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LEGAL DIVISION DIRECTIVES, ACC LEGAL S/C
AUG. 1943 - JAN. 1944

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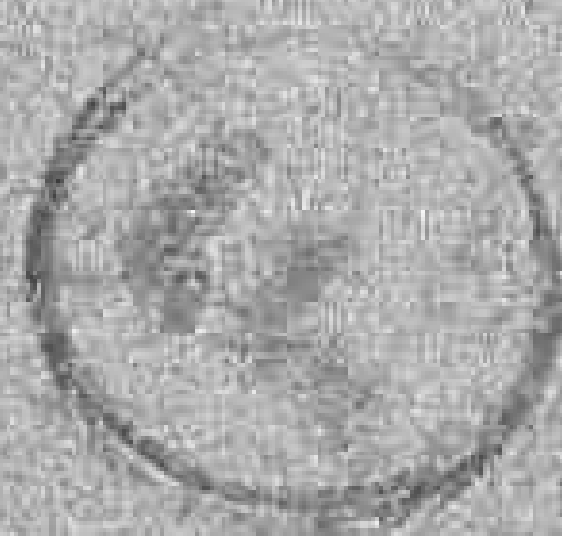
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LEGAL DIVISION

DIRECTIVES:

LEGAL DIVISION

DIRECTIVES



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17 JAN 1944

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HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LEGAL SUB-COMMISSION

AMG/4002/L

15 January 1944

TO: Colonel Gerald UP John.
HQ. AC.C.
BRINDISI

Dear Gerald:

In compliance with your request through Parlin
yesterday, I enclose a copy of a directive of Col. Spofford
dated, 1 October 1943, AMGOT/4002/L. See paragraph 5.

Richard H. Warner

Yours,

45

17 JAN 1944

2187

AWCT/4002/1.
AWCT HQ., SICILY
1 October 1943

SUBJECT: Allied Military Courts - Sentences.

TO : All Senior Civil Affairs Officers
and All Senior Legal Officers.

1. On page 10 of minutes of meeting of Senior Civil Affairs Officers ref. AWCT/263/HQ, the report is contained of directions of Chief Civil Affairs Officer that there has to be no suspension of any sentence pending his decision as to whether or not he would revise it.

2. The above directions have been cancelled by the Chief Civil Affairs Officer and the directive contained in para. 3 of this instruction has been substituted.

3. All Allied Military Courts may impose suspended sentences. As, however, this type of sentence has been much too frequently imposed in the past, Allied Military Courts will suspend a sentence only when it is desirable, having regard to special circumstances of the case, such as the age or other circumstances of the accused, or such as the fact that the accused has acted without any bad intent but has still committed a minor offence.

4. Senior Civil Affairs Officers have no power to review cases, or suspend sentences.

5. The Chief Civil Affairs Officer is concerned about the smallness of sentences imposed for grave offences where the accused has been found "guilty". The attention of all officers who sit on Allied Military Courts will be drawn to the fact that sentences must not only be assessed on the circumstances in which the offence was committed, but also on the gravity of the offence, the frequency with which the offence occurs and its effect on Military Security. As an example, illiterate peasants have frequently been committing the grave offence of cutting off pieces of Military telephone wires. This offence has generally been committed openly to obtain binding wire and with little or no knowledge of the possibilities of its results on the Allied forces. Nevertheless, the offence must be punished severely as it is a grave offence, is very prevalent and the whole security of the Army may be jeopardised by it.

Charles H. Spofford
CHARLES H. SPOFFORD,
Colonel, G. S. C.,
Chief Staff Officer.

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CHARLES H. SPOTFORD,
Colonel, C. S. C.,
Chief Staff Officer.

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ALCOY/1606/10
ALCOY HQ, STAFF
30 September 1945.

SUBJECT: Appointment of "Curators" for abandoned property.

TO : All A.G.O.'s.

1. The following procedure will be adopted in all matters concerning movable or immovable property at present left unclaimed for by its lawful owner, after agreement has been reached with the President of the Tribunale.
2. All persons who for valid reasons request the appointment of a "Curatore" to take charge of property deemed to be left unclaimed will present their petition to the nearest notary (notaro) of the town or district where the said property is situated.
3. The notary will issue a recommendation as to the necessity of appointing a "Curatore" and forward it to the competent Assistant Property Controller or the A.G.O. of the Province for his approval.
4. The petition, if approved, will then be transmitted to the competent "Presidente del Tribunale" who will appoint a "Curatore" chosen from the list of notaries exercising their functions in the district in which the property is situated.
5. It will be specified in the order appointing the "Curatore" that for his services he will be entitled to the usual honorarium determined by Italian Law. All monies received by him will be deposited in a special bank account.
6. Notice that such procedure is coming into force should be published in the local newspapers and through any means of official publicity at your disposal.

CHARLES M. SPENCER
Colonel, GSO
Chief Staff Officer

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
A.P.O. 512
LEGAL SUB-COMMISSION

AMG/1402/1

Subject: Office of Director of Special Prosecutions.

To : R.O.L.Os (thru ROICs) Regions I and II. 6th December 1943.

1. In order to achieve uniformity in prosecution and, as far as possible, uniformity in the imposition of punishments for all crimes deemed directly to affect special interests of the Allied Military Government, there has been established within the Legal Sub-Commission, this Headquarters, the Office of the Director of Special Prosecutions, Legal Sub-Commission.
2. The function of the office of the Director of Special Prosecutions is to supervise and, whenever necessary, to assist in or conduct all prosecutions, within the occupied territory, of crimes within the category described in paragraph 1.
3. Crimes within the category described in paragraph 1 are :-
 - (a) All criminal acts of any kind or nature whatever, that are committed with the purpose or intent of aiding or assisting the enemies of the United Nations or of interfering with the operations of the Allied Forces.
 - (b) All criminal acts which tend to bring about a substantial interference with the operations of the Allied Forces within the occupied territory, irrespective of the specific interest with which they are committed.
 - (c) All acts of organized or mass violence or terrorism of any kind, organized or mass resistance or opposition to the Allied Military Government or other lawfully constituted government or its representatives or agents.
 - (d) Violation of Article V of Proclamation No. 7 of July 1943.
 - (e) All violations of applicable laws, decrees, Proclamations, orders and regulations (hereinafter referred to as "black market cases") which constitute :-
 - (i) a diversion of essential commodities from legal channels by hoarding, transportation or sale through other than legal means;
 - (ii) an unlawful purchase or sale of such commodities at prices in excess of legally prescribed maximums.

Authority to effect special interests of the Allied Military Government, there has been established within the Legal Sub-Commission, this Headquarters, the Office of the Director of Special Prosecutions, Legal Sub-Commission.

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- (b) All criminal acts which tend to bring about a substantial interference with the operations of the Allied Forces within the occupied territory, irrespective of the specific interest with which they are committed.
- (c) All acts of organized or mass violence or terrorism of organized or mass resistance or opposition to the Allied Military Government or other lawfully constituted government or its representatives or agents.
- (d) Violation of Article V of Proclamation No. 7 of July 1943.
- (e) All violations of applicable laws, decrees, Proclamations, orders and regulations (hereinafter referred to as "black market cases") which constitute :-
 - (i) a diversion of essential commodities from legal channels by hoarding, transportation or sale through other than legal means;
 - (ii) an unlawful purchase or sale of such commodities at prices in excess of legally prescribed maximums.
- (f) All other substantial violations which in the judgment of the C.A.O., Legal Officer or C.A.P.O. having jurisdiction thereof are of such a nature or extent as to fall within the category described in paragraph 1.

4. Whenever cases of the kinds mentioned in paragraph 3, sub-para. (a), (b), (c), (d) and (f), or major black market cases arise, it shall be the duty of the C.A.O., C.A.P.O. or Legal Officer having jurisdiction :-

- (a) to report the case immediately through Regional Headquarters to the Director of Special Prosecutions;
- (b) whenever practicable in view of existing communication and transportation difficulties, to withhold prosecution of the offenders until advice is received from the Director of Special Prosecutions through Regional Headquarters to proceed with the prosecution.

414

(c) To give all such cases special preferred and expeditious treatment, including to the maximum extent possible special investigative attention to make certain that all available evidence of the offense has been secured and all available individuals involved in the offense have been discovered and apprehended.

5. It shall be the duty of each Regional Headquarters to forward as soon as practicable all reports of the type described in paragraph 4 hereof to the Director of Special Prosecutions and, in any event, to render such assistance to the investigation and prosecution of offenses as reported as the Regional Chief Legal Officer deems necessary.

Where, however, in view of the nature of the case as reported and the state of transportation and communication facilities, it is not deemed practicable to withhold prosecution until advice is received from the Director of Special Prosecutions, it shall be the duty of Regional Headquarters to take all necessary steps to ensure prosecution of the case in accordance with the policy defined in this directive.

6. All prosecutions for crimes that affect the interests of A.M.G. as defined in para. 5 hereof shall be brought before A.M. Courts.

7. The procedure described in para. 4 hereof shall be followed in all cases of any nature whatsoever, if it seems likely that the prosecution is to be brought before a General A. M. Court. The duties of Regional Headquarters with respect to such cases shall be as set forth in para. 5 hereof.

8. Other black market cases as distinguished from other black market cases are subject to the procedure set forth in para. 4 hereof. No hard and fast rule can be laid down defining a major black market case. Illustrative of the type of cases falling into this category are the following types of cases. These are examples only for they by no means exhaust the category :-

- (a) Violations which are the result of the operation of any organized group, ring or conspiracy;
- (b) Violations which involve a breach of trust such as violations by law enforcement officers or other public officials charged with the suppression of black market practices or with the administration of supplies or rationing;
- (c) Violations whose extent is such as to indicate a black market operation on a major scale.

9. Success of the current drive against black market cases is of especial interest to the A.M.G. Hence the greatest emphasis should be laid upon the prosecution and investigation of major cases. Other black market cases should also be the subject of an intensive law enforcement drive by C.A.O.s, Legal Officers and C.A.P.O.s. The greatest available concentration of time, effort and enforcement personnel should be made upon this type of violation. The steps to be taken in pursuance of this policy will depend on a large extent upon the resources of the C.A.O., Legal Officer or C.A.P.O. having jurisdiction and his knowledge of local conditions. The following measures, however, should be put into effect whenever they are applicable:-

practically to withhold prosecution until advice is received from the Director of Special Prosecutions, it shall be the duty of Regional Headquarters to take all necessary steps to ensure prosecution of the case in accordance with the policy contained in this directive.

6. All prosecutions for crimes that affect the interests of A.M.C. as defined in part. 3 hereof shall be brought before A.M. Courts.

7. The procedure described in part. 4 hereof shall be followed in all cases of any nature whatsoever, if it seems likely that the prosecution is to be brought before a General A.M. Court. The duties of Regional Headquarters with respect to such cases shall be as set forth in para. 5 hereof.

8. Major black market cases as distinguished from other black market cases are subject to the procedure set forth in part. 4 hereof. No hard and fast rule can be laid down defining a major black market case. Illustrative of the type of case falling into this category are the following types of cases. These are examples only for they by no means exhaust the category :-

- (a) Violations which are the result of the operation of any organized group, ring or conspiracy;
- (b) Violations which involve a breach of trust such as violations by law enforcement officers or other public officials charged with the suppression of black market practices or with the administration of supplies or rationing;
- (c) Violations whose extent is such as to indicate a black market operation on a major scale.

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- (a) Imposition of uniform punishments for this type of violation within the limits set forth in the directive of the Chief Judicial Officer on the subject;
- (b) A special effort to discover and apprehend major violators, suppliers, transporters of grain on a large scale and individuals connected with organized black market activity;
- (c) In connection with the above a policy of leniency to minor offenders who aid the enforcement authorities by giving information concerning their sources of supply, their confederates, or other matters;
- (d) Dissemination by whatever means available of publicity as to cases actually tried, the names of the offenders and the punishments imposed.

- 3 -

- (c) Establishment of road blocks and the use of such other special investigative devices as may be warranted by conditions obtaining in any particular locality.
10. Communications from Regional Headquarters will be transmitted to the Legal Sub-Commission for the office of the Director of Special Prosecutions.

Richard H. Wilmer
RICHARD H. WILMER

Lt. Colonel,
Acting Deputy Chief Legal Officer.

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(For information)

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ASST/6006/FC
ASST HQ., SICILY
30 September 1943

SUBJECT: Appointment of "Curatore" for abandoned property.

TO : All S. C. A. C.'s.

1. The following procedure will be adopted in all matters concerning movable or immovable property at present left uncared for by its lawful owners, after agreement has been reached with the President of the Tribunale.
2. All persons who for valid reasons request the appointment of a "Curatore" to take charge of property deemed to be left uncared for will present their petition to the senior notary (notaio) of the town or district where the said property is situated.
3. The notary will issue a recommendation as to the necessity of appointing a "Curatore" and forward it to the competent Assistant Property Controller or the S. L. O. of the Province for his approval.
4. The petition, if approved, will then be transmitted to the competent "Presidente del Tribunale" who will appoint a "Curatore" chosen from the list of notaries exercising their functions in the district in which the property is situated.
5. It will be specified in the order appointing the "Curatore" that for his services he will be entitled to the usual honorarium determined by Italian Law. All monies received by him will be deposited in a special Bank Account.
6. Notice that such procedure is coming into force should be published in the local newspapers and through any means of official publicity at your disposal.

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CHARLES M. SPOTFORD
Colonel, GSC
Chief Staff Officer

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RECEIVED
DEPARTMENT OF JUSTICE
JAN 10 1950

AMC/4090/L.

9 November 1943.

SUBJECT: Appointment of Italian Judicial Personnel in Sicily.

TO: JACO (THRU); MACO, Region I).

1. This question has raised considerable difficulties mostly of a political and preferential nature. When the proposed list of candidates was submitted to the MACO for approval, the names of one or two anti-fascist judges were strongly objected to by the majority of the "Sicilian Liberals" and some other newspapers.

2. The appointment of a committee to recommend the nomination of judges to existing vacancies, on the basis of merit, was in formal effect in 1943, published in the order issued by CIO for CIO on 19 August 1943, published in "Gazzetta Ufficiale" on 5 September 1943 appointing the Italian legal committee, describing its functions and naming its members. By para 4 of para 6, "Provisions in force" reads as follows:

"To make recommendations the present was appointed of any judge or judicial official as may be necessary, but without prejudice to removal or appointment of the judicial being made by law."

3. Furthermore, this was within the essential principles of Italian judicial administration by which no inferior was ever selected his superior. Member Judge is a member of the judicial committee's composition meeting or not affected by its decisions.

4. Finally, by the formal evidence contained in his personal record deposited at the Court of Appeals, and at this time, reflecting his judicial career from 1911 to this day, it is clear that one of the members of the committee is certainly unfit to act not only on any suggestion but even on the basis.

5. It is therefore recommended that if it is felt that for purely political reasons or because of professional jealousy, this suggestion to important vacancies suggested by the legal section will cause serious disturbances locally, that such suggestions be dropped altogether and moved to the higher level. In every case the order to sign is signed over to the Italian Government. In every case the order to sign is signed in each department will carry out the order of his immediate superior, when absent, minor officials being suggested through mutual channels. This solution is in conformity with Italian practice and though the recommended appointments will have considerably improved the judicial situation in Sicily, the recommendations of such a move may outweigh the expected benefits.

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LEGAL SUB-COMMISSION

8th November, 1943.

AMG/4002/L.

SUBJECT: Review of Court Cases.

TO : All R.C.A.Os. (for R.C.I.Os.)

1. All cases sent to AMG HQ for review under AMG/4034/L, dated 29 September 1943 will be reviewed by the Reviewing Officer.

2. The papers will be returned by the Reviewing Officer to the S.C.A.O. of the Province through the Region concerned together with Form J.3. completed by the Reviewing Officer. On receipt of this form the S.C.A.O. will take action if necessary.

3. Accompanying the papers will be the further Form J.4. This will be completed by the S.C.A.O. and returned by him direct to AMG HQ.

4. The papers together with the completed Form J.3. should then be returned to Regional HQ for filing.

5. Any cases requiring immediate action will be reviewed as soon as possible even though no petition has been received and the 30 days in which a petition may be filed has not expired. If necessary such cases can be re-reviewed on receipt of petition.

6. Please refer to Serial No. of the Form J.3. if any correspondence becomes necessary after receipt of the Reviewing Officer's decision.

7. Specimen copies of Forms J.2, J.3, and J.4 are attached.

By Order of the Chief Legal Officer.

George Pollock
GEORGE POLLOCK,
Colonel,
Chief Judicial Officer.

DISTRIBUTION :-

(25)

37

37

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7. Specimen copies of Forms J.2, J.3, and J.4 are attached.

By Order of the Chief Legal Officer.

George Pollock
 GEORGE POLLOCK,
 Colonel,
 Chief Judicial Officer.

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Form No. 13

Serial No.

ALLIED MILITARY GOVERNMENT

DECISION ON REVIEW

To the S. C. A. O. (for S.L.O.) Province of

From A. M. G. H. Q.

Court (state whether General, Superior or Summary)

Court

sitting at

Name of Accused

Date of Conviction

Sentence

Decision on Review

Signed

36

Date

Form No. J4

Serial No. _____

ALLIED MILITARY GOVERNMENT

To : A. M. G. H. Q.

From : S. C. A. O. Province of _____

Name of Accused _____

Decision on Review has been received by me.

Signed _____

Date _____

HEADQUARTERS
ALLIED MILITARY GOVERNMENT.

AMG/4098/L

4 November, 1943.

Subject:- Cases of Juvenile Offenders.

In order to ensure that no undue delay occurs in the holding of trials in which juveniles under 16 years of age are involved, by reason of the necessity of waiting for information from the Welfare Officer, amendments have been made to the Directive issued by me under the ~~above~~ 4034/L reference on 31 August, 1943. The Directive in the amended form is set out below:-

"It has come to the attention of the Chief Legal Officer that arrests have been made of juveniles under of 16 years of age who have violated AMG ordinances, laws or regulations.

1. (a) In these cases it is requested that the following procedure be followed:-
 - (i) That upon the arrests of minors and, if possible prior to trial, a copy of the charges will be given to the nearest Public Welfare Officer of AMG.
 - (ii) The Welfare Officer will procure or cause to be procured such information regarding the minor as may bear upon the case and will forward such information before trial, if possible, and in any event before sentence, together with a recommendation for use by the Judge in making his decision.
 - (iii) Such investigations and reports to the Judge will be made by the Welfare Officer at the earliest possible time in order not to delay the hearing unnecessarily.
 - (iv) The Welfare Officer will report back to the court on every case brought to his attention, even though no information on the individual in question can be furnished.
 - (v) Juveniles will be released pending trial on such conditions as may seem appropriate whenever possible. In those cases where detention of the juvenile is necessary, he or she must, if at all possible, be held in a place separate from those housing adult offenders.
 - (b) If the Court feels that a juvenile over 16 years of age is of maturity, both physically and mentally, this individual could be dealt with as an adult offender after taking into consideration his limited experience.

- (c) That judges of the military courts will base their procedure in hearing the cases of minors under 17 upon the accepted practices of juvenile courts in Britain and the U.S., namely:-

arrests have been made of juveniles under 18 years of age who have violated ANG ordinances, laws or regulations.

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 - (i) That upon the arrests of minors and, if possible prior to trial, a copy of the charges will be given to the nearest Public Welfare Officer of ANG.
 - (ii) The Welfare Officer will procure or cause to be procured such information regarding the minor as may bear upon the case and will forward such information before trial, if possible, and in any event before sentence, together with a recommendation for use by the Judge in making his decision.
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- (b) If the Court feels that a juvenile over 16 years of age is of maturity, both physically and mentally, this individual could be dealt with as an adult offender after taking into consideration his limited experience.
- (c) That judges of the military courts will base their procedure in hearing the cases of minors under 17 upon the accepted practices of juvenile courts in Britain and the U.S., namely:-
 - (i) That first consideration be given to rehabilitation of the child instead of punishment.
 - (ii) That where parents seem to be responsible persons, the child be given an opportunity for readjustment in his own home under strict supervision of the parents or the police.
 - (iii) That where it is necessary to place the child in an institution, he be committed for an indefinite period to a school for juveniles, such as Centro Rieducazione Minorenni, until such time as the school decides that he will refrain from further delinquency and is ready for release.

(iv) That the hearings be held informally in a closed chamber instead of open court.

(v) That in cases of commitment, a court record of the case be forwarded to the institution together with any recommendations which may have been made regarding treatment.

2. In the case of minors under 18 tried by the courts of Italy, copies of the records, indicating the dispositions of such cases shall be forwarded promptly to the Public Health Sub-Commission (Public Welfare Section)."

Wm. C. Chandler
 WILLIAM C. CHANDLER, Lt. Col. P.A.,
 Chief Legal Officer.

DISTRIBUTION:-

R.C.A.O. Region I	(6)
Argentine Province	(3)
Calcutta Province	(2)
Catania	(2)
Enna	(2)
Falerno	(4)
Ragusa	(3)
Siracusa	(2)
Messina	(3)
Trapani	(3)
R.C.A.O. Region II	(25)
R.C.A.O. Region III	(25)
R.C.A.O. Region IV	(25)

AMCOT Liaison	(1)
" 8th Army	(6)
" 5th Army	(6)
" 15th Army Group	(6)
MGS. A.P.H.Q.	(12)
File (4998/E)	(1)
Float	(1)
Spares	(20)

HEADQUARTERS
ALLIED MILITARY GOVERNMENT

32

AMG/4002/L

3 November 1943

In requesting the appointment of a General Military Court please use the attached form.

W. C. Chanler

Wm. C. CHANLER,
Lt. Col. (FA),
Chief Legal Officer.

DISTRIBUTION

RCAG Region I	(6)		
Agrigento Province	(3)		
Caltanissetta Province	(2)		
Catania	(2)		
Enna	(2)	AMGOT Liaison	(1)
Palermo	(4)	" 8th Army	(6)
Ragusa	(3)	" 5th Army	(6)
Syracuse	(2)	" 15th Army Group.	(6)
Messina	(3)	HQS AFHQ	(12)
Trapani	(3)		
RCAG Region II	(25)	File: (4002/L)	(1)
RCAG Region III	(25)	Float	(1)
RCAG Region IV	(25)	Spares	(20)

33

Subject:- Appointment of General Military Court

To: C.L.O. (for C.J.O.) A.M.G. H.Q.

From:

S.L.O. Region

1. A General Military Court is required to sit at
for the trial of person(s) accused of :-

- (a)
- (b)
- (c)
- (d)
- (e)

2. Evidence will be available by

3. The probable duration of the case will be days.

4. The prosecutor will be

5. The interpreter will be

6. Officers available in this region to sit on the Court are

.....
.....
.....
.....
.....

Signed

13

13

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- 13

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13

13

to both ends imprisonment and fine. Success, one could be sentenced to imprisonment in default of payment of a fine, but if he could not a person convicted by a Superior Court be kept in prison in respect of that conviction for more than one year.

2. A sentence of one year's imprisonment and a fine of 20,000 lire means, therefore, that whether the fine is paid or not, the accused must be released at the expiration of one year.

3. Similarly, no person convicted by a Superior Court can be detained in respect to that conviction for more than ten years.

4. Where a fine alone is imposed the Court should specify the period to be served in default of payment such period not being merely assumed as the Italian trials of 50 lire a day, but having regard to the probable capacity of the accused to pay.

5. Where a sentence of imprisonment and fine is imposed, the sentence should be in the following form:

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

6. Please take steps to see that all officers trying cases are instructed accordingly.

WILLIAM C. CHAMBER,
Lt. Col., R.A.,
Chief Legal Officer.

DISTRIBUTION:

- ROAO Region I (6)
- Agrianto Province (3)
- Calcausetta Province (2)
- Catania (2)
- Enna (2)
- Palermo (4)
- Baruni (5)
- Syracuse (3)
- Messina (3)
- Trepani (1)
- ROAO Region II (25)
- " III (25)
- " IV (25)

- AMOT Division (2)
- " 8th Army (6)
- " 5th Army (6)
- " 15th Army Group (6)
- MCS ARHQ (12)
- Sub-Commissions (15)
- Files (1)
- Fleet (1)
- Spares (20)

ALLIED MILITARY GOVERNMENT
SICILY REGION HEADQUARTERS

RL/26.011-2/78J
10/29/43

ADMINISTRATIVE INSTRUCTIONS NO. 2

SUBJECT: Duties of Legal Officers.

TO : All Legal Officers (through S.C.A.O.)

1. Duties of the Senior Legal Officer.

The duties of the Legal Officer assigned to each province fall into three general divisions:

- a. Supervision of, and assistance to all Italian Courts, operating within the Province.
- b. Supervision of all AMG Courts functioning within the Province; including the trial of the more important cases, maintaining the records thereof and forwarding the same to the Regional Headquarters, processing appeals, and in general taking such steps as are necessary to insure a fair and effective enforcement of the Proclamations.
- c. The rendering of such opinions and advice to the S.C.A.O. and subordinate departments, as may be required, and acting as counsel for the Provincial Military Government.

2. Procedure

- a. The supervision of all Summary Courts in the province, most of which will be conducted by C.A.O.s, is a matter of primary responsibility. The C.A.O.s are not usually lawyers and constant and careful instruction will aid them in the discharge of their duties.
- b. Superior Courts should be organized, with the Provincial Legal Officer assuming an active part, utilizing line officers from neighboring units whenever possible.
- c. The Summary Court Docket should be kept by each Summary Court Officer and frequently inspected by the

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- b. Supervision of all AMG Courts functioning within the Province; including the trial of the more important cases, maintaining the records thereof and forwarding the same to the Regional Headquarters, processing appeals, and in general taking such steps as are necessary to insure a fair and effective enforcement of the Proclamations.
- c. The rendering of such opinions and advice to the S.C. A.O. and subordinate departments, as may be required, and acting as counsel for the Provincial Military Government.

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a. The supervision of all Summary Courts in the province, most of which will be conducted by C.A.O.s, is a matter of primary responsibility. The C.A.O.s are not usually lawyers and constant and careful instruction will aid them in the discharge of their duties.

b. Superior Courts should be organized, with the Provincial Legal Officer assuming an active part, utilizing line officers from neighboring units whenever possible.

c. The Summary Court Docket should be kept by each Summary Court Officer and frequently inspected by the Senior Legal Officer. Reports, to this headquarters, should be made on the loose Summary Court Docket sheets. Each Summary Court should keep notes of all cases but the form No. 8 reports are required in the following categories of cases, only:

- (1) When a sentence of 90 days or more, or a fine of 4,000 Lire or more is imposed.
- (2) When the case involves new or complicated questions of law, without regard to the extent of the penalty imposed.

(3) When unusual leniency or severity in the sentence is deemed necessary.

(4) Where there is an indication that an application for review will be filed.

(5) When the Summary Court Judge feels that for any reason the full record should be submitted to this headquarters.

No regular report will be required by this headquarters, other than the forwarding of the Summary Court Docket sheets and the form No. 8 reports when required. Frequent, informal, letters are invited to keep this headquarters advised with reference to legal matters in each Province.

d. Appeals or applications for review should be made through the Senior Legal Officer, on form No. 11, in English, if practicable. These appeals should be forwarded promptly, with the form No. 8 report, if it has not already gone forward together with such comment as the Senior Legal Officer may care to make. The appellants will normally communicate with the headquarters through S.L.O.

e. Senior Legal Officers will make an informal application to this headquarters for such forms as may be needed.

3. Sentences.

a. Sentences have been entirely too light. A sentence is given to act as a deterrent to other wrongdoers as well as to punish one who has offended. It should not be harsh nor vindictive but neither should it be based upon sentimentality, undue leniency or expediency. The social implications caused to the family by imprisonment of the guilty should not be permitted to counterbalance the necessity of vigorous punishment for the crime committed.

(1) Offenses involving moral turpitude are offenses everywhere, and should be dealt with by a sentence sufficient to act as a deterrent to other

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(1) Offenses involving moral turpitude or offenses everywhere, and should be dealt with by a sentence sufficient to act as a deterrent to other offenders.

(2) Many offenses are offenses by the very nature of things and do not involve an attempt to commit wrong. The act is itself prohibited and therefore a violation should be punished.

b. In the opinion of Military Government is to control the civilian population of an area, so that the efforts of the army will be expedited and not impeded. Certain offenses have peculiar significance to the Military, such as sabotage, interfering with communications, failing to surrender arms, sniping at soldiers,

thefts and the possession of Military property. These offenses should, generally, be dealt with by rendering a substantial sentence. Nominal fines, suspended sentences and undue leniency will not be sufficient to protect the Military Forces from the interference which these offenses cause. Every effort should be made by the Senior Legal Officer to co-ordinate his law enforcement program with the Military in his area as well as with Public Safety Division and with local police agencies.

c. Black Markets have a far reaching effect upon the people of Sicily, by rendering it difficult or impossible for great numbers of distressed people to obtain the necessities of life. This situation is exploited by selfish interests for their own gain. The food supply of this island must be used to give at least a minimum of food to the greatest number of inhabitants. Every effort must be made to eliminate the Black Market by careful preparation of the prosecutions, coordinating the work of all agencies and by a vigorous, swift and certain sentence to wrongdoers. As in paragraph 3b, fines, suspended sentences and undue leniency will not strike at the heart of the Black Market. Whenever practicable the wrongdoer's right to do business (his license) should be rescinded as part of the punishment.

d. Suspension of penalties is a duty and an obligation in proper cases but care should be exercised that such suspensions do not nullify the program of law enforcement nor weaken the respect due the Court. If a case is worth bringing and the guilt of the accused is evident, a proper penalty should be imposed. If a series of cases merely result in suspended sentences, perhaps the cases should never have been instituted. Suspension of penalties should not be used as an expediency to compromise with crime.

e. Collection of fines is a means to an end, to secure proper respect for law, and is not, in itself, a proper end. Fines should be paid at the conclusion of the trial or the accused committed to prison. Fines should

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e. Collection of fines is a means to an end, to secure proper respect for law, and is not, in itself, a proper end. Fines should be paid at the conclusion of the trial or the accused committed to prison. Fines should be remitted to the proper official without delay.

4. Supervision of Italian Courts will occupy an increasingly important place in the efforts of the Senior Legal Officer. This supervision will include some of the following items.

a. Reliability, integrity and competency of the Judicial personnel is of the highest importance. Recommendations for the removal from office of any person who is unworthy of his position should be made to Regional Headquarters when good reason therefor appears.

b. The Italian Courts normally function more leisurely than do Anglo-Saxon Courts. War and the interruption of the normal life of the people of Sicily, attendant upon war and invasion, have disrupted the normal judicial schedules. Difficulties of communication and transportation exist. These Courts, therefore, must have firm but sympathetic guidance to the end that in the shortest practicable time they can be made to function efficiently for the benefit of the people of Sicily.

c. Constant supervision, inspection and helpful advice is necessary.

5. All orders, instruction and directives, heretofore or hereafter issued by Headquarters AMGOT or the Chief Legal Officer, AMGOT, are and will remain in full force and effect, except as modified by orders and instructions from this headquarters under authority from higher headquarters, and full compliance therewith will be required by each Legal Officer.

6. The Senior Legal Officer must at all times hold himself in readiness to render full, complete and intelligent service to the Provincial Military Government of which he is a part.

By order of Lt. Col. Charles POLETTI, R.C.A.O.

WILLIAM R. JORDAN,
Lt. Col., C. A. C.,
Regional Chief,
Legal Officer.

hb

Distribution.

1 Each Staff Section Region I.
10 Headquarters, C.I.O., AMGOT
S.O.A.O.s
15 Palermo
10 Messina
10 Catania
10 Ragusa

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Regional Chief,

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Distribution.

1 Each Staff Section Region I.

10 Headquarters, C.L.O., AMGOT

S.C.A.O.s

15 Palermo

10 Messina

10 Catania

10 Ragusa

10 Caltanissetta

10 Enna

15 Agrigento

10 Trapani

10 Syracuse

2 Regional Legal Officer Region I

Subject: Italian Courts.

To: R.C.A.Os. Regions II, III and IV for
attention of R.S.L.Os.

AMCOT/400124

AMCOT R.Q. SICILY
27 October, 1943.

Your attention is drawn to the following:-

1. There exists a discrepancy between the administrative boundaries of Regions II and III and those of the Court of Appeal Districts of Napoli, Caltanzaro and Bari.

2. The Court of Appeal District of Napoli with its detached Section of Potenza is responsible for the supervision of 16 Tribunali and over 90 preture. These are situated as follows:-

Napoli, Benevento, Avellino, San Angelo di Lombardi,
Larino, Salerno, Ariano, S. Maria Capua Vetere are all
in Region III.

Potenza, Matera, Lagonegro and Melfi are in Region II.

Isernia and Campobasso are in Region IV.

Furthermore Isernia is still in enemy hands.

3. In all probability it will be possible to reopen or maintain open the following courts immediately:-

Potenza, Matera, Melfi and Lagonegro under S.L.O. Region II.

Napoli, Salerno, Avellino and San Angelo under S.L.O.
Region III.

The functioning of the others must depend exclusively on military necessity and local conditions.

Benevento, Santa Maria Capua and Campobasso are reported to be to all intents and purposes destroyed.

4. Steps should be taken at once to co-ordinate the activities of S.L.Os. in Regions II and III, bearing in mind that Region II is also responsible for the seven tribunali under the Court of Appeal of Bari (Bari, Foggia, Lucera and Trani) and the detached section of Lecce (Lecce, Brindisi and Taranto).

5. As S.L.O. in Region II has followed, as far as possible, the directives and general instructions in force in Region I, it is suggested that S.L.Os. of Region III and IV should conform to the set-up already in existence in that Region bearing in mind however that instructions in the procedure and personnel affecting the local courts should always

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5. As S.L.O. in Region II has followed, as far as possible, the directives and general instructions in force in Region I, it is suggested that S.L.Os. of Region III and IV should conform to the set-up already in existence in that Region bearing in mind however that instructions in regard to Procedure and personnel affecting the local courts should always come from the seat of the Court of Appeal on which they depend.

6. Temporary arrangements in connection with Tribunali situated in Regions II and IV, but under the Judicial control of the C.A. Napoli (Region III) should be worked out at an early date to prevent considerable difficulties when it will become possible to bring the existing Italian Judicial System back to normality.

G.C. HARRISFORD, Major,
Legal Division.

P.S. If the Province of Salerno is also under Region II, difficulties will be increased.

Distribution: Region II - (4); Region III - (4); Region IV - (4); AMCO 45 Army Group - (2); File - (1); Fleet - (1); Spares - (10)

ALLIED MILITARY GOVERNMENT OF OCCUPIED
TERRITORIES.

(SICILY)

GENERAL ORDER NO. 12.

REORGANISATION OF THE BAR ASSOCIATION.

WHEREAS by a Royal Decree of 27 November, 1933 No. 1573 (embodied in the law of 22 January, 1934 No. 36) the profession of Avvocati and Procuratori was reorganised into Fascist Syndicates; and

WHEREAS the great majority of Avvocati and Procuratori in Sicily have requested that the Fascist Syndicates be abolished and that the liberal traditions of their profession be re-established as provided by this Order;

NOW, therefore, in pursuance of such request, I, FRANCIS PARSON
GOVERNOR OF SICILY, Major-General, Chief Civil Affairs Officer hereby
ORDER as follows:-

Article I.

ABROGATION OF EXISTING LAW.

The Royal Decree and Law of 27th November, 1933 No. 1573 and the Law of 22nd January, 1934 regulating the activities of "Avvocati and Procuratori" are hereby abrogated. The provisions of the Law of 25th March, 1926 No. 453 and of the Royal Decree of 26th August, 1926 are formally restored except for the amendments set out hereunder.

Article II.

EXAMINATIONS FOR AVVOCATI.

The examination for the nomination to the Bar Association which under the provisions of Article 13 of the Law of 1926 took place every two years at the seat of the Court of Appeal, will be held at a date fixed by the Council of the Association under the rules and regulations prescribed by the Law. There will be a written and an oral examination. The four subjects to be treated in writing will be:-

- Civil Law and Procedure;
- Penal Law and Procedure;
- Commercial Law;
- Administrative Law.

The Board of Examiners will be composed of five members:-

- (a) A Counsellor of the Court of Cassation appointed by the First President of the Court of Appeal at the request of the Council of the Association, who will sit as President;

(b) A Professor of Law of the University selected as above.

have requested that the Fascist Syndicates be abolished and that the liberal traditions of their profession be re-established as provided by this Order;

NOW, therefore, in pursuance of such request, I, FRANCIS BACON HERSCHEL OF ROSS, Major-General, Chief Civil Affairs Officer hereby ORDER as follows:-

Article I.

ASSOCIATION OF EXISTING LAW.

The Royal Decree and Law of 27th November, 1933 No. 1578 and the Law of 22nd January, 1934 regulating the activities of "Avvocati and Procuratori" are hereby abrogated. The provisions of the Law of 25th March, 1926 No. 453 and of the Royal Decree of 26th August, 1926 are formally restored except for the amendments set out hereunder.

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The examination for the nomination to the Bar Association which under the provisions of Article 13 of the Law of 1926 took place every two years at the seat of the Court of Appeal, will be held at a date fixed by the Council of the Association under the rules and regulations prescribed by the Law. There will be a written and an oral examination. The four subjects to be treated in writing will be:-

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The Board of Examiners will be composed of five members:-

- (a) A Councillor of the Court of Cassation appointed by the First President of the Court of Appeal at the request of the Council of the Association, who will sit as President;
- (b) A Professor of Law of the University selected as above;
- (c) The President of the Council of the Association;
- (d) Two members of the Association chosen from among the Avvocati.

Article III.

EXAMINATIONS FOR PROCURATORI.

The limitation of the number of "Procuratori" in each Court of Appeal district and the competitive examination for vacancies as provided by Articles 21, 22 and 23 of the Law of 1926 are hereby abrogated. An examination for the inscription on the List of Procuratori will take place as per Article 20 of the said Law every year and on its results will be

determined the suitability of each candidate. This examination, of a more practical nature, will take place at the seat of the Court of Appeal at a date to be fixed by the Council of the Association and will be both written and oral.

Written subjects will be:-
Civil Law and Procedure;
Penal Law and Procedure;
Commercial Law;
Administrative Law.

Oral subjects will also include financial legislation. The Board of Examiners will be composed as set forth in Article II but the two members from the Association will be Procuratori.

Article IV.

QUALIFICATION WITHOUT EXAMINATION.

"Procuratori Legali" having exercised their practice for five years will have the right to have their names inscribed on the list of the Avvocati without further examination and without having practised as avvocati for the appropriate number of years.

"Avvocati" having exercised their profession for two years will have the right to have their names inscribed on the list of the Procuratori Legali without further examination or period of practice, provided that they have complied with all requirements of the law.

Article V.

ORGANIZATION OF ASSOCIATION OF AVVOCATI AND PROCURATORI AND ESTABLISHMENT OF COUNCIL.

No other distinction will exist between Avvocati and Procuratori other than the inscription on a different list. They will form one association and their representation will be entrusted to one Council of seven, eleven or fifteen members as prescribed by the Law of 1926. All Avvocati and Procuratori will be eligible for election to the Council, five years after their inscription in their respective lists, with the following exception:- Any person having held offices or exercised functions in the Fascist party or in cooperative institutions or in organizations of a politico-administrative nature. If such person were elected by error, this election would be automatically cancelled and the candidate having received the second largest number of votes elected instead. The yearly general meeting will be constituted by all Avvocati and Procuratori paid dues.

Article VI.

ACTION OF COURT OF APPEAL.

Any appeal of the Association can be elected as provided

Article IV.

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CREATION OF ASSOCIATION OF AVVOCATI AND PROCURATORI AND
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Article VI.

ACTION OF COURT OF APPEAL.

Until the Upper Council of the Association can be elected as provided in Articles 44, 42 and 43 of the Law of 1926, all its functions as set forth in Article 44 of the said law, will be exercised by the Court of Appeal of the District. Such decisions as may be necessary will be taken in the Council Chamber in the presence of the Procuratore Generale.

Article VII.

HONORARIA AND FEES.

Avvocati's honoraria and Procuratori's fees will be calculated on the basis established by the Law of 15th June, 1942. In cases where the law does not provide, the Council will determine the amounts due in respect of legal and even extra-judicial services. Any regulation in this respect will have to be renewed every three years, leaving/finding as far as possible the text of the law.

- 3 -

Article VIII.

SCALE OF HONORARIA AND FEES.

All rules and regulations set out in accordance with the terms of the preceding article will take into consideration the amounts involved and the position occupied by Counsel in his profession. A maximum and minimum fee will be determined in accordance with the provisions of the Law of 1942. In penal procedure, the duration of the case will also be taken into account. In certain cases, even those covered by the provisions of the Law of 1942, the client may be requested to pay a larger fee than the one for which the losing party is responsible, if the result or the amount concerned justify such increase in view of the work actually entailed.

Article IX.

SETTLEMENT OF DISPUTES IN RESPECT OF HONORARIA AND FEES.

Any further dispute in respect of fees and honoraria will be settled by the authority of justice. The Court will have to give the reasons for its decision to settle the fees claimed and, taking into consideration the provisions of Article VIII will not grant an amount inferior to the minimum fixed by the Council of the Association, except in the cases determined in Article 4 of the Law of 13 June, 1942.

Article X.

CONSTITUTION OF PROVISIONAL COMMITTEES.

Provisional Committees of Avvocati and Procuratori appointed by the Allied Military Government at each seat of a Tribunale and Corte d'Appello will represent the Association temporarily and take over the offices and property of the former syndicates hereby dissolved. The said Committees will undertake the revision of the existing lists of Avvocati and Procuratori and ascertain the regularity of the nominations effected since the Law of 27th November, 1933.

Article XI.

CONVENING OF GENERAL MEETINGS.

A month after the revision will have been completed, the Provisional Committee will take the necessary steps to convene the first General Meeting for the election of the new Council in accordance with the provisions set out heretofore. Members elected to the Council will remain in office until 31st December 1947. However, at the end of the year 1945 the members left by outgoing members will be examined.

Article IX.

SETTLEMENT OF DISPUTES IN RESPECT OF HONORARIA AND FEES.

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Article XII.

APPROPRIATE DATE.

This Order will become operative throughout each Province of the Occupied Territory of Sicily on the 25th day of October, 1943.

Dated: 10 October, 1943.

REMILO OF ROND, Major-General,
Chief Civil Affairs Officer.

NOTE: This General Order will not be printed for posting. It will appear in "Sicily Gazette" No. 4.

Temporary Amendments to Civil and Penal
Procedure.

ART I. The Procuratore della Legge shall have the right to order that an accused whether under arrest or at liberty be brought before the Court without further investigation, as set forth in Articles 502 to 505 of the C.P.P. and he shall not be bound by the provisions specified in Article 502 in connection with legal delays.

ART II. The course of prescription in regard to the entries to be effected in the mortgage register is suspended from July 10th until further notice.

ART III. The course of prescription in civil, penal and financial actions already started on July 10th is hereby suspended and legal terms extended until further notice.
All other terms in connection with cases of the competence of the Corte di Cassazione, Council of State, Court of Accounts and the High Court of Public Water Supply or any other Court sitting outside Sicily, are hereby suspended until new regulations have been instituted to reorganise such procedure.

ART IV. Civil actions already on the roll for which a date of hearing has been fixed after 1st October, 1943 or adjourned to a specific date after October 1st by order of the Court will follow their normal course. The judge will determine if one or both parties are not represented or their legal representatives have failed to appear, that the hearing be adjourned and the parties duly notified of the new date of hearing.

ART V. Civil actions already on the roll for which no date of hearing is fixed or for which a previous adjournment was granted, before October 1st, will be heard in successive sittings starting from October 1st as soon as the Court Register will have been able to notify the parties' legal representatives of the exact date, or, in their absence, the parties personally.

ART VI. Copies of the original summons will have to be served again at the request of the most diligent party, when the date fixed for the hearing of the case fell due after 15th April, 1943 and the civil action therein referred to was not already on the roll.

ART VII. In all actions, civil or penal, when service of summons may legally be effected by post, a duplicate service will be made by judicial process server three days after the date of the

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ART VI. Copies of the original summons will have to be served again at the request of the most diligent party, when the date fixed for the hearing of the case fell due after 15th April, 1943 and the civil action therein referred to was not already on the roll.

ART VII. In all actions, civil or penal, when service of summons may legally be effected by post, a duplicate service will be made by judicial process server three days after the date of the posting of the first service.

ART VIII. In civil actions when the absence of one or both parties is due to the fact that no summons can be served on them, or if appearance cannot be entered owing to the present new conditions, a special curator may be appointed to represent the absent party or parties under the provisions of Articles 78, 79 and 80 of the Code of Civil Procedure, whenever such absence would be prejudicial to the party or parties concerned.

ART IX. In all cases where the law provides that judicial decisions or other notices be published in the official Gazette or the official Bulletin of the Province, such publication will be made in the local newspaper two days in succession.

ART X. All newly appointed officials will take the following oath:-
"I swear to observe the Law and to fulfil my duties with conscience."

ASCT/4064/L
ALCOT HQ. SICILY
16th October 1943.

Subject:- Notarial Councils

To:- All S.L.Os. (through S.G.A.Os)

1. A draft order is required for the creation of Notarial Councils as forwarded herewith for necessary action.

2. Please take the required steps to fill in Article II with the names of five or seven notaries as the case may be, selected by each district and issue the order once completed in the form set out in the draft.

3. There are 13 Notarial Districts in Sicily as follows :-

Notarial District	Responsibility
Palermo (1), Termini, Imrose (1)	 S.G.A.O. Palermo
Catania (1), Caltagirone (1)	 S.G.A.O. Catania
Caltanissetta and Enna	 (S.G.A.O. Caltanissetta.
Nicosia (1)	 (S.G.A.O. Caltanissetta.
Marusa and Modica	 S.G.A.O. Ragusa
Messina (1), Patti (1)	 S.G.A.O. Messina
Avrigo (1), Sciacca (1)	 S.G.A.O. Agrigento
Siracusa (1)	 S.G.A.O. Siracusa
Trapani (1)	 S.G.A.O. Trapani

4. The names of the senior or most qualified notary in each district whom you should consult as to the appointment of the other members to the Council are enumerated hereunder :-

Palermo (7 members)	-	Dott. Salvatore Stella.
Termini (5 members)	-	" " " " " "
Avrigo (7 members)	-	" " " " " "
Sciacca (5 members)	-	" " " " " "
Catania (7 members)	-	" " " " " "
Caltagirone (5 members)	-	" " " " " "
Messina (7 members)	-	" " " " " "
Patti (5 members)	-	" " " " " "
Caltanissetta -	-	" " " " " "
Enna (5 members)	-	" " " " " "
Nicosia (5 members)	-	" " " " " "
Ragusa - Modica	-	" " " " " "

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Notarial District	Responsibility
Palermo (1), Termini, Imiese (1)	 S.G.A.O. Palermo
Catania (1), Caltagirone (1)	 S.G.A.O. Catania
Caltanissetta and Enna	 (S.G.A.O. Caltanissetta.
Mazara (1)	 (S.G.A.O. Caltanissetta.
Ragusa and Modica	 S.G.A.O. Ragusa
Messina (1), Patti (1)	 S.G.A.O. Messina
Avrigo (1), Sciacca (1)	 S.G.A.O. Agrigento
Siracusa (1)	 S.G.A.O. Siracusa
Trapani (1)	 S.G.A.O. Trapani

4. The names of the senior or best qualified notary in each district whom you should consult as to the appointment of the other members to the Council are enumerated hereunder :-

Palermo (7 members)	-	Dott. Salvatore Stolla.
Termini (5 members)	-	" " " " " " " "
Agrigento (7 members)	-	Oreste Sciacca.
Sciacca (5 members)	-	Salvatore Sciacca.
Catania (7 members)	-	Mirone Dusebio.
Caltagirone (5 members)	-	Periconio Libartini.
Messina (7 members)	-	Pillipo Chiofalo.
Patti (5 members)	-	Francesco Roca.
Caltanissetta -	-	
Enna (5 members)	-	Rosario Rainaldi.
Mazara (5 members)	-	Salvatore Bontempo
Ragusa - Modica (5 members)	-	Giuseppe Cavalieri.
Siracusa (7 members)	-	Giuseppe Monteforte
Trapani (5 members)	-	Giuseppe Triolo

5. Please report to this H.Q. as soon as the order has been issued.

1. C. G. CHILMER,
Lt. Col. (AUS),
Chief Legal Officer.

ALLIED MILITARY GOVERNMENT OF OCCUPIED TERRITORY

ORDER NO. _____

CREATION OF A NOTARIAL COUNCIL FOR THE
DISTRICT OF _____

WHEREAS the Statutes of the Fascist Syndicates of Notaries was approved by Royal Decree of 4 June 1942 (embodying the Law of 27 May 1940 suppressing Notarial Councils)

WHEREAS such syndicates have ceased to function,

AND WHEREAS the notaries of the District of _____ have expressed the wish to reorganize their associations on lines more in harmony with their ancient tradition

THEREFORE, I,
Affairs Officer, in pursuance of powers conferred in me, hereby order as follows :-
Senior Civil

ARTICLE I. A Council of Notaries for the Notarial District of _____ is hereby created.

ARTICLE II. It will be composed of the notaries hereinafter designated:-

ARTICLE III. The seat of the Notarial Council will be at _____

ARTICLE IV. The functions of the Council will be :-

- (A) To submit to the Allied Military Government any amendments to the Laws regulating the functions of notaries as may be considered desirable or necessary

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2.18.42

2.1

AND WHEREAS the notaries of the District of _____ have expressed the wish to reorganize their associations on lines more in harmony with their ancient traditions

THHEREFORE, I, _____ Senior Civil Affairs Officer, in pursuance of powers conferred in me, hereby order as follows :-

ARTICLE I. A Council of Notaries for the Notarial District of _____ is hereby created.

ARTICLE II. It will be composed of the notaries hereinafter designated. -

ARTICLE III. The seat of the Notarial Council will be at _____

- ARTICLE IV. The functions of the Council will be :-
- (a) To submit to the Allied Military Government any amendments to the Laws regulating the functions of notaries as may be considered desirable or necessary in the interests of the public or the profession of notaries;
 - (b) To supervise the professional activities of all notaries in the Notarial District of _____ and whenever possible to arbitrate in disputes between notaries and their clients;
 - (c) To propose candidates for the offices now vacant in the notarial District of _____;
 - (d) To exercise the powers and observe the regulations conferred and imposed upon the Notarial Councils by the Law of 16th February 1913;
 - (e) To organize elections for a new Council as soon as the general meeting of the notaries of the District

/s/ _____ can be convened.

P-6 - 2 -

of _____ can be conveyed, and,

- (f) To advise the Allied Military Government and its local officers on any points of potential law on which it or they may from time to time require information.

ARTICLE V. The Council will curance its functions from the date of this Order.

Dated 1943

Lieut. Colonel,
Senior Civil Affairs Officer.

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AMCOT/4006/L.
AMCOT HQ., SICILY
12 October 1943

SUBJECT: Administrative Instruction on Construction of Proclamations.

TO : All Legal Officers (through SACIO).

Reference this HQ letter AMCOT/4006/L. dated 10 Oct 1943, please amend Par. 1 to read as follows:

"1. Proclamation 2, Article I, Section 17:

While an ordinary minor theft of property by one civilian from another is not to be considered an act of "plunder or pillage" looting of houses and buildings is an offense under this section. If mere possession of looted goods is presented it would be a violation of Article III, Section I which provides that anyone "assisting in" the commission of an offense is guilty. If the goods stolen are those of the Allied Military Government or enemy property entitled to be taken by the Allied Forces the prosecution should be under Article I Section II, Article II Section 26, or Article II Section 39 as the case may be.

Minor thefts and larcenies of civilian property by civilians should be prosecuted in the Italian Courts under Italian law."

W. C. Chalder
W. C. Chalder,
Lt. Col., AUS,
Chief Legal Officer.

Distribution

Agrianto	3
Calitri	2
Catania	2
Erma	2
Palermo	4
Reggio	3
Siracusa	2
Trapani	3

Angot Lincon	3
Angot 8th Army	10
Angot 5th Army	10
File 4006/L.	1
File 4006/L.	1
Plot	1
Divisions	12
ACB, AFIO	12
Spores	16

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ANGOT/4001/L.
ANGOT HQ., SICILY
11 October 1943

SUBJECT: Fines under Italian Penal Code.

TO : All SLO's (through SCAO's).

1. Articles 163 to 168 of the Italian Penal Code give the right to Judges and Magistrates to suspend pecuniary penalties for two to five years. However this suspension must be granted when pronouncing the sentence and cannot be conceded after the latter has become executive.

2. Certain cases of hardship have been reported to this Division by SLOs in the Provinces concerning persons sentenced to imprisonment and fines by Italian Courts prior to our occupation, who had served their sentence in gaol but could not pay the amount of the fine.

3. Italian Legislation provides no means of redress for such contingencies, with the exception of the pardon or condonation which were the privileges of the King or Minister of Justice.

4. To meet this situation, SLO's are hereby authorized, in such cases of hardship as may from time to time be brought to their notice to instruct Italian Judges and Magistrates to extend the time for the settlement of "multo and ammende" over a longer period and to accept small installments at regular intervals as part payments of the amount involved.

W. C. CHAMLER
W. C. CHAMLER,
Lt. Col., AUS,
Chief Legal Officer.

Distribution:

Agrigento	3	Angot Liaison	1
Caltanissetta	2	Angot 8th Army Reg. 2.	10
Catania	2	Angot 5th Army Reg. 3.	10
Enna	2	Files 4001	1
Palermo	4	" 4034	1
Ragusa	3	Float	1
Syracuse	2	M.C.S. - A.F.H.Q.	12
Messina	3	Spores	16
Trapani	3		

jd

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AMCOT/4006/L.
AMCOT HQ., SICILY
10 October 1943

SUBJECT: Administrative Instruction on Construction of Proclamations.

TO : All Legal Officers (through SCAC).

Some questions relating to the interpretations of provisions of Proclamations has arisen in the administration of Military Courts. For the purpose of assisting all officers presiding over Courts and those prosecuting offences the following interpretations have been made:

1. Proclamation 2, Article I, Section 17:

While an ordinary minor theft of property by one civilian from another is not to be considered an act of "plunder or pillage" looting of homes and buildings is an offense under this section. If mere possession of looted goods is presented it would be a violation of Article III, Section 1 which provides that anyone "assisting in" the commission of an offense is guilty. If the goods stolen are those of the Allied Military Government or enemy property entitled to be taken by the Allied Forces the prosecution should be under Article I Section 2, Article I Section 26, or Article I Section 39 as the case may be.

Minor thefts and larcenies of civilian property by civilians should be prosecuted in the Italian Courts under Italian law.

2. There have been instances of public demonstrations against Italian public officials. These officials are carrying out their duties under the Military Government, and are acting on military authority. For the purposes of Section 20 of Article I, Proclamation No. 2, the words "military authority" may be held by all Allied Military Courts to include such Italian public officials.

3. It is to be noted that Section 20 of Article I, Proclamation No. 2, does NOT apply to persons participating in insurrections or demonstrations unless they are also guilty of incitement, organization or leadership. Furthermore, there must be an insurrection or intended insurrection. This is more serious than ordinary riot. If all the requirements of the above section are not present, persons concerned in public disturbances should be charged under Sections 30 or 31 of Article 2 of Proclamation No. 2.

4. Any theft of property in the custody or under control of the Controller of Property should be prosecuted under Proclamation No. 6, Article X, Sections (a) and (b).

5. Attention is likewise called to the provisions of Proclamation No. 8.

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4. Any theft of property in the custody or under control of the Controller of Property should be prosecuted under Proclamation No. 6, Article X, Sections (a) and (b).

5. Attention is likewise called to the provisions of Proclamation No. 8, Articles I and V which make it an offense in the Military Courts to violate Italian ration laws, including Black Market offences.

6. Proclamation No. 9, Article I refers only to General Orders of the Allied Military Government to be published in the Sicily Gazette. Local orders need not be so published.

W. C. CHANLER,
Lt. Col., AUS,
Chief Legal Officer.

Copy to files AMGOT/4027/L.
AMGOT/4034/L.

20

AMGOT/4039/L.
AMGOT HQ., SICILY
5 October 1943

SUBJECT: Judicial Officials.

TO : S.L.O.'s through S.C.A.O.'s.

1. Your attention is directed to instructions AMGOT/4039/L. of 12 September 1943 by which you were requested to forward at your early convenience a list of Judicial vacancies in the Provincial set up, and the names of suitable nominees to these posts.
2. To date only four Provinces have sent their report and recommendations thus delaying the appointment of officials who would help to relieve the present congestion of local Courts.
3. Could the required information be forwarded by return.
4. If no adequate personnel is available in your Province please state so as steps will be taken by this HQ to fill the remaining gaps in the local organizations as much as possible.

W. C. CHANLER,
Lt. Col., AUS,
Chief Legal Officer.

13

AMCT/1034/L. 18
AMCT HQ. - SICILY.

SUBJECT: Records in Summary Court Cases.

29 Sep. 43.

To : All Legal Officers (through S.C.A.O.).

1. Summary Court Dockets have been distributed to each Provincial Legal Officer for use of the Summary Courts in his Province.

2. These dockets have been prepared with a view to lessen the amount of paper work required. Some general directions will systematize and make more uniform the use of these records.

3. It is contemplated that notes will be kept by the Summary Court Judge in all cases. Where there appears to be a possibility of an appeal or a sufficient reason for the submission of the complete record to this headquarters, such record will be prepared on Form 8 and submitted. In all other cases, the notes will be filed and the record of the case will appear on the Summary Court loose leaf pages. If it becomes necessary for any reason, a form #8 can be called for at a later date. Some of the categories of cases where a form #8 report is desired are as follows:

- (a) When a sentence of 90 days imprisonment or more, or a fine of 4000 Lire or more is imposed.
- (b) When the case involves new or complicated questions of law, without regard to the extent of the penalty imposed.
- (c) Where unusual leniency or severity in the sentence is deemed necessary.
- (d) Where there is an indication that an application for review may be filed.
- (e) Where the Summary Court Judge feels that, for any reason, the full record should be submitted to this headquarters.

4. There is no necessity of preparing a full record in categories of cases where the cases themselves are of minor nature and otherwise do not come within the provisions of paragraph 3, above, such as violations of the curfew law, blackout regulations and similar offences.

5. It is believed that the violations, of the price fixing regulations, food control program, thefts and possession of Allied Military property, interfering with telephone and telegraph lines, including the theft of wire, riots and public disturbances, attacks on Allied soldiers, sabotage or war crimes are sufficiently serious, in general, to warrant a substantial sentence or fine and should therefore have a full record submitted.

6. A form of application for review is inclosed, printed copies of which will be available for distribution within a few days.

7. It is desired, that this form be used in all applications for review and be submitted to the Senior Legal Officer of each Province for the addition of any fact or comment desired. Such application will be forwarded promptly to

reason for the submission of the case. In all other cases, the notes will be filed and the record of the case will appear on the Summary Court loose leaf pages. If it becomes necessary for any reason, a form #8 can be called for at a later date. Some of the categories of cases where a form #8 report is desired are as follows:

- (a) When a sentence of 90 days imprisonment or more, or a fine of 4000 Lire or more is imposed.
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- (c) Where unusual leniency or severity in the sentence is deemed necessary.
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- (e) Where the Summary Court Judge feels that, for any reason, the full record should be submitted to this Headquarters.

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6. A form of an application for review is inclosed, printed copies of which will be available for distribution within a few days.

7. It is desired, that this form be used in all applications for review and be submitted to the Senior Legal Officer of each Province for the addition of any fact or comment desired. Such application will be forwarded promptly to this office with all necessary records for an adequate review. This record will be submitted in the English language or a translation attached. However, it is not to be understood, that review will be refused in cases where an individual submits a personal letter in the Italian language, directly to this office.

8. Records of convictions for misdemeanors and crimes, as far as practicable, should be obtained from the Carabinieri or other local sources and submitted with each case where a review is contemplated.

9. A substantial compliance with this directive by all concerned will render more efficient the work of this Legal Division.

By order of Chief Legal Officer:

W. R. Jordan
W. R. Jordan,
Lt. Col., C.I.C.,
Chief Judicial Officer.

Copy to File AMCOE/4026/L.

17

AMCOT/4039/L.
AMCOT HQ., SICILY
27 September 1943

SUBJECT: Salaries and Indemnities of Judicial Officials.

TO : All S.L.O.s through S.C.A.O.s.

1. A number of S.L.O.s have requested on several occasions that the instructions in regard to salaries and indemnities payable to Judicial Officials be clarified.

2. The C.F.O. has confirmed the following points:

(a) The equivalent of four months salary paid in advance by the Italian Government prior to the Allied occupation is not to be considered as a bonus but as salary.

(b) All indemnities payable under the old regime will be continued, and Pensions to all State, Provincial and Communal Officials will also be maintained.

(c) Any official appointed by the Allied authorities will receive exactly the same amount of salary and indemnities as his predecessor.

3. Adjustment of salaries and indemnities to the cost of living are being considered, but no decision in this respect will be taken in the immediate future.

W. C. CHAMBER,
Lt. Col., AUS,
Chief Legal Officer.

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AMCOT/4034/L.

AMCOT H.Q., SICILY,

19 September, 1943

To:-- All Senior Legal Officers
(through S.C.A.Os.)

1. S.L.Os. in all provinces should instruct local Italian Judicial Authorities to hold assizes at the earliest convenient date.
2. In towns where assizes sit normally and both Assessors and "Consigliere" are available, such arrangements as may be necessary should be made forthwith to enable the sessions to take place early in October. (It is understood that both Agrigento and Catania can do so).
3. S.L.Os in Provinces where no "Consigliere" are present owing to the war conditions, should notify this H.Q.forthwith, so that instructions may be given to the President of the Corte d' Appello to send two or more "Consigliere" on circuit in order that the Corte d' Assise may sit as early as possible in October.
4. As soon as they have consulted with the local officials, S.L.Os. will report on the position to the C.L.O., stating at the same time the approximate dates when such sessions may be held in their respective districts.
5. The number of cases to be tried during the session and a list of prisoners awaiting trial in gaols situated outside the Province should also be furnished.
6. A calendar will then be published in order to regularise the sittings of the "Court of Assize" throughout the island for the coming year.

W.C. Chandler

W.C. CHANDLER, Lt. Col. (A.U.S.)
Chief Legal Officer.

Subject:-- Temporary Amendments to Italian Penal Procedure. AMCOT/4001/L.

To:-- All S.L.Os. through S.C.A.Os.

AMCOT H.Q., SICILY.

19 Sept. 1943.

Further to instructions set out in para. 4 of the Temporary

"Consigliere" are available, the sessions to take place early in October. (It is understood that both Agrigento and Catania can do so).

3. S.L.Os in Provinces where no "Consigliere" are present ordering to be made forthwith to enable the sessions to take place early in October. (It is understood that both Agrigento and Catania can do so).

4. As soon as they have consulted with the local officials, S.L.Os. will report on the position to the C.I.O., stating at the same time the approximate dates when such sessions may be held in their respective districts.

5. The number of cases to be tried during the session and a list of prisoners awaiting trial in goals situated outside the Province should also be furnished.

6. A calendar will then be published in order to regularise the sittings of the "Court of Assize" throughout the island for the coming year.

(Handwritten signature)

W.C. CHAMLER, Lt. Col. (A.U.S.)
Chief Legal Officer.

Subject: Temporary Amendments to Italian Penal Procedure. AMGOT/14001/L.

AMGOT H.Q. SICILY.

19 Sept. 1943.

To: All S.L.Os. through S.C.A.Os.

Further to instructions set out in para. 4 of the Temporary Modifications to Italian Penal Procedure published in "Sicilia Liberata" of 6 Sept. 1943, reading as follows:-

"The Court and Prosecution to have the right to grant provisional liberty even in cases set forth in Article 253 of the Code of Penal Procedure, whenever the offence is not serious or the circumstances in which the act has been committed do not justify the continuous detention of the accused".

This provision applied only to offences committed since the occupation. It has now been decided that Procuratore delle Legge may also grant provisional liberty in cases of prisoners sentenced to a term of imprisonment by the Italian Courts before our occupation. In this instance, however, the decision of the Procuratore must be submitted to and approved by the S.C.A.O. of the Province.

W.C. CHAMLER, Lt. Col. (A.U.S.)
Chief Legal Officer.

15

Subject:- Fines Imposed by Allied Military Courts.

AMGOT/4002/L.

AMGOT H.Q. SICHEL

To:- All Legal Officers and Finance Officers
(through S.C.A.Os.)

14th Sept. 1943.

With reference to the "Rules of Procedure for Allied Military Courts", para. 19 (2), for the purpose of collecting and accounting for fines imposed by the Allied Military Courts, Legal Officers are hereby directed to pay all fines collected to Sub-Accountants as directed in the AMGOT Accounting Manual.

[Signature]
C. CHANIER, Lt. Col. (A.U.S.)
Chief Legal Officer.

Copies to: All Heads of Divisions.

15

14

SUBJECT: Regolamenti Comunali.

ATTI/1437/L

ATTI NO. 80017

13th September, 1943.

TO: All S.C.A.C.

1. According to Italian Law (L.D. 3 March 1934) Regolamenti Comunali are required in all cases to be submitted to the Prefect for approval. In certain categories of cases, Regolamenti Comunali are also submitted to the Council of the Prefecture and the Provincial Senate for advice, and in others the approval of the Central Government has also to be obtained.

2. To enable Regolamenti Comunali to be made by the Communes at the present time, the accompanying Administrative Instruction has been issued. Notice thereof should be given to the Prefect and Comptroller.

Charles L. Stottford
CHARLES L. STOTTORD,
Colonel, S.C.A.C.
Chief Staff Officer.

14

13

HEADQUARTERS ANGOT

ANGOT/467/L

SICILY

21st September 1943

CENTRAL ADMINISTRATIVE INSTRUCTION NO. 19.

The following instructions have been issued:-

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

1. Regolamenti Comunali will be submitted to the Prefect of the Province for approval after being made.
2. The Prefect will not submit Regolamenti Comunali to the Council of the Prefettura or to the Provincial Giunta for advice or to the Central Government for approval.
3. The Prefect will after considering Regolamenti Comunali received by him for approval submit the same to the Senior Civil Affairs Officer of the Province with his recommendations.
4. The Senior Civil Affairs Officer, after considering the Regolamenti Comunali together with the recommendations of the Prefect and of the Civil Affairs Officer (if any) for the Comune, issue directions to the Prefect to approve or refuse approval of the Regolamenti.
5. Regolamenti Comunali, after approval by the Prefect as above-mentioned shall be of full force and effect.

Charles M. Spofford
 CHARLES M. SPOFFORD,
 Colonel, G.S.C.
 Chief Staff Officer.

DISTRIBUTION:-

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S.C.A.O. RAGUSA	6	Division	6
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S.C.A.O. TRAPANI	6	Spares	10
S.C.A.O. MESSINA	8		

13

12

Subject:- Prosecutions - Orders to Civilian Enemy Subjects

AMGOT/AD34/L

AMGOT HQ. SICILY

To: All Senior Legal Officers
(through S.C.A.Os.)

11th Sept. 1943

1. An order given orally to an enemy civilian subject by any Officer of the Allied Forces acting in the course of his duties and within the scope of his authority is a proper order, and failure to observe it is an offence punishable under para. 43 of Proclamation No.2.
2. If an order given orally is the basis of a prosecution under the above para., the prosecution should be in a position to prove that the order was definite and concise and that accused appeared to understand it. The order must not, of course, be one to do an illegal act.
3. Where civilian employees are concerned, they should be only prosecuted for failure to obey an order if there has been wilful neglect or disobedience in carrying out their duties in accordance with instructions. It is not desirable that incompetency or the usual trivial failures of civilian clerks should be made the subject of criminal proceedings.

Lieut. Colonel,
Chief Legal Officer.

12

Subject: Prisoners in Provincial Gaols

To: All S.C.A.O.s
All S.L.O.s

Amoroso

7 Sep 1943

This memorandum sets out the action to be taken in respect of prisoners in provincial gaols. It is based on experience gained in Palermo.

1. Prisoners duly charged and convicted by Italian Criminal Courts.

AMCOT will ensure that no political bias affects or has affected the case. Any suspect cases are to be reported.

2. Prisoners charged with an offence and awaiting trial.

This class has been found to be numerous. The list will be scrutinised carefully in conjunction with the Italian authorities and in any case where it is found that a prisoner charged with any offence has already been in gaol for a period equal to the full sentence if found guilty, the prisoner will be released immediately. In other cases every effort will be made to expedite the hearing by the appropriate Italian Tribunal.

3. Prisoners held at the disposition of the Questor "motivo Publica Sicurezza".

This class was numerous in Palermo, the former occupants of USTICA having been brought here. Each prisoner of this category was interviewed by a legal officer. It was found that they nearly all had criminal records, varying in gravity. They had been sentenced to "Carafino", normally for three or five years, by a Questor or Provincial Commission, without trial or for no particular offence: in some cases it was admitted because of their previous records.

Those without too bad a record have been freed on the following conditions:-

- (1) An entry to that effect to be made on their identity card,
- (ii) Registration with Police,
- (iii) Weekly reporting to the Police,
- (iv) Limit of travel to be 10 km.

Those with a really bad record are being held pending further consideration. If it is determined that the safety of the Allied Forces or the order and tranquillity of the Occupied Territory require their further detention, they will be transferred to an internment camp: otherwise they will be released.

A copy of the Form filled in by the interviewing officer in respect of each case is attached at Appendix "A".

2. Prisoners charged with an offense and awaiting trial.

This class has been found to be numerous. The list will be scrutinized carefully in conjunction with the Italian authorities and in any case where it is found that a prisoner charged with any offense has already been in jail for a period equal to the full sentence if found guilty, the prisoner will be released immediately. In other cases every effort will be made to expedite the hearing by the appropriate Italian Tribunal.

3. Prisoners held at the disposition of the Questor "Motive Publica Sicurezza".

This class was numerous in Palermo, the former occupants of USMICA having been brought here. Each prisoner of this category was interviewed by a legal officer. It was found that they nearly all had criminal records, varying in gravity. They had been sentenced to "Confino", normally for three or five years, by a Questor or Provincial Commission, without trial or for no particular offence; in some cases it was admittedly because of their previous records.

Those without too bad a record have been freed on the following conditions:-

- (i) An entry to that effect to be made on their identity card,
- (ii) Registration with Police,
- (iii) Weekly reporting to the Police,
- (iv) Limit of travel to be 10 km.

Those with a really bad record are being held pending further consideration. If it is determined that the safety of the Allied Forces or the order and tranquility of the Occupied Territory requires their further detention, they will be transferred to an internment camp; otherwise they will be released.

11

A copy of the Form filled in by the interviewing officer in respect of each case is attached at Appendix "A".

4. Prisoners held at the disposition of the former Italian Military Tribunal

The Italian Military Tribunal was occupied by cases such as improper use of Italian Government petrol for private gain and printing and selling forged travelling warrants.

An "ad hoc" tribunal was set up to investigate and to give directions in appropriate cases for speedy trial by the normal Italian Courts and in other cases (e.g. where the offence alleged was not serious and the prisoner had already been held in prison for a long time, or where, owing to absence of witnesses or other reasons a speedy trial was not possible) to give directions for the release of the prisoner.

A copy of the order served on the Questor is attached at Appendix "B".

5. Prisoners detained by the Military or MISCOT as dangerous Fascists.

Instructions covering the arrest and detention of this class will be (con'd....& review...)

- 2 -

issued separately.

A review of the prisoners held in the gaols of your province will be made on the above lines and action taken as indicated.

In said gaols there are a number of Arabs who were sent to Sicily from North Africa. S.C.M.O.s will take steps to return these Arabs to North Africa as soon as possible and inform this H.Q. of the action taken. If it is not found possible to arrange their return, this will be reported to this H.Q. with a statement showing:-

- (a) Their numbers,
- (b) In what gaol they are,
- (c) Name and place of origin, and,
- (d) Copies of any available records.

W. J. [Signature]

Major-General,
Chief Civil Affairs Officer.

JOINT HQ
15 Army Group.

Appendix A

Date of Interview: _____ 1943. Prison Record Number _____

Surname _____

Christian Names _____

Sex _____ Married or Single _____

Particulars of Personal Identity Card _____

Date of Birth _____

Place of Birth _____

Residence during last 5 years _____

Address _____

Occupation _____

Brief Description _____

Previous Criminal Record _____

Political Tendencies _____

Remarks by Detainee _____

Date of Birth

Place of Birth

Residence during last 5 years

Address

Occupation

Brief Description

Previous Criminal Record

Political Tendencies

Remarks by Detainee

10

Remarks by Interviewing Officer

Action to be taken

Appendix B

To: Al Signor Questore
Giustura di Palermo

Take notice that a Tribunal constituted for that purpose by the Allied Military Government will sit at 9.0 o'clock on Friday, the 27th of August, 1943, at the Ball Room, The Prefecture, Palermo, and on such later days as the Tribunal may direct to consider the cases of the prisoners whose names are set out in annexure A hereto being prisoners held in Palermo gaols at the disposition of the former Italian Tribunale Militare, and all other, if any, the prisoners there held on the like grounds and that you are required to bring before the Tribunal on the said day or days all the said prisoners.

And also take further notice that you or a pro or a representative will attend at all sittings of the Tribunal and will be prepared to inform the Tribunal in respect to each prisoner (a) whether any lawful charge has been made against him, and (b) whether it is wished to make any, or any additional, lawful charges against him, and if so, to state the charges and the facts on which it is proposed to found them.

The Tribunal is authorized to give all necessary directions for obtaining a speedy trial or release of all the said prisoners.

COPIES TO:-

Il Direttore Delie Carceri Giudiziarie
Centrale, Palermo

Il Direttore Del Carcere Penale
Palermo.

Sgn. Ltn. A.E.M.M. Dickie; Prefettura

Chief Legal Officer, A.M.G.O.T.

AMCOT/4002/L.
AMCOT HQ., SICHEL
1 October 1943

SUBJECT: Allied Military Courts - Sentences.

TO : All Senior Civil Affairs Officers
and All Senior Legal Officers.

1. On page 10 of minutes of meeting of Senior Civil Affairs Officers ref. AMCOT/263/HQ, the report is contained of directions of Chief Civil Affairs Officer that there was to be no suspension of any sentence pending his decision as to whether or not he would revise it.
2. The above directions have been cancelled by the Chief Civil Affairs Officer and the directive contained in para. 3 of this instruction has been substituted.
3. All Allied Military Courts may impose suspended sentences. As, however, this type of sentence has been much too frequently imposed in the past, Allied Military Courts will suspend a sentence only when it is desirable, having regard to special circumstances of the case, such as the age or other circumstances of the accused, or such as the fact that the accused has acted without any bad intent but has still committed a minor offence.
4. Senior Civil Affairs Officers have no power to review cases, or suspend sentences.
5. The Chief Civil Affairs Officer is concerned about the smallness of sentences imposed for grave offences where the accused has been found "guilty". The attention of all officers who sit on Allied Military Courts will be drawn to the fact that sentences must not only be assessed on the circumstances in which the offence was committed, but also on the gravity of the offence, the frequency with which the offence occurs and its effect on military security. As an example, illiterate peasants have frequently been committing the grave offence of cutting off pieces of military telephone wires. This offence has generally been committed openly to obtain binding wire and with little or no knowledge of the possibilities of its results on the Allied forces. Moreover, the offence must be punished severely as it is a grave offence, is very prevalent and the whole security of the Army may be jeopardized by it.

CHARLES H. SPYFORD,
Colonel, G. S. C.,
Chief Staff Officer.

1. On page 10 of minutes of meeting of Senior Civil Affairs Officers ref. AMCOT/263/HQ, the report is contained of directions of Chief Civil Affairs Officer that there was to be no suspension of any sentence pending his decision as to whether or not he would revise it.
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9

CHARLES H. SPENFORD,
Colonel, C. S. C.,
Chief Staff Officer.

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Agrianto	7	Siracuse	11	AMCOT 5th Army	10
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Catania	7	AMCOT Liaison	1	File 263/HQ and	
Enna	5	Trapani	7	original	2
Palermo	36	AMCOT 8th Army	7	Fleet	1
Ragusa	7	Region 2	10	Divisions	9
				M.G.S. A.P.H.Q.	12
				Spares	10

Subject:- Cases of Juvenile Offenders.

AMCOT/1034/L

To: All Senior Legal Officers (Through S.C.A.O.s) 31 Aug. 43.

It has come to the attention of the Chief Legal Officer that arrests have been made of juveniles under 18 years of age who have violated AMCOT ordinances, laws or regulations.

1. (a) In these cases it is requested that the following procedure be followed:-

(i) That upon the arrests of minors and prior to trial, a copy of the charges will be given the nearest Public Welfare Officer of AMCOT.

(ii) The Welfare Officer will procure or cause to be procured such information regarding the minor as may bear upon the case and will forward such information before trial together with a recommendation for use by the Judge in making his decision.

(iii) Such investigations and reports to the Judge will be made by the Welfare Officer at the earliest possible time in order not to delay the hearing unnecessarily.

(iv) The Welfare Officer will report back to the court on every case brought to his attention, even though no information on the individual in question can be furnished.

(v) Juveniles will be released pending trial on such conditions as may seem appropriate whenever possible. In those cases where detention of the juvenile is necessary, he or she must, if at all possible, be held in a place separate from those housing adult offenders.

(b) If the court feels that the juvenile over 16 years of age is of maturity, both physically and mentally, this individual could be dealt with as an adult offender after taking into consideration his limited experience.

(c) That judges of the military courts will base their procedure in hearing the cases of minors under 17 upon the accepted practices of juvenile courts in Britain and the U.S., namely:

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

(2) That where parents seem to be responsible persons the child be given an opportunity for readjustment in his own home under strict supervision of the parents or the police.

- (1) That upon the arrests of minors and prior to trial, a copy of the charges will be given the nearest Public Welfare Officer of AMGOT.
- (ii) The Welfare Officer will procure or cause to be procured such information regarding the minor as may bear upon the case and will forward such information before trial together with a recommendation for use by the Judge in making his decision.
- (iii) Such investigations and reports to the Judge will be made by the Welfare Officer at the earliest possible time in order not to delay the hearing unnecessarily.
- (iv) The Welfare Officer will report back to the court on every case brought to his attention, even though no information on the individual in question can be furnished.
- (v) Juveniles will be released pending trial on such conditions as may seem appropriate whenever possible. In those cases where detention of the juvenile is necessary, he or she must, if at all possible, be held in a place separate from those housing adult offenders.
- (b) If the court feels that the juvenile over 16 years of age is of maturity, both physically and mentally, this individual could be dealt with as an adult offender after taking into consideration his limited experience.
- (c) That judges of the military courts will base their procedure in hearing the cases of minors under 17 upon the accepted practices of juvenile courts in Britain and the U.S., namely:
 - (i) That first consideration be given to rehabilitation of the child instead of punishment.
 - (ii) That where parents seem to be responsible persons the child be given an opportunity for readjustment in his own home under strict supervision of the parents or the police.
 - (iii) That where it is necessary to place the child in an institution, he be committed for an indefinite period to a school for juveniles, such as Centro Rieducazione Minorenni, until such time as the school decides that he will refrain from further delinquency and is ready for release.
 - (iv) That the hearings be held informally in a closed chamber instead of open court.
 - (v) That in cases of commitment, a court record of the case be forwarded to the institution together with any recommendations which may have been made regarding treatment.

2. In the case of minors under 18 tried by the courts of Italy, copies of the records indicating the dispositions of such cases shall be forwarded promptly to the Public Health Division (Public Welfare Section) *W. Chanter*

AMGOT H.Q.,
15 Army Group

W. CHANTER,
Lt. Col. (AUS). Chief Legal Officer.

HEADQUARTERS AMCOL.

Subject:- Opening of Italian Civil Courts in Sicily. AMCOL/4001/L.

To:- All Senior Civil Affairs Officers. 31st August, 1943.

1. Further to my instructions of 13th and 19th instant you are now authorized to open all Italian Civil Courts in your Province (Conciliatori, Preture, Tribunali Civili), the civil Chambers of the Court of Appeal at Catania (Section of Palermo) and the Court of Appeal at Catania. The following is a list of the Courts to be re-opened:-

- | | |
|---|---|
| (a) Court of Appeal of Palermo. | Court of Appeal of Catania. |
| (b) The following Tribunali subject to the jurisdiction of the above Court: | The following Tribunali subject to the jurisdiction of the above Court: |
| Agrigento | Caltagirone |
| Palermo | Catania |
| Sciacca | Modica |
| Torrevicci Marese | Ragusa |
| Trapani | Siracusa |
| (c) All Preture subject to the jurisdiction of the above Court. | All Preture subject to the jurisdiction of the above Court. |

2. Will you, therefore, communicate these instructions to the Italian Judicial Officials responsible and ensure that necessary steps are taken by them to effect their re-opening at the earliest possible date.

3. The following Courts will remain closed until further instructions:

- | |
|---|
| (a) The Court of Appeal of Messina (now at Castrolibero) |
| (b) The following Tribunali subject to the jurisdiction of the above Court: |

Messina
Reggio Calabria (Italy)
Patti

- | |
|---|
| (c) All Preture subject to the jurisdiction of the above Court. |
|---|

If, however, any Preture or other Courts in the Province of Messina have already been re-opened or have remained open, they should continue to function.

- (a) Court of Appeal of Palermo. Court of Appeal of Catania.
- (b) The following Tribunali subject to the jurisdiction of the above Court:
- | | |
|---|--|
| Agrigento
Palermo
Sciacca
Termini Imerese
Trapani | Caltafrotto
Catania
Modica
Ragusa
Siracusa |
|---|--|

- (c) All Preture subject to the jurisdiction of the above Court.

2. Will you, therefore, communicate these instructions to the Italian Judicial Officials responsible and ensure that necessary steps are taken by them to effect their re-opening at the earliest possible date.

3. The following Courts will remain closed until further instructions:

- (a) The Court of Appeal of Messina (now at Castrolibero)
- (b) The following Tribunali subject to the jurisdiction of the above Court:
- | |
|---|
| Messina
Reggio Calabria (Italy)
Patti |
|---|

- (c) All Preture subject to the jurisdiction of the above Court.

If, however, any Preture or other Courts in the Province of Messina have already been re-opened or have remained open, they should continue to function.

By order of the Chief Civil Affairs Officer:

MAJOR H.Q.
15 Army Group.

Charles M. Stowford
CHARLES M. STOWFORD,
Lt. Colonel, ESC.
Chief Staff Officer.

SUBJECT:- Powers of Local Legislation.

TO:- ALL S.C.A.Os.

- File No. 266/HQ.

AMCOT H. Q. SICILY.

27th August 1943.

1. While it is essential that all provincial or regional S.C.A.Os have full responsibility for the administration of the area under their charge, and have the power to fulfil such responsibilities, it is equally essential to preserve as far as possible uniformity of government throughout the occupied area and to avoid the issuance of any local ordinances in one locality which might have a harmful effect on a neighbouring area or which are inconsistent with Proclamations or General Orders issued from this Headquarters.

2. Accordingly, except in emergencies, S.C.A.Os are authorised to issue local ordinances only in relation to the following matters:-

- (a) Curfew.
- (b) Extent to which inhabitants may be permitted to circulate during daylight hours. In this connection S.C.A.Os. are authorised to issue such orders from time to time as they may deem necessary extending the 10 kilometre restriction contained in para 42 of Proclamation No.2 within the limits of their own provinces.
- (c) Prescribing forbidden areas where all circulation is prohibited.
- (d) Prescribing hours and days during which trade or business may be carried on.
- (e) Restricting street pedlars.
- (f) Control of the sale of intoxicating liquors.
- (g) Regulating the use of public streets and highways in the district.
- (h) Restrictions on local use of water and electricity.
- (i) Care and preservation of ancient monuments.
- (j) Restricting the use of buildings which are unsafe or unsanitary.
- (k) Local health and sanitation regulations.
- (l) Air Raid Protection.
- (m) Any matter necessary for the preservation of law and order.

3. There will also be many situations where instructions will be issued from this H.Q. requiring the issuance of local ordinances for particular purposes such as, the fixing of maximum prices for various commodities; requirements that certain businesses be licensed; requirements for the declaration of certain commodities, etc. While

one neighbouring area or which are inconsistent with the General Orders issued from this Headquarters.

2. Accordingly, except in emergencies, S.C.A.O.s are authorised to issue local ordinances only in relation to the following matters:-

- (a) Curfew.
- (b) Extent to which inhabitants may be permitted to circulate during daylight hours. In this connection S.C.A.O.s. are authorised to issue such orders from time to time as they may deem necessary extending the 10 kilometre restriction contained in para 42 of Proclamation No. 2 within the limits of their own provinces.
- (c) Prescribing forbidden areas where all circulation is prohibited.
- (d) Prescribing hours and days during which trade or business may be carried on.
- (e) Restricting street pedlars.
- (f) Control of the sale of intoxicating liquors.
- (g) Regulating the use of public streets and highways in the district.
- (h) Restrictions on local use of water and electricity.
- (i) Care and preservation of ancient monuments.
- (j) Restricting the use of buildings which are unsafe or unsanitary.
- (k) Local health and sanitation regulations.
- (l) Air Raid Protection.
- (m) Any matter necessary for the preservation of law and order.

6

3. There will also be many situations where instructions will be issued from this H.Q. requiring the issuance of local ordinances for particular purposes such as, the fixing of maximum prices for various commodities; requirements that certain businesses be licensed; requirements for the declaration of certain provinces, such differences must such ordinances may differ in various provinces, such differences must be directed from this H.Q. so as to avoid unjustified differences between various localities. As such ordinances are only effective in a given locality, they should be issued by the S.C.A.O. as a local ordinance.

4. If any other subject arises which appears to require a local ordinance S.C.A.O.s should, except in the case of emergency, report the facts and circumstances to this H.Q. and request authority to issue the proposed ordinance.

5. In cases of emergency a S.C.A.O. may issue any ordinances which the situation may require but must in such case immediately send full particulars to this H.Q.

- 2 -

6. S.C.A.O.s are authorized to delegate to C.A.O.s power to issue local ordinances having application only within the region under the control of the C.A.O., dealing with the subjects herein provided.

7. This memorandum is intended to deal only with local ordinances intended to be published and binding on all persons within the area under the control of the S.C.A.O. or C.A.O., issuing the ordinances or suspensions thereof as he may direct. It is not intended to affect in any way the power of S.C.A.O.s or C.A.O.s to issue such special orders or administrative instructions or regulations either to officers under their command or to other persons in the area under their jurisdiction at any time from time to time be necessary in the discharge of their duties.

8. Local ordinances will be made in the following terms:-

ALLIED MILITARY GOVERNMENT OF OCCUPIED TERRITORY.

PROVINCE (OR COMMUNE) OF.....

Text of the ordinance which will be subscribed as follows:-

BY ORDER OF THE ALLIED MILITARY GOVERNMENT

Senior Civil Affairs Officer (or Civil
Affairs Officer)

DISTRIBUTION:-

S.C.A.O. Adjutant.
S.C.A.O. Cultural Institute.
S.C.A.O. Catholic.
S.C.A.O. Euse.
S.C.A.O. Messing.
S.C.A.O. Palermo

REVEAL OF RECORD Major General,
Chief Civil Affairs Officer.

C.A.O. to issue such special orders or administrative instructions or regulations either to officers under their command or to other persons in the area under their jurisdiction on any from time to time be necessary in the discharge of their duty.

8. Local ordinances will be made in the following form:-

ALLIED MILITARY GOVERNMENT OF OCCUPIED TERRITORY.

PROVINCE (OR COUNTRIES) OF.....

Text of the ordinance which will be subscribed as follows:-

BY ORDER OF THE ALLIED MILITARY GOVERNMENT

Senior Civil Affairs Officer (or Civil
Affairs Officer)

"

FERRELL OF ROBB Major General,
Chief Civil Affairs Officer.

DISTRIBUTION:-

S.C.A.O. Agrigento.
S.C.A.O. Caltanissetta.
S.C.A.O. Catania.
S.C.A.O. Enna.
S.C.A.O. Messina.
S.C.A.O. Palermo.
S.C.A.O. Ragusa.
S.C.A.O. Siracusa.
S.C.A.O. Trapani.

All Heads of Divisions

ALCOOT Liaison to Army Group

File.

Subject:- Temporary Amendments to Italian Penal Procedure.

To:- The President of the Court of Appeal, Palermo. AUGOT/4001/L.

From:- The Chief Legal Officer, AUGOT, H.Q. 19th Aug. 1943.

1. I have studied with interest your memorandum of 13th August, and as a result of your recommendations, I agree that notwithstanding the provisions of the Italian Penal Code and Code of Penal Procedure, the following forms of procedure will be adopted to meet present emergencies:-

(a) The legal delay between date of service and date of trial to be reduced to 5 days.

(b) Articles 462 and 463 of the Code of Penal Procedure to be modified so that whenever witnesses or injured parties are absent or cannot be served by reason of the state of war, the Court may have power to dispense with their presence and to order that the evidence given by them before the examining magistrate should be read instead.

(c) Article 459 (requiring joint trial of joint defendants) and Article 414 (permitting separation during trial) to be amended to permit separate trial of joint defendants now in custody when it is impossible to produce all the joint defendants.

(d) The Court and Prosecution to have the right to grant provisional liberty even in cases set forth in article 253 of the Code of Penal Procedure, whenever the offence is not serious or the circumstances in which the act has been committed do not justify the continuous detention of the accused.

(e) If in any case before it the Court is of the opinion that the minimum sentence for the offence charged is excessive under the circumstances of the particular case, it will forward the record to the Chief Legal Officer of AUGOT with its recommendations.

Please have prepared forthwith and submit to me as soon as possible a draft of the amendments required to carry out the above.

2. It is also agreed that Italian Civil Courts may proceed with the following urgent procedures:-

- "Appointment of receivers 'pendente lite' (deceased persons and creditors)."
- "Declaration of absence or of presumed death."
- "Judicial Separation of Spouses."
- "to protect the interests of minors."

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Please have prepared forthwith and submit to me as soon as possible a draft of the amendments required to carry out the above.

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- "Measures to protect the interests of minors."
- "Rights of married Women."
- "Internment or release of Lunatics."
- "Orders concerning shares and bonds destroyed or lost."

Will you also submit in draft your proposals as to the Order to be issued by the Allied Military Government to carry this into effect.

3. In future all judgments will be given "in the name of the Law". Please issue the necessary instructions to that effect to all judges throughout the Occupied Territory.

4. In conclusion, I wish to draw your attention to the fact that in regards to both criminal and civil courts, the following powers are reserved to the Allied Military Government:-

- (a) The right of attendance by a Civil Affairs Officer or Legal Officer at any court session:

(1).

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- (b) The right to revise any sentence or verdict;
- (c) The right of recourse to the Military Governor by all defendants under petition by any party, when the claim is made that the judgment was affected by hostility towards the Allied Forces or was prejudicial to their interests;
- (d) The confirmation of death sentences and the power of clemency being vested in the Military Governor.

I agree with you in regard to the opening of Civil Courts and hope to be able to give the necessary instructions to that effect shortly.

AMGOT, H.Q.

W. J. [Signature]
Lieut. Col.,
Chief Legal Officer,
AMGOT.

19 August, 1943.

HEADQUARTERS AMGOT.Subject:- Italian Legal Advisory Committee.To:- ALL concerned.

AMGOT/4001/L.

1. CREATION OF COMMITTEE.

A Committee to be known as the "Italian Legal Advisory Committee" (hereinafter called "the Committee") is hereby created.

2. COMPOSITION OF THE COMMITTEE.

The Committee will consist of not more than seven and not less than four members appointed from those who have held high positions as judges, legal officials or members of the bar in Sicily.

3. The power of appointing and removing members of the Committee is vested in the Chief Legal Officer, AMGOT.

4. FUNCTIONS OF THE COMMITTEE.

The powers and duties of the Committee, which may be modified from time to time by the Chief Legal Officer, AMGOT, are as follows:-

- (1) To advise the Chief Legal Officer, AMGOT on any points of Italian Law or Procedure or other points connected therewith which may be submitted to it;
- (2) To advise the Chief Legal Officer, AMGOT on the functioning of Italian Courts, judges, judicial officials, legal practitioners or other legal personnel throughout Sicily, at any time occupied by Allied Troops and to make recommendations regarding the same particularly with a view to procuring increased speed and efficiency throughout the Italian legal system;
- (3) To advise AMGOT on any suggestions, complaints, claims or requests emanating from any judge, judicial official or legal practitioner addressed to the Legal Division of AMGOT;
- (4) To make recommendations for the removal or appointment of any judge or judicial official as may be necessary, but without prejudice to removals or appointments of any member of the judiciary being made by AMGOT without reference to or contrary to the recommendations of the committee;
- (5) To appoint for each province a local representative previously approved by AMGOT, whose duties shall be:-
 - (a) To act as the provincial representative of the Committee;

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- (4) To make recommendations for the removal or appointment of any Judge or judicial official as may be necessary, but without prejudice to removals or appointments of any member of the judiciary being made by ALGOT without reference to or contrary to the recommendations of the committee;
- (5) To appoint for each province a local representative previously approved by ALGOT, whose duties shall be:-
 - (a) To act as the provincial representative of the Committee;
 - (b) To advise the Senior Legal Officer of the Province on any points of Italian Law or Procedure which he may request and generally to act as intermediary between the Senior Civil Affairs Officer and the Italian Courts, Judges, judicial officials, legal practitioners and other legal personnel in the province.
- (6) Generally to perform such other functions as ALGOT may from time to time request.

By Order of the Chief Civil Affairs Officer:

C. M. Spofford
 CHARLES M. SPOFFORD,
 Lt. Colonel, G.S.C.
 Chief Staff Officer.

19 August, 1943.

HEADQUARTERS AMOT.Subject: Opening of Italian Courts.To: All Senior Civil Affairs Officers.

AMOT/4604/L.

1. Further to the Chief Staff Officer's instructions of the 13th instant with regard to the re-opening of Italian Courts, Provincial Senior Civil Affairs Officers are now directed to re-open all "Proture" wherever they have not so far been re-established. The competence of these Courts will be exclusively criminal and specific directions will be forwarded shortly in connection with Civil Procedure.

2. The opening of Tribunale Penale, being a matter now under consideration, Senior Civil Affairs Officers and Legal Officers should take steps to prepare their re-establishment at short notice. They should contact judges and judicial personnel immediately available, ascertain that they are politically suitable to undertake their functions, instruct them to collect their archives forthwith and whenever necessary new premises will have to be found to enable them to pursue their activities.

All judicial personnel having left the district for "reasons of war" should be made to return to their posts at the earliest possible date under penalty of dismissal. Payment of their salaries will have to be assured and amounts agreed by the Financial Section.

3. As soon as these steps are taken and Provincial Senior Civil Affairs Officers are satisfied that Tribunale Penale can be re-opened without delay, an order will be issued to that effect setting forth rules and regulations under which they will be allowed to carry out their legal functions.

Temporary amendments to the Italian Penal Procedure may also be decided upon by the Chief Legal Officer in order to speed up the hearing of trials and judicial investigations, so as to relieve the present congestion of local prisons.

4. The "Tribunale Civile" will not be re-opened until further notice but this step is also under consideration. In the meantime the "Presidente del Tribunale" will be allowed to deal with the following urgent procedures under legal officers' supervision:-

"Appointment of Receivers "pendente lite" (deceased persons and creditors)."

"Declarations of absence or of presumed death."

"Judicial Separation of Spouses."

"Measures to protect the interests of minors (appointment

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 "Declarations of absence or of presumed death."
 "Judicial Separation of Spouses."
 "Measures to protect the interests of minors (appointment of Guardians etc.)."
 "Rights of Married Women."
 "Interment or Release of Lunatics."
 "Orders concerning Shares or Bonds destroyed or lost."

5. Senior Civil Affairs Officers will report on the situation in their province so soon as they are in a position to do so.

By order of the Chief Civil Affairs Officer:

Charles M. Spofford
 CHARLES M. SPOFFORD,
 Lt. Colonel, CSC.
 Chief Staff Officer.

CONFIDENTIAL

AMGOT/4033/11

Aug. 1943.

SUBJECT:- Instructions to all Senior Legal Officers in reference to referring cases to Superior or General Military Courts.

To : All Senior Legal Officers (through S.C.A.C.B.)

1. Pursuant to the provisions of Rule 7, para (3) (b) of the "Rules of

Procedure for Allied Military Courts:

(a) In any case referred by a Summary Court to a Superior Court the Senior Legal Officer or any officer designated by him, is empowered to order that the record be sent directly to the Superior Court for trial.

(b) In any case referred to a General Court, the Senior Legal Officer is empowered to order the record sent directly to the General Court for trial, when facilities of transportation and communication are of such a limited nature that undue delay might result if such record were transmitted to the Chief Legal Officer.

2. Pursuant to the provisions of Rule 5, para (1) of the "Rules of

Procedure for Allied Military Courts":

(a) The Senior Legal Officer of any Province may order that any particular Case or class of cases within his province shall be brought directly before a Superior Court. The Senior Legal Officer may also order that any particular case be brought directly before a General Court when facilities of transportation and communication are of such a limited nature that undue delay might result if such record were first transmitted to the Chief Legal Officer, and when there is a good and valid reason

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Procedure of Allied Military Courts":

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Wm C. Chandler

WILLIAM C. CHANDLER
Lt. Col.
Chief Legal Officer.

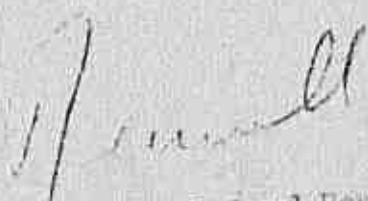
Subject:- Constitution of Allied Military Courts

AMGOT/1002/1

10 Aug 43

1. Each Senior Civil Affairs Officer is hereby authorized to appoint, by special order, such Summary and Superior Courts he may deem necessary, to hear and determine such cases as may arise in the districts and territories under his control in accordance with the provisions of Proclamation No. 4.
2. All Senior Civil Affairs Officers are authorized to sit as a Summary Military Court or as a member of a Superior Military Court.
3. All Officers of AMGOT who are lawyers by profession are hereby designated as Judicial Officers within the meaning of Proclamation No. 4.
4. No officer not assigned to AMGOT will be appointed to an Allied Military Court without the consent of his Commanding Officer.
5. Civil Affairs Police Officers will not be appointed to Allied Military Courts.
6. Two copies of all such orders of appointment will be forwarded to this Headquarters directed to the attention of the Chief Legal Officer.

AMGOT
15 Army Group.


Major-General Lord Rennell of Rodd,
Chief Civil Affairs Officer.

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