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REPORTS BY LEGAL
OCT. - DEC. 1943

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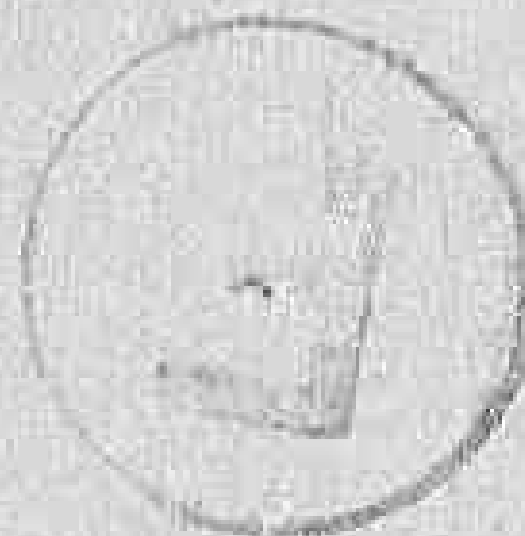
REPORTS BY LEGAL DIV., AMG 15 ARMY GROUP
OCT. - DEC. 1943

AMIG/204

REPORTS BY LEGAL

Div. AMIG 15 ARMY GP

AND MINUTES AND MEETINGS



0154

REPORTS BY LEGAL

Div. AMG. 15 ARMY GP

AND MINUTES OF MEETINGS



31 *caja 20*

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~~1005~~

TO: []
FROM: JUNTA DE REFORMAS
TO: []
DATE: []
CATALOGUE

0 1 5 3

Subject: Transfer of Italian Territory.

WEST BOMBAY.

Major A.M.C.,
15 Army Group,
C. I. P.

11 NOV 1945

File →

METHODS OF IMPROVING THE QUALITY OF DOCUMENTS
LIEUT. COLONEL. GENERAL. GENERAL.
ARMY GROUP ON 13. NOV. 1945.

Lieut. Colonel Chester produced drafts of documents proposed in connection with the turn back of Regions I and II to the Italian Government and he stated that these documents had been drafted by him and Colonel Upjohn in Brindisi and that they had received the approval of General Jervis and other persons at Brindisi. He desired my views on the contents of the draft documents. I stated that I had no instructions with regard to the policy involved and pointed out that any comments on the draft must not be taken as indicating approval or disapproval of the measures which were envisaged in the drafts. This was agreed.

2. The drafts consisted of three documents as below:-

"A" - Draft terms for restoration of territory to the Italian Government;

"B" - Draft Proclamation for the Military Government; 31

"C" - Draft Proclamation of acceptance of transfer of territory by Head of Italian State.

After perusing the drafts I raised the points more generally set out below.

3. With regard to document "A", I pointed out that this, in its present form, provided that General Sir Harold Alexander as Military Governor relinquished and restored to the Government of Italy all his occupational powers over the restored territory, subject to certain reservations of powers to the Allied forces, and I stated that the natural wording of this appeared to me to mean that the rights which were reserved were rights which could only have been originally acquired by military occupation, that the reservation of them to the Allied forces left such powers vested in General Sir Harold Alexander as G.O.C.-in-C. and that such powers could only be claimed so far as they were necessary for the benefit of the Allied forces. I suggested that the powers should be taken by way of command rather than by reservation, that such powers

MEMORANDUM FOR THE RECORD
SUBJECT: ITALIAN PROPOSALS FOR THE RESTORATION OF TERRITORY TO THE ITALIAN GOVERNMENT
DATE: 13 JULY 1943

Lieut. Colonel Chandler prepared drafts of documents proposed in connection with the turn back of regions I and II to the Italian Government and he stated that these documents had been drafted by him and Colonel Spjohn in Trinidad and that they had received the approval of General Joyce and other persons at Trinidad. He desired my views on the contents of the draft documents. I stated that I had no instructions with regard to the policy involved and pointed out that any comments on the draft must not be taken as indicating approval or disapproval of the proposals which were envisaged in the drafts. This was agreed.

2. The drafts consisted of three documents as below:-

- "A" - Draft terms for restoration of territory to the Italian Government;
- "B" - Draft proclamation for the Military Government;
- "C" - Draft Proclamation of acceptance of transfer of territory by Head of Italian State.

After perusing the drafts I raised the points now generally set out below.

3. With regard to document "A", I pointed out that this, in its present form, provided that General Sir Harold Alexander as Military Governor relinquished and restored to the Government of Italy all his occupational powers over the restored territory, subject to certain reservations of security to the Allied forces, and I stated that the nature of working of this appeared to me to mean that the rights which were reserved were rights which could only have been originally acquired by military occupation, that the reservation of them to the Allied forces left such powers vested in General Sir Harold Alexander as G.O.C.-in-C. and that such powers could only be claimed so far as they were necessary for the benefit of the Allied forces. I suggested that the powers should be taken by way of request rather than by reservation, that such powers should be vested by the document in the Commander in Chief of the Theatre of Operations, namely, General Eisenhower, and that it should be plain that the powers were vested in General Eisenhower on behalf of the United Nations, and not confined to the Allied forces. Lieut. Colonel Taylor and Colonel Spjohn agreed this with the exception that they were satisfied with the use of the word "reservation" and Lieut. Colonel Chandler stated that he would amend document "A" to provide that the G.O.C.-in-C. would relinquish the territory and reserve the powers by express direction of General Eisenhower and that the powers should be reserved to General Eisenhower. Colonel Spjohn suggested, and it was agreed, that it should be made clear in the document that General Eisenhower held the reserve of powers on behalf of the United Nations.

- 2 -

4. It was agreed that in document "A" the word "now" should be inserted before the words "under the jurisdiction" in the second line on page 2 of the draft document.
5. The wording of the reserved powers in document "A" was then considered and discussed. The policy of creating military zones following the British precedent in Madagascar was agreed, having regard to the doubt which might exist as to the extent of our powers in unoccupied territory under the justice terms. Clause 8 of the powers was considered and discussed and subject to further consideration by Lieut. Colonel Chanler and Colonel Upjohn it was decided to delete this clause as being unnecessary and unwise.
6. Document "B" was then discussed and it was agreed that this document should be brought into line with document "A" in that it should be expressed to be signed by the C.O.C.-in-C. upon the authority of General Eisenhower. It was also agreed to alter the wording of the last line of the document so that the document did not refer specifically to terms and conditions which were not being published.
7. Document "C" was then considered and it was generally agreed to, except that I pointed out with regard to Clause 6 of this document that it appeared farcical to state that we were fighting Germany for the purpose of driving the invader from Italian territory. It was agreed to amend this.
8. The suggested amendments were incorporated in the only copies of the documents available which Colonel Chanler had to take away with him and it was agreed that he should return these copies of the documents to me together with fresh copies showing their final proposals for the documents wording.

HHR/SC.

30



H. E. Ford,
Lieut. Colonel,
Chief Legal Officer.

Distribution: C.O.C.-C.
Brig. Gen. Holmes.
Lt. Col. Chanler.
File.
Spare (2)

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HER/JG.

H. E. Holmes

H. E. HOLMES,
Lieut. Colonel,
Chief Legal Officer.

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Distribution: C.O.A.O.
Brig. Gen. Holmes.
Lt. Col. Chanler.
File.
Spare (2)

Met of Col Upjohn - 18 Dec 43

action

1. I arranged to consider matter of establishment of section of Bari Court of appeal at Foggia

2. Military Tribunals: Col Upjohn would ascertain Calabrian experience and I would ascertain if BGS has sent out any directive on this. Bando no 1 was agreed unavoidable. Col Upjohn pressed that Regim 3 should try out the rules he had prepared.

3. I arranged to ascertain position with regard to pay of judges filling a higher grade appointment in a territory than their own grade.

4. A.C.C. would screen all appointments of Italian Court officials in future.

5. Major Shadrach was going to come to Bari as liaison officer with Ministry of Justice.

6. Major Hamafad was not available to join Col Shields as adviser on Italian Ct's but Col Upjohn suggested Lt Under Musumaca of Regim IV Staff.

7. Col Upjohn would forward copies of Italian official papers marked with any matters of interest.

19/12/43

Minute of meeting with Col Willmer (Requies) at HQ, AmB, ISAB, on 14 Dec 43

1. It was agreed that a delegation to R.C.A.O.'s of right to consider petitions on Review where sentences did not exceed 50,000 lire fine ~~for~~ 2 years imprisonment. Subsequently D.C.A.O. agreed to make this delegation.
2. It was agreed that all petitions for Review coming to this HQ should be accompanied by a case Record.
3. It was agreed that R.P. should be amended to meet changes in Proc 14.
4. I agreed to send copies of Proc 1 to Requies 3044.
5. I agreed to send signal to AFHQ to ascertain when supplies of Proc 14 might be expected. Col Willmer was to let me know whether "Chandler" supplies of Proc had reached by 8.
6. The possession of "Allied Property" was discussed. It was agreed that the present Proc was not wide enough to cover holding in property of Allied origin not acquired through official sources, and that an amendment to make this an offence would be desirable.
6. D.C.A.O. desired inspection of prisons by legal officers as "visiting justices". I was to tie this up with Police Dept.
7. Col Willmer said Col Shields desired an expert in Italian Courts to forward with him. I was to consider.

over

8. A delegation to appoint General Courts was to be made by DECAO if he agreed, after consideration.
9. Col Williams agreed form J-1 prepared by Palermo was unsuitable. He produced drafts of other forms for the same purpose, one of which I approved and he was to let me have copies and distribute supplies to Regions + Armies.
10. I agreed to obtain copy of sections of M/S Act, 1874, relative to trial of merchant seamen + send out with a directive.

15 Dec 43.

H. J. [unclear]
H. J.
C.L.O.

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HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6094/L
25 November, 1943.

Subject : Minutes of Meetings in Naples,
21 - 23 November, 1943.

To : Chief Legal Officer, A.M.G. 15
Army Group, C.M.F.

1. I am forwarding to you herewith minutes of your meeting in Naples on 23 November with Col. Wilmer and Lt. Col. Shields and of your meeting on the same day with Col. Grafetty-Smith, and Lt. Colonels Bernstein, Barrett, Neilson, and Shields. An extra copy of the letter is enclosed for Col. Grafetty-Smith, in case it is desired. The minutes of your meeting with Col. Shields on 21 and 22 November were delivered to you when you were here.

2. I regret that the General, Major Pirie and Col. Gerry all left before they had been typed.

Harry L. Shields
for *J.V.M. Shields, Lt. Col.,*
Senior Legal Officer,
AMG, 5th Army.

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HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Minutes of Meeting in Naples on 23 Nov., 1943, at which Col. Wilmer, Lt. Col. Rowe, Lt. Col. Shields and Capt. Glenn were present.

1. Col. Rowe stated that when Gen. Alexander signs the proclamation divesting himself of jurisdiction of the territory to be turned over to the Italian Government, all legislation enacted by him in such territory would be suspended automatically.
2. Lt. Col. Rowe stated that he ought to tie up with A.C.C. and would do so all directives on military courts, notwithstanding that he has jurisdiction exclusively over the territory north of the line.
3. Col. Wilmer as well as Col. Rowe will be put on the distribution list of S.L.C. 5th Army (three copies to each).
4. Supplementing the provisions of par. 7 of the minutes of 21 Nov., all future orders published in Region 4 as well as Region 3 will be denominated Regional Orders and will be numbered in order of issuance without regard to subject matter.
5. Supplementing the provisions of par. 9 of the minutes of 21 Nov., Col. Wilmer will be responsible for the filing of the tabular returns with respect only to cases that come into his office between the 1st and 31st of each month from areas which have been turned over by the Task Force Commanders; and that Col. Shields and Major Mercer will be responsible for those received by them during the period of 5th Army Control. Col. Rowe stated he would get out a "pro forma" to be used in submitting these returns.

6. It was agreed that the matter of appointment of Superior and General Courts referred to in par. 10 of the minutes of 21 Nov. will not affect Col. Wilmer, who will be governed by the provisions of Proclamation 14 when issued with respect to the area under his control.

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6. It was agreed that the matter of appointment of Superior and General Courts referred to in par. 10 of the minutes of 21 Nov. will not affect Col. Wilmer, who will be governed by the provisions of Proclamation 14 when issued with respect to the area under his control.

7. The draft rules on Italian Military tribunals were discussed with Col. Wilmer.

8. The provisions of par. 15 of the minutes of 21 Nov. with respect to petitions to review will be applicable to Regional Legal Officers, as well as the S.L.C. 5th Army, until Proclamation 14 goes into effect. Col. Rowe stated however that he would be glad to have comments accompany petitions to review.

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9. Col. Wilmer agreed to the matter of appeals being made from or to courts in occupied territory to or from courts in territory under A.C.C. and the Italian Government.

10. Col. Rowe stated that he thought the re-organisation of the Italian bar could wait until the Italian government takes over.

11. The provisions of par. 16 of the minutes of 21 November will be applicable to communications between Col. Wilmer and 15 Army Group and S.I.O., 5th Army.

12. Col. Wilmer will forward to Col. Rowe and up-to-date list of his staff.

13. While it was agreed that Rome will not be subject to the jurisdiction of Region 4 staff until it is south of the 5th Army area, Col. Wilmer expressed the desire to be in the Rome picture in advance of this time.

14. The check-up on political prisoners in Region 4 will be made preliminarily by S.I.O., 5th Army.

15. Proclamations 9 and 10 will not be posted; but the Italy Gazette is being published at the present time in Algiers, and No. 9 will be posted when the Gazette is ready.

16. The question of merchant seamen and allied civilians was discussed, and it was tentatively agreed that an act of Parliament would be necessary to authorise imprisonment in jails in British territory on a warrant of commitment made by our military courts in occupied territory. 25

17. The treatment of juveniles was discussed.

18. It was agreed that personnel in Region 4 should also be advised of the rights of civilian internees as mentioned in par. 26 in the minutes of 21 November.

19. The matter of trial by Italian Courts of proclamation offenses was discussed, and Col. Wilmer agreed that a proclamation would be necessary.

20. At Col. Wilmer's suggestion, Col. Rowe stated

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20. At Col. Wilmer's suggestion, Col. Rowe stated that after review of former directives of Hq., A.M.G., Palermo and those of Region 3, he would issue one combined directive on legal matters from 15 Army Group to cover all regions and that a draft thereof would be sent to Col. Wilmer, Col. Shields, and Major Mercer for comment before issue.

21. It was pointed out that notwithstanding the fact that there would be no legal closing of courts in Region 4, it was desirable that a definite plan be made in advance for the opening of the Corte di Cassazione, which will pass on appeals for all territories, including that held by A.C.C.

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22. Col. Rowe stated that he would find out what his responsibilities are when Rome is taken, particularly in connection with the Vatican.

23. Col. Wilmer stated that he had authorized his Legal Officers to exercise, in accordance with the provisions of Rule 5 (a) of the Rules of Procedure the power to bring cases directly before a Superior or General Court for trial. It was agreed that this was not binding on his legal officers during the period they are in the 5th and 8th Army areas and subject to the orders respectively of S.L.O 's 5th Army and 8th Army. Col. Rowe stated that a directive would be issued after Proclamation 14 was published tying it up with the Rules of Procedure.

24. Col. Wilmer stated that he would like to know as much as Col. Rowe would know about what is going on in Region 4 territory and suggested that a copy be sent to him of directives issued by or and reports made to Col. Rowe to or from Col. Shields or Major Mercer.

Henry J. Blum
for J.V.M. Shields, Lt Col.,
Senior Legal Officer,
AMC, 5th Army.

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HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6094/L
25 November, 1943

Minutes of meeting held in Naples on 23 November, 1943, between Col. Grafetty-Smith, C.F.O. A.M.G., 15th Army Group, Lt. Col. Bernstein, Lt. Col. Barret and Lt. Col. Neilson, S.F.O.s A.M.G., Region III, Lt. Col. Rowe, C.I.O. A.M.G., 15th Army Group, Lt. Col. Shields, S.L.O. A.M.G., 5th Army and Capt. Glenn, I.O.; A.M.G. Region III.

1. The provisions of the proposed G.O. No. 3 to be signed by the C.C.A.O. (and to supersede Regional G.O. No. 3 issued in Region 3) were discussed, and it was agreed that the form of G.O. No. 3 which would be published throughout the areas in Italy to be occupied by 5th and 8th Armies should be as set forth in the draft annexed.

2. The question of the reopening of other financial institutions, particularly of postal savings institutions under the general order was discussed, and it was agreed that no separate provision should be made for these institutions at least until the situation in Rome was considered.

3. The question of lifting the restrictions on transfers or leases of real estate contained in Art. III of Proclamation 5 was discussed. Col. Rowe, Col. Barret and Col. Shields favored a general lifting on grounds of practicability and equity to all concerned. Col. Bernstein said the purpose of the restriction was principally two-fold:

- (a) To prevent Fascists from disposing of titles to land, and
- (b) To prevent an easy means of flight from cash, which would tend to aggravate inflationary tendencies.

In order to achieve these purposes and at the same time to avoid the administrative burden on

25 November, 1943
Minutes of meeting held in Naples on 23 November, 1943, between Col. Grafetty-Smith, C.F.O. A.M.G., 15th Army Group, Lt. Col. Bernstein, Lt. Col. Barret and Lt. Col. Neilson, S.F.O.s A.M.G., Region III, Lt. Col. Rowe, C.L.O. A.M.G., 15th Army Group, Lt. Col. Shields, S.L.O. A.M.G., 5th Army and Capt. Glenn, L.O.; A.M.G. Region III.

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In order to achieve these purposes and at the same time to avoid the administrative burden on the Legal Division, Col. Grafetty-Smith stated that it might be possible to obtain 3 or 4 Italian lawyers from the Italian Government region for the purpose of examining applications for consent to transfers and recommending approval or disapproval by the R.C.A.O.

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A directive will be prepared by the Legal and Financial Divisions Region III which would serve as a guide to these employees. In the meantime urgent cases will be considered by the Financial and Legal Divisions who will advise the R.C.A.O. to grant or refuse consent.

4. Proclamation No. 10 is not to go up in occupied territory, since this would prevent transactions with A.C.O. territory. Proclamation No. 10 will be amended and reprinted and instructions will be issued in respect to posting at a future date.

5. Col. Barret submitted a proposed G.O. reinstating insurance policies voided for non-payment of premiums by persons who had funds on deposit in a bank, but who were prevented from paying by virtue of the moratorium. Col. Grafetty-Smith, and Col. Bernstein were not in favor of posting this proclamation.

Henry P. Johnson
Capt. JAGD.

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GENERAL ORDER No. 3.

TERMINATION OF RESTRICTIONS
ON FINANCIAL INSTITUTIONS

WHEREAS by Proclamation No. 5, of the General Officer Com-
manding the Allied Forces in the Occupied Territory, the closing
of financial institutions and the putting into effect of a mora-
torium were ordered and the Chief Civil Affairs Officer was given
power to order the reopening of such institutions and to suspend
or terminate such moratorium in respect of any obligation or
class of obligations and to prescribe the conditions governing
such reopening and such suspension or termination.

NOW, THEREFORE, I

hereby ORDER as follows:

ARTICLE I

RE-OPENING OF BANKS AND FINANCIAL INSTITUTIONS

The provisions of Proclamation No. 5, Article I, closing
all Banks and other financial institutions are hereby rescinded.

ARTICLE II

TERMINATION OF MORATORIUM

The moratorium on debts proclaimed in Proclamation, No. 5, ²¹
Article II is hereby abrogated.

ARTICLE III

SAFE DEPOSIT FACILITIES

The initial opening of safe deposit boxes and the handing
out of articles held in safe custody will take place in the
presence of a representative of the Allied Military Government
on a date or dates to be announced. Thereafter free access to
safe deposit boxes is permitted.

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SAFE DEPOSIT FACILITIES

The initial opening of safe deposit boxes and the handing out of articles held in safe custody will take place in the presence of a representative of the Allied Military Government on a date or dates to be announced. Thereafter free access to safe deposit boxes is permitted.

ARTICLE IV
EFFECTIVE DATE

This General Order shall become effective and operative in the Province of..... or part thereof..... within the Occupied Territory on the,..... day of194..

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24 November, 1943.

Memorandum on Powers of R.C.A.O:

The C.C.A.C. should be asked either

1. To give a general delegation of powers to R.C.A.Os with the exception of certain reserved subjects, or
2. To appoint all R.C.A.Os as officers empowered to do anything which he, the C.C.A.C., may delegate under the proclamation (which would not include among other things the power to make orders or regulations conferred on the C.C.A.O. in Art. IX of Proclamation N°4).

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HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

AMSOt 3/6094/I
25 November, 1943

Minutes of meeting held in Naples on 23 November, 1943, between Col. Graffetty-Smith, C.F.O. A.M.G., 15th Army Group, Lt. Col. Bernstein, Lt. Col. Barret and Lt. Col. Nelson, S.F.O.s A.M.G., Region III, Lt. Col. Rowe, C.I.O. A.M.G., 15th Army Group, Lt. Col. Shields, S.I.C. A.M.G., 5th Army and Capt. Glenn, L.O.; A.M.G. Region III.

1. The provisions of the proposed G.O. No. 3 to be signed by the C.C.A.O. (and to supersede Regional G.O. No. 3 issued in Region I) were discussed, and it was agreed that the form of G.O. No. 3 which would be published throughout the areas in Italy to be occupied by 5th and 8th Armies should be as set forth in the draft annexed.

2. The question of the reopening of other financial institutions, particularly of postal savings institutions under the general order was discussed, and it was agreed that no separate provision should be made for these institutions at least until the situation in Rome was considered.

3. The question of lifting the restrictions on transfers or leases of real estate contained in Art. III of Proclamation 5 was discussed. Col. Rowe, Col. Barret and Col. Shields favored a general lifting on grounds of practicability and equity to all concerned. Col. Bernstein said the purpose of the restriction was principally two-fold:

- (a) To prevent Fascists from disposing of titles to land, and
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In order to achieve these purposes and at the same time to avoid the administrative burden on

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3. The question of lifting the restrictions on transfers or leases of real estate contained in Art. 5 III of Proclamation 5 was discussed. Col. Howe, Col. Barret and Col. Shields favored a general lifting on grounds of practicality and equity to all concerned. Col. Bernstein said the purpose of the restriction was principally two-fold:

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A directive will be prepared by the Legal and Financial Divisions Region III which would serve as a guide to these employees. In the meantime urgent cases will be considered by the Financial and Legal Divisions who will advise the R.C.A.O. to grant or refuse consent.

4. Proclamation No. 10 is not to go up in occupied territory, since this would prevent transactions with A.C.O. territory. Proclamation No. 10 will be amended and reprinted and instructions will be issued in respect to posting at a future date.

5. Col. Barrett submitted a proposed G.O. reinstating insurance policies voided for non-payment of premiums by persons who had funds on deposit in a bank, but who were prevented from paying by virtue of the forfeiture. Col. Gravelly-Smith, and Col. Bernstein were not in favor of posting this proclamation.

HEADQUARTERS
REGION 3
ALLIED MILITARY GOVERNMENT
LEGAL OFFICE

Amgot 3/6081/L
22 November, 1943

Minutes of Meeting in Naples on 21 Nov., 1943, at which Lt. Col. Rowe, Lt. Col. Shields and Capt. Glenn were present.

1. Col. Rowe authorized the signing of forms of Summonses (Form No. 2) by an officer of AMG in blank and their delivery to the Italian police with instructions to countersign the summons before service on an accused. In this way Rule 4 (b) of the Rules of Procedure maybe complied with, without the necessity of the Italian police taking an accused before an officer of AMG before service.

2. In exceptional cases where it is manifest that an injustice has been done, it was agreed that the convicted person might be released on bail pending an appeal on order of the R.C.A.O. (with a temporary suspension of execution of the sentence pending a decision on the petition for review).

3. Col. Rowe approved the directive issued by AMG, Region 3 Hq. with respect to requirement of a Form 8 in all cases in which the plea is not guilty.

4. It was agreed that petitions to review should continue to be forwarded to HQ., AMG, 15 Army Group, for action by the CCAC until Proclamation 14 could be published.

5. In Region 3 Proclamations Nos. 1, 2, 3, 4, and 5 have been posted; 6, as amended, is being posted; 7 has not been received or posted; 8 has been posted; 9 and 10 have not been posted, but some have been received; 11, 12, and 13 have been posted; General Orders 1 and 2 and (Regional) O. O. Nos. 3 (one for

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3. Col. Rowe approved the directive issued by AMG, Region 2 Hq. with respect to requirement of a Form 8 in all cases in which the plea is not guilty.

4. It was agreed that petitions to review should continue to be forwarded to HQ., AMG, 15 Army Group, for action by the CCAC until Proclamation 14 could be published.

5. In Region 3 Proclamations Nos. 1, 2, 3, 4, and 5 have been posted; 6, as amended, is being posted; 7 has not been received or posted; 8 has been posted; 9 and 10 have not been posted, but some have been received; 11, 12, and 13 have been posted; General Orders 1 and 2 and (Regional) G. O. Nos. 3 (one for each province with substitution of the name for each province) and 6 have been posted.

6. Proclamations No. 1 and 11, as amended, will not be reposted in region 3. No. 1, as amended, will be printed in Palermo; No. 11, as amended, will be printed here when Col. Shields' recommendation with respect to further amendment has been passed upon. When printed 5000 extra of No. 11, as amended, will be printed for the 8th Army.

7. General Order No. 3 published in Region 3 will be incorporated in a (general) General Order to be made by the CCAO and to be applicable to all regions, which will supersede (Regional) G. O. 3 (but without any republication of the CCAO's G. O. 3 in Region 3). Future orders published in Region 3 will be denominated Regional Orders and will henceforth start with No. 1.

8. Col. Rowe directed that in the 15 Army Group Area a Summary Court is competent in default of payment of the whole or part of a fine, notwithstanding the fact that the effect of the imposition of such additional term is to imprison the convicted person for a period of 1 year; however, CAO's should be notified that fines should be imposed in the light of ability to pay and not for the purpose of intentionally extending the term of imprisonment beyond the period of one year.

9. Col. Rowe directed that a monthly report and return of cases be made once a month to reach HQ., AMG, 15 Army Group not later than the 7th of the following month. This report should include the number of cases tried in each province, number found guilty and not guilty for each type of court, Summary, Superior, and General, and a breakdown of cases into categories of offenses.

10. The matter of appointment of Superior and General Military courts was taken up with Col. Hume, and Col. Hume approved the principle that all appointments of Superior and General Courts in the 5th Army area should be delegated to him as SCAO provided that such policy is agreed to by higher authority. Col. Rowe stated he would take the matter up at 15 Army Group HQ. with a view to amending General Administrative Instruction No. 7 so as to permit this.

16

should be made

11. Col. Rowe also said he would raise the question of ~~the~~ ~~General~~ ~~Alexander~~ ~~of~~ ~~making~~ an order putting the Naples Area out of the 5th Army area and making the CCAO responsible for military government therein.

12. The draft rules prepared by Col. Upjohn re Italian Military Tribunals was discussed and it was agreed that certain amendments would be necessary and that the responsibility for their application should be

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13. Italian Courts were discussed and it was agreed that no real difficulty arises with respect to the Italian Courts in occupied territory functioning outside occupied territory. Col. Rowe agreed to discuss this matter further with Major Hannaford, AMG HQ. Palermo.

should be made

14. With respect to the amendment of Italian procedure a copy of Col. Shields' directive on this was sent to Col. Rowe, with a copy of the former's report of 22 October (file no. 6024; 15 Army Group file no. 201).

15. Tabular returns of all cases tried by Summary Courts will no longer be required to be sent to 15 Army Group, as stated in par. 4 supra, however, petitions to review will be forwarded together with the form 8, if any, or if not such notes on the case as are available. In addition if any case should in the opinion of the SLO, 5th Army, be reviewed by the CCAO, the record or notes about the case will likewise be forwarded to 15 Army Group.

16. Until further notice, acknowledgement of receipt of communications between 15 Army Group and SLO 5th Army will be made.

17. An up-to-date list of the staff is to be sent to Col. Rowe.

18. Col. Shields is to make a request to Col. Rowe that an officer be attached as assistant legal officer, 5th Army.

19. The question of regional and provincial legislation was discussed, and Col. Shields felt that the matter might be tackled by reserving powers to the 15 Army Group instead of expressing the powers delegated to the RCAO. If an alternative method is adopted, the powers delegated to the RCAO should be very broad. As to the powers of provincial SCAOs, Col. Shields raised the question as to whether the same disposition should be made as in Sicily.

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20. A copy of all legal directives previously issued in Region 3 is to be sent to Col. Rowe; and Col. Rowe is to be put on the distribution list for all future directives.

21. A recommendation will be made by Col. Shields to Col. Rowe as to the Italian laws which should be suspended.

22. A supplemental checkup of political pri-

to review will be forwarded together with the form 6, if any, or if not such notes on the case as are available. In addition if any case should in the opinion of the SLO, 5th Army, be reviewed by the CCAO, the record or notes about the case will likewise be forwarded to 15 Army Group.

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22. A supplemental checkup of political prisoners will be made to insure that none imprisoned by the Fascists before our occupation on political grounds are still incarcerated.

23. It was agreed that Col. Rowe would raise the question with ACC in regard to the tribunal which should have jurisdiction to try merchant seamen and all allied civilians in occupied territory and in territory turned over to the Italian government.

24. Col. Shields was to take up at HQ. Region 3 the question of failure to deliver mail to 15 Army Hq.; and Col. Rowe at 15 Army Group.

25. Col. Rowe will take up with Palermo the question of the maximum age limit governing the special treatment of juveniles.

26. Col. Rowe requested that appropriate people in Region 3 should be advised that it is against International Law to incarcerate civilian internees in a civil jail holding civilians convicted or accused of the commission of crimes. Civilian internees should be accorded the common law international rights of prisoners of war.

27. The question of trial by Italian courts of proclamation offenses was discussed. Col. Rowe stated that he would be willing to submit a proclamation authorizing CAOs to direct that any class of proclamation offenses could be tried by Italian Courts, without prejudice to our own rights. *Col Shields would consider.*

J.V.M. Shields

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

Col. Davis - 7
 Wanted a
 picture see the
 CC 52 Ring binder
 referred to in 97 -
 which I am
 not familiar
 I suppose we
 shall have to
 draft special pro-
 cedures for (see
 on this) for men
 whose procedures
 do not exist -
 principally I would
 believe - unless of
 course land transactions
 are to be permitted
 11.11.43. Ernest Brown

MINUTES OF MEETING WITH COLONEL UPJOHN AND LT. COLONEL
CHANLER HELD AT HQ., AMG., 15 ARMY GROUP ON 12.NOV.43.

1. DIRECTIVES ISSUED BY H.Q., AMG.

The difficulties arising through directives being issued from Palermo to 5th and 8th Armies, and to Regions III and IV, was pointed out by Lieut.Colonel Rowe and instances were given of the confusion which had arisen as a result. It was agreed that in future AMG, Palermo, would observe channels with regard to all legal Directives and that any communications for 5th and 8th Armies, or Regions III or IV, would go through this H.Q. (File AMG/207).

2. LAND TRANSACTIONS.

It was pointed out by Lieut.Colonel Rowe that under Proclamation 5, all land transactions were forbidden except so far as permission might be given by the C.C.A.O. C.C.A.O. had, at a meeting of S.C.A.O.'s in Palermo, approved land transactions up to 50,000 Lire and this approval was recorded in the minutes of such meeting, but no directive had ever been issued. Lieut.Colonel Rowe pointed out that it was necessary that a directive should be issued to cover this and also to cover all "family" transactions in land. This was a minimum. Lieut.Colonel Chanler and Colonel Upjohn agreed. The matter of freeing land transactions altogether was then considered and Brigadier Hanlyn's letter 13016/T dated 5.Nov.43 to Colonel Crafftey-Smith (File AMG/218/4) was discussed. Lieut.Colonel Rowe mentioned that in his opinion the freeing of land transactions would tend to stop inflation rather than to promote it. He also pointed out that Proclamation 5, which also dealt with the closing of banks, was not being posted in all places and that, in places where it was not posted, there was no legal rule against land transactions. Colonel Upjohn stated that he would go into the whole question on his return to Palermo. (File AMG/218).

3. AREAS OF CONTROL OF AMG, 15 ARMY GROUP AND AMG, PALERMO.

This subject was discussed and the respective limits of control of each Headquarters were agreed. It was also agreed that the present position was that Major-General The Lord Rennell was the Chief Civil Affairs Officer of all occupied territories and that Brigadier General McSherry was Deputy Chief Civil Affairs Officer of all occupied territories. Lieut.Colonel Rowe agreed to draw up and put before the C.C.A.O. a form of delegation of powers by him to the D.C.C.A.O. to enable the D.C.C.A.O. to carry on administration in rear areas pending their relinquishment to the Italian Government. (File AMG/211).

4. PROCLAMATIONS.

Lieut.Colonel Rowe informed Lieut.Colonel Chanler that

Handwritten notes and signatures at the top of the page, including a large number '6' and some illegible scribbles.

Handwritten notes: 'SEE', '17.11.43' and a signature.

Handwritten number '10' at the bottom right of the page.

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4. PROCLAMATIONS.

Lieut. Colonel Rowe informed Lieut. Colonel Chanler that Proclamation 1 had been submitted to the G.O.C.-in-C. for signature and that as soon as it had been returned signed, it would be forwarded. Proclamation 14 was discussed and it was agreed that the same was in order as drafted, subject to the C.C.A.O. agreeing that its provisions should be carried out by Proclamation rather than by General Order. Lieut. Colonel Chanler stated that by an oversight this Proclamation had already been printed and he urged that the same be put up in its present form to the G.O.C.-in-C. for signature. (File AG/205).

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5. SUPPLY OF PROCLAMATIONS AND GENERAL ORDERS.

The supply of Proclamations and General Orders to AMG officers in the field was discussed. Lieut. Colonel Rowe informed Lieut. Colonel Chanler that he was awaiting a return from the Senior Legal Officers, 5th and 8th Armies, as to their estimated future requirements and present stocks. Lieut. Colonel Rowe would then inform Lieut. Colonel Chanler what further printing of Proclamations and General Orders was estimated as required over the period of the next three months for 5th and 8th Army areas (as they advanced) and Region III. (File AMG/205).

6. JAIL SENTENCES.

The Directive issued by Lieut. Colonel Chanler to the effect that a Summary Military Court could only inflict 12 months' imprisonment and that the term included any term of imprisonment in default of payment of a fine, was discussed. Lieut. Colonel Rowe stated that he considered the Directive was incorrect and Colonel Upjohn agreed. Lieut. Colonel Chanler stated that he thought he also agreed but that Colonel Pollock, the Chief Judicial Officer AMG, Palermo, held strong views otherwise. It was agreed that Colonel Upjohn would discuss the matter with Colonel Pollock on his return to Palermo. (File AMG/207).

7. TRIAL OF PERSONS ACCUSED OF WAR CRIMES.

The Directive issued by this H.Q. (AMG/209/20 dated 6. Nov. 43), was shown to Lieut. Colonel Chanler and Colonel Upjohn who agreed with its contents having regard to the C.C.S.'s Directive. It was generally agreed, however, that the C.C.S.'s Directive was unfortunate and that no action could be taken. (File AMG/209).

8. SIGNATURES ON GENERAL ORDERS.

The making of General Orders was discussed and it was agreed that the only person at present who could sign General Orders was Major-General The Lord Rennell. It was agreed that Regional Orders would probably be necessary and Colonel Upjohn was to put up a scheme for consideration at this H.Q. (File AMG/205).

9. STAFF - LEGAL.

The question of Legal Staff was raised. It was agreed that Capt. Brown, now at Palermo, be posted to AMG, 15 Army Group, in place of Major Gambell who had been returned. It was also agreed that if any other changes were found desirable, Lieut. Colonel Rowe would let Colonel Upjohn know and a re-arrangement would be made if possible. (AMG/200).

10. DOCUMENTS RELATING TO RELINQUISHMENT OF OCCUPIED TERRITORY TO THE ITALIAN GOVERNMENT.

Four draft documents were produced by Lieut. Colonel Chanler relating to this subject and were discussed at length. See

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10. DOCUMENTS RELATING TO RELINQUISHMENT OF OCCUPIED TERRITORY TO THE ITALIAN GOVERNMENT.

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14. November. 43.

Hq., AMB,

15 Army Group,

C. E. F.

HMB/JG.

Distribution: C.C.A.O. ✓
Hq. AMB, PALERMO.
File 204.


H. E. ROWE
Lieut. Colonel,
Chief Legal Officer.

Subject: Military Manual of Civil Affairs in the Field.

AMT/201/5
16 Nov. 47

U. S. A. O.

I have received the copy of the above Manual which has been received at this Headquarters. There are a considerable number of subjects which are dealt with in this Manual in a much clearer way than in the Army Manual, and there are other subjects which are dealt with in a manner which, I think, in the light of experience, need some amendment. The Manual is of course not binding on any Allied Military Government and it seems rather likely that a certain form of actual or fictitious British and American Officers has not been issued jointly by London and Washington. I have made some comments below from experience of the legal side which may be of interest to you when considering the Manual.

1. CHAIN OF COMMAND.

This has caused some considerable trouble on the legal side in AEF, and, in spite of the provisions of the 1917 PLAN (see page 7 of AEF Manual), the position has never been clearly understood with regard to operational areas. Chapter 3 of the an Office Manual is very clear and concise and it shows that the British view is that the Army Commander has the responsibility for Military Government in his Army area. All Civil Affairs Officers attached to units in the Army area are Army Troops and they are under the command of the Senior Civil Affairs Officer who is also the Senior Staff Officer of the Civil Affairs Branch on the Army Commander's staff. The Senior Civil Affairs Officer carries out the policy of military government laid down by the Chief Civil Affairs Officer, unless he is directed otherwise in writing, by the Army Commander, on the relation between the Chief Civil Affairs Officer and the Senior Civil Affairs Officer is, therefore, the same as that between the head of any other service at G.H.Q. and the Senior Officer of that service with Army. It is to be noted that under para. 1(c) of Chapter 3 the Senior Civil Affairs Officer issues any subsidiary orders in the name of the Army Commander and in any order that provision could well be applied with benefit in AEF. For example, at the present time it is laid down in the Army Manual that the appointment of Superior and General Courts may be made by Army, Army or Divisional Commanders. That I think, is wrong and it would give a great deal of trouble if the Senior Civil Affairs Officer with the Army was the officer who appointed General and Superior Military Courts in Army areas on behalf of the Army Commander.

2. TERMINATION OF MILITARY GOVERNMENT IN OCCUPIED TERRITORY.

In para 6 of Chapter 4 of the War Office Manual, it is stated that in enemy occupied territory military government will normally be maintained until a Treaty of Peace comes into force. I think the word "military" should be substituted for the words "Treaty of Peace".

3. APPOINTMENT OF LAWYERS.

Chapter 6, para 2, states that the Commander in Chief has no power

1. CHAIN OF COMMAND.

This has caused some considerable trouble on the legal side in AIG, and, in spite of the provisions of the AIGOT Plan (see page 7 of AIG Manual), the position has never been clearly understood with the operational areas. Chapter 5 of the War Office Manual is very clear and concise and it seems that the British view is that the Army Commander has the responsibility for military operations in his Army area. All Civil Affairs Officers attached to units in the Army area are Army Troops and they are under the command of the Senior Civil Affairs Officer who is also the Senior Staff Officer of the Civil Affairs Branch on the Army Commander's Staff. The Senior Civil Affairs Officer carries out the policy of military government laid down by the Chief Civil Affairs Officer, unless he is directed otherwise in writing by the Army Commander, and the relation between the Chief Civil Affairs Officer and the Senior Civil Affairs Officer is, therefore, the same as that between the head of any other service of G.H.Q. and the senior officer of that service with Army. It is to be noted that under Para. 5(c) of Chapter 5 the Senior Civil Affairs Officer issues any subsidiary orders in the name of the Army Commander and in my opinion that provision would well be applied with benefit in AIG. For example, at the present time it is laid down in the AIG Manual that the appointment of Superior and General Courts must be made by Army, Corps or Divisional Commanders. That, I think, is wrong and it would save a great deal of time and trouble if the Senior Civil Affairs Officer with the Army was the officer who appointed General and Superior Military Courts in Army areas on behalf of the Army Commander.

2. DURATION OF MILITARY GOVERNMENT IN PEACE TERRITORIES.

In para 6 of Chapter 1 of the War Office Manual, it is stated that in every occupied territory military government will normally be maintained until a Treaty of Peace comes into force. I think the words "armistice" should be substituted for the words "Treaty of Peace".

3. APPLICABILITY OF LAWS.

Chapter 6, para 2, states that the Commander in Chief has no power to apply laws of the occupied territory. This is strictly correct under international law, but is, I think, politically unwise. The law which are going to regulate mobilization in this war are now discriminatory laws of Fascism and Nazi origin. It was provided in the AIG Directive that such discriminatory laws would be nullified, and I think rightly so. The mere suspension of such laws would have created a feeling of doubt amongst the population as to whether, once the occupation was over, such laws might not be revived. Even the strict legal standpoint, it is probable that the enactment of a law by the occupying power has no effect other than that of suspension during the period of military government, but it is still unwise in my opinion to state categorically that a law may be only suspended.

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LEGAL.

The legal provisions are contained in Chapter 5 of the War Office Manual and in a special legal manual which is referred to but which I have not seen. In para 5 there is an excellent instruction making it quite clear that Army personnel are not subject to proclamations and Orders of the Military Governor, a fact which has not been realized in some British occupied territories. I think, perhaps, a fault has been committed by the legal division of HQ in not having arranged already for any orders to be issued concerning the certain provisions of proclamations, S.O., to prevent members of the Army committing avoidable property in occupied territory, and in any future planning it will be useless to draft a set of orders which on commencement of occupation, the Army Commander should be asked to incorporate in his orders to his troops.

5. WAR CRIMES.

In para 17 of Chapter 5 it is provided that the Chief Civil Affairs Officer will not be responsible for setting up Courts to try war criminals - "that is persons who are to be tried for atrocities committed before the occupation began". The use of the term "war criminals" has become popular and its use has, no doubt, not be avoided nor, but it is to be deprecated if the expression mentioned are to be defined as "war crimes". A war crime has a special legal meaning. For instance, a person caught by either belligerent robbing the dead or wounded or either belligerent should be tried immediately in the field for that war crime. The use of the term "war crime" in a recent telegram from the Combined Chiefs of Staff has caused the position a very great deal with regard to the trial of real war crimes, when it is probable that the telegram was only intended to refer to the atrocities described above.

6. CIVILIAN EVACUATION.

It is unfortunate that para 18 of Chapter 5 of the Manual does not contain a directive with regard to the trial and imprisonment of civilians of British or Allied nationality who commit extraordinary crimes in occupied territory.

7. PROPERTY CUSTODIANSHIP.

In spite of the provisions of para 13 of Chapter 14 of the Manual of Military Law that there is no obligation on a military occupant to protect abandoned property, the theory of custodianship of such property, with all the liabilities which are implied by custodianship, is maintained in Chapter 10. It is indeed difficult to understand why a large body of valuable personal should be assigned to look after the properties of people in enemy territory who may be fighting against us, whilst no one has ever suggested that it might be the responsibility of the Government to look after the properties of those of our own nationals who are absent abroad on military duty. The idea of custodianship is one which I have never seen mentioned in any text book on international law and is, I say of the highest, absurd. The highest duty which a military occupant has is to prevent looting and unnecessary damage so far as he is able to do so.

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to prevent members of the army occupying the occupied territory, and in any future planning it would be advisable to draft a set of orders which on commencement of occupation, the Army Commander should be asked to incorporate in his orders to his troops.

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In para 17 of Chapter 9 it is provided that the Chief Civil Affairs Officer will not be responsible for setting up Courts to try war criminals - "that is persons who are to be tried for atrocities committed before the occupation began". The use of the term "war criminals" has become popular and its use may, no doubt, not be avoided now, but it is to be deprecated if the atrocities mentioned are to be defined as "war crimes", a war crime has a special legal meaning. For instance, a person caught by either belligerent robbing the dead, or wounded of either belligerents should be tried immediately in the field for that war crime. The use of the term "war crime" is a recent telegram from the Combined Chiefs of Staff has confirmed the position a very great deal with regard to the trial of a war criminal, when it is probably that the telegram was only intended to refer to the atrocities described above.

6. CIVILIAN EMPLOYERS.

It is unfortunate that para. 13 of Chapter 9 of the Manual does not contain a directive with regard to the trial and imprisonment of civilians of British or Allied nationality who commit ordinary crimes in occupied territory.

7. PROPERTY RESPONSIBILITY.

In spite of the provisions of para. 15 of Chapter 14 of the Manual of Military Law that there is no obligation on a military occupant to protect abandoned property, the theory of custodianship of such property, with all the liabilities which are implied by custodianship, is maintained in Chapter 10. It is indeed difficult to understand why a large body of valuable personal should be assigned to looking after the properties of people in enemy territory who may be fighting against us, whilst no one has ever suggested that it might be the responsibility of the Government to look after the properties at home of our own nationals who are absent, absent on military duty. The idea of custodianship is one which I have never seen advanced in any text book on international law and I, as an of the opinion, unavailing. The highest duty which a military occupant has is to prevent looting and unnecessary damage so far as he is able with the personal available and this should never be extended beyond a police function. On the other hand the control of property in certain cases may be a very proper governmental function and a Controller of Property on the lines which exist in us is entirely correct.

8. POLICE.

Chapter 15 which deals with Police makes no reference to the functions of Police in occupied territory with regard to the presentation of cases before Military Courts and the obligation of evidence for such cases. I am of the opinion that the obligations of the Public Safety Division in this respect should be defined.

Contd...../

REQUISITIONING

Requisitioning and seizure are dealt with in Chapter 27. Para. 2 of this chapter states "It is essential that the law which is given in detail in the second of Military Law, Chapter 14, be observed with scrupulous care". It is unfortunate, to say the least, that with all the troubles which have arisen in the past over attempting to construe para. 15 and 16 of Chapter 14 of the Manual of Military Law, and with all the cables on the subject which have been sent to time gone back to War Office, a complete and realistic modern directive on the subject of requisitioning and seizure is not contained in the new law office Manual. The rules set out in Chapter 14 to be observed in distinguishing between property, susceptible to direct military use and property required for military needs but not so susceptible are completely out of date and inadequate in a war such as this, which is dependent upon supply. The directive contained in the new Manual puts the problem back to where it was in the obscure days of 1940 when we had to consider such problems as whether petrol for motor vehicles was susceptible to direct military use and whether supplies, which were of urgent need for the civil population, could be requisitioned or seized when such supplies were clearly not required to meet the needs of the Army. A clear directive on supply generally and in co-ordination with Army supply services needs also to be provided.

H. T. 20004
 Lieut. Colonel,
 Chief Supply Officer.

HTP/30.

9

TOP SECRET

Subject: Turn Back of Italian Territory.

H.M., A.M.G.,
15 Army Group,
C. H. F.

AMS/204/4
14. GOVERNMENT. b3.

MINUTES OF MEETING WITH COLONEL BRINDISI
LIEUT. COLONEL BRINDISI HELD AT HQ. 15
ARMY GROUP ON 13. NOV. 1943.

Lieut. Colonel Chenley produced drafts of documents proposed in connection with the turn back of regions I and II to the Italian Government and he stated that these documents had been drafted by him and Colonel H. John in Brindisi and that they had received the approval of General Joyce and other persons at Brindisi. He desired my views on the contents of the draft documents. I stated that I had no instructions with regard to the policy involved and pointed out that any comments on the draft must not be taken as indicating approval or disapproval of the measures which were envisaged in the drafts. This was agreed.

2. The drafts consisted of three documents as below:-

- "A" - Draft terms for restoration of territory to the Italian Government;
- "B" - Draft Proclamation for the Military Government;
- "C" - Draft Proclamation of acceptance of transfer of territory by Head of Italian State.

After perusing the drafts I raised the points more generally set out below.

3. With regard to document "A", I pointed out that this, in its present form, provided that General Sir Harold Alexander as Military Governor relinquished and restored to the Government of Italy all his occupational powers over the restored territory, subject to certain reservations of powers to the Allied forces, and I stated that the nature of working of this appeared to me to mean that the rights which were reserved were rights which could only have been originally acquired by military occupation, that the reservation of them to the Allied forces left such powers vested in General Sir Harold Alexander as G.O.C.-in-C. and that such powers could only be claimed so far as they were necessary for the benefit of the Allied forces. I suggested that the powers should be taken by way of request rather than by reservation, that such powers

MINUTES OF MEETING WITH COLONEL HISENLOVER
 LIEUT. COLONEL CHANLER HELD AT H. A.G., 15
 ARMY CAMP ON 13. NOV. 1943.

Lieut. Colonel Chanler produced drafts of documents proposed in connection with the turn back of Regions I and II to the Italian Government and he stated that these documents had been drafted by him and Colonel Upjohn in Brindisi and that they had received the approval of General Joyce and other persons at Brindisi. He desired my views on the contents of the draft documents. I stated that I had no instructions with regard to the policy involved and pointed out that any comments on the draft must not be taken as indicating approval or disapproval of the measures which were envisaged in the drafts. This was agreed.

2. The drafts consisted of three documents as below:-

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- "B" - Draft's proclamation for the Military Government;
- "C" - Draft proclamation of acceptance of transfer of territory by Head of Italian State.

After perusing the drafts I raised the points more generally set out below.

3. With regard to document "A", I pointed out that this, in its present form, provided that General Sir Harold Alexander as Military Governor relinquished and restored to the Government of Italy all his occupational powers over the restored territory, subject to certain reservations of powers to the Allied forces, and I stated that the natural wording of this appeared to me to mean that the rights which were reserved were rights which could only have been originally acquired by military occupation, that the reversion of them to the Allied forces left such powers vested in General Sir Harold Alexander as G.O.C.-in-C. and that such powers could only be claimed so far as they were necessary for the benefit of the Allied forces. I suggested that the powers should be taken by way of reversion rather than by reservation, that such powers should be vested by the document in the Commander in Chief of the Theatre of Operations, namely, General Eisenhower, and that it should be plain that the powers were vested in General Eisenhower on behalf of the United Nations, and not confined to the Allied forces. Lieut. Colonel Chanler and Colonel Upjohn agreed this with the exception that they were satisfied with the use of the word "reservation" and Lieut. Colonel Chanler stated that he would amend document "A" to provide that the G.O.C.-in-C. would relinquish the territory and reserve the powers by express direction of General Eisenhower and that the powers should be reserved to General Eisenhower. Colonel Upjohn suggested, and it was agreed, that it should be made clear in the document that General Eisenhower hold the reserve of powers on behalf of the United Nations.

4. It was agreed that in document "A" the word "now" should be inserted before the words "under the jurisdiction" in the second line on page 2 of the draft document.

5. The wording of the reserved powers in document "A" was then considered and discussed. The policy of creating military zones following the British precedent in Madagascar was agreed, having regard to the doubt which might exist as to the extent of our powers in unoccupied territory under the Armistice terms. Clause 5 of the powers was considered and discussed and subject to further consideration by Lieut. Colonel Chandler and Colonel Wychin it was decided to delete this clause as being unnecessary and useless.

6. Document "B" was then discussed and it was agreed that this document should be brought into line with document "A" in that it should be exchanged to be signed by the G.O.C.-in-C. upon the authority of General Eisenhower. It was also agreed to alter the wording of the last line of the document so that the document did not refer specifically to terms and conditions which were not being published.

7. Document "C" was then considered and it was generally agreed to, except that I pointed out with regard to clause 6 of this document that it appeared farcical to state that we were fighting Germany for the purpose of "driving the invader from Italian territory". It was agreed to amend this.

8. The suggested amendments were incorporated in the only copies of the documents available which Colonel Chandler had to take away with him and it was agreed that he should return three copies of the documents to me together with three copies showing their final proposals for the documents remaining.

HUR/JO.



R. G. H. H. H.
Lieut. Colonel,
Chief Legal Officer.

Plotted/initialled: C.G.H.H.
Brigadier, Holmes.
Lt. Col. Chandler.
File.
Spavo (?)

MINUTES OF MEETING WITH COLONEL UNJOHN AND LT. COLONEL
CHANDLER HELD AT HQ., AMG., 15 ARMY GROUP ON 13 NOV. 45.

1. DIRECTIVES ISSUED BY H.C.C. AMG.

The difficulties arising through directives being issued from Palermo to 5th and 8th Armies, and to Regions III and IV, was pointed out by Lieut. Colonel Howe and instances were given of the confusion which had arisen as a result. It was agreed that in future AMI, Palermo, would observe channels with regard to all legal directives and that any communications for 5th and 8th Armies, or Regions III or IV, would go through this H.C.C. (File AMG/207).

2. LAND TRANSACTIONS.

It was pointed out by Lieut. Colonel Howe that under Proclamation 5, all land transactions were forbidden except so far as permission might be given by the C.C.A.O. C.C.A.O. had, at a meeting of S.C.A.O.'s in Palermo, approved land transactions up to 50,000 lire and this approval was recorded in the minutes of such meeting, but no directive had ever been issued. Lieut. Colonel Howe pointed out that it was necessary that a directive should be issued to cover this and also to cover all "family" transactions in land. This was a minimum. Lieut. Colonel Chandler and Colonel Unjohn agreed the matter of freeing land transactions altogether was then considered and Brigadier Eshlyn's letter 13016/P dated 5 Nov. 45 to Colonel Griffiths-Smith (File AMG/218/L) was discussed. Lieut. Colonel Howe mentioned that in his opinion the freeing of land transactions would tend to stop inflation rather than to promote it. He also pointed out that Proclamation 5, which also dealt with the closing of banks, was not being posted in all places and that in places where it was not posted, there was no legal rule against land transactions. Colonel Unjohn stated that he would go into the whole question on his return to Palermo. (File AMG/218).

3. AREAS OF CONTROL OF AMG, 15 ARMY GROUP AND AMG, PALERMO.

This subject was discussed and the respective limits of control of each Headquarters were agreed. It was also agreed that the present position was that Major-General The Lord Pennell was the Chief Civil Affairs Officer of all occupied territories and that Brigadier General McSherry was Deputy Chief Civil Affairs Officer of all occupied territories. Lieut. Colonel Howe agreed to draw up and put before the C.C.A.O. a form of delegation of powers by him to the D.C.C.A.O. to enable the D.C.C.A.O. to carry on administration in rear areas pending their relinquishment to the Italian Government. (File AMG/219).

4. PROCLAMATIONS.

Lieut. Colonel Howe informed Lieut. Colonel Chandler that Proclamation 4 had been submitted to the C.C.C.-in-C. for signature and that it would be forwarded.

2. LAND TRANSACTIONS.

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3. AREAS OF CONTROL OF AMB, 15 ARMY GROUP AND AMB, PALERMO.
This subject was discussed and the respective limits of control of each Headquarters were agreed. It was also agreed that the present position was that Major-General The Lord Remell was the Chief Civil Affairs Officer of all occupied territories and that Brigadier General McSherry was Deputy Chief Civil Affairs Officer of all occupied territories. Lieut. Colonel Howe agreed to draw up and put before the C.C.A.O. a form of delegation of powers by him to the D.C.C.A.O. to enable the D.C.C.A.O. to carry on administration in rear areas pending their relinquishment to the Italian Government. (File AM/241).

4. PROCLAMATIONS.

Lieut. Colonel Howe informed Lieut. Colonel Chandler that Proclamation 4 had been submitted to the C.C.A.O.-in-C. for signature and that as soon as it had been returned signed, it would be forwarded. Proclamation 14 was discussed and it was agreed that the same was in order as drafted, subject to the C.C.A.O. agreeing that its provisions should be carried out by Proclamation rather than by General Order. Lieut. Colonel Chandler stated that by an oversight this Proclamation had already been printed and he urged that the same be put up in its present form to the C.C.A.O.-in-C. for signature. (File AM/205).

- 2 -

5. SUPPLY OF PROCLAMATIONS AND GENERAL ORDERS.

The supply of Proclamations and General Orders to AMB officers in the field was discussed. Lieut. Colonel Howe informed Lieut. Colonel Chanler that he was awaiting a return from the Senior Legal Officers, 5th and 8th Armies, as to their estimated future requirements and present stocks. Lieut. Colonel Howe would then inform Lieut. Colonel Chanler what further printing of Proclamations and General Orders was estimated as required over the period of the next three months for 5th and 8th Army areas (as they advanced) and Region III. (File AMG/205).

6. JAIL SENTENCES.

The Directive issued by Lieut. Colonel Chanler to the effect that a Summary Military Court could only inflict 12 months' imprisonment and that the term included any term of imprisonment in default of payment of a fine, was discussed. Lieut. Colonel Howe stated that he considered the Directive was incorrect and Colonel Wjohm agreed. Lieut. Colonel Chanler stated that he thought he also agreed but that Colonel Bullock, the Chief Judicial Officer AMB, Palermo, held strong views otherwise. It was agreed that Colonel Wjohm would discuss the matter with Colonel Holloway on his return to Palermo. (File AMB/207).

7. TRIAL OF PERSONS ACCUSED OF WAR CRIMES.

The Directive issued by this H. (AMG/209/20) dated 6. Nov. 45, was shown to Lieut. Colonel Chanler and Colonel Wjohm who agreed with its contents having regard to the G.C.S.'s Directive. It was generally agreed, however, that the G.C.S.'s Directive was unfortunate and that no action could be taken. (File AMB/209).

8. SIGNATURES OF GENERAL ORDERS.

The naming of General Orders was discussed and it was agreed that the only person at present who could sign General Orders was Major-General the Lord Bannell. It was agreed that Regional Officers would probably be necessary and Colonel Wjohm was to put up a memo for consideration at this H. (File AMB/205).

9. STAFF - LEGAL.

The question of legal staff was raised. It was agreed that Capt. Brown, now at Palermo, be posted to AMB, 15 Army Group, in place of Major Campbell who had been returned. It was also agreed that if any other changes were found desirable, Lieut. Colonel Howe would let Colonel Wjohm know and a re-arrangement would be made if possible. (AMG/200).

10. DOCUMENTS RELATING TO RE-ESTABLISHMENT OF OCCUPIED TERRITORY TO THE ITALIAN GOVERNMENT.

Four draft documents were produced by Lieut. Colonel Chanler

0200

6. JAIL MEMORANDUMS.

The Directive issued by Lieut. Colonel Chandler to the effect that a Summary Military Court could only inflict 12 months' imprisonment and that the term included any term of imprisonment in default of payment of a fine, was discussed. Lieut. Colonel Howe stated that he considered the Directive was incorrect and Colonel Upjohn agreed. Lieut. Colonel Chandler stated that he thought he also agreed but that Colonel Pollock, the Chief Judicial Officer AGC, Palermo, held strong views otherwise. It was agreed that Colonel Upjohn would discuss the matter with Colonel Pollock on his return to Palermo. (File ANG/207).

7. TRIAL OF PERSONS ACCUSED OF WAR CRIMES.

The Directive issued by this H.Q. (ANG/209/30 dated 6. Nov. 43), was shown to Lieut. Colonel Chandler and Colonel Upjohn who agreed with its contents having regard to the G.C.S.'s Directive. It was generally agreed, however, that the G.C.S.'s Directive was unfortunate and that no action could be taken. (File ANG/209).

8. SIGNATURES ON GENERAL ORDERS.

The making of General Orders was discussed and it was agreed that the only person at present who could sign General Orders was Major-General Sir Lord Kennell. It was agreed that Regional Officers would probably be necessary and Colonel Upjohn was to put up a scheme for consideration at this H.Q. (File ANG/205).

9. STAFF - LEGAL.

The question of Legal Staff was raised. It was agreed that Capt. Brown, now at Palermo, be posted to AGC, 15 Army Group, in place of Major Campbell who had been returned. It was also agreed that if any other officers were found desirable, Lieut. Colonel Howe would let Colonel Upjohn know and a re-arrangement would be made if possible. (ANG/200).

10. DOCUMENTS RELATING TO REPARATIONS ON DELETED TERRITORY TO THE ITALIAN GOVERNMENT.

Four draft documents were produced by Lieut. Colonel Chandler relating to this subject and were discussed at length. See separate memorandum. (File ANG/205).

14. November 43.
H.Q. AGC,
15 Army Group,
C. M. J.
HMA/36.


H. E. HOWE,
Lieut. Colonel,
Chief Legal Officer.

Distribution: C.G.A.C.
H.Q. ANG, PALERMO.
File 204.

2

Subject: Report on Legal Division, Period 24 - 31 October 43.

AMG/204/2.

4. Nov. 43.

S. S. O.

1. GENERAL.

During the period under review the Legal Division of this Headquarters has been established and consists of a Chief Legal Officer and a Deputy. The work of the officers at this H.Q. has been that of establishing contact with the Senior Legal Officers of AMG, 5th and 8th Armies and issuing instructions as to their new relationships with this H.Q., and organising the H.Q. Legal office.

2. LEGAL DIVISION - AMG, 5th ARMY.

(A) This Legal Division has also been established during the period under review. Military Courts already established are continuing to operate with satisfactory results. There has been a re-opening of further Italian criminal courts in the area and the antecedents and records of the judges of these courts have been investigated.

(A) There has also been a further investigation in regard to civilians held in Italian gaols and with regard to those convicted persons in the Italian gaols who had been released prior to occupation by the enemy. Instructions have been given that Italian Military Tribunals may be permitted to function in occupied territory under close supervision for the trial of pending pre-occupational cases not involving acts favourable to the Allied Forces and for the trial of current cases.

(C) All the proclamations have now been published in the area

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(C) All the proclamations have now been published in the area other than No.6 dealing with Property Control, No.7 dealing with the Fascist Party and No.9 dealing with the Publication of the Gazette. During the period under review the contents of Proclamation No.6 and 7 were under discussion owing to the changed circumstances of the situation and the time is not yet ripe for the publication of Proclamation No.9 in the area.

Contd...../

-2-

3. LEGAL DIVISION - AMG, 8th ARMY.

The Legal Division of AMG, 8th Army has also been established during the period under review and a full tour of the area has, during such period, been made by ~~the~~ Senior Legal Officer. In FOGGIA Province, about 30 cases per day have been tried in the Summary Court but the offences were mostly trivial and tended to fall off with the imposition of stiffer sentences. In the Province of CANTORASSO there have been 5 cases heard by the Summary Court for curfew offences and there are further cases of a somewhat more serious nature pending. In TERMOI there has been so far only one case. An investigation is being made of the available Italian judicial officials, some of whom have been found unsatisfactory, and a quantity of work was done with a view to re-opening the Italian Tribunale and Praetorian Courts at an early date in this area.)

H. J. [unclear] 3

Chief Legal Officer.

0204

H.Q. Allied Military Government

15 Army Group.

C.M.P.

29 October, 1945.

204/1
MRE/205.

I arrived here the evening before last having managed to get on a plane to Foggia and then another one back to this place.

2. On my arrival I found a long report from Shields addressed to you but as it relates chiefly to matters which can be dealt with direct from here, I am not bothering you with it. One or two matters arise, however, which it is necessary to mention.

3. Shields has had some of the Proclamations re-printed including No. 6. I sent a signal to him immediately to hold up the printing pending further instructions, and I hope a signal will come in soon from A.M.H.A. on the subject of the proposed changes.

4. The question of Italian Military Tribunals needs immediate settlement. I see no reason why such Tribunals should not be allowed to sit in occupied territory to deal with those offences against Italian law which are only triable by them. J.A.G. 5th Army is in agreement but as it is a matter of common policy I should like your views first before I consent. I enclose copy of memorandum on the subject received from Shields.

5. Shields mentions certain discriminatory laws which he states are still in operation and I enclose extract of para. 13 of his Report on the subject. Will you please ask Hunsford to consider this and let me have a note of his own and your observations. If such laws are to be repealed, it should be done by a Proclamation by General Alexander applying to all occupied territory. Alternatively, you may think it better to ask Allied Mission to discuss it with the Italian Government.

6. I have written Shields a D.O. letter on our future relationships and I enclose copy for your use.

7. The result of enquiries I have made about Major Christians at 8th Army do not satisfy us that he had adequate experience for the job. I would like Major Mercer to come forward as soon as he possibly can, and I think Christians should be posted to another district in fairness to himself. Can you arrange this.

8. As soon as Payton arrives, Campbell will be spare. I think he could fill the job of S.L.O. of an important province very well, and I would like to feel he is being looked after. The alteration of arrangements unless which I came here has, I feel, worked rather heavily on his position.

I arrived here the evening before last having managed to get on a plane to Moggia and then another one back to this place.

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8. As soon as Peyton arrives, Campbell will be gone. I think he could fill the job of S.I.O. of an important province very well, and I would like to feel he is being looked after. The alteration of arrangements under which I came here has, I feel, worked rather hardly on his position.

9. There is no stock pile of proclamations or forms here and I think there should be a small reserve supply of, say, 500 of everything, together with twenty Summary Court registers and an appropriate quantity of loose leaflets for returns. Can you expedite shipment of these here.

10. As soon as the proclamations have been settled, the Italy Gazette should be published. It is easier to get that done at Palermo than here but I do not know what the printing capacities at Naples are. Will you let me have your views.

PHL

11. I enclose copy of memorandum received here from D.S.E. references merchant seamen. I think the matter should be discussed by S.A.S. A.S.H.C., with H.Q. of C.-in-C. Mediterranean Fleet, and then dealt with in occupied territory if agreed, on the lines Col. Rollock suggested. The question of unoccupied territory is more difficult, inasmuch as no provision exists for trial of British civilians by Allied Courts for offenses committed in such territory. This problem should in my opinion be referred to the C.C.S. with the suggestion that the Italian Government be asked to agree to the trial of British and American citizens by Allied Military Courts or Courts-Martial exclusively. This would follow the Madagascar experience, which might be quoted to C.C.S. as a precedent.

11/16
Lt-Col. W.C. Sharler,
Chief Legal Officer,
Allied Military Government,
PALESTINE.

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0207

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