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REPORTS FROM AMG, 5TH ARMY
OCT. - DEC. 1943

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Declassified E.O. 12356 Section 3.3/NND No. 785616

AMG/201

REPORTS FROM

A.M.G. 5 Army.

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

REPORTS FROM

A.M.G. 5 Army

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THIS FOLDER	
CONTAINS PAPERS	
FROM	113
TO	113

1A	DATE	REF.	TO/FROM
1	9/10	Aug 73/6034/L2	From Region 3
2	12/10	Aug 73/6034/L2	From Region 3 (Ames & Thompson)
3	29/10	Aug 73/6034/L2	From CLO to S.O. 5 Army
3A	undated	Aug 73/6034/L2	From: C.S.O.
4	3/11	Aug 73/6034/L2	From: AFM.R.
5	6/11	Aug 73/6034/L2	From: Region 3
6	11/11	Aug 73/6034/L2	From: "
7	17/11	Aug 73/6034/L2	From: "

ALLIED MILITARY GOVERNMENT
HEADQUARTERS, 5th ARMY
APO 464
LEGAL DIVISION

208/CA/33
31 December 1943

SUBJECT: REPORT on the Work of the Legal Division, AMG, 5th Army,
for the month of December 1943.

TO : Chief Legal Officer, Headquarters, AMG, 15 Army Group,
APO 777, US Army

1. SEPARATION OF THE LEGAL DIVISION REGION 3 FROM THE LEGAL DIVISION 5th ARMY. In accordance with the terms of Administrative Instruction No. 3 issued by Headquarters, AMG, 15 Army Group, Ref AMG/56/4 dated 11 December 1943, an order dated 14 December 1943 was issued by the Officer Commanding Region 3, appointing Lt. Col. McLane Chief Legal Officer of Region 3 and relieving Lt. Col. J.V.M. Shields from that appointment with effect from 14 December 1943. From that date the Senior Legal Officer, AMG, 5th Army, has only been responsible for the administration of legal work within the area administered by AMG, 5th Army, in terms of Administrative Instruction No. 2 issued by Headquarters, AMG, 15 Army Group, Ref AMG/56/3 dated 10 December 1943.

2. ALLIED MILITARY COURTS, REGION 3. The Return in respect of cases tried by Allied Military Courts within Region 3 territory for the month of December will, it has been agreed locally, be submitted by the Regional Chief Legal Officer, Region 3. During the first thirteen days of December the administration of justice within Region 3 raised no unusual problems. In the City of NAPLES the four Summary Courts continued to dispose of a fairly full calendar of cases each day which were as many as the Public Safety Division were able to prepare and submit for trial. A Superior Court also sat each day for the disposal of cases of a graver nature, and this Court was fully occupied during the period under report. As set out in the report of this Division for the month of November, although the number of offenders tried is higher, the types of offenses are only of a petty nature consequent upon a difficult economic situation existing in the town together with the opportunities afforded by the presence there of a large number of troops for the exercise by the local inhabitants of their inimitable lack of commercial rectitude. It is not considered that the types of crime most prevalent constitute any grave danger of unrest or menace to Military security.

3. ALLIED MILITARY COURTS WITHIN 5TH ARMY AREA. Return of

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cases tried by the Allied Military Courts within the Corps Areas as required by the letter from Headquarters, AMG, 15 Army Group, Ref AMG/209/ dated 10 December 1943 is attached hereto as Appendix "A" duly completed for the month of December 1943. Due to the static conditions of the Corps and Divisions, the C.A.O's have ^{been} required to try more cases during this month than previously when the rate of advance was more swift. The types of cases which have been tried have again been of a petty nature consequent upon the presence of troops in the area. However two cases of espionage and one of minor sabotage have been referred to higher courts and will be tried within the next few days.

4. ITALIAN COURTS REGION 3. During the first half of this month the recrudescence of the Italian National Courts has been visibly accelerated. The second appointment of Michele Libonati as acting First President of the Court of Appeal and the removal of the imposter to that title, has given the personnel of the courts confidence in the wholehearted support afforded to ~~them~~ ^{them} by the Allied Military Government. The Court of Appeal in NAPLES and the Tribunale situated in the seven Judicial Districts together with the Pretore Courts within their circondarii have disposed satisfactorily of an appropriate number of cases as regards the number of persons in jail and the difficulties of transport which had to be overcome.

5. ITALIAN COURTS IN THE 5TH ARMY AREA. No statistics have been received of the work of the Italian Courts which have been reopened in the Corps Areas. These only amount to about half dozen Preture and in several places the damage to buildings caused by shell fire, and the absence of duly appointed incumbents, has made it necessary to nominate qualified lawyers as honorary Vice Pretore. I do not consider that within the Corps Areas it is possible to expect the ³⁸ Italian Courts to function with any degree of efficiency until the front line has moved forward, the Military traffic from the roads has decreased, and a more restful period of occupancy supervenes.

6. PROCLAMATIONS AND ORDERS. With the arrival of the information upon the final amendments which have been agreed to, Proclamations Nos. 1, 6, and 11 ~~being concerned~~ ^{have been reprinted and} the stock pile required for ROME has now been prepared and the supply of 1000 requested by AMG, 8th Army has been made available to them. With the exception of Regional Orders Nos. 1 and 2 on Labor Relations and Wage Adjustment, copies of which are annexed hereto and the publication of which in this area was ordered by AMG, 15 Army Group, no legal notices other than the local order governing the crossing of the Volturno and Calore rivers and domestic notices, have been issued by Region 3 prior to 13 December 1943 and 5th Army during the whole month.

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7. INTER PROVINCIAL LEGISLATION. It does not appear to have been finally clarified between the Headquarters of Regions 3, AMG 8th Army, and AMG 5th Army, the conditions upon which Inter Provincial Legislation is to be made. I would refer to correspondence between Headquarters, AMG, 15 Army Group by letters Nos. AMG/205/77 dated 3 December 1943 and AMG/211/39 dated 19 December 1943 and the respective replies thereto from AMG, Headquarters, 5th Army Ref 208/CA/15 dated 14 and 24 December 1943.

8. ROME PLANNING. Since the Officers of this Division have been relieved of the responsibility for the legal administration throughout the whole of Region 3 and 5th Army, in particular the extremely onerous duties required in connection with the judicial and legal function in NAPLES City, it has been ~~the intention~~ to devote time to the preparation of a plan of occupation of ROME.

9. PERSONNEL. Lt. Col. J.V.M. Shields (B), Senior Legal Officer, AMG, 5th Army, with Captain H. L. Glenn (A) as Deputy, form the permanently assigned staff of this Division. Arrangements have been made for the attachment of necessary personnel to undertake legal duties within territory to be occupied by 5th Army, and in view of the fact that an advance Headquarters of AMG, 5th Army is now located at CASERTA, Major W. Waugh (A), attached from Region 4 and who it is ultimately intended will take over in the Province of FROSINONE as Legal Officer, has been assigned to CASERTA for the purpose of aiding the Corps S.C.A.O's in the trial of cases and to act in an advisory capacity in connection with legal problems occurring within Army area.

J. V. M. Shields
Lt. Col.
J.V.M. SHIELDS, Lt. Col.,
Senior Legal Officer,
AMG, 5th Army

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REPORT ON MILITARY COURTS FOR THE MONTH OF December....1943

A. CASES TRIED AND FINDINGS.

Province of	SUMMARY COURT		SUPERIOR COURT		GENERAL COURT		TOTALS		Total Cases
	Not Guilty	Guilty	Not Guilty	Guilty	Not Guilty	Guilty	Not Guilty	Guilty	
NAPLES	0	54	0	0	0	0	0	54	54
BENEVENTO	0	4	0	0	0	0	0	4	4
CAMPOBASSO	0	5	0	0	0	0	0	5	5
TOTALS		63	-	-	-	-	-	63	63

B. CONVICTIONS.

Province of	Carter and Pass Violations	Theft and Poss. of Allied Prop.	Black Market	Looting	Poss. of Arms and Ammunition	Violation of Italian Penal Code.	Others	Total
NAPLES	40	16	0	0	0	0	0	56
BENEVENTO	0	2	0	0	0	0	2	4
CAMPOBASSO	0	2	3	0	0	0	0	5

Province of	Not Guilty	Guilty	Not Guilty	Guilty	Not Guilty	Guilty	Not Guilty	Guilty	Not Guilty	Guilty
NAPLES	0	54	0	0	0	0	0	0	54	54
BENEVENTO	0	4	0	0	0	0	0	0	4	4
CAMPOBASSO	0	5	0	0	0	0	0	0	5	5
TOTALS		63							63	63

B. CONVICTIONS.

Province of	Curfew and Pass Violations	Theft and Poss. of Allied Prop.	Black Market	Looting	Poss. of Arms and Ammunition	Violation of Italian Penal Code	Others	Total
NAPLES	40	16	0	0	0	0	0	56
BENEVENTO	0	2	0	0	0	0	2	4
CAMPOBASSO	0	2	3	0	0	0	0	5
TOTALS	40	20	3	0	0	0	2	65

J. V. M. Shields
 J. V. M. SHIELDS, Lt. Col. S.L.C.A.M.G. 5th
 Signature. (Rank) (Official Designation)
 Army

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ALLIED MILITARY GOVERNMENT
REGION THREE

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REGIONAL ORDER NO 1

LABOUR RELATIONS

I, EDGAR ERSKINE HUME, Colonel, General Staff Corps, United States Army, Regional Civil Affairs Officer, hereby order as follows:

ARTICLE I

ABOLITION OF CERTAIN FASCIST INSTITUTIONS

The Fascist Corporative syndicate system and the following unions and councils, that is to say:

- a) Unione Provinciale Fascista Lavoratori dell'Industria
- b) Unione Provinciale Fascista Lavoratori dell'Agricoltura
- c) Unione Provinciale Fascista Lavoratori del Commercio
- d) Unione Provinciale Fascista Lavoratori del Credito e Assicurazioni
- e) Unione Fascista degli Industriali
- f) Unione Fascista degli Agricoltori
- g) Unione Fascista dei Commercianti
- h) Unione Fascista del Credito
- i) Unione Provinciale Fascista Professionisti ed Artisti
- j) Consiglio Provinciale delle Corporazioni

and all branches, constituent syndicates, units and other dependencies and successors organizations thereof, are hereby dissolved.

ARTICLE II

CREATION OF LABOUR OFFICES

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The following institutions are hereby created:

- a) A Regional Labour Office for the region of Campania and Naples.
- b) A Provincial Labour Office for each of the Provinces of Naples, Avellino and Benevento.

ARTICLE III

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RULES AND REGULATIONS

Rules and Regulations will be issued by the Allied Military Government to enable the said Regional Labour Offices and the said Provincial Labour Offices hereby established to fulfill their objects and perform and carry out their powers, duties and functions.

ARTICLE IV

OBJECTS OF THE REGIONAL LABOUR OFFICE

Subject to the Rules and Regulations to be issued as aforesaid, the said Regional Labour Office will have the following powers, duties and functions within the region of Campania and Naples:

- a) To consider forthwith the most practicable and expeditious method of re-establishing and assuring freedom of labour organization and representation throughout the region of Campania and Naples.
- b) The coordination of the work of and the information and statistics compiled by the Provincial Labour Offices.
- c) The compilation of similar information and statistics, for the region of Campania and Naples.
- d) The issuing of periodical reports and bulletins on labour questions for issue to the public or otherwise.
- e) To act as conciliator, mediator or arbitrator in labour cases which are of specific economic significance or interest to the entire region.
- f) Generally to do all such other things in connection with labour matters as may be required within the region of Campania and Naples.

ARTICLE V

OBJECTS OF PROVINCIAL LABOUR OFFICES

Subject to the Rules and Regulations to be issued as aforesaid, Provincial Labour Offices will have the following powers, duties and functions within the respective Provinces in which they are established:

- a) The compilation of information and statistics on Labour.

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b) The establishment of offices for the registration and supply of labour.

c) To act as conciliators, mediators or arbitrators in labour disputes.

d) Generally to do all such other things in connection with labour matters within the respective Provinces as may be required.

ARTICLE VI

EFFECTIVE DATE

THIS ORDER WILL BECOME OPERATIVE THROUGHOUT THE REGION OF CAMPANIA AND NAPLES, ON THE 10TH DAY OF DECEMBER 1943.

Dated: December 10, 1943.

EDGAR BRSKINE HUME
Colonel, General Staff Corps,
United States Army,
Regional Civil Affairs Officer.

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE.

Amgot 3/60.22/I
6 December, 1943.

Subject: Regolamentoi Comunali.

To : S.G.A.O., S.

1. A.M.G., HQ., 15 Army Group, has issued the following instruction:

"Reference General Administrative Instruction No. 19 (Amgot/4037/1) of 21 September, 1943, all Regolamentoi published in any place in the occupied territory north of the Province of BARI, IOTTA, SA and GALLIPOLI after receipt of this instruction will bear, at the head of the Regolamentoi, the words "Pubblicato con il permesso del Governo Militare Alleato".

2. General Administrative Instruction 19, to which reference is therein made, is appended for ease of reference:

"As from the date hereof until further notice, Regolamentoi Comunali shall be made in accordance with the following procedure:-

1. Regolamentoi Comunali will be submitted to the Prefect of the Province for approval after being made.

2. The Prefect will not submit Regolamentoi Comunali to the Council of the Prefettura or to the Provincial Giunta for advice or to the Central Government for approval.

3. The Prefect will after considering Regolamentoi Comunali received by him for approval submit the same to the Senior Civil Affairs Officer of the Province with his recommendations.

4. The Senior Civil Affairs Officer will

Subject: Regolamento Comunale.

To : S.C.A.C., B.

1. A.M.M., HQ., 19 Army Group, has issued the following instruction:

"Reference General Administrative Instruction No. 19 (Ambo/4037/1) of 21 September, 1943, all Regolamenti published in any place in the occupied territory north of the Province of BARI, FOGGIA and VIESTE after receipt of this Instruction will bear, at the head of the Regolamento, the words "Pubblicato con il permesso del Governo Militare Alleato".

2. General Administrative Instruction 15, to which reference is therein made, is appended for ease of reference.

"As from the date hereof until further notice, Regolamenti Comuni shall be made in accordance with the following procedure:-

1. Regolamenti Comuni will be submitted to the Prefect of the Province for approval after being made.

2. The Prefect will not submit Regolamenti Comuni to the Council of the Prefettura or to the Provincial Giunta for advice or to the Central Government for approval.

3. The Prefect will after considering Regolamenti Comuni received by him for approval submit the same to the Senior Civil Affairs Officer of the Province with his recommendations.

4. The Senior Civil Affairs Officer, will after considering the Regolamenti Comuni, together with the recommendations of the Prefect and of the Civil Affairs Officer (if any) for the Comune, issue directions to the Prefect to approve or refuse approval of the Regolamenti.

5. Regolamentoi Communalì, after approval by the Prefect as abovementioned, shall be of full force and effect."

By order of Colonel HUMER:

Angelo N. B. L.
 MICHAEL N. BATESON,
 1st Lt., ONP,
 Acting Asst Adjutant General.

DISTRIBUTION:

S.O.A.O.	Naples Province	12
"	Naples Town	5
"	Benevento Province	12
"	Avellino	12
"	Salerno	12
"	III Corps	12
"	VI Corps	12
"	X Corps	12
C.L.O.	HQ. AMU. 15 Army Group	1
S.L.O.	HQ. Region IV	1
Files		3
Spares		3

HEADQUARTERS

REGION 3

ALLIED MILITARY GOVERNMENT

LEGAL OFFICE.

Amc 3/6042/L.
12 November 1943.

Subject: Military Courts.

1. Supplementing and further clarifying General Administrative Instruction No. 7 and Special Administrative Instructions Nos. 1, 2, and 3 in the Manual and the letter from this HQ. dated 11th October 1943 on the above subject, the following directive on points which have emerged as a result of practical experience in the region is issued for guidance and compliance.

2. Appointment of Military Courts. The Commanding General, 5th Army, is the only Officer for the time being who can appoint General and Superior Military Courts to sit in this region. When however this region ceases to be within the 5th Army area, Superior Courts may be appointed by S.C.A.O.'s in terms of paragraph 6 of General Administrative Instruction No. 7 and orders for the appointment of General Military Courts will be issued by the appropriate authority through this HQ. to which application for the appointment of such courts will continue to be made.

3. All Officers acting as S.C.A.O.'s, C.A.O.'s or Judicial Officers as defined by Sect. 4 of Art. 3 of Proclamation 4 are authorized by the Military Governor to sit as Summary Courts without further orders, but no other Officers will sit unless specifically appointed.

4. No Officer not assigned to A.G. will be appointed to sit on a Military Court without the consent of his commanding officer first having been obtained, and no C.A.O. will be appointed unless acting for the time being as C.A.O.

5. Detention prior to trial. Books of summonses in Italian and English, Form No. 2 in the Manual, are being distributed by this HQ. under separate cover. This form directs the person on whom it is served to appear before a Summary Military Court at a certain time to answer a certain charge. It thus does away with the necessity of arrest and detention, or release on bail, pending trial. It is desirable, when feasible, to have summonses issued

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to him that he will be required to appear before Summary Court on a specific date. However, since Rule 4 (b) of the Rules of Procedure for Allied Military Courts (Special Administrative Instruction - Legal No. 2, in the Manual) provides that only an officer of AMG may issue a summons, it follows that when a proclamation of offence is committed in the presence of Italian police or Allied soldiers, it will be necessary to arrest. A Summary Court Judge or a C.A.P.O. will then consider whether the accused should be released pending trial, either under a bail bond for a certain sum or simply with a form of summons to appear at a later date.

6. Procedure on Arrest:

Italian police on making an arrest must make a charge against the arrested person at the time he is handed over at a police station for detention. In this connection it should be borne in mind that under Rule 4 (c) of the Rules of Procedure the Italian police may without a warrant arrest for proclamation offences only if a person is found committing the offence. However, a person suspected of having committed a proclamation offence may be arrested without a warrant by a member of the Allied Forces, and any officer of AMG may issue a warrant to arrest. Consequently, Italian police desiring to arrest a person suspected of having committed a proclamation offence should first obtain a warrant from an AMG officer or (if there is not time) ask an Allied soldier to make the arrest.

7. Allied soldiers who make an arrest should, like the Italian police, make a charge in writing at the time the arrested person is delivered at the police station for detention. In order to ensure the performance of this duty, the Commanding General, 5th Army Base Section, has made an order to this effect which is binding upon all soldiers in the City of Naples. All S.C.A.O.'s should arrange with the commanding officer of any tactical organization garrisoned in their provinces to issue a similar order.

8. The only exception to the requirement of a charge at the time of arrest is in those few cases in which pursuant to the provisions of Sec. 2 of Art. VII of Proclamation No. 2 a person is arrested and detained pending further investigation by order of the S.C.A.O., subject to review.

9. At the time the Commanding Officer of troops in each province is approached with regard to charges being made by soldiers arresting civilians, or later, in consultation with the

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9. At the time the Commanding Officer of troops in each province is approached with regard to charges being made by soldiers arresting civilians, or later, in consultation with the Provost Marshal, in such province, it should be made clear that soldiers who have testimonial knowledge of an offence, must, when available, appear to give evidence before a Military Court and submit to cross examination, and that a signed statement of what the soldier can testify should be delivered at the police station where the accused is detained as soon as possible after the commission of the crime.

10. All Italian police and other witnesses must attend in person before a Military Court to give evidence in every case in which they are concerned and submit to cross examination.

11. Procedure after Arrest

When an arrest has been made and the accused has not been immediately released under a bail bond or simply with summons, a charge sheet (Form No. 4) indicating the charge made at the time of arrest should be prepared as soon as possible and served at once on the accused in jail, together with a statement in Italian of his rights under Sec. 2 of Art. IV of Proclamation No. 4. At the time the charge is served (admission of service being obtained on a copy thereof) and he is advised of his rights, the accused should be informed that he will be brought before a Military Court at a certain time and place within 48 hours, at which time he will be asked to plead to the charge. Whenever it appears after an arrest on suspicion has been made that there is insufficient evidence to convict, the accused may be released by the Provincial Legal Officer or the CAC or the CAC without the necessity of bringing him formally before a Summary Military Court.

12. Referring cases to trial before Superior or General Military Court.

A Summary Military Court making an order committing an accused for trial before a Superior or General Military Court must observe the terms of Special Administrative Instruction No. 2 paragraph 7 (c)

13. Records. In General and Superior Military Courts the record of proceedings will be kept exactly as specified in Special Administrative Instruction No. 2 and in particular paragraph 12 thereof. One original and two copies of Form 8 will be made, one copy to be retained by the Provincial Legal Officer and one with the original will be sent to this HQ. Notwithstanding any previous or inconsistent instructions, in Summary Courts the proceedings of all cases in which the accused pleads guilty will be recorded only in the Summary Military Court Record Book, copies of which are being distributed. Where accused pleads not guilty, Form 8 will be completed in toto and an entry of the case when it is disposed of will also be made in the Summary Court Book. At the end of each week all Summary Court judges will send a copy of the Summary Military Court Record Book to the Provincial Legal Officer, with all Forms 8 as above mentioned. The Provincial Legal Officer will submit a consolidated return of all cases tried in his province in each week to this HQ, as already instructed. Form 8 will be retained by the Provincial Legal Officer until called for by this HQ.

14. Petitions to Review

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14. Petitions to Review:

As provided in Sec. 1, Art. VII, Proclamation No. 4, a petition to review may be filed by or on behalf of any person convicted by a Military Court within thirty days after the imposition of sentence. Judges of Courts should make known to accused that they may lodge petitions, and a notice will be posted to this effect in all prisons. The petition will be filed with the judge of the court (by which the accused was sentenced). When so filed it should be forwarded to the Provincial Legal Officer with all necessary records for an adequate review including any record of previous conviction for misdemeanors and crimes, translated into English, if possible. The Provincial Legal Officer will forward the papers, with the addition of any fact or comment desired, to this HQ. A printed form of application for review will be forwarded as soon as available.

15. Sentences: (1) Suspended Sentences.

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All Allied Military Courts may impose suspended sentences, but a Military Court should suspend the execution of a sentence only when it is desirable, having regard to special circumstances of the case, such as the age or other circumstances of the accused, or such as the fact that the accused has acted without any bad intent, but has still committed a minor offence. The suspension referred to is a permanent suspension, and not a suspension of execution pending a decision by the C.C.A.O. on a petition to review. It is not contemplated at the present time that an accused after conviction be released on bail pending appeal. It would appear that too many sentences are being suspended by Summary Military Courts; suspension should be the exception, not the rule.

16. Amount of Sentences.

Interfering with telephone and telegraph lines, including the theft of wire, riots and public disturbances, attacks on Allied soldiers, sabotage or war crimes, substantial violations of price-fixing regulations and the food control program, and thefts and possession of substantial amounts of property of the Allied Military Government or the Allied Forces are sufficiently serious, in general, to warrant a substantial sentence or fine. Sentences must not only be imposed in the light of the circumstances surrounding the commission of an offence but also in the light of the gravity of the offence, the frequency with which it occurs and its effect on military security, for example, the offence of cutting telephone wire, even though committed openly to obtain binding wire and with little or no knowledge of the possibilities of its results on the Allied Forces, is a grave offence which may jeopardise tactical operations. In view of the present economic difficulties which are being experienced in this region, it is essential that all offences against ration laws and black market offences should be punished with all appropriate severity.

17. Confiscation of Property.

Your attention is called to the provision of Sec. 3 of Art.V or Proclamation No.4 under which a Military Court may order the confiscation of any material the wrongful sale, purchase, use or possession of which a Military Court has convicted the accused, or may order restitution or compensation to the owner. If the property belonged to the Allied Forces or to an Italian civilian from whom it has been stolen (in such cases as a Military Court shall take jurisdiction of this type), an order should be made restoring the property to the particular branch of the armed forces handling such goods or from whom such goods were stolen, or the Italian civilian to whom it belonged. In other cases, such as hoarding or sale at an excessive price in contravention of the Italian laws,

leased on bail pending appeal. It would appear that too many sentences are being suspended by Summary Military Courts; suspension should be the exception, not the rule.

16. Amount of Sentences.

Interfering with telephone and telegraph lines, including the theft of wire, riots and public disturbances, attacks on Allied soldiers, sabotage or war crimes, substantial violations of price-fixing regulations and the food control program, and thefts and possession of substantial amounts of property of the Allied Military Government or the Allied Forces are sufficiently serious, in general, to warrant a substantial sentence or fine. Sentences must not only be imposed in the light of the circumstances surrounding the commission of an offence but also in the light of the gravity of the offence, the frequency with which it occurs and its effect on military security, for example, the offence of cutting telephone wire, even though committed openly to obtain binding wire and with little or no knowledge of the possibilities of its results on the Allied Forces, is a grave offence which may jeopardise tactical operations. In view of the present economic difficulties which are being experienced in this region, it is essential that all offences against ration laws and black market offences should be punished with all appropriate severity.

17. Confiscation of Property.

Your attention is called to the provision of Sec. 3 of Art.V or Proclamation No.4 under which a Military Court may order the confiscation of any material the wrongful sale, purchase, use or possession of which a Military Court has convicted the accused, or may order restitution or compensation to the owner. If the property belonged to the Allied Forces or to an Italian civilian from whom it has been stolen (in such cases as a Military Court shall take jurisdiction of this type), an order should be made restoring the property to the particular branch of the armed forces handling such goods or from whom such goods were stolen, or the Italian civilian to whom it belonged. In other cases, such as hoarding or sale at an excessive price in contravention of the Italian law, the property should be confiscated. In the event of confiscation, the confiscated property should be turned over to the nearest AMG Civilian Supply Officer against a receipt.

18. Fines.

On payment of a fine imposed by a Military Court, the judge of the court should make out in triplicate a receipt Voucher (Form F/1). The forms will be obtained from Provincial Finance Officers. The original voucher should be given to the payer, a copy, together with the money should be delivered to the Provincial Finance Officer

(or in the case of Naples, to the Finance Officer of Naples Town) against a receipt from such Finance Officer, and the remaining copy should be attached to the original court record or pinned to the Summary Court Book. Where a fine alone is imposed, the Court should specify the period to be served in default of payment. Henceforth, such period should not be fixed on an arbitrary basis of 50 or 100 lire a day, but should be assessed with due regard to the probable incapacity of the accused to pay. Where a sentence of imprisonment and fine is imposed, the sentence should be in the following form: "Two months imprisonment and fine of 50,000 lire, in default of payment of the fine, accused to serve a further period of three months imprisonment".

19. Black Market Cases:

Such "Black Market" cases as come within the provisions of Proclamation No. 1 (violations of the Italian laws relating to rationing, selling at excessive prices, and agriculture) whether they be of a minor or serious nature, should until further order be tried by the Military Courts and not referred to the Italian Courts. Since such violations of the Italian law are proclamation offences, it is unnecessary to make an order transferring such cases from the Italian Court to the Military Courts. The charges should of course be entered under Proclamation No. 1 and not under paragraph of Art. II of Proclamation No. 2, as has been done in some instances.

20. Cases of Juvenile Offenders (under 18 years of age), and detained under 18 years of age should not be arrested to ensure his appearance at the trial. In those cases where detention is deemed to be necessary, he or she must, if possible, be held in a place separate from those housing adult offenders. Judges will base their procedure in hearing the cases of juveniles under 17 upon the accepted practices of day after day in Britain and the U.S., namely:

(1) That first consideration be given to rehabilitation of the child instead of punishment;

(2) That where parents seem to be responsible persons, the child be given an opportunity for re-adjustment in his own home under strict supervision of the parents or the police, that is to say he can be placed on probation for a limited period and required to report to the Italian police, if deemed necessary, immediately after a designated period.

(3) That where it is necessary to place the juvenile in an institution, he be committed for an indefinite period to a school for juveniles, such as that located at Santa Maria Capua Vetere, Naples province, until such time as the school decides that he will refrain from further delinquency, and is ready for release.

Two months imprisonment and fine of 50,000 lire, in default of payment of the fine, accused to serve a further period of three months imprisonment.

19. Black Market Cases:

Such "Black Market" cases as come within the provisions of Proclamation No. 1 (violations of the Italian laws relating to rationing, selling at excessive prices, and "barter") whether they be of a minor or serious nature, should until further order be tried by the Military Courts and not referred to the Italian Courts. Since such violations of the Italian law are prosecutable, it is unnecessary to make an order of detrain in order transferring such cases from the Italian Court to the Military Courts. The charge should of course be drawn under Proclamation No. 1 and not under No. 2 of Art. 11 of Proclamation No. 2, as has been done in some instances.

20. Cases of Juvenile Offenders (under 18 years of age): Juveniles under 18 years of age should not be arrested and detained pending trial unless detention is absolutely necessary to ensure his appearance at the trial. In those cases where detention is deemed to be necessary, he or she must, if possible, be held in a place separate from those housing adult offenders. Judges will pass their procedure in hearing the cases of juveniles under 17 upon the accepted practices of juvenile courts in Britain and the U.S., namely:

(1) That first consideration be given to rehabilitation of the child instead of punishment;

(2) That where parents seem to be responsible persons, under strict supervision of the parents or the police, that is to say he can be placed on probation for a limited period and required to report to the Italian police, if deemed necessary, periodically over a designated period.

(3) That where it is necessary to place the juvenile in an institution, he be committed for an indefinite period to a school for juveniles, such as that located at Santa Maria Capua Vetere, Naples province, until such time as the school decides that he will remain a further delinquent and is ready for release.

(4) That the hearings be held informally in a closed atmosphere of the court.

(5) That in cases of commitment, a court record of the case forwarded to the institution to which he is committed, together with any recommendation which may have been made regarding the youth.

In the court feels that the juvenile who is over 16 is of sufficient maturity, both physically and mentally, he may be dealt with as an adult offender after taking into consideration his limited experience.

21. Commitment Forms.

In order that the Italian police and prison officials may have a record of the disposition of accused who have been tried by Allied Military Courts, a commitment form should be filled out and signed by the Judge of any military court which has tried an accused and delivered to the Italian police, whether the accused be sentenced to a term of imprisonment or merely fined or acquitted.

By Command of Col. LUMM.

Paul R. Lumm
 Paul R. Lumm
 Major AGD, M
 Adjutant General.

DISTRIBUTION

S.O.A.C. Naples City	5
" " Province	20
Avellino "	20
Salerno "	20
Benevento "	20
X Corps	6
VI Corps	6
Staff Heads	2 each
Files	2
Copies	50

0029

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

Rating Procedure

Instruction

Summary

& Control Policy

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6002/L
5 December, 1943.

REPORT ON THE WORK OF THE LEGAL DIVISION,
AMG 5TH ARMY from 1st to 30th November, 1943.

1. Personnel. There is attached as Appendix "A" a list of the officers serving in the Legal Division in Region III under the Senior Legal Officer, AMG 5th Army, showing the appointment held by each as of 30th November 1943. The personnel who were permanently appointed for legal duties in Region III numbering on the TO/WE five together with those temporarily attached could not adequately have discharged even a portion of the responsible duties which had to be done by this Division had it not been for the invaluable assistance given by the officers of Region IV whose temporary services were made available in this Region.

2. It was anticipated in the AMG plan that CAOs would sit as Summary Military Courts. This is practicable in sparsely populated areas where by sitting say one half day in a week it is possible to deal with any pending cases, but in a densely inhabited area such as Naples four or five CAOs would have been required to preside over Summary Courts as a permanent duty. It may well be that additional CAOs should have been obtained to sit as courts but SCAs seemed to be of the opinion that with paucity of staff there were many more important duties to be done for which many more staff were required. It was only by acquiring additional officers for the legal section by hook or crook and making them preside over Summary Courts in Naples that it has been possible properly to dispense justice and fulfill one of the primary duties of AMG in maintaining law and order. When the personnel from Region IV moves forward to take up their duties in the Rome area, there will be an insufficient number of legal officers left in Region 3 to adequately perform those duties required of a Legal Division in carrying out Military Government in Occupied Territory. Unless the removal of these officers is coincident with the taking over of this area by Allied Control Commission it will be necessary to supply reinforcements for the legal staff in this region. I have informed the Regional Civil Affairs Officer, of this important requirement and I understand he is applying for further staff.

3. Visit of Chief Legal Officer. The Chief Legal Officer, AMG Hq 15th Army Group, visited this Hq on 20th November and remained until 23rd November 1943. During his stay numerous matters were discussed and decisions arrived at on questions on which direction was required. Meetings were held by the C.L.O. with the C.L.O. Region IV and AMG 5th Army, with regard to the plan for the Legal Division as the territory comprising Region IV and ultimately Rome was occupied by the 5th Army. The C.L.O. also met with the S.L.O., AMG 5th Army, the C.F.O. AMG 15th Army Group, the S.F.O. AMG 5th Army and a representative from AMG Hq Sicily to discuss a general plan which could be put into execution in all territory in Italy to be occupied in connection with the reopening of financial institutions and the raising of the moratorium closed and imposed by Proclamation 5. A draft General Order No 3 for use in those areas which are to be occupied by 5th and 8th Armies was agreed. The question of the prohibition against land transactions affected by Proclamation 5 was also

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4. Visit by S.L.O. AMG 5th Army to 8th Army. On 12th November the S.L.O. accompanied by the S.F.O. AMG 5th Army visited AMG Hq 8th Army. Meetings were held there with the R.C.A.O., S.L.O., S.F.O. AMG 8th Army and with the C.F.O. AMG Hq 15th Army Group when the coordination of policy in connection with preparation of posting of Proclamations and orders and legal and financial questions of mutual interest, generally, were discussed.

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5. Proclamations. It is not yet known definitely whether the amendments to Proclamations Nos. 1 and 11 which have been notified to this Hq are final and whether copies of No. 1 will be sent to this Hq where No. 11 is to be reprinted here. A signal was sent to C.L.O. AMG 15th Army Group on this question dated 3.12.43. With the exception of these two proclamations sufficient quantities for the near future are available.

6. Allied Military Courts. During the month of November it has been found necessary to establish two further permanent Summary Courts in Naples in addition to the already existing two permanent courts. One court has been established in the dock area with jurisdiction to try persons accused of being in illegal possession of Allied property in that area, unauthorized entry into the port and leaving the shore in craft without authority. The second court was established to try persons arrested for failure to obey the curfew regulations in Naples. In addition to these permanent Summary Courts, Civil Affairs Officers in the provinces have been sitting regularly for the disposal of cases brought before them. Towards the end of the month one officer from Region IV was posted to the District comprising the continuous line of towns stretching along the east shore of Naples bay in order to sit as a Summary Court there as often as required. This was necessary as the police had been arresting persons for offenses against Proclamations and the Civil Affairs Officer was not sitting sufficiently often as a court to dispose of the cases, with the result that accused persons were detained in jail for unreasonably long periods.

7. Yet another officer of Region 4 staff was appointed to sit alone as a Superior Court in Naples and has been occupied every day since appointment on 27th November 1943 in trying cases committed by Summary Courts. There is a permanent prosecutor before this court, again an officer of Region IV. I am of opinion that it is necessary to maintain a Superior Court in Naples with a permanent prosecutor who can handle all the papers in the cases committed by the Summary Court in this city for trial by higher courts. A General Court has been convened to sit in Naples to try cases there.

8. Although the major percentage of all the judicial work is concentrated in Naples, the Summary Courts in the other provinces are dealing adequately with all cases which arise. General and Superior Courts have sat in Salerno Province. Tables of cases tried by Allied Military Courts are attached as Appendix "B".

9. The problem of the organization and administration of judicial machinery to dispose of accused persons in the Naples area has been the one trial of this Division. In the provinces and districts the absence of any large number of troops or abnormal conditions and the gradual return to normal existence seems to be reflected by an orderly behavior on the part of the citizens. The greater commercial opportunities which exist in Naples as a result of the presence of many troops there provides more scope for criminal activities and amongst a population of one million even a small percentage of criminally minded persons accumulates a goodly number of persons waiting for trial. Almost all the offenses which are committed however are the petty crimes of a population living under difficult conditions and the fact that only a few merit committal by Summary Courts for trial by higher courts leaves the conclusion to be drawn that they cause little hindrance to the effort of the armed forces and constitute hardly at all any danger to military security.

10. Italian Courts. It can now be stated that all the Italian Courts, with the exception of the Corte D'Assise are reopened and are overtaking their

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10. Italian Courts. It can now be stated that all the Italian Courts, with the exception of the Corte D'Assise are reopened and are overtaking their pending cases. Difficulties of transport and communications which are very slowly being overcome have negatived to a varying extent the abilities of the courts especially in the Districts outside Naples to complete the cumbersome investigation and disposal under the Italian procedure of any very large number of cases. These same difficulties have prevented proper consolidated returns of cases from being made to this Hq.

11. Returns were urgently asked for to be included in this report but these have not yet been received from the Tribunale of Salerno and S. Maria Capua Vetere and the Preture Courts within their circondari.

12. For the month of November from the returns which have been submitted the following statistics are available:

(a)	<u>Tribunale of Naples</u>	<u>Convictions</u>	<u>Acquitted</u>	<u>Total</u>
	Tribunale	166	29	195
	Praetura	465	189	654
	Tribunale per minorenni	5	30	35

The majority of these cases were in respect to charges under black market regulations, house-breaking, crimes of violence, theft and vagrancy.

(b) The Tribunale of Avellino has disposed of 12 cases and there are 158 persons awaiting trial all of whom have been granted provisional liberty pending trial. The Praeture in the Avellino circondario has disposed of 183 cases.

(c) The Tribunale of Benevento has disposed of 6 cases and there are 58 persons waiting trial, 7 of whom are in prison. The Praeture Courts in this circondario have not yet furnished any returns.

(d) The Tribunale of Aviano Irpiano has disposed of 3 cases and there are 181 persons awaiting trial only one of whom is in jail; the Praeture Courts have disposed of 65 cases.

(e) No cases have yet been reported as disposed of by the Tribunale of Sant Angelo dei Lombardi; the Praeture Courts have disposed of 7.

13. The Court of Appeal in Naples and in fact the whole resuscitation of the Italian Judicial System suffered temporary dislocation in consequence of the unauthorized appointment by Marshal Badoglio of Volpe to be First President of the Court of Appeal. Libonati who was appointed by the R.C.A.O. as acting First President has now been confirmed in his appointment. The Court of Appeal is open once more for the hearing of civil and criminal appeals and has already disposed of 123 criminal appeals, 34 of which were sustained and 89 refused. 43

14. New lists of assessors have been prepared and it is hoped that transport arrangements may enable the Corte D' Assise to resume its work throughout the region at an early date.

15. Although the province of Salerno is now under Region II, the Legal Officer has been asked to keep in touch with this Hq in connection with the work of the Italian Courts as the Tribunale in Salerno defends for the Court of Appeal in Naples. The President of the Tribunale there and the Procuratore del Re are coming to Naples at the beginning of this week to confer with the President of the Court of Appeal and the Procuratore Generale.

16. Legislation. General Order No. 6 regarding the amassing price of wheat and olive oil and an order regarding hemp, both of which were discussed with the C.L.O. AMF 15th Army Group during his recent visit have been published here. Copies of these orders are attached hereto.

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17. Italian Army. With the re-mobilization and organization of the Italian Army numerous questions have arisen as to status of individuals and authority for publication of ordinances. No authority has been granted to publish general ordinances. No. 8 was referred to the C.L.O. AMG HQ 15th Army Group in view of instructions that no civilians were to be called for military service and as the Military Governor wished to consider whether such ordinances would be published. Authority was granted however for publication of an order requiring the registration of soldiers who had spontaneously demobilized themselves. Although great anxiety was expressed at an early stage of our occupation to permit Italian Military Tribunals to be re-established and an order was given for these Tribunals to reopen, with the typically festina lente attitude of the Italians they are not yet functioning so far as can be ascertained.

18. General. Particular matters such as trial and imprisonment of British Merchant Seamen; bail, possession of what types of Armed Military goods by Italian civilians constitutes an offense under Sect. 40 of Article 2 of Proclamation 2 are being taken by by separate memoranda. The Chief Legal Officer, Region IV, who has had the time and opportunity to observe the operation of the AMG judicial system in this Region has ~~reverted~~ ^{reverted} some thought to simplifying and improving some facets of the procedure. These proposals have been discussed with this Division and where agreements regarding amendments have been reached it has been suggested that the C.L.O. Region IV should submit these proposed amendments to the C.L.O. AMG 15th Army Group for consideration.

19. Lt Col Mc Clain who has been designated as S.L.O. for Region III when the AMG 5th Army Mobile Group moves forward has already been assigned to this office with a view to taking over the duties of the Regional Legal Officer. His arrival will enable a great part of the Hq work to be devolved upon him and will enable me to keep in touch with the S.C.A.Os, C.A.Os, and C.A.P.Os of the corps of the 5th Army who are already some distance away from Naples. I also hope now to have more time to plan for the administration of the Legal Division in Region IV in collaboration with the C.L.O. of that region.

J. V. M. Shields
Lt. Col.

J.V.M. Shields, Lt. Col.,
Senior Legal Officer,
A.M.G. 5th Army.

Appendix "A" 11

Senior Legal Officer, A.M.G. 5th Army:	Lt. Col. J.V.M. Shields	(B)
Assistant:	Capt. H. Glenn	(A)
Legal Officer Naples City and Province:	Lt. Col. R. McClain	(A)
Assistant:	Major G.G.T. Ainslie	(B)
Permanent Summary Military Court Presidents Naples City:	Lt. E.H. Blacklock	(B)
(C.A.O. Naples City)	Lt. C. H. Kazens	(A)
(Attached from 5th Army)	Lt. Saul Ziff	(A)
Permanent Summary Military Court Naples Province:	Major W. Stump	+ (B)
Legal Officer, Avellino:	Capt. A.E. Gold	(A)
Legal Officer, Benevento:	Major Elder	+ (B)
Legal Officer Salerno:	Lt. Barden	(A)
Temporary Assistant:	Major Waugh	+ (A)
Officer i/c Italian Courts:	Major Holt	(B)
Assistant:	Lt. Gaziano	+ (A)
Permanent Superior Military Court:	Lt. Col. Chapman	+ (A)
Prosecutor:	Capt. Carey	+(B)
General Military Court Prosecutor:	Capt. Gates	+ (B)
General Military Court ~~Prosecutor:~~	Col. Wilmer	+ (B)
General Military Court ~~Prosecutor:~~	Maj. Long	+ (A)
General Military Court ~~Prosecutor:~~	Capt. Falk	+ (B)

Note: Those marked + are attached from Region IV Staff.

TABULAR RETURN OF CASES FOR NOVEMBER, 1943 IN REGION 3

<u>Provinces</u>	<u>SUMMARY</u>		<u>SUPERIOR</u>		<u>GENERAL</u>	
	Guilty	Not Guilty	Guilty	Not Guilty	Guilty	Not Guilty
Naples City	1288	188				
Naples Prov.	43	11	2			
Benevento	17					
Avellino	40	4				
Salerno	35	8	5		9	1
X Corps						
VI Corps						
II Corps						

Appendix "B"

TOTAL	1439	212
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CATEGORIES OF OFFENCES.

	GUILTY	NOT GUILTY
Theft, or wrongful possession of property.	492	57
Offences against person.		
Black Market Offences.	325	13
Possession of Arms.	9	3
Violation of Curfew.	336	73
Other Offences.	277	6
TOTAL.	1439	21

Appendix "B"

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HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

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*See minutes of meeting
Naples 17 Nov 43*

*Amst 3/5034/L
17 November 1943.*

Report by Legal Division Region III for the period from
1st to 31st October 1943.

1. On entry into Naples after the occupation of that town by the Allied troops on 1st October 1943 the situation of the legal and judicial system was examined and discussed with the senior officials of the bench and bar who were present in the town.

2. Proclamations. On arrival in Naples and each occupied area the Allied Military Government Proclamations Nos. 1, 2 (together with the two notices) 3, 4, 5, 8, 11, 12, 13 and General Orders Nos. 1 and 2 were posted. None of the remaining Proclamations have been posted.

3. Military Courts. A General Allied Military Court has tried one case in which all the accused were found guilty and two Superior Courts have heard ten cases 38 of the occupation of Naples two Allied Military Summary Courts were set up to sit daily for the trial of the offences against the Proclamations. Due to shortage of personnel in the Public Safety Division it has been difficult to have cases prepared quickly and properly for presentation to these courts but all prisoners arrested have been disposed of expeditiously. In Salerno an Allied Military Summary Court has also sat when required and in other areas Civil Affairs Officers in sitting at Summary

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Total No. Cases tried	G.	NG.
	635	147
No. Offences against Property	286	81

No. Offences against Persons	G.	NG.
" Black Market Offences	123	0
" Other Offences	226	13
" Detained without charge	--	45
		8

4; On the request of Commanding General, 5th Army Base Section a third Allied Military Summary Court is being established in the Naples Port Area with jurisdiction to try all civilians apprehended pilfering or being in possession of Allied Military goods.

5. Italian Courts. In addition to the Tribunale and Pretore Courts situated in Naples there is also the seat of the Court of appeal and Court of Assise for a judicial district which extends beyond the administrative area of Campania and includes Campobasso, Isernia and Potenza. Many of the judges and officials of all these courts were found to be absent due to reasons of war and in particular the first President of the Court of Appeal Giovanni Battista Ferri was absent. He was reported to be in Rome. The information on this judge disclosed that he was an ardent Fascist and as he would not have been permitted to remain in office the next senior amongst the Presidents of the Court of Appeal Michele Libonati was appointed as acting first president. This choice was very acceptable to all the judges officials and of the lawyers in Naples.

6. The court buildings in Naples had suffered no damage but for two weeks it was not possible to gain access to the Praetura building as troops were billeted

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7. Reopening of Tribunali and Praetori Courts.

The Italian population in this region are very legally conscious and they were very anxious to see the courts reopened. A committee of the senior judges was appointed by the Legal Officer to consider first of all the con-

ditions under which the Tribunali and Praetori Courts for the trial of criminal cases should be reopened. Unlike most Italian districts the reopening of the courts was not an urgent question in order to bring forward for trial the numerous untried criminals normally filling the jails to capacity. There were not on paper proportionately fewer persons waiting trial in Naples, Benevento and Avellino than was expected but due to the reprehensible action of the Germans in releasing all the prisoners in the jails and state lunatic asylums before evacuating these towns practically no persons were in jail awaiting trial on our arrival. From the various jails in Naples 810 persons were released; from Benevento prison 320 and from Avellino 555.

8. On 15th October 1943 instructions were issued for the reopening of the Tribunali and Praetori courts under specific conditions and although due to the continuance of the moratorium imposed by Proclamation 5 Article 2 it was not possible to reopen these courts for the trial of civil cases, permission for the carrying out of urgent civil administrative procedure was granted. The courts commenced to function throughout the region at various dates as the instructions were received in the judicial districts and the eight tribunali and all the praetori courts are now reopened.

9. With the reopening of the Italian banks in Naples on 30th October 1943 and the termination by General Order of the moratorium imposed by Proclamation No. 5, the Italian courts will be instructed immediately to resume the execution of actions

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9. With the reopening of the Italian banks in Naples on 30th October 1943 and the termination by General Order of the moratorium imposed by Proclamation No. 5, the Italian courts will be instructed immediately to resume the trial of all civil cases with the exception of actions for the judicial transfer of land in view of the continuance of the prohibition against the transfer of land and buildings laid down by Proclamation 5 Article 3.

10. Personnel.

(a) Military. A shortage of officers in the early days of our entry into this region of Italy

and Naples City hampered the work of this division which cannot in many ways work indirectly by controlling Italian personnel. It is essential to have sufficient and suitable officers to sit as presidents and members of Allied Military Courts and to carry out the administrative work connected with the supervision of Allied and Italian courts. The posting of three additional officers has relieved this position greatly.

(b) Italian. All the judges and officials of the national courts have been scrutinized in respect to their political acceptability by the Allied security sections and passed as satisfactory. They are being carefully watched as to their competency and unbiased discharge of their judicial duties and in the event of any failure to dispense justice promptly and impartially they will be replaced.

11. General.

Suspension of Fascist Laws. All the anti-fascists and those persons who were victimized by repressive laws welcomed the arrival of the Allied Forces in anticipation that such laws would immediately be abrogated. This is not a problem that can be solved piecemeal.

An instruction was issued that no persons would be arrested and brought to trial for any acts which were made offences for the protection or furtherance of the interests of the former Fascist political or antisocial nature in respect to which penalties were imposed. In addition all these types of laws in particular those in connection with racial discrimination have been collected and submitted to the proper authority for consideration in connection

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12. Italian Military Tribunals.

With the reorganization of the Italian

1
army the question of reestablishing the Italian Military Tribunals which are an integral part thereof has been considered. As these courts have jurisdiction over civilians some of whom were in prison awaiting trial it was agreed with the Judge Advocate 5th Army that these courts should be reopened if possible. Arrangements have been completed through the liaison officer with the Italian army for their resumption under the provision that all trials of civilian cases in these courts will be supervised by A.M.G.

13. General.

Shortage of personnel has made it difficult to hold courts for the trial of accused persons as promptly as would be desired but with the arrival of one additional officer at the end of the month the situation has improved.

J. V. M. Shields,
Lt. Colonel,
Senior Legal Officer.

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

208/CA
11 November 1943

Dear Col. Chandler.

I have received your D/O letter dated 31st Oct. 1943 which only reached me to day. So soon as Proclamation 6 arrives we will post it. I don't know what changes have been made but the Controller of Property here has operated under the terms of the former edition of the Proclamation. I do not think he has exceeded his general powers but it will be helpful for guidance for him to have Col. Harris' new directive.

2. I note the changes to Proclamations 1 and 11. We have posted both those proclamations in their original form. I assume it is intended that in the areas in which they have already been posted they should be left and that the new editions are only to be used in future. As that is a question for decision by C.L.O. 15th Army Group for this area I will write to Col. Rowe on the matter, on whom I will indent for copies of the amended Proclamations.

3. With regard to Proclamation No. 8 I have discussed with the Director of Public Safety the question of the declarations and registrations required under articles I and II of that Proclamation. These impose a heavy burden upon an already exiguous staff of overworked Police. When the declaration are made nothing further is done and if anyone wishes to use radios or cameras, telescopes or binoculars for subversive reasons they are caught if doing so and the prerequisite of declaration does not assist in protecting security especially in a very populated area such as Naples.

4. May I therefore suggest for consideration that when amendments to Proclamation 11 are being made if the question of additional amendments has not been foreclosed, higher authority might give consideration to the following:

(a) From article I, Section 1, Omit the words-

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4. May I therefor suggest for consideration that when amendments to Proclamation 11 are being made if the question of additional amendments has not been foreclosed, higher authority might give consideration to the following:

- (a) From article I, Section 1, Omit the words-
"radio or wireless set or equipment, or any parts, accessories, or material used in connection with wireless reception, or any" ^{reception only}
making the Section to read-
"Section 1. Declaration of Private Communications.-
Every person having in his possession any

private telephone wire or telegraph wire or any carrier pigeons will declare the same within the time and at place specified by official notice in each locality."

(b) From Article II omit all Section 2 reading as follows: -

Section 2. Declaration of Cameras, Photographic Supplies, Telescopes and Binoculars. - Every person owning or having in his possession or custody any camera or any photographic supplies, or any telescope or binoculars will declare the same within the time and the place specified by official notice published in each locality. For the purpose of such declaration photographic supplies shall include:

- Cameras - cine or still
- Projecting apparatus
- Developing and dark room equipment
- Unexposed or exposed film, cine or still
- Photographic paper and chemicals.

5. I would add that the Director of Public Safety states that the Security Sections of the U.S. and British Army in this area are in favour of such a change.

6. I have read the advance text of Proclamations 14. It seems to me that where amended Proclamation 11 has been posted, Article III of 14 is going to be incongruous when they are read together.

7. I appreciate very fully all the difficulties in connection with providing legislation in a situation which must have been continually changing. I have been following as closely as possible to our rules in legal matters here but with so many changes of Hqs. and the need for decisions on local matters to be made quickly, I have probably erred often for which I hope to be forgiven.

8. I look forward to seeing you soon. Thanks for your good wishes which I reciprocate.

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Yours

Copy to Lt. Col. Rowe, C.L.O. 15th Army Group
Copy to File 6023
Copy to Director of Public Safety

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

6 November 1943.
Amgot 3/6009/L.

Dear,

1. With reference to your two d/o letters of 28th October and 1st November 1943, numbered AMG 207/3 and AMG/200/1 respectively and your letter AMG 201/1 of 29th October 1943. I wish to apologize for the delay in replying to them but during the last two days the impending change from Region III to 5th Army Mobile Group which in being worked out in this town has been crystallising and with new staff coming in I wanted to get matters cleared before writing to you.

2. Staff. At the date of arrival in Region III the staff was distributed as follows in addition to myself.

Legal Officer - Naples Town & Province, Lt. Col. McClain.
" " Salerno, Lt. Barden.
" " Avellino & Benevento, Capt. Gold.
Liaison Officer with Italian Courts, Lt. Sabatino.

I attach a list of the present distribution.

Within the last few days there has been lent to me from Region IV -Lt. Col. Chapman, who is assisting Lt. Col. McClain. Major Waugh, who I have sent to Salerno and Major Woodward who I have sent to Avellino both as temporary helpers. Two days ago a signal came from ATHQ intimating the imminent arrival by air of Major Ainslie and Holt for "temporary attachment to Region III Legal Division". They have arrived with no further explanation and so I have posted Major Ainslie to Naples Province to be with McClain. This is done with a view to McClain taking over from me as Regional Legal Officer and Ainslie taking over from McClain. The situation is complicated however, as it is not settled yet whether McClain will take over from me. There is a school of thought that he should be an S.C.A.O. but no decision has yet been reached as to his appointment. Major Holt will go to Avellino so that Capt. Gold may be Legal Officer in Benevento solely.

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3. Up to date the 5th Army Mobile Group has not commenced to function as a separate entity to Region III and therefore I am acting as Regional Legal Officer until such time as the separation is effected and the rear boundary of the 5th Army is moved forward of Naples, when the Mobile Group will move out of Naples so far as I can understand.

4. The Legal representation on the TO/WE for the 5th Army Mobile Group is one Officer Lt. Colonel to be filled by me.

5. At the moment therefor as R.S.L.O. & S.L.O. of 5th Army A.M.G. jointly I have control of all the legal officers in 11 Region III territory occupied. The legal officers in the provinces are responsible for the supervision of the Italian Courts the establishment of A.M. Courts and supervision of C.A.O.'s sitting as Summary Courts.

6. Proclamations. Group Captain Benson, Eight Army, was here yesterday. We discussed inter alia Proclamations he does not require any from me. We have reprinted 6000 of 1, 2 (Notice & Warning) 3, 4, 5, 8, 12, 13, General Orders Nos 1 and 2. 6 and 11 are being held up pending amendments, 1 was already reprinted.

7. G.C. Benson is anxious as are the S.F.O. Col. Barrett who is going with 5th Army and myself to get some uniformity in regard to posting Proclamation 5, General Order 1 and an order opening banks and raising the moratorium. Col. Barrett and I have proposed posting 5 and General Order 1 & carrying a General Order 3 similar to the one issued here for Naples Province a copy of which is enclosed, with suitable blanks for completion locally to post when Banks will be reopened.

8. Reports. Col. Chanler sent me a letter asking for a report for October. I had sent two reports up to 22nd October but I sent him copies of these with a further report to 31st October 1943 which I had to write in a hurry to catch the plane. I enclose a copy. I would draw your attention particularly to paragraph 2.

9. Merchant Seamen: I would be extremely grateful if you could let me know of any decision made as a result of discussions which took place in Palermo before I left as to the policy for the disciplining British Merchant seamen who commit unlawful acts on shore. No cases have arisen yet on this but I am sure they will. Col. Chanler suggested that the American counterpart would be dealt with by the commander of the area. I have not yet heard of any major offences committed by U.S. Merchant Seamen.

10. I am not altogether happy about the situation here. Political uncertainty has had its effect in co-operation with the National Officials and uncertainties in policy have affected our attitude towards them. I am looking forward to seeing you over here just as soon as you can me-

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11. I apologize for writing this letter covering various points but I enclose two additional copies for filing and I am sending a copy to Col. Chanler.

Yours

Lt. Col. Howe,
C.I.O.
AM.G.O.T.
15th Army Group.

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amfot 3/6034/L
3 November, 1943

Subject: Report on work of Legal Division from
22.IC.43 to 31.IC.43

To : Chief Legal Officer AMG, 15th. Army Group
through R.C.A.O. Region III

From : R.L.O. AMG Hq Region III

1. Proclamations. The building up of a supply of Proclamations for posting on the advance of the 5th. Army has almost been completed under extreme printing difficulties as the electric power is still not available and it has been necessary to print by hand. As a result of written and verbal instructions which have been received Proclamations 1, 6, and 11 have not been reprinted pending instructions regarding projected amendments. Proclamations 6, 7, 9 and 10 have never been posted in this region.

2. Orders. A general order No 3 reopening the banks in Naples Province was prepared, signed by the R.C.A.O. and published here. A copy is attached. I am concerned as to the difficulties which may be met as a result of publication in different regions of General Orders with varying numbers on varying subjects. It has been essential to issue certain local orders in connection with price-fixing and civil supply. These have only been issued as local orders. If each region issues General Orders it may be that the numbers will coincide with those which are issued or to be issued from AMGOT Hq for publication throughout all the regions and this will result in confusion. At the moment I am aware e.g. that General Order No 3 and No 6 issued in Sicily will never be published in this region and that those numbers are available for use for essential orders in this region. Local ad hoc orders which will have a temporary existence have been termed merely orders. May we be informed if Regional Civil Affairs Officers may issue General Orders under authority, in matters such as raising

22.10.43 to 31.10.43

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through R.C.A.O. Region III

From : R.L.O. AMG HQ Region III

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3. Allied Military Courts. Due to lack of clerical staff and difficulties of transport no returns have yet been received of the Military Courts in the provinces of Benevento and Avellino. I know that only a few cases have been tried in these two provinces.

4. The statistics for Salerno or Naples Provinces are as follows:

General and Superior Courts - None (one case record of General Court in Salerno not yet received).

SUMMARY COURTS

	C	NO
Total No. Cases tried	635	147
No. offences against Property	286	61
" " Persons	0	0
" Black market offences	123	13
" other offences	226	45
" detained without charge	-	8

5. Petitions. Petitions against sentence in two Superior court cases are being sent to the 5th Army HQ in accordance with instructions contained in a letter from the Chief Legal Officer, AMG, 15th Army Group, AMG/ 201/1 dated 29th October 1943, a copy of which was sent to you. In terms of verbal instructions given to me by you in Naples petitions in Summary Court cases to date have been considered by the R.C.A.O. here. In future in terms of paragraph 7 (b) of the said letter from the 15th Army Group these petitions will be sent there for consideration.

6. Italian Courts.

The Tribunale at Naples, Salerno, Avellino, Benevento, San'Angelo Lombardi, Ariano Irpino and S. Maria Capua Vetere have been reopened together with the Proctors in their areas for criminal competence and essential civil proceedings at different periods. During the last ten days under the conditions referred to in paragraph 4 of my report of 22.10.43, no returns have yet been received as to the disposal of cases by these courts except verbally in Naples where they are operating satisfactorily.

7. With the reopening of the Banks and the termination of the moratorium in Naples Province the courts in that Province have ~~had~~ been reopened unrestrictedly for civil cases, and as banks reopen and the moratorium is lifted in the other provinces so the courts there will be authorized to reopen for civil cases.

8. It now remains to reopen the Court of Appeal and

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7. With the reopening of the Courts and the termination of the moratorium in Naples Province the courts in that Province have been reopened unrestrictedly for civil cases, and as banks reopen and the moratorium is lifted in the other provinces so the courts there will be authorized to reopen for civil cases.

8. It now remains to reopen the Court of Appeal and Court of Assize and just as soon as I can get sufficient time to consider how for transport difficulties can be overcome to enable persons being brought before these courts they will be reopened. As the Court of Appeal has jurisdiction also in Region II and IV as referred to in my first report I wish to coordinate the activities of this court with the legal office in Region II with whom I have arranged a meeting next week.

9. Italian Military Tribunals. In view of the signal B-102 dated 30th October from you I am discussing with the Commander of the Italian Army here and the Allied Military Authorities the reestablishment of this Tribunal and it will be reopened if considered proper as soon as possible.

10. Land transactions.

On authority of signal 357 of 30th October 1943 from CTO AMG 15th Army Group it is intended to lift the prohibition on land transactions generally throughout the region after the trend of cash withdrawals in Naples has been estimated to ensure that there is no tendency to invest in real estate and when the banks are reopened and the moratorium has been lifted in other three provinces.

11. General

Lt. Colonel Rowe, Chief Legal Officer, AMG, 15th Army Group has said that he will shortly pay a visit here. This should enable us to co-ordinate a great many steps which have of necessity been taken unilaterally and will clarify the position which has arisen as a result of the reorganisation of the units of Military Government.

Sgt. J. V. M. SHIELDS,

Lt. Colonel
Regional Legal Officer

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been that

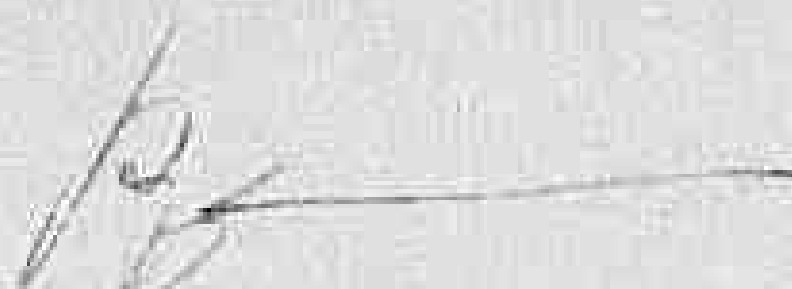
Finance Div.
Legal Div.
Economic & Supply Div.
Public Safety Div.
Public Health Div.
'A'

AMC/201

AME/6.

3

Reference Folio 1 - Heads of Branches are particularly requested to see that action is taken to report all matters of importance and progress to A.P.H.Q. as soon as possible. 5th Army have been instructed to repeat important timely reports to A.P.H.Q. in order to save time.


R.J.P. THORNE-THORNE.
Colonel.,
Senior Staff Officer.

RJPT/

Seen on
Hout file.



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COPY.

3A

FROM: AFHQ SIC D EISENHOWER.
TO : 15 ARMY GROUP AMG.
ORIG.NO. 4899 CITE THINGS.

Undated.

More timely reports of developments and progress in Military Government in your area are needed. For example we first learned of the intention to open banks and restoration of electric power in Naples from the press. Would it be convenient and save time if 5th Army AMG should make such timely reports to you and repeat AFHQ.

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Subject: Your Legal Report 3/60X/12 Dated 22, Oct. 42.

Senior Legal Officer,
H.C., AG,
Fifth Army.

201-
2
22, October 42.

Reference your above Report, the following instructions are given in connection with the matters which you raise.

2. Para 1 and 2. Enquiry is being made as to whether AGF, 5th Army needs a further supply of Proclamations, and, therefore, do not have the print broken up in respect of those which you have had reprinted in Naples.
3. It is probable that Proclamations 1 and 11 will be needed to meet the new circumstances following the declaration of war by the Italian Government and directions have already been sought from A.F.H. on this. Do not therefore have these two Proclamations reprinted if you receive this letter in time to stop the printing. A signal has already been sent you to stop printing and posting Proclamation 6 as instructions are also omitted from A.F.H. on this. Such signal cancels instructions referred to in postscript to your above Report.
4. Para 2. A direction as to the Italy Gazette will be sent you as soon as possible.
5. Para 4. Your comments and attached instructions are noted and agreed.
6. Para 5. Summary Courts should be conducted in accordance with the procedure set out in the AG Manual. This procedure is very simple and rapid and there is no reason why it should not be followed. There is no objection to instructions being issued to explain the authorized procedure so long as this procedure is not altered. Instruction should be given where necessary to officers holding Courts.
7. Para 8. The temporary instructions which were given you by Col. Chandler in regard to records of cases need some modification now that a legal branch of this Headquarters has been established and communications are no longer so difficult. In future, please send:-
 - (a) All case records of Superior and General Courts
 - (b) A general note of the details of any case heard by a Summary Court, where a petition is lodged by the accused; and,
 - (c) A return of all cases heard by Summary Courts in 5th Army area showing the place of trial, the name of the accused, the charges, the plea, the finding, the sentence and the name of the officers trying the case.

2. Para 1 and 2. Enquiry is being made as to whether Art. 8th may need a further supply of Proclamations, and, therefore, do not have the print broken up in respect of those which you have had reprinted in Naples.

3. It is probable that Proclamations 1 and 11 will be needed to meet the new circumstances following the declaration of war by the Italian Government and directions have already been sought from A.P.H.A. on this. Do not therefore have these two Proclamations reprinted if you receive this letter in time to stop the printing. A signal has already been sent you to stop printing and posting Proclamation 6 as instructions are also awaited from A.P.H.A. on this. Such signal needs instructions referred to in memorandum to you above Napoli.

4. Para 2. A direction as to the Italy Gazette will be sent you as soon as possible.

5. Para 4. Your comments and attached instructions are noted and agreed.

6. Para 5. Summary Courts should be conducted in accordance with the procedure set out in the ABC Manual. This procedure is very simple and rapid and there is no reason why it should not be followed. There is no objection to instructions being issued to explain the authorized procedure so long as this procedure is not altered. Instruction should be given where necessary to officers holding courts.

7. Para 6. The temporary instructions which were given you by Col. Chandler in regard to records of cases need some modification now that a legal branch of this Headquarters has been established and communications are no longer so difficult. In future, please send here:-

(a) All case records of Superior and General Courts;

(b) A general note of the details of any case heard by a Summary Court, where a petition is lodged by the accused; and,

(c) A return of all cases heard by Summary Courts in 5th Army area showing the place of trial, the name of the accused, the charge, the plea, the finding, the sentence and the name of the officer trying the case.

With regard to (c) above, Summary Court Registers with loose leaves on which to make the return, have been printed and a supply is being obtained from Palermo and will be forwarded to you as soon as possible.

8. Para 10. The question of Italian Military Tribunals is one of some difficulty. It is being discussed as a matter of common policy with H.Q. A.P., Palermo, and a directive will be issued as soon as possible.

9. Para 12. In answer to your enquiry, reference imprisonment in default of payment in fines, this imprisonment is NOT included in any terms, which is awarded in addition to a fine, for the purpose of calculating the 12 months limit of jurisdiction of a Summary Court.

10. Para 11. It is believed that certain laws of Fascist
complexion have already been repealed by the Italian Government and an
enquiry as to this is proceeding. Any unending law passed by the
Allied Military Government will be the subject of a general order or
proclamation and not of a Regional Order. The laws you mention are noted
and your comments are being forwarded to H. S. Ash, Belmont, for in-
vestigation by the Bureau of the Legal Division there which deals with
Italian laws. It will be further appreciated if you will let this H. S.
know of any further laws of a like nature which come to your notice.

11. Para 11. The action taken by you is approved. It is hoped
to issue a directive on the subject of land transactions at an early date.

A. M. G.,
15 Army Group,
G. M. S.,
HQS/MA

H. S. Ash
H. S. Ash,
Lieut. Colonel,
Chief Legal Officer.

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HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

AMGOT 3/6034/L2
22, October, 1943

Subject: Report from 8th October to 21st October, inclusive.
To : Chief Legal Officer, AMGOT Sicily. u.f.s. R.C.A.O.
From : Regional Legal Officer, Region III. AMG.

The following is a report by the Legal Division from 8th October to date.

Proclamations: Proclamations 1, 2, 3, 4, 5, 8, 11, 12 and 13 and General Orders Nos. 1 and 2 the warning and notice accompanying Proclamation No. 2 have been posted throughout the territory occupied by Allied Forces in this region. The supplies of Proclamations received were found to be inadequate and especially in Naples town these were insufficiently posted. To remedy this 4000 additional copies of all the Proclamations noted above have or are being printed and a reserve file of 6000 Proclamations for subsequent operations is being amassed here.

2. Authority was sought from AMGOT to post proclamations Nos. 6 and 10. No reply has been received as yet and as it is considered necessary to post Proclamation No. 6 since the Controller of Property is already acting, copies of that Proclamation are being printed and will be posted in this Region forthwith.

3. Proclamation 10 has not yet been printed or posted. Many requests have been made for the publication of all our proclamations and orders in book form for ease of reference. Is it intended to publish a gazette called say the "Italia-Gazette" or the "AMG Gazette"? I feel that although it would be useful to have as a reference book for staff officers, Italian officials and our own personnel, if the life of the Proclamations in areas is going to be short it would not seem

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4. Italian Criminal Courts.

The Tribunali and Praetore Courts in Salerno province were opened about one week ago and these courts in Naples town and province are opening now. A copy of the order setting out the conditions upon which these courts are opened is attached in English and Italian. The first President of the Court of Appeal Ferri who is reported as an ardent Fascist had left Naples before our occupation. It is not intended to continue him in his office should he ever return. The senior of the remaining presidents has under the authority of the R.C.A.O. been appointed acting first president. A copy of a letter upon the suitability of the remaining court personnel received from CIC is attached. The Tribunali and Praeture at and within the circondario of Sant'Angelo dei Lombardi and Ariano Irpino will be opened within the next week. *Those in Andriano and Benevento are already opening. All the courts have since been completely with done 5.*

Summary courts have been held in numerous towns throughout the territory occupied. The majority of the cases heard have been minor offences, petty stealing, black market and price control contraventions and curfew. Due to the small numbers of officers throughout the territory and the great amount of work which has to be overtaken by CAO's insufficient time has been devoted to the trial of cases with the result that little more than rapid justice has been done. In many cases the rules set out in the manual have not been followed. It is expected that conduct of such trials will improve as a result of instructions which have been issued by this office and that the proper forms which are being printed will be completed by the judges.

6. Two summary courts have been sitting in Naples town to attempt to keep up with the arrests made there. Again the majority of the cases have been disposed of. There are about 150 waiting trial of which 100 are confined in jail. Difficulty has been met in connection with arrests made by military personnel of workers from the docks who have been arrested and put in jail because they have been found in possession of one tin of rations or a packet of cigarettes. Suspended sentences have been passed upon such accused and representations have been made to the military authorities not to arrest these persons as in almost all the cases the

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7. Superior and General Courts have been appointed

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and sat or are sitting for the disposal of several major cases.

8. With regard to the review of cases. It was verbally arranged with the Chief Legal Officer AMGOT (Col. Chanler) that the records of all cases should be sent to this office for examination and file by the Regional Legal Officer; that the record of all cases where the sentence exceeds two years imprisonment or a fine of 50,000 lire shall be sent to the office of the Chief Legal Officer, AMGOT for review in terms of Proclamation 4 Article VII Section 3, may it please be confirmed that records of cases will be disposed of in this manner.

9. Prisoners. In addition to the statistics of persons in jail in Naples contained in my last report it is now reported that at Avellino 555 and at Benevento 320 prisoners were released from the jails there during air raids on the directions of the German commanders. I should add that at Avellino the prisoners really broke out of the jail during a heavy bombardment and the guards were quite unable to prevent their escape. On application being made to the German Commander he is reported to have refused assistance and said they should be released. No reports of the recapture of any of the prisoners in any of the towns has been received from the Public Safety Division.

10. Italian Military Tribunals. The question of the continuance or suspension of Italian Military Tribunals arose shortly after our arrival. I attach a copy of a memorandum which I prepared on the subject and a copy of a signal asking instructions on policy. This is a question which must be considered in close liaison with the Army HQ as it affects the disciplinary measures to be adopted towards the Italian soldiers who are being reorganized for service. I have discussed this question with JAG 5th Army who agrees with me and we both recommend that if the Italian Army is being reformed Italian Military Tribunals should be reestablished. In the meantime pending a decision on this question instructions have been sent out to all S.C.A.O.'s to enquire into those cases of persons held in jail at the disposition of these tribunals and to grant provisional liberty to such of them as it is considered could be released from detention.

11. General Instructions.

Application was made by telegram to give the regional

years imprisonment of a fine of 50,000 lire. The office of the Chief Legal Officer, AMGOT for review in terms of Proclamation 4 Article VII Section 3, may it please be confirmed that records of cases will be disposed of in this manner.

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11. General Instructions.

Application was made by telegram to give the regional Legal Officer power to send cases directly for trial before Superior and General Courts. This power was granted by Chief Legal Officer AMGOT 15th Army Group giving the regional legal officer power to act for the Chief Legal Officer in any matters which under the Proclamations and Instructions he can delegate.

12. I am anxious to have a ruling upon the following point. By Article III Section 3 of Proclamation No. 4

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a summary military court may "impose any lawful punishment except death and imprisonment for more than one year or fine" of more than 50,000 lire, or both such imprisonment and fine". In cases where both imprisonment for a year and a fine are imposed it is normally added that the accused will serve an additional period of imprisonment calculated at the rate of 1 day per 100 lire of the fine where he fails to pay the fine. This has the effect of imprisoning an accused person for a period of more than 1 year (excluding practical possible remission for good conduct). I am not satisfied that a summary court can in fact impose a penalty which results in imprisonment for more than 1 year. May a ruling please be given on this.

13. Laws of racial discrimination:

I have now enquired into the laws which were enacted to ensure the purity of the Italian race and the victimisation of the Jews. The Italian committee of Liberation for Naples and other senior officials are very anxious to have these laws suspended. This is a matter of policy which should be considered in relation to the action to be taken generally in the rest of Italy. I feel that we should suspend at least some of these laws at once, they were a purely Fascist accretion to come into line with Nazi ideals and their temporary suspension would have a great political effect. It is within the power of the Military Governor to do so. The important laws which it is suggested should be suspended by Proclamation are RDL 5/9/39 No. 1390: Prohibiting Jews from attending the same schools with gentiles, and teachers of Jewish race teaching in Christian establishments.

RDL 17/11/38 No. 1728: Excluding Jews from Italian businesses. RDL 29/6/39 No. 1054: No professional services to be rendered to or obtained from Jews. 9

RDL 13/7/39 No. 1055: Compels Jews to assume their old Jewish name. Limits amount of their estates which may be disposed of by will. Excess to such limitations going to the town. Art. 91 of the Civil Code and RDL 17/11/38 No. 1728: which prevents marriage of Italians with persons of any other race in particular Jews and imposes penalties.

14. Land transactions:

Applications are being made by persons to sell land. It is being sought by former who have had their instruments

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

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14. Land transactions:

Applications are being made by persons to sell land. It is being sought by former who have had their instruments houses etc. destroyed by war and who wish to sell to their neighbours a part of their land in order to obtain money to purchase new implements, seed and to re-establish their farms. I have advised the R.C.A.O. that it is proper for him as an officer empowered by the C.C.A.O. under Proclamation No. 5 Article III Section I to give consent on my advice to such transactions as are approved.

AMG. HQ
Region III
22.10.43

J. Whiss

Lieutenant Colonel
Regional Legal Officer.

P.T.O.

'NOTE: With reference to paragraph 2 Supra Note. Since writing this report written permission has been received to post Proclamation 6 a copy of which is attached. Lt Col. Claybourne however gave me a subsequent verbal order from Col. Charles not to post this Proclamation. It will not be posted but I should point out that the Property Controller is already acting under it.

J. W. H.

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT

17 October, 1943.

Subject: Reopening of Italian Criminal Courts.
To : The Acting President of the Court of Appeal.
From: Chief Legal Officer, AMG Region 3.

With reference to the meetings held with you and the members of the Tribunale ~~di~~ Penali of Naples, the Avvocato Generale and the Procuratore del Re for Naples authority is hereby given for the reopening of the Tribunale di Penale and the Praetura Court in Naples for the disposal of all cases within the criminal competence of these courts. Will you please transmit this authorization together with all the instructions governing the reopening to the officials of these courts as early as possible.

2. In these courts all cases pending trial in respect to which the accused are presently detained in prison will be heard and disposed of before all other cases. No persons will be arrested and brought to trial before these courts for any acts which were made offences for the protection or furtherance of the interests of the former Fascist party or acts of a purely political or antisocial nature, including racial discrimination, in respect to which penalties were imposed.

3. I am obliged for your letter of 11th October 1943 signed by yourself and the Avvocato Generale together with the letters dated 12 October, 1943 from the President of the Praetura and 6th October, 1943 from the Procuratore del Re containing proposed recommendations and modifications to be introduced. Accordingly to meet the present state of emergency the following procedure is approved and will be adopted.

(a) The court and the prosecution have the right to grant provisional liberty even in cases set forth in Article 253 of the Code of Penal Procedure, whenever the offence is not serious or the circumstances in which the

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(a) The court and the prosecution have the right to grant provisional liberty even in cases set forth in Article 253 of the Code of Penal Procedure, whenever the offence is not serious or the circumstances in which the acts committed do not justify the continued detention of the accused. This provision shall apply to both offences committed since the occupation and also in cases of prisoners condemned to terms of imprisonment by Italian courts before our occupation. In the latter case the decision of the Procuratore will be submitted to and approved by the Chief Legal Officer or an officer of the staff.

(b) If in any case before it the court is of opinion that the minimum sentence for the offence charged is excessive under the circumstances of the particular case the judge may impose a sentence less than the minimum required by law.

4. It will be assured that all Italian police authorities comply strictly with Art. 238 and 244 of the Code of Penal Procedure. The cases of all persons arrested upon suspicion or without warrant will be referred to the Procuratore del Re or the Pretore within 24 hours of arrest.

5. All judgements in these courts will be issued in the name of "the law".

6. The following powers are reserved to the Allied Military Government:

(a) Any Legal or Civil Affairs Officer may attend any sitting of these courts.

(b) Any case may be reviewed and any verdict or sentence varied by order of the Chief Legal Officer, AMGOT.

(c) All defendants may petition to the Military Governor for review of any judgement and sentence where it is claimed that the judgement was affected by ostility towards the Allied Forces or was prejudicial to their interests.

(d) Cases may be withdrawn from Italian courts for trial by Allied Military Courts before sentence has been promulgated, under Article II section 3 of Proclamation 4.

7. At the conclusion of each week the Tribunale and Pretore Courts will supply to the AMG Legal Officer at his office in the Tribunale a return in triplicate of all cases disposed of by these courts during that week showing: Case No; Name of Accused; Age; Sex; Address; Description; Charge; Plea; Findings; Sentence and any remarks by the Judge. A return will also be made at the same time of all

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8. These courts will NOT be opened until further order for the trial of civil cases but in the meantime the following urgent procedure requested in the letters under reference may be proceeded with:

- (a) Appointment of receivers "pendente lite"
(deceased persons and creditors)
- (b) Declaration of absence or of presumed death.
- (c) Judicial separation of spouses.
- (d) Measures to protect the interests of Minors.
- (e) Rights of married women.
- (f) Adjudication, internment or release of and
measures for the protection of lunatics and their estates.
- (g) Orders concerning shares and bonds destroyed
or lost.
- (h) Care of aged.
- (i) Preservation of evidence.
- (j) Affidavits.
- (k) Obtaining of dying declarations.
- (l) Restitution in cases of forceable entry.
- (m) Protection of rights of absent or missing
heirs.
- (n) Procedure for ascertainment and administration
of estates of deceased persons.
- (o) Acceptance or refusal of legacies or benefits
under will or by law of descent or distribution.

9. I shall be glad to receive for consideration
any further recommendations from you which you or your
colleagues may have which will tend towards the better
functioning of the courts.

By order of Col. HUME

Sgd. J. V. M. SHIELDS,

Lt. Col.

Chief Legal Officer.

MINISTERO DEL RE
ALFRED WINTERMARK STEVER 1942
REGIO 3
LEGAL DIVISION
(Translation)

ALGOE/3/6006/119
15th October, 1943

Oggetto : Riapertura delle Corti Criminali Italiane

A : All'Attuale Presidente della Corte di Appello, Napoli.
Da : Capo Ufficiale Legale, A.M.G., 3 Regione .

1) In riferimento all'atto contro avuto con lei, con i membri del Tribunale di Napoli, l'Avvocato Generale ed il Procuratore del Re per Napoli, a mezzo della presente la diamo istruzioni per la riapertura del Tribunale Penale e la Pretura di Napoli per la trattazione di tutte le cause criminali di competenza di codeste Corti.

Voglio trasmettere queste autorizzazioni insieme a tutte le istruzioni ai Ragistrati e Funzionari di codeste Corti per la regolare riapertura, al più presto possibile .

2) In Codeste Corti le prime a trattare i saranno tutte le cause sospese e per le quali gli accusati si trovano presentemente in carcere. Nessuno sarà arrestato o portato davanti a codeste Corti per qualsiasi atto che sia di cospirazione reato allo scopo di proteggere al potere l'interesse del Partito fascista o atti che sono politici o antisociali includenti anche atti di discriminazione razziale in rapporto ai quali interviene l'imponenza penale.

3) Ringrazio lei e l'Avvocato Generale per le loro lettere dell'11 Ottobre, quella dell'Avvocato Generale del 12 Ottobre 1943 per quella del 3 Ottobre del Presidente della Pretura e per le lettere del Procuratore del Re le quali proponevano modificazioni e 14 consigli per le modificazioni da essere introdotte.

Per venire incontro al presente stato di emergenza le seguenti procedure sono approvate e dovranno essere approvate.

a) I Giudici ed il Procuratore del Re hanno la facoltà di accordare la libertà provvisoria anche nei casi indicati nell'1.253art., la Procura Penale quando il reato non è grave e la circoscrizione sotto la quale il reato si commette non sono sufficientemente gravi per giustificare la detenzione dell'accusato. Questo

1) In riferimento all'incontro avuto con lei, con i membri del Tribunale Civile e Penale di Napoli, l'Avvocato Generale ed il Procuratore del Re per Napoli, a mezzo della presente io diamo istruzioni per la ripartizione del Tribunale Penale e la Pretura di Napoli per la trattazione di tutte le cause criminali di competenza di codeste Corti.

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2) In Codeste Corti le prime a trattare i saranno tut e le cause sospese e per le quali gli accusati si trovano presentemente in carcere. Des uno sarà arrestato o portato davanti a codeste Corti per qualsiasi atto che sia co siderato reato allo scopo di proteggere ed assicurare l'interesse del Partito fascista o atti che sono politici o antisociali includenti anche atti di discriminazione razziale in rapporto al quali interessi e'imponvano pena.

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b) In qualsiasi caso che la Corte sia dell'opinione che la prima condanna, per il reato in esame, in vista delle circostanze del caso; il giudice ha la facoltà d'imporre una condanna minore di quella stabilita dalla legge.

4) Le autorità della Polizia Italiana si dovranno attenere

2. Page. //

alla stretta osservanza degli Art. 233 e 244 C.I.P. riguardo a tutti i casi di arresto di persona sotto sorveglianza o arrestato senza mandato che dovranno essere riferiti al Procuratore del re nelle 24 ore dell'arresto.

5) Tutte le condanne, decisioni ed ordini di codeste Corti saranno rilasciati in 3 NOMI DELLA LEGGE.

6) I seguenti poteri sono riservati al Governo Militare Alleato.

7) a) Qualunque Ufficiale Inglese o Ufficiale d'Affari Civili potrà essere presente a qualsiasi processo di codeste Corti.

b) Qualsiasi causa potrà essere rivista e qualsiasi decreto o condanna potranno essere modificati per ordine del Capo Ufficiale Alleato.

c) Tutti gli accusati potranno chiedere al Governatore Militare il rinvio di qualsiasi decreto, decisione o condanna per ragione che il decreto, decisione o condanna fu ingiustamente da ontilità alle Forze Alleate o per ragioni contro i loro interessi.

d) Qualsiasi causa potrà essere ritirata dalle Corti Italiane per essere giudicata dalle Corti Militari Alleate prima che la sentenza sia divulgata, ai sensi dell'art. II Sezione 3 Proclama No. 4.

8) Alla fine di ogni settimana il Tribunale e la Procura presenteranno all'Ufficiale Legale del Governo Militare Alleato, nel suo ufficio del Tribunale, un rapporto in tre copie di tutte le cause giudicate dalle Corti durante la settimana indicando: il No. del Giudizio, nome dell'imputato, l'età, il sesso, l'indirizzo di residenza, imputazione, se ne è dichiarato colpevole o innocente, la decisione della Corte, la condanna e qualsiasi dichiarazione del Giudice in riguardo alla causa. Allo stesso tempo codeste Corti rappresenteranno tutte le cause pendenti indicando separatamente l'imputato in carcere e quelli in libertà.

9) Le Corti non saranno aperte per latoris civile fino a nuovo ordine; nel frattempo le seguenti procedure richieste con le suddette lettere potranno essere trattate.

a) Nome di curatori "pendenti lite" (morti e creditori)

b) Assenso e dichiarazioni di morte presunte.

vili potrà essere presentato a qualsiasi processo di codeste Corti.

c) Qualsiasi causa potrà essere rivivita e qualsiasi decreto o condanna potranno essere notificati per ordine del Capo Ufficiale Alleato.

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d) Qualsiasi causa potrà essere ritirata dalle Corti Italiane per essere giudicata dalle Corti Militari Alleate prima che la sentenza sia finalizzata, ai sensi dell'art. II Sezione 3 Proclama No 4.

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9) Le Corti non saranno aperte per materia civile fino a nuovo ordine; nel frattempo le seguenti procedure richieste con le suddette lettere potranno essere trattate.

a) Nomina di curatori "pendenti lite" (morti e creditori)

b) Assenso e dichiarazioni di morte presunta.

c) Separazione legale di sposi.

d) Tutte le misure che siano necessarie per proteggere gli interessi dei minori.

e) Tutte le misure che saranno necessarie per proteggere i diritti dello stesso marito.

f) Giudizi, interruzione o rilascio e tutte le misure che siano necessarie per la protezione degli interessi dei folli vivi o morti o per la loro proprietà.

g) Decreti e riguardo ad azioni od obbligazioni distrutte o perdute.

3 Page .

h) Cure e provvedimenti legali per proteggere la vacchiaz-

ia .

i) Istruzioni preventive e provvedimenti di urgenza .

j) Atti di notorietà .

k) Ricezioni di dichiarazione di morenti .

l) La difesa del possesso .

m) Tutte le misure che saranno necessarie per proteg-

gere i diritti degli eredi assenti o mancanti .

n) Tutte la procedura e ciò che sia necessario per

l'accertamento e l'amministrazione dei beni e le proprietà dei de-

funti .

o) Accettazione o rinunzia dell'eredità .

10) Sarò contento di ricevere e considerare qualsiasi al-
tro consiglio, da lei e dai suoi colleghi, allo scopo di migliorare
l'andamento delle Corti.

Firmato:

J.V.M. Shields

Tenente Colonnello
Ufficiale Capo Legale .

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CONFIDENTIAL

HEADQUARTERS

COUNTER INTELLIGENCE CORPS, FIFTH ARMY
(305th Counter Intelligence Corps Section)
A.P.O. 464

17 Oct. 1943

MEMORANDUM FOR THE OFFICER IN CHARGE:

Subject: Personnel of Naples Courts

Re : Investigation.

At the request of Major Shields, Chief Legal Officer, AMG, this Agent conducted an investigation into the political sentiments and Fascist attitudes of the President of the Court of Appeal, the sixteen Presidents of the Sessions of Court of Appeals, the President of the Tribunale Civile e Penale, and seventeen Presidents of the Sessions of the Tribunale, the Chancellor, the Procura General, the Avvocato General, and the Procura of the Tribunale.

As a result of his investigation, this Agent found that the Courts had a rather good reputation from the point of view of resistance to Fascist domination. Although the great majority of the members were party members, most became so after 1932, when all rights of promotion were denied to non-party members. Many of these were at heart anti-Fascist, and showed their feelings. Several of the judges of the Tribunale, though party members, were publicly condemned for their failure to show the proper Fascist spirit in their interpretation of the law.

The one exception to this record is Giovanni Battista FERRI, First President of the Court of Appeal. He is the worst Fascist element of the whole magistracy, placed there for the purpose of forcing the judges to accept the arbitrary decrees of the regime under the threat of cutting off their carcera. He was a Squadrista, wore the Littoral scarf, and frequently declared that he was prouder of being a Squadrista than President Judge and more proud of his black shirt than of his judicial robes. (This was blasphemy in the ears of the Neapolitan Bar, which has the proudest legal traditions in all Italy.) He was cruel in the application of Fascist spirit to the law, denunciatory of

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This Agent therefore recommends that the Courts be reopened as quickly as possible, but that FERRI should be not allowed to return to his old place. FERRI should be publicly removed and his place given to a judge of known anti-Fascist sentiments and recognised legal talent, of whom there are several.

Approved:
Stephen J. Spingarn
Major, MI, Commanding

GERALD J. WEBER
Special Agent, C.I.C.

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT

OUTGOING MESSAGE

DATE 15 OCT. 1943

TO: FIFTEEN ARMY GROUP FOR AMGOT SICILY

FROM: FIFTH ARMY

CLASSIFICATION: CONFIDENTIAL

PRECEDENCE: ROUTINE

APPROVED:

DOUGLAS N BATSON
1st LT. CMP.
ACTG ASST. ADJT. GENERAL

FROM AMG IS POLICY TO ALLOW ITALIAN MILITARY/TRIBUNALS TO FUNCTION
IN OCCUPIED TERRITORY IN VIEW STATE OF WAR RECOMMEND IMMEDIATE
REESTABLISHMENT HERE UNDER SUPERVISION FOR TRIAL ALL PRE OCCUPA-
TIONAL CASES NOW PENDING AND CONTINUATION OF TRIBUNAL FOR TRIAL
ALL COMPETENT CASES NO OTHER COURTS HAVE COMPETENT JURISDICTION
SUCH CASES UNLESS VARIED BY PROCLAMATION JA CONCURS

HUME

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DISTRIBUTION:

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HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
APO 464, U.S. ARMY

Amgot 3/6013/ L
7 October 1943.

SUBJECT: Proclamation N° 6.

TO : C.G. AMG, APO 777.

1. Request is made for authority to publish Procl. N°6.
2. Further request a supply of Proclamation N°6.

For the Commanding Officer:

HARRY C. KAIT,
Captain, JAGD,
Actg. Asst. Adjt. General.

By Courier Lt. Drage.

1st IND.

To: C.O., Region 3, AMG, A.P.O. 464.

Amgot /4022/3/ L
12 October 43.

From: H.Q., AMG, A.P.O. 777.

1. Authority requested para 1 basic communication is granted.
2. Supplies of Proclamation N° 6 will be forwarded at earliest opportunity.

By Order of Brigadier-General MC SHERRY.

JOHN R. MC DOUGALL,
Major,
Adjutant.

MEMORANDUM ON ITALIAN MILITARY TRIBUNALS

Italian Military Tribunals were established in 1869. In 1941 a military Penal Code was enacted which gives military tribunals jurisdiction in criminal offences committed by military and nonmilitary personnel. These courts also have jurisdiction in territory declared to be in a state of war, among other cases they try all common crimes committed by military personnel, crimes against Italy committed by anyone and infractions of the law of civilian mobilisation.

2. There were set up ~~a~~ Italy military tribunals in each of the following areas where they had territorial jurisdiction; Torino, Milano, Verona, Trieste, Bologna, Spezia, Rome, Naples, Taranto, Calabria, Sicily, Sardinia, and Zara. These courts sat in the principal town of the territorial area and all cases were brought to that court for trial. In addition each Army Corps has a Tribunal, and an Army Corps Commander may ~~otherwise~~ ^{also} the establishment of other tribunals where required.

3. The court has three categories of officials

- 1 - Magistrates
- 2 - Judges
- 3 - Cancellerie

In peace time the first category were reserve officers who while civilians donned uniform when they came to sit as members of a military tribunal. In war time all these officers were recalled to active duty ~~for~~ permanent^{as} an organic part of the tribunals. In war time additional persons, such as university professors of law, magistrates and advocates of not less than 15 years standing were called to military duty to sit on these tribunals.

4. The second category are permanent military, naval and air force officers who form the administrative body of the tribunals, like our Judge Advocate staff.

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5. The third category are really the clerical staff who in peace time are civilians but in war time are called to the colours and serve as soldier clerks.

6. In peace time the military personnel are paid by the War Department and the civilians by the Ministry of the Interior through the Intendente di Finanza. In war time all the personnel is paid from army funds as serving soldiers.

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7. In Naples there is staff for the territorial military tribunal of about sixteen Judges and fourty four Magistrates and Cancelleria.

8. A Military tribunal is composed of three or five members depending from the gravity of the offence. No officer may be tried by a court of other officers anyone of whom is his junior.

9. If we had occupied Italy and made all her soldiers prisoners of war in theory, as she was an enemy state all military tribunals would have been automatically suspended. As however the Italian Army is being reconstituted and there are no competent courts to try those persons who were waiting trial before these courts previous to our occupation, I am of the opinion that the Italian military tribunals should be reestablished to exercise discipline over Italian soldiers and civilians committing offences triable only by those tribunals.

Sgt. J. W. M. SMITH
Lieutenant Colonel,
Chief Legal Officer.

A.M.G.
Region 3 HQ.
15/10/43.

HEADQUARTERS

REGION 3

ALLIED MILITARY GOVERNMENT

October 9; 1943.

TO:

SUBJECT: Report by Legal Division for the period from the 3rd to 8th October 1943 inclusive.

I arrived in Naples on 3rd October 1943. Lt: Col. McClaine, Legal Officer for the Province and Town of Naples had been there for about two days. Pending the decision regarding the building to be used for Regional HQ a temporary office for the Legal Division was set up in the Tribunale building. It is intended to maintain this office for the use of the Division in connection with the establishment and supervision of the Italian Courts.

2. Personnel

The Legal Officers in the Region are presently appointed for the following duties:

Naples Province and Town: Lt. Col. McClaine

Lt. Kazens

Salerno Province: Lt Berden

Benevento and Avellino Province: Capt Gold

Assistant to Regional Legal Officer ^{Italian Courts} Lt: Sabatino.

3. COURT OF APPEAL

The Court of Appeal and Court of Assize for the Judicial Region of Campania; which incidentally is more extensive than the territory to be administered by Region 3, are located in Naples. Meeting have been held with the senior officials of these courts. The first President, Ferri, of the Court of Appeal is absent being in Rome but as he is stated to be an ardent Fascist

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There are not many cases pending appeal.

4: Tribunali

There are seven Tribunali Civile e Penale in the Judicial region of Naples: Those within Region III territory which have been occupied are Naples

Salerno

Avellino

Benevento

and those outside are Di Ariano Irpino, S. Maria Capuavetere; and S. Angelo Dei' Lombardo: The Campobasso and Isernia Tribunals also come under the court of appeal in Naples as does the Potenza section of the Court of Appeal. As some of these Judicial areas are in Regions II and IV, liaison with the legal offices in those areas regarding the reestablishment of courts there will be made.

Avellino and Benevento, recently captured, have not yet made reports of the condition of the courts there. All the personnel of Salerno Tribunale were out of the area for some days after the occupation but the S.C.A.O. has now reported that sufficient personnel is available and approved after scrutiny to re-open the court, and as I intend to visit Salerno within the next two days instructions will be given for the resumption of the penal ^{competence} ~~competence~~ subject to necessary modifications: In Naples 7 of the judges are absent but efforts are being made to obtain the return of four believed to be in occupied territory, and it is intended to open the court there within the next few days.

5. Praeture

In the south of Region III instructions have been issued for the reopening of the Praeture. It is hoped to open this court in Naples as soon as 200 soldiers who took up quarters there are re,oved. Until yesterday the personnel of this court had not been able to gain access to the building and information on the state

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6. Buildings

The court buildings in Naples have not suffered any war damage so far and no reports have been received of any damage to buildings of other courts in the Region although it may be ^{reports} ~~from~~ general reasons expected that Avellino and Benevento court buildings are damaged. (7)

7. State of Naples

The population in this region are very judicially minded and are I understand anxious to see the courts functioning again as soon as possible. The need however to open the courts is not so great as in other Italian territory. Generally there are few persons in jail in rural districts, in Naples there are not on paper fewer persons waiting trial proportionately than usual but because the Germans committed the reprehensible act of releasing almost all the prisoners and persons in state lunatic Detention asylums before leaving the city the jails are comparatively empty. A copy of a report prepared by the Procuratore Generale on this is attached. Every effort is being made by the Public Safety section for the reappréhension of these persons. So far as I can ascertain the state of the prisons in and near Naples is as follows:

Carceri Giudiziarie Napoli		Prisoners in Jail		Served by Germans		Transferred from Naples	
Condemned	Waiting Trial	Condemned	Waiting Trial	Condemned	Waiting Trial	Condemned	Waiting Trial
NONE	NONE	31	274				
Carceri Giudiziarie Napoli Torre							
NONE	28	1	185			7	92
Casa Penale Minorile S. Efrano (Reformatory)							
7	47	18+	164+			181	-
Carceri Giudiziarie Di Napoli							
(Detentive Insane Asylum)							
19		10	89			92	-
Total	26	67	64	742	280		92

+ Adults who were detained in the reformatory.

The sixty seven cases pending are being enquired into but none of them is political charge and no persons are held in jail under the arbitrary powers of the Quaesore. A state of all prisons has been called for to cover the remaining prisons in the region. It

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→ Carceri Guidiziarie Napoli

Prisoners in Jail		Seized by Germans		Transferred from Naples jail to other jails for safety under war conditions.	
Condemned	Waiting Trial	Condemned	Waiting Trial	Condemned	Waiting Trial
NONE		31	274	NONE	
Carceri Guidiziarie Napoli Torre					
NONE	28	1	105	7	92
Casa Penale Minors. Efrano (Reformatory)					
7	47	16+	164	181	4
Manicotti 18 Guidiziarie Di Napoli (Detentive Insane Asylum)					
19	10	89	92	-	-
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The sixty seven cases pending are being enquired into but none of them is political charge and no persons are held in jail under the arbitrary powers of the Quaestore. A state of all prisons has been called for to cover the remaining prisons in the region. It is not yet known to which prisons in the region the 280 prisoners in the region were transferred from Naples. When this is ascertained it is hoped to provide transport for their return for trial. Communications and transport are however very difficult.

8. Modifications in law and procedure The senior judges and legal officials have been consulted regarding modifications of the penal laws and procedure. Many proposals have been made for wholesale alterations in laws but it is only proposed to suspend or ignore those which are repulsive and inequitable, by administrative instructions, as a temporary measure only. The list of assessors to the Corte D'Assise is being revised as the majority of the persons now named are reported as strong Fascists.

9. Many people including the Minister to the Badoglio Government are persistent in seeking an immediate rescission of the laws of racial discrimination in particular in respect to marriage between Italians and Jews. I am enquiring into these laws ~~as racist~~ and I am preparing a memorandum ~~the matter~~ ^{separate} but in the meantime I do not know how this matter was dealt with in Sicily. It did not arise in the first two months which I was there. Reports upon this and collateral questions will require to be submitted for decision by higher authority?

10. Military Courts

Summary and Superior Military courts have been sitting in various areas for the disposal chiefly of comparatively slight offences against the proclamations. The established procedure for setting up courts and the fact that all CAO's are appointed as summary courts judges has greatly facilitated the operation of these courts. It is interesting to note that all reports comment upon the lawful disposition of all civilians and their obedience to proclamations and the paucity of offences brought for trial before military courts reflects upon the state of calm and order obtaining in the region and, presumably, anxiety by civilians not to hinder the Allied forces intentionally.

11. Proclamations

About 900 copies of proclamations 1, 2, 3, 4, 5, 8, 11, 12 and 13 and General Orders 1 and 2 have been distributed.

To enable
a General
and
Superior
Courts
more
easily to
be
appointed
CE. G.M.
Army has
been asked
to delegate

temporarily ~~revised~~ only. The list of assessors to the Corte D'Assize is being revised as the majority of the persons now named are reported as strong Fascists.

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11. Proclamations

About 900 copies of proclamations 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 and General Orders 1 and 2 have been posted throughout the area. Authority to post proclamation No 6 has been asked for by signal from AMGOT H.Q. Sicily.

12. The many petty but detailed administrative duties which must attend the setting up of the HQ's have occupied a large part of the time of the small number of officers and men in the

20 October
A General
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appointing
to the C.E.
Naples
area.

division. During the last few days but ~~with~~ the allocation of some EM/ORs and the engagement of civilian employees will enable office routine to prevail and leave time for uninterrupted work in the department.

J. H. Smith.

Major

Chief Legal Officer

AMG

Region III HQ

Naples

8 . 10 . /43

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PROCURA GENERALE DEL RE IMPERATORE
PRESSO LA CO RTE DI APPELLO DI NAPOLI

To:

The Director of the Legal Department of Region 3
of the Allied Military Government.

For duties of office, for provisions which you will believe to adopt and with prayer of communication for the accomplishment, I am honored to inform you of the following occurrences:

1) During the incursions of July 14 to July 17 of this year forty-seven (47) prisoners escaped from the jail of Poggioreale in Naples, three (3) of which were captured;

2) Because of mutiny and violence against the personnel in custody twenty-six (26) prisoners escaped the 12th of September from the jail of Marano and also the prisoners of the jail of S. Anna Aversa.

3) Also on the 12th of September German troops forced the liberation of twenty-four (24) prisoners from the jail at Giugliano.

4) On September 13th two armed Germans forced the liberation of a prisoner, Navarretta Giovanni, from the jail of Piedimonte d'Alife.

5) German soldiers commanded by an officer on the same day the 13th freed four hundred and sixty-eight (468) prisoners from the criminal insane asylum of Aversa and seventy-eight (78) from the jail in the same city.

6) Also German soldiers forced on the 14th of September the liberation of thirty-five (35) prisoners from the jail of Trentola.

7) On the same day, German soldiers, also under orders of their officers, imposed the liberation of one hundred and seventeen (117) prisoners from the women's jail of Naples;

8) The 16th of September also by force of German soldiers twelve prisoners had to be liberated from the jail of Afragola.

Civilians armed with machine guns and hand grenades and rifles freed on the 29th of September sixty-four inmates from the judiciary insane asylum (Manicomio giudiziario) of S. Eframio of Naples and twenty-four (24) from the prison for women or female house of detention of Naples;

10) Finally, the first of the current month, more than 150) one hundred and fifty, individuals in civilian clothes armed with rifles, machine guns, and hand grenades forced the liberation three hundred and four (304) inmates from the jail at Poggioreale of Naples.

FOR THE PROSECUTING ATTORNEY GENERAL
THE ATTORNEY GENERAL

MINERVINI CORRADO

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Appendix A

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