3. It is the recommendation of the Legal Division Allied Commission.

(a) that all action under the Order be suspended forthwith (without public announcement)

(b) that the Order be substantially re-written and re-printed in its entirety.

4. In view of the recommendation (b) above, and indeed in obtaining the information to prepare this memorandum, this Division has prepared lengthy notes on the Order, Article by Article. If the recommendation (b) is accepted a copy of these notes could be made and forwarded to Allied Military Government Venezia Giulia in supplement to the generalised comments of this memorandum.

Notes on Venezia Giulia General Order re 70 Article by Article

1. If this Order is intended to apply in Venezia Giulia the terms of P.L.L. 154 of 1945 it has failed substantially in that objective.

The English version prevails. That firmly established principle has not apparently been fully appreciated and what

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has been produced is little more, and sometimes very much less, that a frame work for retranslation. Someone affected by the Order and with a knowledge of English could embarrass the Courts in no small way and make Allied Military Government look extremely foolish.

2. As this Order was not submitted to the Legal Division Allied Commission nothing is known of the dictates of policy which caused it to be published or the real intention of the Order. The assumption that the intention was to apply the terms of D.L.L. 154 of 46 is based on a vague similarity with that Decree: some sections of the Order are translations of sections of the Decree, some are mistranslations, but some, even apart from what may reasonably be assumed to be misprints in the English, are either so obscure as to be meaningless or so vague to allow a latitude in judicial interpretation that is contrary to good practice in enacting laws.

3. Even if the assumption that the intention is to apply the terms of D.L.L. 154 is wrong, certain of the comments hereunder appear to be fair criticisms of the Order as published. These notes are, however, written on the basis of the assumed intention being the true one.

4. Owing to references in the D.L.L. to other D.L.L.s not in force in Venezia Giulia provisions of the latter have had to be incorporated in the Order.

5. The term "public treasury" is used throughout the Order but there is no definition of what that is to mean in Venezia Giulia. The description of it in Art. 41 as "the Public Treasury (Tesorerie Provinciale)" deepens the mystery as it may be assumed that in every other case it has a different meaning. There are also frequent references to "the Finance Administration" which is not defined but may be assumed to be different from the Intendenta di Finanza to whom equally or more frequent reference is made.

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6. "Whereas it is the Policy of the Allied Military Government to suppress Fascism in all its forms ..." Even if this is part of Allied Military Government's policy the statement of it is entirely irrelevant here; the Order does nothing to suppress Fascism but does seek to take away past profits.

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Allied Commission nothing is known of the dictates of policy which caused it to be published or the real intention of the Order. The assumption that the intention was to apply the terms of D.L.L. 134 of 45 is based on a vague similarity with that Decree: some sections of the Order are translations of sections of the Decree, some are mistranslations, but some, even apart from what may reasonably be assumed to be misprints in the English, are either so obscure as to be meaningless or so vague to allow a latitude in judicial interpretation that is contrary to good practice in enacting laws.

3. Even if the assumption that the intention is to apply the terms of D.L.L. 134 is wrong, certain of the comments hereunder appear to be fair criticisms of the Order as published. These notes are, however, written on the basis of the assumed intention being the true one.

4. Owing to references in the D.L.L. to other D.L.L.s not in force in Venezia Giulia provisions of the latter have had to be incorporated in the Order.

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6. "Whereas it is the Policy of the Allied Military Government to suppress Fascism in all its forms ..." Even if this is part of Allied Military Government's policy the statement of it is entirely irrelevant here; the Order does nothing to suppress Fascism but does seek to take away past profits.

7. Comments on specified Articles of the Order

Art. 1, Sec.1 (a) The D.L. deals with those convicted of collaboration. The Order provides that those who have collaborated will have their property confiscated. There may thus arise the situation where a person has been charged with collaboration and has been acquitted on the ground that the collaboration, though proved, did not constitute a crime, will be subject to proceedings under this Order. This is probably intentional but is a rather surprising way of introducing an important part of D.L.L. 159 of 44 into Venezia Giulia.

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Art.1, Sec. 2 (b) Appeal under the D.L.L. is to Cassation under the Order (A Court of Cassation not having competent jurisdiction in Venezia Giulia) to the Court of Appeal. As there are clear distinctions between these two Courts the Order should provide, as indeed it does in another connection later, that the Court of Appeal should function as the Court of Cassation in this matter.

Art.2, Sec.3, legislates for circumstances "where the penal action is extinguished (L'azione penale sia estinta) while the D.L.L. uses the expression "where the crime is extinguished (il reato sia estinto). The reason for the change made by the Order, it appears to be deliberate, is not appreciated. It opens wide possibilities of confusion.

Art. 11, is a translation of Art. 11 of the D.L.L. except that "dai gerarchi fascisti" is translated as "by fascist members". This is a quite serious distinction and unless it is intentional and has sound reason would be removed by translating as "by fascist members of high rank (dei gerarchi fascisti)".

Art. 14, Sec.2, provides that certain persons may be ordered to lodge a declaration "within thirty days from" an order of the Intendente di Finanza. The D.L.L. provides that the lodging of the declaration shall be "within 30 days from the notification of the order to do so. The text of the General Order should be amended on the lines of "within thirty days from the date of receipt of such order".

Art.15, Sec.1, This is an approximate translation of Art. 76 comma 3 of D.L.L. 159 of 44. In Proclamation 5 which is based on D.L.L. 159 this provision does not appear. Its appearance now in the General Order creates the offence in Venezia Giulia. But there is a question whether the offence now created is really the same as that under D.L.L. 159. If the whole Art. 76 and not merely the 3rd comma is read it appears that "le persone ritenute profittatori del regime" are not simply "persons considered to be fascist regime profiteers" as the Order translates it but persons who have been held to be profiteers after judicial enquiry and whose names are published in the official gazette. It is true that in both D.L.L. 159 and the Order there is the proviso "for

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Art.2, Sec.3, legislates for circumstances "where the penal action is extinguished (L'azione penale sia estinta) while the D.L.L. uses the expression "where the crime is extinguished (il reato sia estinto). The reason for the change made by the Order, it appears to be deliberate, is not appreciated. It opens wide possibilities of confusion.

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Art.15, Sec.1, This is an approximate translation of Art. 36 comma 3 of D.L.L. 159 of 44. In Proclamation 9 which is based on D.L.L. 159 this provision does not appear. Its appearance now in the General Order creates the offence in Venezia Giulia. But there is a question whether the offence now created is really the same as that under D.L.L. 159. If the whole Art. 36 and not merely the 3rd comma is read, it appears that "le persone ritenute profittatori del regime" are not simply "persons considered to be fascist regime profiteers" as the Order translates it but persons who have been held to be profiteers after judicial enquiry and whose names are published in the official gazette. It is true that in both D.L.L. 159 and the Order there is the proviso "for the purpose of avoiding actions by the Public Treasury", but that may be not sufficient. In most countries people have been known to make transfers and conceal assets and for the purpose of avoiding actions by the Public Treasury and the ordinary law provides sanctions. Here different sanctions are prescribed because the owner or former owner is, possibly much later, held to be a fascist regime profiteer.

The provision appears in D.L.L. 134 of 46 only by reference - "Without prejudice to the penal action under Art. 36 comma 3 of D.L.L. 159 of 44 ..." and to tear it out of its context in Art. 36 and the whole Decree 159 is to risk confusion and injustice.

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Sec. 2, comma 2. Apart from the question of principle and of the phrasing in Italian the wording of the Order is neither a translation nor a paraphrase. "If no opposition is made" is not the same as "senza impugnativa". "No opposition" would rule out objections by the affected person to the assessing authority and any argument between them. If the Italian text will bear this meaning it will also bear the meaning of "without appeal" and as that is the more liberal meaning it should be preferred.

Art. 16. The English version twists the sentence completely round and arrives at almost the same meaning. It would be better phrased "shall not apply to banks etc..... except in the cases of persons ...." and the meaning would be the same as in the D.L.L.

Art. 18. The English version omits for some reason any translation of "in via eccezionale". As the omission is against those affected by the Decree there should be a good reason before this is done.

Art. 19. This is a mixture of provisions of Art.s 19 and 20 of the D.L.L. It is so much a mixture that as printed it does not make sense.
It is thought that the intention is to say:

Art. 19.

Section 1. The assessment of profits accrued from the fascist regime shall be made by the District Direct Tax Office in whose District the person concerned has his residence. So far as not inconsistent with the terms of this order, the rules for the assessment of War Profit Tax will apply. The rules for the assessment of War Profit Tax will apply to the submission of declarations on the part of those required to do so under this Order.

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Section 2. In the case of unknown residence or of the death of the person concerned the assessment shall be made by the District Direct Tax Office of the District in which the person concerned had his last known residence.

Art. 22 Sec 1. This is not a translation of Art. 23

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the meaning of "without appeal" and as that is the more liberal meaning it should be preferred.

Art. 16. The English version twists the sentence completely round and arrives at almost the same meaning. It would be better phrased "shall not apply to banks etc..... except in the cases of persons ...." and the meaning would be the same as in the D.L.L.

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77

Section 2. In the case of unknown residence or of the death of the person concerned the assessment shall be made by the District Direct Tax Office of the District in which the person concerned had his last known residence.

Art. 22 Sec 1. This is not a translation of Art. 23 of the D.L.L. as "pregiudiziali e incidentali" are not translated. As it is written the sentence is a pointless repetition.

Sec. 2. "status and capacity to be brought before the Commissione" is not sensible English. As the framers have been driven to putting the Italian in brackets it would be better to leave out the (wrong) translation and leave it as "except "capacità di stare in giudizio".

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The last two sentences as written appear to provide that the Special Section may suspend proceedings pending a Court decision but that notwithstanding the suspension the Intendente may go on with them. Insertion of "relative" as a translation of "relativo" would improve the sense.

Art.23, Sec. 2. The English does not bear too close scrutiny: it will bear the intended meaning but other meanings are possible.

" The Special Section of the Area Tax Commission has the right directly or through the Judicial Police, to search dwellings, including those of third parties, under the procedure prescribed by the Code of Penal Procedure."

Sec. 4. "punished in accordance with the preceding section" is not clear there are two separate provisions for punishment in Sec. 3 and the second which is the applicable under D.L.L. 159 should therefore be repeated. Incidentally under the D.L.L. it is 6 months or a fine not "and/or"

Art. 24. There is a misprint "paxpayer" for taxpayer. The translation of "intervenire" as "attend" is not appropriate in the context where the power is obviously meant to be that of taking part in the proceedings: as the proceedings are public a right to "attend" is obviously unnecessary.

"The 'Ispettore Compartimentale delle Imposte Dirette' may take active part in the hearings together with the District Direct Tax Office in order to support the latter's contention (contraddittorio) without, however, taking part in the decision."

Art. 25. Sec 1. The appeal under D.L.L. 159 is to the "Sezioni unite" of the Court of Cassation. The necessary substitution of the Court of Appeal functioning as Court of Cassation might well be supplemented by providing a stronger than usual Court of Appeal.

Sec. 2. The English of the last two lines is bad. "on the ground that.....in former proceedings" would be better phrased as: "on the basis of facts of great importance which it appears from the grounds of the decision of the

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" The Special Section of the Area Tax Commission has the right directly or through the Judicial Police, to search dwellings, including those of third parties, under the procedure prescribed by the Code of Penal Procedure."

Sec. 4. "punished in accordance with the preceding section" is not clear there are two separate provisions for punishment in Sec. 3 and the second which is the applicable under D.L.L. 159 should therefore be repeated. Incidentally under the D.L.L. it is 6 months or a fine not "and/or"

Art. 24. There is a misprint "porpeyer" for taxpayer. The translation of "intervenire" as "attend" is not appropriate in the context where the power is obviously meant to be that of taking part in the proceedings: as the proceedings are public a right to "attend" is obviously unnecessary.

"The 'Ispettore Compartimentale delle Imposte Dirette' may take active part in the hearings together with the District Direct Tax Office in order to support the latter's contention (contradittorio) without, however, taking part in the decision."

Art. 25. Sec 1. The appeal under D.L.L. 159 is to the "Sezioni unite" of the Court of Cassation. The necessary substitution of the Court of Appeal functioning as Court of Cassation might well be supplemented by providing a stronger than usual Court of Appeal.

Sec. 2. The English of the last two lines is bad. "on the ground that.....in former proceedings" would be better phrased as: "on the basis of facts of great importance which it appears from the grounds of the decision of the previous proceedings were not before the Commission".

Art. 28 Sect. The use of the technical word "lien" is extremely dangerous: it is indeed wrong when whatever the scope of the (intended) right it is to be interpreted by Italian Courts.

Suggested translation is :

"The right of the State to payment of fascist regime profits shall have a general ranking (privilegio generale)

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against all movables and immovables of the debtor and so far as movables are concerned shall rank before the rights to payment specified in N° 15 of Article 2778 of the Civil Code, and so far as immovables are concerned shall rank before the rights to payment specified in N° 9 of Article 2780 of the same Code."

Similarly for privileges in the next sentence read "priority of ranking (privilegio)"
Sec 2. "Book credits" if it means anything technical in English (of book debts, which does) certainly is not the equivalent of "crediti chirografari" Equally with the correct translation of "crediti garantiti da ipoteca" as"mortgages" something of the full technical sense of the Italian term is necessarily lost. Suggested translation of "crediti chirografari" is "written obligations to pay (crediti chirografari)" and that after mortgages the Italian term be inserted in parenthesis.

Section 3. For "shall have priority to any lien" substitute "shall rank before the right to payment" .

Art. 29, Sec. 1. For "may temporarily enter into" substitute "may make a provisional entry in" and for "temporary entry" substitute "provisional entry".

Art. 30. The Italian text provides for bankruptcy proceedings after failure to pay three instalments : the Order reduces this to two.

Art. 31 Sec 1. The "him" in "invitarlo" has not been translated and it is otherwise incomplete.

"The Intendente di Finanza if he has reason to believe that the person concerned may evade the payment of fascist regime profits may invite him, even before notification of theassessment, to give suitable guarantees by mortgage, cautio or fide-jussio (garanzie ipotecarie, cauzionale o fideussoria)" 75

There is a misprint of "free" for"fees"

Section 2. (a) "anche se dati in cauzione" has not been translated

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Section 2. (a) "anche se dati in cauzione" has not been translated

Section 2 (b) "besides making an inventory" is not possibly translated back to "indipendentemente dall'espletamento delle operazioni d'inventario"

2 (c) If "seguito di convalida" is translated as"further confirmation" the Italian must follow in parenthesis as the term is technical.

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Article 32, Sec. 1. "documenti" is not translated.

Sec 2. "may have been" is better than "had been".

Article 33, Sec. 1. "The sequestration of shares shall be made against the share" is neither sensible nor a translation of the Italian text, "indorsed on the share certificate" is suggested.

Article 34 (a) "living persons" is a bad translation of "persone fisiche" It would be better to translate simply as "persons (le persone fisiche)".

Article 35 Delete final s in first "shareholders". "Il diritto di veto" should not be translated as "right to vote himself" but as "power of veto"

Article 36. This is a case where a clear definition of "the Finance Administration" is called for. Translation of "sequestrato" as "the interested party" is open to misinterpretation : it might mean the sequestrato and it might mean the sequestratario.

Art. 42 Sec. 1. Misprints of "action" for "auction" , "than" for "then".

Sec 3. It would be well to insert after "In shares, securities and partnerships" the words which are being translated.

Art. 43 (a) If "dovere morale" is to be translated as "moral ground" the Italian words must be added in parenthesis.

(b) "true and real debt" requires the Italian words in parenthesis "certain and fixed" would be a better translation.

(c) "formally" appears to be an error for "formerly".

Where the nullity is to be sought is omitted in the English text possibly because it is "to the competent judicial authority in the ordinary way" but

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(c) "formally" appears to be an error for "formerly".

Where the nullity is to be sought is omitted in the English text possibly because it is "to the competent judicial authority in the ordinary way" but it should be inserted to allow the translation of "giudiziale" in the penultimate sentence "The judicial decand for nullity shall be registrable."

Nullity and "dichiarazione di inefficacia" are not synonymous. The Italian words should be added in parenthesis.

Art. 44. This is taken from D.L. 153 Art 29 and is therefore the law in free Italy: whether it should have been incorporated in the Order is a matter with which these notes are not concerned.

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Art. 45, Sec. 1. Two things are to happen within 30 days of the effective date of the Order (or the date of publication which under Art. 49 is the same thing)

(a) Under Art. 14 Sec. 1 persons affected are to make declarations to the District Direct Tax Office

(b) Under Art. 45 Sec.1 the Intendente di Finanza is to send to A.M.G. lists of persons subject or to be subjected to expropriation proceedings.

This does not seem satisfactory.

The sentence "After the publication and the deposit ..... included in the said lists" is rather involved and obscure.

After "nullity" the Italian should be inserted and instead of "may be asked for , for deeds disposing of rights subsequently effected or if" should be translated

"will lie in respect deeds of disposition (atti di disposizione) subsequently effected where...."

Art. 47. Here for the first time the Ministero delle Finanze is translated as Allied Military Government. This is noted in connection with para 5 comments.

Art. 48. "Interrompere" and "to suspend" are doubtful synonyms. It would be well to include the appropriate Italian sense in parenthesis at the two places the word is used.

For"credit" read "right to payment (credito)".

Art. 49. The D.L.L. becomes effective 15 days after publication: the Order on the date of publication.

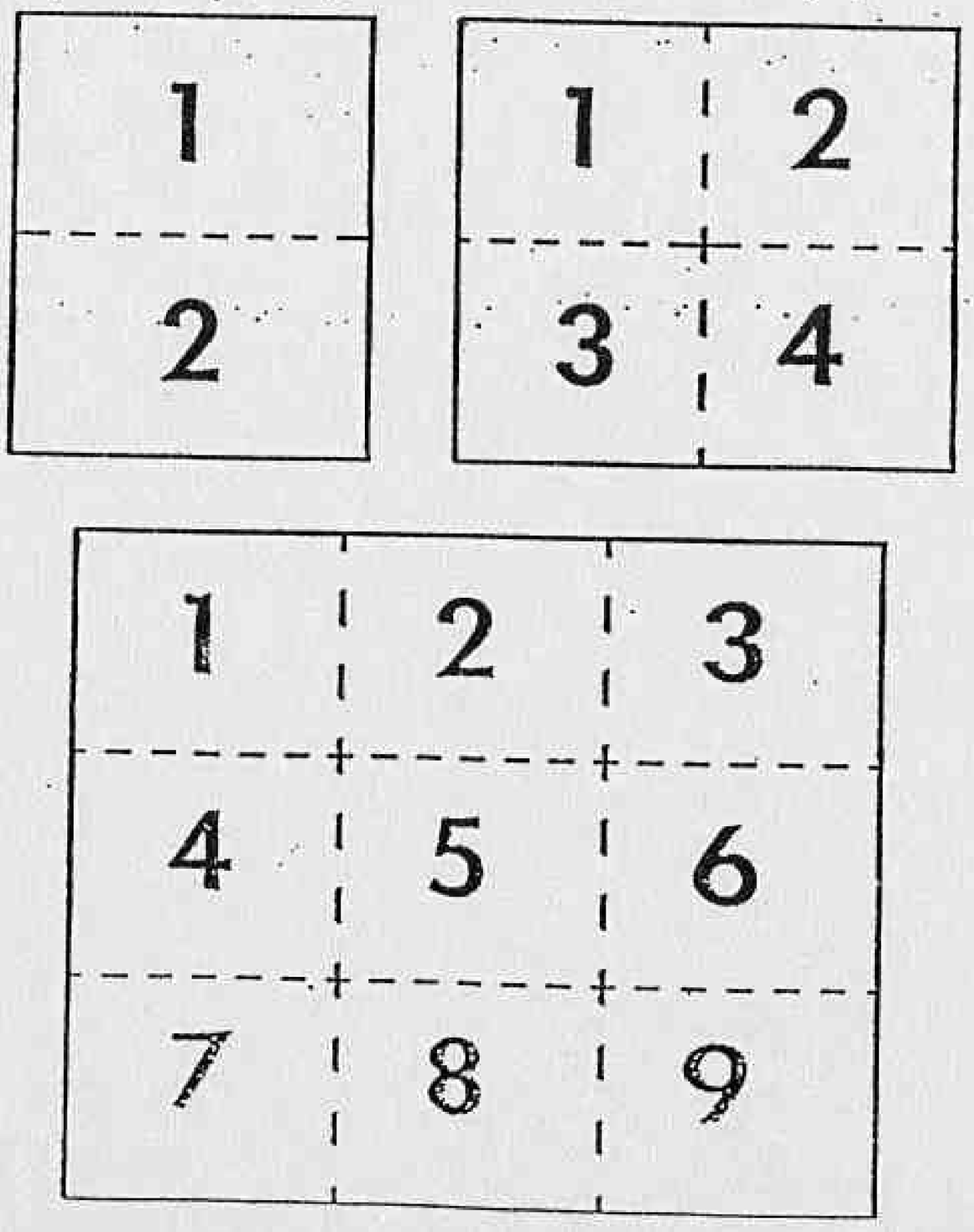
This cuts down time limits.

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MAPS AND CHARTS TOO LARGE TO FILM
ON ONE EXPOSURE ARE FILMED CLOCKWISE
BEGINNING IN THE UPPER LEFT CORNER,
LEFT TO RIGHT, AND TOP TO BOTTOM.

SEE DIAGRAMS BELOW.



215.11

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Sabato 28 Settembre 1946

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Il Mona

GIORNALE DEL POPO

La parola del maresciallo

Franklin Roosevelt, non appena salì alla suprema carica dello Stato americano, trovò il paese che lamentava 11 milioni e più di disoccupati che erano causa di possibili disordini interni, egli ritenne, a giustamente che tale contingenza era stata procurata dalla politica unilaterale dei precedenti governi e con mossa geniale tornò subito alla politica progressista iniziata dal suo grande parente Teddy Roosevelt. Progressismo che significava lavoro per tutti, cessazione delle agitazioni, maggiore comprensione verso gli operai da parte dei datori di lavoro.

Creò quindi il così detto *New Deal* che era l'espressione di questo programma a cui parteciparono Summer Wells Ickes e Wallace. Senonchè scoppiata la guerra il *New Deal* fu svuotato di contenuto, per quanto Roosevelt, dando prova di un equilibrio eccezionale, cercasse di mantener fede, pur fra la tormenta del conflitto, alle idee progressiste che egli aveva sposato salendo al potere. E per questo le sue relazioni con Stalin furono sempre corrette, anzi egli servì da elemento equilibratore nei frequenti dissensi che si manifestavano fra Churchill e il Maresciallo sovietico.

Però man mano i conservatori ripresero fiato, e la grande industria, così necessaria nelle difficili contingenze della guerra, maneggiata dal consigliere finanziario Baruch, si adoperò a smantellare il *New Deal*, sacrificando successivamente Summer Wells e Ickes. Rimaneva solo Wallace di cui Roosevelt, forse cedendo a forti pressioni, procurò di sbaraz-

AL CONSIGLIO DEI MINISTRI

Proroga del blocco delle pigion

Le nuove formule di giuramento di fedeltà alla Repubblica - Un vasto movimento di Prefe Provvidenze per le zolfatare di Sicilia - Imminente emissione di francobolli celebrat

Il blocco delle pigioni degli immobili urbani, che veniva a scadere con il 31 dicembre prossimo, è stato prorogato ieri dal Consiglio dei Ministri fino a che non saranno state approvate le nuove norme relative al regime delle locazioni che sono attualmente in esame presso il Comitato Interministeriale per la Ricostruzione.

Gli studi che il Comitato sta conducendo contemplano la possibilità sia di uno sblocco totale che di uno sblocco parziale, ispirando però i relativi provvedimenti alla necessità di tutelare le classi più bisognose e di incidere fiscalmente su quelle più abbienti.

Il Consiglio, dal quale erano assenti i Ministri Scoccimarro, Bertone e Segni, è passato poi ad approvare le nuove formule di giuramento con le quali si sostituiscono quelle già in uso, eliminando ogni accenno alla forma monarchica dello Stato. Per gli appartenenti alle Forze Armate la formula del giuramento è così stabilita:

«*Giuro di essere fedele alla Repubblica italiana e al suo Capo, di osservare lealmente le leggi e di adempiere tutti i doveri del mio Stato al solo scopo del bene della Patria*».

Per i dipendenti civili dello Stato, invece, e per i dipendenti degli Enti locali, questa è la formula:

«*Giuro di essere fedele al Capo della Repubblica, di osservare lealmente le leggi dello Stato, di adempiere i doveri del mio ufficio con zelo e diligenza per il pubblico bene e nell'interesse della amministrazione serbando scrupolosamente il segreto di ufficio e conformando la mia condotta anche privata alla dignità dell'impiego*».

I magistrati, i professori universitari e i notai giureranno invece secondo la seguente formula:

«*Giuro di essere fedele al Capo della Repubblica, di osservare lealmente le leggi dello Stato e di adempiere con coscienza i doveri inerenti al mio ufficio*».

Altre formule sono state approvate per le persone estranee alle amministrazioni dello Stato nei casi in cui debbano prestare giuramento, per i sindaci e per i presidenti delle deputazioni provinciali e infine per coloro ai quali sia stata concessa la cittadinanza italiana. Le formule sono state approvate senza discussione, se si eccettua la precisazione del Ministro Macrelli che nel giuramento per i militari ha chiesto di sostituire la dizione «*al Capo della Repubblica*» con l'altra «*alla Repubblica italiana e al suo Capo*».

Subito dopo è cominciata la discussione su un vasto movimento di Prefetti interessante circa cinquanta capoluoghi. La scelta dei nomi dei nuovi designati e il trasferimento di parecchi degli attuali Prefetti ha dato luogo a un vivace dibattito.

Dopo alcune ore è intervenuto un accordo di massima che i Ministri si sono riservati di perfezionare. Sono stati messi a disposizione: il prefetto di Livorno, dott. Miraglia, che passa alla Presidenza del Consiglio con funzioni di capo di gabinetto; il prefetto di Palermo dott. Battiati; il prefetto di Taranto dott. Prina; il prefetto di Pavia, dott. Costantino Miraglia; il prefetto di Siracusa dott. Speciale; e i prefetti di Modena, Belluno, Cosenza, Foggia e Nuoro.

Sono stati inoltre deliberati i seguenti spostamenti di prefetti:

Mascolo, da Salerno a Livorno; Soldaini, da Rovigo a Taranto; Salvatore, da Benevento ad Agrigento; Chieffo, da Reggio Emilia a Benevento; Donati, da Savona a Foggia; Cargiulo, da Massa Carrara a Salerno; Di Castri, da Agrigento a Rovigo; Avia, da Reggio Calabria a Caserta; Foti, da Avellino a Reggio Emilia; Mormile, da Ancona a Reggio Calabria; Gianni-Trapani da Messina a Modena; Orlandi, da Treviso ad Avellino; Vittorelli, dalla disposizione a Palermo; Bassi, dalla disposizione a Belluno; Carpa, da Macerata ad Ancona; Dongo, dalla disposizione a Messina; Bracali, da Vercelli a Treviso; Avalle, da Novara a Macerata; Pallante, dalla disposizione a Vercelli; Ristano, da Verona a Novara; Teruzzo, da Pisa a Verona; Festa, dalla disposizione a Siracusa; Delli Santi Cimaglia, dalla disposizione a Cosenza.

Scelba ha poi riferito sulla composizione dello sciopero degli addetti alle aziende telefoniche e Nenni prendendo la parola sulla dichiarazione di Scelba, ha proposto la nazionalizzazione dei servizi telefonici o subordinatamente la creazione di una gestione delle

lo lo stanziamento di cento ni per il funzionamento dei nati scolastici.

I provvedimenti finanzi l'ordine del giorno erano primo prevede l'aumento d ficiente di rivalutazione d dito imponibile dominicale rio dei terreni da 3 a 6; il stabilisce la quintuplicazio imposta ordinaria sul ben li per il triennio '47-'49, per i fabbricati l'imposta vata di due volte e mezzo no è stato approvato; il rinviato.

Il prossimo Consiglio d la concessione degli aume statali e il licenziamento sonale fuori ruolo delle Telegrafi.

MENTRE SI

Non si ri sullo Stat

La Comm

PARIGI, 27. — *La sp stione di Trieste minacc una volta di buttare all i piani dei quattro Min*

2152

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

Anno II - Numero 226

Momento

GIORNALE DEL POPOLO

PUBBLICITA'

Commerciali, Finanziari, Legali L. 70 - Spettacoli, Necrologie L. 50 per m/m di colonna
Economici: Tariffe alle rispettive rubriche
(oltre tasse governative e imposta sull'entrata)
Concessionaria: G. BRESCHI - PUBBLICITA
ROMA - Via Tritone 102 - Tel. 44.313
Milano: Salvini, 10 - Tel. 200.007
Napoli: Maddaloni, 6 - Tel. 21.357

Domani S. Michele

DEI MINISTRI

cco delle pigioni

la Repubblica - Un vasto movimento di Prefetti mminente emissione di francobolli celebrativi

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I provvedimenti finanziari all'ordine del giorno erano due: il primo prevede l'aumento del coefficiente di rivalutazione del reddito imponibile dominicale e agrario dei terreni da 3 a 6; il secondo stabilisce la quintuplicazione della imposta ordinaria sui beni mobili per il triennio '47-'49, mentre per i fabbricati l'imposta è elevata di due volte e mezzo. Il primo è stato approvato, il secondo rinviato.

Il prossimo Consiglio discuterà la concessione degli aumenti agli statali e il licenziamento del personale fuori ruolo delle Poste e Telegrafi.

FURIE TIROLESI A INNSBRUCK

Sputi e insulti a Grueber "colpevole,, dell'accordo con l'Italia

Il Ministro austriaco mette k.o. con un formidabile pugno un uomo che tentava mettergli le mani addosso

INNSBRUCK 27 (Reuter) — Una folla infuriata di tirolesi ha assalito oggi il Dr. Karl Grueber, facente funzioni di Ministro degli Esteri austriaco, con sputi e grida di «traditore».

Grueber che ha 38 anni ed è di atletiche forme, ha abbattuto con un pugno un uomo che cercava di mettergli le mani addosso. Si dice che la polizia non sia intervenuta a proteggere il Ministro.

Grueber era giunto ad Innsbruck ieri per discutere coi rappresentanti tirolesi i particolari del suo piano per l'autonomia del Tirolo meridionale. In alcuni ambienti locali il patto fra Grueber ed Alcide De Gasperi viene definito il «tradimento» della causa tirolese.

Non si ritiene che Grueber giungendo a Vienna domani, debba affrontare dimostrazioni violente come quelle di oggi, ma egli si troverà di fronte ad una forte opposizione politica e molti osservatori prevedono che, per salvare il governo di coalizione, il Dr. Leapold Figl dovrà sostituire Grueber.

... Curiosità del Lussemburgo ...

IL LUSTRASCARPE DEI "VENTUNO,,

DI CHI È L'INIZIATIVA? - SI PREPARA UN DOCUMENTARIO "MONSTRE,, - MACCHINE DA PRESA SEMPRE IN AGGUATO - MA LA PACE NASCE AL BUIO

PARIGI, settembre. — *L'ultima novità al Lussemburgo è il lustrascarpe. Un bravo giovanotto è riuscito ad avere la sua brava autorizzazione e si è installato con le sue due cassette e con lo sgabellino di prammatica proprio di fronte al tabellone degli ordini del giorno. Sembra niente, ma il fatto è molto importante.*

C'è naturalmente chi fa delle insinuazioni, che dice essere l'iniziativa dovuta ai sovietici, i quali non sarebbero troppo soddisfatti dei commenti di corridoio, oppure agli etiopici, i quali, come è noto, hanno comperato le prime scarpe della loro vita mediante i buoni rilasciati dal Segretariato della Conferenza e ci terrebbero moltissimo ad averle sempre ben lucide. Finalmente i maligni dicono che sono le delegazioni degli «invitati»: albanesi, iraniani, iraziani ecc..., che hanno ricorso a questo mezzo per farsi prendere in maggiore considerazione. La verità è che il lustrascarpe c'è e sta lì tutto il giorno a strofinare calzature di tutte le pelli, comprese quelle ex nemiche di vero bulgaro.

Quest'affare del lustrascarpe in uno dei corridoi più importanti del Palazzo del Lussemburgo, tra la sala stampa e l'ingresso all'aula delle sedute plenarie è d'altra parte un segno dei tempi e precisamente dell'abbassamento di tono della Conferenza.

Ci manca ormai il venditore di braccelini e sembrerà davvero un mercatino rionale.

Oppi per esempio fa caldo. A Parigi, è tornata l'estate, tutta d'un colpo. E i boy-scouts in servizio delle Delegazioni hanno spaccato le gambe in modo veramente sconcio. Nel gran salone di Caterina de' Medici, memore ancora di guardinfanti e di crinoline, di uniformi splendenti e di «décolleté» incipranti, credete pure che faceva un certo senso vedere quei ragazzoni più o meno diciottenni in shorts come se fossero al campeggio.

Ne è entrato uno proprio mentre l'ottimo Kardelj con la sua voce monotona e uniforme emetteva la quotidiana razione di improperio contro l'Italia. Ebbene l'impressione è stata enorme. Persino il capo della delegazione greca Dracunis si è sentito un dovere di staccare lo sguardo dall'ultima edizione del «Mondo» che stava leggendo attentamente. E la guardia del corpo del Ministro jugoslavo, un pezzo

MENTRE SI VOLEVA AFFRETTARE LA FINE DELLA CONFERENZA

Non si riesce a trovare un accordo sullo Statuto della città libera di Trieste

La Commissione incaricata rassegna il mandato

PARIGI, 27. — *La spinosa questione di Trieste minaccia ancora una volta di buttare all'aria tutti i piani dei quattro Ministri degli*

to il colonnello australiano di far perdere tempo alla commissione benchè questa sua proposta sia già stata respinta da altre commissioni.

Hodgson quindi respingeva la proposta canadese di far ritirare la proposta australiana.

Vishinski controbattava che co-

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relazioni con Stalin furono sempre corrette, anzi egli servì da elemento equilibratore nei frequenti dissensi che si manifestavano fra Churchill e il Maresciallo sovietico.

Però man mano i conservatori ripresero fiato, e la grande industria, così necessaria nelle difficili contingenze della guerra, maneggiata dal consigliere finanziario Baruch, si adoperò a smantellare il *New Deal*, sacrificando successivamente Summer Wells e Ickes. Rimaneva solo Wallace di cui Roosevelt, forse cedendo a forti pressioni, procurò di sbarazzarsi, senza però riuscirvi chè Wallace, il quale era stato sul punto di esser creato vice-presidente, sostenendo una lotta accanita con alcuni senatori, suoi avversari, mantenne la sua posizione.

Di modo che Truman giunto al potere non potè fare a meno di conservare Wallace, se non altro per temperare le eventuali scosse che sarebbero state prodotte dalla smobilitazione, con conseguente aumento della disoccupazione. Ma gli urti provocati dalle discussioni alla Conferenza della pace che determinarono l'irrigidimento di Byrnes e la conseguente formazione dei blocchi, indussero Wallace a fare le ben note dichiarazioni, che tanta eco suscitarono negli ambienti diplomatici mondiali, mentre la sua uscita dal governo significava la distruzione del *New Deal*, la vittoria del partito militarista e conservatore ed una più stretta collaborazione con l'Inghilterra, la quale vede nella Russia una continua minaccia alla sicurezza delle sue vie imperiali.

In sostanza si iniziò una specie di «accerchiamento capitalistico della Russia» al quale ha risposto in pieno Stalin con la sua clamorosa intervista. Con il consueto tempismo il maresciallo sovietico ha scelto il momento per le sue dichiarazioni, proprio quando ancora non è spento il rumore intorno al caso Wallace, presentando il ramoscello d'ulivo tanto agli Stati Uniti che all'Inghilterra.

L'intervista di Stalin va infatti interpretata come un'iniziativa tendente a ridurre la crescente tensione internazionale e ad arrestare la violenta campagna che per più di otto mesi ha di proposito aumentato la portata del presunto accerchiamento della Russia da parte del blocco occidentale.

E proprio a questa campagna Stalin risponde assicurando gli occidentali che «la situazione poi non è così cattiva come potrebbe sembrare» e che sarebbe opportuno «rafforzare [illegible] appartenenti alle Forze Armate la formula del giuramento è così stabilita:

«*Giuro di essere fedele alla Repubblica italiana e al suo Capo, di osservare lealmente le leggi e di adempiere tutti i doveri del mio Stato al solo scopo del bene della Patria*».

Per i dipendenti civili dello Stato, invece, e per i dipendenti degli Enti locali, questa è la formula:

«*Giuro di essere fedele al Capo della Repubblica, di osservare lealmente le leggi dello Stato, di adempiere i doveri del mio ufficio con* [illegible] per i militari ha chiesto di sostituire la dizione «*al Capo della Repubblica*» con l'altra «*alla Repubblica italiana e al suo Capo*».

Subito dopo è cominciata la discussione su un vasto movimento di Prefetti interessante circa cinquanta capoluoghi. La scelta dei nomi dei nuovi designati e il trasferimento di parecchi degli attuali Prefetti ha dato luogo a una vivace dibattito.

Dopo alcune ore è intervenuto un accordo di massima che i Ministri si sono riservati di perfezionare. Sono stati messi a disposizione: il prefetto di Livorno, [illegible] a Palermo; Enesi, dalla disposizione a Belluno; Carpa, da Macerata ad Ancona; Dongo, dalla disposizione a Messina; Eracali, da Vercelli a Treviso; Avallo, da Novara a Macerata; Pallante, dalla disposizione a Vercelli; Restano, da Verona a Novara; Terrizzo, da Pisa a Verona; Festa, dalla disposizione a Siracusa; Delli Santi Cimarilla, dalla disposizione a Cosenza.

Scelba ha poi riferito sulla composizione dello sciopero degli addetti alle aziende telefoniche e Nenni prendendo la parola sulla dichiarazione di Scelba, ha proposto la nazionalizzazione dei servizi telefonici e subordinatamente la creazione di una gestione delle aziende unificato da parte dei lavoratori, sotto il controllo dello Stato. La proposta Nenni dovrà essere discussa.

Dopediché i Ministri hanno cominciato ad uno ad uno a lasciare la sala della adunanza e quelli rimasti hanno approvato tra l'altro, la concessione di 60 milioni allo zolfatare di Sicilia, la emissione di una nuova serie di francobolli senza sovraprezzo, celebrativa dell'avvento della Repubblica, e una serie di provvidenze proposte dal Ministro Gonella. Con la prima il compenso giornaliero e la propina d'esame a favore dei componenti le commissioni di maturità e di abilitazione vengono aumentati rispettivamente da lire 50 a lire 200 e da lire 10 a lire 25. Ai componenti le commissioni di altri tipi di esame sono corrisposti un compenso giornaliero di L. 80 e la propina di L. 10. L'aumento vale anche per la sessione di luglio. Il secondo provvedimento aumenta da L. 500 a L. 6000 la indennità degli Ispettori e da L. 1000 annue a L. 800 mensili la indennità per i maestri che prestano servizio presso gli Ispettorati. Finalmente è stato approva-

LE TRATTATIVE SALARIALI

Assegno giornaliero di 40 lire ai lavoratori dell'industria

Stamani riunione conclusiva per gli aumenti agli statali

L'incontro svoltosi ieri mattina fra il Sottosegretario al Tesoro on. Patrini, gli onorevoli Lizzadri e Moretti per la C.G.I.L. e i rappresentanti delle Federazioni nazionali dipendenti statali e parastatali, se non è stata conclusiva per la risoluzione della questione degli aumenti agli statali, ha segnato però un notevole passo avanti nelle trattative, tanto da lasciar sperare che la nuova riunione fissata per domani mattina possa portare alla decisione. Alcuni dei punti in discussione sono già stati superati e precisamente la concessione della tredicesima mensilità, il passaggio di duemila lire del caroviveri a parte integrante dello stipendio, e la estensione della percentuale 100 per 100 del caroviveri anche ai centri minori per i quali la percentuale era ora diversa. Sembra inoltre che la decorrenza dei miglioramenti che saranno decisi verrebbe stabilita dal 1. settembre, anzichè dal 1. ottobre. Quanto ai due punti principali, e cioè la percentuale di aumento sullo stipendio base e la cifra del minimo garantito si hanno le seguenti notizie. Per l'aumento sullo stipendio base, il Governo aveva com'è noto offerto il 60 per cento mentre gli statali chiedevano l'80 per cento: nelle nuove conversazioni il Governo si è mostrato disposto a venire incontro in parte al desiderata degli statali, e si pensa che l'accordo possa esser raggiunto sulla percentuale del 70 per cento. Divergenti rimangono invece ancora i punti di vista sulla cifra del minimo garantito che lo Stato offriva in 2.400 lire mentre gli statali chiedevano in 3.000 lire.

Stamani alle 9,30, nuovo incontro al Ministero del Tesoro.

Al Viminale, nel pomeriggio, con l'intervento del Ministro Campilli si sono riuniti i rappresentanti della Confederazione dell'Industria e del Lavoro per il pro[illegible] re 40 giornaliere, proporzionale per età e sesso. Ciò significa che l'assegno di L. 40 compete al lavoratore di età superiore ai venti anni, mentre per le lavoratrici ed i lavoratori inferiori ai venti anni tale cifra subirà [illegible] proporzionali a quelle previste nella graduazione della contingenza. L'assegno è destinato ad assorbire le concessioni recentemente fatte in alcuni settori sia sulle paghe base che sulla contingenza e sarà automaticamente sostituito dagli accordi interconfederali in corso. Esso sarà corrisposto a partire dal 1. ottobre.

Improvviso arrivo di re Giorgio in un aeroporto vicino ad Atene

Oggi farà l'ingresso ufficiale nella capitale - Le condizioni poste dai comunisti per porre fine alla guerriglia - Le truppe inglesi spostate verso l'interno

ATENE, 27 (*U.P.*). — Re Giorgio II è giunto questo pomeriggio nell'aeroporto di Elevsi, a circa 20 chilometri da Atene, con un apparecchio quadrimotore «Lancaster», che aveva issato a prua la bandiera greca.

Sette minuti dopo l'atterraggio, il Re, che indossava l'uniforme di comandante dell'esercito greco, ha messo piede sul suolo ellenico per la prima volta dopo l'aprile 1941. E' salito quindi a bordo di un'automobile nera che, preceduta da un'altra macchina, dov'era il capo della polizia ateniese si è diretta alla baia di Salamina, distante tre chilometri. Su un cacciatorpediniere che [illegible] riggio, dopo aver incontrato il re all'aeroporto di Elevsi, il sovrano ha inviato alla Nazione britannica un messaggio ufficiale ove ringrazia calorosamente quel popolo delle cortesie usategli.

Eisenhower è giunto in Europa

SOUTHAMPTON, 27 - (*A. P.*). — Il Capo di Stato Maggiore degli Stati Uniti, generale Eisenhower, è arrivato oggi a Southampton prima tappa del viaggio verso la Germania a bordo del *Queen Mary* con la sua signora.

Non si rie[illegible] sullo Statut[illegible]

La Commis[illegible]

PARIGI, 27. — *La spinos[illegible]zione di Trieste minaccia [illegible] una volta di buttare all'ar[illegible] i piani dei quattro Ministri esteri per accelerare i lavori*.

Il sottocomitato incaricato [illegible]digere lo statuto del territo[illegible]bero di Trieste ha fatto supe[illegible]gi di non riuscire a mettere[illegible]cordo su uno qualsiasi dei [illegible]di effettiva importanza in [illegible]zione ed il suo presidente [illegible]Nosiker, sovietico, ha sup[illegible]stamane la redazione di un r[illegible]to, constatante il disaccordo, [illegible]mettere immediatamente alla [illegible]missione politico-territorial[illegible]trattato con l'Italia. In tal m[illegible]problema dello statuto triest[illegible]tornerà alla commissione.

Sempre a proposito del pr[illegible]giorno ieri delegati italiani [illegible]goslavi hanno tenuto, per co[illegible]una riunione plenaria nella [illegible]è stato constatato che i conta[illegible]certi hanno avuto un esito d[illegible]to negativo ed è stato deciso [illegible]terromperli definitivamente.

Stando così le cose sembr[illegible]ificata l'impressione di no[illegible]il problema triestino render[illegible]possibile alla conferenza dell[illegible]di concludere i suoi lavori e[illegible]quindici ottobre.

Negli ambienti delle varie [illegible]zioni, non si vede quindi [illegible]possibilità che la riunione [illegible]parte dei quattro ministri [illegible]steri di tutto il problema [illegible]che non ci si attende alcun[illegible]una decisione dalle conver[illegible]dirette tra la Jugoslavia e [illegible]

Domani, dietro sollecitazio[illegible]Vishinski, la commissione [illegible]liana voterà sulla linea d[illegible]iera fra l'Italia e la Jugo[illegible]Le votazione riguarderà la [illegible]detta linea francese. A tale [illegible]so la delegazione inglese e [illegible]americana, hanno fatto sape[illegible]il loro voto sulla linea franco[illegible]cambia nulla nei riguardi de[illegible]sione presa di creare lo S[illegible]bero di Trieste. Bisogna anc[illegible]ordare, però, che gli jugosla[illegible]canto loro, hanno già da [illegible]tempo reso noto che essi n[illegible]accettano un trattato di pa[illegible]l'Italia che non soddisfi le l[illegible]chieste su Trieste.

Hodgson per l'Australia [illegible]proposto che nel trattato [illegible]sia compreso un capitolo [illegible]creazione di una Corte euro[illegible]diritti individuali, la quale [illegible]controllare l'effettiva appli[illegible]delle clausole del trattato [illegible]danti i diritti degli italiani [illegible]stieri ceduti alla Jugoslavia [illegible]Francia e nelle antiche colo[illegible]liane.

Vishinski ha brutalmente [illegible]

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...ne a Palermo; Russi, dalla di...sizione a Belluno; Carpa, da ...cerata ad Ancona; Dongo, dal... disposizione a Messina; Bra...li, da Vercelli a Treviso; Avalle, ... Novara a Macerata; Pallante, ...lla disposizione a Vercelli; Ri...ano, da Verona a Novara; Te...zzo, da Pisa a Verona; Festa, ...lla disposizione a Siracusa; Del... Santi Cimaglia, dalla disposi...one a Cosenza.

Scelba ha poi riferito sulla com...sizione dello sciopero degli ad...tti alle aziende telefoniche e ...gni prendendo la parola sulla ...chiarazione di Scelba, ha pro...sto la nazionalizzazione dei ser...zi telefonici o subordinatamente ...creazione di una gestione delle ...ende unificate da parte dei la...oratori, sotto il controllo dello ...to. La proposta Nenni dovrà ...ere discussa.

Dopodichè i Ministri hanno co...inciato ad uno ad uno a lasciare ...sala della adunanza e quelli ...esti hanno approvato tra l'al...o, la concessione di 60 milioni ...le zolfatare di Sicilia, la emis...one di una nuova serie di fran...bolli senza sovrapprezzo, celebra...va dell'avvento della Repubblica, ...una serie di provvidenze propo...e dal Ministro Gonella. Con la ...ima il compenso giornaliero e ...propina d'esame a favore dei ...mponenti le commissioni di ma...rità e di abilitazione vengono ...umentati rispettivamente da lire ... a lire 200 e da lire 10 a lire 25. ... componenti le commissioni di ...tri tipi di esame sono corrisposti ...n compenso giornaliero di ...50 e la propina di L. 10. L'au...ento vale anche per la sessione ...luglio. Il secondo provvedimen...o aumenta da L. 500 a L. 6000 ...l'indennità degli Ispettori e da ...1000 annue a L. 800 mensili la ...dennità per i maestri che pre...tano servizio presso gli Ispetto...ti. Finalmente è stato approva...

...o di re Giorgio ...icino ad Atene

...dale nella capitale - Le ...nisti per porre fine alla ...i spostate verso l'interno

...nto, dopo aver incontrato il re ...l'aeroporto di Eleusi. Il sovrano ...a inviato alla Nazione britannica ...n messaggio ufficiale ove ringra...a calorosamente quel popolo delle ...rtezze usategli.

...isenhower è giunto in Europa

SOUTHAMPTON, 27 - (A. P.). - Il Capo di Stato Maggiore de... Stati Uniti, generale Eisenho...er, è arrivato oggi a Southamp...n prima tappa del viaggio ver... la Germania a bordo del *Quee...ary* con la sua signora.

Non si riesce a trovare un accordo sullo Statuto della città libera di Trieste

La Commissione incaricata rassegna il mandato

PARIGI, 27. — *La spinosa questione di Trieste minaccia ancora una volta di buttare all'aria tutti i piani dei quattro Ministri degli esteri per accelerare i lavori.*

Il sottocomitato incaricato di redigere lo statuto del territorio libero di Trieste ha fatto sapere oggi di non riuscire a mettersi d'accordo su uno qualsiasi dei punti di effettiva importanza in discussione ed il suo presidente K. V. Necilov, sovietico, ha suggerito stamane la redazione di un rapporto, constatante il disaccordo, da trasmettere immediatamente alla commissione politico-territoriale del trattato con l'Italia. In tal modo il problema dello statuto tristino ritornerà alla commissione.

Sempre a proposito del problema italiano ieri delegati italiani e jugoslavi hanno tenuto, per così dire, una riunione plenaria nella quale è stato constatato che i contatti diretti hanno avuto un esito del tutto negativo ed è stato deciso di interromperli definitivamente.

Stando così le cose sembra giustificata l'impressione di molti che il problema tristino renderà impossibile alla conferenza della pace di concludere i suoi lavori entro il quindici ottobre.

Negli ambienti delle varie delegazioni, non si vede quindi, altra possibilità che la rimessione da parte dei quattro ministri degli esteri di tutto il problema, dato che non ci si attende alcuna fattiva decisione dalle conversazioni dirette tra la Jugoslavia e l'Italia.

Domani, dietro sollecitazione di Vishinski, la commissione politica italiana voterà sulla linea di frontiera fra l'Italia e la Jugoslavia. La votazione riguarderà la cosiddetta linea francese. A tale proposito la delegazione inglese e quella americana, hanno fatto sapere che il loro voto sulla linea francese, non cambia nulla nei riguardi della decisione presa di creare lo Stato libero di Trieste. Bisogna anche ricordare, però, che gli jugoslavi, dal canto loro, hanno già da qualche tempo reso noto che essi non firmeranno un trattato di pace con l'Italia che non soddisfi le loro richieste su Trieste.

Hodgson per l'Australia ha poi proposto che nel trattato italiano sia compreso un capitolo per la creazione di una Corte europea dei diritti individuali, la quale dovrà controllare l'effettiva applicazione delle clausole del trattato riguardanti i diritti degli italiani nei territori ceduti alla Jugoslavia ed alla Francia e nelle antiche colonie italiane.

Vishinski ha brutalmente accusato il colonnello australiano di far perdere tempo alla commissione benchè questa sua proposta sia già stata respinta da altre commissioni, fra cui la commissione giuridica che la definiva non adatta ad essere inclusa nei trattati di pace.

«Il guaio è che non si è trovato luogo adatto ove destinare la proposta australiana. Ebbene, il luogo adatto secondo me è il cestino della spazzatura» ha detto brutalmente Vishinski.

Hodgson sorgeva immediatamente in piedi per esternare tutta la sua indignazione circa la volgare espressione di Vishinski.

Hodgson quindi respingeva la proposta canadese di far ritirare la proposta australiana.

Vishinski controbatterà che accorrerebbe una Corte dei Diritti umani non soltanto per l'Europa, ma anche per l'India, l'Asia, i negri degli Stati Uniti d'America e gli indonesiani.

Alla fine la proposta australiana subirà lo stesso destino seguito da tutti i numerosi emendamenti australiani, cioè la piena sconfitta, con quattro voti contro quindici ed uno astenuto. Australia, Nuova Zelanda, Belgio e Grecia votavano a favore. Il Brasile si asteneva.

GLI ULTIMI GIORNI DI HEATH

Il sadico dongiovanni nell'abito dei condannati a morte

"Non m'importa un fico secco di ciò che accadrà,,

LONDRA, 27. — «Mi sono trovato a faccia a faccia con la morte troppo spesso in questi ultimi sei anni per preoccuparmene ora. Non mi importa un fico secco di ciò che accadrà». Così ha scritto in una lettera dalla prigione il tenente pilota Heath, ieri condannato a morte per il sadico assassinio di due donne. Su di lui è stata iniziata la «sorveglianza della morte» per impedirgli di attentare alla sua vita: ma nulla denota che egli mediti propositi di suicidio.

Stamane si è alzato alle 6: ha preso la sua solita colazione ma non ha avuto il permesso di radersi. Il coltello usato per i pasti è stato accuratamente spuntato.

Heath indossa gli speciali abiti dei condannati a morte senza bottoni e porta scarpe senza lacci. Gli è permesso di fumare tre sigarette al giorno e gli sono state concesse due ore di passeggiata entro un angolo del cortile della prigione circondato da alte mura.

Viene tenuto isolato dagli altri prigionieri. Nella cella vicina alla sua è recluso Robert Boyce, anche egli condannato a morte per aver ucciso una donna. L'avvocato del condannato ha dichiarato di non avere ancora deciso se presentare o no appello alla sentenza.

I giornali ritengono che il secondo assassinio, quello della bella Doreen Marshall, sarebbe stato evitato se Scotland Yard non avesse proibito che fossero pubblicate le fotografie di Heath quando uccise Margery Gardner. Il padre della bella Marshall ha dichiarato difatti che sua figlia non sarebbe certamente andata con Heath, se ne avesse veduto la fotografia sui giornali.

Se la giustizia non avesse interrotto l'attività amatoria di Heath, sicuramente vi sarebbero stati altri crimini nella cerchia delle sue 500 amiche.

La polizia ha trovato nel suo appartamento tutta una varietà di fruste, flagelli e simili, che egli evidentemente voleva usare su altre predestinate vittime. Egli aveva del resto data ampia prova di questa perversione, fin da quando era ragazzetto, tanto che per ben due volte fu allontanato dalle scuole per aver cercato di torturare due sue compagne.

Una lettera ricattatoria all'industriale Donegani

COMO, 27. — E' pervenuta a Guido Donegani, nella sua villa di Moltrasio, una lettera anonima con la quale ignoti richiedono al noto industriale il versamento di 10 milioni di lire.

Il Donegani, dopo aver consegnato la lettera minatoria alle

guardinfanti e di crinoline, di uniformi splendenti e di «décolletées» ineipriants, credete pure che facevan un certo senso vedere quegli ragazzoni più o meno diciottenni in shorts come se fossero al campeggio.

Ne è entrato uno proprio mentre l'ottimo Kardelj con la sua voce monotona e uniforme emetteva la quotidiana razione di improperie contro l'Italia. Ebbene l'impressione è stata enorme. Persino il capo della delegazione greca Dracunis si è sentito in dovere di sbirciare lo sguardo dall'ultima edizione del «Mondo» che stava leggendo attentamente. E la guardia del corpo del Ministro jugoslavo, un pezzo d'uomo alto due metri, con un metro buono di apertura di spalle, ha folgorato il povero giovane con una occhiata di imponente furore.

Chi ne ha approfittato è stato l'oratore di turno il quale ha aperto subito i suoi obiettivi e gli ha fatto un magnifico primo piano.

Perchè se non lo sapete nella sala della Conferenza c'è sempre un operatore cinematografico in posizione di sparo.

Sembra che si stia preparando un documentario «monstre». Certo sarà uno spettacolo interessante se il censore non sarà troppo crudele a sforbiciare. Se ne vedranno di tutti i colori. Delegati addormentati, delegatesse con le gambe in libertà, capi delegazione con le dita nel naso. Ma d'altra parte che ci può fare, se ci sono in media quattro discorsi al giorno in lingua russa (Kardelj compreso) e su 21 Delegazioni ce ne sono soltanto sei che ci capiscono qualche cosa?

Tre sono le macchine da presa sempre in posizione nel grande salone: una per le attualità anglo-americane, una per quelle francesi ed una per quelle russe. Altri due apparecchi portatili girano fra la gente per cogliere gli ultimi più fuggenti possibili. Ogni tanto così si accende un riflettore che spacca gli occhi. Ogni tanto una lampada scoppia e casca in pezzi, sembra un destino, sulla testa dei cinesi. Chissà perchè. Misteri del blocco occidentale e del blocco orientale.

Quando poi ci sono le sedute plenarie la luce viene dall'alto, dalla cupola e dura dieci minuti: i primi dieci di ogni discorso. E viene giù un calore, ma un calore che c'è da impazzire. Poi, naturalmente, tutto torna buio e freddo. Ed è in questo buio, in questo freddo che, dicono i maligni, sta nascendo la pace.

G. V. SAMPIERI

Lanterna

Una strana ordinanza

Un dispaccio dell' United Press *da Trieste informa in merito a una singolare ordinanza emanata ieri sera dal Governo militare alleato. Essa stabilisce che tutte le proprietà acquisite dai tricolori in seguito a collaborazionismo con i tedeschi, dopo l'8 settembre 1943, saranno confiscate. Vengono anche confiscati i beni di coloro che nei cinque anni precedenti il 1943 abbiano in-

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ziativa tendente a ridurre la crescente tensione internazionale e ad arrestare la violenta campagna che per più di otto mesi ha di proposito aumentato la portata del presunto accerchiamento della Russia da parte del blocco occidentale.

E proprio a questa campagna Stalin risponde assicurando gli occidentali che «la situazione poi non è così cattiva come potrebbe sembrare» e che sarebbe opportuno «rafforzare i legami politici, commerciali e culturali fra Russia e Inghilterra».

Naturalmente la rapida e incisiva allusione di Stalin è stata fatta per creare un terreno più favorevole e per lasciare che l'Inghilterra abbia tempo di spostare il pendolo della sua politica verso un'altra direzione.

Di tutte le dichiarazioni del maresciallo sovietico una fra le più interessanti è la sua asserzione che lo spavento delle bombe atomiche è agitato per intimidire le «persone deboli di nervi» asserzione che può essere interpretata come un ammonimento a certi uomini politici che anche la Russia potrebbe disporre della formidabile arma.

Bisogna ora attendere gli ulteriori sviluppi: il riserbo dei governi e i commenti dei senatori americani sanno per ora un po' di acido, tanto che il sottosegretario Clayton, ritiene inutili nuovi approcci con la Russia, nel senso proposto da Eden e osserva solo che le affermazioni del maresciallo sovietico «sono importanti e interessanti».

Comunque le dichiarazioni di Stalin sembra che vogliano limitare le responsabilità della Russia per un qualsiasi futuro, e affiancando la campagna di Wallace negli Stati Uniti, tendano a schiarire l'orizzonte internazionale e a facilitare l'intesa fra le quattro grandi potenze.

Certamente è naturale la reazione inglese con l'intervista di Vansittart, che, pur definendo «paradisiache» le affermazioni del maresciallo sovietico, prima di prestare ad esse fede, reclama la necessità che esso dimostri coi fatti le sue buone intenzioni.

Cosa che vedremo in atto, se *realmente* buone sono le intenzioni del generalissimo e, se, come angosciosamente si auspica, dovrà nascere la vera pace, dopo tanti anni di dolori inenarrabili e di lutti orrendi.

F. PAOLO GIORDANI

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contro il parere di qualcuno degli statali, e si pensa che l'accordo possa esser raggiunto sulla percentuale del 70 per cento. Divergenti rimangono invece ancora i punti di vista sulla cifra del minimo garantito che lo Stato offriva in 2.400 lire mentre gli statali chiedevano in 3.000 lire.

Stamani alle 9,30, nuovo incontro al Ministero del Tesoro.

Al Viminale, nel pomeriggio, con l'intervento del Ministro Campilli si sono riuniti i rappresentanti della Confederazione dell'Industria e del Lavoro per il problema dello sblocco dei licenziamenti.

In base alle conclusioni delle otto Sottocommissioni che hanno studiato la questione dal lato tecnico per i singoli settori industriali, è risultato che l'eccedenza della mano d'opera ammonta a circa 180 mila unità, accentrate in alcuni settori. Si è ritenuto non opportuno addivenire ad un provvedimento di carattere generale, ma di adottare invece provvidenze specifiche settore per settore.

Le trattative salariali hanno avuto oggi una breve parentesi giacchè invece di proseguire le discussioni iniziate nei giorni scorsi sul nuovo meccanismo della scala mobile, le parti hanno concluso un accordo, che sarà firmato questa mattina, col quale in attesa della definizione delle trattative, viene accordato ai lavoratori dell'Industria un assegno temporaneo di lire

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chilometri da Atene, con un apparecchio quadrimotore «Lancaster», che aveva issato a prua la bandiera greca.

Sette minuti dopo l'atterraggio, il Re, che indossava l'uniforme di comandante dell'esercito greco, ha messo piede sul suolo ellenico per la prima volta dopo l'aprile 1941. E' salito quindi a bordo di un'autoblindo nera che, preceduta da un'altra macchina, dov'era il capo della polizia ateniese si è diretta alla baia di Salamina, distante tre chilometri. Su un cacciatorpediniere che fa parte di una piccola squadra qui ancorata il sovrano trascorrerà la notte per fare domani il suo ingresso ufficiale nella capitale.

L'arrivo del re era stato tenuto così segreto che nemmeno le autorità dell'aeroporto sapevano chi dovesse giungere con l'aereo britannico segnalato; ma la via dall'aeroporto alla baia era sorvegliata da soldati armati, disposti ad intervalli di circa 40 metri l'uno dall'altro.

Mentre Re Giorgio sorvolava il territorio ellenico, è stato annunciato ufficialmente che quattro ufficiali greci ed un numero imprecisato di ribelli sono rimasti uccisi in un conflitto verificatosi nel paese di Leptokaria.

Il Partito comunista greco ha pubblicato una dichiarazione facendo conoscere le condizioni in base alle quali esso è disposto ad accettare di entrare nel governo e mettere fine alle lotte intestine che insanguinano la Grecia. Tra tali condizioni figurano la richiesta dello sgombero della Grecia da parte delle truppe britanniche dopo la formazione del governo su basi più larghe, convocazione di nuove elezioni politiche e di un nuovo referendum istituzionale, considerato che l'estrema sinistra non prese parte al comizi. Si prevede generalmente che le proposte comuniste non saranno tenute in alcun conto.

I reparti di truppe britanniche, sin qui accantonati nella capitale ellenica, stamane hanno cominciato a trasferirsi nell'interno della Grecia. Nessuna spiegazione ufficiale è stata data del movimento in corso.

Il reggente di Grecia, arcivescovo Damaskinos, ha presentato le sue dimissioni nelle mani del re Giorgio II di Grecia, oggi pome-

un abbraccio affettuoso ove ringrazia calorosamente quel popolo delle cortesie usategli.

Eisenhower è giunto in Europa

SOUTHAMPTON, 27 - *(A. F.)* — Il Capo di Stato Maggiore degli Stati Uniti, generale Eisenhower, è arrivato oggi a Southampton prima tappa del viaggio verso la Germania a bordo del *Queen Mary* con la sua signora.

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chieste su Trieste.

Hodgson per l'Australia ha proposto che nel trattato sia compreso un capitolo per la creazione di una Corte per i diritti individuali, la quale controllare l'effettiva applicazione delle clausole del trattato riguardanti i diritti degli italiani optanti ceduti alla Jugoslavia dalla Francia e nelle antiche colonie italiane.

Vishinski ha brutalmente

AGONIA DEI CRIMINALI

Le sentenze sono st... ma nulla trapelerà

L'arresto per chi non manterrà il segreto - Si scommette... putati sono calmi - Non si potranno fare fotografie

NORIMBERGA, 27 (U. P.). — Pur mancando ancora tre giorni al verdetto dei ventuno grandi criminali di guerra, le autorità hanno già preso ogni precauzione per evitare possibili incidenti.

Oggi persona, uomo o donna, che entri nel Palazzo del Tribunale viene perquisita e reparti di polizia pattugliano le strade adiacenti al carcere.

Dietro le alte mura della prigione attigua al tribunale gli accusati trascorrono le giornate ricevendo la visita dei loro avvocati e dei parenti più intimi.

Secondo le dichiarazioni rese alla «United Press» dal Collegio di difesa germanico, nel momento in cui lasciava oggi la prigione dopo l'ultimo colloquio consentito agli avvocati, tutti gli accusati si mostrano calmi e sereni.

«Quanti saranno gli impiccati?» — Questa è la domanda che ognuno si pone. Si incrociano le previsioni e si fanno scommesse. Ciò qualcuno, fra i giornalisti, che ho interpellato degli indovini di professione, di quelli che pretendono di leggere nel futuro. Futuro rela-

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tivo in quanto le sentenze sono state già redatte.

Ma i quattro solenni giudici loro sostituti sono fermamente decisi a rendere consapevole delle decisioni prese, soltanto che il meccanismo del tribunale sarà cominciato a funzionare. Gli interpreti che hanno oggi letto il verdetto per la traduzione sono stati diffidati a mantenere il più stretto silenzio. Essi sono stati guardati a vista. Era stato inoltre per certo momento allo studio il proposito di isolarli in un vecchio edificio circondato da cordoni di truppe, ma poi la proposta è stata abbandonata. Tuttavia, il Tribunale ha fatto sapere loro che saranno presi gravissimi provvedimenti disciplinari se le autorità militari constateranno che faranno trapelare qualche informazione sulle decisioni.

Il Tribunale Militare Internazionale ha vietato di prendere fotografie del ventuno criminali nel momento in cui ascolteranno il verdetto. Questa decisione ha provocato viva sorpresa, specialmente perchè essa riguarda i fotografi ufficiali del tri-

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al potere. Per ben undici [illegible]

2156

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...caldamente quel popolo delle ...ttrazie usategli.

...senhower è giunto in Europa

SOUTHAMPTON, 27 - (A. P.). - Il Capo di Stato Maggiore degli Stati Uniti, generale Eisenhower, è arrivato oggi a Southampton, prima tappa del viaggio verso la Germania a bordo del *Queen Mary* con la sua signora.

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Ma i quattro solenni giudici e i loro sostituti sono fermamente decisi a rendere consapevole il mondo delle decisioni prese, soltanto dopo che il meccanismo del tribunale avrà cominciato a funzionare. Gli interpreti che hanno oggi letto il verdetto per la traduzione sono stati diffidati a mantenere il massimo silenzio. Essi sono inoltre guardati a vista. Era stata anzi ad un certo momento affacciata l'idea di isolarli in un vecchio castello circondato da cordoni di polizia, ma poi la proposta è stata scartata. Tuttavia, il Tribunale ha fatto saper loro che saranno presi gravissimi provvedimenti da parte delle autorità militari contro coloro che faranno trapelare qualche indiscrezione sulle decisioni.

Il Tribunale Militare Internazionale ha vietato di prendere fotografie dei ventuno criminali nazisti nel momento in cui ascolteranno il verdetto. Questa decisione ha provocato viva sorpresa, specialmente perchè essa riguarda anche i fotografi ufficiali del tribunale e perchè non ne è stata data alcuna spiegazione. L'aula della udienza verrà perciò fatta sgombrare di tutti i fotografi, immediatamente prima della lettura del verdetto.

A conferire un carattere di particolare solennità alle sedute di lunedì e martedì prossimo, è stato invitato a presenziare alla lettura del verdetto il segretario di Stato americano Byrnes. Egli però difficilmente potrà accettare l'invito e sarà rappresentato dai senatori Connolly e Vandemberg.

Presenzieranno alla emanazione della sentenza numerose altre personalità tra cui il consigliere politico del comandante in capo americano in Europa, Robert Murphy, il comandante della terza armata americana generale Keyes, l'ambasciatore americano in Norvegia Bay, Joseph Davies e sua figlia ed altri personaggi militari diplomatici e politici. Gli inviati speciali della stampa mondiale sono oltre 400.

L'udienze di lunedì e martedì saranno radiodiffuse da tutte le stazioni tedesche e da quelle ad onde corte degli Stati Uniti.

AGONIA DEI CRIMINALI DI NORIMBERGA

Le sentenze sono state già redatte ma nulla trapelerà fino a lunedì

L'arresto per chi non manterrà il segreto - Si scommette e si interrogano gli indovini - Gli imputati sono calmi - Non si potranno fare fotografie al momento della lettura del verdetto

...permesso di fumare tre sigarette al giorno e gli sono state concesse due ore di passeggiata entro un angolo del cortile della prigione circondato da alte mura.

Viene tenuto isolato dagli altri prigionieri. Nella cella vicina alla sua è rinchiuso Robert Boyce, anche egli condannato a morte per aver ucciso una donna. L'avvocato del condannato ha dichiarato di non avere ancora deciso se presentare o no appello alla sentenza.

I giornali ritengono che il secondo fu allontanato dalle scuole per aver cercato di torturare due sue compagne.

Una lettera ricattatoria all'industriale Donegani

COMO, 27. — E' pervenuta a Guido Donegani, nella sua villa di Moltrasio, una lettera anonima con la quale ignoti richiedono al noto industriale il versamento di 10 milioni di lire.

Il Donegani, dopo aver consegnato la lettera minatoria alla Questura di Como, ha ritenuto opportuno allontanarsi dalla sua villa di Moltrasio. La Questura, in seguito alla denuncia ha iniziato attive indagini ed ha già proceduto al fermo di quattro individui di Moltrasio e di Cernobbio.

Ricupera la vista dopo 24 anni

grazie ad una felice operazione

FIRENZE, 27. — Si apprende da Massarosa (Lucca) che un giovane della Garfagnana, tale Ulisse Cecconi, cieco da 24 anni, ha ricuperato la vista grazie ad una operazione, eseguita da uno specialista inglese. Il Cecconi, che al momento della liberazione era ricoverato nell'Istituto per i ciechi di Assisi, fu visitato insieme ad altri ricoverati da alcuni ufficiali inglesi, uno dei quali oculista. Questi, dopo avergli dichiarato che lo avrebbe guarito, lo ha sottoposto all'atto operatorio che ha dato esito così felice.

Assia Noris derubata

per due milioni di gioielli

MILANO, 27. — Un grosso furto è stato perpetrato all'Hotel Marino ai danni dell'attrice cinematografica Assia Noris. Tutti i suoi gioielli, fra i quali alcuni di rara e pregevolissima fattura, hanno preso misteriosamente il volo. Si dice che il loro valore superi i due milioni.

Del furto si occupa anche la polizia alleata, essendo il nuovo marito della Noris un ufficiale inglese.

Una strana ordinanza

Un dispaccio dell' United Press *da Trieste informa in merito a una singolare ordinanza emanata ieri sera dal Governo militare alleato. Essa stabilisce che tutte le proprietà acquisite dai triestini in seguito a collaborazionismo con i tedeschi, dopo l'8 settembre 1943, saranno confiscate. Vengono anche confiscati i beni di coloro che nei cinque anni precedenti il 1943, abbiano lavorato per il mantenimento del fascismo o comunque abbiano tratto beneficio da questa loro attività. Il decreto colpisce non solo gli originari proprietari ma anche i loro eredi. Inoltre esso stabilisce anche che il Governo militare può provvedere pure a confiscare gli aumenti salariali corrisposti ai fascisti dopo il 3 gennaio 1925. Le denunzie dei profitti di regime debbono essere presentate non più tardi di trenta giorni dalla data del decreto.*

A noi, francamente, non può far piacere che in una zona italiana siano gli stranieri che giudicano colpe e responsabilità politiche di nostri concittadini; nè ci sembra giusto che ai triestini sia usato un trattamento tanto più severo di quello usato in Italia verso persone che si trovano nella identica condizione. L'uguaglianza dei cittadini di fronte alla legge è un principio inderogabile della giustizia, e anche questa frattura giuridica non è che un aspetto, tra i molti, che rendono così dolorosa per noi la separazione, a cui siamo condannati, dai nostri fratelli giuliani.

Ci sia tuttavia consentito di sottolineare che l'ordinanza alleata è una ben dura lezione per i partiti antifascisti, che dalla liberazione in poi tengono il governo in Italia. Da noi si sono veramente fiumi d'inchiostro sui profitti di guerra e di regime, ma le velleità di togliere il mal acquisito ai gerarchi e ai collaborazionisti arricchiti si sono insabbiate nelle procedure giudiziarie. La patria del diritto ha fatto molte leggi, e lo ha ampiamente discusso; ma in pratica finora non è stata capace di togliere una lira a nessuno.

Legal Opinion
V. G. file 26A

MEMO FOR THE CHIEF COMMISSIONER:

1. There has been received from G-5, A.F. Hqtrs, letter shown in "Flag A".

2. AMG Venetia Giulia letter of 2 October 1946, referred to in "Flag A" is attached as "Flag B".

3. I have examined and studied at great length these two communications. Because of the gravity of the questions raised and the answers to be given to them, for the consideration of all concerned I am compelled to make the following observations.

4. The recommendations made in "Flag B" poise a grave question of Jurisdiction. Jurisdiction is power. There is no man's land in jurisdiction. A court has, or does not have jurisdiction. If a court acts beyond its jurisdiction such act is a legal nullity. Lack of jurisdiction may be raised at any time during trial or the serving sentence.

5. Unless specifically conferred by constitutional grant (the original jurisdiction of the Supreme Court of the United States is a good example) jurisdiction is universally conferred on courts by legislative enactment. If these premises are true, - and they can not be seriously denied, - the question arises "under what legislative authority can it be said that jurisdiction has been conferred on Allied Military Government Courts by Congress and/or Parliament to try Nationals as is proposed in the recommendation?" No such legislation has been cited and I have no knowledge of the existence of such legislation from the meager sources of information at my command. Quite to the contrary, it seems freely to be admitted that no such legislation exists, and the sole premise upon which the proposal is bottomed is a general power vested in the Military Governor to legislate, presumably on the theory that the failure of the Congress and/or the Parliament in this behalf may be supplied by the Military Governor under his general

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6. The framers of "Flag B" have overlooked or have under-evaluated certain premises. The persons with whom they seek to subject to Allied Military Government Courts are nationals of the United States and Great Britain and other Allies. American and British nationals have lost none of the protective guarantees of the United States and British constitutions because they are in Italy. The most that can be said of them is that they may have added to their duties and obligations. Then, again, they may remain in status quo.

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7. Let us take for example the persons covered by Article of War N° 2, (U.S.) described in "Flag B". How have Americans been dealt with by the Congress? the answer is plain. With the declaration of the State of War, and the subsequent invasion of Italy, a host of Nationals, such as officers, enlisted men, and civilian retainers find themselves in Italy. They commit an act which is violative of Italian Law. Can they be tried under Italian Law by the Italian Courts? The answer is NO. By reason of being the occupying power under a State of War, in the exercise of its lawful powers, Congress has ordained that its laws and its courts shall try such Nationals to the exclusion of alien Italian sovereignty. And in this connection it is noteworthy to observe that in the exercise of its jurisdiction over such Nationals, the Military Courts of the United States follow all the safeguards of the Bill of Rights in the Constitution of the United States to which such Nationals are entitled.

8. At this point it is noteworthy to observe that in paragraph 3, c) and reference "L" of "Flag B" the exercise of jurisdiction by Italian Courts over Allied Nationals is foreclosed to the Allies. In this connection, while an Order by the Military Governor might be ample authority for Allied Military Government Courts to exercise jurisdiction over Allied Nationals, it is here pointed out that unless legislative power has been conferred on the Military Governor to make such order in the first instance, a National convicted thereunder might challenge such conviction as being a nullity for lack of jurisdiction. The attempt to exercise a non-existent power bynthe Military Governor would be a void act in law.

9. If the Military Governor is prepared to say that under the expressed or implied powers given him by the Allies he has power not only to define offences and fix punishment therefore and to establish courts empowered to exercise jurisdiction over Nationals who have offended such laws, then the answer to be prepared for A.F.Headquarters is simple enough, and may be expressed in a few lines.

10. If on the other hand, the Military Governor is lacking such powers, no matter how expedient the proposed remedy may be, the fact remains that the power to prescribe

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10. If on the other hand, the Military Governor is lacking such powers, no matter how expedient the proposed remedy may be, the fact remains that the power to prescribe such remedy is elsewhere, perhaps in Congress and Parliament as far as American and British Nationals are concerned, and until these legislative bodies act as they have done, for example in U.S. Article of War 2, there may be no valid law in existence under which such Nationals can be lawfully tried and convicted.

11. I do not wish to be understood as saying that the Military Governor cannot act in the manner recommended in "Flag B". I am not in a position to answer such question, and express no opinion thereon. In my opinion, the matter

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might well be referred to the respective War Departments of United States and Britain. Such procedure has three virtues.

First: If the powers recommended to be exercised by the Military Governor are non-existent in him, and needful legislation is required, the War Departments are in position to press for such remedy.

Second: The issues presented are equally applicable to Japan, Germany, and Austria as well as Italy and Trieste, and a decision hereon should be uniform.

Third: Concurrence with the recommendations made in "Plan B" will have repercussion within United States and Britain that may well become political in consequence. It is always to be desired that such consequences be the product of the political as distinguished from the Military functions of government.

12. The premises here raised are of questions of legal refinement. It is hoped that I have expressed my thoughts with clarity. I pass them to you for whatever action, if any, you care to take.

JOHN E. WEBER,
Colonel, Infantry,
Chief Legal Advisor.

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Chief Legal Adviser 25A

FX 73044
NOV ------

H/7635
REV 051430
ROUTINE

AFHQ SIGNED CASTED CITE PHOEC
AMG VENEZIA GIULIA
INFO ALCOM ROME

SECRET

SECRET
For Alcom. See your letter 03851 of 28 October.
A hasty review of G.O.7 (this could read .70) shows such ambiguity and so many typographical errors that opinion here is that action therein should be suspended. Alcom being requested to send details of objectionel portions.
For Alcom. Comply with final sentence above para with copy to AFHQ.

Confidential

AC DIST
Action: Chief Commissioner (2)
Info: Executive Commissioner
File
Skeleton

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Chief Legal Adviser

H' ALCOM RECD Hrs 1630 NOV 5 1946 LEGAL DIVISION

LEGAL SUB - COMMISS.
CJO - CIA
OCLO
CHIEF COUNSEL
ITALIAN SECTION
Recd NOV 5 - 1946

DOWN GR'DED TO NOV 5 - 1946

SECRET
for Chief ... Officer.

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24A

FURTHER MEMORANDUM ON VENEZIA GIULIA ALLIED MILITARY GOVERNMENT GENERAL ORDER 70

1. Is not AMG Order 70 "ultra vires" considering that it affects solely the internal politics of Italy and is designed to punish offences committed by Italians against the Italian State before Allied occupation.

2. Such offences, having been committed to the detriment of the Italian State, should not the Italian State become the ultimate beneficiary of the confiscations effected under the Order?

3. In view of para 2 of Col. Weber's memorandum it appears that there is some justification in the criticisms which appeared in the Press after the Order was issued. (even if on different grounds than previously)

4. The Italian decree on which Order 70 is based has been drafted by Italian Lawyers - They have followed the general principles of Italian legislation and legal drafting which give much more freedom to the Courts, as far as interpretation of the law is concerned, than Anglo-Saxon statutes.

To criticise it, is to criticise, perhaps with full justification, the whole standard of Italian legal drafting.

However it must be remembered that the Decree was meant for the Italian public and was in a form to which they are accustomed and understand well.

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It would be very difficult for an Anglo-Saxon lawyer to draft an equitable order dealing with such an intricate subject as the "profits under the fascist regime" is. The offence was a typical example of Italian political graft and very few foreigners can understand in such cases, when a profit is legitimate and when it becomes illicit spoils.

G.G. HANKAFORD,
Lt.Colonel,
Deputy Chief Legal Advisor

2164

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2137

PERSONAL

CC 851 28 October 1946.

Dear Arch:

In accordance with your oral request, I enclose herewith a memorandum by Colonel Weber on AMG Venezia Giulia General Order No. 70, having to do with confiscation of Fascist profits.

The enclosed is forwarded for such action, if any, as you deem appropriate.

Sincerely,

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USN
Chief Commissioner

Colonel A. L. Hamblen, U.S. Army,
Assistant Chief of Staff, G-5,
Allied Force Headquarters,
APO 512 - U.S. Army.

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MEMORANDUM ON VENEZIA GIULIA ALLIED MILITARY GOVERNMENT
GENERAL ORDER 70

next sheet

1. This Order carries signs of having been prepared and published under pressure. It was not submitted to the Legal Division Allied Commission before publication but, following the Chief Commissioner's attention being drawn to it by adverse Italian newspaper comment, has been carefully scrutinised by that Division. It does not appear that the newspaper criticism was justified.

2. The English version of Allied Military Government Proclamations and Orders prevails. The English of this Order, however, leaves much to be desired. It is substantially a not very good translation of the provisions of an Italian Decree of the Lieutenant General - N° 134 of 1946. The lack of precision in the English of the Order is a serious defect. Parts of the Order are incomprehensible and parts are wide-open to misinterpretation. An Order which leaves those administering it to decide interpretation according to individual taste, and which would embarrass any Court into constructive legislation to interpret it, is a bad one. There are a number of misprints in the Order : two at least are really serious "action" where the word intended is "auction" and"formally" where the word intended is "forcerly". Two expressions are frequently used in the Order and are not interpreted - "Public Treasury" in whose favour the profits etc. are expropriated and property confiscated and "Finance Administration" which has onerous duties under the Order. It is left doubtful who is to receive the profits which are expropriated and the property, or proceeds of it, that is confiscated. This doubt is accentuated by a definition of Public Treasury in one Article of the Order as "Public Treasury (Tesoreria provinciale)" as the authority to whom payment of fascist regime profits may be ordered. The identification of "Public Treasury" in this Article as the "Tesoreria provinciale" raises the assumption that wherever the expression is used elsewhere in the Order it has a differ-

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

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The various time limits under the Order are not satisfactory, and one of which expires 30 days from 23rd September 1946 gives the position some urgency.

3. It is the recommendation of the Legal Division Allied Commission

(a) that all action under the Order be suspended forthwith (without public announcement)

./.

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

(b) That the Order be substantially re-written and re-printed in its entirety.

4. In view of the recommendation (a) above, and indeed in obtaining the information to prepare this Memorandum, this Division has prepared lengthy notes on the Order, Article by Article. If the recommendation (b) is accepted a copy of these notes could be made and forwarded to Allied Military Government Venezia Giulia in supplement to the generalized comments of this Memorandum.

JOHN K. [illegible]
Colonel, Infantry,
Chief Legal Advisor.

65

G 1A

MEMORANDUM ON VENEZIA GIULIA ALLIED MILITARY GOVERNMENT
GENERAL ORDER 70

adverse Italian

1. This Order carries signs of having been prepared and published under pressure. It was not submitted to the Legal Division Allied Commission before publication but, following the Chief Commissioner's attention being drawn to it by newspaper comment, has been carefully scrutinized by that Division. It does not appear that the newspaper criticism was justified.

2. The English version of Allied Military Government Proclamations and Orders prevails. The English of this Order leaves much to be desired. It is substantially a not very good translation of the provisions of an Italian Decree of the ~~Lord~~ Lieutenant General - N° 154 of 1946. ~~It bears~~ ~~is the preamble that "whereas it is the policy of the Allied~~ ~~Military Government to suppress fascism in all its forms..."~~ ~~therefore the Order is made.~~ This statement is considered ~~objectionable~~ : however, only because it is irrelevant, the Order being aimed at the confiscation of the profits etc. of the ~~regime and not against the regime's future or present~~ activity. The lack of precision in the English of the Order is a serious defect. Parts of the Order are incomprehensible and parts are wide-open to misinterpretation. An Order which leaves those administering it to decide interpretation according to individual taste, and which would embarrass any Court into constructive legislation to interpret it, is a bad one. There are a number of misprints in the Order : two at least are really serious "action" where the word intended is "auction" and "formally" where the word intended is "formerly". Two expressions are frequently used in the Order and are not interpreted — "Public Treasury" in whose favour the profits etc. are expropriated and property 64 confiscated and "Finance Administration" which has onerous duties under the Order. It is left doubtful who is to receive the profits which are expropriated and the property, or proceeds of it, that is confiscated. This doubt is accentuated by a definition of Public Treasury in one Article of the Order as "Public Treasury (Tesoreria provinciale)" as the authority to whom payment of fascist regime profits may be ordered. The identification of "Public Treasury" in

Declassified E.O. 12356 Section 3.3/NND No. T85016

Legal Division Allied Commission before publication but, following the Chief Commissioner's attention being drawn to it by newspaper comment, has been carefully scrutinized by that Division. It does not appear that the newspaper criticism was justified.

2. The English version of Allied Military Government Proclamations and Orders prevails. The English of this Order leaves much to be desired. It is substantially a not very good translation of the provisions of an Italian Decree of the ~~Head~~ Lieutenant - General n° 134 of 1945. ~~It bears in the preamble that "whereas it is the policy of the Allied Military Government to suppress fascism in all its forms..." therefore the Order is made. This statement is considered objectionable : if only because it is irrelevant, the Order being aimed at the confiscation of the profits etc. of the regime and not against the regime's future or present activity.~~ The lack of precision in the English of the Order is a serious defect. Parts of the Order are incomprehensible and parts are wide-open to misinterpretation. An Order which leaves those administering it to decide interpretation according to individual taste, and which would embarrass any Court into constructive legislation to interpret it, is a bad one. There are a number of misprints in the Order : two at least are really serious "action" where the word intended is "auction" and "formally" where the word intended is "formerly". Two expressions are frequently used in the Order and are not interpreted - "Public Treasury" in whose favour the profits etc. are expropriated and property confiscated and "Finance Administration" which has onerous duties under the Order. It is left doubtful who is to receive the profits which are expropriated and the property, or proceeds of it, that is confiscated. This doubt is accentuated by a definition of Public Treasury in one Article of the Order as "Public Treasury (Tesoreria provinciale)" as the authority to whom payment of fascist regime profits may be ordered. The identification of "Public Treasury" in this Article as the "Tesoreria provinciale" raises the assumption that wherever the expression is used elsewhere in the Order it has a different meaning.

The various time limits under the Order are not satisfactory, and one of which expires 30 days from 23rd September 1946 gives the position some urgency.

3. It is the recommendation of the Legal Division Allied

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

Commission

(a) that all action under the Order be suspended forthwith

(b) that the Order be re-written in its entirety.

4. In view of the recommendation (b) above, and indeed in obtaining the information to prepare this Memorandum, this Division has prepared lengthy notes on the Order, Article by Article. If the recommendation (b) is accepted a copy of these notes could be made and forwarded to Allied Military Government Venezia Giulia in supplement to the generalized ~~criticisms~~ comments of this Memorandum.

(w/o any public announcement)

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

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

FILE 90A

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB COMMISSION

Copy to 4005

AC/4138/4/5

GT/ns
11 October 1946

SUBJECT : Criminal Court set up during the German occupation in Venezia Giulia.

TO : The Minister of Pardon and Justice.

1. Reference your Prot. Nº UC/4343-4 of 27th July 1946.

2. The Court in question was set up in Trieste by an Order of the former German High Commissioner of the Litorale Adriatico dated 19 October 1943 and was a Special Tribunal for Public Safety. The Tribunal was composed of Italian Magistrates who tried exclusively common crimes and based their judgment upon Italian law. From the decisions of such Tribunal there was no appeal.

3. We have been informed by the Chief Legal Officer in Trieste that Carlini, who was a bailiff, was charged in July, 1944, with collecting more money under a judgment than he was entitled to. He was tried in his absence and sentenced to four years imprisonment. A warrant of arrest was issued in Trieste and executed in Padova where Carlini is at present serving his sentence.

4. The question raised in this case, viz. whether the acts of an occupying power remain valid and effective after the occupation has ceased, is one on which there is a considerable divergence of opinion. In fact the whole question is one on which there is very little authority, and in such circumstances one would hesitate to say that there is any fixed legal principle governing the matter. There are, however, definite precedents of Courts in France and Belgium after the Great War, 1914-18, accepting and adopting various measures of the German Military Government which were in the interests of the population of the occupied territories. In the present case the act of the

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

German High Commissioner in setting up Special Tribunals cannot be said to have been in any way against public order, and, upon the precedent of the French and Belgian cases referred to above, its sentence upon Carlini may be treated as being still valid and effective.

5. In his letter the Chief Legal Officer states:

> "Carlini Vittorio was not present at the hearing as he was away from the Litorale Adriatico in Italian Territory occupied by the Allied Forces, so that he could not defend himself adequately. The sentence was obviously influenced by his absence. He had no penal record before but he was an efficient Bailiff with a very good moral conduct."

He further says that the Allied Military Government considers that a pardon might be granted. In all the circumstances this Sub-Commission is of opinion that the case is a proper one for a pardon to be granted and recommends to the Minister that such a course be taken.

6. In view of a wish expressed by Dottor Monelli at a conference at the Ministry on the 7th inst. this Sub-Commission is taking steps to ascertain the number of sentences passed by these Special Tribunals which are still being served, and you will be informed of the result of the inquiry.

7. This Sub-Commission would ask you to consider whether, when the actual facts of the situation are known, it would not be advisable to settle the whole question by enacting an Italian Decree, as was been done in the case of validating certain acts of the neo-Fascist Government.

61

MUSGRAVE THOMAS,
Italian Branch,
for Chief Lehal Advisor.

2173

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

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB-COMMISSION

19A

AC/4188/4/L.

MF/rm.
12 October 1946.

SUBJECT : Criminal Courts set up in Venezia Giulia during the German occupation.

TO : SCAO (Attn. Chief Legal Officer)
AMG, VENEZIA GIULIA.

1. Reference your No. 13C/AMG/LD/92/2558 of 30 August 1946.

2. With regard to the Special Tribunals set up in October 1943 in Trieste, Pola, Fiume, Gorizia, and Udine, by the former German High Commissioner of the Litorale Adriatico the Minister of Justice wishes to know (1) the number of sentences imposed by such Courts, and (2) the number of persons still serving sentences of such Courts in (a) Venezia Giulia, (b) the Province of Udine, and (c) in territory restored to the Italian Government.

3. This Sub-Commission would be obliged if you could supply the above information requested by the Minister.

By command of Rear Admiral STONE:

MUSGRAVE THOMAS,
Italian Branch,
for Chief Legal Advisor.

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2178

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

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB COMMISSION

AC/4188/4/L

184

ST/ns
11 October 1946

SUBJECT : Criminal Court set up during the German occupation in Venezia Giulia.

TO : The Minister of Foreign and Justice. See 11A

1. Reference your Prot. No AC/4343-1 of 27th July 1946.

2. The Court in question was set up in Trieste by an Order of the former German High Commissioner of the Litorale Adriatico dated 19 October 1943 and was a Special Tribunal for Public Safety. The Tribunal was composed of Italian magistrates who tried exclusively common crimes and based their judgment upon Italian law. From the decisions of such Tribunal there was no appeal.

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54

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

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7. This Sub-Commission would ask you to consider whether, when the actual facts of the situation are known, it would not be advisable to settle the whole question by enacting an Italian Decree, as was been done in the case of validating certain acts of neo-Fascist Government.

58

MUSGRAVE THOMAS,
Italian Branch,
for Chief Legal Advisor.

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

2176

HEAD QUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB COMMISSION

14A

AT/ns
AC/4188/4/L 11 ottobre 1946

OGGETTO : CARLINI Vittorio, condannato a quattro anni di detenzione ed attualmente ristretto nelle carceri di Padova.

A : Direttore del Carcere Giudiziario
PADOVA.

Questa Sotto-Commissione ha recentemente interpellato il Ministero di Giustizia circa il detenuto CARLINI Vittorio, condannato il 27 luglio 1944 a 4 anni di prigione da un Tribunale Speciale istituito nell'ottobre 1945 a Trieste dal Ex-Alto Commissario Germanico del Littorale Adriatico.

Detto Carlini è attualmente ristretto nelle carceri di Padova.

Questa Sottocommissione ha motivi di ritenere che una eventuale domanda di grazia inoltrata dal Carlini sarebbe favorevolmente accolta.

LIEUTENANT THOMAS,
Italian Branch,
For Chief Legal Advisor

FILED
OCT 1946

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

4188/4

[Le Stelvian] - Translation

Subject : Carlini Vittorio : undergoing a sentence of 4 years in Padova Prison.

TO : The director of Judicial Prisons
Padova.

In Correspondence has taken place recently between this Sub-Commission and the Ministry of Justice regarding Carlini Vittorio who on 27th July, 1944, was sentenced to a term of 4 years imprisonment by a Special Tribunal set up in Trieste in October 1943 by the former German High Commissioner of the Litorale Adriatico, and who is serving his sentence in Padova Prison. It is suggested ~~that~~ (brought to) this Sub-Commission that, if Carlini would make an application for pardon, there are good grounds for believing that it would be favourably considered.

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Oggetto: CARLINI VITTORIO, condannato a quattro anni di detenzione ed attualmente ristretto nelle carceri di Padova

4188/4

3 copie

Al Sig. Direttore del Carcere Giudiziario

Padova.

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Detto Carlini è attualmente ristretto nelle carceri di Padova.

Questa Sottocommissione ha motivi di ritenere che una eventuale domanda di grazia inoltrata dal Carlini sarebbe favorevolmente

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

3 copies

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Detto Carlini è attualmente ristretto nelle carceri di Padova.

Questa Sottocommissione ha motivi di ritenere che una eventuale domanda di grazia inoltrata dal Carlini sarebbe favorevolmente accolta.

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

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
13 CORPS

LEGAL DIVISION

4188/4

S/RV
16A

TELEPHONE No.:

Date 30 August 1946

REFERENCE No.: 13c/AMG/LD/92/2117

SUBJECT : Judgment of Criminal Courts set up in Venezia Giulia during the German occupation.

TO :

Headquarters Allied Commission
A.P.O. 794
Legal Sub- Commission

OCT 12 1946

1. Reference your letter AC/4188/4 dated August 2, 1946.

2. With Order No.5 dated October 19, 1943 the former German High Commissioner of the so called "Litorale Adriatico" (including the zones of Trieste, Pola, Fiume, Gorizia and Udine) had constituted Special Tribunals for Public safety.

3. Said Tribunals were composed of Italian Magistrates who tried exclusively common crimes basing their judgment upon Italian law in conformity with aforesaid Order No.5, which did not follow the provisions of the Italian Penal Code and of the Italian Code of Penal Procedure for those parts concerning the limits of application of sactions, time limits, and some forms of procedure. Generally the above Tribunals dealt with offences against rationing, which occured very frequently. Political offences were judged by other Special Tribunals composed exclusively by German officers.

4. No appeal was admitted against the sentences of said Tribunals. Nevertheless such sentences could be annulled by the former German High Commissioner.

5. The aforesaid sentences were carried out in the "Litorale" according to the provisions of the Italian Code of Penal Procedure.

6. The Allied Military Government, with General Order No.50 dated March 25, 1946, has declared such sentences liable to revision by the Court of Appeal of Trieste, in cases specifically determined.

7. Attached please find copy of the Gazzette No.19 of the Allied Military Government 13 Corps, containing General Order No. 50 governing the Procedure of the aforesaid revision.

8. Until they are revoked in the manners set forth, the above sentences remain valid in this Territory and outside the same.

9. Carlini Vittorio, of whom information has been requested, was a Bailiff and accepted more money than he was entitled to on a collection. Sentenced, on 27 July 1944, by one of the above Special Tribunals in Trieste to 4 years.

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

A.P.O. 794
Legal Sub- Commission

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9. Carlini Vittorio, of whom information has been requested, was a Bailiff and accepted more money than he was entitled to on a collection. Sentenced, on 27 July 1944, by one of the above Special Tribunals in Trieste to 4 years. He is in the prison of Padova.

10. At present it does not appear that Carlini Vittorio has requested the revision.

11. Carlini Vittorio was not present at the hearing as he was away from the Litorale Adriatico in Italian Territory occupied by the Allied Forces, so that he could not defend himself adequately. The sentence was obviously influenced by his absence. He had no penal record before but he was an efficient Bailiff with a very good moral conduct.

12. Considering the above the said circumstances the Allied Military

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

Government considers that a pardon may be granted by converting the remaining punishment into the payment of a pecuniary penalty, in accordance with Article 174 of the Penal Code.

For the Senior Civil Affairs Officer.

Charles M. Munnecke
Lt. Colonel
Chief Legal Officer

LEGAL SUB COMMISSION	
CHIEF LEGAL ADVISOR	
DEPUTY CHIEF LEGAL ADVISOR	
CHIEF COUNSEL	
STAFF OFFICER	
ITALIAN SECTION	
MEMBERS REVIEW BOARD	
SEP 6-1946	

Enclosures : 1 Gazzette.

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

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

FILE

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB COMMISSION

15A

LJG/ns
8 August 1946

AC/4188/4/L

SUBJECT : Crimes committed in Zone B of Venezia Giulia to the detriment of Italian citizens.

TO : The Minister of Grace and Justice.

1. Receipt is acknowledged of your letter 9862/203, dated 27 July 1946, subject as above.

2. Reply thereto will be made by letter at an early date.

L.J. GILBRIDE,
Major,
for Chief Legal Advisor.

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

Mild

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB COMMISSION

FILE 14A

L.J.G/ns
8 August 1946.

AC/4188/4/L

SUBJECT : Crimes committed in Zone B of Venezia Giulia to the detriment of Italian citizens.

TO : SCAO (Attn: Chief Legal Officer).
TRIESTE.

1. The attached correspondence deals with offences allegedly committed by BERTOK Marta and others in Zone B of Venezia Giulia.

2. May we have the benefit of your observations and comment regarding this case?

By command of Rear Admiral STONE:

L.J. GILBRIDE,
Major,
for Chief Legal Advisor.

See p. 38A

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

T R A N S L A T I O N

13A

The Keeper of the Seal
Minister of Pardon and Justice

Rome, 27 July 1946

TO THE ALLIED COMMISSION
Legal Sub Commission
R O M E

SUBJECT : Crimes committed in Zone B of Venezia Giulia to the detriment of Italian citizens.

The Procura Generale of Trieste has transmitted for information to this Ministry a copy of the attached Police Report against BERTOK Marta and others, for offences committed in Capodistria. (Zone B of Venezia Giulia).

In view of the cruelty displayed by the offenders in this crime, now being investigated by the Special Section of the Trieste Court of Appeal, it is deemed advisable to draw the attention of your Sub Commission to the particular seriousness of the act in order that the crime may be adequately punished.

A reply would be very much appreciated.

THE MINISTER

Sgd.: Gullo

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

T R A N S L A T I O N

Hq. Venezia Giulia Police Force 13 Corps
Div. Uniforme

Police Sattion of Villa Opicina
Trieste

Ref Nº 2 prot.

SUBJECT: Police Report

To the Procura dello Stato

T R I E S T E

and for information:

Comando della Sottozona Unif.
P.G.

T R I E S T E 1st.

Alla Direzione del Carcere
di Via Nizza

T R I E S T E

On 2230 hours of 13 June 1946, in Villa Opicina, BERTOK Marta daughter of Pietro and Turko Maria, born on 27 March 1913, at Capodistria and residing at Pobeghi Nº 42 was recognized by a certain FIZZIGA Ubaldo son of Pietro and Antonia Ursich, born on 30 November 1914 at Pobeghi di Capodistria, presently a refugee residing at Villa Opicina, c/o 1st Cn. R.E.F. British who with the assistance of a police officer named CARBONINI Vincenzo belonging to the Civil Police Station of Sesgana accompanied her to this station.

Fizziga makes the following statemsnt:

On the night of 4 October 1945, in Pobeghi di Capodistria, a large number of persons, their headgears adorned with red stars and being lead by BERTOK Paolo, surrounded my house, situated at Nº 58 Pobeghi, at the time occupied by my mother, my father, my sister and my brother. The above mentioned persons ordered them to open the door. My father hesitated at first but having recognized Bertok's voice (his godfather) who said: "Godfather, please open, don't be afraid, we don't want to harm you" decided to open the door. Together with Bertok many other persons entered. They asked for food and

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

drinks. After being satisfied Bertok added: "And now you shall see why we came here for." At these words four of the individuals who had entered the room suddenly seized my younger sister Gemma by force and used carnal violence upon her right under my father and mother's eyes. At the sight of this my mother fainted. One of the men who called himself a Political Commissar then fired his sub-machine gun on my mother killing her on the spot. Bertok had tried to hold him saying that only he should have the satisfaction of killing all the members of my family. A little later he killed in fact my father, my brother and my sister.

Bertok's sister (Bertok Marta daughter of Pietro - see para 1 above) took an active part in this massacre. She looted furniture, decorations, linen etc. She still keeps in her own house one bed room full of our furniture. The bodies of my dear ones were buried in a vineyard near the house.

The following persons participated in the killing:

TEDESCO Angelo di Albino
POBEGA Angelo di Giuseppe
POBEGA Beniamino di Giuseppe
TEDESCO Germano fu Giacomo
TEDESCO Albino fu Giacomo
GIACOMINI Giovanni fu Giovanni
VATTOVANI Silvestro
VATTOVANI Giovacchino di Silvestro
BORDON Angelo fu Giuseppe
SCHER Guido fu Giovanni
PEROSSA Valmi di Giovanni - detto
PECCHIARO Augusto
FURLANI Giuseppe di Giuseppe
PEHARZ Angelo
VATTOVIANI Remo di Silvestro

Upon questioning Bertok Marta (see attached statement N° 1)°° denies the charges. She admits, however, of being in possession of a bed room but doen't state whether or not said furniture belongs to the injured party.

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°°

Note: Statement N) 1 and N9 2 are missing.

2188

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

The fact that Bertok did not hear any shots being fired on the night of 4 October 1945 cannot be believed as her house is only about one hundred meters away from the place where the killing occurred and she admits that she was in her own house on that particular night.

In regard to the furniture previously the property of Pizziga family, statement N° 2 made by the "Amministrazione dei Beni Popolari p.L.S. di Capodistria" clearly shows that they are now in Bertok's possession.

No investigation could be carried out due to the fact that the crime was committed in territory now under Jugoslav administration.

Bertok Marta who was held for security measures in the local Prisons of Via Nizza since 13 June 1946 (see police report N° 1/1 dd 23 of this Station) is now being put at the disposal of your State Procura.

The Sergeant Commanding the Station

Sgd.: Arduino Tucci

A certified true copy

CHIEF SECRETARY

Sgd.: illegible

47

Mod. 461 MGG

Roma, 27.7. 1946

Il Guardasigilli

MINISTRO DI GRAZIA E GIUSTIZIA

1124/7

1247

9862/208

Alla Commissione Alleata
Sottocommissione Legale

R O M A

OGGETTO: Reati commessi nella Zona B a danno di sudditi italiani.

La Procura Generale di Trieste ha trasmesso a questo Ministero per opportuna conoscenza copia della denuncia che si allega contro Bertok Marta ed altri, per reati commessi in Capodistria (Zona B della Venezia Giulia).

In considerazione dell'atrocità del reato, mentre si comunica che la Sezione istruttoria di Trieste è stata già investita del procedimento, si ritiene opportuno richiamare codesta Commissione sulla particolare gravità del fatto affinchè sia resa possibile l'istruzione e l'adeguata repressione dei crimini commessi. 46

Si gradirà un cenno di riscontro.

CHIEF LEGAL ADVISOR
DEPUTY CHIEF LEGAL ADVISOR
CHIEF COUNSEL

IL MINISTRO

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

Il Guardasigilli

MINISTRO DI GRAZIA E GIUSTIZIA

9962/208

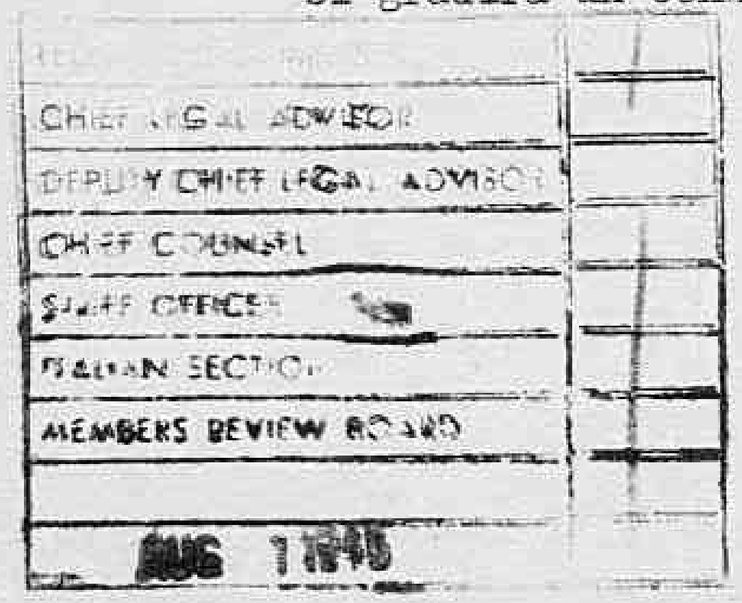
Alla Commissione Alleata
Sottocommissione Legale
ROMA

OGGETTO: Reati commessi nella Zona B a danno di sudditi italiani.

La Procura Generale di Trieste ha trasmesso a questo Ministero per opportuna conoscenza copia della denuncia che si allega contro Bertok Marta ed altri, per reati commessi in Capodistria (Zona B della Venezia Giulia).

In considerazione dell'atrocità del reato, mentre si comunica che la Sezione istruttoria di Trieste è stata già investita del procedimento, si ritiene opportuno richiamare codesta Commissione sulla particolare gravità del fatto affinchè sia resa possibile l'istruzione e l'adeguata repressione dei crimini commessi. 46

Si gradirà un cenno di riscontro.



IL MINISTRO

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

H.Q. V ENEZIA GIULIA POLICE FORCE 13° CORPS - DIV. UNIFORME
Stazione di Villa Opicina - Trieste

N.2 prot. V. Opicina, li 3 luglio 1946

OGGETTO: Rapporto giudiziario.

ALLA PROCURA DI STATO TRIESTE
e, per conoscenza:
AL COMANDO DELLA SOTTOZONA UNIF. P.C. TRIESTE EST.
ALLA DIREZIONE DEL CARCERE DI VIA NIZZA TRIESTE

Alle ore 22,30 del 13 giugno u.s., mentre transitava da Villa Opicina, la nominata BERTOK Marta fu Pietro e di Turko Maria, nata a Capodistria il 27.3.1918, ivi residente, frazione Pobeghi n.42, casalinga, veniva riconosciuta da certo PIZZIGA Ubaldo, fu Pietro e fu Antonia Ursich, nato a Pobeghi di Capodistria, il 30 novembre 1914, presentemente profugo e reperibile a Villa Opicina presso 1st bn. R.N.F. Inglese che, con l'intervento della guardia Carbonini Vincenzo, della stazione polizia civile di Sesana, veniva accompagnata in questa stazione.

Il Pizziga espone la seguente denuncia:

""La sera del 4 ottobre 1945, in Pobeghi di Capodistria, coi copricapi fregiati da stelle rosse e capeggiati da BERTOK Paolo, circondavano la mia casa, sita in Pobeghi n.58, nella quale si trovavano mia madre, mio padre, mia sorella e mio fratello. Alla imposizione di aprire la porta mio padre, insospettito, esitò ed in un primo tempo si oppose a tale ordine. Riconosciuto però dalla voce il suo compare Bertok che disse: "Compare, aprite la porta, non temete, non vogliamo farvi del male" mio padre, rassicurato eseguì l'ordine. Col Bertok accedettero più persone che si fecero servire da mangiare e da bere, e quando finirono, cambiando tono, lo stesso Bertok aggiunse "Ed ora vedrete che cosa siamo venuti a fare qui". Quattro degli individui, afferrata mia sorella minore, Gemma, la violentarono nello stesso ambiente, davanti ai miei genitori. Alla vista di questo fatto, mia madre perdette i sensi e cadde a terra, dove uno di loro che si qualificava per commissario politico, le scaricò il mitra addosso uccidendola.

Il Bertok di fermarlo dicendogli che voleva avere lui tutta la [illegible] di uccidere i componenti della famiglia. Così fece in-

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

ALLA PROCURA DI STATO TRIESTE
e, per conoscenza:
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Il Bertok di fermarlo dicendogli che voleva avere lui tutta la soddisfazione di uccidere i componenti della famiglia. Così fece infatti poco dopo con mio padre, mio fratello e mia sorella.

A questo massacro prese attiva parte anche la sorella del Bertok Bertok Marta fu Pietro (meglio generalizzata in appendice), la quale approfittò inoltre per saccheggiare mobilia, arredamento, biancheria etc. che si trovavano in casa. La mobilia, ~~xxxxxxxxxx~~ di una stanza è tuttora in possesso del Bertok che se ne serve in casa sua. Le salme dei miei familiari vennero indi sepolte dagli stessi uccisori nelle vicinanze della casa e precisamente in un vigneto.

All'omicidio presero inoltre parte i seguenti nominati tutti di Pobeghi:

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TEDESCO Angelo di Albino
POBEGA Angelo di Giuseppe
POBEGA Beniamino di Giuseppe
TEDESCO Germano fu Giacomo
TEDESCO Albino fu Giacomo
GIACOMINI Giovanni fu Giovanni
VATTOVANI Silvestro
VATTOVANI Giovacchino di Silvestro.
BORDON Angelo fu Giuseppe
SCHER Guido fu Giovanni
PEROSSA Valmi di Giovanni-detto
PECCHIARO Augusto
FURLANI Giuseppe di Giuseppe
PEHARZ Angelo
VATTOVIANI Remo di Silvestro

Interrogata la Bertok Marta (vedi allegato) n?i questa nega gli addebiti ascrittegli dal Pizziga. Ammette, tuttavia, di essere in possesso di una camera da letto senza peraltro essere in grado di precisare se la stessa era o meno di proprietà del denunciante.

Sembra inoltre inverosimile come la Bertok, la sera del 4 ottobre 1945 non abbia udito colpi d'arma da fuoco quanto la sua abitazione dista da quella del Pizziga circa cento metri. Ammette però di ricordare che in quella stessa sera si trovava in casa sua.

Circa il possesso dei mobili da parte del Bertok, già di proprietà della famiglia Pizziga viene confermata dalla dichiarazione (vedi allegato n.2) rilasciata dalla Commissione per l'Amministrazione dei Beni Popolari p.L.S. di Capodistria.

Trattandosi di reato commesso in territorio attualmente controllato dalle truppe jugoslave non è stato possibile esperire le indagini del caso.

La Bertok che trovasi associata alle locali carceri di Via Nizza fin dal 13.6.1946, per misure di P.S. (vedi processo verbale n.I/I.dd.23 detto di questa Stazione) col presente rapporto giudiziario si passa, per competenza, a disposizione di codesta Procura di Stato.

IL SERGENTE COMANDANTE DELLA STAZIONE
F/to Arduino Tucci

Per copia conforme
IL SEGRETARIO CAPO
F/to illegibile

Declassified E.O. 12356 Section 3.3/NND No. T85016

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

FILE 11A

HEAD QUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB-COMMISSION

AC/4188/Ltr/2. MF/rm.
2 August 1946.

SUBJECT : Judgments of Criminal Courts set up in VENEZIA GIULIA during the German occupation.

See p 18A

TO : S.C.A.C. (Attn. Senior Legal Officer).
XIII Corps.

1. I send herewith a copy of a letter with enclosure from the Ministry of Justice on the question of the enforcement within territory restored to the administration of the Italian Government of judgments of a Criminal Court set up in VENEZIA GIULIA during the German occupation.

2. This Sub-Commission would like to have your views on the question raised and at the same time would be glad if from your records you are able to furnish further information on the matter so as to enable a reply to be made to the Minister's inquiry. It is necessary to have details of the Court set up by an Order of 19 October 1943, and to know by what authority it was constituted. Particulars are also required of the judgment of the Special Court in Trieste dated 27th July 1944 referred to in the Avv. CONFORTI's letter enclosed. If the facts are as set out in that letter it would appear that the judgment in question should not be put into effort in restored territory.

3. It would be interesting to know if the sentences of this particular Criminal Court have still effect in VENEZIA GIULIA, or whether the persons sentenced by this Court are still serving their terms of imprisonment, or have been released.

By command of Rear Admiral STONE.

MUSGRAVE THOMAS,
Italian Branch.
for Chief Legal Advisor.

Incls.

FILE.

COPIA

STUDIO LEGALE
Avv.to Leopoldo Conforti-Cosenza
Roma, Via Secchi, 4

Roma, 23 luglio 1946

A S.E. IL DIRETTORE GENERALE DEGLI AFFARI PENALI
presso il MINISTERO DI GRAZIA E GIUSTIZIA
ROMA

Una speciale situazione si è venuta a creare rispetto all'Amministrazione e all'attuazione della giustizia penale nella Venezia Giulia nei riflessi del territorio italiano completamente liberato; sulla quale è necessario richiamare l'attenzione di codesto On.Ministero per i provvedimenti di sua competenza.

Nella Venezia Giulia, all'epoca dell'occupazione tedesca, venne, con ordinanza del 19 ottobre 1943, n.5 del Supremo Commissario della Zona d'operazione Litorale Adriatico, istituito un Tribunale Penale che giudicava in unica istanza, per cui le sue sentenze divenivano immediatamente esecutive.

Le sentenze di questo Tribunale sono state tenute ferme dal Governo Alleato di Trieste, salvo ad ammetterne una revisione disciplinata da un Ordine Generale del 25 marzo 1946, n. 50.

Ora è da domandarsi quale efficacia possono avere in territorio italiano liberato queste sentenze. Sono esecutive senza meno, o debbono avere il crisma dell'autorità giudiziaria italiana perchè possano avere esecuzione nel territorio della Repubblica!

Non sembra dubbio che la risposta debba essere per necessità di un controllo dell'autorità italiana, la quale deve concedere, re cognita, l'esecutorietà alla sentenza pronunciata al di fuori dell'Ordinamento giuridico italiano, e con escmusione dei rimedi che questa consente.

E se così è, risulta anche manifesto che ogni diretta esecuzione di sentenze del genere da parte di autorità italiane è illegale, e deve essere subito eliminata.

E' il caso della sentenza 27 luglio 1944 pronunciata dal Tribunale speciale per la sicurezza pubblica di Trieste contro Carlini Vittorio e altri, in contumacia del Carlini che si trovava in Regio-

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

Roma, 23 luglio 1946

A S.E. IL DIRETTORE GENERALE DEGLI AFFARI PENALI
presso il MINISTERO DI GRAZIA E GIUSTIZIA
R O M A

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E' il caso della sentenza 27 luglio 1944 pronunciata dal Tribunale speciale per la sicurezza pubblica di Trieste contro Carlini Vittorio e altri, in contumacia del Carlini che si trovava in regione italiana distaccata a causa degli eventi bellici dalla Venezia Giulia. Il processo, illegalmente condotto contro chi non si poteva difendere, sfociò nella detta sentenza di condanna del Carlini ad anni 5 di reclusione.

./.

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

Fu emesso un ordine di cattura dall'autorità di Trieste e lo stesso venne eseguito in Padova, dove il Carlini si trova a scontare una pena che non è stata mai riconosciuta da un giudice della Repubblica Italiana, pronunciata in seguito ad un processo evidentemente nullo.

E' chiaro che la situazione va rettificata, eliminando l'ingista detenzione, il che si chiede formalmente a V.E..

Roma, 23 luglio 1946

Avv. LUIGI CONFORTI

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

Mod 2

Ministero di Grazia e Giustizia

Gabinetto di S.E. il Ministro

Ufficio di Collegamento con L'A.C.

Roma, 27. 7. 1946 19

Protocollo N. UC/4343.4

OGGETTO Tribunale Penale costituito durante l'occupazione tedesca nella Venezia Giulia.

ALLA COMMISSIONE ALLEATA
Sottocommissione Legale

R O M A

Si prega volere attentamente esaminare l'unita istanza con preghiera di far conoscere quale efficacia sia stata attribuita del Comando Alleato al Tribunale Penale istituito nella Venezia Giulia di cui è parola nell'istanza.

Si prega inoltre specificare se si tratta di un Tribunale costituito per reati politici oppure per reati comuni, nonchè il funzionamento della revisione delle relative sentenze di cui all'Ordine Generale del 25. 3.1946 n. 50.

In considerazione dell'importanza della questione soprattutto da un punto di vista generale si prega comunicare i dati richiesti con cortese urgenza.

42

CHIEF LEGAL ADVISOR
DEPUTY CHIEF LEGAL ADVISOR

l'UFFICIALE DI COLLEGAMENTO
(Dr.G.Bonelli)

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

Gabinetto di S.E. il Ministro

Ufficio di Collegamento con L'A.C.

Roma, 27. 7. 1946 19

Protocollo n. OC/4343.4

OGGETTO Tribunale Penale costituito durante l'occupazione tedesca nella Venezia Giulia.

ALLA COMMISSIONE ALLEATA
Sottocommissione Legale

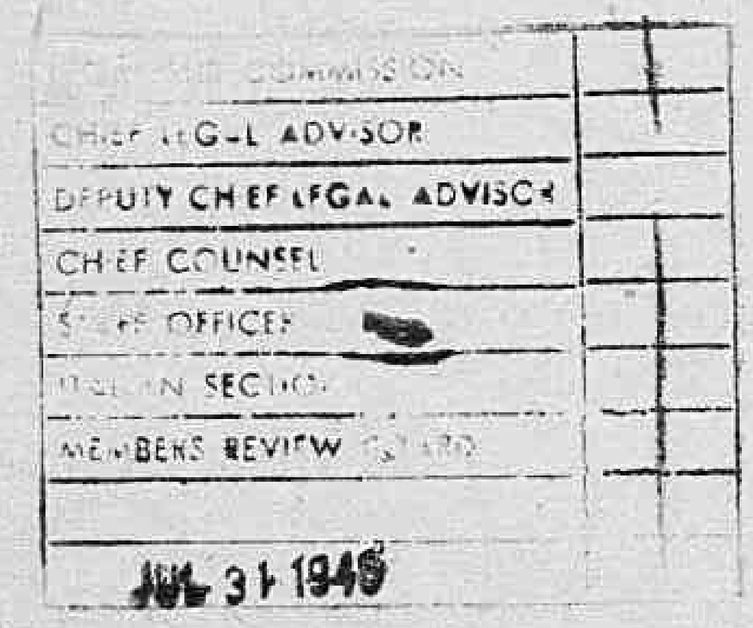
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In considerazione dell'importanza della questione soprattutto da un punto di vista generale si prega comunicare i dati richiesti con cortese urgenza.

42



l'UFFICIALE DI COLLEGAMENTO
(Dr.G.Bonelli)

Bonelli

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

2200

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

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CONFIDENTIAL

CONFIDENTIAL

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

10A

4

G-5: 930.15

25 April 1946

SUBJECT: AMG Courts - Venezia Giulia "Extradition" procedure.

TO : Headquarters, XIII Corps.

1. It is understood that you have asked for a ruling as to how requests from the Jugoslav Military Government of Zone 'B' for the handing over criminal fugitives, as distinct from political refugees, should be dealt with.

2. Such persons will be dealt with on the analogy of extradition proceedings; that is to say:

a. Zone 'B' will produce evidence to show that the accused is subject to their jurisdiction. They will produce the formal charges and a summary of the evidence by which it is proposed that the charge will be proved.

b. On receipt of this evidence and if satisfied that there is prima facie evidence that a crime (of an extraditable nature) against the existing Italian Law has been committed, Zone 'A' will proceed to arrest the accused and bring him before a Zone 'A' AMG Legal Officer sitting as a judge.

c. At his appearance the Zone 'B' official will prove the facts referred to in sub-para 2 a. above and the accused will be heard in answer. If the AMG Legal Officer is satisfied

(1) that a prima facie case is made and

(2) there is no credible suggestion by the defence that the case is false and its true purpose political victimization,

he will make an order for the handing over of the accused for trial in Zone 'B'. 41

c. If a credible suggested that the true object of the application is political the case will be adjourned and the facts reported to this Headquarters together with a recommendation. The accused will be held in custody until

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directions as to his disposal are received from this Headquarters.

3. Before bringing these proposals into effect, agreement will be reached with Zone 'B' that they will follow a similar procedure. In discussing the matter with Zone 'B', the contents of para 2 c. (2) and 2 d. above will not be referred to.

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

A. L. GAMBLEN
Brigadier General, G.S.C.
Assistant Chief of Staff, G-5

copy to: Allcom

LEGAL SUB-COMMISION
CLO
DCLO
Chief Counsel
CJO
Italian Section
CL RKS
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LEGAL

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4188/3

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
13 CORPS

LEGAL DIVISION

TELEPHONE No. 29794 Ex. 1.
REFERENCE NO. 13C/AMG/LD/
SUBJECT Legislation in Venezia Giulia
TO Headquarters, Allied Commission.

Date 20 April 1946

7A

1. Reference is to this Headquarter's 13C/AMG/41/2/172, 9 April 1946 and Legal Commission letter AC/4188/3/L, 3 April 1946, to the Executive Commissioner.

2. In view of Lt. Col. HANNAFORD's impending visit to Venezia Giulia it is not proposed to deal with the points raised in detail but it is felt advisable to point out certain inaccuracies in the letter of 3 April:

(a) Para 3: This is in accordance with para 8 of AC/4188/I/L, 3 July 1945.

(b) Para 4: This is inaccurate; the proposed Order provides for jurisdiction of the ordinary penal Courts, in accordance with existing Italian Legislation except as to the Court of Cassazione at Rome.

(c) Footnote: The references to Italian Decrees were inserted in the draft Jewish Order solely to enable the Legal Sub-Commission to see that existing Italian Legislation was being followed; it was not intended to leave them in the final Order and was never suggested that the Italian decree should be referred to article by article.

ALFRED O. BOWLAN,
Colonel, J.A.G.D.,
Senior Civil Affairs Officer.

39

LEGAL SUB-COMMN
CLO
DCLO
Chief Counsel
CJO
Italian Section
CLERKS

5895

LEGAL

HEADQUARTERS, ALLIED MILITARY GOVERNMENT, 13 CORPS
C. M. F.

OFFICE OF THE SENIOR CIVIL AFFAIRS OFFICER

458/4

JA

Reference No: 13C/AMG/A1/2/171 9 April 1946.

Subject : General Orders - Venezia Giulia.

To : Headquarters,
Allied Commission.

3A

1. The Legal Sub-Commission's letter AC/4186/3/L dated 1st April 1946 has been brought to my notice by the Legal Division of this Headquarters.

2. In view of the fact that this letter presents a rather erroneous picture of the procedure for issuing orders in Venezia Giulia, I feel that it is essential to clarify the position.

3. I would refer you to AC/4186/1/L dated 3rd July 1945, paragraph 9, which clearly lays down the policy with regard to orders and which policy has been observed throughout.

4. With regard to the Legal Sub-Commission's letter referred to above:-

Paras 1, 2 & 3: It is true that on several occasions, acting on the orders of the S.C.A.C. or at the request of the Allied Commission, certain orders have been submitted by the Legal Division to the Commission for consideration, advice and approval. This was done in the cases mentioned below because it was felt that the orders were of such a far reaching nature and in some cases possibly beyond the powers of an occupying force without the consent of the Sovereign Power, namely:

Jewish Property Order.
Electoral Rolls (which was sent to the Local Government Sub-Commission to insure that all Italian Legislation was covered so far as possible).
Restoration of Family Names.
Further sanctions against Fascists.

Para 3: Chief Legal Officer is not aware of any such agreement except so far as is mentioned below.

Para 5: It is agreed that ultra vires legislation can be challenged and the precedents referred to are fully appreciated.

Para 4: The Legal Division is not aware of any occasion where the Legal Sub-Commission has insisted on the inclusion of proper reference to existing legislation of the Sovereign Power. This point was first raised by Lt. Col. HANNIFORD in relation to the proposed order providing for the trial of pre-8th September 1943 Fascists (see your signal 2090 SH of 26 March).

38

Considerable correspondence has passed between the Legal Division and the Sub-Commission as to the possibility of producing such an order and the [illegible] of the Sovereign Power was first raised by this

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

To : Headquarters,
Allied Commission.

3A

1. The Legal Sub-Commission's letter AG/4060/3/L dated 1st April 1946 has been brought to my notice by the Legal Division of this Headquarters.

2. In view of the fact that this letter presents a rather erroneous picture of the procedure for issuing orders in Venezia Giulia, I feel that it is essential to clarify the position.

3. I would refer you to AG/4060/1/L dated 3rd July 1945, paragraph 9, which clearly lays down the policy with regard to orders and which policy has been observed throughout.

4. With regard to the Legal Sub-Commission's letter referred to above:-

Paras 1, 2 & 3: It is true that on several occasions, acting on the orders of the S.C.A.C. or at the request of the Allied Commission, certain orders have been submitted by the Legal Division to the Commission for consideration, advice and approval. This was done in the cases mentioned below because it was felt that the orders were of such a far reaching nature and in some cases possibly beyond the powers of an occupying force without the consent of the Sovereign Power, namely:

Jewish Property Order.
Electoral Rolls (which was sent to the Local Government Sub-Commission to insure that all Italian Legislation was covered so far as possible).
Restoration of Family Names.
Further sanctions against Fascists.

Para 5: Chief Legal Officer is not aware of any such agreement except so far as is mentioned below.

Para 6: It is agreed that ultra vires legislation can be challenged and the precedents referred to are fully appreciated.

Para 8: The Legal Division is not aware of any occasion where the Legal Sub-Commission has insisted on the inclusion of proper reference to existing legislation of the Sovereign Power. This point was first raised by Lt. Col. HANNIFORD in relation to the proposed order providing for the trial of pre-8th September 1943 Fascists (see your signal 2090 QSH of 26 March). 38

Considerable correspondence has passed between the Legal Division and the Sub-Commission as to the possibility of producing such an order and the suggestion of obtaining consent of the Sovereign Power was first raised by this Headquarters.

Furthermore Lt. Col. HANNIFORD gave the Chief Legal Officer a letter from the Minister of Justice dated 5th March 1946 in which the Minister agreed to the necessity of the order and the draft is in conformity with existing legislation passed by the Italian Government.

Para 5, 6 & 7: The question of orders being ultra vires is a large subject; but briefly, in the opinion of the Legal Division of this Headquarters no order issued by Allied Military Government goes beyond the power of an occupying force under international law and in fact a large majority of orders in Venezia Giulia substantially enact Italian Legislation; it is accordingly believed that such orders are not ultra vires.

Para 7: The Legal Division does not agree with this paragraph for the reasons mentioned above. It must be borne in mind that when applying the principles of international law and determining whether or not legislation is within the power of an occupying force consideration must be given to all the

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

circumstances prevailing in the territory occupied, as, for example, racial and nationalistic differences, social and economic conditions, etc.

A few of the orders issued in Venezia Giulia may be regarded as debatable. Nevertheless it is felt that in view of the conditions prevailing they do in fact fall within the powers of an occupying force.

Para 8: I must point out that in submitting orders to the Legal Sub-Commission for advice, this Headquarters has always been aware that the responsibility for issuing them rested with this Headquarters, under the principle of Regional autonomy referred to in paragraph 8 of AC/4188/1/L dated 3rd July 1945.

H.P.P. Robertson
Col

H.P.P. ROBERTSON,
Colonel,
Acting S.C.A.O.

/ger

Copy to: Chief Legal Officer,
H.Q., A.M.G. 15 Corps.

LEGAL SUB COMMISSION
CLO
DCLO ✓
Chief Counsel
CJO
Italian Section
CL RKS
10 Copies x 6

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

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/ger

Copy to: Chief Legal Officer,
H.Q., A.M.G. 13 Corps.

LEGAL SUB COMMISSION
CLO
DCLO ✓
Chief Counsel
CJO
Italian Section
CL RKS
13 Copies x 6

37

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H1884/4

INCOMING MESSAGE

HEADQUARTERS ALLIED COMMISSION

Legal 7A

Originator's Reference: 13C/AMG/LEG
Date/Time of Origin: APR.

Message Centre No: H/1722
Date Time Rec'd: APR.070915
Precedence: ROUTINE

FROM: COL ROBERSON ASCAO AMG 13 CORPS
TO : ALCOM LEGAL SUB COMMISSION ATT LT COL HANIFORD

UNCLASSIFIED.
Understand you are shortly visiting Udine.
Sincerely hope you also pay us a visit in Trieste for discussion.
All legal problems continuously arising. Another visit greatly
appreciated. H.B.P. Robertson Col.

AC DIST

ACTION LEGAL SC
INFO CHIEF COMMISSIONER
FILE 2
FLOAT

HEADQUARTERS
7 APR 1946

LEGAL SUB-COMMISION
CLO
DCLO
Chief Counsel
CJO
Italian Section
CLERKS

ACTION

36

2208

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IR 41884

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IR AIC621 8 Apr 46

(1) SCAC (Attn: S.M.O.) XXXI CORPS, VENEZIA GIULIA

2358 RESTRICTED

CONFIRMING TELEPHONE CONVERSATION DCLA DASH 8910 CMA TECHNICAL ENGINEERING COMMISSIONER NUMBER TWO THREE FOUR FIVE LIEUTENANT COLONEL HAMMARBERG WILL PROCEED TRIESTE ON OR ABOUT EASTER TO DISCUSS WITH POLADS AND YOURSELF ISSUES ARISING FROM PAST AND FUTURE AMG LEGISLATION IN VENEZIA GIULIA

35

ROUTINE

LEGAL S/C

302

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Confidential SECRET.

FT 4188/44

5/4/44

(4A)

I refer to my letter 139 to Sullivan and Greens telegram to their Embassies advising omission of amendment referring to Italian Government legislation. This amendment has been inserted not at request of Embassies but in order to protect AMG acts from being subsequently challenged because

a) procedure under AMG legislation is not identical with Italian procedure

b) and therefore even if the substance is the same the jurisdiction applying it is different. This being the case reference should be made to Italian legislation and the agreement of the Italian legislating power quoted.

In this particular case as the legislation deals with Fascists and sanctions against them it should not appear unreasonable even to Slovenes to quote legislation enacted by the present Government operating in the late cradle of Fascism. I would point out that AMG draft order No. 23 quotes similar Italian Decrees article by article. (Jewish property Order).

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

(4A)

I refer to my letter 139 to Sullivan and Greens telegram to their Embassies advising omission of amendment referring to Italian Government legislation. This amendment has been inserted not at request of Embassies but in order to protect AMG acts from being subsequently challenged because

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b) and therefore even if the substance is the same the jurisdiction applying it is different. This being the case reference should be made to Italian legislation and the agreement of the Italian legislating power quoted.

In this particular case as the legislation deals with Fascists and sanctions against them it should not appear unreasonable even to Slovenes to quote legislation enacted by the present Government operating in the late cradle of Fascism. I would point out that AMG draft order No. 23 quotes similar Italian Decrees article by article. (Jewish property Order).

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HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/mda.

AC/4188/4/L. 1 April 1946.

SUBJECT : General Orders - Venezia Giulia.

TO : Chief Commissioner (Through Executive Commissioner).

1. On a number of instances this Sub-Commission has been requested by the Senior Legal Officer Venezia Giulia to approve the issue of various orders, which A.M.G. 13 Corps intended to promulgate in the part of territory under its control.

2. Such orders were obviously outside the scope of the accepted legal powers of the occupant as they affected both life and property of private citizens of the occupied State. They included Restoration of Jewish property, amnesty for offences tried by Italian Courts, Establishment of Courts to deal with Political offenders, etc.

3. It was agreed by the Senior Legal Officer and this Sub-Commission that the only way of rendering such legislations valid considering the impossibility of implementing existing Italian legislation was to obtain the agreement of the absent Sovereign, whose powers were suspended, to the issue of the required orders.

4. Unfortunately in practice matters did not work out as planned. On one occasion this Sub-Commission was never consulted (Order on Amnesty), on others the consent of the absent Sovereign (i.e. the Italian Government) was duly obtained and authorization given to the Senior Legal Officer to draft and issue the necessary order. On each occasion this Sub-Commission insisted on the fact that proper reference be made of the fact that the text of the order was in conformity with existing legislation passed by the absent Sovereign in territory restored to his control.

5. For political reasons, in view of the tension existing in Venezia Giulia, the SCAO has always declined to make any reference to the absent Sovereign in the orders above referred to. The result of this policy is that orders are issued under the authority of the occupant alone and are clearly "ultra vires" as the occupant cannot, promulgate legislation which may affect permanently the life or property of private

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Don't agree

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citizens of the occupied State.

6. The consequences of this action may very well be that all such legislation will be challenged before the local Courts as soon as the disputed territory is restored to the absent Sovereign or passes under a new one.

7. It is highly probable that many decisions of the local Courts, now forced to apply the law of the occupant, will be declared invalid, when the territory is restored to the absent Sovereign or passes under a new one. Such has been the case in all similar situations in the past. (Attached precedents refer). This will create further chaos and impose new hardships on an already sorely tried population.

8. This Sub-Commission declines to take any further responsibility in the promulgation of orders of the type above referred to. If political expediency and the seriousness of the situation demands that these orders be promulgated this must be done under the sole authority of the military and not by an alleged legal interpretation of the rights and powers of the occupant with which this Sub-Commission entirely disagrees.

9. Some references are hereunder.

R-E-F-E-R-E-N-C-E-S

1. - Art. 46 of Hague Convention.

2. - Belgian Court of Cassation (Auditeur Militaire v. G. Van Dieren. Jan. 1919). The Court held that "material sovereignty subsisted in the occupied territory during the occupations, even when the occupying power exercised "de facto" authority".

3. - Latvian Senate - 19 Nov. 1920 - Kulturas etc. - v. Ministry of Home Affairs.
"German decree contravened the rights of the Sovereign".

4. - Hall-Page 530 - Para 164
"When an invader exceeds his legal powers his acts are null as against the legitimate government."

5. - Oppenheim-Page 463 Para 269.

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6. - "If the legal Government were obliged to recognise the continuing effects of any act of administration carried out under an occupant's authority, a few weeks' occupation might possibly result in servitudes being set up or obligations undertaken, which would prejudice the legal Government for a generation." Spaight also points out that certainly thereturning sovereign is not called upon to recognize purely political acts of the occupant or judicial sentences inflicted for such military offenses as "war treason".

7. - The Belgian legislature has considered itself free to avoid or confirm the acts of the occupying Power (Cassation, 19 March, 1925, Pasicrisie Belgie, 1925, I, p. 184). It follows that the State whose territory is occupied is free to disregard even those acts of the occupying Power which may be capable of justification under Article 43 of the Rules annexed to the Hague Convention IV of 1907. This is accordance with the principle that the occupatio bellica, from the point of view of the State whose territory is occupied, constitutes a situation whose significance is solely factual. In the silence of the legislature, the courts have always assumed this power of revision, and tested the validity of the acts of the occupying Power by the criterion of Article 43 to which reference is made above. (See, for example, Cour d'Appel de Bruxelles, 25 June, 1925; Tribunal Arbitral Germano-Belge, 19 October, 1925. Annual Digest, 1925-1926, Cases Nos. 361, 362). Since the courts lack the power to transform a mere factual into a legal situation, it seems to follow from these precedents that only those acts of the occupying Power capable of being justified in international law have a valid legal effect internally.

8. - On the application of the test of international legality by Hungarian courts, See the Hungarian decision, In re Andras, of September 14, 1932, Annual Digest, 1931-32, Case No. 232, on the lack of jurisdiction of a Rumanian occupation court in ordinary criminal matters. See also the Polish case, Siuta v. Guzkowski, No. 342, ibid., 1919-22.

9. - See also the following holding of the Supreme Court of Peru of July 11, 1932, in De Wurts v. Wurts, ibid., 1931-32, Case No. 52: ".....there should be taken into account the fact the reign of Chilean law in Tacna was precarious and based on force, and that it is not just that Peruvians who were obliged to perform their legal transactions according to that law should find

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themselves, when that state of force has ceased, still deprived of the benefits of a law which favours all other Peruvians".

10. - In Briey and Longwy the Germans had removed the French judges and replaced them by a court established in the name of the German Empire. In 1917 one of these courts acquitted a French person. The Court of Appeal of Nancy held, on January 6, 1920, Annual Digest, 1919-22, Case No. 334, that the person could be prosecuted again because the Germans had no right under Article 43 to suppress the French courts of the region. See also, to the same effect, a decision of the Court of Appeal of Douai on May 15, 1919, Clunet, 1919, p. 776. etc. etc.

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

Copy to G-5 AFHQ (Italy)
" " Polad (A)
" " Polad (B)
" " Senior Legal Officer - Venezia Giulia.

2216

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

2A

26 January 1966

(1) DCSO (Attn: Legal Division) FORSYTH GIBSON.

SUBJECT/CASE

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

4076/2

(1A)

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
13 CORPS

LEGAL DIVISION

B/23

TELEPHONE No.: -

Date 21 March 1946

REFERENCE No.: 13°/AMG/LD/51/279

SUBJECT : Trial of pre 8 Sept. Fascists.

TO : ALLIED COMMISSION (Attn: Legal Sub-Commission

1. Ref. conversation in Trieste Lt.Col. HAMMOND/ Major BAYLISS.

2. Herewith in English and Italian two copies of proposed Order dealing with pre 8 Sept. Fascism.

3. The Order is drawn within these terms of the Minister of Justice's letter left by Col. Hammond and does not go beyond existing Italian Legislation.

4. The draft has been submitted to the President of the Court of Appeal Trieste and it is anticipated that it will be published as arranged with Col. Hammond within the next ten days unless a signal is received from you requesting publication.

By Order of Col. Robertson

R.H. Ettenridge
A.E. GOLD
Major, A.U.S.
CHIEF LEGAL OFFICER

Encls.

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QUARTIER GENERALE
GOVERNO MILITARE A LLEATO
13 Corpo

O/zs

Governo Militare Alleato

ORDINE GENERALE No.- ___

ULTERIORI SANZIONI CONTRO I DELITTI DI CARATTERE FASCISTA

Ritenuto che coll'Articolo II del Proclama No. 5 veniva affidata alla Corte Straordinaria d'Assise la competenza di giudicare determinati delitti fascisti commessi prima del-l'8 Settembre 1943 soltanto nel caso che gli accusati fos-sero anche imputati di altri reati commessi dopo tale data;

Considerata ora l'opportunità di punire entro la parte della Venezia Giulia amministrata dal G.M.A. (qui di segui-to denominata "Territorio") i delitti fascisti commessi pri-ma dell'8 Settembre 1943 anche indipendentemente dalla sud-detta connessione;

Ritenuta inoltre la necessità di emanare disposizioni per la punizione, entro il Territorio, di ogni altra nuova forma di attività fascista.

IO, H.P.P. ROBERTSON, Colonnello O.B.E. Facente Funzio-ni di Ufficiale Superiore per gli Affari Civili

O R D I N O

quanto segue:

26

PARTE 1

SANZIONI CONTRO I DELITTI FASCISTI COMMESSI

PRIMA DELL'8 SETTEMBRE 1943

ARTICOLO I

2219

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

PUNIZIONE DEGLI ALTI GERARCHI FASCISTI

Sezione 1

I membri del Governo Fascista ed i gerarchi del Fascismo colpevoli di aver annullate le garanzie costituzionali, distrutte le libertà popolari, creato il regime fascista, sono puniti con l'ergastolo e, nei casi di più grave responsabilità, con la morte.

Sezione 2

Le persone di cui alla Sezione 1 di questo Articolo saranno giudicate dalla Corte d'Assise ordinaria.

ARTICOLO II

REATI FASCISTI COMMESSI PRIMA DELL'8 SETTEMBRE 1943

Sezione 1

Coloro che hanno organizzate squadre fasciste, le quali hanno compiuto atti di violenza o di devastazione, e coloro che hanno promosso o diretto l'insurrezione del 28 Ottobre 1922, sono puniti secondo l'art. 120 del Codice Penale del 1889.

Sezione 2

Coloro che hanno promosso o diretto il colpo di Stato del 3 Gennaio 1925 e coloro che hanno in seguito contribuito con atti rilevanti a mantenere in vigore il regime fascista, sono puniti secondo l'art. 118 del Codice Penale del 1889.

25

Sezione 3

Chiunque ha commesso altri delitti per motivi fascisti o valendosi della situazione politica creata dal fascismo, è

12220

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punito secondo le leggi in vigore al tempo del delitto.

Sezione 4

I delitti di cui alla Sezione 1 di questo Articolo saranno giudicati, a seconda della rispettiva competenza, dalla Corte d'Assise ordinaria, dai Tribunali e dai Pretori.

ARTICOLO III

INEFFICACIA DI PRESCRIZIONI ED AMNISTIE

Non può essere invocata la prescrizione del reato e della pena a favore di coloro che, pur essendo colpevoli dei delitti previsti negli Articoli precedenti di quest'Ordine, sono rimasti finora impuniti per l'esistenza stessa del regime fascista.

Per lo stesso motivo le amnistie e gli indulti concessi dopo il 28 Ottobre 1922 sono inapplicabili ai suddetti delitti e, se sono stati già applicati, le relative declaratorie sono revocate. L'Ufficiale Superiore agli Affari Civili potrà revocare le grazie sovrane già concesse in relazione ai detti delitti.

ARTICOLO IV

DICHIARAZIONE D'INESISTENZA DI CERTE SENTENZE

24

Sezione 1

Le sentenze già pronunciate per i delitti previsti dagli Articoli I e II del presente Ordine possono essere dichiarate giuridicamente inesistenti quando nella decisione abbia

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influito lo stato di morale coercizione determinato dal fascismo. La Pronuncia al riguardo è affidata alla Corte d'Appello.

Sezione 2

Le disposizioni di cui alla Sezione 1 del presente Articolo non si applicano ai delitti punibili con pena detentiva non superiore nel massimo ai tre anni.

ARTICOLO V

RIDUZIONE DELLA PENA

Sezione 1

Per i reati previsti dagli Articoli I e II del presente Ordine, la pena può essere ridotta fino a un quarto, e alla pena di morte e dell'ergastolo può essere sostituita la reclusione non inferiore a cinque anni;

(a) se il colpevole, prima dell'inizio della guerra, ha preso posizione ostile al fascismo;

(b) se ha partecipato attivamente alla lotta contro i tedeschi.

Sezione 2

Se ricorrono le circostanze attenuanti generiche, previste dal Codice Penale del 1889, alla pena di morte o all'ergastolo è sostituita la reclusione per trent'anni e le altre pene sono diminuite di un sesto.

23

Sezione 3

Un colpevole potrà essere dichiarato non punibile, se

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

nella lotta contro i tedeschi si sia particolarmente distinto con atti di valore.

PARTE 2

SANZIONI CONTRO OGNI NUOVA FORMA DI ATTIVITÀ FASCISTA

ARTICOLO VI

RICOSTITUZIONE DI PARTITI DI TIPO FASCISTA

Sezione 1

Chiunque ricostituisce, sotto qualsiasi forma o denominazione il partito fascista ovvero ne promuove la ricostituzione, è punito con la reclusione da dieci a venti anni.

Sezione 2

Chiunque vi aderisce è punito con la reclusione da due a dieci anni.

ARTICOLO VII

PUNIZIONE DELL'ATTIVITÀ DI TIPO FASCISTA

Chiunque svolge attività fascista impedendo o ostacolando con atti di violenza o di minaccia l'esercizio dei diritti civili o politici dei cittadini è punito, qualora il fatto non costituisca reato più grave, con la reclusione da tre a dodici anni.

ARTICOLO VIII

COSTITUZIONE DI BANDE ARMATE

Chiunque, al fine di svolgere l'attività fascista pre-

2223

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

veduta negli articoli precedenti, promuove, dirige o sovvenziona una banda armata è punito con la reclusione da quindici a trenta anni.

Chiunque partecipa alla banda armata è punito, per ciò solo, con la reclusione da cinque a quindici anni.

ARTICOLO IX

PENE PER IL CASO DI CONCORSO DI REATI

Nella ipotesi di concorso del reato previsto dall'art.VIII del presente Ordine con alcuno dei reati previsti dagli Articoli VI e VII, quando si tratti di atti che per la loro gravità siano tali da poter provocare o alimentare la guerra civile, i promotori ed i capi possono essere puniti con le pene comminate dall'Articolo I del presente Ordine.

ARTICOLO X

ISTIGAZIONE A COMMETTERE I REATI PREVISTI NELLA PARTE 2 DEL PRESENTE ORDINE

Chiunque con la diffusione di stampati o di false notizie o con qualsiasi mezzo di propaganda istiga a commettere alcuno dei delitti preveduti nella Parte 2 del Presente Ordine, è punito con la reclusione da due a dieci anni.

ARTICOLO XI

ASSISTENZA AI COLPEVOLI DI DELITTI PREVISTI NELLA PARTE 2 DEL PRESENTE ORDINE

21

Sezione 1

Chiunque dà rifugio o assistenza al colpevoli di alcuno dei delitti preveduti nella Parte 2 del presente Ordi-

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ne, o li aiuta a eludere le investigazioni dell'autorità, ovvero a sottrarsi alle ricerche della medesima o all'esecuzione della condanna, e chiunque sopprime o in qualsiasi modo disperde le traccie e gli indizi del delitto, è punito con la reclusione da uno a cinque anni.

Sezione 2

Non è punibile chi commette il fatto per salvare un ascendente o discendente, o il coniuge, o un fratello, o una sorella, o uno zio, o un nipote, o un affine entro il secondo grado, tranne, in quest'ultimo caso, che sia morto il coniuge e non vi sia prole.

ARTICOLO XII

MODO DI PROCEDERE CONTRO I REATI PREVISTI DAL PRESENTE ORDINE

Per i delitti preveduti dal presente Ordine si procede con istruzione sommaria, e, quando è possibile, a giudizio direttissimo.

PARTE 3

DISPOSIZIONI FINALI

ARTICOLO XIII

DATA DI ENTRATA IN VIGORE

Il presente Ordine entra in vigore nel giorno della sua pubblicazione nella Gazzetta del Governo Militare Alleato.

Trieste_____Marzo 1946

H.P.P. ROBERTSON
Colonnello, O.B.E.
FF. UFFICIALE SUPERIORE
PER GLI AFFARI CIVILI

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

C/28

QUARTIER GENERALE
GOVERNO MILITARE ALLEATO
13 Corpo

ORDINE GENERALE No._____

ULTERIORI SANZIONI CONTRO I DELITTI DI CARATTERE FA= SCISTA

Ritenuto che coll'Articolo II del Proclama No. 5 veniva affidata alla Corte Straordinaria d'Assise la competenza di giudicare determinati delitti fascisti commessi prima del= l'8 Settembre 1943 soltanto nel caso che gli accusati fos= sero anche imputati di altri reati commessi dopo tale data;

Considerata ora l'opportunità di punire entro la parte della Venezia Giulia amministrata dal G.M.A. (qui di segui= to denominata "Territorio") i delitti fascisti commessi pri= ma dell'8 Settembre 1943 anche indipendentemente dalla sud= detta connessione;

Ritenuta inoltre la necessità di emanare disposizioni per la punizione, entro il Territorio, di ogni altra nuova forma di attività fascista

IO, H.P.P. ROBERTSON, Colonnello O.B.E. Facente Funzio= ni di Ufficiale Superiore per gli Affari Civili

O R D I N O

quanto segue:

19

PARTE 1

SANZIONI CONTRO I DELITTI FASCISTI COMMESSI

PRIMA DELL'8 SETTEMBRE 1943

ARTICOLO I

2226

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

PUNIZIONE DEGLI ALTI GERARCHI FASCISTI

Sezione 1

I membri del Governo Fascista ed i gerarchi del Fascismo colpevoli di aver annullate le garanzie costituzionali, distrutte le libertà popolari, creato il regime fascista, sono puniti con l'ergastolo e, nei casi di più grave responsabilità, con la morte.

Sezione 2

Le persone di cui alla Sezione 1 di questo Articolo saranno giudicate dalla Corte d'Assise ordinaria.

ARTICOLO II

REATI FASCISTI COMMESSI PRIMA DELL'8 SETTEMBRE 1943

Sezione 1

Coloro che hanno organizzato squadre fasciste, le quali hanno compiuto atti di violenza o di devastazione, e coloro che hanno promosso o diretto l'insurrezione del 28 Ottobre 1922, sono puniti secondo l'art. 120 del Codice Penale del 1889.

Sezione 2

Coloro che hanno promosso o diretto il colpo di Stato del 3 Gennaio 1925 e coloro che hanno in seguito contribuito con atti rilevanti a mantenere in vigore il regime fascista, sono puniti secondo l'art. 118 del Codice Penale del 1889.

18

Sezione 3

Chiunque ha commesso altri delitti per motivi fascisti o valendosi della situazione politica creata dal fascismo, è

2227

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

punito secondo le leggi in vigore al tempo del delitto.

Sezione 4

I delitti di cui alla Sezione 1 di questo Arti= colo saranno giudicati, a seconda della rispettiva compe= tenza, dalla Corte d'Assise ordinaria, dai Tribunali e dai Pretori.

ARTICOLO III

INEFFICACIA DI PRESCRIZIONI ED AMNISTIE

Non può essere invocata la prescrizione del reato e della pena a favore di coloro che, pur essendo colpevoli dei de= litti previsti negli Articoli precedenti di quest'Ordine, sono rimasti finora impuniti per l'esistenza stessa del re= gime fascista.

Per lo stesso motivo le amnistie e gli indulti concessi dopo il 28 Ottobre 1922 sono inapplicabili ai suddetti de= litti e, se sono stati già applicati, le relative declara= torie sono revocate. L'Ufficiale Superiore agli Affari Civi= li potrà revocare le grazie sovrane già concesse in relazione ai detti delitti.

ARTICOLO IV

DICHIARAZIONE D'INESISTENZA DI CERTE SENTENZE

17

Sezione 1

Le sentenze già pronunciate per i delitti previsti da= gli Articoli I e II del presente Ordine possono essere dichia= rate giuridicamente inesistenti quando nella decisione abbia

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

influito lo stato di morale coercizione determinato dal fascismo. La Pronuncia al riguardo è affidata alla Corte d'Appello.

Sezione 2

Le disposizioni di cui alla Sezione 1 del presente Articolo non si applicano ai delitti punibili con pena detentiva non superiore nel massimo ai tre anni.

ARTICOLO V

RIDUZIONE DELLA PENA

Sezione 1

Per i reati previsti dagli Articolo I e II del presente Ordine, la pena può essere ridotta fino a un quarto, e alla pena di morte o dell'ergastolo può essere sostituita la reclusione non inferiore a cinque anni:

(a) se il colpevole, prima dell'inizio della guerra, ha preso posizione ostile al fascismo;

(b) se ha partecipato attivamente alla lotta contro i tedeschi.

Sezione 2

Se ricorrono le circostanze attenuanti generiche, previste dal Codice Penale del 1889, alla pena di morte o all'ergastolo è sostituita la reclusione per trent'anni e le altre pene sono diminuite di un sesto.

Sezione 3

Un colpevole potrà essere dichiarato non punibile, se

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

nella lotta contro i tedeschi si sia particolarmente distinto con atti di valore.

PARTE 2

SANZIONI CONTRO OGNI NUOVA FORMA DI ATTIVITÀ FASCISTA

ARTICOLO VI

RICOSTITUZIONE DI PARTITI DI TIPO FASCISTA

Sezione 1

Chiunque ricostituisce, sotto qualsia forma e denominazione, il partito fascista ovvero ne promuove la ricostituzione, è punito con la reclusione da dieci a venti anni.

Sezione 2

Chiunque vi aderisce è punito con la reclusione da due a dieci anni.

ARTICOLO VII

PUNIZIONE DELL'ATTIVITÀ DI TIPO FASCISTA

Chiunque svolge attività fascista impedendo o ostacolando con atti di violenza o di minaccia l'esercizio dei diritti civili o politici dei cittadini è punito, qualora il fatto non costituisca reato più grave, con la reclusione da tre a dodici anni.

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ARTICOLO VIII

COSTITUZIONE DI BANDE ARMATE

Chiunque, al fine di svolgere l'attività fascista pre-

2230

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

veduta negli articoli precedenti, promuove, dirige o sovvenziona una banda armata è punito con la reclusione da quindici a trenta anni.

Chiunque partecipa alla banda armata è punito, per ciò solo, con la reclusione da cinque a quindici anni.

ARTICOLO IX

PENE PER IL CASO DI CONCORSO DI REATI

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ARTICOLO X

ISTIGAZIONE A COMMETTERE I REATI PREVISTI NELLA PARTE 2 DEL PRESENTE ORDINE

Chiunque con la diffusione di stampati o di false notizie o con qualsiasi mezzo di propaganda istiga a commettere alcuno dei delitti preveduti nella Parte 2 del presente Ordine, è punito con la reclusione da due a dieci anni.

ARTICOLO XI

ASSISTENZA AI COLPEVOLI DI DELITTI PREVISTI NELLA PARTE 2 DEL PRESENTE ORDINE

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Sezione 1

Chiunque dà rifugio o assistenza ai colpevoli di alcuno dei delitti preveduti nella Parte 2 del presente Or-

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dine, o li aiuta a eludere le investigazioni dell'autorità, ovvero a sottrarsi alle ricerche della medesima o all'esecuzione della condanna, e chiunque sopprime o in qualsiasi modo disperde le traccie e gli indizi del delitto, è punito con la reclusione da uno a cinque anni.

Sezione 2

Non è punibile chi commette il fatto per salvare un ascendente o discendente, o il coniuge, o un fratello, o una sorella, o uno zio, o un nipote, o un affine entro il secondo grado, tranne, in quest'ultimo caso, che sia morto il coniuge e non vi sia prole.

ARTICOLO XII

MODO DI PROCEDERE CONTRO I REATI PREVISTI DAL PRESENTE ORDINE

Per i delitti preveduti dal presente Ordine si procede con istruzione sommaria, e, quando è possibile, a giudizio direttissimo.

PARTE 3

DISPOSIZIONI FINALI

ARTICOLO XIII

DATA DI ENTRATA IN VIGORE

Il presente Ordine entra in vigore nel giorno della sua pubblicazione nella Gazzetta del Governo Militare Alleato.

13

Trieste____Marzo 1946

H.D.P. ROBERTSON
Colonnello, O.B.E.
UFF. UFFICIALE SUPERIORE
PER GLI AFFARI CIVILI

V/3M

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
13 CORPS

GENERAL ORDER No.___

ADDITIONAL SANCTIONS AGAINST CRIMES OF A FASCIST NATURE

WHEREAS by virtue of Article II of Proclamation No. 5, the Special Court of Assize is competent to judge certain fascist crimes committed before 8 September 1943 only in cases where the persons accused are also charged with other crimes committed after such date;

WHEREAS it is desirable to punish fascist crimes committed before 8 September 1943 independently of the above connection in those parts of Venezia Giulia administered by the A.M.G. (hereinafter called the "Territory");

WHEREAS it is further considered necessary to issue provisions for the punishing within the Territory of any other new form of fascist activity;

NOW, THEREFORE, I, H.P.P. ROBERTSON, Colonel O.B.E., Acting Senior Civil Affairs Officer

O R D E R

as follows:

PART I

SANCTIONS AGAINST FASCIST CRIMES COMMITTED BEFORE 8 SEPTEMBER 1943

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WHEREAS by virtue of [illegible]

Special Court of Assize is competent to judge certain fascist crimes committed before 8 September 1943 only in cases where the persons accused are also charged with other crimes committed after such date;

WHEREAS it is desirable to punish fascist crimes committed before 8 September 1943 independently of the above connection in conformity with the policy adopted by the Italian Government in this respect.
those parts of Venezia Giulia administered by the A.M.G. (hereinafter called the "Territory");

WHEREAS it is further considered necessary to issue provisions for the punishing within the Territory of any other new form of fascist activity;

NOW, THEREFORE, I, H.P.P. ROBERTSON, Colonel O.B.E., Acting Senior Civil Affairs Officer

O R D E R

as follows:

PART I

SANCTIONS AGAINST FASCIST CRIMES COMMITTED

BEFORE 8 SEPTEMBER 1943

ARTICLE I

PUNISHING OF HIGH FASCIST OFFICIALS

Section 1

The members of the Fascist Government and the fascist officials guilty of having suppressed the constitutional gua-

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rantees, of having destroyed the popular liberties, of having created the fascist regime, shall be punishable by life imprisonment and in those cases where a greater responsibility is involved, by death penalty.

Section 2

The persons mentioned in Section 1 of this Article shall be judged by the ordinary Court of Assize.

ARTICLE II

Section 1

All those who have organized the Fascist "Squadre" which carried out acts of violance or devastation and all those who promoted or led the insurrection of 22 October 1922 shall be punished according to Art. 120 of the Penal Code of 1889.

Section 2

All those who promoted or led the "Coup d'Etat" on 3 January 1925 and those who afterwards constituted by relevant acts to maintain the Fascist regime shall be punished according to Art. 118 of the Penal Code of 1889.

Section 3

Any person who has committed other crimes for Fascist reasons or by profiting from the actual political circumstances created by Fascism shall be punished according to the laws in force at the date of the crime.

Section 4

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Section 2

The persons mentioned in Section 1 of this Article shall be judged by the ordinary Court of Assize.

ARTICLE II

Section 1

All those who have organized the Fascist "Squadre" which carried out acts of violence or devastation and all those who promoted or led the insurrection of 28 October 1922 shall be punished according to Art. 120 of the Penal Code of 1889.

Section 2

All those who promoted or led the "Coup d'Etat" on 3 January 1925 and those who afterwards constituted by relevant acts to maintain the Fascist regime shall be punished according to Art. 118 of the Penal Code of 1889.

Section 3

Any person who has committed other crimes for Fascist reasons or by profiting from the actual political circumstances created by Fascism shall be punished according to the laws in force at the date of the crime.

Section 4

The crimes mentioned in Section 1 of this Article shall be judged by the ordinary Court of Assize, by the Tribunals and by the Pretori according to the appropriate competence.

ARTICLE III

INEFFICACY OF PRESCRIPTIONS AND AMNESTIES

Prescription of the offence and of the penalty may not be alleged in favour of those who, though guilty of the crimes consi-

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dered by the preceding Articles of this Order, have not been punished up to this moment because of the existence of the fascist regime.

For the same reason amnesties and pardons granted after 28 October 1922 shall not be applicable to the above crimes and, if already they have been applied, the decisions thereof shall be repealed. The Senior Civil Affairs Officer may repeal the King's pardons formerly granted with relation to said crimes.

ARTICLE IV

DECLARATION OF NON-EXISTENCE OF CERTAIN SENTENCES

Section 1

The sentences already passed with regard to the crimes considered by Articles I and II of this Order may be declared as juridically non - existent in cases where the decision has been influenced by the state of moral coercion caused by fascism. Such declaration shall be made by the Court of Appeal.

Section 2

The provisions mentioned in Section I of this Article shall not apply to crimes punishable by a detentive penalty not exceeding, as a maximum, three years.

ARTICLE V

REDUCTION OF PENALTY

Section 1

The penalty for the crimes considered by Articles I and II of this Order, may be reduced to a quarter and the death penal-

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formerly granted with relation to said crimes.

ARTICLE IV

DECLARATION OF NON-EXISTENCE OF CERTAIN SENTENCES

Section 1

The sentences already passed with regard to the crimes considered by Articles I and II of this Order may be declared as juridically non - existent in cases where the decision has been influenced by the state of moral coercion caused by fascism. Such declaration shall be made by the Court of Appeal.

Section 2

The provisions mentioned in Section 1 of this Article shall not apply to crimes punishable by a detentive penalty not exceeding, as a maximum, three years.

ARTICLE V

REDUCTION OF PENALTY

Section 1

The penalty for the crimes considered by Articles I and II of this Order, may be reduced to a quarter and the death penalty or life imprisonment may be substituted by imprisonment for a period not less than five years in the following cases:

(a) if the guilty person has adopted an attitude hostile to fascism before the beginning of the war;

(b) if such person has actively taken part in the struggle against the Germans.

Section 2

If the general mitigating circumstances considered by

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the Penal Code of 1889 occur, the death penalty or life imprisonment shall be substituted by thirty years imprisonment and the other penalties shall be reduced of one sixth.

Section 3

A guilty person may be declared non punishable in case he has particularly distinguished himself by acts of gallantry in the struggle against the Germans.

PART II

SANCTIONS AGAINST ANY NEW FORM OF FASCIST ACTIVITY

ARTICLE VI

RECONSTITUTION OF PARTIES OF A FASCIST NATURE

Section 1

Any person who reconstitutes the fascist party under any form or denomination or promotes the reconstitution thereof shall be punishable by imprisonment for a period from ten to twenty years.

Section 2

Any person who joins such party shall be punishable by imprisonment for a period from two to ten years.

ARTICLE VII

PUNISHING OF ACTIVITY OF A FASCIST NATURE

Any person who performs a fascist activity precluding or hindering by acts of force or by threats the exercise of the civil or political rights of the citizens shall be punishable, if the fact does not constitute a heavier offence, by imprisonment for a period

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A guilty person may be declared non punishable in case he has particularly distinguished himself by acts of gallantry in the struggle against the Germans.

PART II

SANCTIONS AGAINST ANY NEW FORM OF FASCIST ACTIVITY

ARTICLE VI

RECONSTITUTION OF PARTIES OF A FASCIST NATURE

Section 1

Any person who reconstitutes the fascist party under any form or denomination or promotes the reconstitution thereof shall be punishable by imprisonment for a period from ten to twenty years.

Section 2

Any person who joins such party shall be punishable by imprisonment for a period from two to ten years.

ARTICLE VII

PUNISHING OF ACTIVITY OF A FASCIST NATURE

Any person who performs a fascist activity precluding or hindering by acts of force or by threats the exercise of the civil or political rights of the citizens shall be punishable, if the fact does not constitute a heavier offence, by imprisonment for a period from three to twelve years.

ARTICLE VIII

CONSTITUTION OF ARMED GROUPS

Any person who promotes, directs or finances an armed group for the purpose of performing the fascist activity considered by the foregoing Articles shall be punishable, by imprisonment for

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a period from fifteen to thirty years.

Any person who takes part in the armed group shall be punishable, by imprisonment from five to fifteen years.

ARTICLE IX

PENALTIES IN CASE OF CONCURRENCE OF CRIMES

In case the offence considered by Art. VIII of this Order concurs with some of the offences considered by Articles VI and VII, when the question concerns acts which owing to their grave nature are liable to cause or foster civil war, the promoters and the chiefs may be punishable by the penalties set forth by Article I of this Order.

ARTICLE X

INSTIGATION TO THE COMMITTING OF THE OFFENCES CONSIDERED IN PART II OF THIS ORDER

Any person who instigates any of the crimes considered by Part II of this Order by spreading printed editions or false news or by any other means of propaganda, shall be punishable by imprisonment for a period from two to ten years.

ARTICLE XI

ASSISTANCE GIVEN TO PERSONS GUILTY OF THE CRIMES CONSIDERED BY PART II OF THIS ORDER

Section 1

Any person who shelters or assists persons guilty of any of the crimes considered by Part II of this Order, or helps such persons to avoid the investigations or the searchings of the

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concurs with some of the offences considered by Articles VI and VII, when the question concerns acts which owing to their grave nature are liable to cause or foster civil war, the promoters and the chiefs may be punishable by the penalties set forth by Article I of this Order.

ARTICLE X

INSTIGATION TO THE COMMITTING OF THE OFFENCES CONSIDERED IN PART II OF THIS ORDER

Any person who instigates any of the crimes considered by Part II of this Order by spreading printed editions or false news or by any other means of propaganda, shall be punishable by imprisonment for a period from two to ten years.

ARTICLE XI

ASSISTANCE GIVEN TO PERSONS GUILTY OF THE CRIMES CONSIDERED BY PART II OF THIS ORDER

Section 1

Any person who shelters or assists persons guilty of any of the crimes considered by Part II of this Order, or helps such persons to avoid the investigations or the searchings of the authorities or the execution of the sentence, and any person who suppresses or effaces the traces and the indications of the crime, shall be punishable by imprisonment for a period from one to five years.

Section 2

Any person who commits the crimes referred to in Section I

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in order to save an ascendant or a descendant, or the spouse, or a brother, or a sister, or an uncle or aunt, or a nephew or niece, or a person bound by a relation of affinity within the second grade, except in the last case if the spouse is dead and there are no children, shall not be punishable.

ARTICLE XII

PROCEDURE TO BE FOLLOWED AGAINST THE OFFENCES CONSIDERED BY THIS ORDER

Summary inquiry or, whenever possible, immediate trial (giudizio direttissimo) shall be made for the crimes considered by this Order.

PART III

FINAL PROVISIONS

ARTICLE XIII

EFFECTIVE DATE

This Order shall become effective on the date of its publication on the Allied Military Government Gazette.

Trieste, March 1946.-

H.P.F. ROBERTSON,
Colonel, O.B.E.,
Acting Senior Civil
Affairs Officer.

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

V/Ge

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
13 CORPS

GENERAL ORDER No.____

ABOLITION PENALTIES AGAINST CRIMES OF A FASCIST NATURE

WHEREAS by virtue of Article II of Proclamation No. 3, the Special Court of Assisi is competent to judge certain fascist crimes committed before 8 September 1943 only in cases where the persons accused are also charged with other crimes committed after such date;

WHEREAS it is desirable to punish fascist crimes committed before 8 September 1943 independently of the above connection in those parts of Venezia Giulia administered by the A.M.G. (hereinafter called the "Territory");

WHEREAS it is further considered necessary to issue provisions for the punishing within the Territory of any other new form of fascist activity;

NOW, THEREFORE, I, H.F.K. ROBERTSON, Colonel C.B.E., Acting Senior Civil Affairs Officer

O R D E R

as follows:

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PART I

SANCTIONS AGAINST FASCIST CRIMES COMMITTED

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ARRESTING SUSPECTED ARMED GANGS OF A FASCIST NATURE

WHEREAS by virtue of Article II of Proclamation No. 3, the Special Court of Assize is competent to judge certain fascist crimes committed before 8 September 1943 only in cases where the persons accused are also charged with other crimes committed after such date;

WHEREAS it is desirable to punish fascist crimes committed before 8 September 1943 independently of the above connection in those parts of Venezia Giulia administered by the A.M.G. (hereinafter called the "Territory");

WHEREAS it is further considered necessary to issue provisions for the punishing within the Territory of any other new form of fascist activity;

NOW, THEREFORE, I, H.P.P. ROBERTSON, Colonel C.B.E., Acting Senior Civil Affairs Officer

O R D E R

as follows:

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PART I

SANCTIONS AGAINST PAST CRIMES COMMITTED

BEFORE 8 SEPTEMBER 1943

ARTICLE I

PUNISHMENT OF HIGH FASCIST OFFICIALS

Section 1

The members of the Fascist Government and the fascist officials guilty of having suppressed the constitutional gen-

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rantees, of having destroyed the regular liberties, of having created the fascist regime, shall be punishable by life imprisonment and in those cases where a greater responsibility is involved, by death penalty.

Section 2

The persons mentioned in Section 1 of this Article shall be judged by the ordinary Court of Assize.

ARTICLE II

Section 1

All those who have organized the Fascist "Squadre" which carried out acts of violence or devastation and all those who promoted or led the insurrection of 28 October 1922 shall be punished according to Art. 120 of the Penal Code of 1930.

Section 2

All those who promoted or led the "Coup d'Etat" on 3 January 1925 and those who afterwards constituted by relevant acts to maintain the Fascist regime shall be punished according to Art. 118 of the Penal Code of 1930.

Section 3

Any person who has committed other crimes for fascist reasons or by profiting from the actual political circumstances created by Fascism shall be punished according to the laws in force at the date of the crime.

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The persons mentioned in Section 1 of this Article shall be judged by the ordinary Court of Assise.

ARTICLE II

Section 1

All those who have organised the Fascist "Squadre" which carried out acts of violence or devastation and all those who promoted or led the insurrection of 28 October 1922 shall be punished according to Art. 286 of the Penal Code of 1930.

Section 2

All those who promoted or led the "Coup d'Etat" on 3 January 1925 and those who afterwards constituted by relevant acts to maintain the Fascist regime shall be punished according to Art. 118 of the Penal Code of 1930.

Section 3

Any person who has committed other crimes for fascist reasons or by profiting from the actual political circumstances created by Fascism shall be punished according to the laws in force at the date of the crime.

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Section 4

The crimes mentioned in Section 1 of this Article shall be judged by the ordinary Court of Assise, by the Tribunals and by the Pretori according to the appropriate competence.

ARTICLE III

IMPRESCRIPTIBILITY OF PROSECUTIONS AND SENTENCES

Prescription of the offence and of the penalty may not be

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alleged in favour of those who, though guilty of the crimes considered by the preceding Articles of this Order, have not been punished up to this moment because of the existence of the fascist regime

For the same reason amnesties and pardons granted after 28 October 1922 shall not be applicable to the above crimes and, if they have already been applied, the decisions thereof shall be repealed. The Senior Civil Affairs Officer may repeal the King's pardons formerly granted with relation to said crimes.

ARTICLE IV

[illegible]

Section 1

The sentences already passed with regard to the crimes considered by Articles I and II of this Order may be declared as juridically non - existent inasmuch where the decision has been influenced by the state of moral coercion caused by fascism. Such declaration shall be made by the Court of Appeal.

Section 2

The provisions mentioned in Section 1 of this Article shall not apply to crimes punishable by a detentive penalty not exceeding, as a maximum, three years.

ARTICLE V

REDUCTION OF PENALTY

Section 1

The penalty for the crimes considered by Articles I and II of this Order, may be reduced to a quarter and the death penal-

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and have already been applied, and decisions thereof shall be repealed. The Senior Civil Affairs Officer may repeal the King's pardons formerly granted with relation to said crimes.

ARTICLE IV

PROCLAMATION OF MORAL STATE OF CERTAIN OFFENSES

Section 1

The sentences already passed with regard to the crimes considered by Articles I and II of this Order may be declared as juridically non - existent in cases where the decision has been influenced by the state of moral coercion caused by fascism. Such declaration shall be made by the Court of Appeal.

Section 2

The provisions mentioned in Section 1 of this Article shall not apply to crimes punishable by a detentive penalty not exceeding, as a maximum, three years.

ARTICLE V

REDUCTION OF PENALTY

Section 1

The penalty for the crimes considered by Articles I and II of this Order, may be reduced to a quarter and the death penalty or life imprisonment may be substituted by imprisonment for a period not less than five years in the following cases:

(a) if the guilty person has adopted an attitude hostile to fascism before the beginning of the war;

(b) if such person has actively taken part in the struggle against the Germans.

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Section 2

If the general mitigating circumstances considered by the Penal Code of 1889 occur, the death penalty or life imprisonment shall be substituted by thirty years imprisonment and the other penalties shall be reduced of one sixth.

Section 3

A guilty person may be declared non punishable in case he has particularly distinguished himself by acts of gallantry in the struggle against the Germans.

P A R T 2

SUPPRESSION AGAINST ANY NEW FORM OF FASCIST ACTIVITY

ARTICLE VI

RECONSTITUTION OF PARTIES OF A FASCIST NATURE

Section 1

Any person who reconstitutes the fascist party under any form or denomination or promotes the reconstitution thereof shall be punishable by imprisonment for a period from ten to twenty years.

Section 2

Any person who joins such party shall be punishable by imprisonment for a period from two to ten years.

ARTICLE VII

PUNISHING OF ACTIVITY OF A FASCIST NATURE

Any person who performs a fascist activity precluding or hindering by acts of force or by threats the exercise of the civil or

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Section 3

A guilty person may be declared non punishable in case he has particularly distinguished himself by acts of gallantry in the struggle against the Germans.

P A R T 2

SANCTIONS AGAINST ANY NEW FORM OF FASCIST ACTIVITY

ARTICLE VI

RECONSTITUTION OF PARTIES OF A FASCIST NATURE

Section 1

Any person who reconstitutes the fascist party under any form or denomination or promotes the reconstitution thereof shall be punishable by imprisonment for a period from ten to twenty years.

Section 2

Any person who joins such party shall be punishable by imprisonment for a period from two to ten years.

ARTICLE VII

EXPLOITING OF ACTIVITY OF A FASCIST NATURE

Any person who performs a fascist activity precluding or hindering by acts of force or by threats the exercise of the civil or political rights of the citizens shall be punishable, if the fact does not constitute a heavier offence, by imprisonment for a period from three to twelve years.

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ARTICLE VIII

CONSTITUTION OF ARMED GROUPS

Any person who promotes, directs or finances an armed group

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for the purpose of performing the fascist activity considered by the foregoing Articles shall be punishable, by imprisonment for a period from fifteen to thirty years.

Any person who takes part in the armed group shall be punishable, by imprisonment from five to fifteen years.

ARTICLE IX

[illegible]

In case the offence considered by Art. VIII of this Order concurs with some of the offences considered by Articles VI and VII, when the question concerns acts which owing to their grave nature are liable to cause or foster civil war, the promoters and the chiefs may be punishable by the penalties set forth by Article I of this Order.

ARTICLE X

[illegible]

Any person who instigates any of the crimes considered by Part 2 of this Order by spreading printed editions or false news or by any other means of propaganda, shall be punishable by imprisonment for a period from two to ten years.

ARTICLE XI

[illegible]

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Section 1

Any person who shelters or assists persons guilty of [illegible] or helps 2

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ARTICLE IX

PENALTIES IN CASE OF CONCURRENCE OF CRIMES

In case the offence considered by Art. VIII of this Order concurs with some of the offences considered by Articles VI and VII, when the question concerns acts which owing to their grave nature are liable to cause or foster civil war, the promoters and the chiefs may be punishable by the penalties set forth by Article 1 of this Order.

ARTICLE X

INCITATION TO THE COMMISSION OF THE OFFENCES CONSIDERED IN PART 2 OF THIS ORDER

Any person who instigates any of the crimes considered by Part 2 of this Order by spreading printed editions or false news or by any other means of propaganda, shall be punishable by imprisonment for a period from one to ten years.

ARTICLE XI

ASSISTANCE GIVEN TO ONE GUILTY OF THE CRIMES CONSIDERED BY PART 2 OF THIS ORDER.

Section 1

Any person who shelters or assists persons guilty of any of the crimes considered by Part 2 of this Order, or helps 2
such persons to avoid the investigations or the searchings of the authorities or the execution of the sentence, and any person who suppresses or effaces the traces and the indications of the crime, shall be punishable by imprisonment for a period from one to five years.

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Section 2

Any person who commits the crimes referred to in Section 1 in order to save an ascendant or a descendant, or the spouse, or a brother, or a sister, or an uncle or aunt, or a nephew or niece, or a person bound by a relation of affinity within the second grade, except in the last case if the spouse is dead and there are no children, shall not be punishable.

ARTICLE III

PROCEDURE TO BE FOLLOWED IN COURT AND BY PERSONS

CONCERNED BY THIS ORDER

Summary inquiry or, whenever possible, immediate trial (giudizio direttissimo) shall be made for the crimes considered by this Order.

PART 5

FINAL PROVISIONS

ARTICLE VII

EFFECTIVE DATE

This Order shall become effective on the date of its publication on the Allied Military Government Gazette.

Trieste, _____ March 1946.-

F.C.P. HORRICKX, 3d
Colonel, C.A.C.,
Acting Senior Civil
Affairs Officer.

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a brother, or a sister, or an uncle or aunt, or a nephew or niece, or a person bound by a relation of affinity within the second grade, except in the last case if the spouse is dead and there are no children, shall not be punishable.

ARTICLE XII

PROCEDURE TO BE FOLLOWED AGAINST THE OFFENCES CONTAINED IN THIS ORDER

Summary inquiry or, whenever possible, immediate trial (giudizio direttissimo) shall be made for the crimes considered by this order.

PART V

FINAL PROVISIONS

ARTICLE XIII

EFFECTIVE DATE

This order shall become effective on the date of its publication on the Allied Military Government Gazette.

Trieste, _____ March 1946.-

H.T.P. ROBERTSON, 30
Colonel, C.B.E.,
Acting Senior Civil
Affairs Officer.

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