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

ACC

10000/142/1004

REQU
(CLOS
NOV.

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

10000/142/1004

REQUISITION OF PAPAL PROPERTY
(CLOSED, SEE 4015)
NOV. 1943 – MAR. 1944

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

BW

Prof. Del Prete

Comandante Supremo
(ufficio Propaganda)

Via Nicola dei Cerchi
(vicino alla Stazione)

Roma

Box 10239 (Roma) (dei colori)

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

Almanac
World 1942

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

Acc. to Art. 5 as a rule the buildings open to public access... are exempted from any requisition by a hy or military authorities. That rule admits two exceptions:

a) in case of grave public necessities (war ...) an occupation of such buildings is admitted if agreement is made with the local authority...

b) in case of absolute urgency, the centr. or local authority may proceed without any more to occupation ... informing immediately the comp. belligerent. authority

(Comparato & Art 10)

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

[illegible]

[illegible]

[illegible]

[illegible]

Amendment 15 for principles

Just to whom does the
seeming belong.

Cons. W. Amendments.

Fourth lit. perms.

Frances Mes[illegible]
Pittsburgh Pa. Sen. [illegible]
Meeting [illegible]

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

not seen
PM

10 Novembre 1943.

Egreggio Professore:

Voglia avere la bonta di perdonarmi per la mia mancata presenza all'appuntamento prestabilito. Mi e stato impossibile incontrarLa a causa di una conferenza importante dalla quale non potevo affatto assentarmi.

Spero che mi sara perdonata anche la mancanza di notificazione per la ragione che non potei assolutamente trovar mezzo alcuno per poter communicarLe che non saro in grado di raggiungere il mio assistente.

La ringrazio sentitamente per il Suo valevole aiuto e per le sue offerte delle Sue stimate opinioni di cui mi profitero gradevolmente te quando ne avro l'occasione.

D'altro canto se Ella avesse bisogno di qualche cosa, La prego di contare su di me per quel che posso.

Con i piu cordiali saluti mi creda.

sinceramente Suo

G. R. UPJOHN,
Colonnello.
Missione Militare Alleata.

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

0820

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

COPY

IMPORTANT

CRET BR CIPHER MESSAGE

FOLIO Nº: C2175
23 JAN 44.

(26)

N: FREEDOM SIGNED CINIC CITE PHHGS
: 15 ARMY GROUP AIR FLAMBO
FO: 2 DISTRICT FATEMA PBS FARGO TOO 1500A. 23
ORIG NO: 42486 TOR 0835A. 25

ONE. MESSAGE FROM CCS (FAN 322) CONTAINS FOLLOWING LIST OF VATICANNAN LATERAN TREATY. ARTICLES 13 - 16 AND ANNEXES 2 AND 3. PARA ARTICLE 14. NUMBER 3. PLACE ATTACHED TO THE CHURCH OF SANT ADREA DELLA VALLO. NUMBER 2. PALACE OF THE HOLY (ROMAN) ONE TWO APOSTLES ATTACHED TO THE BASILICA OF THE HOLY APOSTLES. (SANTI APOSTOLI).
NUMBER 4. PLACE ATTACHED TO THE CHURCH OF SAN CARLO AT CATINAGE (CATI-RERI)
NUMBER 1. PROPERTY ON THE NORTH SIDE OF THE JANICULUM HILL OVER-LOOKING VATICAN CITY BETWEEN VIALE AURELIO AND PASSEGGIATA SUL GIANICOLO AND INCLUDING THAT BELONGING TO THE SACRED COLLEGES. PROPAGANDA 5 PARA ARTI-CLE 13. NUMBER 2. BASILICA OF SAINT MARY MAJOR (SANTA MARIA MAGGIORE).
NUMBER 1. BASILICA OF SAINT JOHN LATERAN (SAN GIOVANNI LATERNI-).
NUMBER 4. PALACE OF SAINT CALLIXTUS (SAN CALLISTO) IN TRASTEVERE.
NUMBER 3. BASILICA OF SAINT PAUL WITHOUT THE WALLS (SAN PAOLO FUORI LA MURA) INCLUDING THE MONASTERY.
PARA ARTICLE 15.
NUMBER 4. ARCHEOLOGICAL INSTITUTE ORIENTAL INSTITUTE, LOMARD COLLEGE AND THE RUSSIAN 7 CISVEGE ON PIAZZAT SANTA MARIA MAGGIORE.
NUMBER 5. THE HOUSE OR RETREAT FOR THE CLERGY OF THE CHURCH OF SAINTS JOHN AND PAUL, INCLUDING THE NYMPHEUM OF NERO, ON THE CAELIAN HILL.
NUMBER 6. THE TWO PALACES OF SANT APOLLINARE BETWEEN THE PIAZZA SANTA APOLLINARE AND VIA DELLA SCROTA.
NUMBER 2. GREGORIAN UNIVERSITY (ALLA PILOTTA) FACING ON PIAZZA DI PILOT-TA NUMBER ONE GREGORIAN UNIVERSITY VIA DEL SEMINARIO NEAR THE CHURCH OF SANT'IGNAZIO)
NUMBER 3. PART O BIBLICAL INSTITUTE IN PIAZZA DI PILOTTA.
PARA ARTICLE 15. NUMBER (GROUP MISSING).
CONGREGATION OF THE OSTIDTAL CHURCH, FORMERLY PALACE OF THE CONVERTENDI IN PIAZZA SCOSSACAVALLI.

SECOND CIPHER PART OF MSGE NUMBER 42486 FOLIO NO: 02200
NUMBER SIDNAL PALACE OF THE VICARIATO IN VIA DELLA PIGNA OF THE CORSO VIT-TORIO EMANUELE NEAR PIAZZA DEL GESU'.
NUMBER 1. PALACE OF THE DATARIO, NEAR THE QUIRINAL PALACE.
NUMBER 2. PALACE OF THE HOLY OFFICE (SANT'OFFIZIO) ADJACENT TO THE PIAZ-ZA SAN PIETRO AT PORTA CAVLLEGGERI.
NUMBER 3. PALACE OF THE PROPAGANDA FIDE ON THE PIAZZA DI SPAGNA.
NUMBER 2. PALACE OF THE CANCELLERIA BETWEEN THE CORSO VITTORIO EMANUELE AND THE CAMPO DEI FIORI

33

0821

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

25

TWO.
CE FROM CCS FOR THE TREATMENT OF THIS PROPERTY? IS GIVEN IN OUR
OF 18 DECEMBER, PARA C.

ARA THREE.
OUTSIDE OF ROME VILLA BARBERINI IN TOWN OF CASTEL GANDOLFO, PROVINCE OF
ROME, SHOULD BE ACCORDED SAME TREATMENT.

PARA FOUR.
A SPECIAL ATTEMPT SHOULD BE MADE TO SPARE THE FOLLOWING VATICAN PROPER+
TIES FROM DAMAGE IN VIEW OF THEIR RELIGIOUS AND HISTORICAL SIGNIFICANCE.
NUMBER 2. THE BASILICA OF SAINT FRANCIS AT ASSISI, PROVINCE ON PERUGIA.
NUMBER 3. THE BASILICA OF THE HOLY HOUSE (SANTA CASA) AT LORETO, PRO-
VINCE OF ANCONA. THEY SHOULD BE ADDED TO THE LIST OF MESSAGE G-35285
OF 4 NOVEMBER AND 25722 OF 8 JANUARY AS THE FOLLOWING SERIALS.

HOLY HOUSE 8
SAINT FRANCIS 9
SAINT ANTHONY 10

PARA FIVE.
YOU SHOULD AVOID REQUISITIONING OR CONVERTING TO OUR USE OTHER VATICAN
PROPERTY THROUGHOUT ITALY WHICH EXISTING OCCUPANTS CLAIM TO BE PROPERTY
OF THE HOLY SEE. IF URGENT OPERATIONAL NEEDS REQUIRE OCCUPATION REPORT
SHOULD BE MADE EARLIEST TO THIS HEADQUARTERS.

PARA SIX.
IN LETTERS 10 JULY TO POPE, PRESIDENT STATED CHURCHES AND RELIGIOUS IN-
STITUTES WILL BE SPARED DEVASTATION OF WAR TO EXTENT WITHIN OUR POWER
AND VATICAN CITY AND PAPAL DOMAINS WILL HAVE NEUTRAL STATUS RESPECTED.

END OF PART TWO AND END OF MESSAGE.

SMC 1348A. 25
T.T.1420A. 25 HT.

AMG 4 ACTION
MA TO CING 1

38

TO: AFHQ.

FROM: A.R.M.

Ref 759 to Freedom from Fatima signed MacFarlane dated 4 Nov. Professor of Administrative Law Bari University confirms that Seminary (ij) unlikely to belong to Pope but even if it does Italian Government has undeniable right to requisition the property in case of military necessity in time of war.

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

0823

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

U. S. SECRET
Equals British SECRET

/sk

OUTGOING

12/6
797

062205A

SECRET

URGENT

FATIMA

FREEDOM

REFERENCE SEVEN FIVE NINE PAREN TO FREEDOM FROM FATIMA SIGNED MACFARLANE PAREN DATED FOUR NOVEMBER ID PROFESSOR OF ADMINISTRATIVE LAW BARI UNIVERSITY CONFIRMS THAT SEMINARY UNLIKELY TO BELONG TO POPE BUT EVEN IF SO ITALIAN GOVERNMENT HAS UNDENIABLE RIGHT TO REQUISITION THE PROPERTY IN CASE OF MILITARY NECESSITY IN TIME OF WAR ID AWAIT INSTRUCTIONS

AUTHENTICATED:
ROBERT E. DOE
Major, A.G.D.
Secretary of the Mission

DISTRIBUTION:

2 - AG Files
1 - Diary
1 - Col. Upjohn

36

U. S. SECRET
Equals British SECRET

10 Novembre 1943.

Egregio Professore:

Voglia avere la bonta di perdonarmi per la mia mancata presenza all'appuntamento prestabilito. Mi e stato impossibile incontrarla a causa di una conferenza importante dalla quale non potevo affatto assentarmi.

Spero che mi sara perdonata anche la mancanza di notificazione per la ragione che non potei assolutamente trovar mezzo alcuno per poter comunicarle che non saro in grado di raggiungere il mio assistente.

La ringrazio sentitamente per il Suo valevole aiuto e per le sue offerte delle Sue stimate opinioni di cui mi profitero gradevolmente te quando ne avro l'occasione.

D'altro canto se Ella avesse bisogno di qualche cosa, la prego di contare su di me per quel che posso.

Con i piu cordiali saluti mi creda.

sinceramente Suo

non peut

G. R. UPJOHN,
Colonnello.
Missione Militare Alleata.

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

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

Translation of Letter to Prof. Pasquale del Prete.

Dear Sir:

May I ask you to kindly excuse my failure to appear at our appointment. I was not able to meet you because of an important conference which I absolutely had to attend. I hope that you will also excuse my failure to notify you in advance; I could not possibly find any means to communicate with you that I ~~shall~~ will not ~~be~~ able to join my assistant. I wish to thank you very much for your valuable help and for the offer of your esteemed advice for the future of which I shall gladly take advantage if an occasion should arise. On the other hand if you should need anything I wish you would count on me. I am with kindest regards.

Sincerely yours.

Wolf Direct

0826

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

700/1

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission

GRW/gmf

15 January 1944.

In reply
refer to: ACC/L/200/1.

SUBJECT: Requisition of Molfetta Seminary.

TO : AFHQ MGS.

1. Ref your MGS 601 dated 7 Jan 44.

2. It is proposed to use the Seminary as a hospital and not a convalescent home. Lt. Col. Fairman who is bringing this letter can tell you of the latest difficulties in regard to the requisition of this building.

3. No communication from the Archbishop of Bari with regard to to the matters mentioned in para 3 of the British Minister's letter has been received.

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

525

S E C R E T

CONTROL COMMISSION - INCOMING

MOST SECRET N2/22 N38/21

PRIORITY 3749

PERSON SIGNED REMEMBER CITE PRMCS NOV 230555A

PATRIA FOR JOYCE RPTD DESTRO

200/1

Seminary at Moncletta desired for convalescent home. See your 739 of 4 Nov. 43 and 797 of 6 Nov. 43 and our 8624 of 9 Nov. 43. Our right to requisition is undoubted. Lateran treaty would not affect that right.

On grounds of policy however it is desirable Italian Government make the requisition. Seemingly nothing in Lateran treaty or Concordat to prevent. Therefore you will require them to procure the use of the property for us.

British Minister is informing Vatican as matter of courtesy that Allied Military authorities propose to act as above. Will make it clear we are not asking permission. Will suggest that Vatican issue directives to authorities in charge Ecclesiastical property to co-operate with Allied Forces in such cases.

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

CASTLE - URGENT GGU/RMS/pmc

15 January 1944.

URGENT

URGENT

FROM PATRIA

TO FRENCH NCA VETO FLORO NITNO

Nelfetta Seminary duly requisitioned by Italian Government FWIW see your 5749 of 21 Nov 43 FWIW but Seminary authorities refuse to move out stating that they cannot comply with condition laid down in message from Pope FWIW see your 256 306.2 of 18 Dec 43 FWIW because they say they cannot continue to function or find other premises PD Prolonged negotiations have failed to satisfy requirements of British Military Authorities or of Seminary Authorities in regard to possible alternative accomodation and further negotiation would be useless PD Position now is Seminary authorities will only move out under pressure of actual force PD Believe that nothing short of absolute and unconditional order from Pope would cause authorities to alter this attitude PD

As Seminary is in the Province of DEXT which is not repeat not occupied by Allied Forces it appears that force should only be used through agency of Italian Government PD Italian Government would probably exercise the necessary force if so ordered, but they would undoubtedly make it clearly evident that they were only acting under compulsion of Allied Control Commission and against their better judgment PD Urgently request your immediate decision whether I am to order Italian Government to use necessary force to expel occupants from Seminary PD TO PRIORITY NCA NTTO FLORO DEXTNO FROM PATRIA SIGNED JOKEL PD Request your reply be repeated to FLORO and DEXTNO PD

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

TO FRUMEN NAF 1023 WARNO 18 NAVO

Melfotto Sanitary Only requisitioned by Italian Government PARTI see your 5749 of 21 Nov 43 PARTI but Sanitary authorities refuse to move out stating that they cannot comply with condition laid down in message from Pope PARTI see your NAF 306.2 of 18 Dec 43 PARTI because they say they cannot continue to function or find other premises FD Prolonged negotiations have failed to satisfy requirements of British Military Authorities or of Sanitary Authorities in regard to possible alternative accomodation and further negotiation would be useless FD Position now is Sanitary authorities will only move out under pressure of actual force FD Believe that nothing short of absolute and unconditional order from Pope would cause authorities to alter this attitude FD

As Sanitary is in the province of BAGI which is not repeat not occupied by allied Forces it appears that force should only be used through agency of Italian Government FD Italian Government would probably exercise the necessary force if so ordered, but they would undoubtedly make it clearly evident that they were only acting under compulsion of Allied Control Commission and against their better judgment FD Urgently request your immediate decision whether I am to order Italian Government to use necessary force to expel occupants from Sanitary FD

TO FRUMEN NAF 1023 WARNO 18 NAVO FROM FATIM SIGNED JUNOR FD Request your reply be repeated to PLANNO and DEXTRO FD

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

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

Col Wyeisten
for Hevs

ALLIED CONTROL COMMISSION
APO 512

/drr

10 November 1943

SUBJECT: Seminary at Bari Province.

TO : Headquarters No. 2 District (Q), Bari

The following telegram received from AFHQ is passed on to you for information: "Convalescent home at Bari. Without doubting legal power of Allied Forces to requisition seminary by whomever owned, it seemed expedient to invite Pope to give direction generally that religious institutions comply with military requirements. This consultation will take a little time."

For the Chief of the Allied Control Commission;

MAXWELL D. TAYLOR
Brigadier General , USA

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

KAJ/ocn

26 November 1943.

To His Excellency Marshal Pietro Badoglio.

Dear Marshal Badoglio:-

The Allied Armies in Italy have urgent need of the Seminary located in Molfetta in the Province of Bari for the establishment of a Convalescent Home. It is requested that this property be requisitioned as soon as possible by the Italian Government and assigned to the Allied Armies for this purpose.

An examination of the Lateran treaty and Concordat has been made and I am advised that there is no provision prohibiting the desired requisition.

As a matter of courtesy the British Minister is informing the Vatican that the Italian Government is being asked to requisition.

I should be grateful if you would advise me as soon as the requisition is effectuated.

Most sincerely,

0 8 3 I

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

To Col. Upjohn
MM

HQ No. 2 District,
C.M.F.
19 Oct 43.

1027 Q

From:-
Col. C.P.R.Johnston,
DA & QMG No. 2 District.

Dear General.

To confirm conversation yesterday regarding accommodation in Papal property.

Can a ruling please be obtained, as a matter of priority, regarding the principle of requisitioning of Papal property.

The particular case in point is a seminary in MOLFETTA which houses some 370 young Italian priests. It is a modern well built structure and is ideally suited as a convalescent depot. No other building in this District has as yet been found, which can be used as an alternative, and the matter of selecting a site is one of urgent operational necessity.

Yours sincerely

C.P.Johnston Col.

To:- Brigadier General W.Taylor,
Allied Mission, BRINDISI.

Copy to:- D.D.M.S.

0835

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

Col. Upham
Please keep
a reply to
Gen. Dowler
MMJ

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

SUBJECT :- Requisition of Papal property.

HQ No 2 District CMP.
1027/Q.
4 Nov 43.

Allied Military Mission,
BRINDISI.

Reference Col Upjohn's visit to this HQ yesterday.

There would appear to be no doubt that the Seminary for young Italian Priests in MOLFETTA is Papal property, though this should be confirmed by the terms of the Concordat which is now being translated at your HQ.

It was made quite clear by Col Upjohn that the Italian Authorities have no right of requisition of Papal property and that the only course open is for the Allied Mission to request AFHQ to deal direct with the VATICAN.

It is vital that this Seminary be made available for a Medical Installation. No other building in this District can be found for a Convalescent Depot which would be at all suitable, and in the meantime valuable space is being filled in the hospitals by cases which should be in the Convalescent Depot, and manpower is being wasted by evacuation of personnel to SICILY.

Will you please take this up with AFHQ as a matter of urgency.

25

TOO. A

Maj-Gen, GOC.

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

1311

12 JAN 1944

INFO 3 /dfe

21/12

NOT GIVEN AQ 358

NOT GIVEN JAN 111730A

MMIA JAN 121245A

200/2

ALLIED CONTROL COMMISSION FOR ACTION, 71 SUB AREA
INFO.

Sub Area require urgently as hospital for Yugoslav refugees the building in Lecce at present earmarked for Comando Supremo. Confirming conversation Captain Stone - Duchesne can you say by Thursday morning whether they can have it?

file

DISTRIBUTION:

2 - AG
1 - Diary
1 - Chief of staff - ACTION
1 - Col. Kirkwood - INFO
1 - Col. Upjohn - INFO

24

484

0836

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

200

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission

GEU/gaf

12 January 1944.

MEMORANDUM for Proposed Telephone Conversation with Col. Johnson.

TO: Captain Stone, U.S.N.R.

1. Ref your 222A dated 5 Jan 44.

2. In reference to para 2, have the authorities vacated the premises at Molfetta?

3. If not, this Commission strongly deprecates the use of force without express order from higher authority. Any action by force taken by Allied troops in unoccupied territory will in the opinion of ACC be illegal.

4. As this point is one of major policy which may arise also in the future, a signal is being sent today (copy to you) asking for a definition of the attitude which should be taken in the event of a refusal by the church authorities to obey a requisitioning order.

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

12 JAN 1944 1805

BY FAST AIR COURIER

DSJ/DW/mit

200

ALLIED FORCE HEADQUARTERS

Military Government Section

Col Upjohn

MGS-601 7 January 1944

SUBJECT: Requisition of Molfetta Seminary

TO : HQ Allied Control Commission

1. Reference our letter MGS-386.2 of 18 December, and a communication from the Office of the British Resident Minister, 11/34/1501 of 16 December, which was attached thereto.

2. Early information is requested as to whether the seminary will be used as a military convalescent home, and also, as a matter of urgent ~~importance~~, whether any information can be provided regarding matters specified in para 3 of the communication from the Office of the British Resident Minister.

D. S. JACKLING
for Lt. Colonel.

Copy to:-

The Office of the British Resident Minister
Attention: Mr. Addis.

22

486

0858

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

12 JAN 1944 1805
BY FAST AIR COURIER

DSJ/DW/mlt

ALLIED FORCE HEADQUARTERS

Military Government Section

MGS-601 7 January 1944

SUBJECT: Requisition of Molfetta Seminary

TO : HQ Allied Control Commission

1. Reference our letter MGS-386.2 of 18 December, and a communication from the Office of the British Resident Minister, 11/34/1501 of 16 December, which was attached thereto.

2. Early information is requested as to whether the seminary will be used as a military convalescent home, and also, as a matter of urgent importance, whether any information can be provided regarding matters specified in para 3 of the communication from the Office of the British Resident Minister.

D. S. JACKLING
Lt. Colonel.

Copy to:-

The Office of the British Resident Minister
Attention: Mr. Addis.

0839

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

C 200/1

TRANSLATION

ARCHDIOCESE OF BARI

Brigadier General Taylor,

Brindisi

Having awaited in vain the arrival of a representative of the Italian Government, according to assurances given by members of your Commission, and, on the other hand, urging a quick and definite conclusion in regard to the requisitioning of the Regional Pontifical Seminary of Molfetta, we propose that this matter be settled by a representative from your Commission, by one from the Central Government of Brindisi and by His Rev. Excellency Monsignor Francesco De Filippis, Archbishop of Brindisi, delegate of His Excellency, the Archbishop of Bari.

Trusting that our proposal may be accepted, etc.

Bari, 5 January 1944

Signed Marcello Mimmi, Archbishop
Signed Achille Salvani, Bishop

507

R D 5 agosto No 40, n 1741
Gazetta Ufficiale 2 giugno 1941

~~Beni~~

Capo I Art 1.

Beni non sono requisibili per causa soggettiva.

Art 2. Non sono requisibili:

1 – Re, Regina

2 – Rappresentanze diplomatiche di Stati esteri.

3 – " " presso la Santa Sede

4 Beni in uso di istituti internazionali e di loro funzionari ai quali siano estese le immunità diplomatiche

5 le cose appartenenti agli stranieri ~~salvo~~ da requisizione in virtù di accordi internazionali

13

6 Gli immobili indicati negli art 13, 14, commi primo e secondo, e dell 15 del trattato dell'11 febbraio

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

Beni non sono requisibili per causa soggettiva.

Art. 2. Non sono requisibili:

1 – Re, Regina

2 – Rappresentanze diplomatiche di Stati esteri.

3 – " " presso la Santa Sede

4 Beni in uso di istituti internazionali e di loro funzionari ai quali siano estese le immunità diplomatiche

5 le cose appartenenti agli stranieri salvo che requisizione in virtù di accordi internazionali

13

6 Gli immobili indicati negli art 13, 14, commi primo e secondo, e del 15 del trattato dell'11 febbraio 1929 - VII fra l'Italia e la Santa Sede, non che i mobili che si trovano. Gli immobili indicati nell'art. 14, comma terzo del trattato predetto e quelli adibiti a sede degli istituti pubblici menzionati nell'art 16, comma primo, dello stesso trattato non possono

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

essere requisiti se non vieno accordo con la Santa Sede.

Beni non requisibili: per causa oggettiva.

Art. 3 - Non sono requisibili

1 gli edifici aperti al culto, nonchè le case consacrate al culto e comunque destinate all'esercizio di esso;

2 gli edifici direttamente destinati a fini di pubb. assistenza o beneficenza

3 i locali di ~~comunità~~ opere ausiliari agricoli, industriali con impiego di mano d'opera prevalentemente femminile

4 i locali ~~a~~ direttamente destinati a culto pubblico

5 i locali occupati da comunità religiose

6 " " " collegi femminili

Tuttavia, in caso di urgente necessità, le autorità che hanno il potere di ordinare le requisizioni, possono assoggettare a tale requis., previ accordi con l'Ordinario diocesano, per quanto concerne i beni indicati nel n. 1, e in ogni altro caso, con il pretesto

gli edifici di istituti religiosi e conventi

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

destinate all'esercizio di culto;

2 gli edifici direttamente destinati a un fine di pubb. assistenza o beneficenza

3 i locali di comuni opere, ricoveri, grandi stabilimenti industriali con impiego di mano d'opera prevalentemente femminile

4 i locali ~~e~~ dove sono custodite carte pubbliche

5 i locali occupati da comunità religiose

6 " " " collegi femminili

Tuttavia, in caso di urgenti necessità, le autorità che hanno il potere di ordinare le requisizioni, possono assoggettare a tale requis., previ accordi con l'ordinario diocesano, per quanto concerne i beni indicati nel n. 1, e in ogni altro caso, con il prefetto

gli edifici di istituti scolastici e educativi appartenenti allo Stato, alle provincie, ai comuni o ad altri enti pubblici, possono essere, previ accordi con le autorità scolastiche competenti soltanto per essere destinati a pubblici ricoveri di alloggiamento o di ospedali di riserva quando non sia possibile trovare altri edifici adatti a tale scopo; escluso, in ogni caso, i locali destinati a musei, gallerie

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

MEMORANDUM

On legality of a requisition of Papal real property located in Italy.

Assumptions:

1. The realty (a seminary of young priests) is located in that area of the Kingdom of Italy in which the King has retained his sovereign power.

2. In such area the Allied Armed forces do not possess the right of angary or any other right to requisition, since they are not on enemy territory.

3. Thus, any act of requisition must be done by the Italian authorities. Italy is at war and has therefore all the rights given to the belligerent by International Law including the right to requisition neutral property. (See Memo on that right.).

4. The right of the Italian King to requisition property belonging to the State of Vatican or to the Italian ecclesiastical authorities or holdings is subject ~~in addition~~ to the norms of the International Law, the Treaty between the Holy See and Italy of 1929 and to the Concordate with the Holy See of 1929.

Propositions:

1 (a) Acc. to Art. 3 of the Treaty, "Italy recognizes full ownership and exclusive and absolute power and sovereign jurisdiction of the Holy See over the Vatican."

Thus of course no property situated in the Vatican could be requisitioned by the King of Italy.

(b) Similar immunity covers the buildings and places located outside the walls of the City of Vatican enumerated in Articles 13-16. The right of expropriation for public purposes and the right of taxation as to those immovables is expressly denied to Italian Authorities by Art. 16. Since this property has been in effect made part of the State of Vatican (in the eyes of the Italian Government, to be sure) the right of the Italian King to requisition such property is very doubtful, probably nonexistent. (Reasons why such immunity has been granted explained on p. 47 of the Commento).

2 Acc to Art. 11 of the Treaty, "the central bodies of the catholic church are exempted from any interference on part of the Italian State (saving the dispositions of Italian laws concerning the acquisitions by juridical persons) and from any conversion in regard of real property.

(a) What are the "Central bodies of the Catholic Church"? Is a Seminary of young priests such a "Central body"?

The Commento (p. 50) says: "It will be decided from case to case what are the central bodies...they are bodies administered by the Holy See and not those bodies in regard to which the Holy See simply exercises control and a function of high patronate..., only those as to which the Holy See assumes administrative responsibility and legal representation..." And again on

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

2. In such area the Allied Armed forces do not possess the right of angary or any other right to requisition, since they are not on enemy territory.

3. Thus, any act of requisition must be done by the Italian authorities. Italy is at war and has therefore all the rights given to the belligerent by International Law including the right to requisition neutral property. (See Memo on that right.).

4. The right of the Italian King to requisition property belonging to the State of Vatican or to the Italian ecclesiastical authorities or bodies is subject ~~in addition~~ not only to the norms of the International Law, but also to the Treaty between the Holy See and Italy of 1929 and to the Concordate with the Holy See of 1929.

Propositions:

1 (a) Acc. to Art. 3 of the Treaty, "Italy recognizes full ownership and exclusive and absolute power and sovereign jurisdiction of the Holy See over the Vatican."

Thus of course no property situated in the Vatican could be requisitioned by the King of Italy.

(b) Similar immunity covers the buildings and places located outside the walls of the City of Vatican enumerated in Articles 13-16. The right of expropriation for public purposes and the right of taxation as to those immovables is expressly denied to Italian Authorities by Art. 16. Since this property has been in effect made part of the State of Vatican (in the eyes of the Italian Government, to be sure) the right of the Italian King to requisition such property is very doubtful, probably nonexistent. (Reasons why such immunity has been granted explained on p. 47 of the Commento).

2 Acc to Art. 11 of the Treaty, "the central bodies of the catholic church are exempted from any interference on part of the Italian State (saving the dispositions of Italian laws concerning the acquisitions by juridical persons) and from any conversion in regard of real property.

(a) What are the "Central bodies of the Catholic Church"? Is a Seminary of young priests such a "Central body"? 18.

The Commento (p. 50) says: "It will be decided from case to case what are the central bodies...they are bodies administered by the Holy See and not those bodies in regard to which the Holy See simply exercises control and a function of high patronate..., only those as to which the Holy See assumes administrative responsibility and legal representation..." And again on p. 49: "...the central bodies of the Church....are nothing else but organs of the Holy See....

In view of the above it is doubtful that a seminary can be classified as such "central body".

(b) But let us assume that the Seminary is a central body within Art 11, "exempted from every interference, etc...". Art 11 expressly preserves the supervisory power of the State as to the acquisition of property by such bodies. There is nothing to indicate that other public laws for instance those concerning preservation of historical monuments, etc, as well as those establishing the

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

right to requi-sition have not been implicite re ned. The right of expropriation has not been expressly denied as in case of the property mentioned under (2) nor was an absolute immunity granted.

Thus it would seem that Art. 11 (read in conjunction with Art 17):

(i) provides an exemption of administrative and taxative character only

(ii) does not set up an absolute immunity of the type mentioned under (2) above.

(iii) retains the state supervision and implicite right to requisition.

3. The provision mentioned above under (1) & (2) are the only provisions of the Treaty which need to be considered.

4. The Concordate defines the Status of the Papal property in Italy in Art 27:

"....all other bodies of any type administered by the Holy See in Italy including colleges of missions are...free from any interference by the State and from conversion. However, the Italian laws concerning the acquisitions by juridical persons will remain applicable in any case."

To this Article the Commento has the following to say (p.145): "It is obvious, however, that this property (i.e. property belonging to the bodies mentioned in Art 27) must not be confused with the immovables mentioned in Art 13, 14, 15 of the Treaty (see supra ad 2) which, by virtue of the fact that they are designed to serve .....purposes plainly inherent in the universal activities of the Catholicism or even to functions of the Government of the new State of City of Vatican, enjoy in various degrees privileges and immunities.....the exact meaning of expressions used (in Art 27 of the Concordate) would indicate that the provision concerns only the administrative patrimonial regime of the bodies in point and thus it is not possible to invoke them in order to obtain an exemption from the observance of the rules of public law, especially those relative to protection of historical, artistic and archeological property."

This comment is self explanatory. If State's right (set up in public laws) to interfere in order to protect historical monuments is retained, a majore ad minus State's emergency right for temporary requisition must also prevail.

5. Art 30. of the Concordate undertakes to regulate the Stauts of the non-papal property in Italy belonging to the Italian Church. It states: "The ordinary and extraordinary administration of property belonging to an ecclesiastical institute or religious association takes place under the supervision and control of the competent church authorities at the exclusion of any intervention by the Italian State....."

It is clear that if the Papal property is subject to public laws, 17 majore ad minus, property belonging to church must be subject to at least the same degree to the State Sovereignty. Thus if the seminary in our case should belong to any of the ecclesiastical bodies and not to the Papal State, it would be equally subject to the right of requisition by the Italian State.

6. Art 39 states: "Universities, seminaries...colleges and other Catholic institutes providing for the education and instruction of the clergy will

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

3. The provision mentioned above under (1) & (2) are the only provisions of the Treaty which need to be considered.

4. The Concordate defines the Status of the Papal property in Italy in Art 27:

"....all other bodies of any type administered by the Holy See in Italy including colleges of missions are...free from any interference by the State and from conversion. However, the Italian laws concerning the acquisitions by juridical persons will remain applicable in any case."

To this Article the Commento has the following to say (p.145): "It is obvious, however, that this property (i.e. property belonging to the bodies mentioned in Art 27) must not be confused with the immovables mentioned in Art 13, 14, 15 of the Treaty (see supra ad 2) which, by virtue of the fact that they are designed to serve .....purposes plainly inherent in the universal activities of the Catholicism or even to functions of the Government of the new State of City of Vatican, enjoy in various degrees privileges and immunities.....the exact meaning of expressions used (in Art 27 of the Concordate) would indicate that the provision concerns only the administrative patrimonial regime of the bodies in point and than it is not possible to invoke them in order to obtain an exemption from the observance of the rules of public law, especially these relative to protection of historical, artistic and archeological property."

This comment is self explanatory. If State's right (set up in public laws) to interfere in order to protect historical monuments is retained, a majore ad minus State's emergency right for temporary requisition must also prevail.

5. Art 30. of the Concordate undertakes to regulate the Stauts of the non-papal property in Italy belonging to the Italian Church. It states: "The ordinary and extraordinary administration of property belonging to an ecclesiastical institute or religious association takes place under the supervision and control of the competent church authorities at the exclusion of any intervention by the Italian State....."

It is clear that if the Papal property is subject to public laws, 17 majore ad minus, property belonging to church must be subject to at least the same degree to the State Sovereignty. Even if the seminary in our case should belong to any of the ecclesiastical bodies and not to the Papal State, it would be equally subject to the right of requisition by the Italian State.

6. Art 39 states: "Universities, seminaries...colleges and other Catholic institutes providing for the education and instruction of the clergy will depend exclusively on the Holy See without any interference from the State scholastic authorities."

The Commento (p. 198) points out that this Article deals only with a States interference with scholastic matters, leaving it to Art 30 (see above ad 5) to provide for State's attitude toward the economic aspects of the institutes.

7. Art 9 of the Concordate reads: "As a rule buildings open to the public exercise of religion are exempted from requisition or occupation. If a grave public necessity demands that such building be occupied, the authority which proceeds to the occupation must previously enter in communication (prendere accordi) with the Ordinary unless reasons of absolute necessity do not allow that

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

In such case the occupying authority must immediately inform the Ordinary....'

Conclusions:

I. As appears under 1-6 above, the King of Italy has the right of emergency requisition of any property belonging either to the State of Vatican or to the ecclesiastical juridical persons except:

a. the property within the walls of the Vatican City

b. the property without the walls of the Vatican City in Italy enumerated by paras 13-16 of the Treaty.

II. If any of the arguments advanced in 1-6 should prove invalid, Art 9 of the Concordate cited under 7 above expressly grants the right to requisition even of "res sacrae" (sacred things) in the sense of the canon law. It is obvious a majore ad minus that "bona ecclesiae" (property serving for physical maintenance of the church) is subject to the right of requisition to at least the same degree as "res sacrae".

III. Commento p. 101, dealing with Art 9, refers to the Law of June 8, 1923 n. 969, which provides for requisition of any property within the territory of the State in case of mobilization. It also refers to T.U. 18 June 1931 n. 773 authorizing the Prefect to adopt necessary measures for maintaining public order and adds that under this provision the Prefect could also occupy a church.

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

II. If any of the arguments advanced in 1-6 should prove invalid, Art 9 of the Concordate cited under 7 above expressly grants the right to requisition even of "res sacrae" (sacred things) in the sense of the common law. It is obvious a majore ad minus that "bona ecclesiae" (property serving for physical maintenance of the church) is subject to the right of requisition to at least the same degree as "res sacrae".

III. Commento p. 101, dealing with Art 9, refers to the Law of June 8, 1925 n. 969, which provides for requisition of any property within the territory of the State in case of mobilization. It also refers to T.U. 18 June 1931 n. 773 authorizing the Prefect to adopt necessary measures for maintaining public order and adds that under this provision the Prefect could also occupy a church.

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

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

4 Nov 43

SUBJECT: Requisitioning Papal Property.

TO: AFHQ.

FROM: A.M.M.

200/7

G.O.C. No 2 District is very anxious to requisition Seminary for training of priests at Molfetta in province of Bari for purpose of convalescent base for wounded STOP These premises provide the only suitable accommodation on the required scale in the area and are urgently required on ground of military necessity STOP.

The Seminary is under control of Pope and may be Papal Property but certainly has no extraterritorial status. Principal of Seminary is unwilling to take it over. It is considered here that Italian Govt. has under terms of Lateran Treaty and Concordat power to requisiton this property in view of military necessity but before exercising this power desire to be directed on policy

(1) Shall we direct Italian Govt. to exercise their powers of requisition forthwith or

(2) Is the matter one for negotiation with Pope on ground that in the interests of humanity and relief of suffering he should allow this property to be requisitioned or

(3) Is no such property of this character to be touched in any circumstances.

15

Please treat matter as extremely urgent.

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

4 November 1943

MEMORANDUM FOR: Colonel Upjohn.

200/1

Colonel Chadwyck Healey, No. 2 District, telephoned this morning regarding requisitioning of Papal property. He requests that you take this question up with AFHQ with a view to their taking action with the Vatican. General Dowler considers this matter extremely urgent and is writing the Mission a letter on this subject.

RBW

ROBERT E. DOE
Major, A.G.D.

Only the property enumerated in Arts 11 and 13-16 is owned by the Pope in its capacity as head of the City of Vatican. Only this property has an international status excluding the application of Italian sovereignty. Such status has been granted for specific reasons i.e. to make possible independent functioning of the Vatican State. "Central bodies" mentioned in Art.11 are according to the Report of the Commission of the Chamber of Deputies "central organs in Rome".

Thus any property belonging to Pope except that enumerated in Art. 11. and 13-16 of the Treaty Lat. falls in the category of Church property, belongs to Pope not as a subject of international law but as a juridical ecclesiastical person recognised both by canon and italian law. Such property falls within the adjustment made between the Italian State and Italian Church and specifically within Art. 27 of the Concordate. The Concordate is not a treaty of international law which could produce results in the field of international law. as for instance granting of immunity. It is expressly stated in the Reports of the legislat. Committee that the Italian State retained all the attributes of sovereignty over the Italian territory. The only instance where it was curtailed are the express provisions of Art.11 and 13_16 of the Lat Tr. this curtailment has been granted for specific reasons stated above.

Report of the Commission of the Chamber of Deputies, p.551 Commento:
It was intended that by that special sovereignty the Church be rendered capable to function as a center of Christianity: thus the Treaty provides.. for placing the Church in a privileged position by means

a.) of its ownership of realty in Rome(Art.13)
b.) of its ownership of several Roman Basilicas(Art13)
c.) of the free functioning of its Central Organs in Rome(Art 11.)

The privileges of exemption from expropriation for public use(Art.15 and 16), fiscal exemptions(Art.17).... serve the same purpose.

Two main groups of eccles. property. in Italy.

1. Property belonging to the Holy See in its character as head of the Vatican State(art.11,13-17) with expressly enumerated immunities, with a status in international law,
2. Other ecclesiastical property belonging to the Pope as Head of the Church or any other juridical person, regulated by the Concordate and under full sovereignty of the Italian State except as otherwise provided by the Conconcordate. As to that property all State public laws apply(see Commento to Art 27.) The Concordate expressly affirms the right of emergency requisition in Art.9 as to "sacred things". By natural implication this right applies to other Church property.

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

of Italian sovereignty. Such status has been granted for specific reasons i.e. to make possible independent functioning of the Vatican State. "Central bodies" mentioned in Art.11 are according to the Report of the Commission of the Chamber of Deputies "central organs in Rome".

Thus any property belonging to Pope except that enumerated in Art. 11. and 13-16 of the Treaty Lat. falls in the category of Church property, belongs to Pope not as a subject of international law but as a juridical ecclesiastical person recognised both by canon and italian law. Such property falls within the adjustment made between the Italian State and Italian Church and specifically within Art. 27 of the Concordate. The Concordate is not a treaty of international law which could produce results in the field of international law as for instance granting of immunity. It is expressly stated in the Reports of the Legislative Committee that the Italian State retained all the attributes of sovereignty over the Italian territory. The only instance where it was curtailed are the express provisions of Art.11 and 13-16 of the Lat Tr. this curtailment has been granted for specific reasons stated above.

Report of the Commission of the Chamber of Deputies, p.551 Commento:
It was intended that by that special sovereignty the Church be rendered capable to function as a center of Christianity: thus the Treaty provides.. for placing the Church in a privileged position by means

3

a. of its ownership of realty in Rome(Art.13)
b. of its ownership of several Roman Basilicas(Art13)
c. of the free functioning of its Central Organs in Rome(Art 11.)

The privileges of exemption from expropriation for public use(Art.15 and 16), fiscal exemptions(Art.17).... serve the same purpose.

Two main groups of eccles. property in Italy.

1. Property belonging to the Holy See in its character as head of the Vatican State(art.11,13-17) with expressly enumerated immunities, with a status in international law,
2. Other ecclesiastical property belonging to the Pope as Head of the Church or to any other juridical ecclesiastical person, regulated by the Concordate and under full sovereignty of the Italian State except as otherwise provided by the Conconcordate. As to that property all State public laws apply(see Commento to Art 27.) The Concordate expressly affirms the right of emergency requisition in Art.9 as to "sacred things". By natural implication this right applies to other Church property.

p. 150 Seminaries - represented by Ordinario
not juridic person

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

Memo:

Can a building belonging to the state of the Vatican and located in Italy be requisitioned by the Allies?

20071

Assumptions:

1. The property belongs to the state of the Vatican and not to the Italian Catholic Church.

2. The Vatican has full standing of a neutral power.

1. There is enough authority for the proposition that private property belonging to a subject of a neutral state which is found on belligerent territory can be requisitioned for compensation(Hall p. 901 - 907)(Oppenheim p. 620 - 626). All of the cases cited deal with personal ~~pr~~ property only.

2. There is little authority on the question whether any property of a neutral state may be seized on the territory of a belligerent.

3. Closest analogies:

a. Requisition of rolling stock belonging to Austrian Government by the Germans in 1870. Compare also statement by Lord Parker in the Zamora Case:"-----(Referring to the case of..... the utilization of Austrian rolling stock, he (Lord Parker) said that Germany must be taken to have asserted and England and Austria to have acquiesced in the view..... that an exercise of the right would be justified by necessity or public utility..." (Hall p.903)(Cf Oppenheim 624 speaking about right to requisition:"They (English Courts) didnot limit its exercise to ships and other means of transport and applied it in the case of timber and copper required for the purpose of the successful prosecution of the war....."

b. Article 19, 5th Hague Convention 1907; "Railway material coming from the territory of neutral powers, whether belonging to those powers or to companies..... shall not be requisitioned.....except in the case of and to the extent required by absolute necessity."

12

Points to be Considered:

1. Can the above stated instances be applied to real property? (Rolling stock is sometimes and for some purposes considered as real property)

2. The fact that the Vatican State is involved would not seem to make any difference from a purely legal standpoint.

3. ~~XXXX~~ Is the degree of necessity sufficient?

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

Assumptions:

1. The property belongs to the state of the Vatican and not to the Italian Catholic Church.

2. The Vatican has full standing of a neutral power.

1. There is enough authority for the proposition that private property belonging to a subject of a neutral state which is found on belligerent territory can be requisitioned for compensation(Hall p. 901 - 907)(Oppenheim p. 620 - 626). All of the cases cited deal with personal ~~bb~~ property only.

2. There is little authority on the question whether any property of a neutral state may be seized on the territory of a belligerent.

3. Closest analogies:

a. Requisition of rolling stock belonging to Austrian Government by the Germans in 1870. Compare also statement by Lord Parker in the Zamora Case:"----(Referring to the case of..... the utilization of Austrian rolling stock, he (Lord Parker) said that Germany must be taken to have asserted and England and Austria to have acquiesced in the view..... that an exercise of the right would be justified by necessity or public utility..." (Hall p.903)(Cf Oppenheim 624 speaking about right to requisition:"They (English Courts) didnot limit its exercise to ships and other means of transport and applied it in the case of timber and copper required for the purpose of the successful prosecution of the war....."

b. Article 19, 5th Hague Convention 1907; "Railway material coming from the territory of neutral powers, whether belonging to those powers or to companies..... shall not be requisitioned.....except in the case of and to the extent required by absolute necessity."

12

Points to be Considered:

1. Can the above stated instances be applied to real property? (Rolling stock is sometimes and for some purposes considered as real property)

2. The fact that the Vatican State is involved would not seem to make any difference from a purely legal standpoint.

3. ~~XXXX~~ Is the degree of necessity sufficient?

E.S.

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

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

U. S. SECRET
Equals British SECRET

OUTGOIN

GRU/NWS/MST

10/13
1958
131598A

200/1

SECRET

URGENT

JAN

FATIMA

File

FREEDOM MOS RPTD FLAMBO DISTWO

MOLFETTA SEMINARY DULY REQUISITIONED BY ITALIAN GOVERNMENT PAREN SEE YOUR THREE SEVEN FOUR NINE OF TWO ONE NOVEMBER FOUR THREE PAREN BUT SEMINARY AUTHORITIES REFUSE TO MOVE OUT STATING THAT THEY CANNOT COMPLY WITH CONDITION LAID DOWN IN MESSAGE FROM POPE PAREN SEE YOUR MOS THREE EIGHT SIX POINT TWO OF ONE EIGHT DECEMBER FOUR THREE PAREN BECAUSE THEY SAY THEY CANNOT CONTINUE TO FUNCTION OR FIND OTHER PREMISES PD TO FREEDOM MOS RPTD FLAMBO DISTWO FROM FATIMA SIGNED JOYCE PD PROLONGED NEGOTIATIONS HAVE FAILED TO SATISFY REQUIREMENTS OF BRITISH MILITARY AUTHORITIES OR OF SEMINARY AUTHORITIES IN REGARD TO POSSIBLE ALTERNATIVE ACCOMMODATION AND FURTHER NEGOTIATION WOULD BE USELESS PD POSITION NOW IS SEMINARY AUTHORITIES WILL ONLY MOVE OUT UNDER PRESSURE OF ACTUAL FORCE PD BELIEVE THAT NOTHING SHORT OF ABSOLUTE AND UNCONDITIONAL ORDER FROM POPE WOULD CAUSE AUTHORITIES TO ALTER THIS ATTITUDE PD PARA AS SEMINARY IS IN THE PROVINCE OF BARI WHICH IS NOT REPEAT NOT OCCUPIED BY ALLIED FORCES IT APPEARS THAT FORCE SHOULD ONLY BE USED THROUGH AGENCY OF ITALIAN GOVERNMENT PD ITALIAN GOVERNMENT WOULD PROBABLY EXERCISE THE NECESSARY FORCE IF SO ORDERED CMA BUT THEY WOULD UNDOUBTEDLY MAKE IT CLEARLY EVIDENT THAT THEY WERE ONLY ACTING UNDER COMPULSION OF ALLIED CONTROL COMMISSION AND AGAINST THEIR BETTER JUDGMENT PD URGENTLY REQUEST YOUR IMMEDIATE DECISION WHETHER I AM TO ORDER ITALIAN GOVERNMENT TO USE NECESSARY FORCE TO EXPEL OCCUPANTS FROM SEMINARY PD REQUEST YOUR REPLY BE REPEATED TO FLAMBO AND DISTWO

AUTHENTICATED:

ROBERT E. DOE, Major, AGD
Secretary of Commission

DISTRIBUTION:
2 AG
1 Diary

U. S. SECRET
Equals British S

C376

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

U. S. SECRET
Equals British SECRET

INCO. 5 /hd

22/13

SECRET 200/1

DCAO 8800

IMPORTANT

JAN 122250A

FLAMBO

JAN 1319254

ACTION FREEDOM INFO DIST WO, AMG 15 ARMY GROUP, FATIMA, REGION III

Greatest difficulty being experienced finding accommodation for hospitals. Negotiations have been proceeding for long period to secure two Papal Seminaries MOLFETTA, 600 beds, BENEVENTO, 1400 beds. Marshal Badoglio has agreed requisition former, AMG prepared requisition letter. Archbishops of Bari and Benevento respectively refuse vacate small number religious students accommodated in each. Shall I proceed with requisition independently or can you approach Vatican.

Information Only

10

DISTRIBUTION:

2 - AG
1 - Diary
1 - Chief of Staff - [redacted]
1 - Colonel Upjohn - INFO

U. S. SECRET
Equals British SECRET

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

COPY

ALLIED CONTROL COMMISSION INCOMING MESSAGE

SECRET

PRIORITY

FROM FREEDOM SIGNED CINC CITE MMGS

TO FLAMBO RPTD FOR FATIMA

M/C NO: 20/24

REF NO: 42201

FILED : JAN 241110A

REC'D : JAN 242037A

Responding to your DCAO 8800 of 12 January and 2131 of 21 January cite Q10959. See our 29301 of 15 Jan. See particularly directive now being transmitted governing treatment of Vatican property, which in pertinent part applies to Papal Seminaries.

British Government has been requested to seek from Vatican more specific instructions to Seminary authorities. This will take time and may not yield satisfactory results. Therefore you should not proceed with requisitioning of Papal Seminaries, but should look to making other arrangements.

M E M O R A N D U M

ACC/L/4015

SUBJECT: Right to requisition Papal property (other than that given special status by Lateran Treaty) under the AFHQ Directives.

Consider letter of CLO to Exec. Comm., ACC dated 6 March 1944.

1. Signal No. 42486 from AFHQ dated 23 Jan. 44 of the Comb. Chiefs (paraphrasing Fan 322) directs to (a) "avoid requisitioning or converting to our use other Vatican property (i.e. other than that enumerated in Lateran Treaty) throughout Italy which existing occupants claim to be property of the Holy See. If urgent operational needs require occupation report should be made earliest to this HQ, and states that (b) Vatican City and Papal domains will have neutral status respected.

2. Signal No. 48057 from AFHQ dated 6 Feb. 44 directs that
(a) any property may be requisitioned;
(b) for political reasons requisition of papal property in territory administered by Italians should be done through Italian authorities;
(c) Vatican should be informed that a requisition of their property is being carried out. It is not necessary to obtain Vatican's consent in advance;
(d) President's message of July 10 amounts to an undertaking that the Allied authorities will treat Vatican property throughout Italy as having extraterritorial character and therefore it is essential that force should not be used by the Allied Military Authorities or by the Italian authorities on their behalf.

3. As pointed out in the aforesaid CLO's letter the Signals under 1 & 2 can not be reconciled.

4. The directive of the AFHQ No. 386.2 of 2 March 1944
(a) repeats in para 2 almost word for word the instruction contained in Signal 42486 set out above under 2 (i.e. (i) avoid requisitioning of any property which the occupants allege to be the property of the Holy See, (ii) in case of urgent operational needs requiring requisition, report thereof should be made to AFHQ);
(b) cites president's letter of 10 July according to which "the neutral status of Vatican City as well as the Papal Domains throughout Italy will be respected";
(c) provides that nothing contained in Message 48057 mentioned above under 2 "is to be so interpreted as in any way conflict with the directive in FAN 322" (i.e. with Signal 42486 set forth under 1 above).

5. In the light of the last directive the following is the final rule laid down by AFHQ:

(i) You should avoid as far as possible requisitioning or otherwise converting to Allied use any property in occupied territory which the occupants allege to be property of the Holy See.

(ii) In case urgent operational needs require that Allied Forces

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

to our use other Vatican property (i.e. [illegible]
Lateran Treaty) throughout Italy which existing occupants claim to be property of the Holy See. If urgent operational needs require occupation report should be made earliest to this HQ, and states that (b) Vatican City and Papal domains will have neutral status respected.

2. Signal No. 48057 from AFHQ dated 6 Feb. 44 directs that

(a) any property may be requisitioned;

(b) for political reasons requisition of papal property in territory administered by Italians should be done through Italian authorities;

(c) Vatican should be informed that a requisition of their property is being carried out. It is not necessary to obtain Vatican's consent in advance;

(d) President's message of July 10 amounts to an undertaking that the Allied authorities will treat Vatican property throughout Italy as having extraterritorial character and therefore it is essential that force should not be used by the Allied Military Authorities or by the Italian authorities on their behalf.

3. As pointed out in the aforesaid CLO's letter the Signals under 1 & 2 can not be reconciled.

4. The directive of the AFHQ No. 386.2 of 2 March 1944

(a) repeats in para 3 almost word for word the instruction contained in Signal 42486 set out above under 2 (i.e. (i) avoid requisitioning of any property which the occupants allege to be the property of the Holy See, (ii) in case of urgent operational needs requiring requisition, report thereof should be made to AFHQ);

(b) cites president's letter of 10 July according to which "the neutral status of Vatican City as well as the Papal Domains throughout Italy will be respected";

(c) provides that nothing contained in Message 48057 mentioned above under 2 "is to be so interpreted as in any way conflict with the directive in FAN 322" (i.e. with Signal 42486 set forth under 1 above).

5. In the light of the last directive the following is the final rule laid down by AFHQ:

(i) You should avoid as far as possible requisitioning or otherwise converting to Allied use any property in occupied territory which the occupants allege to be property of the Holy See.

(ii) In case urgent operational needs require that Allied Forces occupy any such property, report thereof should be made as early as possible to AFHQ.

(iii) Papal domains enjoy neutral (not extraterritorial) status.

(iv) The principle set forth under (i) obviously applies to unoccupied territory with the modification that "for political reasons" requisition of papal property in such territory should be done through Italian authorities (Signal No. 48057 and penultimate para. of the last directive of 2 March referring to Doc. A).

(v) It is not necessary to obtain Vatican's consent in advance.

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

6. The last directive of 2 March (last para) requests that a report on the status of negotiations concerning the seminary at Molfetta be prepared. This seminary is considered as having been legally requisitioned and the case is considered apart from the general policy questions.

SGT E.S. - 20 March 44.

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

0862

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

Form 061730A N-895 RAD 2621

Signal Corps, United States Army

PA to CC

SECRET **Telegram**

GPO 3—10000

Received at PENINSULAR BASE SECTION SIGNAL MESSAGE CENTER 19 6 FEBRUARY 1944

SECRET

FOR INFORMATION ONLY

no action file

PRIORITY

TO (ACTION) : CG PBS, FARGO, FLAMBO FOR D/CAO, FATIMA REAR.

(INFORMATION): NONE

FROM : FREEDOM

DATE TIME SIGNED: 061042A

DATE TIME REC'D.: 061730A

REFERENCE NR. : 48057

CITE : NONE

4015

Adm - a m G Hy
Dep - Engr

HEADQUARTERS 7 FEB 1944 AMG.

(5) REFERENCE DCAO 8800 OF 12TH JAN. YOU WILL HAVE SEEN OUR 42202 24 JAN REGARDING THE USE OF PAPAL SEMINARIES FOR HOSPITAL, 2. THE FOLLOWING GENERAL CONSIDERATIONS ARE OPERATIVE: (A) IN VIRTUE OF OUR MILITARY OCCUPATION OF ALL SOUTH ITALY WE ARE ENTITLED TO REQUISITION ANY PROPERTY REQUIRED FOR MILITARY OR SIMILAR PURPOSES. THIS RIGHT IS INDEPENDENT OF OUR RIGHTS AFTER THE ARMISTICE AND IS NOT AFFECTED BY THE FACT THAT AN ITALIAN CIVIL ADMINISTRATION MAY BE FUNCTIONING IN THE DISTRICT CONCERNED: IT IS ALSO IN NO WAY AFFECTED BY THE LATERAN TREATE (B) FOR POLITICAL REASONS IT IS DESIRABLE THAT IN DISTRICTS ADMINISTERED BY THE ITALIAN GOVERNMENT ANY REQUISITION OF PAPAL PROPERTY SHOULD BE EFFECTED BY THE ITALIAN AUTHORITIES ON OUR BEHALF (C) IT IS ALSO DESIRABLE THAT THE VATICAN SHOULD BE INFORMED THAT A REQUISITION OF THEIR PROPERTY IN SOUTHERN ITALY IS BEING CARRIED OUT.

FORM #18-A SECRET CRYPTO

Col. Wpl Olm

Is this OK. 12951

0363

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

SECRET N-895

10

IT IS NOT HOWEVER NECESSARY TO OBTAIN THE VATICAN'S CONSENT IN ADVANCE (D) IN VIEW OF THE PRESIDENT'S MESSAGE OF JULY 10, WHICH AMOUNTS TO AN UNDERTAKING THAT THE ALLIED AUTHORITIES WILL TREAT VATICAN PROPERTY THROUGHOUT ITALY AS HAVING EXTRA-TERRITORIAL CHARACTER, IT IS ESSENTIAL THAT FORCE SHOULD NOT BE USED EITHER BY THE ALLIED MILITARY AUTHORITIES OR BY THE ITALIAN AUTHORITIES ON THEIR BEHALF, TO EJECT THE OCCUPANTS FROM REQUISITIONED PREMISES WHICH ARE THE PROPERTY OF THE VATICAN. 3RD. IN THE CASE OF THE MOLFETTA SEMINARY, PREMISE HAVE BEEN DULY REQUISITIONED BY ITALIAN GOVERNMENT (SEE FATIMA 1958 OF JAN 13), THE VATICAN HAVE BEEN NOTIFIED BY BRITISH MINISTER. ONLY OBSTACLE IS DIFFICULTY IN FINDING ALTERNATIVE ACCOMMODATION FOR OCCUPANTS WHICH POSSIBLY INCREASED BY THEIR UN-COOPERATIVE ATTITUDE. INSTRUCTIONS FROM THE VATICAN TO THE ARCHBISHOP OF BARI TO CO-OPERATE WITH THE ALLIED MILITARY AUTHORITIES IN ARRANGING FOR THE HANDOVER OF THE SEMINARY WERE CONTAINED IN LETTER TO ALLIED CONTROL COMMISSION MGS-386. 2 OF 18 DEC. IF FURTHER INSTRUCTIONS TO THE ARCHBISHIP ARE TO BE SENT IT IS ESSENTIAL THAT A REPLY FROM HIM THE VATICAN'S COMMUNICATION SHOULD BE FIRST OBTAINED (SEE FREEDOM CABLE TO FATIMA REAR 45323 OF 31 JAN). 4TH. AS REGARDS BENEVENTO SEMINARY, THERE IS NO REASON WHY REQUISITION SHOULD NOT BE IMPOSED FORTHWITH. THIS HEADQUARTERS SHOULD BE INFORMED BY CABLE OF ACTION BEING TAKEN IN ORDER THAT ARRANGEMENTS MAY BE MADE FOR BRITISH MINISTER TO NOTIFY THE VATICAN. ALTERNATIVE ACCOMMIDATION WILL HAVE TO BE FOUND FOR THE INMATES. IF ANY MESSAGE OR INSTRUCTIONS FROM THE VATICAN ARE REQUIRED, THIS HEADQUARTERS WILL ENDEAVOR TO OBTAIN THEM THROUGH THE BRITISH MINISTER.

NOTE: 42486 dated 24 Jan 44 from AFHQ refers

FOR INFORMATION ONLY

SECRET 12959

Acc Dist
(2fo) P.A. to C.C.
C.A.B.
Political Section
Admin Sec (2)

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

Office of the British Resident Minister at A.F.H.Q.,
5, Rue Professeur Curtillet,
Algiers.

11/34/1501.

To: Colonel A. T. Maxwell

From: Mr. Makins.

Subject;- Requisition of Moscetta Seminary

(Ref. my minute No. 11/34/1501 of Nov. 6th)

1. The British Government consider that, since the Allied military authorities are in occupation of all of Southern Italy, they are fully entitled to requistion any property required for military or similar purposes. This right exists whether or not they have any special rights under the Armistice and whether or not the district in question is being administered by an Italian civilian authority. The Lateran Treaty in no way affects our rights in this matter.

2. On grounds of policy, however, the British Government would prefer that the Italian Government should make the requisition. There seems to be nothing in the Lateran Treaty or the Concordat to prevent their doing this on grounds of military necessity.

3. It is felt, however, that the Vatican should be warned as a matter of courtesy, and the British Minister has been instructed to inform the Vatican that the Allied military authorities propose to occupy the seminary at Moscetta for use as a convalescent home after requisition by the Italian Government. He is to assume that in the special circumstances the Vatican will agree. He will make it clear that he is not seeking permission. As there may be further cases of this kind, he will also suggest that the Vatican should issue a directive to the authorities in charge of ecclesiastical property to co-operate fully with the Allied forces in such matters.

4. There is therefore no reason why the Italian Government should not proceed to requisition forthwith.

/s/ R.M.

Roger Makins.

16th November, 1943.

0865

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

U. S. SECRET
Equals British SECRET

200/1

INCOMG

26 JAN 1944

/dfe

2755

(2)

13/25

SECRET

PRIORITY

FREEDOM SIGNED CINC CITE FHMGS

15 ARMY GROUP, AIR CP, FLAMBO, RPTD NO. 2 DIST., FATIMA, FBS, FARGO

4286

JAN 242230A

JAN 250753A

1. Message from COS (FAN 322) contains following list of Vatican property in Rome outside Vatican City as defined in Lateran Treaty, Articles 13-16 and Annexes 2 and 3.

ARTICLE 13. 1. Basilica of Saint John Lateran (San Giovanni Laterano).

2. Basilica of Saint Mary Major (Santa Maria Maggiore).

3. Basilica of Saint Paul without the walls (San Paolo Fuori le Mura) including the Monastery

4. Palace of Saint Callixtus (San Calloxto) in Trastevere D

ARTICLE 14. 1. Property on the north side of Janiculum Hill overlooking Vatican City between Viale Aurelio and Passeggiata sul Gianicolo and including that belonging to the Sacred College of Propaganda 5.

2. Palace of the Holy (Roman) 12 Apostles attached to the Basilica of the Holy Apostles (Santi Apostoli).

3. Palace attached to the Church of San 'Andrea della Vallo.

4. Palace attached to the Church of San Carlo al Catenari

ARTICLE 15. 1. Palace of the Dataria, near the Quirinal Palace. 3

2. Palace of the Cancelleria between the Corso Vittorio Emanuele and the Campa dei Fiori.

684C

U. S. SECRET
Equals British SECRET

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

U. S. SECRET
Equals British SECRET

26 JAN 1944
2755

42166 fr Freedom, 24 Jan 44, cont'd.

3. Palace of the Propaganda 5 on the Piazza di Spagna.

4. Palace of the Holy Office (Sant Offizio) adjacent to the Piazzo San Pietro at Porta Cavalleggeri.

5. Congregation of the Oriental Church, formerly Palace of the Converendi in Piazza Scossacavalli.

6. Palace of Vicariato in Via Della Pigna of the Corso Vittorio Emanuele near the Piazza del Gesua.

ARTICLE 16. 1. Gregorian University 10 Via Del Seminario near the Church of Sant 'Ignazio.

2. Gregorian University alla Pilotta facing on Piazza di Pilotta.

3. Part D Biblical Institute in Piazza di Pilotta.

4. Archeological Institute, Oriental Institute, Lombard College and the Russian Clevage on Piazza Santa Maria Maggiore.

5. The two Palaces of Sant 'Appylinare between the Palzza Sant 'Appolinare and Via Della Serofa.

6. The House of Retreat for the Clergy of the Church of Saints John and Paul, including the Nymphaeum of Nero, on the Caelian Hill.

2. Guidance from COS for treatment of this property is given in our 15980 of 18 December, para C.

3. Outside of Rome Villa Taberini in town of Castel Gandolfo, Province of Rome, should be accorded same treatment.

4. A special attempt should be made to spare the following Vatican properties from damage in view of their religious and historical significance:

1. The Basilica of the Holy House (Santa Casa) at Loreto, Province of Ancona. They should be added to the list of message G-3 6235 of 4 November and

U. S. SECRET
Equals British SECRET

0867

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

U. S. SECRET
Equals British SECRET

26 JAN 1944

2755

25732 of 6 January as the following serials: Holy House 8; Saint Francis 9; 10 Saint Anthony.

2. The Basilica of Saint Francis at Assisi, Province of Perugia.

3. The Basilica of Saint Anthony at Padua, Province of Padua.

5. You should avoid requisitioning or converting to your use other Italian property throughout Italy which existing occupants claim to be property of Holy See. If urgent operational needs require occupation report should be made earliest to this headquarters.

6. In letter of 10 July to Pope, President stated churches and religious institutions will be spared devastation of war to extent within our power and Vatican City and Papal domains will have neutral status respected.

DISTRIBUTION:

2 - AG
1 - Diary
1 - Col Upjohn - INTO
1 - c/s
1 - Dep. Pres.

1

U. S. SECRET
Equals British SECRET

0868