

ACC

10000/142/999

BADOGLIO LEGISLA
DEC. 1943

10000/142/999

BADOGLIO LEGISLATION, REPEALING ANTI-BACHELOR LAWS
DEC. 1943

COPY

ALLIED MILITARY GOVERNMENT
OF CALABRIA

Your Ref _____

Office of the Senior Legal Officer

My Ref _____

9th Dec. 1943.

SUBJECT: Disqualification of Bachelors

R.C.L.O.

A.M.G.O.T. H.Q. Region 2

1) I am being much pressed by those Judicial Officials who would have been promoted but for the provisions of the Royal Decree of 23rd March 1939 No. 597, which required the qualification, of marriage, to agree to their promotion so as to give them the seniority which they would have had if the Royal Decree of 1939 had never existed: that Royal Decree was repealed by Royal Decree Law of 2nd August 1943 No. 707 but unfortunately the Royal Decree Law of 2nd August was not made retrospective. In my view, accordingly, promotion can only be granted to them with effect from the 2nd August 1943.

2) They, however, argue that article 6 of the Royal Decree gave a right to have the promotion antedated if the Officials married within four years (this period was prolonged to 6 months after the war) and that the Royal Decree Law of August 1943 cannot be construed to destroy an inchoate right.

To an Anglo-Saxon lawyer this line of reasoning is incomprehensible, but some Italian lawyers whom I have consulted, though not all advise that it is sound in Italian law.

3) However, inasmuch as the disqualification of bachelors is a part of Fascist policy I submit it is unobjectionable to rule that the applicants are, during the period of the occupation, to have the seniority which they would have had been promoted at the date when their promotion was originally postponed because of their being bachelors, provided that no arrears of pay at the higher rate should be payable for the period before September the 12th, the date of the occupation in Calabria. This will leave the situation unprejudiced for the Badoglio Government when it takes over.

May I have your ruling?

Major JLO
for SCAO Calabria

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304
AMG HQ
Region Two

Ref: 2201/13/13

16 Dec 43.

Subject: R.D. of 23 March 1939

To: Chief Legal Officer
Legal Sub-Commission
ACC

121/2

The enclosed copy of a letter from the SIO for Catanzaro raises a question which I feel it is beyond the competence of Regional HQ to decide and which, in its larger aspects at least, concerns the Italian government as a whole. I therefore present the problem for your consideration. The SIO has been instructed to take no action, even with respect to alary increases for the period of occupation, until he received further advice.

Mark DeQ. Howe, Major, AUS,
RCLO, Region 2.

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304
AMG HQ
Region Two

Ref: 2201/13/13

16 Dec 43.

Subject: R.D. of 23 March 1939

To: Chief Legal Officer
Legal Sub-Commission
ACC

124/2

The enclosed copy of a letter from the SLO for Catanzaro raises a question which I feel it is beyond the competence of Regional HQ to decide and which, in its larger aspects at least, concerns the Italian government as a whole. I therefore present the problem for your consideration. The SLO has been instructed to take no action, even with respect to alary increases for the period of occupation, until he received further advice.

Mark DeQ. Howe, Major, AUS,
RCLO, Region 2.

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File

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee

RH/gaf

12/1/2

23 December 1943.

In reply
refer to: ACC/1/304.

SUBJECT: Royal Decree of 23 March 1939.

TO : Regional Chief Legal Officer, Region 2.

1. Ref. your letter 2201/13/13 dated 16 Dec. 1943.
2. The Royal Decree of 23 March 1939 No. 997 I find has been annulled but without retroactive effect.
3. We will take up the question of retroactive effect with Italian officials in the Ministry of Justice and will advise you of outcome.
4. I agree with your instructions to the SLO to take no action, even with respect to salary increases, until further advice is given.

RICHARD H. WINNER, Lt. Col. CAD
Deputy Chief Legal Officer,
ACC.

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