

ACC

10000/142/1026

10000/142/1026

PROPERTY CONTROL SUBCOMMISSION
DEC. 1943 - JAN. 1944

MINUTES OF MEETING

Minutes of Conference with Minister of Justice at Bari.

Date: 14 January 1944.

Subject: Property Controller's Powers.

Present: Col. Upjohn - CLO
Lt. Col. Harris - C-P.
Major Hannaford - IOS
Major Palmieri - "
Major Thackrah - "

M. of J. deSantis
Comm. Spinelli.

The Minister of Justice enquired if the present jurisdiction of the P.C. extended to all occupied Italy, and was informed that this was the case and that all United Nations property was included. P.C. explained that in many cases the administration was carried out through the medium of banks and members of the legal profession who held powers of attorney from individuals. The rents and profits were paid over to legal representatives when such were available.

The M. of J. remarked that the Italian Official Sequestator had not taken possession of properties in all cases and that of course such properties will now come under the Allied Controller.

Major Palmieri explained to the Minister that the first essential was that the Italian Government should provide for the P.C. to continue his work undisturbed by taking the necessary legislative steps. The P.C. must be left in peaceful possession during the process of handing over of territory, and in the case of properties not already taken over at that time to ensure that control shall be assured progressively.

37

Lt. Col. Harris, P.C., explained to the Minister that his control over corporations would extend only to the interests of nationals of the United Nations unless there were a case of maladministration, in which case he would need to have the power after due consultation with the Italian authorities to change the administration or management.

The M. of J. pointed out the existing provisions of Italian law already covered these matters, and Col. Upjohn remarked that the P.C. would be quite willing to adopt all suitable provisions of Italian law in so far as they were applicable, and later to go into details of adaptation where necessary. In principle we appeared to be in agreement. It must be clearly defined that the powers of the P.C. must continue, and that in addition he must have the rights to sell, mortgage and lease properties for the purpose of protection and maintenance.

Major Hamsford - IOs
Major Palmieri - "
Major Thackrah - "

M. of J. deSantis
Comm. Spinelli.

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The M. of J. asked if the P.C. would require these powers as an administrator and not as an interested party, and was answered in the affirmative. He pointed out in the matter of administration Italian law provided very wide powers inherited from Roman law and that it would not be difficult to ensure these rights to the P.C., and that the means of satisfying these points and meeting any deficiency would be discussed. The P.C. pointed out that he only required to perform those acts which a person holding a general power of attorney would ordinarily do.

The M. of J. replied that of course this sort of Administrator would be something new not recognized by the Courts as having the specific powers of an administrator, but he undertook to ask the Italian Government to recognize the status of the P.C.

341/1
HEAD QUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee

GRU/gmf

20 January 1944.

In reply
refer to: ACC/1/342/1.

SUBJECT: Minutes of Conference with Minister of Justice, - Bari.
TO : Director, Property Control Subcommittee, HQ AMG.

1. As agreed between Col. Upjohn and Lt. Col. Harris, I enclose a copy of Minutes of Conference with the Undersecretary of State, Ministry of Pardon and Justice which took place at Bari on 14 Jan. 44.

2. We are proceeding as speedily as possible with a detailed investigation of the powers of an administrator, but as his powers are nowhere collected in the Code Civile, but scattered throughout, it is proving a lengthy and tiresome job but I hope to let you have a Memorandum in about a weeks time.

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

36

631

341/1
HEAD QUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee

GRU/gmf

20 January 1944.

In reply
refer to: ACC/1/341/1.

SUBJECT: Minutes of Conference with Minister of Justice, - Bari.

TO : Director, Property Control Subcommittee, HQ AGC.

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

36

631

ALLIED MILITARY GOVERNMENT OF OCCUPIED TERRITORY

Proclamation No. 15

I, HAROLD R.L.G. ALEXANDER, G.C.B., C.B.I., D.S.O., M.C., General
General Officer Commanding the Allied Forces in ITALY and Military Governor
of the Occupied Territory, hereby proclaim as follows :-

ARTICLE I

Article IV of Proclamation No. 6 is hereby amended by adding thereto
the following section :-

SECTION 6

Extension to Property of the French Government and

French Nationals. The provisions of this Article may
be applied by general or specific order of the Chief Civil
Affairs Officer or any officer empowered by him to the
property situated in the Occupied Territory, including
obligations of debtors within the Occupied Territory,
owned by the French Government or any national thereof
or in which such Government or any national thereof has
any interest.

ARTICLE II

This Proclamation will become operative in each province or part thereof
within the Occupied Territory on the date of its first publication therein.

35

Prof. K. P. G. 15

341/11

207-1

of the Occupied Territory, hereby proclaims as follows :-

ARTICLE I

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ARTICLE II

35

This Proclamation will become operative in each province or part thereof within the Occupied Territory on the date of its first publication therein.

General Officer Commanding the Allied Forces
and Military Governor.

Dated: January 1944

613

HEADQUARTERS ALLIED CONTROL COMMISSION
APO 394

KCW/drr

7 January 1944

Subject: Taranto Tramway Corp.
To: Legal Sub-Commission
Advanced Command Post, A.C.C.
FROM: PW-U Sub-Commission
Advanced Command Post, A.C.C.
Ref: PW-U/35
Date: 7 January 1944

Reference our conversation the attached particulars with regard to the above company are forwarded for action.

R. A. Wilson

Major, R.A.
PW & U Sub-Commission.

34

429

HEADQUARTERS ALLIED CONTROL COMMISSION
APO 394

KCW/drr

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HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LEGAL SUB-COMMISSION

AMS/4103/L.

12th January, 1944.

TO : Colonel G. Upjohn,
HQ. A.C.C. Brindisi.

Dear Gerald,

Colonel Harris is bringing with him his file dealing with French Property. This file contains a copy of his original telegram and the reply; a copy of the telegram I sent raising the question whether French Government property was intended to be covered and the reply.

In the first place, Proclamation No. 6, Article IV, Section 5, refers only to United Nations property, hence there is nothing in the frame work of Article IV which would permit the C.C.A.O. or his deputy to issue an order. In fact, to cover French property it is ~~in fact~~ necessary to enlarge the powers under the Proclamation which can be done only by one entitled to issue a Proclamation i.e. the Military Governor. It would seem to me that he may either amend proclamation No. 6 (see suggested form attached) or at least issue instructions to the C.C.A.O. or his deputy (see suggested form attached). These are the two best courses which occur to me to be pursued. There are others. For instance, the Military Governor could issue a formal order if he wishes but there is no advantage in that over either of the other two methods just suggested. Section 1 or the first is the more clear cut as a matter of public chain of record, but the second would seem to be equally effective. If this is done by Proclamation the question arises as to printing, publishing and posting. I, therefore, prefer the second alternative as it seems to be equally effective and the order that will be issued by Colonel Spefford will be publicized to the same extent as his recent order under Article IV Section 5 extending to United Nations property the same protection extended to British and U.S. property under Section 1. I think we ought to get this served up immediately before any so called restoration takes effect. Colonel Spefford is agreeable to either of the two principal methods above outlined.

In either event the form of order prepared by Colonel Harris will have to be revised by me before presented for signature, because of the technical situation above mentioned.

Please note that the inclusion of French Property may make it necessary to amend the proposed form of law to be put into effect by the Italian Government.

I am enclosing a copy of a letter giving the names of the countries listed as United Nations. According to the newspapers Colombia has declared war and has become one of the United Nations. There may have been others.

As ever,

Rick

341/1
HEADQUARTERS

Subject : French Property

To : Col. Charles H. Spofford,
Deputy Chief Civil Affairs Officer.

January 1944

In view of the telegrams recently received by your Headquarters from A.F.H.Q. you are hereby authorized to issue an order effective in Regions I and II, affording to the property of the French Government and that of French Nationals the same protection as that afforded to the property of the United Nations and to the nationals thereof under Article IV of Proclamation No. 6.

General Officer Commanding the Allied Forces
and Military Governor.

January 3, 1944.

Memorandum to: Military Government Section,
Allied Force Headquarters.

From : Civil Affairs Office.

With reference to the telephone conversation between Lt. Col. Fairman M.G.S. and Mr. Wailes of Civil Affairs, there are listed below the twenty-six nations which signed the Declaration by United Nations, dated January 1, 1942.

The United States of America
The United Kingdom of Great Britain and Northern Ireland
The Union of Soviet Socialist Republics
China
Australia
Belgium
Canada
Costa Rica
Cuba
Czechoslovakia
Dominican Republic
El Salvador
Greece
Guatemala
Haiti
Honduras
India
Luxembourg
Netherlands
New Zealand
Nicaragua
Norway
Panama
Poland
South Africa
Yugoslavia

During 1942, the Declaration was adhered to by :-

Mexico
The Commonwealth of the Philippines
Ethiopia

During the first four months of 1943, it was adhered to by :-

Iraq
Brazil
Bolivia

A telegram was sent to the state Department in Washington to ascertain whether any further Nations have adhered to this Declaration since May 1943 and Military Government Section will be informed of the reply as soon as it is received.

H.J. L'Heureux
Acting Chief Civil Administrator.

ACTION en file 6005/FC

531

C O N F I D E N T I A L

EQUALS BRITISH CONFIDENTIAL

INCOMING MESSAGE

NR. FBS 3517

CONFIDENTIAL

ADDRESSED FOR ACTION TO : SEARS FOR ROGERS
FOR INFORMATION TO :
FROM : PERCE (FARGO)
IN REPLY REFER TO : JGR 143

IBS NUMBER : 6527

TIME SENT : 271750A

TIME RXCD : 301300A

PRECEDENCE : ROUTINE

EDITED LITERAL TEXT

Ensuing is paraphrase of cable received here. Look at your S-3936 of 8 December and C-15 of 15 November. It has now been agreed that you will protect French property as you do that of Nationals of the United Nations.

Distribution :

ACC (ACTION)

CO

C O N F I D E N T I A L

30

FARGO 149

7 JANUARY 1944

FARGO

CONFIDENTIAL

ROUTINE

Lt. Col
10050 R.H. WILMER

FREEDOM FOR MGS

FRENCH PROPERTY PD IS YOUR TELEGRAM AUTHORIZING PROTECTION
OF FRENCH PROPERTY TO BE DEEMED TO AUTHORIZE PROTECTION OF PROPERTY OF
FRENCH GOVERNMENT AS WELL AS THAT OF FRENCH NATIONALS PD YOUR REFERENCE
JGR ONE FOUR THREE DATED TWENTY SEVEN DECEMBER LAST

FARGO 149

FARGO

7 JANUARY 1944

CONFIDENTIAL

Lt Col.
10050 R. H. Wilmer

ROUTINE

FREEDOM FOR MGS (ACTION)

FRENCH PROPERTY PD IS YOUR TELEGRAM AUTHORIZING PROTECTION
OF FRENCH PROPERTY TO BE DEEMED TO AUTHORIZE PROTECTION OF PROPERTY OF FRENCH
GOVERNMENT AS WELL AS THAT OF FRENCH NATIONALS PD PENCE PAREN FARGO PAREN
TO FREEDOM FOR MGS PD CITE FARGO ONE FOUR NINE PD YOUR REFERENCE JGR ONE FOUR
THREE DATED TWENTY SEVEN DECEMBER LAST

DRAFT (Col. Harris)

File

ALLIED MILITARY GOVERNMENT

GENERAL ORDER NO.

PROPERTY CONTROL

URGENT to the provisions of Proclamation No. 6, Article IV, Section 5, 1, CHARLES W. BROWDER, Colonel, Deputy Chief Civil Affairs Officer of the Allied Military Government, hereby Order as follows.

ARTICLE I

EXTENSION OF PROPERTY CONTROL

As from the effective date of this Order the provisions of Article IV of Proclamation No. 6 shall be applicable to the property situated in the Occupied Territory of Sicily and of the provinces of LATERZA, POTENZA, GALLIPOLI, COSENZA, REGGIO, and SALERNO on the mainland of Italy, including obligations of debtors within such Occupied Territory, owned by the French Government or any French National, or property in which such government or national has any interest.

ARTICLE II

EXECUTIVE DATE

THIS General Order will become operative throughout each province of Sicily and each of the aforesaid provinces on the mainland of Italy on the date of its first publication therein.

(signed) CHARLES W. BROWDER,
Colonel, U.S.A.
Deputy Chief Civil
Affairs Officer.

Dated:

Affairs Officer of the Allied Military Government, hereby Order
as follows.

ARTICLE I

EXTENSION OF MOVEMENT CONTROL

As from the effective date of this Order the provisions of
Article IV of Proclamation No. 6 shall be applicable to the prop-
erty situated in the Occupied Territory of Sicily and of the
Provinces of MARESA, MESSINA, CATANIA, SIRACUSA, RAGUSA, and
SALERNO on the mainland of Italy, including obligations of debtors
within such occupied territory, owned by the French Government or
any French National, or property in which such Government or National
has any interest.

ARTICLE II

EXPIRATIVE DATE

This General Order will become operative throughout each
Province of Sicily and each of the aforesaid provinces on the
mainland of Italy on the date of its first publication therein.

Dated:

(Signed) CHARLES H. STORROW,
Colonel, U.S.A.,
Deputy Chief Civil
Affairs Officer.

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee

GRU/502

15 January 1944.

In reply
refer to: ACC/L/343/1.

SUBJECT: Taranto Tramway Corp.

TO : PW & U Subcommittee.

Ref your PW-U/35 dated 7 Jan. 1944 and enclosures returned
herewith.

1. The whole question of control of United Nations property in territory under the administration of the Italian Government was taken up at a meeting with the Minister of Justice yesterday. The Minister offered to pass a decree putting the Director of Property Control into the position of an administrator of United Nations property as if he had been appointed by the Court Under Italian law and this offer, subject to detailed examination now in progress, appears to be entirely satisfactory.

In due course therefore the management of the above mentioned corporation will pass into the hands of the Director of Property Control. This may take a little time.

2. In the meantime I am uncertain from your Memorandum whether Cr. Uff. Pigo is a satisfactory administrator or not. If he is, then you should request the Minister of the Interior to direct the Prefect to refrain from making any change, but if he is not, then you will no doubt be able to suggest the name of another suitable person - possibly Bari, if he appears trustworthy, and ask the Minister to direct the Prefect to appoint your nominee pending the taking over of the Company by the Director of Property Control.

C. E. USJOHN, Colonel
Chief Legal Officer, ACC.

refer to: ACC/1/341/1.

SUBJECT: Taranto Tramway Corp.

TO : PW & U Subcommittee.

Ref your LHM/J/35 dated 7 Jan. 1944 and enclosures returned herewith.

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G. B. USJOHN, Colonel
Chief Legal Officer, ACC.

1/4/42

DraftProperty Confiscation

1. The Italian Government to pass legislation to ensure that the functions of the Controller of Property under the ACP shall be maintained in respect of all territory to be presently or hereinafter restored to Italian Administration.

2. The functions of the CP shall continue to extend as heretofore to all forms of movable and immovable property and rights of property owned by the governments of any of the United Nations or by their nationals or in which any such Government or nationals have any interest and which is situated in such territory.

3. The Italian Government shall forthwith rescind all legislation or other steps taken to discriminate against the above mentioned property and rights.

4. The rights and powers of the CP shall include:-

(a) The same free and unrestricted rights over all such property as the true and lawful owner thereof would have had were he not absent or otherwise precluded from exercising his rights.

(b) The receipt from all persons charged with the administration of such property or a full declaration thereof forthwith, unless they shall have previously made such a declaration under Allied Military Government, together with the handing over on demand of all books of account and records of administration of such property in respect of any period of sequestration or other control under the Italian Government.

(c) The maintaining in office or removal at his discretion of any person charged with the administration of such property and the appointment of some other person in his stead.

5. In the exercise of his duties and powers the CP whilst being immune from the jurisdiction of the Italian Courts, shall have full and complete rights to institute and prosecute suits in any Italian Court of appropriate jurisdiction.

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(c) The maintaining in office or removal at his discretion of any person charged with the administration of such property and the appointment of some other person in his stead.

5. In the exercise of his duties and powers the CP whilst being immune from the jurisdiction of the Italian Courts, shall have full and complete rights to institute and prosecute suits in any Italian Court of appropriate jurisdiction.

6. The CP or his agents shall be under no responsibility to the owner of any property taken into control, or to any person interested therein, or to make good any loss or damage to such property however caused, or to compensate any such owner or other person for any loss suffered directly or indirectly by reason of taking control.

7. Any person who without the authority interferes with or obstructs the CP or his agents, in the exercise of their functions, interferes with property under

his control, withhold any information, or makes or uses any false declaration or statement with reference thereto, or otherwise performs any other act contrary to the terms of these provisions, shall be liable to prosecution before the appropriate courts of law.

2088

23

PROPOSIZIONE

1. Il Governo Italiano assume l'obbligo di approvare la legislazione a scopo di salvaguardare l'esercizio dell'ufficio del Custode dei Beni Stranieri dipendente dalla Commissione Alleanza di Controllo la quale si dovrebbe applicare in tutti i territori attualmente o d'ora in avanti restituiti all'amministrazione Italiana.
2. L'esercizio dell'ufficio da parte del Custode dei Beni Stranieri, come finora, comprendeva tutti i generi di beni mobili ed immobili che trovansi in suddetto territorio ed ogni diritto del quali sono proprietari o beneficiari sia italiani governati dalla nazione tutte sia i loro sudditi.
3. Il Governo Italiano deve d'ora innanzi annullare tutte le leggi vigenti ed altri provvedimenti come suddetti beni e diritti.
4. I diritti ed i poteri del Custode dei Beni Stranieri comprenderanno:
 - (a) Il libero esercizio dei diritti che avrebbe avuto il proprietario se non avesse od altri limiti imposti;
 - (b) Tutte le potestà incaricate dell'amministrazione dei suddetti beni avuto l'obbligo di dichiarare immediatamente e rendere conto delle loro esecuzioni passano tenuti a restituire tutti i documenti di registro e di ogni altro genere rimesso al periodo di sequestro o controllo per ordine del Governo Italiano.
 - (c) Tutte persone incaricate della suddetta amministrazione potranno essere ritenuti, o licenziati oppure in costituito per essere nominato.
5. Nel esercizio del suo ufficio il Custode dei Beni Stranieri moderna l'unità della competenza delle Corti Italiane non ostando egli avrà diritto di istituire processi nelle Corti Italiane.
6. Ogni persona che impedisce o fa ostacolo al Custode dei Beni Stranieri od ai suoi rappresentanti, o nega beni amministrati da costui, o rifiuta informazioni da lui richieste, o fa dichiarazioni false in riguardo a costui beni, o che sia responsabile di qualsiasi atto contrario a questo ordinamento sarà punito davanti le Corti Italiane.

2090

341/1

U. S. CONFIDENTIAL
Equally British CONFIDENTIAL

15 JAN 1944

ORU/MB

3/5
1471

CONFIDENTIAL

ROUTINE

JAN 15 12 30 P

FATIMA FROM UPJOHN

FARGO

IN REPLY TO YOUR FARGO TWO NINE FOUR DATED JANUARY ONE FOUR PD TO FARGO FROM
FATIMA FROM UPJOHN SIGNED JOYCE PD CONCUR IN VISIT OF CAPTAIN BREE PD HE
SHOULD BE AVAILABLE IN TIME FOR MEETING WITH MINISTER OF JUSTICE AT PALACE OF
JUSTICE EARL ONE NINE JANUARY AT ONE ONE ZERO ZERO HOURS

DISTRIBUTION:

AUTHENTICATED:

- 2 - AG
- 1 - Diary
- 1 - Colonel Upjohn ✓

ROBERT E. DOE
Major, A.G.D.
Secretary of the Commission

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U. S. CONFIDENTIAL
Equally British CONFIDENTIAL

509

U. S. RESTRICTED

13 JAN 1944

Equals British RESTRICTED

ALLIED CONTROL COMMISSION

INCOMI

MESSAGE

/mip

SVC/RELAY NO.

341/1

M/C NO : 23/13

CLASS: RESTRICTED

REF NO: PBS 4953

PREC : ROUTINE

FILED : JAN 121355A

FROM : PENCE (FARGO FOR WILMER) CITE FARGO 2224

REC'D : JAN 131620A

TO : FATIMA (REAR) FOR JOYCE FOR UPJOHN

Harris, Property Controller, will attend Friday Conference Bari.

File

DISTRIBUTION:

- 2 - AG
 - 1 - Diary
 - 1 - Colonel Upjohn - INFO
- ←*

509

29

U. S. RESTRICTED

Equals British RESTRICTED

DraftProperty Controller

1. The Italian Government to pass legislation to ensure that the functions of the Controller of Property under the AOC shall be maintained in respect of all territory to be presently or hereinafter restored to Italian Administration.
2. The functions of the CP shall continue to extend as heretofore to all forms of movable and immovable property and rights of property owned by the governments of any of the United Nations or by their nationals or in which any such government or nationals have any interest and which is situated in such territory.
3. The Italian Government shall forthwith rescind all legislation or other steps taken to discriminate against the above mentioned property and rights.
4. The rights and powers of the CP shall include:-
 - (a) The same free and unrestricted rights over all such property as the true and lawful owner thereof would have had were he not absent or otherwise precluded from exercising his rights.
 - (b) The receipt from all persons charged with the administration of such property of a full declaration thereof forthwith, unless they shall have previously made such a declaration under Allied Military Government, together with the handing over on demand of all books of account and records of administration of such property in respect of any period of sequestration or other control under the Italian Government.
 - (c) The maintaining in office or removal at his discretion of any person charged with the administration of such property and the appointment of some other person in his stead.
5. In the exercise of his duties and powers the CP whilst being immune from the jurisdiction of the Italian Courts, shall have full and complete rights to institute and prosecute suits in any Italian Court of appropriate jurisdiction.

of movable and immovable property and rights of property owned by the governments of any of the United Nations or by their nationals or in which any such government or nationals have any interest and which is situated in such territory.

3. The Italian Government shall forthwith rescind all legislation or other steps taken to discriminate against the above mentioned property and rights.

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5. In the exercise of his duties and powers the CP whilst being immune from the jurisdiction of the Italian Courts, shall have full and complete rights to institute and prosecute suits in any Italian Court of appropriate jurisdiction.

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his control, withholds any information, or makes or uses any false declaration or statement with reference thereto, or otherwise performs any other act contrary to the terms of these provisions, shall be liable to prosecution before the appropriate courts of law.

HEADQUARTERS
MILITARY CONTROL COMMISSION
Legal Subcommission

CCB/gm

6 January 1944.

In reply
refer to: M22/1/300.

Dear Dick,

Ref. your letter M22/1/304 of 27 Dec. 43, I beg to differ with
your instructions to Region II in regard to Curators of abandoned property.

The enclosed order was issued in Region I for the following reasons:

Though Article 48 of the Civil Code says "If a person has not
been seen in the place of his last domicile or residence or has not been
heard of, the Tribunale etc", the proof of absence can only be accepted
by the President of the Tribunale after an exhaustive police enquiry and
a report from the Questore or the local Chief of Police. This takes gen-
erally a month. Otherwise anybody who wanted to enter certain premises
could come to the Tribunale and state that so and so has disappeared.

We had long talks with the Italian Judges in Palermo about this
and our solution was approved by them. At the time the shortage of police
and the consequent delay in the appointments of "curatori" were both grow-
ing concern to the authorities. This state of affairs was very prejudicial
to owners and tenants. Could the order which worked very well in Region I
and which the Property Controller requested there, be extended to Region II.

Yours sincerely,

G. C. REMINGTON

17

In reply
refer to: 006/1/001

Dear Dick,

Ref. your letter 100/1/001 of 27 Dec. 43, I beg to differ with your instructions to Region II in regard to Curators of abandoned property. The enclosed order was issued in Region I for the following reasons:

Though Article 46 of the Civil Code says "If a person has not been seen in the place of his last domicile or residence or has not been heard of, the Tribunale etc", the proof of absence can only be accepted by the President of the Tribunale after an exhaustive Police enquiry and a report from the Curator or the local Chief of Police. This takes generally a month. Otherwise anybody who wanted to enter certain premises could come to the Tribunale and state that so and so has disappeared.

We had long talks with the Italian Judges in Palermo about this and our solution was approved by them. At the time the shortage of police and the consequent delay in the appointments of "curatori" were both giving concern to the authorities. This state of affairs was very prejudicial to owners and tenants. Could the order which worked very well in Region I and which the Property Controller requested there, be extended to Region II.

Yours sincerely,

G. G. HAMMERS

17

ALLIED MILITARY GOVERNMENT
Region Two

Regional Order Number

By virtue of the powers vested in me as Regional Civil Affairs Officer of Region Two, I, G.H. McCaffrey, Lieutenant-Colonel, Infantry, hereby order as follows:

Section One: The Presidente of each Tribunale in Calabria, Lucania, and the Province of Salerno is empowered to appoint curators to care for movable and immovable properties which have been left uncared for by their owners and which do not fall within the control of the Controller of Property named by the Allied Military Governor.

Section Two: Petitions for the appointment of a curator to take charge of uncared for property will be filed with the Senior Notary of the town or district in which the said property is situated. The petition shall set forth in detail the nature of the petitioner's interest in the matter, the reasons why the appointment of a curator is requested, and a full description of the property in question.

Section Three: The Notary with whom the petition is filed shall consider the application and shall forward it with his recommendations to the Provincial Property Controller or Provincial Legal Officer of the Allied Military Government. If the petition is approved by such officer it will be transmitted to the competent Presidente of the Tribunale who will thereupon appoint a curator chosen from the list of Notaries exercising their functions in the district in which the property is located, with the power and duty of taking control of the property and preserving and protecting it.

Section Four: It shall be specified in the appointment of a curator hereunder that for his services he will be entitled to the usual honorarium under Italian law and that he will be responsible, either before the appropriate Italian courts or before an Allied Military Court for the proper execution of his duties.

G. H. McCaffrey, Lt. Col., Inf.,
R.C.A.G., Region 2

ADPOT/6006/PC
ADPOT HQ., 31011X
30 September 1963.

34111
3006
COPY

SUBJECT: Appointment of "Curators" for abandoned property.

TO : ALL U.S.A.O.'s.

1. The following procedure will be adopted in all matters concerning movable or unmovable property at present left unclaimed 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 "Curator" to take charge of property deemed to be left unclaimed for will present their petition to the senior 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 "Curator" for and forward it to the competent Assistant Property Controller or the A.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 "Curators" that for his services he will be entitled to the usual honoraria 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.

WILLIAM M. JORDAN
Colonel, GSC
Chief Staff Officer

13

2099

304

344/1

LEGAL COUNSEL
LEGAL SUBCOMMISSION

12/1/50

6 January 1944.

In reply
refer to: 109/1/300.

Dear Sirs,

Ref. your letter 109/1/304 of 27 Dec. 43; I beg to differ with your instructions to Region II in regard to locations of abandoned property. The enclosed order was issued in Region I for the following reasons:

Through Article 44 of the Civil Code says "If a person has not been seen in the place of his last domicile or residence or has not been heard of, the Tribunal etc.", the proof of absence can only be accepted by the President of the Tribunal after an exhaustive police inquiry and a report from the neighbors or the local Chief of Police. This takes generally 4 months. Otherwise anybody who wanted to enter certain premises could come to the Tribunal and state that so and so has disappeared.

We had long talks with the Italian Judges in Palermo about this and our solution was approved by them. At the time the shortage of police and the consequent delay in the appointments of "sumatori" were both creating concern to the authorities. This state of affairs was very prejudicial to owners and tenants. Could the order which worked very well in Region I and which the Property Controller reported there, be extended to Region II.

Yours sincerely,

C. C. HAMILTON

In reply
refer to: AGO/N/300.

Dear Sir,

Ref. your letter AGO/N/304 of 27 Dec. 43, I beg to differ with
your instructions to Region II in regard to seizures of abandoned property.

The enclosed order was issued in Region I for the following reasons:

Though Article 46 of the Civil Code says "If a person has not
been seen in the place of his last domicile or residence or has not been
heard of, the Tribunal etc.", the proof of absence can only be accepted
by the President of the Tribunal after an administrative police enquiry and
a report from the masters or the local Chief of place. This takes con-
siderably a month. Otherwise anybody has wanted to enter certain premises
could come to the Tribunal and state that so and so has disappeared.

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and our solution was approved by them. At the time the shortage of police
and the consequent delay in the appointments of "commissaires" were both grave
and concerning to the authorities. This state of affairs was very prejudicial
to owners and tenants. Could the order which worked very well in Region I
and which the Property Controller requested there, be extended to Region II.

Yours sincerely,

C. C. HAMILTON

GRU/drr

In reply
refer to: ACC/L/341

3 January 1944

Subject: Bronte Estate

From: Hq. Allied Control Commission, Legal Sub-Commission

To: ACC Administrative Director

1. Before answering the letter dated 11 December 1943 (which I received yesterday from the Controller of Property) dealing with the Bronte Estate in detail you should be informed of the latest developments in relation to the powers of the Property Controller after the restoration of territory to the Italian Government.

2. On 24 December I was at AFHQ in connection with the approval of the documents relating to the restoration of territory to the Italian Government (these documents have not yet been disclosed to the Italian Government) and the question of Property Control was raised in view of the fact that MGS have received many applications from United Nations owners for permission to send representatives to look after their interests. General Holmes, Colonel Maxwell, Lt. Col. Fairman and the writer were present at this discussion and it was agreed that this was objectionable in principle and that it was therefore desirable that the Property Controller should have executive powers. It was however a matter of some doubt whether by a Decree or Decree Law (as distinct from a statute passed by Parliament) effective powers could be conferred on the Controller in accordance with Italian Law and it was decided that in any event that the matter is of sufficient importance to ask for a directive from the C.C.S. on the subject. Lt. Col. Fairman suggested incorporating an Italian Corporation controlled by the Controller to carry out his functions but this appeared to have some disadvantages. Accordingly the writer was asked to obtain the views of the Italian Government on the best way of obtaining the desired result at his next meeting with them (7th January) and to prepare memorandum for MGS on which to base a signal to CCS asking for a directive. It was agreed that the restoration of territory could not be held up for this matter as it would obviously take some time.

3. In these circumstances it appears that the Controller of Property will be without executive powers at the commencement of the restoration but I do not think this need worry him unduly as far as custody is concerned as I am sure the Italian Government will concur in his retaining custody of United Nations property after the restoration

(I shall raise this with them on 7th January) and the only difficulty is created by his inability to raise money for preservation of the property. It would I think be an advantage if Lt. Col. Harris would come to the mainland in a few days time to discuss this important matter.

As to the Bronte Estate:

In view of the expressed difficulty of proving discrimination I am entirely against taking the action suggested in para 6(a) or (b) and it cannot be made the term of restoration of territory to undertake legislation affecting private property of a particular owner. The matter will however be taken up both with the Minister of Foreign Affairs and of Justice this week as an urgent matter and I hope that this may solve the difficulty.

G. R. UPTON
Colonel,
Chief Legal Officer

341

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee

GCH/gaf

4 January 1944.

In reply
refer to: ACC/1/341.

SUBJECT: Bronte Estate.

TO : Property Controller HQ ACC.

With reference to the last paragraph of my letter of 3rd inst, it has now been intimated by the Minister of Foreign Affairs that the Italian authorities are willing to envisage a form of equitable settlement of the pending difficulties in this matter in agreement with the owner or his representative, including restitution of all or part of the Estate, as soon as conditions will allow.

This appears to be a step in the right direction and you will be kept informed of any development affecting the present position of the Estate.

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

*sent to Col Walker with.
(1) Military record of Fred
(2) Gen. Military Instructions No. 2*

12

072

34/

GRU/arr

In reply
refer to: ACC/L/34/

3 January 1944

Subject: Bronte Estate

From: Hq. Allied Control Commission, Legal Sub-Commission

To: ACC Administrative Director

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G. R. UPJOHN
Colonel,
Chief Legal Officer

U. S. RESTRICTED
Equals British RESTRICTED

2 JAN 1944

- OUTGOING

GRU/gmf/arr

4/02

1745

JAN 021403A

Jah

RESTRICTED

PRIORITY

PATINA

RECEIVED FOR AGO

URGENT DELAY APPOINTMENT OF ASSISTANT TO FAIRBANKS FURTHER SIGNAL FROM
ME AFTER IMPORTANT LEGAL PROCEEDINGS COMPLETION WITH ONE FIVE ARMY GROUP TOWNSHIP
PD TO SPENCER MOE FOR MAXWELL FROM PATINA FROM URGENT SIGNED JOYCE PD MRS SUBJECT
PLEASE SEND UP TO STATE LIST OF UNITED NATIONS SECRETARY FOR USE OF PROPERTY CONTROLLER

AUTHENTICATED:

ROBERT E. BOE
Major, A.C.B.
Secretary of the Commission

DISTRIBUTION:

- 2 - AG Files
- 1 - Diary
- 1 - Colonel Upjohn

9

U. S. RESTRICTED
Equals British RESTRICTED

453

301

List of United Nations (26)
Jan 1, 1942

The United States of America
The United Kingdom of Great Britain and Northern Ireland
The Union of Soviet Socialist Republics
China
Australia
Belgium
Canada
Costa Rica
Cuba
Czechoslovakia
Dominican Republic
El Salvador
Greece
Guatemala
Haiti
Honduras
India
Luxembourg
Netherlands
New Zealand
Nicaragua
Norway
Panama
Poland
South Africa
Yugoslavia

1942 (3)

Mexico
The Commonwealth of the Philippines
~~Ethiopia~~
Ethiopia

1943 (3)

Iraq
Brazil
Bolivia

300 341/1
HEADQUARTERS
ALBINO CONTROL COMMISSION
Legal Subcommittee

GRU/gar

10 January 1944.

In reply
refer to: AGY/1/413.

SUBJECT: Transmittal of Documents (List of United Nations).
TO : Deputy Chief Legal Officer, Hq. AMG.

Please hand attached correspondence to Controller of
Property.

G. R. URBAN, Colonel
Chief Legal Officer, AMG.

Enclosures:

1. List of United Nations
~~2. Cable~~

3411
HEADQUARTERS GHU/gmf
ALLIED CONTROL COMMISSION

CABLE - OUTGOING

3411/1
10 January 1944.

URGENT
SECRET
FROM FATIMA
TO FARGO

Important conference with Italian Government on proposed powers of Property Controller will be held at Palace of Justice BARI Friday 1100 hrs PD TO FARGO FOR WILMER FROM FATIMA FROM UPJOHN PD Would like a representative Property Control Sub-commission to attend PD

448

6

341

U.S. SECRET
Equals British SECRET

- OUTGOING

GNU/gmf/arr

6/10

1922

SECRET

URGENT

PATINA

FARGO

File

JAN 10/18/40

JAN

341/1

IMPORTANT CONFERENCE WITH ITALIAN GOVERNMENT ON PROPOSED POWERS OF PROPERTY
CONTROLLED WILL BE HELD AT PALACE OF JUSTICE BARI FRIDAY ONE ONE ZERO ZERO
HOURS PD TO FARGO FOR WILSON FROM PATINA FROM UPJOHN SIGNED JOYCE PD WOULD
LIKE A REPRESENTATIVE PROPERTY CONTROL SUB DASH COMMISSION TO ATTEND

AUTHENTICATED:

ROBERT E. DOB
Major, A.G.D.
Secretary of the Commission

DISTRIBUTION:

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

5

448

U.S. SECRET
Equals British SECRET

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee

3411
RHW/gmf

27 December 1943.

In reply
refer to: AGC/1/304.

SUBJECT: Curators of Abandoned Property.

TO : Chief Legal Officer, HQ AMG Region 2.

1. Further reference your letter 2201/18/74 dated 12 Dec. 43.
2. In view of prospective changeover, I hardly think it would be worthwhile to issue the proposed Regional Order.
3. A curator may be appointed on the petition of any one who has any interest. I understand that the right of petition is broadly construed.
4. The powers of a curator are defined by the order of the Court appointing him. Added powers may be given by subsequent orders of the appointing Court on proper showing.
5. The following is a translation of Art. 48 of the Civil Code:

If a person has not been seen in the place of his last domicile or of his last residence and has not been heard of, the Tribunal of the last domicile or of the last residence, upon application of interested parties or of presumed legal successors or of the public minister, may appoint a curator to represent the said person in Court or at any compiling of inventories or accounts or at liquidations or divisions in which said person might be interested, and who may undertake other steps necessary for the conservation of the property of the disappeared person. If there is a legal representative, no appointment of the curator will be made. If there is a procurator the tribunal will provide solely for such acts which the procurator may not undertake.

RICHARD H. WINNER, Lt. Col. GAC
Deputy Chief Legal Officer.

204

AMG
Headquarters
Region 2

Ref: 2201/18/74

12 December 1943

Subject: Curators of Abandoned Property

To: Chief Legal Officer
Legal Sub-Commission
HQ AMG

1. On 16 October the Controller of Property for this Region, acting on instructions from HQ AMG issued a directive describing the procedure which should be followed for securing the appointment of curators of abandoned property owned by Italian nationals. Though it was felt at that time that it might be advisable for a Regional Order, or some similar instruction to the Presidenti of the Tribunali and the Notaries, to be issued, it was felt that the publication of any such order had better be postponed until the posting of Proclamation 6. That Proclamation has now been posted.

2. There is enclosed herewith a rough draft of a Regional Order on the appointment of curators. We should appreciate your advice on certain questions which such an order inevitably presents, and which, so far as we know, have not yet been determined.

- (a) Should a Regional Order or some such instruction be issued on this matter, and if so should it not be uniform throughout all Regions?
- (b) On whose petition should the Presidente make the appointment of a curator?
- (c) Exactly what powers and duties is it contemplated that a curator shall possess?

3. You will see from the draft Order that ~~these~~ these questions have been answered in the most general terms possible. If more definite answers are desired we should like to know their details.

Mark DeW. Howe, Major, AUS,
RCIO, Region 2.

245

504

AMG
Headquarters
Region 2

Ref: 2201/18/74

12 December 1943

Subject: Curators of Abandoned Property

To: Chief Legal Officer
Legal Sub-Commission
HQ AMG

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Mark Dew. Howe, Major, AUS, 2
RCIO, Region 2.

245

Luc Regian

Art. 48 - Civil Code.

The Curator of a disappeared person.

If a person has not been seen in the place of his last domicile or of his last residence and has not been heard of, the Tribunale of the last domicile or of the last residence, upon application of interested parties or of presumed legal successors or of the publico ministero, may appoint a curator to represent the said person in court or at any compiling of inventories or accounts or at liquidations or divisions in which said person might be interested, and who may undertake other steps necessary for the conservation of the property of the disappeared person. If there is a legal representative, no appointment of the curator will be made. If there is a procurator, the tribunale will provide solely for such acts which the procurator may not undertake.

2115

103