

ACC

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ROME PLANNING
DEC. 1943

SECRET

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

208/CA/37
28 December 1943

FIRST DRAFT PLAN OF THE LEGAL DIVISION, AIG, 5th ARMY
FOR THE OCCUPATION OF ROME

1. The duties of the Legal Division in the Occupation of ROME will be:
 - a. To insure that supplies of Proclamations are available for posting in sufficient numbers by S.C.A.O.
 - b. To arrange for the resumption of the Italian National Courts, firstly, Inferior Courts for the disposal of criminal cases and when the courts are reopened for criminal competence, for the discharge of civil business.
 - c. To arrange for the establishment of Allied Military Government Courts for the trial of all persons charged with offenses against the Proclamations or those who for political or other reasons could not properly be tried by the Italian Courts.
 - d. To make a check of the political prisoners in jail and consider the release of those improperly detained.
 - e. To provide opinions and legal advice to all Divisions who may require any.

2. The discharge of these duties will be achieved as follows:

PROCLAMATIONS

- a. 2000 copies of all Proclamations and Orders to be posted in ROME will be available for the S.C.A.O. ROME City by 1 January 1944 and will be taken into ROME by him and posted under his orders within the first 24 - 48 hours. Transportation of these Proclamations from NAPLES to ROME must be provided. Reference is made to par. 1 (e) and 2 (a) of the memorandum to S.C.A.O., Colonel Gevers, from this Division, Number 208/CA/3, dated 28 December 1943, attached hereto as Appendix "A".

ITALIAN COURTS

- b. The constitution of the Superior and Inferior Courts located in ROME City has been studied and as far as possible information is being collected upon the personnel who form these courts. With the sources which are available, the political and judicial suitability and competency of the senior appointees who were and are reported to be filling the chief positions, are being checked with security sections. Immediately upon arrival in ROME, the Presidents of the Corte di Cassazione, Corte d'Appello, Corte d'Assise and Tribunale, Procuratore Generale, Avvocato Generale, Procuratore del Re, and Primo Pretore or such of them who are remaining in the town and who are known to be politically sound, will be called to a meeting with a view to discussing the situation of the National Courts, the number of

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ii. It is anticipated that the majority of the judges and court officials will be found in ROME and that there will be sufficient both in personal presence and political soundness to provide courts within the first week. If there is a desertion of these officials it will cause a certain amount of embarrassment

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but the inhabitants will suffer ex necessitate by being forced to remain for longer periods in jail. If the buildings are destroyed, alternative accommodation will be found.

iii. I wish, if possible, to have the benefit of the advice in the first days in ROME, of Major Hannafor of AMG - ACC who has been the officer in charge of Italian Courts since the planning days before the invasion of SICILY, who has studied the operation of the Italian Courts on the ground in that Island, and who is now in NAPLES on the AMG - ACC staff and will, I understand, be the officer of the Legal Sub-Commission of ACC ultimately charged with supervision of the operation of the Italian Courts when ACC becomes responsible for control in Italy. His presence throughout our dealings with the personnel of the courts would be of great advantage in the post occupational reorganization of the machinery of Justice in ITALY. I am applying to 15th Army Group for permission to approach the D.C.C.A.O. AMG - ACC with a request that Major Hannafor may be permitted to enter ROME in the early days.

c. i. It is anticipated that five Summary Courts and one Superior Court will be required in ROME to sit permanently for the trial of those persons charged with offenses against the Allied Military Government Proclamations. The judges for two of the Summary Courts will be provided from officers of the Legal Division of Region 4, namely:

Major Stump (A)
Captain Falk (B)

The remaining three judges will be provided from the staff of the S.C.A.O. ROME City (Colonel Gevers). Two courts presided over by the Legal Officers of Region 4 will be available to sit within 24 hours of the occupation of the city as soon as the Public Safety Division has set up a prosecuting staff before these courts and the arrest of persons demand their trial. The remaining three Summary Courts presided over by C.A.O.s of ROME City will require to be provided to sit as soon after 48 hours of occupation as the arrests of persons warrant. If the jails are overcrowded on our arrival and the Italian Courts by reason of absence of personnel or unsuitability of unwillingness to work are unable to reopen for the disposal of cases, those classes of cases considered proper, although charges under Italian law will be brought before the Summary Courts for disposal in terms of Proclamation 2, Article IV, Proclamation 4, Article II, Section 3, and General Administrative Instruction No. 7, paragraphs 24 and 25.

ii. These Allied Military Courts will all operate as directed under the Proclamations, General Administrative Instruction No. 7, and Special Administrative Instructions Nos. 1, 2 and 3.

iii. It has not yet been possible to discuss with the Director of Public Safety, Lt. Col. Pollock, the location of these courts in relation to the establishment of prosecuting offices.

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ii. These Allied Military Courts will all operate as directed under the Proclamations, General Administrative Instruction No. 7, and Special Administrative Instructions Nos. 1, 2 and 3.

iii. It has not yet been possible to discuss with the Director of Public Safety, Lt. Col. Pollock, the location of these courts in relation to the establishment of prosecuting offices. It will not be possible to establish them all in one central building as difficulties of transport of arrested persons from Centers of Detention, will make it necessary to locate two at least of the courts in the vicinity of the two main prisons.

iv. The Director of Public Safety will require to set up a prosecution office and a prosecution staff for the investigation, preparation, and prosecution of all cases before the said Allied Military Government Summary Courts. This central office will separate those police reports and cases which will go forward in the normal pre occupational channels for trial by the Italian Criminal Courts, i.e. to the Pretore or the Procuratore del Re, from those to be brought before the Allied Military Courts. Reference is made to paragraph 1.c. of the memorandum by this Division to Colonel Gevers, Appendix "A" hereto.

2. insure a continuing of action which would be.

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v. An Allied Military Superior Court will be established within the first week of occupation at such time as it is required depending upon the number of cases brought before Summary Courts which these courts remit for trial by higher courts on the ground that if the accused was guilty, such court would not have power to award adequate punishment, together with those cases which the Senior Legal Officer may in terms of paragraph 5 (a) of Special Administrative Instruction No. 2 order to be brought directly before a Superior Court.

vi. This court will be presided over by a Legal Officer of Region 4, namely,

Major Elder, and
Captain Carey of Region 4 Legal Division will
act as Prosecutor before this court.

vii. Lt. Commander Musmanno of the Legal Division Region 4 will act as Administrative Officer of the Allied Military Government Courts, be available to provide advice to the Public Safety Officers investigating, preparing, and presenting cases for trial, and act as a co-ordinating officer between the Italian Courts and the Allied Military Government Courts in connection with the jurisdiction of these courts.

viii. Such General Military Courts as are required will be established when cases to be brought before such courts arise.

d. The Senior Legal Officer with his Deputy, will be located in the same building with the AMG, 5th Army, Headquarters Staff in ROME, to provide advice to all Divisions.

PERSONNEL 3. At the present time this Division has no EM/OR personnel. The Chief Legal Officer Region 4 is ascertaining whether any EM/ORs of that Region's Legal Staff can be made available to AMG, 5th Army Legal Division, for the occupation of ROME. On the basis which is probable, that Region 4 will not be able to attach any EM/ORs, for the proper functioning of this Division it will be necessary to have in ROME, seven EM/ORs, and the three C.A.O's provided by S.C.A.O., ROME City who will sit as Summary Courts will each require to have provided by Colonel Gevers one EM interpreter. Although every effort was made in all the courts in the occupied territories where I have been, to employ local inhabitants as interpreters, it has been found that the maximum salary which was payable did not attract the type of individual who had a sufficiently good command of the English language or degree of moral rectitude qualified to fill such an onerous task. Of the seven EM/ORs asked for, therefore, four must be clerk interpreters, and really good court interpreters, one a shorthand writer, and the remaining two clerks, preferably with some legal experience.

4. The officers who will form the Legal Division in ROME will be:

Senior Legal Officer: (B) Lt.Col. J.V.M. Shields,

vi. This court will be presided over by a Legal Officer of Region 4, namely,

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4. The officers who will form the Legal Division in ROME will be:

Senior Legal Officer: (B) Lt. Col. J.V.M. Shields,

AMG, 5th Army

Deputy

: (A) Captain H.L. Glenn,

AMG, 5th Army

Attached from Region 4

Superior Court President:

(B) Major W.G. Elder

Superior Court Prosecutor:

(B) Captain V.M.G. de V. Carey, 1A7757

Summary Court President:

(A) Major Walter D. Stump, 0123292

Summary Court President:

(B) Captain E.V. Falk, 120214

Court Liaison Officer:

(A) Lt. Cdr. Musmanno

The above mentioned officers of Region 4 have not yet been applied for by AMG, 5th Army, for attachment, but they have been selected by the Chief Legal Officer, Region 4, and myself. They are all presently working in Region 3 and they will require to be applied for for attachment to AMG, 5th Army, as soon as movement towards ROME impends.

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TRANSPORT 5. It will be necessary to provide for the transport into ROME within the first 24 hours of occupation of

Lt.Col. Shields
Captain Glenn
Major Stump

Captain Falk, together with Major Hannaford of AMG - ACC if his attachment is approved, and at least 4 E/Os of the Legal Division together with about 5 cwt of official stores in addition to personal kit. Provided the roads are passable to the civilian car available to this Division, two officers should be able to travel in it.

6. Within the following 24 hours the remaining three officers

Major Elder
Captain Carey and
Lt. Cdr. Mammone

and three E/Os will require to be brought into ROME with about 10 cwt of official stores and personal kit.

LEGAL DIVISION 7. In conclusion, Northwest of the Province of NAPLES there will be within the 5th Army area when occupied, the two towns of LITTORIA and PUGLIONE, the capitals of the two provinces of that name. It has already been agreed that the two officers from Region 4 who are earmarked to act as Legal Officers for those two provinces will be attached to AMG, 5th Army and ported to the appropriate Corps S.G.A.O's within sufficient time to enable them to go into and establish themselves in these provincial capitals. It is understood that these officers will, under the Senior Legal Officer, AMG, 5th Army and on the Staff of the S.C.A.O's in charge of these provinces, be responsible for those duties which fall to the Legal Division as specified in the first paragraph of this draft. The two officers neither of whom has been attached as yet to AMG, 5th Army but who are working in Region 3 are

Major R.M. Woodward (A) 0266777, LO LITTORIA Province
Major W. Waugh (A) 0222478, LO PUGLIONE Province

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

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APPENDIX "A"

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

208/CA/3
28 December 1943

SUBJECT: MEMORANDUM for Colonel Gevers

In compliance with your suggestion as to what the Legal Division desires of the C.A.O.'s and C.A.P.O.'s in Rome, (1) within 24 hours, (2) within 48 hours, (3) generally, the following requests are made:

1. Within 24 hours:
 - a. To supply three C.A.O.'s (lawyers if possible), to sit as three of five Summary Courts which it is expected will be required in Rome. Region 4 legal officers are available for two of the Summary Courts, one for the Superior Court and one as a prosecutor for the Superior Court.
 - b. To supply prosecuting staffs from C.A.P.O.'s for five Summary Military Courts to sit in Rome. The Prosecuting Staff of each Summary Court should consist of two Captains or one Captain and one Subaltern. One officer would handle the inside office and concern himself with the preparation of cases for trial and do the actual prosecuting before the Summary Courts. The other would do the outside work in connection with the preparation of cases for trial, and act as liaison with the Italian Police in the case of those arrested by the Italian Police, and the Provost Marshal in the case of those arrested by Military personnel.
 - c. Arrangements will be made by the C.A.O.'s, the two legal officers, and the prosecuting staff, to set up in a suitable building in each of five Districts of Rome, a court for the trial of persons accused of offenses against Allied Military Government Proclamations. The Public Safety Division will require to set up immediately, prosecuting offices where all the papers in respect to persons arrested can be handled and where the investigation, preparation, and bringing of cases for trial before the Summary Military Courts can be carried out. Further arrangements will also have to be made by that Division which will be difficult in a town where there may be little transport, of bringing accused persons from prisons to trial.

- d. To carry out a check of central prisons, report on conditions, and to instruct the prison officials on the preparation of a list of persons in jail, both convicted and awaiting trial, and with respect to the latter, the charges if any under Italian law. With respect to the former, a preliminary investigation should be initiated and carried through with the object of ascertaining which of those convicted have been incarcerated because of their political views, notwithstanding the ostensible charges on which they may have been convicted.

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e. To post about 2000 copies of each of Proclamations 1, 2 (and Notices re "Surrender of Arms" and Warning re "Curfew"), 3, 5, 8, 12, and General Orders 1 and 2. These Proclamations, Notices, and Warnings, will be supplied in bundles of 50 each of each separate Proclamation or Notice. C.A.O.'s should be instructed to fill out the blanks in the Notice to Surrender Arms and Transmission Sets, specifying the period within which and the office where the surrender must be made.

2. Within 48 hours:

a. To post throughout the City of Rome during the second day, about 2000 copies of each of Proclamations 4, 6, 11 and 13, which will also be made available in bundles of 50 each of each separate Proclamation or Order. General Order 3 will be available in the hands of the Senior Finance Officer, AMG, 5th Army, who will issue them for posting when

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it is decided on what day the Banks are to be opened and the moratorium lifted.

b. To advise the heads of the respective Italian Police Agencies of the provisions of Proclamation No. 13 requiring that a charge shall be lodged against each person at the time of imprisonment and that no person shall be retained in prison without trial, and that the trial shall take place as promptly as conditions will allow.

c. To distribute arrest reports to the Italian Police, and similar arrest reports to the Provost Marshal, for distribution to Military Police, requiring amongst other things, a statement of charges to be made and names and addresses of witnesses.

d. To insure that no troops are billeted in the following buildings and that they are not utilized for any purpose by the Military authorities:

- i. Palazzo di Giustizia
- ii. Ministry of Justice, Via Arenula
- iii. Pretura Building, Via del Governo Vecchio

3. Generally:

Requests for action to be taken after the expiration of 48 hours will be made as circumstances found upon the spot dictate.

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

HEADQUARTERS
AMG 5th ARMY
A.P.O. 464 U.S. ARMY
Legal Division.

208/GA/27

17 January 1944.

Dear Hase,

1. With reference to the question of personnel, the situation here is in extreme doubt. As you know from my plan for the occupation of Rome, I have attached to me four legal officers from Region IV and in addition I had asked for and been promised four C.A.O.'s from the Rome S.C.A.C.'s team to sit as summary court judges in that City. I am now informed that these officers will not be available to me. I do not want to go into Rome short handed and as Col. Upjohn has promised to provide a number of legal officers could you ask him to arrange for the immediate posting to Region IV and arrival here of four additional officers either from Tizi Ouzou or from Regions 1 or 2.

2. As you will know Captain V.M.G. de V Carey (B) No. 147757 a legal officer of Region IV on the Rome party has been ordered to the U.K. This deficiency however has been met by the fortuitous arrival here from N. Africa of Captain Howells Jones who is posted to Region IV, who I have now succeeded in attaching to A.M.G. V Army for Rome, in place of Carey.

3. With reference to this question of a liaison between me and A.C.C. on the Italian court side, as Hannaford is apparently not going to be made available, could you please ask Upjohn to attach Major Holt, presently attached to Region 3, so soon as a replacement for him can be posted to Region 3.

4. I have still not obtained any enlisted men or other ranks to act as court interpreters and clerks. I have asked for ten in my plan. These are essential to the proper functioning in Rome of this Division. I don't know how many I will succeed in getting from the batch who are coming in but as every Division is short and there is an insufficient cadre to fill up these deficiencies I would be grateful if you will continue to point out this need at 15th Army Group.

Yours sincerely

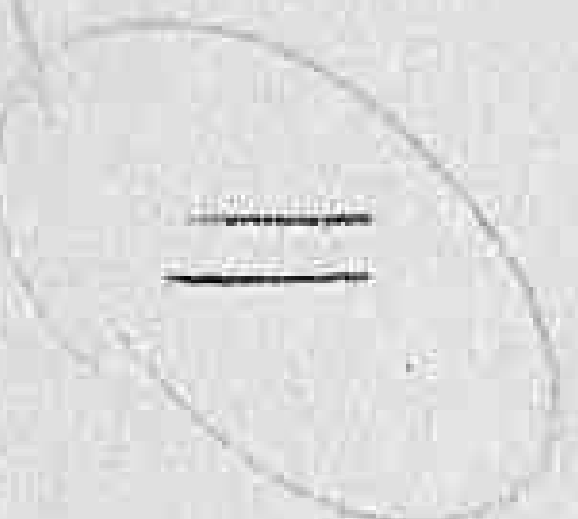
J. M. Shields.

Major M. Dew Howe
Chief legal officer
AMG HQ
15th Army Group.

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Stumpf — S.C.T.

Subject:- Occupation of Rome.

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AMG HQ.,
15 Army Group,
C.M.P.

Ref. AMG/ /10
13 January 44

S.C.L.C., AMG HQ. Region IV.

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Enclosed herewith is a copy of a list of buildings in Rome which the C.L.C. A.C.C. has sent me. Those under heading "A" enjoy diplomatic immunity under the Lateran Treaty. The C.L.C. advises me that AFHQ is issuing an order with respect to these properties which will provide that they are under no circumstances to be occupied or interfered with in any way except for reasons of absolute military necessity in actual battle.

2. The buildings named in list "B" are enumerated in Article 16 of the Lateran Treaty and are exempt from taxation and expropriation by the Italian Government under Article 16 of the Lateran Treaty. That fact would under International Law seem to remove them from our power of requisitioning, but it is understood that the AFHQ directive will also deal with this matter.

Major, A.U.S.,
Chief Legal Officer.

Copy to:- S.L.C., AMG HQ. Fifth Army.

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HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee.

GRU/gmf

10 January 1944.

In reply
refer to: ACC/L/303.

SUBJECT: Occupation of Rome.

TO : Chief Legal Officer, HQ AMG 15th Army Group.

Referring to our conversation of last Monday:

1. The Italian Government would definitely prefer that no steps be taken to open the Court of Cassation in Rome by AMG.

I think their attitude is both reasonable and correct and I hope that this view accords with your own and that you will give effect thereto.

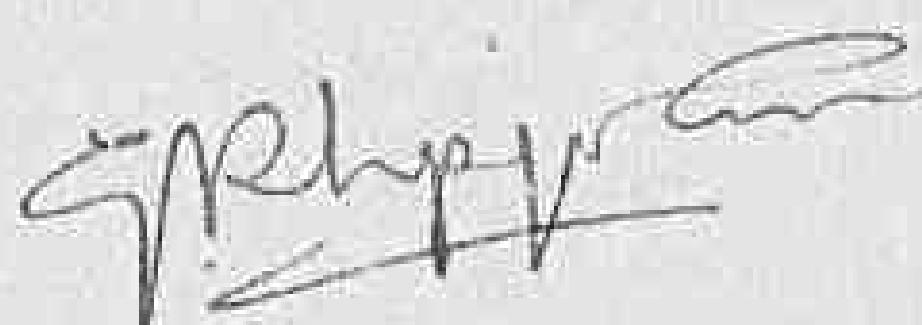
3. I enclose in triplicate a list of buildings in Rome which have under the Lateran Treaty and Concordat diplomatic immunity.

It is understood that AFHQ are issuing an order with regard to the treatment of these properties to the effect that they are under no circumstances to be occupied or interfered with in anyway except for reasons of absolute military necessity in actual battle.

2. The question of policy over personnel of ministries in Rome has been taken up and I shall write you further thereon in due course.

4. There are some other buildings enumerated in Art. 16 of the Lateran Treaty which are exempted from expropriation and taxation by the Italian Government. It seems plain that they

could be requisitioned as a matter of international law but this matter is also, it is understood, being dealt with by AFHQ and no requisition should be effected except pursuant to a directive from that Headquarters.



G. R. UPJOHN, Colonel
Chief Legal Officer, ACC.

P.S.

I have arranged for a meeting with the Minister of Justice at the Palace of Justice BARI on Friday 14th Jan at 1100 hrs. I hope you will be able to attend as we want to discuss & settle the Foggia Court of appeal decree.



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LIST OF BUILDINGS ENJOYING DIPLOMATIC IMMUNITY UNDER THE LATERAN TREATY

Patriarchal Basilica of San Giovanni in Laterano, of Santa Maria Maggiore and of San Paolo with annexed buildings (Enclosure II, 1, 2, 3 to the Lateran Treaty) Monastery annexed to the Basilica of San Paolo. Art 15 Lat. Treaty.

Building of San Callisto next to Santa Maria in Trastevere (Enclosure II, 9). Art 15 Lat. Treaty.

Pontifical Palace of Castel Gandolfo with all annexes. (Enclosure II, 4 lat. Treaty).
Villa Barberini in Castel Gandolfo with all annexes. (Enclosure II, 5). Art 14 Lat. Treaty

Realty on the north slope of the Colle Giannicolense; see plan Enclosure II, 12. Art 14 Lat. Treaty.

and to the churches of Sant'Andrea della Valle and of San Carlo ai Catinari
The former convent buildings annexed to the Basilica dei Santi XII Apostoli with all annexes. (Enclosure III, 3, 4, 5) Art 14 Lat. Treaty.

Palaces della Dataria, della Cancelleria, di Propaganda Fide, in Piazza di Spagna.

The Palace del Sant'Officio and annexes,
the Palace dei Convertendi in piazza Scossabarbati,
the Palace del Vicariato (Enclosure II, 6, 7, 8,
10, & 11)

All other buildings in which the Holy See in the future may place its other offices" (Art 15, Lat. Treaty)

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LIST OF BUILDINGS ENJOYING DIPLOMATIC IMMUNITY, TAVATIA, ETC. BY THE ITALIAN GOVERNMENT UNDER ART. 16, LATERAN TREATY.

The following pontifical institutes: Università Gregoriana, Istituto Biblico, Orientale, Archeologico, Seminario Russo, Collegio Lombardo, the two palaces of Sant'Apollinare and the Casa degli esercizi for the clergy of San Giovanni and Paolo (Enclosures III, 1, 1 bis, 2, 6, 7, 8) Art 16 Lat. Treaty.

Building of San Gallisto next to Santa Maria in Trastevere (Enclosure II, 3).

Art 13 Lat. Treaty.

Pontifical Palace of Castel Gandolfo with all annexes. (Enclosure II, 4 Lat. Treaty).

Villa Barberini in Castel Gandolfo with all annexes. (Enclosure II, 5). Art 14 Lat. Treaty.

Realty on the north slope of the Colle Giannicolense; see plan Enclosure II, 12. Art 14 Lat. Treaty.

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All other buildings in which the Holy See in the future may place its other offices" (Art 15, Lat. Treaty)

LIST OF BUILDINGS EXISTING WITH EMANCIPATION, ITALY, 1801, BY THE ITALIAN GOVERNMENT UNDER ART. 16, LAT. TREATY.

The following pontifical institutes: Università Gregoriana, Istituto Biblico, Orientale, Archeologico, Seminario Museo, Collegio Lombardo, the two palaces of Sant'Apollinare and the Casa degli esorcisti for the clergy of San Giovanni and Paolo (Enclosures III, 1, 1 bis, 2, 6, 7, 8) Art 16 Lat. Treaty.

SECRET

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

208/CA/37
28 December 1943

FIRST DRAFT PLAN OF THE LEGAL DIVISION, AMG, 5TH ARMY
FOR THE OCCUPATION OF ROME

1. The duties of the Legal Division in the Occupation of ROME will be:

a. To insure that supplies of Proclamations are available for posting in sufficient numbers by S.C.A.O.

b. To arrange for the resumption of the Italian National Courts, firstly, Inferior Courts for the disposal of criminal cases and when the courts are reopened for criminal competence, for the discharge of civil business.

c. To arrange for the establishment of Allied Military Government Courts for the trial of all persons charged with offenses against the Proclamations or those who for political or other reasons could not properly be tried by the Italian Courts.

d. To make a check of the political prisoners in jail and consider the release of those improperly detained.

e. To provide opinions and legal advice to all Divisions who may require any.

2. The discharge of these duties will be achieved as follows:

PROCLAMATIONS

a. 2000 copies of all Proclamations and Orders to be posted in ROME will be available for the S.C.A.O. ROME City by 1 January 1944 and will be taken into ROME by him and posted under his orders within the first 24 - 48 hours. Transportation of these Proclamations from NAPLES to ROME must be provided. Reference is made to par. 1 (e) and 2 (a) of the memorandum to S.C.A.O. Colonel Gevers, from this Division, Number 208/CA/3, dated 28 December 1943, attached hereto as Appendix "A".

ITALIAN COURTS

b. The constitution of the Superior and Inferior Courts located in ROME City has been studied and as far as possible information is being collected upon the personnel who form these courts. With the sources which are available, the political and judicial suitability and competency of the senior appointees who were and are reported to be filling the chief positions, are being checked with security sections. Immediately upon arrival in ROME, the Presidents of the Corte di Cassazione, Corte d'Appello, Corte d'Assise and Tribunale, Procuratore Generale, Avvocato Generale, Procuratore del Re, and Primo Pretore or such of them who are remaining in the town and who are known to be politically sound, will be called to a meeting with a view to discussing the situation of the National Courts, the number of

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- ii. It is anticipated that the majority of the judges and court officials will be found in ROME and that there will be sufficient both in personal presence and political soundness to provide courts within the first week. If there is a ~~delay~~ ^{disturbance} of these officials it will cause a certain amount of embarrassment

SECRET

but the inhabitants will suffer ex necessitate by being forced to remain for longer periods in jail. If the buildings are destroyed, alternative accommodation will be found.

iii. I wish, if possible, to have the benefit of the advice in the first days in ROME, of Major Hamaford of AMG - ACC who has been the officer in charge of Italian Courts since the planning days before the invasion of SICILY, who has studied the operation of the Italian Courts on the ground in that island, and who is now in MATTEO on the AMG - ACC staff and will, I understand, be the officer of the Legal Sub-Commission of ACC ultimately charged with supervision of the operation of the Italian Courts when ACC becomes responsible for control in Italy. His presence throughout our dealings with the personnel of the courts would be of great advantage in the post occupational reorganization of the machinery of Justice in ITALY. I am applying to 15th Army Group for permission to approach the D.C.C.A.O. AMG - ACC with a request that Major Hamaford may be permitted to enter ROME in the early days.

c. i. It is anticipated that five Summary Courts and one Superior Court will be required in ROME to sit permanently for the trial of those persons charged with offenses against the Allied Military Government Proclamations. The judges for two of the Summary Courts will be provided from officers of the Legal Division of Region 4, namely:

Major Stamp {A}
Captain Falk {B}

The remaining three judges will be provided from the staff of the S.C.A.O. ROME City (Colonel Cavers). Two courts presided over by the Legal Officers of Region 4 will be available to sit within 24 hours of the occupation of the city as soon as the Public Safety Division has set up a prosecuting staff before these courts and the arrest of persons demand their trial. The remaining three Summary Courts presided over by C.A.O.s of ROME City will require to be provided to sit as soon after 48 hours of occupation as the arrests of persons warrant. If the jails are overcrowded on our arrival and the Italian Courts by reason of absence of personnel or unsuitability or unwillingness to work are unable to reopen for the disposal of cases, those classes of cases considered proper, although charges under Italian law will be brought before the Summary Courts for disposal in terms of Proclamation 2, Article IV, Proclamation 4, Article II, Section 3, and General Administrative Instruction No. 7, paragraphs 24 and 25.

ii. These Allied Military Courts will all operate as directed under the Proclamations, General Administrative Instruction No. 7, and Special Administrative Instructions Nos. 1, 2 and 3.

iii. It has not yet been possible to discuss with the Director of Public Safety, Lt. Col. Pollock, the location of these courts in relation to the establishment of prosecuting offices. It will not be possible to establish them all in one central

ensure a continuity of
action which would be

officer of the Legal Sub-Commission of ACC ultimately charged with supervision of the operation of the Italian Courts when ACC becomes responsible for control in Italy. His presence throughout our dealings with the personnel of the courts would be of great advantage in the post occupational reorganization of the machinery of Justice in ITALY. I am applying to 15th Army Group for permission to approach the D.C.O.A.O. AMG - ACC with a request that Major Hannaford may be permitted to enter ROME in the early days.

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Major Stump (A)
Captain Falk (B)

The remaining three judges will be provided from the staff of the D.C.O.A.O. HOME City (Colonel Gevers). Two courts presided over by the Legal Officers of Region 4 will be available to sit within 24 hours of the occupation of the city as soon as the Public Safety Division has set up a prosecuting staff before these courts and the arrest of persons demand their trial. The remaining three Summary Courts presided over by D.A.O.s of HOME City will require to be provided to sit as soon after 48 hours of occupation as the arrests of persons warrant. If the jails are overcrowded on our arrival and the Italian Courts by reason of absence of personnel or unsuitability of unwillingness to work are unable to reopen for the disposal of cases, those classes of cases considered proper, although charges under Italian law will be brought before the Summary Courts for disposal in terms of Proclamation 2, Article IV, Proclamation 4, Article II, Section 3, and General Administrative Instruction No. 7, paragraphs 24 and 25.

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iii. It has not yet been possible to discuss with the Director of Public Safety, Lt. Col. Pollock, the location of these courts in relation to the establishment of prosecuting offices. It will not be possible to establish them all in one central building as difficulties of transport of arrested persons from Centers of Detention, will make it necessary to locate two at least of the courts in the vicinity of the two main prisons.

iv. The Director of Public Safety will require to set up a prosecution office and a prosecution staff for the investigation, preparation, and prosecution of all cases before the said Allied Military Government Summary Courts. This central office will separate those police reports and cases which will go forward in the normal pre occupational channels for trial by the Italian Criminal Courts, i.e. to the Pretore or the Procuratore del Re, from those to be brought before the Allied Military Courts. Reference is made to paragraph 1.c. of the memorandum by this Division to Colonel Gevers, Appendix "A" hereto.

insure a continuity of
action which would -

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v. An Allied Military Superior Court will be established within the first week of occupation at such time as it is required depending upon the number of cases brought before Summary Courts which these courts remit for trial by higher courts on the ground that if the accused was guilty, such court would not have power to award adequate punishment, together with those cases which the Senior Legal Officer may in terms of paragraph 5 (a) of Special Administrative Instruction No. 2 order to be brought directly before a Superior Court.

vi. This court will be presided over by a Legal Officer of Region 4, namely,

Major Elder, and
Captain Carey of Region 4 Legal Division will
act as Prosecutor before this court.

vii. Lt. Commander Musmanno of the Legal Division Region 4 will act as Administrative Officer of the Allied Military Government Courts, be available to provide advice to the Public Safety Officers investigating, preparing, and presenting cases for trial, and act as a co-ordinating officer between the Italian Courts and the Allied Military Government Courts in connection with the jurisdiction of these courts.

viii. Such General Military Courts as are required will be established when cases to be brought before such courts arise.

a. The Senior Legal Officer with his Deputy, will be located in the same building with the AMG, 5th Army, Headquarters Staff in Rome, to provide advice to all Divisions.

PERSONNEL 3. At the present time this Division has no MG/OR personnel. The Chief Legal Officer Region 4 is ascertaining whether any MG/ORs of that Region's Legal Staff can be made available to AMG, 5th Army Legal Division, for the occupation of Rome. On the basis which is probable, that Region 4 will not be able to attach any MG/ORs, for the proper functioning of this Division it will be necessary to have in Rome, seven MG/ORs, and the three C.A.O.'s provided by S.C.A.O., Rome City who will sit as Summary Courts will each require to have provided by Colonel Cavers one MG interpreter. Although every effort was made in all the courts in the occupied territories where I have been, to employ local inhabitants as interpreters, it has been found that the maximum salary which was payable did not attract the type of individual who had a sufficiently good command of the English language or degree of moral rectitude qualified to fill such an onerous task. Of the seven MG/ORs asked for, therefore, four must be clerk interpreters, and really good court interpreters, one a shorthand writer, and the remaining two clerks, preferably with some legal experience.

4. The officers who will form the Legal Division in Rome will be:

Senior Legal Officer: (B) Lt.Col. J.V.M. Shields,
AMG, 5th Army

Deputy : (A) Captain H.L. Glenn,

vi. This court will be presided over by a Legal Officer of Region 4, namely,

Major Elder, and
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AMG, 5th Army

Deputy

: (A) Captain H.J. Glenn,

AMG, 5th Army

Attached from Region 4

Superior Court President:

(B) Major W.G. Elder

Superior Court Prosecutor:

(B) Captain V.M.G. de V. Carey, 147757

Summary Court President:

(A) Major Walter D. Stump, 0123292

Summary Court President:

(B) Captain E.V. Falk, 120214

Court Liaison Officer:

(A) Lt. Cdr. Musmanno

The above mentioned officers of Region 4 have no yet been applied for by AMG, 5th Army, for attachment, but they have been selected by the Chief Legal Officer, Region 4, and myself. They are all presently working in Region 5 and they will require to be applied for for attachment to AMG, 5th Army, as soon as movement towards Rome impends.

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TRANSPORT 5. It will be necessary to provide for the transport into ROME within the first 24 hours of occupation of

Lt. Col. Shields
Captain Glenn
Major Stump

Captain Falk, together

with Major Hammond of AMG - AGC if his attachment is approved, and at least 4 EM/ONS of the Legal Division together with about 5 cwt of official stores in addition to personal kit. Provided the roads are passable to the civilian car available to this Division, two officers should be able to travel in it.

6. Within the following 24 hours the remaining three officers

Major Elder
Captain Carey and
Lt. Cdr. Lumsden

and three EM/ONS will require to be brought into ROME with about 10 cwt of official stores and personal kit.

LEGAL DIVISION 7. In conclusion, Northwest of the Province of NAPLES there will be within the 5th Army area when occupied, the two towns of LITTONIA and PROSINONE, the capitals of the two provinces of that name. It has already been agreed that the two officers from Region 4 who are earmarked to act as Legal Officers for those two provinces will be attached to AMG, 5th Army and ported to the appropriate Corps S.C.A.O.'s within sufficient time to enable them to go into and establish themselves in these provincial capitals. It is understood that these officers will, under the Senior Legal Officer, AMG, 5th Army and on the Staff of the S.C.A.O.'s in charge of these provinces, be responsible for those duties which fall to the Legal Division as specified in the first paragraph of this draft. The two officers neither of whom has been attached as yet to AMG, 5th Army but who are working in Region 3 are

Major R.M. Woodward (A) 0266777, 10 LITTONIA Province
Major W. Waugh (A) 0122478, 10, PROSINONE Province

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

6. Within the following 24 hours the remaining three officers

Major Elder
Captain Carey and
Lt. Cdr. Musiano

and three EW/ORS will require to be brought into ROME with about 10 cwt of official stores and personal kit.

LEGAL DIVISION 7. In conclusion, Northwest of the Province of NAPLES there will be within the 5th Army area when occupied, the two towns of LITTORIA and PROSINONE, the capitals of the two provinces of that name. It has already been agreed that the two officers from Region 4 who are earmarked to act as Legal Officers for those two provinces will be attached to AMG, 5th Army and ported to the appropriate Corps S.C.A.O.'s within sufficient time to enable them to go into and establish themselves in these provincial capitals. It is understood that these officers will, under the Senior Legal Officer, AMG, 5th Army and on the Staff of the S.C.A.O.'s in charge of these provinces, be responsible for those duties which fall to the Legal Division as specified in the first paragraph of this draft. The two officers neither of whom has been attached as yet to AMG, 5th Army but who are working in Region 3 are

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Major W. Waugh (A) 0122478, LO PROSINONE Province

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

APPENDIX "A"

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

208/CA/3
28 December 1943

SUBJECT: MEMORANDUM for Colonel Covers

In compliance with your suggestion as to what the Legal Division desires of the C.A.O.'s and C.A.P.O.'s in Rome, (1) within 24 hours, (2) within 48 hours, (3) generally, the following requests are made:

1. Within 24 hours:

a. To supply three C.A.O.'s (lawyers if possible), to sit as three of five Summary Courts which it is expected will be required in Rome. Region 4 Legal Officers are available for two of the Summary Courts, one for the Superior Court and one as a prosecutor for the Superior Court.

b. To supply prosecuting staffs from C.A.P.O.'s for five Summary Military Courts to sit in Rome. The Prosecuting Staff of each Summary Court should consist of two Captains or one Captain and one Subaltern. One officer would handle the inside office and concern himself with the preparation of cases for trial and do the actual prosecuting before the Summary Courts. The other would do the outside work in connection with the preparation of cases for trial, and act as liaison with the Italian Police in the case of those arrested by the Italian Police, and the Provost Marshal in the case of those arrested by Military personnel.

c. Arrangements will be made by the C.A.O.'s, the two legal officers, and the prosecuting staff, to set up in a suitable building in each of five Districts of Rome, a court for the trial of persons accused of offenses against Allied Military Government Proclamations. The Public Safety Division will require to set up immediately, prosecuting offices where all the papers in respect to persons arrested can be handled and where the investigation, preparation, and bringing of cases for trial before the Summary Military Courts can be carried out. Further arrangements will also have to be made by that Division which will be difficult in a town where there may be little transport, of bringing accused persons from prisons to trial.

d. To carry out a check of central prisons, report on conditions, and to instruct the prison officials on the preparation of a list of persons in jail, both convicted and awaiting trial, and with respect to the latter, the charges if any under Italian law. With respect to the former, a preliminary investigation should be initiated and carried through with the object of ascertaining which of those convicted have been incarcerated because of their political views, notwithstanding the ostensible charges on which they may have been convicted.

e. To post about 2000 copies of each of Proclamations 1, 5

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d. To carry out a check of central prisons, report on conditions, and to instruct the prison officials on the preparation of a list of persons in jail, both convicted and awaiting trial, and with respect to the latter, the charges if any under Italian law. With respect to the former, a preliminary investigation should be initiated and carried through with the object of ascertaining which of those convicted have been incarcerated because of their political views, notwithstanding the ostensible charges on which they may have been convicted.

e. To post about 2000 copies of each of Proclamations 1, 2 (and Notices re "Surrender of Arms" and Warning re "Curfew"), 3, 5, 8, 12, and General Orders 1 and 2. These Proclamations, Notices, and Warnings, will be supplied in bundles of 50 each of each separate Proclamation or Notice. C.A.O.'s should be instructed to fill out the blanks in the Notice to Surrender Arms and Transmission Sets, specifying the period within which and the office where the surrender must be made.

2. Within 48 hours:

a. To post throughout the City of Rome during the second day, about 2000 copies of each of Proclamations 4, 6, 11 and 13, which will also be made available in bundles of 50 each of each separate Proclamation or Order. General Order 3 will be available in the hands of the Senior Finance Officer, AMG, 5th Army, who will issue them for posting when

it is decided on what day the Banks are to be opened and the moratorium lifted.

b. To advise the heads of the respective Italian Police Agencies of the provisions of Proclamation No. 13 requiring that a charge shall be lodged against each person at the time of imprisonment and that no person shall be retained in prison without trial, and that the trial shall take place as promptly as conditions will allow.

c. To distribute arrest reports to the Italian Police, and similar arrest reports to the Provost Marshal, for distribution to Military Police, requiring amongst other things, a statement of charges to be made and names and addresses of witnesses.

d. To insure that no troops are billeted in the following buildings and that they are not utilized for any purpose by the Military authorities:

- i. Palazzo di Giustizia
- ii. Ministry of Justice, Via Arenula
- iii. Pretura Building, Via del Governo Vecchio

3. Generally:

Requests for action to be taken after the expiration of 48 hours will be made as circumstances found upon the spot dictate.

J.V.M. SMITH, Lt. Col.,
Senior Legal Officer,
AGC, 5th Army.

Similar arrest reports to the arrest of the following
Military Police, requiring amongst other things, a statement of charges
to be made and names and addresses of witnesses.

d. To insure that no troops are billeted in the following
buildings and that they are not utilised for any purpose by the
Military authorities:

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

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