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10000/142/1234
(BOX 553 A)

PAPERS BROUGHT FROM REG
DEC. 1943 - FEB. 1945

10000/142/1234
(BOX 553 A)

PAPERS BROUGHT FROM REGION VIII BY COL. WEBER
DEC. 1943 - FEB. 1945

HEADQUARTERS
POST OFFICE
UNITED STATES GOVERNMENT

RTHL/96/124

21 Feb 45.

SUBJECT : Requisitioning.

TO : All IC's.
All Divisions.

1. The attached copy of Administrative Memorandum No 95, A.F.H., dated 27 Dec 43, is forwarded for information and guidance.

2. With reference to para 6 d thereof. In all genuine cases where it is known that the entire or the greater portion of any private firms output is required to be turned over regularly to the military forces, comprehensive details will be submitted to this HQ when the arrangements for continued operation of such firms will be referred to higher authorities.

By ORDER of Colonel.KIRKWOOD:

G.T.JOHNSON,
Colonel,
Executive Officer.

GL.

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RTHL/96/1004/2366

U. S. CONFIDENTIAL EQUALS BRITISH CONFIDENTIAL

ALLIED FORCE HEADQUARTERS
APO 512

ADMINISTRATIVE MEMORANDUM)

NUMBER

95)

27 December 1943.

PAYMENTS IN ITALIAN TERRITORY

1. The following instructions regarding payment by the military forces for goods and services in Italian territory will be observed.
2. It is important that the U.S. and British forces should, where possible, act in unison. Coordination of executive action, based on policies prescribed from time to time by this headquarters will be effected. Commanding officers will insure that competitive buying between the forces does not occur and that there is adequate coordination over the prices to be paid. Appropriate methods of financial control and economy in expending Allied Military lire and other currencies in Italian Territory must be observed for military purposes.
3. a. Wherever practicable, arrangements are to be made in conjunction with Allied Military Government or Allied Control Commission local representatives for the Italian Government to make available for Allied use naval, military and air installations, power stations, oil refineries, public utility services, ports and harbors, transport and inter-communication facilities and equipment, and other local resources and services that are required.
b. Where any goods or services are provided under arrangements with the Italian Government no payment from military funds will be made without authority from this headquarters unless the need for some immediate payment is operationally essential and temporary financing cannot be arranged through the local Allied Military Government or Allied Control Commission representative on behalf of the Italian Government.
c. Wherever the policy in paragraph 3 a. above cannot be implemented, action will be taken as follows.
4. Privately-owned Goods.
a. Goods should not be seized or requisitioned without payment unless strictly required for military purposes, the test being whether, if payment had to be made, the charge would be admissible against public funds. Requisitioning will be confined to authorized officers of the procuring services. In all cases where payment is not made, accurate records must be maintained of the articles requisitioned, including the date, place, identification of article, and name of owner.
b. Consumable goods, of which continuous and regular supply is

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AFHQ ADM MEMO NO 95 (Cont'd).

required by the Allied Forces and can only be maintained in return for payment, may be requisitioned and paid for under properly approved requisitioning arrangements or purchased under local purchase arrangements. However, it is the policy of this headquarters that only known surpluses, as determined by the Allied Force Local Resources (Italian) Board, will be purchased locally. Under present circumstances, the only articles falling under this category are perishable fruits and vegetables known to be in surplus. Small day to day requirements of spare parts may also be purchased. Where local purchases are made, it is essential to insure that excessive prices are not paid, in order to reduce the tendency towards inflation and to curb profiteering. Where excessive prices are demanded under local purchase arrangements, goods authorized to be purchased will be requisitioned and fair prices paid, those being fixed in cooperation with the local Allied Military Government or Allied Control Commission representative. If such goods are concealed because the individual owners hope to secure blackmarket prices, they will be sought out. The local authorities are instructed to cooperate to the fullest extent in finding the, as it is essential to do everything possible to prevent soaring prices.

c. Durable goods which are unlikely to be in continuous, rapid, production in the occupied territory, or which the owners will be unable to replace locally or will not need to replace at present, will be requisitioned or seized by authorized officers without payment under properly approved arrangements pending further instructions. Such goods as motor and other transport vehicles, heavy plant and machinery, constructional materials, structural steel, railway plant and war material would be treated in this way. In requisitioning motor vehicles (particularly passenger), the injunction in paragraph 4 a. above should be strictly observed. Unnecessary requisitioning of motor transport seriously disorganizes essential civilian communication.

d. In instances where durable goods are in continuous production they will normally be requisitioned without payment and the question of financing the firm's further operations will be handled as prescribed in paragraph 6 d. below.

e. It is impossible to define with exactness which privately-owned goods should, or should not, be paid for from military funds. The method of treatment will have to be resolved on commonsense lines for each class of goods, bearing in mind the principles set out in paragraph 4 b, c, and d above and the following considerations:

(1) The forces should not use manpower unnecessarily in negotiating prices, contracts and agreements for goods which can be secured in adequate quantities without immediate payment.

(2) Excess unnecessary payment for goods leads to inflation. However, it is recognized that there will be cases where cash payments

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AFHQ ADM MEMO NO 95 (Cont'd).

for small day to day requirements will be the most effective method of getting access to available local supplies.

(3) Important, or long-term contractual commitments for goods should not be entered into by the forces without reference of the case with recommendations to this headquarters.

5. Privately-Owned Real Estate (Land and Buildings).

This class of property, including accommodation and furnishings thereof, required for military purposes will be occupied without payment of rent or other recompense. The owner should be advised that both the determination of the rate to be paid and the payment thereof are the responsibility of the Italian authorities. Military authorities will not pay for machinery, equipment and plant installed in workshops, factories, etc., which it is essential to take over and operate. The operation of workshops and factories by the military should be avoided wherever reasonably possible in order to conserve military manpower.

6. Services Performed by Private Persons and Firms.

a. Labor employed by the Allied Forces will be paid fair wages, the same rates and same conditions of employment being observed by each force in the same localities. The rates of wages will be determined in consultation with appropriate Allied Military Government or Allied Control Commission Officials and the local military financial representatives. Inflated wages will not be paid.

b. Contracts may be made where necessary (by competitive tender, wherever possible) for ordinary military services such as repairs to clothing, equipment and vehicles, laundry, bread-making, small manufacturing services, and minor works services. Important, or long-term contracts or agreements should not, at present, be entered into without authority from this headquarters. Examples are storage of petrol and use of cold storage plants.

c. Contracts should not be made, or expenditure incurred from military funds, for services, e.g., repairs to roads and bridges, which the State or local authorities should arrange and pay for. Such work will, of course, have to be undertaken under military arrangements when it is operationally essential and it is impracticable to arrange for the Italian Authorities to undertake it, but in all such cases Allied Military Government or Allied Control Commission officials should be consulted when possible.

d. Where private firms are required to turn over their whole output, or the greater part of it, regularly to the military forces but the factories are not taken over and run by the military, reference will be made to the Italian Authorities and to representatives of the Allied

U. S. CONFIDENTIAL EQUALS BRITISH CONFIDENTIAL
AFHQ ADM MEMO NO 95 (Cont'd).

Military Government or Allied Control Commission and the local military financial representatives as to arrangements for financing the continued operation of such firms. At present contracts should not be made for buying the products of such firms.

7. Services Performed by Municipal Authorities and Public Utility Concerns.

At present no payments should be made by the military forces for such services as removal of refuse, supply of gas, water and electricity, use of port facilities, non-State-owned telephones, telegraphs, or railways. The method of dealing with the financing of such services should be explored with the Allied Control Commission or Allied Military Government and the local military financial representatives, bearing in mind paragraph 3 above.

8. Goods and Services Provided by State-Owned and Parastatal Concerns.

Payment may not be made from military funds for any goods taken over which are owned by the State or parastatal concerns or for any services provided by State-owned organizations, e.g., railway traffic. The methods of financing these State Services which the Allied Forces must utilize, is being considered by the Allied Control Commission, and they will arrange any temporary financing which may be necessary until a final decision is taken. Where it is necessary for parastatal concerns to produce goods or perform services for Allied military purposes, the method by which the cost of production shall be recovered may vary with the particular case or class of case and the arrangements under which the concern continues to operate. In particular cases proposals for financing the continued operation of such firms should be worked out in conjunction with the Allied Control Commission or the Allied Military Government and the local military financial representatives.

9. Claims for Damages, Traffic Accidents, etc.

Payments will not be made in respect of these claims. Separate instructions are being issued about Workmen's Compensation for Industrial Accidents.

10. General

These instructions are intended as a guide to what may be paid from military funds in the interim period until the policy outlined in paragraph 3 can be fully implemented. It is impossible to make provisions now for every type of case and it is recognized that many individual cases will have to be considered on their individual merits. (AG 306.2-5 GDS-AGM)

By command of General EISENHOWER:

/s/ T. J. Davis
/t/ T. J. DAVIS
Brigadier General, United States
Army
Adjutant General

DISTRIBUTION:
"C"

- 4 -

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
PROVINCE OF AREZZO

File:

Subject: Minutes of Regional Legal Officers. Date 30 January, 1945.

To: R.L.O., H.Q. Toscana Region, A.M.G.

Thanks for the opportunity to read the
Minutes of Regional Legal Officers, which, please
find enclosed herewith.

W.D. Stump
Maj. W.D. STUMP
P.L.O.

HEADQUARTERS ALLIED COMMISSION
AFC 394
LEGAL SUB-COMMISSION

AC/4011/L

/mt.
20 January 1945.

SUBJECT : Circulars of Ministry of Pardon and Justice - Offences
against Allied interests and prostitution.

TO : (See Distribution list).

Attached for your information are the Italian texts and English
translations of the following two circulars which have been directed
by the Ministry of Pardon and Justice to the First Presidents and
Prosecutors General of Courts of Appeal:

- a. Circular No. 2989: Issuance of warrant of arrest and use of
the power to grant provisional liberty in proceedings for
offences committed to the force of Allied Forces.
- b. Circular No. 2988: Use of the power to grant provisional
liberty in proceedings for offences concerning prostitution.

2 Incls:

- Incl. 1 - Circ. No. 2989 and Eng.
translation
Incl. 2 - Circ. No. 2988 and Eng.
translation.

A. R. Thackrah
A. R. THACKRAH,
Lt. Col.,
Italian Branch,
For Joint Legal Advisor.

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RVIII/19/2000/2124

*a copy of this
sent to each P.L.O.
on 31/1/45.*

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TRANSLATION

MINISTRY OF PRISON AND JUSTICE
Office of the Director General
for Penal Matters

Rome, 16 January 1945

Off. I. A. P.
Prot. No. 131.12/207 Fasc. Gen.
Circular No. 2968

TO:

Their Excellencies First Presidents of
Courts of Appeal
Prosecutors General of Courts of Appeal of
the Kingdom.

SUBJECT : Use of the power to grant provisional liberty in proceedings for offences concerning prostitution.

This Ministry has had occasion to point out that the prevention of certain offences, particularly of those concerning prostitution, is considerably impeded by the at times excessive use of the power to grant provisional liberty in the relative proceedings.

The legislator recently intervened in the repression of the phenomenon of prostitution, which at the present time is assuming increasingly serious proportions due to the commonly known sad social situation, by enacting the D.L. No. 323 of 12 Oct. 1944, thereby effecting a timely increase in the penalties for offences established in this field by the Consolidated Text of the Public Safety Laws.

It is advisable that then rigorous criterion indicated by the legislator himself be followed by the judicial authority in each case where the option to grant provisional liberty is to be exercised in proceedings involving the offences under consideration; and particularly so in cases in which a sentence of conviction has already been rendered by the court of first instance and appeal lodged against it.

Furthermore, whenever it is decided to accord the benefit of provisional liberty, it would be advisable, always in the interest of the prevention of crime, to exercise frequently and carefully the power authorized by 2nd part of Art. 282 Code of Penal Procedure to forbid the persons accused of prostitution or of inurement remaining in localities visited by military personnel.

It would be appreciated if your Excellencies would kindly issue the necessary instructions in this matter to the subordinate offices, advising the Ministry accordingly.

THE MINISTER
(sgd) Tupini

MINISTERO DI GRAZIA E GIUSTIZIA
Direzione Generale degli Affari Penali

Uff. I A.P.
Prot. No. 131.12/207 Fasc. Gen.
CIRCOLARE N. 2988

Roma, li 16 gennaio 1945

Alle LL. EE.
I PRIMI PRESIDENTI DELLE CORTI DI APPELLO
I PROCURATORI GENERALI PRESSO LE CORTI
DI APPELLO del

R. E. G. I. O

OGGETTO: Uso della facoltà di concedere la libertà provvisoria, nei procedimenti per reati concernenti la prostituzione.

Questo Ministero ha avuto occasione di rilevare come la prevenzione di taluni reati, e specialmente di quelli che concernono la prostituzione, trovi un notevole ostacolo nell'uso talora smodato dell'esercizio della facoltà di concedere, nei relativi procedimenti, la libertà provvisoria.

Contro il fenomeno della prostituzione, che attualmente, per la ben nota triste situazione sociale, dilaga in modo impressionante, il Legislatore è di recente intervenuto, con il D.L.L. 12.10.1944, n. 323, il quale ha opportunamente inasprito le sanzioni relative ai reati preveduti, nella suddetta materia, dal T.U. delle leggi di P.S.

Questo criterio di rigore, indicato dallo stesso Legislatore, è opportuno sia seguito dall'Autorità Giudiziaria ogni qual volta debba fare uso della facoltà di concedere la libertà provvisoria, nei procedimenti che abbiano per oggetto uno dei reati in questione. Ciò specialmente nel caso in cui sia già intervenuta una sentenza di condanna di primo grado e vi sia stata impugnazione.

Sarebbe inoltre opportuno, sempre ai fini della prevenzione penale, che, qualora si decida di concedere il beneficio, si facesse un uso frequente ed oculato della facoltà sancita dal 2° comma dell'art. 282 C.P.P. vietando alle persone imputate di prostituzione o di adescamento al libertinaggio, di dimorare nelle località frequentate da militari.

Si gradirebbe che le VV. EE. volessero compiacersi di impartire in proposito la opportuna direttiva agli Uffici dipendenti, dandone assicurazione a questo Ministero.

IL MINISTRO

f.to Tupini

TRANSLATION

MINISTRY OF PARDON AND JUSTICE
Office of the Director General
for Penal Matters

Ram 16 January 1945.

OFF. I A.P.
Prot. No. 131.12/207 Proc. Gen.
Circular No. 2989

TO:

Their Excellencies First Presidents of
Courts of Appeal
Prosecutors General at the Courts of
Appeal of the Kingdom.

SUBJECT : Issuance of warrant of arrest and use of the power to grant
provisional liberty in proceedings for offences committed
to the prejudice of Allied Forces.

This Ministry has pointed out on several occasions that in proceedings involving offences committed to the prejudice of Allied Forces in respect of which the issuance of a warrant of arrest is optional only, according to Art. 5 of D.L.L. No. 194 of 10 August 1944, the judicial authority has failed to use such power.

The present contingencies, however, which emphasize the necessity for intensifying in all possible ways the war effort against the common enemy, require that the aforesaid offences be prosecuted with the maximum rigor authorized by law.

It would, therefore, be advisable that the judicial authority in exercising its discretionary power to issue warrants of arrest in such cases, should follow this concept of rigor counselled by the present political situation.

Analogous concepts of severity intended particularly to prevent the relapse of the same offences, should be followed in the exercise of the power to grant provisional liberty.

In this respect if application is made for provisional liberty pending the proceedings on appeal, in evaluating the advisability of granting the liberty, consideration should be given, not only to the interests injured by the offence, but also to its nature and type and to the personality of the accused as prescribed by law, taking into account also the result of the proceeding in the Court of first instance.

It would be appreciated if Your Excellencies would kindly issue the necessary instructions in this matter to the subordinate offices advising this Ministry accordingly.

THE MINISTER
(sgd) Tupini

MINISTERO DI GIUSTIZIA
Direzione Generale degli Affari Penali

Uff. I A.P.
 Prot. n. 131.12/207 Fasc. Gen.
 CIRCOLARE N. 2989

Roma, lì 16 gennaio 45

Alle IL. EE.
 I PRIMI PRESIDENTI DELLE CORTI D'APPELLO
 e
 I PROCURATORI GENERALI presso le Corti
 d'APPELLO del

R E G N O

OGGETTO: Emissione di mandato di cattura ed uso della facoltà di concedere la libertà provvisoria, nei procedimenti per reati commessi in danno delle Forze Alleate.

Questo Ministero ha avuto talvolta occasione di rilevare come, nei procedimenti commessi in danno delle FF. M., in ordine ai quali la emissione del mandato di cattura sia soltanto facoltativa, ai sensi dell'art. 5 del D.L.L. 10.8.1944, n. 194, l'Autorità Giudiziaria non abbia fatto uso di tale facoltà.

Le attuali contingenze, viceversa, che mettono in rilievo la necessità di potenziare in tutti i modi possibili lo sforzo bellico contro il comune nemico, impongono che i reati suddetti siano perseguiti con il massimo rigore consentito dalla legge.

Sarebbe quindi opportuno che l'Autorità Giudiziaria, nell'esercizio della sua facoltà di emettere, in tali casi, il mandato di cattura, sia guidata da questo criterio di rigore, consigliato dall'attuale situazione politica.

Analoghi criteri di severità, intesi al fine di prevenire particolarmente la recidiva nel medesimo reato, dovrebbero essere seguiti nell'uso della facoltà di concedere la libertà provvisoria.

Al riguardo, ove la libertà provvisoria sia richiesta nelle more del giudizio di appello, l'opportunità o meno di concederla deve essere valutata, oltre che alla stregua degli interessi offesi dal reato, della natura e specie di questo e della personalità dell'imputato, come la legge prescrive, anche tenendo presente i risultati del giudizio di primo grado.

Si gradirebbe che le IL. VV. volessero compiacersi di dare in proposito le opportune direttive agli uffici dipendenti, dandone assicurazione a questo Ministero.

IL MINISTRO

f.to Tupini

HEADQUARTERS
TOSANA REGION
ALLIED MILITARY GOVERNMENT

File Ref:

9201/61/mau

SUBJECT

10

Date:

Minutes of Regional Legal Officers

Provincial Legal Officers

AA) Livorno & Mugello, Hochmühl (Spec. 7-13)

~~44~~ / Pica

~~647~~ / brockett

Deena

Arango.

W. Burges (recd 25 Jan.)

Maj. W. D. Thompson

For your information! When you have read the minutes, check off the list, and pass on to the next. Please see to it personally that this report gets on promptly.

Samuel
Colonel, Infantry

12 December 1944

Memorandum:Exemption in Occupied Territory.

1. The object of this Memorandum is to present in as concise a form as possible the main principles laid down in recent Allied Commission Directives on the subject of expatriation and to outline the responsibilities and procedure of AMG officers in the operation or supervision of the machinery created for that purpose. It is emphasized that this is intended as a summary only and all officers concerned are advised to make themselves familiar with the detailed provisions to be found in the under-mentioned documents:

(i) Executive Memoranda No. 67 dated 5th July 1944, "Treatment of Italian officials encountered in advance northwards"; and No. 76 dated 2nd September 1944, "Re-organization and Governance of Italian Universities and Academies".

(ii) General Order No. 35, together with Directive DE/2.A/AS dated 28th November 1944, "Suspension of Italian officials and employees". - Administrative Instructions and specimen forms accompanying it.

(iii) The following Decrees of the Italian Government:

- a) D.L. 27 July 1944, No. 159 - Sanzioni contro il Fascismo.
- b) D.L. 11 Oct. 1944, No. 257 - Norme per l'acceleramento del giudizio di espatriazione.
- c) D.L. 23 Oct. 1944, No. 285 - Norme integrative del D.L. 159 per la parte riguardante l'espatriazione dell'Amministrazione.

(iv) Circular No. 4 dated 24th October 1944, "Directive for the Commission of Expatriation" issued by the Assistant High Commissioner for Expatriation.

2. It is proposed to divide the subject into three sections which, though they frequently overlap, may for convenience be designated AMK, AC, and Italian machinery respectively.

A - A.M.C. Machinery

3. S.C.A.Os and R.Os. have full power in proper cases and in their absolute discretion to remove officials on grounds of Fascism, incompetence or corruption without reference to their present position or past Fascist office, and where such officials (or other persons) are regarded as potentially dangerous to arrange through FSS/CIC agencies for their internment. Nevertheless such powers will in all cases be exercised in accordance with the following principles of policy:

(i) On first entry into a territory, AMG officers will put Exec. Memo No. 67 into operation, but in so doing they will ensure that Lists A and B are used together, that is to say, that an official in List A is only removed if he is also within a description in List B and vice versa.

(ii) AMG officers in the field will not occupy themselves with any general removal of Fascists from office and will be careful to refrain from a wholesale sacking of officials, which would result in administrative chaos. As no large reserves of personnel are available, prudence in ordering removals is now essential.

(iii) For the same reason it is not to be assumed that every employee of the Republican Fascist Government is ipso facto unemployable. Heads of services or of important concerns must be dealt with in accordance with Exec. Memo. 67 (or G.O. 35 when the latter is in operation), but those of the lower ranks as to whom there is no evidence of anti-Fascist sentiment may be retained to work under new anti-Fascist heads.

- (i) Executive Memoranda No. 67 dated 5th July 1944 - "Treatment of Italian officials encountered in advance northwards"; and No. 76 dated 2nd September 1944 - "Re-organization and Governance of Italian Universities and Academies".
- (ii) General Order No. 35, together with Directive DF/2.A/AS dated 28th November 1944 - "Suspension of Italian officials and employees". - Administrative Instructions and specimen forms accompanying it.

(iii) The following Decrees of the Italian Government:

- a) DLE 27 July 1944, No. 159 - Sanzioni contro il Fascismo.
 b) DLE 11 Oct. 1944, No. 257 - Norme per l'acceleramento del giudizio di esurazione.
 c) DLE 23 Oct. 1944, No. 265 - Norme integrative del DLE 159 per la parte riguardante l'esurazione dell'Amministrazione.

- (iv) Circular No. 4 dated 24th October 1944 - "Directive for the Commission of Expiration" issued by the Assistant High Commissioner for Expiration.

2. It is proposed to divide the subject into three sections which, though they frequently overlap, may for convenience be designated A, B, and Italian machinery respectively.

A - A.I.F.C. Machinery

3. S.C.A.Os and R.Cs. have full power in proper cases and in their absolute discretion to remove officials on grounds of Fascism, incompetence or corruption without reference to their present position or past Fascist office, and where such officials (or other persons) are regarded as potentially dangerous to arrange through FSS/CIC agencies for their internment. Nevertheless such powers will in all cases be exercised in accordance with the following principles of policy:

- (i) On first entry into a territory, A.I.F.C. officers will put Excec. Memo No. 67 into operation, but in so doing they will ensure that Lists A and B are used together, that is to say, that an official in List A is only removed if he is also within a description in List B and vice versa.
- (ii) A.I.F.C. officers in the field will not occupy themselves with any general removal of Fascists from office and will be careful to refrain from a wholesale sacking of officials, which would result in administrative chaos. As no large reserves of personnel are available, prudence in ordering removals is now essential.
- (iii) For the same reason it is not to be assumed that every employee of the Republican Fascist Government is ipso facto unemployable. Heads of services or of important concerns must be dealt with in accordance with Excec. Memo. 67 (or G.O. 35 when the latter is in operation) but those of the lower ranks as to whom there is no evidence of active fascist partisanship may be retained to work under new anti-fascist heads.
- (iv) Where A.I.F.C. officers take action, they will only suspend. Dismissal will in all cases be dealt with by the Italian Government under DLE 159.

(v) In cases where interment is ordered, a report on the circumstances must forthwith be made to HQ A.C. through appropriate channels.

(vi) SCAOs and ECs have full discretion in exceptional cases to retain in office as a purely temporary expedient a Fascist (who would otherwise be removed) where the immediate administration of a locality renders it essential. The work of any such individual will be closely supervised and a replacement obtained as soon as possible.

B- Allied Commission Machinery

4. In view of the strong anti-Fascist feeling which is likely to prevail in Northern Italy and to ensure a more rapid progress in epuration than has been achieved under the Italian machinery in the South, General Order No. 35 has been prepared on the same lines as the Italian Government decrees to provide for the early suspension of Fascists by Provincial Commissions. This Order is not intended to prevent the removal of officials by members of ALE as heretofore, but it is emphasized that no local system of epuration is allowed to be employed by any Regional or Provincial Commissioner or any other member of ALE except under Executive Memoranda No. 67 and 76 or General Order No. 35.

5. Attention is directed to the following salient points in connection with this General Order:

(i) The Order will be put into operation at the discretion of Regional Commissioners but such discretion will not be exercised without the prior consent of HQ A.C.

(ii) Generally it is not to be expected that Commissions will be set up under the Order in Army Areas unless conditions become static and the particular SCAO shall so approve.

(iii) Subject as aforesaid, Provincial Commissioners will bring the Order into effect by posting it together with a Provincial Order fixing the commencement date in their respective Provinces. Not later than 3 days after such date, the Provincial Commissioner will appoint a Commission of Italian Citizens (preferably persons resident in the locality) of integrity and non-Fascist antecedents to carry out the provisions of the Order.

(iv) The work will be done by the Italians themselves but under close supervision to prevent vindictive or unfair action on the part of members of the Commission. Provincial Commissioners have power to remove any member who does not perform satisfactory service.

(v) The Order covers officials and employees of civil state administrations, local authorities and other public bodies and institutions and certain special concerns, and directs the grounds on which their suspension may be ordered and the procedure to be followed.

(vi) The persons to whom the Order applies are divided into three categories:

a) IMMEDIATE: Civil service officials down to Grade VI and Directors, Managers, senior technicians, etc. of administrations and under takings.

b) ROUTINE: Civil service officials of grades VII to IX (inclusive), Assistant Managers, Heads of Departments, etc. of administrations and undertakings; also officials of Grades X to XII employed under the Ministry of Education if so ordered by the Regional Commissioner.

c) POSTPONED: All other officials and employees.

Provincial Commissioners will ensure that Commissions concentrate on Cat-

phasized that no local system of operation shall be put into operation at the discretion of any other member of the Executive Committee except under Executive Order No. 67 and 76 or General Order No. 35.

5. Attention is directed to the following salient points in connection with this General Order:

(i) The Order will be put into operation at the discretion of Regional Commissioners but such discretion will not be exercised without the prior consent of HQ A.C.

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(iv) The work will be done by the Italians themselves but under close supervision to prevent vindictive or unfair action on the part of members of the Commission. Provincial Commissioners have power to remove any member who does not perform satisfactory service.

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(vi) The persons to whom the Order applies are divided into three categories:

- a) - IMMEDIATE: Civil service officials down to grade VI and Directors, Managers, senior technicians, etc. of administrations and under takings.
- b) - ROUTINE: Civil service officials of grades VII to IX (inclusive), Assistant Managers, Heads of Departments, etc. of administrations and undertakings; also officials of grades X to XII employed under the Ministry of Education if so ordered by the Regional Commissioner.
- c) - POSTPONED: All other officials and employees.

Provincial Commissioners will ensure that Commissioners concentrate on Categories Immediate and Routine in that order and that within those categories officials and employees are considered in order of importance. In no circumstances will proceedings be commenced against persons in category Postponed without previous consent of HQ Allied Commission.

(vii) The decisions of the Commission are final and binding unless and until a Commission appointed under DIL 159 shall otherwise direct.

6. It will be observed that subject to the necessary authority being obtained, Provincial Commissioners are provided by this General Order with an effective method of expediting Eputation proceedings and of controlling unofficial activities by the establishment of official Provincial Commissions.

Action under this Order will not be affected by the fact that the Italian Eputation legislation may be technically operative in the Province at the same time, though it remains to be seen what degree of co-operation will be achieved between the different Commissions, when steps are taken by the Italians to implement such legislation in a Province where the Provincial Commission is already functioning.

C- Italian Machinery

7. The Italian Eputation scheme is governed by the Decree Laws mentioned in para 1 (iii) above, all of which have been made operative in Military Government Territory. In Provinces in newly occupied territory, this legislation will come into force technically with effect from the date on which the relevant issues of the Gazzetta Ufficiale are delivered by the R.C. to the Prefect, but experience has shown that no practical results can be expected for some time after occupation. It is to cover this period of delay that General Order No. 35 has been prepared.

8. The position under the Italian legislation as it stands to-day is briefly as follows:

(i) Government servants and employees of concerns of national importance though they may work in the Provinces will be dealt with by Eputation Commissions sitting in Rome, which by DIL 257 are required to give priority of treatment to senior officials of Grades I-IV.

(ii) The A.C. bodies responsible for ensuring the efficient working of these Central Commissions are the appropriate Sub-Commissions at HQ A.C. but R.Cs and Divisional officers through R.Cs will be responsible for keeping the Sub-Commissions concerned fully informed of local conditions and the progress of eputation in their respective areas.

(iii) Employees of entirely local concerns such as Provincial and Communal administrations, R.C.s, hospitals and local public utility undertakings will be dealt with by Provincial Eputation Commissions appointed by the central Government but sitting locally. It is to be observed that by DIL 285 the power of appointment of the Provincial Commissions previously vested in the Prefect has been transferred to the President of the Council of Ministers, who in conjunction with the competent Minister and the High Commissioner for Eputation is now responsible for nominating all the members of the local Commissions. The President of a Commission shall in every case be a judicial or administrative magistrate, active or retired.

(iv) In the case of these Provincial Commissions, the responsibility for ensuring their efficient and speedy operation and for reporting on local conditions and progress lies with R.Cs through their R.C. Bi-monthly progress returns are required to be rendered by Regions to HQ Allied Commission.

(v) In every Province the Prefect and the local representative ("Delegato") appointed by the High Commissioner are jointly responsible for preparing the cases against officials and employees to be brought before an Eputation Commission.

(vi) Any representations which it may be desired to make with regard to the appointment of personnel of Provincial Commissions must be made through HQ A.C. channels.

7. The Italian Evacuation scheme is governed by the Decree Laws mentioned in para 1 (iii) above, all of which have been made operative in Military Government Territory. In Provinces in which occupied territory, this legislation will come into force technically with effect from the day on which the relevant issues of the Gazzetta Ufficiale are delivered by the R.C. to the Prefect, but experience has shown that no practical results can be expected for some time after occupation. It is to cover this period of delay that General Order No. 35 has been prepared.

8. The position under the Italian legislation as it stands to-day is briefly as follows:

(i) Government servants and employees of concerns of national importance though they may work in the Provinces will be dealt with by Evacuation Commissions sitting in Rome, which by D.L. 257 are required to give priority of treatment to senior officials of grades I-IV.

(ii) The A.C. bodies responsible for ensuring the efficient working of these Central Commissions are the appropriate Sub-Commissions at HQ A.C. but R.C.s and Divisional officers through R.C.s will be responsible for keeping the Sub-Commissions concerned fully informed of local conditions and the progress of evacuation in their respective areas.

(iii) Employees of entirely local concerns such as Provincial and Communal administrations, R.C.s, hospitals and local public utility undertakings will be dealt with by Provincial Evacuation Commissions appointed by the central Government but sitting locally. It is to be observed that by D.L. 285 the power of appointment of the Provincial Commissions previously vested in the Prefect has been transferred to the President of the Council of Ministers, who in conjunction with the competent Minister and the High Commissioner for Evacuation is now responsible for nominating all the members of the local Commissions. The President of a Commission shall in every case be a judicial or administrative magistrate, active or retired.

(iv) In the case of these Provincial Commissions, the responsibility for ensuring their efficient and speedy operation and for reporting on local conditions and progress lies with R.C.s through their R.C. Bi-monthly progress returns are required to be rendered by Regions to HQ Allied Commission.

(v) In every Province the Prefect and the local representative ("Delegato") appointed by the High Commissioner are jointly responsible for preparing the cases against officials and employees to be brought before an Evacuation Commission.

(vi) Any representations which it may be desired to make with regard to the appointment of personnel of Provincial Commissions must be made through HQ A.C. channels.

(vii) All officers have an over-riding duty to see that essential services are not disorganised either by wholesale dismissals or by dismissals of key employees where no substitutes are available.

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This does not mean that every proposal of the Commission requires prior approval by an AMI officer but an officer must arrange to be kept in the picture and be prepared to interfere if disorganization is seriously threatened.

9. The Assistant High Commissioner's Directive for the Commissions of Epuration referred to in para 1 (iv) above lays down the policy to be adopted on various points. The following extract on financial sanctions is quoted as being of general interest:

"It will be advisable for the Commissions to refrain generally from adopting such measures, which like the reduction of allowances or salaries, aggravate the economic conditions of the party concerned without serving the purpose of epuration."

To urge the Commissions to weigh carefully each individual case before deciding on loss of pension which can be considered as justified only in cases of an illegal enrichment or of serious forms of collaboration with the Republican Fascist Government. In other cases..... it is a good general practice to avoid the severe measure of loss of pension, provided no circumstances exist which would demand and justify the maximum severity."

10. HQ A.C. Directive DE/5.2/IA dated 21 November 1944 states that it is the duty of AMI officers not only to make themselves thoroughly acquainted with the Decrees and the Assistant High Commissioner's Directive mentioned above, but also to ensure that these documents are brought to the notice of and followed by the Italian Officials and Commissions responsible for epuration. It is once more repeated that this present Memorandum is intended only as a summary of the principal provisions of these Decrees, etc. and that on points of detail reference should be made to the original texts.

JOHN K. WEBER,
Colonel, Infantry,
Regional Legal Officer
Toscan Region.

HEADQUARTERS ALLIED COMMISSION
APO 304
LEGAL SUB-COMMISSION

AC/4013/4/L.

/rlp.
11 December 1944.

NOTES ON MEETING OF LEGAL SUB-COMMISSION AND RLOS
HELD AT FOME, 29 NOVEMBER 1944

PRESIDED: Col. V. E. Behrens	- DOLA	- Hq AC
PRESENT: Col. J. K. Weber	- RLO	- Toscana
Lt. Col. M. J. Grossman	- Chief Counsel	- Hq AC
Lt. Col. G. G. Hanaford	- Officer i/o Italian Branch	- Hq AC
Lt. Col. A. R. Thacker	- Italian Branch	- Hq AC
Lt. Col. I. C. H. Campbell	- Chief Judicial Officer	- Hq AC
Lt. Col. W. G. Elder	- RLO	- Liguria
Lt. Col. Edwin J. Mercer	- RLO	- Piemonte
Lt. Col. A. R. Troxell	- DRLO	- Piemonte
Lt. Col. L. F. Dawson	- RLO	- Southern
Maj. E. I. Palmieri	- Epuration Officer	- Hq AC
Maj. W. F. Wagh	- DRLO	- Lombardia
		- 5th Army AMG
		- Emilia
Maj. W. H. Lavit	- RLO	- Abruzzi-Marche
Maj. R. G. S. Alexander	- RLO	- Lazio-Umbria
Maj. R. C. Hendrickson	- RLO	- Liguria
Maj. G. M. Welsford	- FLO	- Hq AC
Capt. J. W. Levy	- LO	- Southern
Capt. E. T. Kerr	- Asst to RLO	- Sardegna
1st Lt. J. J. Scanlan	- RLO	- Hq AC
Lt. W. G. Pryce	- LO	

1. Personnel

a. Promotions

(1) British

(a) ORs

In the course of the last few weeks, 38 promotions of various ranks have been granted in the Commission as a whole. The position now is that there are far more high ranking NCOs and Warrant Officers than the War Establishment warrants. There will not be any more OR promotions for a considerable time and until higher ranking NCOs or Warrant Officers are withdrawn from the Commission.

(b) Officers

A Board set about 5 or 6 weeks ago and passed a large number of promotions of which Legal S/C got at least its fair proportion. The recommendations of the Board for promotions up to and including the rank of Major have been submitted to AFHQ some time ago and within the last 4 days a reminder has been sent. It is hoped that formal approval will be forthcoming in a very short time. It is believed that nearly all promotions have been sent out.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4013/4/L.

/rlp.
11 December 1944.

NOTES ON MEETING OF LEGAL SUB-COMMISSION AND RLOs
HELD AT ROME, 29 NOVEMBER 1944

PRESENT: Col. W. E. Behrens - DOLA
Col. J. K. Weber - RLO
Lt. Col. M. J. Grossman - Chief Counsel
Lt. Col. G. G. Hennesford - Officer i/c Italian Branch
Lt. Col. A. R. Thackrah - Italian Branch
Lt. Col. I. G. H. Campbell - Chief Judicial Officer
Lt. Col. W. G. Elder - RLO
Lt. Col. Edwin J. Mercer - RLO
Lt. Col. A. R. Troxell - DRLO
Lt. Col. L. J. Dawson - RLO
Maj. E. I. Palmieri - Epuration Officer
Maj. W. F. Wagh - DRLO
Maj. W. H. Levitt - RLO
Maj. R. G. S. Alexander - RLO
Maj. R. C. Hendrickson - RLO
Maj. G. M. Walsford - RLO
Capt. J. W. Levy - LO
Capt. E. T. Kerr - Asst to RLO
1st Lt. J. J. Scanlon - RLO
Lt. W. G. Bryce - LO

- Hq AC
- Toscana
- Hq AC
- Hq AC
- Hq AC
- Hq AC
- Liguria
- Piemonte
- Piemonte
- Southern
- Hq AC
- Lombardia
5th Army AMG
- Emilia
- Abruzzi-Marche
- Lazio-Umbria
- Liguria
- Hq AC
- Southern
- Sardegna
- Hq AC

1. Personnela. Promotions

(1) British

(a) CRs

In the course of the last few weeks, 38 promotions of various ranks have been granted in the Commission as a whole. The position now is that there are far more high ranking NCOs and Warrant Officers than the War Establishment warrants. There will not be any more CR Promotions for a considerable time and until higher ranking NCOs or Warrant Officers are withdrawn from the Commission.

(b) Officers

37

A Board sat about 5 or 6 weeks ago and passed a large number of promotions of which Legal S/C got at least its fair proportion. The recommendations of the Board for promotions up to and including the rank of Major have been submitted to AFHQ some time ago and within the last 4 days a reminder has been sent. It is hoped that formal approval will be forthcoming in a very short time. It is believed that nearly all promotions have been antedated to the 25th of August. As for future promotions, the Legal S/C now has its fair share of higher ranking officers and it

PRESENT: Col. G. A. Webb

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Lt. Col. G. G. Hannaford	- Officer i/c Italian Branch	- Hq AC
Lt. Col. A. R. Throckm	- Italian Branch	- Hq AC
Lt. Col. I. C. H. Campbell	- Chief Judicial Officer	- Hq AC
Lt. Col. W. C. Elder	- PLC	- Liguria
Lt. Col. Edwin J. Mercer	- RLO	- Piemonte
Lt. Col. A. R. Troxell	- DRLO	- Piemonte
Lt. Col. L. F. Dawson	- RLO	- Southern
Maj. E. L. Palmieri	- Information Officer	- Hq AC
Maj. W. F. Wagh	- DRLO	- Lombardie
		- 5th Army AMG
Maj. W. E. Levit	- RLO	- Emilia
Maj. R. G. S. Alexander	- RLO	- Abruzzi-Marche
Maj. R. C. Hendrickson	- RLO	- Lazio-Umbria
Maj. G. M. Welsford	- RLO	- Liguria
Capt. J. W. Levy	- LO	- Hq AC
Capt. E. T. Kerr	- Asst to RLO	- Southern
1st Lt. J. J. Scanlon	- RLO	- Sardegna
Lt. W. G. Bryce	- LO	- Hq AC

1. Personnel

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(b) Officers

A Board sat about 5 or 6 weeks ago and passed a large number of promotions of which Legal S/C got at least its fair proportion. The recommendations of the Board for promotions up to and including the rank of Major have been submitted to AFHQ some time ago and within the last 4 days a reminder has been sent. It is hoped that formal approval will be forthcoming in a very short time. It is believed that nearly all promotions have been antedated to the 25th of August. As for future promotions, the Legal S/C now has its fair share of higher ranking officers and it is doubtful whether any further promotions will be considered for some time. Nevertheless, AFB 1945 should continue to be submitted in appropriate cases. They must be signed by British Executive, not Legal Officers. If American officers like to submit their recommendations approving a 194D in the case of a British officer, they may do so, but the documents themselves must be signed by either the Regional Commissioner, if he is British, or the Executive Officer if the RC is American. The forms themselves are divided into two halves; no officers in the Legal S/C are regimental

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officers; they are all staff officers and it is entirely wrong to fill out that portion of the form which is a recommendation for advancement of regimental officers.

(2) American

(a) EMs

Capt. Levy, speaking for Lt. Col. Grossman, said that with relation to American enlisted men, there are today twenty promotion vacancies in the 2675 Regiment ranging in grade from corporal to staff sergeant.

There has been recently activated a Supply Transportation Battalion in the 2675 Regiment. This battalion has only half filled its quota for non-commissioned officers. Within the next week or ten days it will be decided whether or not the 2675 Regiment as a whole will be able to fill any or all of the existing vacancies within the Transportation Battalion. The present 20 promotion vacancies in the regiment will be filled as soon as pronouncement of policy is made in connection with promotion vacancies within the Transportation Battalion.

The Promotions Board has decided that promotions will be made on a percentage basis. Each region is entitled to a certain percentage of promotions depending upon the allotted strength of the region.

The 2675 Regiment may acquire additional EM strength in the near future; the Regimental Commander will not accept any such additional strength in any grade other than private, so as not to interfere with the promotion of the men who have been in the regiment for some time.

(b) Officers

There are vacancies in all grades. However, it must be understood that the 2675 Regiment, of which all American officers are a part, is entitled to only a certain percentage of the total vacancies in the Mediterranean Theater, so that MTOUSA gives to the 2675 Regiment only a small percentage of promotions.

The necessary time in grade for the various grades are as follows:

For promotion to 1st Lieut.	-- 6 months in preceding grade.
" " " Captain	-- 9 " " "
" " " Major	-- 12 " " "
" " " Lt. Col.	-- 15 " " "
" " " Colonel	-- 18 " " "

For all time in grade while outside the continental limits of the United States, an officer is entitled to time and a half. MTOUSA will publish a list of promotions on the 7th, 17th and 27th of each month and reach Hq Regimental Commander in 4 to 6 days thereafter. The Regimental Commander then announces the good news.

All promotion papers going forward from Regimental Hq are accompanied by extract copy of officers' 66-1 which indicates positions held and manner of performance for two year period next preceding date of recommendation.

b. Ceiling for legal officers

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All promotion papers going forward from Regimental Hq are accompanied by extract copy of officers' 86-1 which indicates positions held and manner of performance for two year period next preceding date of recommendation.

b. Ceiling for legal officers

DOLA stated that the ceiling for legal officers has not been fixed at a total of 91 for the whole of Italy. This is based on the actual requirements of all regions, particularly the northern, but it is possible that up to 9 officers may have to be found out of this number for work in Austria. There are now in Legal S/C 85 officers including Col. Wilmer who is in America on leave and Maj. Palmieri who has been loaned to the CA Sec. If these two officers come back to the legal strength there will be 85, if not 83. There is, therefore, a present shortage of 6-8 officers, and possibly as large

as 17 if the 9 Italian posts are taken into account. RLOs should use their best endeavors to find suitable personnel either from other branches of the AG or from outside.

c. American scheme for Contract Settlement

This scheme involves the return to America for contract settlement of certain specially qualified American officers. It does not affect British officers. Since more than 50 per cent of legal officers are American, an avalanche of applications by American officers to leave for the States cannot be accepted. Therefore, only in exceptional cases will personnel be withdrawn to work in the U. S. on Contract Settlement and then some suitable replacement must be found.

d. Assignments of Legal Officers.

On the basis of 91 legal officers actually available with Legal S/C, the following allocation was accepted by all RLOs present as sufficient for their requirements when the northern regions are under AMG:

Sicily-1, Sardegna-1, Southern-8, (excluding officers in connection with AMG Courts at Bari who will have to be withdrawn), Lazio-Umbria-4, Abruzzi-Marche-3, Toscana-6, Emilia-4, Liguria-7, Piemonte-12, Lombardia-16, Venezia-20.

The present occupations of all legal officers were discussed and it appeared that except for 2 RLOs and some 3 or 4 other officers, all officers were usefully employed. It was found possible to provide a pool of some 6 officers for an AMG Court in 8th Army area.

2. Progress in Defascism and Epuration

Maj. Palmieri said that the amount of erroneous information broadcast on the subject is appalling and that there is considerable confusion among our officers in the field in the matter of epuration. He said that he hoped that legal officers will do two things: first, to be a source of information and advice to Allied officers who may not be properly advised; secondly, to be a source of information to Italian officials. Because of the breakdown in transportation and communications they do not get necessary information quickly. An effort has been made by the G. Sec and Legal S/C to put down in writing all of the information which Allied officers should have on the subject of epuration. There are certain common faults and difficulties which can be reasonably anticipated. It is always of help if the Epuration Commissions' integrity can be protected against undue and improper interference on any side. For instance, the existence along side of the Epuration Commission, of a so-called Internal Commission, should not be tolerated. Very frequently the Internal Commission is set up by undesirable elements among the personnel as a means of visiting personal grievances against certain individuals and only incidentally does it sometimes clear out undesirable fascist elements. The situation is quite undesirable, he said, and one of the first things to be done is to clean out this illegal Internal Commission. After getting rid of the Internal Commission the mess they leave behind must be cleaned up. All their dismissals should be re-examined and dealt with by the Epuration Commission. Defascism must be worked out on an independent legal basis and must not depend on any so-called Internal Commission. Another problem which arises is personal pressure in the form of letters from Italian citizens to Allied officers. When such a letter is received, a prepared letter is sent out (available to legal officers), which states that it is regretted that we cannot interfere in the matter referred to as it is within the exclusive competence of the Italian Government, but that the letter will be forwarded to the appropriate Italian official. If this is not done, the Italians will think that epuration is not being taken seriously.

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Sicily-1, Sardegna-1, Southern-8 (excluding officers in connection with AMG Courts at Bari who will have to be withdrawn), Lazio-Umbria-4, Abruzzi-Marche-3, Tuscany-6, Emilia-4, Liguria-7, Piemonte-12, Lombardia-16, Venezia-20.

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the legal officers are to advise and it is not within the ambit of the Legal S/C to undertake operation matters since it is being handled by the CA Sec and any matters of policy are to be decided by the VP, CA Sec.

3. The Gazzetta Ufficiale and Implementation of Decrees in AMO Territory.

Lt. Col. Thackmuth said that the mechanism of the distribution of the Gazette and the getting of it into the hands of Italian officials had improved by leaps and bounds since the last meeting so that generally speaking, the system was working quite well. He remarked that the order implementing the legislation contained in any given number did not appear until 14 days after the laws had been printed in the Gazette; from the day of publication the Gazette took a week to reach the Prefect. Then the Prefect takes another week to get it into the hands of the Italian officials with the help of couriers of AMO which cringes the delay up to a sum total of 4 weeks from the time it leaves the printing presses to the time it gets to the provinces. He said that an initial mistake was made in not getting the PLOs into the picture earlier enough and explaining to them what we were doing.

Lt. Col. Thackmuth asked that legal officers should inspect their regional message centers occasionally personally and should have their PLOs go there regularly to see how the Gazettes were received and distributed and then the message centers would realize that these Gazettes have a special importance.

The official receipt forms for the Gazettes were gummed firmly onto the packages and it was requested of legal officers that if anything went wrong to make a point of writing in promptly to HQ. If HQ was not informed, and if large packages are lost, it might mean reprinting and that was a big job; especially in view of the shortage of paper, of skilled staff, and of certain machinery, etc.

The speaker stated that since the last meeting, the Army had come into line with the rest of the AMO provinces by adopting the same system of implementation and record. In the records kept at HQ, the distribution of each Gazette is looked upon as an individual piece of work, therefore, recording is done in respect of each issue, so legal officers were asked not to send in one receipt covering a batch of Gazettes, but individual receipts on the proper form supplied for the purpose, otherwise confusion and difficulties would occur. If there was any difficulty, legal officers were urged to write to HQ at once.

4. Jurisdiction of A.M. Courts over Yugoslav Forces.

DOLA stated that until further orders are received, members of the Yugoslav Missions, whether Royalists or MLAJ are to be treated as subject to the jurisdiction of AMO Courts. All cases, however, will be reviewed at the Legal S/C.

5. Italian Military Courts.

Lt. Col. Hennesford stated that arrangements had been made with the Italian authorities to set up an Italian Military Court with its seat in Milan, as soon as circumstances permitted. This court would have full jurisdiction as an ordinary as well as an extraordinary Italian Military Court to try not only members of the Italian Republican Army and Militia, but also civilians who could not be dealt with by the civil courts and Courts of Assizes or to deal with those cases which it was not convenient to dispose of in AMO Courts. It had to be borne in mind that for some time after occupation, the civilian courts would remain disorganized, and in the interim this Italian Military Court would be able to bridge the gap.

A few days previously, a decree on this subject had been submitted to the Legal S/C which seemed to be satisfactory and had been returned to the Legal S/C of the Tribunale.

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DOLA stated that until further orders are received, members of the Yugoslav Missions, whether Royalists or MLAJ are to be treated as subject to the jurisdiction of AMI Courts. All cases, however, will be reviewed at the Legal S/C.

5. Italian Military Courts.

Lt. Col. Hammond stated that arrangements had been made with the Italian authorities to set up an Italian Military Court with its seat in Milan, as soon as circumstances permitted. This court would have full jurisdiction as an ordinary as well as an extraordinary Italian Military Court to try not only members of the Italian Republican Army and Militia, but also civilians who could not be dealt with by the civil courts and Courts of Assizes or to deal with those cases which it was not convenient to dispose of in AMI Courts. It had to be borne in mind that for some time after occupation, the civilian courts would remain disorganized, and in the interim this Italian Military Court would be able to bridge the gap.

A few days previously, a decree on this subject had been submitted to the Legal S/C which seemed to be satisfactory and had been returned to the Procuratore Generale of the Tribunale Supremo in Rome for approval by the Minister of War and publication in the Official Gazette. Thereupon, copies would be circulated to all Regional Legal Officers concerned, together with a memorandum explaining its functions.

The Court would be termed the Tribunale Militare for Northern Italy-- a rather general title, but necessitated by the fact that the Tribunale would be called upon to sit wherever local circumstances demanded it. The Court would function under the Procuratore Generale Militare as opposed to the Minister of Justice, because it would have to adjudicate under Italian Military law and administration.

To cover the Abruzzi-Marche Region, special steps had been taken to set up an Italian Military Tribunale with its seat at Macerata. This was expected to start functioning under the Presidency of General Masetti within a few days. In addition to taking in the Abruzzi-Marche Region, this Tribunale's jurisdiction could be extended

by agreement with the Italian General Staff to embrace all the area in rear of the armies as the Corps of Liberation moved forward.

6. Italian Courts.

a. Personnel to replace those taken away by Ministry.

Lt. Col. Hamnford stated that generally the agreement with the Ministry is that if someone is taken away he must be replaced. There is a shortage of judges and judicial officials and he said that the Italian branch of the Legal S/C is trying to get the Minister of Justice to organize a general "concorso" (examination) for junior magistrates. Salaries which are in force in the administration of justice are so low that one cannot expect to get many people interested in the judicial career. As regards the higher grade, the Minister has been asked to extend the age limit to 75 years. The Minister has also been asked to recall people who had been dismissed by the Fascist Government either because of their age or because of their anti-fascist background.

b. Suggestions for speedy trial of minor offenses.

It has been tried to induce the personnel to work longer hours. The judges now should adopt the peace time winter time-table as in Rome where in the Giudice Istruttore's offices they work until nine o'clock. The official hours are from 8 to 2 but the Procuratore Generale can decide on extra hours and sometimes extra pay. We, however, cannot give them an order in this respect and if the Minister has adopted a time-table which is a general one, it cannot be altered unless by local arrangement. But it is believed that there will be published a decree extending the working hours for judicial officials.

7. Number of amendments to Consolidated Instructions for L. M. Courts required by regions.

RLOs supplied to Lt. Bryce the number of amendments to the Consolidated Instructions they required.

8. Damage to ammunition; Italian law applicable.

Lt. Col. Campbell stated that in view of the fact that Military Courts have been established around Bari to deal with theft and damage of ammunition and that similar cases are arising elsewhere, a Note on the Italian law applicable in such cases had been prepared and was being distributed to all regions. ("Notes on Italian Law relating to damage to and theft of ammunition and other Military Property" attached to letter L. S/4173/1/L dated 29 Nov 44) and he gave a short resume of the contents of the Note.

9. Judicial matters.

Lt. Col. Campbell stated as follows:

a. That there has been great difficulty in recent weeks in obtaining swift execution of persons sentenced to death by L.M. Courts. HQ AC had submitted to AFHQ a draft directive on the subject, the suggested directive being based on experience gained; however, no directive had yet been issued. Pending further instructions, the duty of a Regional Legal Officer is to submit the Record with Petition (if any) to Legal S/C who will then make all arrangements for the execution and will return the Record, complete with original Confirmation, to the RLO concerned when the execution has been completed.

b. The expression "Italian Process" in Art. 1 of the

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b. The expression "Italian Trooper" in Art. 4 of Consolidated Instructions refers only to those Italians who are actively members of the Italian Armed Forces and are engaged on duty in Italy under the command of the Supreme Allied Commander. Normally, such members enjoy exemption in respect of offences committed during normal leave provided that they are due to return to their proper station at the expiration of this leave.

c. In "Out of bounds" or "off limits" notice is only binding on troops; it does not imply any order on the owner or occupier of the premises.

- d. The Finance S/C had recently issued a directive to Regional Finance Officers which dealt inter alia with the manner of handling moneys received in connection with Allied Military Courts. This directive was to be regarded purely as a technical directive to Finance Officers, but it was the duty of all Regional Legal Officers to do their best to ensure that, so far as practicable, accounts relating to the A.M. Courts were kept on the lines requested by Regional Finance Officers. The matter was largely one of local arrangement between Regional Legal and Finance Officers.
- e. That printed amendments and additions to the Consolidated Instructions are in course of printing. PLOs were asked to do their utmost to ensure that these amendments reached all holders of the instructions. Some of the amendments contained substantial changes; others consisted of minor amendments or re-publication of existing directives.
- f. That the principle that every case must be reviewed cannot be abandoned.
- g. That there cannot be any general re-review of "arms cases." Such a re-review would be contrary to the rule that sentences imposed by A.M. Courts, once affirmed on review, will be served in full. Moreover, if it became known that such a re-review took place, heavy sentences in such cases would cease to have a deterrent effect. HQ AG and Regional Commissioners have the necessary discretionary powers to interfere when necessary.
- h. In answer to Major Waugh, that PRCC are within the expression "Italian troops"; that they are subject to the jurisdiction of A.M. Courts; that while normally Italian troops should NOT be tried in A.M. Courts (Consolidated Instructions, Art. 4), members of the PRCC were in a special category, in that they have a special duty to know, respect, and enforce AMT orders; and that if they infringe such orders they should be tried by A.M. Courts. No special authority from HQ AG is required to try a member of PRCC, but cases of real doubt may be referred; see Consolidated Instructions, Art. 4 (1) last para.

11. Next meeting.

Subject to operational and other commitments the next meeting will be held on 24 January 1945 and not on the 10th January 1945 as agreed.

W. E. B. BARRERS,

Colonel,

Deputy Chief Legal Advisor.

1. That there cannot be any general re-review of "mild cases." Such a re-review would be contrary to the rule that sentences imposed by A.M. Courts, once affirmed on review, will be served in full. Moreover, if it became known that such a re-review took place heavy sentences in such cases would cease to have a deterrent effect. HQ AC and Regional Commissioners have the necessary discretionary powers to interfere when necessary.

h. In answer to Major Waugh, that HRCG are within the expression "Italian troops"; that they are subject to the jurisdiction of A.M. Courts; that while normally Italian troops should NOT be tried in A.M. Courts (Consolidated Instructions, Art. 4), members of the HRCG were in a special category, in that they have a special duty to know, respect, and enforce AM orders; and that if they infringe such orders they should be tried by A.M. Courts. No special authority from HQ AC is required to try a member of HRCG, but cases of real doubt may be referred; see Consolidated Instructions, Art. 4 (1) last para.

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W.E.C. Stevens.

W. E. STEVENS,
Colonel,
Deputy Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION
 ART 354
 CIVIL AND DIS. SECTION

10 Dec 44

Ref D/5.5/32

SUBJECT : Payment of Salary to Suspended Italian Officials.

TO : Distribution below.

nothing on reverse side.

- 1 On the reverse hereof for your information is a copy of a Directive of the President of the Council of Ministers No 18776/10045 1.3.1. of 13 Nov addressed to all Italian Ministers conveying instructions as to payment of suspended employees. Those referred to include those who have been suspended by AC officers both before and after 139 came into force in any particular Region and those suspended by AC officers after that date though the responsibility for detaching was then that of the Italian Govt. The letter is intended to clear up the difficulties created by such and various other irregular actions.
- 2 All paying authorities should be aware of the contents of this letter and be acting thereon. When it is no longer in force you will see that it is applied.

BY ORDER OF THE CHIEF COMMISSIONER

[Signature]
 S.E. WHITE Lt Col,
 for VP CA Section

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MS

All Regions for action re persons paid by bodies dependent from Provinces and Communes.
 2 copies Regional 18 - 4 copy Province
 SCAO's 5 and 6 copies.

RVIII/68A/16.

1st Ind.

GM/an.

Headquarters, TOSCANA Region, Allied Military Government.

16 Dec 44.

TO : All P.C's. Rho

1. Forwarded for information and action as necessary.

By ORDER of Colonel KIRKWOOD:

[Signature]
 J. HOWARD SALTER,
 Major, R.A.,
 Adjutant.

Copy to:- R.L.O.
 R.F.O.

It is known that since the liberation of Rome, a discretionary provision has been in force suspending the punitive measures against some public employees holding certain definite titles (squadrista, sciarpa littorio, etc) who are in an unascertained position in regard to the so-called government of the social republic.

After the DLL 159 of 27 July 1944 for sanctions against fascism came into force public administrations were supposed to adopt the formal measure of suspension from office, contemplated by 3rd para art 22 of the said decree against persons referred or to be referred for epuration proceeding with the financial arrangement established thereof, whenever the conditions set forth in the article occur.

The mentioned provision, however, has not been applied completely for various reasons; instead, the old discretionary measures were kept in force, together with the payment of the salary only, contrary to what is established in the mentioned provision.

Hence this Presidency, in agreement with the Allied Commission and the high Commissariat for epuration, has re-examined the question of the treatment of the afore-mentioned personnel, and has come to the conclusion that the above provision must be put into effect in those cases in which it has hitherto been applied.

Public administration will therefore immediately suspend from office, with a ministerial or a prefectural decree, those employees who have not been called back into service or whose recall is not deemed advisable because they constitute a danger to the rehabilitation of the services or are a source of public resentment, giving moreover the relative decrees the same date as that which legislative decree 159 came into effect, for the payment of the sole salary for self-support, excluding any other allowance.

For those who were suspended from office before legislative decree 159 came into effect, with a formal measure of the Allied military Authorities the treatment remains the same from the date of suspension until the date in which the afore-mentioned decree became effective, and from this time the third para of art 22 shall be applied.

Naturally all the allowance are due to those employees who are suspended from office after DLL 159 came into effect up to that date.

It is finally natural that the other employees against whom the suspension decree is not issued, shall be paid all the arrears.

The Ministers, to whom this is addressed will put the measures prescribed in this letter into effect, either directly or through the bodies and agencies under them, giving assurances of their execution to this Presidency.

RESEARCHERS ALLIED COMMISSION
AFO 394
CIVIL SERVICE SECTION

2 Dec 44

EE/2m/Co

SUBJECT: Removal of employees of Fascist Republican Government.

TO: See distribution.

1. In the advance through areas recently in German occupation, and A. officers will have before them the problem of cleaning various Government services.
2. It has sometimes been assumed that every employee of the Republic can Fascist Government is ipso facto unemployable. If this course is followed administrative chaos will result. Already in some areas so many persons of some services have been removed that insufficient are left to carry out essential duties. It is essential that sufficient personnel be retained in all the various services to allow them to function.
3. The principle to be followed is that :
a) Heads of services or of important concerns must be dealt with in accordance with the case No. 67 (or G.O. 35 when the latter is in operation).
b) Those of the lower ranks as to whom there is no evidence of active fascist participation will be retained to work under new anti-fascist heads but employees who have been really active fascists may also when necessary be suspended.
4. The new heads will, if any personnel of suitable qualifications ability and antecedents are available, be promoted with temporary rank from those retained. If none are available, replacements will be requested.
5. Every effort will be made to organize sufficient and efficient services and if, after review, insufficient personnel remain to carry out necessary duties, reinforcements must be requested, but it must be recalled that owing to the universality of the process of defascistizing no large reserves of personnel can anywhere be available. Hence the necessity for haste in ordering suspensions.

BY COMMAND OF THE CHIEF COMMISSIONER:

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- Agriculture S/C

G.R. UNION 3318,
W. A. Section
DOCS 40

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BY COMMAND OF THE CHIEF COMMISSIONER:

1/2 1/3 1/4 1/5 1/6 1/7 1/8 1/9 1/10 1/11 1/12 1/13 1/14 1/15 1/16 1/17 1/18 1/19 1/20 1/21 1/22 1/23 1/24 1/25 1/26 1/27 1/28 1/29 1/30 1/31 1/32 1/33 1/34 1/35 1/36 1/37 1/38 1/39 1/40 1/41 1/42 1/43 1/44 1/45 1/46 1/47 1/48 1/49 1/50 1/51 1/52 1/53 1/54 1/55 1/56 1/57 1/58 1/59 1/60 1/61 1/62 1/63 1/64 1/65 1/66 1/67 1/68 1/69 1/70 1/71 1/72 1/73 1/74 1/75 1/76 1/77 1/78 1/79 1/80 1/81 1/82 1/83 1/84 1/85 1/86 1/87 1/88 1/89 1/90 1/91 1/92 1/93 1/94 1/95 1/96 1/97 1/98 1/99 1/100 1/101 1/102 1/103 1/104 1/105 1/106 1/107 1/108 1/109 1/110 1/111 1/112 1/113 1/114 1/115 1/116 1/117 1/118 1/119 1/120 1/121 1/122 1/123 1/124 1/125 1/126 1/127 1/128 1/129 1/130 1/131 1/132 1/133 1/134 1/135 1/136 1/137 1/138 1/139 1/140 1/141 1/142 1/143 1/144 1/145 1/146 1/147 1/148 1/149 1/150 1/151 1/152 1/153 1/154 1/155 1/156 1/157 1/158 1/159 1/160 1/161 1/162 1/163 1/164 1/165 1/166 1/167 1/168 1/169 1/170 1/171 1/172 1/173 1/174 1/175 1/176 1/177 1/178 1/179 1/180 1/181 1/182 1/183 1/184 1/185 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Legal

RVIII/68/2/48.

1st Ind.

GM/ac.

Headquarters, TOSCAN Region, Allied Military Government.

TO : P.C's and Divisions.

7 Dec 44.

1. Letter on reverse, DF/2A/CA dated 2 Dec 44, from Civil Affairs Sectio HQ, AC is forwarded for information and action as necessary.

By ORDER of Colonel KIRKWOOD:

Dr. Lindley. Sub. A.I.S.
J. HOWARD SALTER,
Major, R.A.,
Adjutant.

A.G. R.H.D.A.

MEETING OF LOCAL SUB-COMMISSION AND RIOS
20 NOVEMBER 1944

1. Personnel Col. Behrens
 - (a) Ceiling for legal officers ~~25~~ 91
 - (b) Promotions
 - (c) Present assignment of legal officers
2. Progress in Defectionism and Espionage Maj. Paladini
3. The Gazzetta Ufficiale and Implementation of Decrees in A.M.S. Territory Lt. Col. Theokrah
4. Jurisdiction of A.M. Courts over Yugoslav Forces Col. Behrens
5. Italian Military Courts Lt. Col. Hannaford
6. Italian Courts Lt. Col. Hannaford
 - (a) Personnel to replace those taken away by Ministry
 - (b) Suggestions for speedy trial of minor offences
7. Number of amendments to Consolidated Instructions for A.M. Courts required by Regions Lt. Bryce
8. Damage to ammunition : Italian law applicable Lt. Col. Campbell
9. Judicial matters Lt. Col. Campbell
 - (a) Death cases : procedure
 - (b) Interpretation of "Italian Troops" in Consolidated Instructions
 - (c) "Out of bounds" notice: Is notice binding on Italians?
 - (d) Co-operation with Finance Officers
 - (e) Amendments to Consolidated Instructions
 - (f) Review :
 - (i) automatic review in every case
 - (ii) suggested re-review of all arms cases
 - (iii) "informal" petitions : new definition: limitation of number.
10. Labour Troop Regls Maj. Alexander
11. Other business
12. Date of next meeting

COPY

PP/110/16

24 Nov. 1944

Implementation of Italian Legislation

HEADQUARTERS 5th ARMY

ALLIED MILITARY GOVERNMENT.

1. Reference your letter No. 2084 dated 20 Nov 1944 on the above subject.

2. The copies of the Gazzetta Ufficiale contained in issues Nos 70 to 83 (Inclusive) have been handed to the Prefect of this Province, and his receipts for the issues Nos 70 to 81 (Inclusive) are sent herewith for favour of forwarding to Legal Sub-Commission A.C.

3. Receipts for issues Nos 82 and 83, and all receipts for subsequent issues will be sent direct to the Legal Sub-Commission as directed.

4. It is noted that in the case of future issues no specific Authority will be given by you, and issues of the Gazzetta will be delivered to the Prefect, as and when received.

For the Provincial Commissioner

Walter J. Purcell
WALTER J. PURCELL, Lt. Col.
Provincial Legal Officer
Pistoia Province.

Copies to:

HQ Allied Commission

Legal Sub-Commission (attn. Lt. Col. Theckrah).

R. C. Toscana Region

S.C.A.O., Florence City.

1. Reference your letter No. 2034 dated 20 Nov 1944 on the above subject.
2. The copies of the Gazzetta Ufficiale contained in issues Nos 70 to 83 (inclusive) have been handed to the prefect of this province, and his receipts for the issues Nos 70 to 81 (inclusive) are sent herewith for favour of forwarding to Legal Sub-Commission A.C.
3. Receipts for issues Nos 82 and 83, and all receipts for subsequent issues will be sent direct to the Legal Sub-Commission as directed.
4. It is noted that in the case of future issues no specific Authority will be given by you, and issues of the Gazzetta will be delivered to the prefect, as and when received.

For the Provincial Commissioner

W. J. Purcell
 WALTER J. PURCELL - Lt. Col.
 Provincial Legal Officer
 Pistoia Province.

Copies to: HQ Allied Commission
 Legal Sub-Commission (attn Lt. Col. Thackrah).
 R. C. Toscana Region
 S.C.A.O., Florence City.

Encls. 12.

HEADQUARTERS
 1st FIFTY ARMY
 200 4th S.S. /SST

4th November 1944.

208/4

SUBJECT: Implementation of Italian legislation.

TO : P.C. Mason.
 P.C. Pistoia.

1. In order to assist the progress of the local Italian administration, it has been decided to permit the implementation of Italian legislation in provinces within the Army area prior to the date on which such provinces have under regional control.

2. Authority is therefore given to you to make operative forthwith within your province the whole of the legislation published in the Gazzetta Ufficiale special series no. 1/3 to 6/3 and 1 to 69 (inclusive) with the exception of such decrees as have been expressly excluded from implementation in military government territory by endorsement in the Gazzetta Ufficiale.

3. Copies of the reprint containing the legislation published in Gazzetta Ufficiale special series no. 1/3 to 6/3 and 1 to 39 together with copies of subsequent issues nos. 40 to 69 (both inclusive) should be delivered to the Prefect and his official receipt obtained in accordance with the procedure laid down in Royal sub-commission Directive 200/2010/2/1 dated 25 July 1944 on the implementation of Italian legislation in military government territory.

4. The receipts for the documents will be dealt with as provided in paragraph 6 of the Directive except that the copy intended for the use of the Royal sub-commission will be forwarded through this Headquarters, so that the necessary records may be maintained.

5. All issues of the Gazzetta Ufficiale subsequent to no. 69 will be delivered to the Prefect pending receipt from this Headquarters of authority to make operative the legislation published therein.

6. While the Italian legislation will become operative as above throughout the province whether within or to the rear of Corps area, provincial commissariats should draw the attention of the prefects concerned to the special conditions existing and to the importance of avoiding any unnecessary activity within Corps area. In particular, current restrictions on travel must be observed.

For and in the absence of Brigadier General HUIE:

SAW

M.D. LAMME,
Colonel, U.S.A.,
Chief of Staff,
A.S.A. Fifth Army.

1007 100

31. Allied Commission.
1.1. 1945.
1007 100.
1007 100 division.

1007

HEADQUARTERS REGION VIII
ALLIED MILITARY GOVERNMENT

File Ref:

Date: 6 November 1944

SUBJECT: Attached minutes.

TO : Provincial Legal Officer, Pistoia Province.

1. When you have read these minutes, please return them to this office.

[Signature]
JOHN K. WEBER
Colonel, Infantry
Regional Legal Officer

Regional Legal Officer
H.Q. TOSCANA REGION
ALLIED MILITARY GOVERNMENT

SUBJECT : Minutes of Meeting of R.L.O.'s

The attached minutes are returned here=
with.

[Signature]
WALTER J. PURCELL - Lt. Col.
Provincial Legal Officer
Pistoia Province

28

PROVINCIAL LEGAL OFFICE
LIVORNO PROVINCE
ALLIED MILITARY PROPERTY

October 26th. 1944.

Prot: 464 L6

SUBJECT: Attached Minutes.
TO : P.L.O. Pisa Province.

1. In accordance with paragraph 2, basic letter
attached forwarded to you.

Robert M Woodward
fed

ROBERT M. WOODWARD
Major, AUS. PLO.
Livorno Province.

1st IND

HQ PISA PROVINCE AMG, PROV LEGAL O.

1 November 1944

TO : Prov Legal O., Lucca Prov.

Forwarded as per instructions in basic communication.

Edward E Nevans

EDWARD E NEVANS,
1st Lt., C.M.P.
Prov Legal Officer

HEADQUARTERS REGION VIII

ALLIED MILITARY GOVERNMENT
TOSCANA REGION455 615 RMW
CCB

File Ref: RVIII/19/1006

Date: 9 October 1944

SUBJECT: Attached minutes.

TO : All P.L.O.s.

1. In keeping with the policy of this office of giving Provincial Legal Officers every assistance, there is attached hereto minutes of the Conference of Regional Legal Officers recently held in Rome.

2. As this copy must serve the entire Region, it is imperative that after it has been noted by you that it be returned to this office for transmission to other Provinces. Please initial the sheet indicating its receipt by you. Obviously, matters of concern should be noted by you for reference in your office in the future.

3. Attached Legal Personnel should be given opportunity to be informed.

John K. Weber
JOHN K. WEBER,
Colonel, Infantry,
Regional Legal Officer.

*Livorno, first,
then pass on to Pisa direct, 88h.
1 incl.
and from Pisa to Lucca.*

Lucca will please return to this office

Lucca - L.L.M.

JW

Deana Repin

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 304

ACC/401-4/D.

2 October 1944.

NOTES OF MEETING OF LEGAL SUB-COMMISSION AND RLOS
HELD AT HOME, 20 SEPTEMBER 1944.

Col. P. H. Wilmer
 Brig. G. R. Upjohn, K.C.
 Col. W. E. Behrens
 Col. J. K. Weber
 Col. H. G. Willmer K.C.
 Col. J. W. Chapman
 Lt. Col. K. J. Grossman
 Lt. Col. A. H. Thackrah
 Lt. Col. J. L. Willis
 W.C., H. M. Pickie
 Lt. Col. L. Dwsan
 Lt. Col. W. G. Elder
 Major E. J. Palmeri
 Major Frank L. Vecchiola
 Major R. G. S. Alexander
 Major W. H. Levit
 Major W. F. Haugh
 Major C. M. Welsford
 Captain J. W. Levy
 Captain E. M. Matthews
 Captain R. J. Gaziano
 Captain W. G. R. Oates
 Lieutenant H. G. Joyce

-	CLO	
-	VP.Admin Sec	
-	DCLO	HQ ACC
-	PLO	HQ ACC
-	RLO	Region VIII
-	RLO	Region XII
-	RLO	Piemonte
-	Chief Counsel	HQ ACC
-	L.O.	HQ ACC
-	RLO	Region V
-	RLO	Region XI
-	RLO	Southern Reg.
-	RLO	Liguria
-		HQ ACC
-	L.O.	Region IV
-	RLO	Region VI
-	RLO	Region IX
-	RLO	Region XI
-	PLO	Liguria
-	L.O.	HQ ACC
-	RLO	Region I
-	DPLD	Region IV
-	DPLD	Region XII
-	L.O.	HQ ACC

I. Personnel.

The CLO stated that regarding legal personnel, as it was reported at the last meeting, it was then at an all time low-- at 57. A great deal of time has been spent to round up additional personnel. The CLO stated that the total legal personnel stood at 76 which is quite an improvement. Obviously, it is not enough if suddenly the northern regions were thrown open. We have accumulated enough, however, to do a reasonably good job until the new regions are completely opened up. Then more legal officers will be called in from Region IV and from Region VIII to move north. As far as Region IX is concerned, some of the officers there were earmarked for future regions. Region IX must however perform its functions before officers are taken away, for obviously, personnel cannot go to the new regions leaving back regions completely unattended. A few more legal officers will come in from various sources in the course of the next few weeks and that will help the situation further.

2. Promotions.

A. American.
(1) Ems.

At the present time, as far as promotions of deserving employees men on the American side are concerned, the CIO stated that no vacancies exist at the present time for promotions, that this does not mean that application

II. Personnel.

The CIO stated that regarding legal personnel, as it was reported at the last meeting, it was then at an all time low-- at 57. A great deal of time has been spent to round up additional personnel. The CIO stated that the total legal personnel stood at 76 which is quite an improvement. Obviously, it is not enough if suddenly the northern regions were thrown open. We have accumulated enough, however, to do a reasonably good job until the new regions are completely opened up. Then more legal officers will be pulled in from Region IV and from Region VIII to move north. As far as Region IX is concerned, some of the officers there were earmarked for future regions. Region IX must however perform its functions before officers are taken away, for obviously, personnel cannot go to the new regions leaving back regions completely unmanned. A few more legal officers will come in from various sources in the course of the next few weeks and that will help the situation further.

2. Projections.

- a. American,
(1) EMS.

At the present time, as far as promotions of deserving enlisted men on the American side are concerned, the CIO stated that no vacancies exist at the present time for promotions, that this does not mean that application for their promotion should not be submitted, for when there are vacancies, their names will already be on the list.

- (2) 4440101.

Officers. Coming to the question of officers' promotions, the CIO stated that there was a NATOSOL order dated 15 August 1944 closing all promotions in field grades. Promotions have been frozen from time to time in the past and.

2.

therefore that does not mean necessarily that it will be a long time before they are open again. They are frozen at the moment, but applications which were submitted before the 15th of August were sent forward. However it is not known what action has been or will be taken at Higher Headquarters. As to officers being recommended for promotion from 2nd Lt to 1st Lt and from 1st Lt to Captain, the freeze does not apply and during the last week or so several deserving officers in these ranks have been promoted.

There is no reason why recommendations should not be submitted at all here even if they are held until they can be acted upon.

With the shifting of officers around from region to region it is always feared that some man who has done an excellent job all along the line will be passed over by one Commanding Officer or another. It is up to the RLOs to watch out for their own men.

DOLO stated that the position is still unsatisfactory.

(1) (CIS)

Recommendations should be sent in and will be acted on as soon as vacancies are available.

(2)

Officers.

The Board has recently sat. It is hoped some promotions will result; there will be very few as until the War Establishment is increased there are almost no vacancies. A definite promise has been received that the War Establishment will be increased within the next two or three weeks and if that happens, it is hoped that further promotion will be made. However, such promises have been made before and not even acted.

Brig. Upjohn stated the number of vacancies for promotions from Captain to Major was insufficient to allow each sub-Commission to have one promotion, let alone C.O.s. DOLO stated that the procedure for promotion for promotion has been changed by the recent administrative instructions of 12 September 1944. This procedure must be followed. It is merely a list of officers who have been recommended. No officer will be promoted unless an A.P.B. 194 D has been submitted for him.

Rice must ensure that any officer whom it is desired to promote has had this form submitted for him. It cannot be guaranteed that a promotion will automatically follow the submission of this form but that certainly will be no promotion without it.

Brig. Upjohn stated that in the field, promotions are recommended by Regional Commissioners. It sometimes happened, that because an officer started from one region to another at a vital moment, he missed a recommendation for promotion since the new RC did not feel that he to the officer well enough to send one in; Brig. Upjohn had suggested to the Establishments Branch that to avoid injustice in these cases the system should be adopted whereby directors of sub-Commissions should be allowed to recommend the promotion.

On the subject of dismissing fascists from their posts Brig. Upjohn reminded the meeting that under the new decrees of 27 July a promotion was done in the main by a series of ministerial commissions and not (except for purely local concerns) by Provincial Commissions. He stated that the High Commissioner had been extremely vague and very slow and not withstanding much pressure until the day before yesterday.

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is up to the RLOs to watch out for their own men.

LOLO stated that the position is still unsatisfactory.

(1) Recommendations should be sent in and will be acted on as soon as vacancies are available.

(2) Officers. The Board has recently sat. It is hoped some promotions will result; there will be very few as until the War Establishment is increased there are almost no vacancies. A definite promise has been received that the War Establishment will be increased within the next two or three weeks and if that happens, it is hoped that further promotion will be made. However, such promises have been made before and not even acted. Brig. Upjohn stated the number of vacancies for promotions from certain posts for the War Establishment to allow each sub-Commission to have one promotion, but alone C.O.s. LOLO stated that the procedure for promotion for promotion has been changed by the recent administrative instructions of 12 September 1944. This procedure must be followed. It is a pity that a list of officers who have been recommended. The officer will be promoted unless an R.F. 194 D has been submitted for him. R.F. must ensure that any officer whom it is desired to promote has had this form submitted for him. It cannot be guaranteed that a promotion will automatically follow the submission of this form but that certainly will be no promotion without it.

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3. Actions against Fascism.

On the subject of dismissing fascists from their posts, Brig. Upjohn reminded the meeting that under the new decrees of 27 July epuration was done in the main by a series of ministerial commissions and not (except for purely local concerns) by Provincial Commissions. He stated that the High Commissioner had been extremely vague and very slow and not withstanding much pressure until the day before yesterday had not issued the procedural "Regolamento" under the decree.

The Italian Government had now produced a new draft decree with the object of getting rid of the big man rapidly. By its terms each Minister has to produce within two months a list of all those in grades 1 - 4 in I. who should be purged.

In the provinces (Brigadier Upjohn stated) the situation was even more unsatisfactory. Provincial Commissions are set up on which to purge organizations dependent from the Prefect or the Governor. No provincial commissions have yet been appointed.

On the other hand Brigadier Djohm said he did not want the meeting to carry away too gloom, a view. The subject was fraught with difficulty and the Italians were naturally very slow. In the end the decree would work.

Epurations in L.M.O. territory.

Before this decree was made law in any particular province, defascistization was done under Executive Memorandum No. 67. There were two lists: List A - persons with Prefects, Procuratore del Re, etc.; List B - list of fascist officers, Mercia su Roma, Sciarpa Littorio, etc. Looking at List A, if it is seen that any are members of any such organization in List B, they are removed from office. In addition to that Count Sforza has supplied names of reliable persons in towns not yet liberated so that SCAG Army or RC could ask in secret for their advice in removing officials.

On entry into newly occupied territory, Executive Memorandum No. 67 was sufficient but at the moment the Italian Government was so slow at getting its epuration scheme to work that some other form of epuration might be necessary. That matter is under consideration. In the meantime the Brigadier asked those present to advise the RCs or RCs against having any form of amateur epuration commission. Executive Memorandum No. 67 sets out the procedure to be followed when arriving in a province.

Major Palmieri stated that there is no uniformity and no consistency and a good deal of confusion in the matter of defascism on the part of the ministries themselves. In many cases there has been a mass distribution of Schede Personali which was against our interests and against the interests of the Italian Government. We do not like to see minor employees afflicted with the duty of filling out this personal schedule unless their cases are worthy of investigation by the epuration commission.

When one reaches a small underpaid employee one must be careful that he is not made a scapegoat. Generally, low grade Government employees have not occupied important political posts. Generally these employees are not subject to dismissal under the defascist law. On September 10th a talk was held with the High Commissioner regarding distribution of personal questionnaires. It was agreed that only employees of Civil Service Grade 1 - 6 inclusive should receive Schede Personale in the first instance, employees inferior to grade 6 should not have to fill out Schede Personale unless they are before the defascism commission. In this way the commission can devote its attention to the more important employees. The proposed decree which the Brigadier referred to, Mr. J. Palmieri declared, will bring about a speedier procedure. If you find Schede distributed indiscriminately to employees inferior to grade 6, stop it.

There are some cases, Major Palmieri stated, with respect to people dismissed from office before the decree of July 27th under the old Badoglio decree or under Regional Order. There may be cases which may be incompatible with the new decree of July 27th. These cases must be examined and disposed of in accordance with the decree of July 27.

Major Palmieri stated that there has been some question with respect to a right to a hearing by the Commission. That is a matter of discretion with the Commission. If evidence is clear to the Commission from the scheds personale of the employee that he can have no valid defence they have a perfect right to refuse a personal hearing. They have no right to refuse receipt of the written defense of the employee.

The CLO stated that the decree does not apply to Army territory. If Army line appears stiff it might be suggested that some decree would be made law of the Pro-

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appears static it might be suggested that some decree would be made low of the In-
vince. It was stated that the duty of the SCAs has changed very considerably in the
last few months.

A. Treatment and status of enemy partisans.

Discussion on various phases. The subject is covered in a secret circular which
is being issued but RLCs must realize that this is a difficult and delicate question
and must take great care to ensure that no rash decisions are taken. The
doubt should be referred to this HQ.

5. Italian Military Tribunals.

The CLO stated that the Italian Military Tribunals have been functioning, of course with their own army, but also with the purpose of aiding in the quick disposal of cases affecting Allied interests. In Naples, it is understood, the Military Tribunals have performed very satisfactorily on the whole, and are cooperative. In Sicily also the same relation exists. In Bari the Italian Military Tribunal was the limit of uncooperativeness and deceptiveness. The whole situation in Bari has been a rather pro-fascist one and the whole spirit of the Tribunal is seemed to be infected. The CLO reported a housecleaning there and the appointment of Dr. Umberto Borsari until recently a member of the Court of Cassation as Procuratore Generale Militare in the place of Gen. Treina. The CLO requested that RLOS submit reports as to how things are going in the military tribunals in their regions insofar as Allied interests cases are concerned. If things are not going on well, sentences are ridiculously low etc, the CLO expressed the wish to be informed about it because he could then take it up quite forcefully with the new Procuratore Militare Generale. The CLO stated that he proposed to have a weekly or fortnightly conference with the new Procuratore Militare Generale in the same way as he has weekly conferences with the Minister of Justice.

Jurisdiction.

If the accused is not in jail at the time he is called to trial and he is thus found guilty, he has to be allowed liberty during the period in which the appeal is pending, if he has filed one, or during the period within which he may file one.

Relations with Allied Military Authorities

In this general connection the CLO urged the RLOS to discuss with the Allied Military authorities any problems affecting the various courts including the Italian Military Tribunals. A very close and frank relation must be maintained.

In answer to a question, the CLO stated that the Headquarters of the Procuratore Generale Militare had been at Lecce and has just been moved to Rome. The places where Military Tribunals are now functioning will be communicated later. It was stated that there is a very reduced personnel of Italian Military judicial authorities-only 250 now and it is proposed to send these judicial military officers to places where they are needed. It is doubted whether they are functioning in the forward areas.

6. Death sentences under Italian Law.

DCL O explained the new decree which the Minister of Justice is proposing to publish for the abolition of the death sentence. The proposed decree was a short one and abolished the death penalty for offences under the Codice Penale. The penalty, however, will be preserved in two cases, viz., (a) for offences under the Codice Penale Militare and (b) for offences under Article V of decree, Sanctions against Fascism, RDL 159.

The Minister had proposed this law because the death penalty under the Codice Penale was a fascist innovation which he wished to remove. ACC had approved publication of decree.

The decree affects Allied Tribunals because persons who are tried under Italian Law can only be punished in accordance with the penalties prescribed by that law. The decree will not affect persons who are guilty of acts of sabotage and espionage. They can be tried under the Codice Penale Militare for the offences detailed in Articles 59

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7. Fascist Republican Laws.

Col. Thackrah stated that this question arose out of a circular from the Ministry of Justice which RLOs will all receive in due course. It is a simple matter. As generally known, under the fascist regime there existed the famous Tribunale Speciale per la Difesa dello Stato, the Fascist "Star Chamber" in which all sorts of things were done. At Rome prior to the break up, the Badoglio Government before it left, suppressed, by the RDL of 1943 this special tribunal but no sooner had Badoglio left than Mussolini and company with the Nazi-Fascist Republican Government restored the tribunale and even created local branches of it to spread the net still wider. The attitude which the present Italian Government has taken towards the judgments of the two eras of the Tribunale Speciale was this, sentences of the old Tribunale Speciale will be revised on basis of a law in course of preparation; whilst the sentences of the new Tribunale Speciale ^{it} considered null and are non-existent.

The Italian Government had dealt with ^{it} by means of a circular sent out by the Ministry of Justice to Procuratori del Regno telling them all they must get busy on the release of prisoners and the retrial of all common-law sentences which have been passed by the reconstituted and newly established "tribunali for the Defense of the State."

Col. Thackrah said that RLOs will get the circular referred to. The Italian version will be on one side and the English on the other. The CLO stated that at the meeting with the Minister of Justice, he was handed a new proposed decree which goes back and deals with cases tried prior to the Badoglio regime, trying to undo some of the things done before July 1943. Although the opportunity has not as yet presented itself to examine the proposed decree the CLO stated that there was certainly a definite attitude on the part of the Minister to try to undo as rapidly as he can these various things and get them off the statute books.

Brig. Upjohn stated that it would be desirable that some publicity be given by the Italian Government to their view that the laws of the Fascist Republican Government be automatically null and void. The CLO stated that study is being given for consideration of a decree to get rid of the wrongs and to take care of rights.

8. Distribution of Official Gazette in Occupied Territory.

Lt. Col. Thackrah first recapitulated what happened to the Gazette since the last meeting, saying there is a change in the Executive Commissioner's order which is printed in each copy of the Gazette implementing the law in regions of AMG territory. Before the order was of the kind which only implemented certain specific Italian decrees and made them the law of regional territory. Now the implementation order had been changed around to implement the Gazette in toto and specify any exception to this implementation. Any Sub-Commission in AMG that singles out any decree they do not want implemented has the responsibility of informing the Legal Sub-Commission.

Dividing machinery for distributing Gazette.

Lt. Col. Thackrah told the meeting that an Italian printing works prints the Gazette and ^{an} Italian organization distributes it to Italian Officials. The Legal Sub-Commission distributes it in AMG territory through administrative channels to the commissioners whose duty it is to hand these gazettes to the Prefects of Provinces, so that they, in turn, distribute the Gazette to their officials and men responsible. The effective date of the publication of the Gazette is the date it is delivered to the Prefect in that Province analogous to the posting ^{of a proclamation} **23**

reverted the tribunals and even created local branches of it to spread the net still wider. The attitude which the present Italian Government has taken towards the judgments of the two arms of the Tribunale Speciale was this, sentences of the old Tribunale Speciale will be revised on basis of a law in course of preparation; whilst the sentences of the new Tribunale Speciale considered null and are non-existent.

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He stated that PCs are very busy officials and therefore we have to rely on the RLOs under their respective RLOs to keep an eye on the Gazette and see that it gets into the hands of the Prefects and that Prefects give receipts. The Gazette is sent out packed up and labeled with a receipt attached to it. The filling of receipts at Prefecture, dating, numbering and sending back to this HQ is important piece of machinery. He said that we look to RLOs and PCs to supervise this piece of legislative machinery and see that they get the receipts back to us. They do not

at present, 6. on reach this HQ regularly, but must do so in order that we can get these records so as to know when the laws became effective in each particular province.

As for Regions PIEMONTE, LIGURIA, XI and XII we are taking special steps to have the Italian printing works and Italian publishers prepare collections of Gazettes for these particular regions. Col. Thackrah stated he was glad to note that RLOs of these regions were interested and taking the matter personally in hand and would supervise distribution of these collections to their regions as they came under regional control.

In about a week's time these collections should be ready. He added that RLOs should keep in close touch with HQ and tell us when they were prepared to receive these collections and advise us when they receive same, also when their distribution commences.

Regional Control in relation to the Gazette means that the decrees and laws published therein may become effective in that region. Until then it is under the Army. In some cases, it was stated, Army take administrative steps in Army areas to implement suitable Italian legislation when static period occurs.

In answer to a query it was made known that Perugia was still under 8th Army control per circular dated two days ago.

9. Assaults, etc., by Partisans against Fascists.

The CIO stated that people who have been patriots or partisans in our favour sat behind our lines and when they see fascists, some of them still in office, they are tempted to take the law in their own hands. Nevertheless the CIO stated, they cannot be allowed to make assaults of that kind which may result in death or disturbance. These are cases generally not to be tried by AME Courts. As to what Court should try them the CIO stated that it was his feeling that no specific directives can be laid down. Generally those are cases of Italians against Italians for Italian Courts to deal with. He said that on the other hand assaults might lead to a disturbance affecting the military security. He considered it proper for an AME Court to handle such a case and that after all the disposition of such cases must be on a basis of a common sense.

10. Retention of prisoners convicted by AME Courts and Italian Courts where Allied interests involved.

The CIO stated that there is no general knowledge in our possession, particularly in the back regions, as to whether prisoners who were convicted by AME Courts are still in jail.

In the same connection he said regarding the amnesty situation that the Minister's decree of April 5th does not apply to any case where the person is convicted by an AME Court or by an Italian Court where it involved Allied interests. The Minister has made this abundantly clear by his circular sent out everywhere.

11. Italian Government cars requisition prohibited.

Capt. Levy stated that Establishment Branch Memorandum No. 21 of Sept 3, which name deals with the requisitioning and registration of civilian vehicles in general, para 12 in particular deals with civilian vehicles which are not to be requisitioned. Para 12 enumerates, Doctors, nurses, diplomats, etc. We were of the opinion, he said, that it did not necessarily mean to include vehicles being used by the Minister of Justice and judges as being immune from requisitioning. He said that when he asked the Establishment Branch...

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to see that any vehicles so being used should be uninterfered with by any one.

Major Elder stated that as far back as Jan and Feb the difficulty was gotten around by getting the Prefect to requisition cars, thus solving all the difficulties. The CLO stated that at the next conference the procedure will be given on that sort of thing.

12. Consolidated Instructions.

Lt. Bryce stated that last week the Hq sent around to 5 new regions Consolidated Instructions, Rules of Procedure in Italian, Proclamations in lots left over and in booklet form.

Regarding Consolidated Instructions they are purely a reprint of the first edition but regards Proclamation No. 1 it has Capt. Stone's name in the preamble and is signed by him.

We did not know of the final change until booklets were printed but the body is up to date. There is a very small stock left. When a region feels that they have not sufficient copies, the order is to be placed as soon as possible so that the distribution can be made fairly. Copies must be kept at Hq for emergency.

13. AND Courts.

a. Records.

(1) On the outside of Form 8, spaces are left for the age and occupation of the accused. These spaces must be filled in.

(2) Records must be completed, exhibits must be included in the proper condition, i.e., they should not be so torn as to be unrecognizable. Extraneous documents, such as statements taken before the hearing of the case and not put in evidence at the trial, should not be included.

RLOs are responsible for seeing that records are forwarded in the proper condition.

b. Procedure on submission of no case.

If, at the end of the case for the prosecution, it is apparent that no case has been made against the accused, the court should dismiss the case. If at this stage the advocate for the accused wishes to argue that no case has been made out, he must be permitted to do so and his argument considered. If his argument is rejected, the advocate must then decide for himself whether he will rest on his submission or whether he will call evidence. If he rests on his submission and the court convicts the accused, it is open to the advocate to argue in his petition for review that there was no evidence to support his conviction. If, however, he calls evidence and the accused is convicted, it is no longer open for the petition for review to attempt to exclude the evidence given for the defense in arguing that there was no evidence to support the conviction. Such evidence, once given, forms part of the complete record of the case and the whole of that record can be examined to see if there is evidence to support the conviction. This is in accordance with both British and American procedure.

2. Jurisdiction of Summary and Superior Courts in multiple charges.

4. Person charged before a Summary or Superior Court is charged as one case, however many charges are brought against him at that time. It follows that the total punishment awarded in respect of all these charges must not exceed that

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RLOs are responsible for seeing that records are forwarded in the proper condition.

b. Procedure on submission of no case.

If, at the end of the case for the prosecution, it is apparent that no case has been made against the accused, the court should dismiss the case. If at this stage the advocate for the accused wishes to argue that no case has been made out, he must be permitted to do so and his argument considered. If his argument is rejected, the advocate must then decide for himself whether he will rest on his submission or whether he will call evidence. If he rests on his submission and the court convicts the accused, it is open to the advocate to argue in his petition for review that there was no evidence to support his conviction. If, however, he calls evidence and the accused is convicted, it is no longer open for the petition for review to attempt to exclude the evidence given for the defense in arguing that there was no evidence to support the conviction. Such evidence, once given, forms part of the complete record of the case and the whole of that record can be examined to see if there is evidence to support the conviction. This is in accordance with both British and American procedure.

2. Jurisdiction of Summary and Superior Courts in multiple charges.

A person charged before a Summary or Superior Court is charged as one case, however many charges are brought against him at that time. It follows that the total punishment awarded in respect of all those charges must not exceed the total which the particular court has jurisdiction to award in any one case in accordance with Art. 25 of the Consolidated Instructions.

14. Enemy military property including petrol cans.

The CIO stated that this question was raised out of the desire of military authorities to get into their hands all military petrol cans of all types as soon as possible.

- 8 -

Lt. Col. Grossman said that the acute need of the Armed Forces for military petrol cans had raised many very interesting questions with respect, not only to petrol cans, but to all Italian and enemy military property in general. He pointed out that the possession of petrol cans or other enemy military property which by operation of law had become the property of the Allied Forces, could be dealt with under Proclamation No. 1, Art. IV, Sect. 11 and Art. V, Sect. 27 which make unlawful the possession of property of the Allied Forces. He said, however, that a prosecution under the foregoing provisions of the proclamation would immediately raise the question of whether the petrol cans or other enemy property had become the property of the Allied Forces. In par. 4 of directive of 19 August 1944 having to do with "Allied war supplies as abandoned property," it was stated that enemy war supplies become the property of the Allied Forces only when some act is done by the Allied Forces to reduce them into possession. That, in turn, raises the further legal question of what acts constitute a reducing to possession. He said that it might be argued at the one extreme that a victorious passage by the Allied Forces over a battlefield of itself reduces to possession enemy property located thereon. On the other hand one might say that the specific property must to all intents and purposes be individually labeled or ticked.

It therefore was apparent the means should be devised in the case of petrol cans or other enemy property to avoid the necessity of proof that the same had become the property of the Allied Forces.

He stated that under existing Allied military law, a person in possession of enemy military property can be charged under Proclamation 1, Art V, Sec. 28, provided that 30 days have elapsed since the posting of the proclamation and he has not meanwhile made a declaration thereof. The offence under this section is failure to declare and not continued possession.

He mentioned that in view of the foregoing complications, it seemed desirable specifically to make possession of German military petrol cans or other military property abandoned by the Germans or of German military origin an offence; and that had been accomplished under General Order No. 33. It was to be noted, however, that the possession is unlawful only after 14 days have elapsed from the posting of the order. This provision was for the purpose of encouraging persons in possession to surrender the same.

Notice No. 4 which will be published in conjunction with General Order No. 33, concerns itself however only with the subject of petrol cans because their need is currently the most urgent.

He said that the urgency of the situation as to military petrol cans is such as to require that Italian military cans also be surrendered. Under Allied Military Law as it stood, such possession was not prohibited unless (1) they are deemed to be Allied Military property having been reduced to possession before the Armistice (After the Armistice, by directive of AFHQ they are considered to be Italian material reserved for the use of the Italian Army), or unless (2) Italy is still considered as an enemy within the meaning of Art. 28 which required a declaration of stores of enemy origin.

To clarify this situation, General Order No. 33 makes wrongful possession of Italian military petrol cans or other Italian military property an offence, but only after an expiration of 14 days from the effective date of the order.

15. Other business.

There then ensued a general discussion of a number of individual problems and

forces to reduce enemy military property. He said that it might be argued at the one extreme that a victorious passage by the Allied Forces over a battlefield of itself reduces to possession enemy property located thereon. On the other hand one might say that the specific property must to all intents and purposes be individually labeled or ticked.

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To clarify this situation, General Order No. 33 makes wrongful possession of Italian military petrol cans or other Italian military property an offense, but only after an expiration of 14 days from the effective date of the order.

15. Other business.

There then ensued a general discussion of a number of individual problems and the meeting was finally adjourned at 1240 hours.

16. Next meeting.

The time and place for the next RLO meeting was not set but it was indicated that it would be held in about six weeks.

Richard H. Wilmer

RICHARD H. WILMER,
Colonel, GAO,
Chief Legal Adviser.

BEST COPY POSSIBLE

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4011/6/L.

SUBJECT : Representation of Allied interests in Italian Courts (Parte Civile).

TO : Regional Commissioners (Attn: Regional Legal Officers),
SICILIA, SARDEGNA, SOUTHERN, LAZIO-UMBRIA, ABRUZZI-MARCHE, TOSCANA,
EMILIA, LIGURIA, PIEMONTE, LOMBARDIA, VENETIA Regions.

1. Cases frequently occur in which Allied financial interests are prejudi-
cially affected by offences committed by Italians, e.g., by thefts of Allied
stores.

2. Under Italian law a party whose interests are so affected by a criminal
act may appear by an advocate at the criminal trial of the offender as "parte
civile" and may be awarded damages. He can, of course, file a claim for damages
after the criminal case has been determined, but procedure by way of "parte
civile" eliminates the necessity for such action.

3. Parties may select any qualified legal representative they desire, but
the Italian State has created a permanent body of legal representatives, the
"Avvocatura dello Stato", composed of salaried functionaries whose duties are
to represent the Italian State, the Government, Provinces and Communes as claim-
ants or defendants before all judicial or administrative jurisdictions of the
Kingdom.

4. The Italian Government has now passed D.L. No. 166 of 3 July 1944 (transla-
tion on reverse), which extends to Allied authorities or members of the Allied
Forces the benefit of the services of the "Avvocatura dello Stato" to defend their
interests in such cases. It should be observed that it is not compulsory for the
Allied Forces to employ the services of the "Avvocatura dello Stato" as any person
duly qualified to appear before the competent Italian court can be specially
briefed for this purpose if so desired.

5. Branches of the Avvocatura dello Stato exist in the seventeen districts
of Court of Appeal of Italy, i.e., ANCONA, AQUILA, FARI, BOLOGNA, BRESCIA, CAGLIARI,
CATANIA, CATANZARO, FIRENZE, GENOVA, MASSIMA, MILANO, NAPOLI, PALERMO, TORINO,
TRIESTE, AND VENEZIA. All those situated in liberated territory are functioning
normally in spite of the fact that the number of their members has been somewhat
depleted owing to the war and political considerations.

6. Whenever any military authorities decide that Allied interests should be
represented by the Avvocatura dello Stato in Italian Courts, it will be the duty of
the legal officer concerned to request the Avvocato distrettuale dello Stato (head
of the local branch of the Avvocatura) to appoint a suitable member of his staff for
this purpose. It will be the further duty of the legal officer to advise the
Military authorities concerned as to the advisability of such steps according to the
circumstances of each individual case.

BY Command of Commandere STONE:

W. B. Schuster. Col

for RICHARD H. WILMER,
Colonel, OAC,
Chief Legal Advisor.

Copy to: AFHQ - for info,
HQ AAI - " "

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21 October 1944

stores.

2. Under Italian law a party whose interests are so affected by a criminal act may appear by an advocate at the criminal trial of the offender as "parte civile" and may be awarded damages. He can, of course, file a claim for damages after the criminal case has been determined, but procedure by way of "parte civile" eliminates the necessity for such action.

3. Parties may select any qualified legal representative they desire, but the Italian State has created a permanent body of legal representatives, the "Avvocatura dello Stato", composed of salaried functionaries whose duties are to represent the Italian State, the Government, Provinces and Communes as claimants or defendants before all judicial or administrative jurisdictions of the Kingdom.

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By Command of Commendatore STONE:

for

Weber, C. R.

RICHARD H. WILDER,
Colonel, GAC,
Chief Legal Advisor.

Copy to: AFHQ - for info.
HQ AAI - " "

308

LEGISLATIVE DECREE OF THE LIEUTENANT GENERAL OF THE KINGDOM No. 3984
OF 3 JULY 1944



Conferring upon the Avvocatura dello Stato the defense of property interests of the Allied Armed Forces, rules for retention and reinstatement in service of the personnel of the Avvocatura dello Stato.

UMBERTO DI SAVOIA, etc.

ART. 1

For the duration of the present war the Avvocatura dello Stato may upon request of an Allied Command undertake the representation and defence of the property interests of the Allied Armed Forces and members thereof in civil and criminal proceedings taking place in liberated territory.

The exercise of such functions shall be governed by the provisions of Art. 1, Para 2 of the consolidated law No. 1611 of 30 Oct. 1933.

ART. 2

In order to meet the temporary and urgent requirements of the service arising out of the present war emergency the regular functionaries and employees of the Avvocatura dello Stato who distinguished themselves by their diligence, zeal and efficiency, may be retained in service beyond the ordinary limits until six months after the cessation of the present state of war and not beyond the completion of the 75th year of their age.

Furthermore on account of the same requirements of service such regular functionaries and employees who have been retired for not more than two years, may be temporarily reinstated in their functions until they have completed their 75th year.

The relative provisions shall be enacted by a decree of the President of the Council of Ministers in agreement with the Minister for Finance upon favourable recommendation of the Commission for personnel matters.

The personnel reinstated in service shall for the period of service receive such allowances as fixed by R. Decree-law No. 34 of 31 Jan 1944.

ART. 3

The personnel thus retained or reinstated in service in accordance with the preceding article may be dismissed from active service by a decision of the President of the Council of Ministers without right of appeal.

The services rendered by said personnel in accordance with this decree shall not be considered in the computation of the pension nor do they give rise to any claim for payment of allowances upon retirement.

ART. 4

This decree shall become effective on the date subsequent to the date of its publication in the Gazzetta Ufficiale of the Kingdom.

For the duration of the present war the Avvocatura dello Stato may upon request of an Allied Command undertake the representation and defence of the property interests of the Allied Armed Forces and members thereof in civil and criminal proceedings taking place in liberated territory.

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ART. 4

This decree shall become effective on the date subsequent to the date of its publication in the Gazzetta Ufficiale of the Kingdom - special series.

We order, etc.....

Given at Naples, the 3rd of July 1944, etc.
Transl. 21 Oct. 44.

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4005/L.

RHW/mt
3 Oct 44.

SUBJECT : Opinions to Regional Controller of Property.

TO : Regional Legal Officer (thru RC) - Tuscany.

1. Reference is made to your R VIII/19/700 dated 22 Sept 44 and attached basic communication.
2. The practical solution as for the RLO to refer the case to the Italian notary within whose jurisdiction the property is situate for this official's advice and certification, and then for the LO to issue to the D.P.C. a statement based specifically thereon.
3. The notary may be paid a reasonable fee from AMG funds for his advice.
4. For your information, the policy in the matter of control of property is at present undergoing modification; the Italian authorities are preparing to continue or reassume custody and administration of allied property. Under this policy Property Control officers will not be faced with the problem of restoring property to owners and will therefore not require a legal opinion on title.

RICHARD H. WILMER,
Colone CAC
Chief Legal Advisor

Copy to : Directorate of Property
Control.

For Col. Wilmer

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

ACC/4010/4/L.

/gb
25 August 1944

SUBJECT : Gazzetta Ufficiale.
TO : R.L.O. (thru R.C.) Region 8

1. This is to inform you that PLO PISA and FIRENZE Province have been added to the distribution list of Gazzetta Ufficiale.

2. A complete set containing one copy the collection of the Brindisi Salerno legislation and one copy of the G.U. N°40 to 47 is being dispatched today to the above PLO's for their information.

A. R. THACERAN
Lt. Col.,
Italian Branch,
for Acting Chief Legal Officer

A.R. THACERAN
Lt. Col.,
Italian Branch,
for Acting Chief Legal Officer.

Copy to : PLO (thru PC) PISA

Copy to : PLO (thru PC) FIRENZE

CONFIDENTIAL

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 594.

ACQ 4015/4/L.

6 August 1944.

NOTES OF MEETING OF LEGAL SUB-COMMISSION AND RIOS
HELD AT ROME 1 AUGUST 1944.

PRESENT.

Col. R. H. Wilmer	- ACIO	- HQ ACC
Col. G. R. Upjohn K.C.	- Acting Head Adm Sec	- HQ ACC
Col. H. G. Willmer K.C.	- RIO	- Region "Z"
Col. W. E. Behrens K.C.	- RIO	- Region 5
Col. J. W. Chapman	- Acting R.C.	- Region 7
Col. J. K. Weber	- RIO	- Region 8
Lt.Col. D.E.S. Cousins	- RIO	- Region 2
Lt.Col. G. G. Hamaford	- Officer i/c	- HQ ACC
	Italian Branch	
Lt.Col. A. R. Thacirah	- Italian Branch	- HQ ACC
Lt.Col. I.G.H. Campbell	- CJO	- HQ ACC
Lt.Col. M. J. Grossman	- Chief Counsel	- HQ ACC
Wing Comd. H.M. Dickie	- RIO	- Region 9
Lt.Col. E. J. Mercer	- RIO	- Region 4
Lt.Col. A. R. Troxell	- RIO	- Region 5
Major R.G.S. Alexander	- RIO	- Region 6
Major J.A. Boyd-Carpenter	- RIO	- Foggia and Campobasso
	- RIO	- Region 1
Major F. L. Vecchiolla	- RIO	- Region 3
Major G. A. Bamlet	- RIO	- Region 4
Major R. C. Hendrickson	- RIO	- Region 7
Major D. C. Little	- RIO	- Region "Z"
Capt. W.G.R. Oates	- RIO	- Region 4
Capt. E. L. Peyton	- RIO	- Region 4
Capt. R. A. Gaziano	- RIO	- HQ ACC
Capt. J. More	- RIO	- Region 8
Lieutenant H.G.T. Christians	- RIO	- HQ ACC
Lieutenant W. C. Bryce	- Italian Branch	

1. Personnel and Promotions.

The ACIO informed the meeting that legal personnel was now down to 57 legal officers who were actually acting in that capacity at the present time. He stated that the Legal Sub-Commission was doing all it could to bolster up this total and he was desirous that any RIO who was able should furnish to Capt. More after the meeting a list of officers in their Regions who, although they were lawyers, were not performing legal duties at the present time. It would then be possible to make enquiries to ascertain whether they could be formally assigned as legal officers.

The ACIO with regard to promotions stated that one of the most unfortunate things that had arisen was that officers in the field who were constantly being moved round were frequently overlooked when the question of promotion arose. He urged RIOs to keep these officers in mind when the question of promotion arose in their Regions. He further stated that

- RIO
- ARLO
- RIO
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- DRLO
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- DRLO
-
- LO
- Italian Branch

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Colonel Upjohn, the Acting Head Adm Sec, stated that as far as British promotions were concerned he understood ACO had almost reached the authorised ceiling and advised RLOs, in view of the fact that for some time to come promotions, especially to senior ranks, would be on a limited scale, not to make too many promises of promotion to their officers for it was quite possible that the officers concerned might be disappointed.

RVIII/19/1006/5

2. Policy of keeping A.M. Courts to a minimum in Military Government Territory and initially placing burden on Italian Courts.

The ACIO stated that everything possible must be done, in view of the great shortage of legal personnel, to place the burden of as many cases as possible in Military Government Territory initially in the hands of the Italian Courts. He stated that this policy was working well and A.M. Court cases should continue to be kept to a minimum.

3. Statement of Policy on holding Courts in Italian Government Territory.

The ACIO stated that this question was intended primarily for the benefit of RIOs whose territory was being or might later be restored as RIOs whose territory had already been restored to the Italian Government for some time were well aware of the reasons for keeping A. M. Courts in restored territory to the minimum. He stated that this question had been dealt with in Executive Memorandum No. 72 prepared by Col. Upjohn, copies of which had been sent to all Regions, but he would stress that only in any of the following three circumstances would application be made for an Allied Military Court in Italian Government Territory :-

- (a) exceptional circumstances. The ACIO emphasized the fact that the Chief Commissioner when he had been with ACC and now the Acting Chief Commissioner both felt that those cases must be kept to a minimum.
- (b) When Italian Courts were not performing their functions satisfactorily
- (c) when a series of offences have broken out in a particular area and it was necessary to take quick, vigorous action to put a stop to the offences. The ACIO stated that the mere handing out of punishment by AMG Courts was not enough to put a stop to the particular offences and it was essential that people in the neighbourhood should be made aware of the consequences of such an offence by publication in a local newspaper or other means. He stated that if this was not done it was an absolute waste of AMG Courts insofar as deterrent effects were concerned.

4. Discussion of Consolidated Directive on Duties of IOs in restored territory.

Capt. More stated that this was merely a consolidation of all the directives that had been issued from time to time in connection with the duties of IOs in restored territory. He stated that he did not think the directive required any explanation and trusted that it would prove helpful to legal officers.

He stated that with regard to 1 (b) of the directive it was not possible to communicate the Armistice Terms or any subsequent terms in written form as they were most secret documents but that any RIO who wished could see them after the meeting.

With regard to para.4 in the directive which dealt with War Crimes, Capt. More stated that this subject had caused a certain amount of difficulty in the past. Copies had now been taken of the directives issued by AFHQ and NATUSA and would be distributed to RIOs after the meeting.

The ACIO stated that copies of this Consolidated Directive were being issued to all regions, even forward areas where no territory may be returned to the Italian Government for some considerable time, but this would give the legal officers a greater time to study in advance the problem in this

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With regard to para.2 (iv) of the directive Col. Behrens stated that he noted that records of all outstanding cases were to be prepared for transmission to Italian authorities and enquired if this would affect the monthly return that had to be submitted. Capt. More stated that the records should not

include cases of which the Italian authorities had already had particulars.

Colonel Upjohn informed the meeting that with regard to monthly reports the Acting Chief Commissioner desired that these reports should be much longer and more detailed as both London and Washington had complained that they were not being informed of the activities of ACC.

Lt.Col. Cousins enquired whether Legal reports received should be included in RIOs monthly reports sent to this Sub-Commission.

Lt.Col. Grossman stated that there was no objection to RIOs attaching PIOs separate reports as long as the RIOs in their main reports incorporated summaries of the important parts of PIOs reports.

The ACIO mentioned as a matter of interest to legal officers that with regard to the trial of more serious cases in Italian Government Territory or other territory where the death penalty is involved he had noticed in a newspaper recently that the Italian Government was proposing to issue a decree doing away with the death penalty. He further stated that Legal Sub-Commission had not to date had any information in this connection from the Ministry of Justice although he understood it had been approved by the Council of Ministers and the matter was accordingly being taken up with the Minister and he hoped to be able to give RIOs further information shortly.

5. Defascistization and Epuration.

Lt.Col. Hannaford said that the new decree of 29 July embodied all previous legislation on this matter with many amendments. It appeared to be a workable instrument.

The general idea was that all untried offences committed by fascists would be tried by ordinary courts under the provisions of the code existing at the time the offence was committed. As far as purgation was concerned each Ministry would appoint a Commission to eliminate undesirable elements from the administration from top to bottom.

Provincial commissions would be formed by the Prefects to deal with local institutions.

The job of IOs in regions would be mainly to ensure that the local courts did act swiftly and energetically with cases brought before them under the decree and to see that undesirable officials were removed without undue delay.

Serious cases of high officials would be dealt with by the newly formed High Court in Rome.

Copies of the decree in English had been sent to all RIOs.

Col. Upjohn stated that so far as epuration was concerned he had been having conferences every day with Count Sforza and he was urging that everything be done to push on with the matter. He further stated that the main burden of supervising the work would necessarily fall on Sub-Commissions but it was the duty of Regions to see that nobody escapes who should be sacked. The great difficulty all along had been to get the Italians moving but now he had great hopes that we were getting somewhere.

Wing Comd. Dickie raised a point concerning numbers of people who were found in gaol and who had been put there by genuine partisans and asked what should be done with them.

1175

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Serious cases of high officials would be dealt with by the newly formed High Court in Rome.

Copies of the decree in English had been sent to all RLOs.

Col. Upjohn stated that so far as epuration was concerned he had been having conferences every day with Count Sforza and he was urging that everything be done to push on with the matter. He further stated that the main burden of supervising the work would necessarily fall on Sub-Commissions but it was the duty of Regions to see that nobody escapes who should be sacked. The great difficulty all along had been to get the Italians moving but now he had great hopes that we were getting somewhere.

Wing Comd. Dickie raised a point concerning numbers of people who were found in gaol and who had been put there by genuine partisans and asked what should be done with them.

The ACIO stated that this was a tricky affair and it would be hard to judge if these people in gaol were or were not fascists. However, this was not a matter primarily for AMG but a local one for the Italians to sort out.

4.

A question was asked as to how far the PLO was to go in easing the Prefect to run the Commissions.

Colonel Upjohn stated that the new decree was different from the old in that Commissions did not move into the country but were dealt with centrally. There were no Provincial committees.

6. Explanation of the "Blue-Book" of Italian Decrees.

Lt.Col.Thackrah introduced the "blue-book" of collected decrees previously published in the Official Gazettes and stated that copies of same were being distributed to regions. He explained the complications that had arisen regarding Italian legislation on the advance of the Allied Armies and particularly when the question arose of restoration of further territory of Regions 3 and 5 to Italian Government on 20 July 1944 since the legislation passed in Brindisi and Salerno days had not come into force in territory acquired after the Allied offensive of 11 May. He stated that from 8 September 1943, the date when Badoglio had to leave Rome, until the capture of Rome the so-called Fascist Republican Government had been publishing its own legislation and it had therefore been necessary to fill this vacuum by a reprint of decrees. He stated that a directive on this subject addressed to all RIOS dated 25 July 1944 had already been sent out.

He informed the meeting that by the endorsement of the Executive Commissioner on page 661 of the new book all the legislation contained in the collection of decrees with the exception of the Decrees of 14 January 1944, No. 15, 5th April 1944, No. 96 and 5 May 1944, No. 133, became the law of Military Government Territory on the date of receipt of the collection of decrees by the Prefect of each province. Copies of this "blue-book" were being sent out to all RIOS etc that day.

He stated that there was one slight change in the future implementation of decrees as explained in the Sub-Commission's directive of 25 July 1944 namely that ordinary issues of the Gazzetta Ufficiale would bear an endorsement by the Executive Commissioner ordering that all decrees printed therein or in previous issues, with the exception of certain enumerated decrees, would become operative in each province within Military Government Territory on the date of receipt thereof by the Prefect of each province. He warned the meeting to look out for the exceptions.

Lt.Col. Thackrah stated that there was one point which concerned the Commune of Naples. He stated that it was now desired that the Provincial Commissioner who had handled the Gazzetta Ufficiale for the Naples Province prior to the restoration of the province to Italian Government administration should handle the Gazette for the Commune of Naples only. Otherwise the distribution would be the same as hitherto.

Colonel Upjohn enquired what provinces now received the Gazzetta Ufficiale.

Lt.Col.Thackrah stated that it was now being circulated in the following provinces - TERAMO, AQUILA, PESCARA, CHIETI, ASCOLI, TERNI, VITERBO, RIETI, ROMA (including Commune of ROMA), FROSINONE, LITTORIA and NAPLES Commune.

7. Military Courts Handbook and new Forms: reports thereon.

Lt.Col. Campbell enquired whether any legal officer present desired to raise any point of fundamental principle in connection with this subject. If it was a minor point he would be available to give assistance after the meeting. There were no fundamental points raised.

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8. Hearing of Spy Cases in Camera: Presence of Accused.

Lt.Col. Campbell stated that in some cases the security agencies tried to persuade the Courts to deviate from normal and proper procedure. He gave the example of how in one case they had asked that the evidence of an agent be given only to the members of the court, without the presence of the accused or his representative. He stressed that, though it is quite proper to hold these trials in camera, the proper procedure must be followed strictly.

9. Confessions in Spy Cases.

Lt.Col. Campbell urged the necessity of the closest scrutiny of alleged confessions. "Confessions" varied from a full and frank story written by the accused in his own hand to verbal evidence by security agents based on recollections of an interrogation which may have taken place many weeks previously. It was the duty of the Court to weigh in any particular case the weight which might properly be attached to any such confession.

10. Alleged leniency in spy cases.

Lt.Col. Campbell stated that HQ MI, G.S.I(b) would like to see a higher proportion of death sentences in cases in which a person had been convicted of espionage. The proper approach to the question of sentence was this: that the normal penalty for espionage is death, but that there are a variety of circumstances (such as youth, acting under the influence of a stronger will or particularly low intelligence) any one of which might well justify the court in imposing a sentence of imprisonment instead of death. The above remarks were to be taken as a general statement of policy and were not to be taken as an attempt to influence anybody: sentence was a matter of discretion for the Court in each particular case.

Wing Comd. Dickie asked whether youth should be a reason for leniency, as he understood that previous instructions had been to the contrary.

Colonel Upjohn stated that up to March of this year many of the spies caught had been very young but the Germans now seemed to have changed this policy as very few of the spies caught recently had been youths. Probably the enemy had realised that it did not pay to send youths on espionage missions.

11. Spy Cases: future responsibility for handling these on elimination of SIOs.

Lt.Col. Campbell stated that unless an Army wished to deal with any particular spy case, it would henceforth be the responsibility of the RLO of the Region that would ultimately be responsible for that area to arrange for the trial of spies.

Wing Comd. Dickie stated that as far as 5th Army were concerned they liked to deal with their spy cases in their own area and he thought that there would be repercussions if cases were sent out of the area.

12. Severity of sentences in wire-cutting and other cases.

Lt.Col. Campbell stated that while it was agreed that sentences should be deterrent no court should ever impose any sentence which it does not think should be served. A sentence of 2, 3, 5 or even 7 years was quite sufficient normally to discourage neighbours from committing a similar offence.

Col. Behrens asked whether these cases had to be reviewed again on restoration of territory to Italian Government.

Lt.Col. Campbell said that the answer was "no" unless they fell within the class of cases in which a harsh sentence was imposed "because of military considerations which no longer prevail". (see Executive Memorandum No. 72. 2 (c)(4)).

13. Publicity in Theft Cases.

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13. Publicity in Theft Cases.

Lt.Col. Campbell stated that publicity was a difficult question. It is bad policy merely to publish a list of exceptionally heavy sentences. He thought it much better, if it was found that any particular offence was on the increase in a certain city or area, to commence a publicity campaign in local newspapers to warn the local inhabitants of the possible consequences.

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14. Photography in Court.

Lt.Col. Campbell called the attention of all present to the directive Ref/20/4/CA of 31 May 1944. No deviation from the terms of this directive is permissible.

15. Court Stenographers: use and payment.

Lt.Col. Campbell stated he would issue further instructions on this point when information was available from Finance Sub-Commission and G.1.

The ACIO stated that with regard to EMs he understood that Finance Sub-Commission was quite willing to recognize payment for reporting services as was done in U.S. Court Martial cases.

Col. Hehrens stated that he believed that under United States Army Regulations an EM was entitled to be paid something like 10 cents for each 100 words taken in shorthand and transcribed satisfactorily and that such extra pay would be met from the annual appropriation for expenses of Courts Martial etc.

16. Proper method of taking note of evidence.

Lt.Col. Campbell gave a number of instances that had occurred of the faulty taking of note of evidence. He stated that the correct way to take a note of evidence was by a consecutive story in the first person. He requested RIOs to spread this in their regions.

17. Records: tidiness and legibility essential.

Lt.Col. Campbell requested the meeting to ensure that in future all records submitted for review were prepared in a decent manner. He stated that in the past records had been in some instances submitted in a shameful condition, torn and illegible. If, for any reason, it became necessary to show such a record to the Chief Commissioner or to any other HQ it reflected badly on our courts.

19. Distribution of legal publications.

Note : The remarks made by Lt.Col. Campbell are now out of date. On account of increased demands a reprint is being made of the following :-

Consolidated Instructions (with Proclamation 1,2,3 & 4)
Proclamations 1,2,3 & 4 in booklet form.
Rules of Procedure (in Italian).

20. Italian Judicial Personnel in newly occupied territory; army orders relating thereto.

Lt.Col. Hannaford stated that with regard to this matter certain principles were laid down by the army concerning these officials and many had been dismissed on the spot. He stated that commissions had been formed to go into the question of all judicial personnel and the job of screening personnel was going forward as quickly as possible. He stated that it was generally much better to keep an Italian Judicial Official in his position until he could be screened, even if there was some doubt as to his former political activities, than to dismiss him on the spot and replace him by someone who was not so capable at the job. He requested RIOs concerned to

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The ACIO stated that cases had occurred where officers of AOC had promoted officials to higher grades. He stated that this was quite illegal as this was the affair of the Italian Government and it was quite unfair to increase an official's salary or promote him into a higher grade as invariably he would lose his grade and increased pay at a later date and that caused hardship to the man himself and often resulted in hard feeling.

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Under conditions of necessity a man might temporarily be promoted to a higher position and would get the higher salary, but ACC could not change his civil service grade. Each person so promoted by ACC should understand that it was temporary only.

23. Forward movement of Italian Judges.

Lt. Col. Hammaford stated that the forward movement of Italian judges was constantly being looked into by this Sub-Commission in conjunction with the Italian Government and it was endeavored to send suitable personnel to forward areas as quickly as possible. He further stated that the question of transport was a sticky one. The Legal Sub-Commission had no transport available to ensure the transfer of personnel and he was afraid that it was purely a local problem.

Wing Comd. Dickie stated that in many instances Italian officials had not remained in positions to which they had been sent and this complicated the whole question. He asked that it be impressed on all Italian officials the necessity for remaining in the positions to which they had been allotted.

21. Jurisdiction of Italian Courts re Proclamation Offences.

The ACIO stated that having regard to the fact that the policy was to hand over as many cases as possible to the Italian Courts to deal with, the Legal Sub-Commission had for some time past been going into the question of offences under Italian law corresponding to offences established by Proclamations of AMG. He stated that he had had conversations with Professor Forte, who is one of the leading legal authorities in Italy, and the latter took the view that if an Italian Court once assumed jurisdiction of Proclamation offences as such its action in cases of this nature would be legally unassailable in Italian Courts later.

The ACIO went on to say that Lt. Bryce of the Legal Sub-Commission had prepared a very excellent "analogy between offences established by the Proclamations of the AMG and corresponding offences under Italian law. Copies of this analogy had been made available to RLOs. He said that the better practice was to try cases in the Italian Courts under Italian law rather than under the sections of the proclamations. The same holds true as to offences under General or Regional Orders which generally were found to have their Italian counterparts.

Regional Orders.

The ACIO stated that although this subject was not included in the agenda he was desirous of saying a few words in this connection. He referred to Executive Memorandum No. 68 which had been issued recently to clarify the principles which should govern the issuance of Regional Orders. He stated this Memorandum was supplemental to Executive Memorandum No. 30 on the subject. He asked RLOs to make special note of these Memoranda and reminded RLOs that as all Regional Orders by whatever named called had to be submitted to them before signature and that it was the responsibility of the RLO to see that the order was one that could properly be dealt with by the Region and without first obtaining permission from higher authority. He stressed this point as recently there had been a number of instances where Regional and Administrative Orders had been improperly issued.

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22. Applicability of Ammassi Penalty Law of 4 July 1944.

Lt. Col. Thackrah stated that a problem had recently come from Region 2 in connection with the heavier penalties for ammassi offences under the new decree law of 4 July 1944. He stated that the decree law in question which increased penalties for failing to amass had been signed on the 4th July, was published on the 8th July and made effective on the 9th July and the point had arisen, its orbit. Some Procuratori had agreed that since producers were supposed to amass as soon as they had harvested and since no date as to which they must do so

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- 8 -

had been fixed, failure was essentially a continuing offense and all defaulters could be prosecuted under the new decree, whether their failure commenced before July 9 or not, since it continued up to the time of conviction; others did not agree with this view and held that if an offense was committed prior to July 9th, the accused could only be tried under the decree of April 1943. Lt.Col. Thackrah went on to say that the Italian Branch of the Legal Sub-Commission were taking this matter up with the Minister of Justice and had suggested that the Minister forward a circular to the Presidents and Procuratori Generali stressing that offences for non amassing should be punishable under the provisions of the new decree, even if the offence was committed before 9th July, provided no arrest had been made. Lt.Col. Thackrah stated that he was sorry he was unable to give the meeting the considered opinion of the Minister of Justice owing to the fact that that gentleman was at present in Naples but he hoped the problem would soon be solved satisfactorily.

Lt.Col. Cousins enquired whether the decree applied only to producers. Lt.Col. Thackrah stated that it was intended to apply to everybody concerned - whether producers or not.

24. War Criminals - Directives and Circulars.

The ACLO stated that the Legal Sub-Commission had received certain queries on this subject recently. Three directives had been issued in this regard from time to time by AFHQ dated respectively 27 November 1943, by MATOUSA on 26 January 1944 and by the British authorities on 6 February 1944. Capt. More has now had these three directives mimeographed and he would hand them out to RLOs after the meeting. He further stated that Lt.Col. Grossman was engaged in a study of these circulars and when he had finished his work on this a letter would be put up to AFHQ asking for more particular instructions, definitions etc. Nothing further could be said on this question for the present.

25. Accused persons before Allied Military Courts claiming to be patriots or partisans.

The ACLO stated that a new plea that accused persons before A.M.C. Courts were making was that they had been patriots or partisans. He stated that it was very hard to judge in these cases whether or not the accused had ever been a partisan or patriot and he warned all officers who might be confronted with such a case to be quite sure that the person is what he claims to be before reducing his sentence on such a claim.

Col. Upjohn stated that he thought the accused should hold a certificate to this effect, or perhaps a letter of thanks and possibly mention of cash payment.

It was also pointed out that each commune had a list of partisans and patriots.

26. Armistice Terms and Reservations.

The ACLO stated that as mentioned earlier in the meeting there was a set of the Armistice Terms and hand-over documents and that if RLOs had not had an opportunity of seeing them previously they were at liberty to do so after the meeting.

27. Date of the Next Meeting.

The date of the next meeting was provisionally fixed for 20 September at

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27. Date of the Next Meeting.

The date of the next meeting was provisionally fixed for 20 September at HQ ACC.

28. Discussion of individual cases.

There then ensued a general discussion on a number of individual cases and the meeting was finally adjourned at 1130 hours.

Richard H. Wilmer
RICHARD H. WILMER.
Colonel, GAC.
Acting Chief Legal Officer.

RZO-Region 8

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
AP O 394

ACC/4002/L.

4 AUG 44.

SUBJECT : Powers of FLOs for release of prisoners pending review.
TO : Regional Legal Officers, Regions 3, 4, 5, 8, 9 & "Z".

1. At the conference of RLCs held at HQ ACC on 1 August 44 the point was raised that in cases where a short term of imprisonment is imposed, the term on Review can be a substantial part of it) is frequently served before the term authority considers the conviction wrong or the sentence excessive.
2. The point is one of substance, but it is not the policy to delegate the power of review below Regional H.Q. To meet the point Regional Legal Officers are authorised to instruct Provincial Legal Officers as follows :
 3. (a) In any case in which a sentence of imprisonment of three months or less has been imposed by a Summary Military Court, a Provincial Legal Officer may order the release of the accused pending receipt of the Decision on Review if he is of opinion--
 - (i) that the accused has been wrongly convicted; or
 - (ii) that the term of imprisonment will be reduced on Review to a period less than the time necessary to obtain a Decision on Review.
 - (b) Any such release will be on such terms and subject to such conditions as, in the opinion of the Provincial Legal Officer, are adequate to ensure the availability of the accused upon receipt of the Decision on Review.
 - (c) This power is discretionary; it will be used sparingly and only in cases where the opinion of the Provincial Legal Officer it is necessary to avoid a substantial injustice.
 - (d) In any case in which this power is exercised the Provincial Legal Officer will endeavour to forward the Record with any petition for Review as soon as possible and, in so forwarding it, he will specifically inform Regional HQ of the action taken by him so that the case may be promptly reviewed.

Completed. 11/6/44
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Colonel, CAC,
Acting Chief Legal Officer.

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1. At the conference of RLOs held at HQ ACC on 1 August 44 the point was raised that in cases where a short term of imprisonment is imposed, the term (or at least a substantial part of it) is frequently served before the Decision on Review can be communicated and thereby an injustice is caused if the reviewing authority considers the conviction wrong or the sentence excessive.

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(d) In any case in which this power is exercised the Provincial Legal Officer will endeavour to forward the Record with any petition for Review as soon as possible and, in so forwarding it, he will specifically inform Regional HQ of the action taken by him so that the case may be promptly reviewed.

Completed 11/1/61
RICHARD H. WILMER,
Colonel, CAG,
Acting Chief Legal Officer.

Copy to : FLOs Regions 1, 2, 6, & 7.

Rec'd 4/8/
RLO.

RVW/19/6000

the copy sent to P.L.O. :
Gonzalez
Lucas
Florence
Arevalo
Piza
Simmons
Mulla

Italian Legislation implemented
in Grosseto: See File RVIII, 19/4002/

MEETING OF RLOs and SLOs
TUESDAY, 1st AUG 1944

A G E N D A

<u>No.</u>	<u>Subject</u>	<u>Officer dealing</u>
1.	Personnel and Promotions	Col R H Wilmer
2.	Policy of keeping A.M. Courts to a minimum in Military Government Territory and initially placing burden on Italian Courts.	Col R H Wilmer
3.	Statement of Policy on holding Courts in Italian Government Territory (for benefit of RLOs whose territory may be restored).	Col R H Wilmer
4.	Discussion of consolidated directive on duties of RLOs in restored territory (copy attached).	Capt J More
5.	Defascistization and Epuration.	Lt Col G G Hannaford
6.	Explanation of new book of Official Gazettes.	Lt Col A R Thackrah
7.	Military Courts Handbook and new Forms: reports thereon.	Lt Col Campbell
8.	Hearing of spy cases in Camera: presence of accused.	" "
9.	Confessions in spy cases.	" "
10.	Alleged leniency in spy cases.	" "
11.	Spy cases: future responsibility for handling these on elimination of SLOs.	" "
12.	Severity of sentences in wire-cutting and other cases.	" "
13.	Publicity for theft cases.	" "
14.	Photography in Court.	" "
15.	Court stenographers: use and payment.	" "
16.	Proper method of taking note of evidence.	" "
17.	Records: tidiness and legibility essential.	" "
18.	Records and applications for review; changes in procedure consequent upon elimination of SLOs with Armies.	" " 12
19.	Distribution of legal publications	" "
20.	Italian judicial personnel in newly occupied territory; army orders relating thereto; means of transport therefor	Lt Col Hannaford
21.	Jurisdiction of Italian Courts re Proclamation offences.	Col R H Wilmer

Italian Courts.

3. Statement of Policy on holding Courts in Italian Government Territory (for benefit of SLOs whose territory may be restored). Col R H Wilmer
4. Discussion of consolidated directive on duties of IOs in restored territory (copy attached). Col R H Wilmer
5. Defascistization and Epuration. Capt J More
6. Explanation of new book of Official Gazettes. Lt Col G G Hannafor
7. Military Courts Handbook and new forms: reports thereon. Lt Col Campbell
8. Hearing of spy cases in Camera: presence of accused. " " "
9. Confessions in spy cases. " " "
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16. Proper method of taking note of evidence. " " "
17. Records: tidiness and legibility essential. " " "
18. Records and applications for review; changes in procedure consequent upon elimination of SLOs with Armies. " " 12
19. Distribution of legal publications. " " "
20. Italian judicial personnel in newly occupied territory; army orders relating thereto; means of transport therefor Lt Col Hannafor
21. Jurisdiction of Italian Courts re Proclamation offences. Col R H Wilmer
22. Applicability Anassi Penalty Law of 4 July 1944. Lt Col Thackrah
23. Forward movement of Italian judges. Lt Col Hannafor
24. War Criminals - Directives and Circulars. Col Wilmer
25. Accused persons before Allied Military Courts claiming to be patriots or partisans. " " "
26. Armistice Terms and Reservations. " " "
27. Date of Next Meeting.
28. Discussion of individual cases.

NLO Region 8 HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4010/2/L.

25 July 1944.

SUBJECT : Directive on Implementation of Italian legislation in
Military Government Territory.

TO : See Distribution List.

1. Italian legislation in Italian Government territory is promulgated by publication of Decrees in the Gazzetta Ufficiale of the Kingdom. In order to ensure the continuity of the Italian legal system over as much of Italian territory as is compatible with Allied Military interests and for the purpose of extending appropriate Italian legislation to Military Government Territory the procedure of implementation which has been applied in the past will now be followed in the newly liberated provinces of Military Government Territory administered under Regional Commissioners.

2. The legislation enacted by the Italian Government in Brindisi and Salerno and published in the Gazzetta Ufficiale - Special Series No. 1/3 to 6/B and 1 to 39 in force in Italian Government Territory has been collected and reprinted in book form. In accordance with the principle set out above it is now proposed to render the bulk of this legislation operative in the provinces of Military Government Territory by an endorsement of the Executive Commissioner, ACC. Such endorsement, reproduced on each copy of the reprinted collection, provides that all laws contained in the reprint shall become operative in Military Government Territory with the exception of certain enumerated decrees which have been reproduced for information only.

3. A packet containing sufficient quantities of the reprint (each copy addressed to the regular Italian official recipients of the Gazzetta Ufficiale) will be forwarded to each Provincial Commissioner (for attention of the PLO) for delivery to the Prefect. Each packet will be accompanied by a form of receipt in triplicate (a sample copy enclosed herewith) which will be signed by the Prefect personally and on which each Prefect concerned will record at the request of the Provincial Commissioner the date of receipt of the reprint together with his confirmation that each copy of the reprint will be stamped or otherwise marked with the said date which will be the effective date of the reprinted legislation in the respective province. The Prefect having marked each copy of reprint with the aforesaid date will effect the distribution to Italian officials. One copy of the receipt, signed and dated by the Prefect, will be forwarded by the PC at once to the Legal Sub-Commission, ACC, the second will be left with the Prefect and the third copy kept in the files of the Provincial Commissioner.

4. In the future all ordinary issues of the Gazzetta Ufficiale will bear an endorsement by the Executive Commissioner ordering that all decrees printed therein or in previous issues, with possible exception of certain enumerated decrees, shall become operative in each province within Military Government Territory as of the date when the Prefect thereof shall first receive from the Allied Control Commission the copies of the issue containing said endorsement. In order to establish as a matter of record the effective date of certain decrees in a particular province, the obtaining of the fully completed receipts mentioned above is required.

5. The procedure designed for the delivery of the reprinted collection and...

1. Italian legislation in Italian Government territory is promulgated by publication of Decrees in the Gazzetta Ufficiale of the Kingdom. In order to ensure the continuity of the Italian legal system over as much of Italian territory as is compatible with Allied Military interests and for the purpose of extending appropriate Italian legislation to Military Government Territory the procedure of implementation which has been applied in the past will now be followed in the newly liberated provinces of Military Government Territory administered under Regional Commissioners.

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3. A packet containing sufficient quantities of the reprint (each copy addressed to the regular Italian official recipients of the Gazzetta Ufficiale) will be forwarded to each Provincial Commissioner (for attention of the PLO) for delivery to the Prefect. Each packet will be accompanied by a form of receipt in triplicate (a sample copy enclosed herewith) which will be signed by the Prefect personally and on which each Prefect concerned will record at the request of the Provincial Commissioner the date of receipt of the reprint together with his confirmation that each copy of the reprint will be stamped or otherwise marked with the said date which will be the effective date of the reprinted legislation in the respective province. The Prefect having marked each copy of reprint with the aforesaid date will effect the distribution to Italian officials. One copy of the receipt, signed and dated by the Prefect, will be forwarded by the PC at once to the Legal Sub-Commission, IG ACC, the second will be left with the Prefect and the third copy kept in the files of the Provincial Commissioner.

4. In the future all ordinary issues of the Gazzetta Ufficiale will bear an endorsement by the Executive Commissioner ordering that all decrees printed therein or in previous issues, with possible exception of certain enumerated decrees, shall become operative in each province within Military Government Territory as of the date when the Prefect thereof shall first receive from the Allied Control Commission the copies of the issue containing said endorsement. In order to establish as a matter of record the effective date of certain decrees in a particular province, the obtaining of the fully completed receipts mentioned above is required.

5. The procedure designed for the delivery of the reprinted collection and set out in para. 3 above will be followed also in respect to each future issue of the Gazzetta containing the endorsement of the Executive Commissioner referred to above in para. 4.

6. The Gazzetta containing such endorsements will be sent out to each Provincial Commissioner (Attention PLO), in packets containing sufficient quantities and with the necessary indications to enable the Prefect to effect distribution to Italian officials. Accompanying the overall packet will be a triplicate form of receipt in Italian and English on which each Prefect concerned will record at the request of the Provincial Commissioner the date of receipt of the relevant issue of the Gazzetta, together with his confirmation that each copy, before it is distributed, will be stamped, or otherwise marked with the said date.

Luigi 19/4/
Legal

The three copies of the receipt bearing the Prefect's personal signature will be disposed of as follows: the first copy will be returned by the Provincial Commissioner to this sub-commission at soonest. The second copy of the receipt will be left with the Prefect and the third filed in the files of the Provincial Commissioner.

7. It must be clearly understood that whenever any issue of the Gazzetta contains decrees which have been excepted from implementation in Military Government territory, that part of such issue is circulated in Military Government territory, for information of the Italian officials only, and does not become effective therein.

8. It is not proposed to circulate the endorsed Gazzetta in Army areas.

9. The Regional Legal Officers will see that all Provincial Commissioners and Provincial Legal Officers become thoroughly familiar with this directive and exercise all possible care in putting it into effect.

Richard H. Miller
RICHARD H. MILLER,
Colonel, G.I.C.,
Acting Chief Legal Officer.

DISTRIBUTION:

RLO (THRU: RC)	Reg 1 - 6 copies	- for info
RLO (THRU: RC)	Reg 2 - 6 "	- for info
RLO (THRU: RC)	Reg 3 - 10 "	
RLO (THRU: RC)	Reg 4 - 10 "	
RLO (THRU: RC)	Reg 5 - 10 "	
RLO (THRU: RC)	Reg 6 - 6 "	- for info
RLO (THRU: RC)	Reg 7 - 6 "	- for info
RLO (THRU: RC)	Reg 8 - 10 "	
RLO (THRU: RC)	Reg 9 - 10 "	
SLO (THRU: SCLO)	LIC 8th Army	- 2 copies - for info
SLO (THRU: SCLO)	LIC 5th Army	- 2 copies - "
Admin Sec	} for distrib.	- 10 copies - "
Econ Sec		- 10 copies - "
RC&G Sec		- 10 copies - "
Communications Sec		- 1 copy - "
Displaced Persons S/C		- 1 copy - "

- for distribution to PCs
(Attn PLOs)

9. The Regional Legal Officers will see that all Provincial Commissioners and Provincial Legal Officers become thoroughly familiar with this directive and exercise all possible care in putting it into effect.

Reviewed & Approved

RICHARD H. WILLER,
Colonel, C.I.C.,
Acting Chief Legal Officer.

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RLO (THRU: RC)	Reg 6 - 6 "	- for info
RLO (THRU: RC)	Reg 7 - 6 "	- for info
RLO (THRU: RC)	Reg 8 - 10 "	
RLO (THRU: RC)	Reg 9 - 10 "	

- for distribution to PCs
(attn FLOs)

SLO (THRU: SCLO)	MG 8th Army	- 2 copies	- for info
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Econ Sec	for distrib.	- 10 copies	- " "
RC&G Sec		- 10 copies	- " "
Communications Sec		- 1 copy	- " "
Displaced Persons S/C		- 1 copy	- " "

R E C E I P TR I C E V U T A

TO The Provincial Commissioner, ACC.

Al Commissario Provinciale, ACC.

Province of

Provincia di

I hereby acknowledge the receipt on 1944 of a
Con la presente dichiaro di aver ricevuto in data 1944

consignment of copies of the "Gazzetta Ufficiale", year 85
un quantitativo di esemplari della Gazzetta Ufficiale, anno 85

No. for distribution within this Province.
n. per la distribuzione in questa Provincia.

I confirm that before distribution each copy of the Gazette will
Assicuro che prima della distribuzione ogni esemplare della Gaz-

be stamped or; otherwise officially marked with the above date
zetta porterà timbrata, od in altro modo ufficialmente annotata,

which shall; be the effective date of publication in this
la data di cui sopra, che ha valore di data effettiva di pubblica-

Province of the decrees listed in the special endorsement
zione nell'ambito di questa Provincia dei decreti elencati nella

on the last page thereof.

speciale disposizione di cui all'ultima pagina della Gazzetta
medesima.

THE PREFECT OF THE PROVINCE OF.....**10**...
IL PREFETTO DELLA PROVINCIA DI
(signature - F/to).....

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4010/2/L.

/rlp.
29 July 1944.

SUBJECT : Directive on Implementation of Italian legislation in Military Government Territory.

TO : See Distribution List.

1. Reference is made to this sub-commission's directive ACC/4010/2/L of 25 July 1944 on the above subject.

2. The endorsement of the Executive Commissioner referred to in para. 2 of the above directive is printed on page 661 of the reprinted collection.

A. R. Thackrah
A. R. THACKRAH,
Lt. Col.,
Italian Branch,
for Acting Chief Legal Officer.

DISTRIBUTION:

RLO (THRU: RC)	Reg 1 - 6 copies	}	- for info
" " "	" 2 - 6 "		- for info
" " "	" 3 - 10 "	}	- for distribution to PCs (Attn: FLOs)
" " "	" 4 - 10 "		
" " "	" 5 - 10 "		
" " "	" 6 - 6 "	}	- for info
" " "	" 7 - 6 "		- for info
" " "	" 8 - 10 "	}	
" " "	" 9 - 10 "		
" " "	ROME Reg- 5 "		

SLO (THRU: SCAO)	ANG 5th Army	- 2 copies	- for info
" " "	" 8th "	- 2 "	" "
Admin Sec	} for distrib.	-10 "	" "
Econ Sec		-10 "	" "
RC&MG Sec		-10 "	" "
Communications Sec		- 1 "	" "
Displaced Persons S/C		- 1 "	" "

HGW/is

HEADQUARTERS REGION IV
Allied Control Commission
APO 394

REGIONAL CIRCULAR No. 10

12 July 44

Instructions to Provincial Commissioners

Local Legislation

1. These instructions are intended to define the powers of Provincial Commissioners in relation to Provincial or local legislation.

2. Where intended legislation is of a long term character it is preferable that it should be enacted by the Italians themselves. The reasons for this are threefold:-

(a) The legislation is prepared in the Italian language and expressed in terms chosen by the Italian authorities:

(b) It becomes part of the Italian law and is therefore enforceable in Italian Courts - thereby relieving AMG Courts of unnecessary congestion:

(c) Being part of the Italian law it survives the transfer from AMG to the Italian Government when the time for this arrives, without the need for further special legislation by the Italian authorities.

3. Every Prefect of a province has certain powers of local legislation, and he can be trusted to know what he has power to enact. Every Provincial Commissioner is hereby empowered to approve whatever the Prefect is empowered to enact. Such regulations will be prepared by the Prefect over-printed with the caption "Published with the authority of the Allied Military Government", and countersigned by the Provincial Commissioner. The above procedure applies of course only to regulations of purely provincial significance, and cannot be used for legislation covering a wider area. In particular care must be taken not to use this power in connection with matters reserved to higher authority under Executive Memorandum No. 30, and 68.

4. The same procedure can be followed in relation to regulations of purely communal significance. Provincial Commissioners are hereby authorized to delegate to Provincial Officers authority to approve anything that the Sindaco is empowered to enact in relation to his Comune.

5. Where the proposed legislation (1) goes beyond the bounds of the particular province, or (2) raises a question of

1. These instructions are intended to define the powers of Provincial Commissioners in relation to Provincial or local legislation.
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4. The same procedure can be followed in relation to regulations of purely communal significance. Provincial Commissioners are hereby authorized to delegate to Provincial Officers authority to approve anything that the Sindaco is empowered to enact in relation to his Commune.
5. Where the proposed legislation (1) goes beyond the bounds of the particular province, or (2) raises a question of policy of more than local significance, or (3) is for any other reason beyond the powers of the Prefect, a Royal Decree is required. Such Decree is prepared by the appropriate Italian Ministry, and the right to approve such legislation and to apply its provisions to Occupied Territory is reserved exclusively to HQ ACC. The procedure for the publication of such Royal Decrees, and for bringing them into force in Occupied Territory, is described in a directive issued by the Chief Legal Officer, Legal Sub-Commission, ACC, copy of which is attached hereto as Appendix "A".

In cases which appear to call for the enactment of such Decrees Provincial Commissioners are required to forward their recommendations to the Regional Commissioner who, after coordinating the views of various Provincial Commissioners, will make the appropriate recommendations to HQ ACC.

6. The above applies only to Italian legislation. In addition it may be necessary, during the period of Military Government, for Provincial Commissioners to legislate by publication of Provincial Orders. This method is suitable where (a) the subject matter is not within the competence of the Prefect to make a Regulation, (b) it is of ephemeral importance not intended to survive the transfer of the territory to the Italian Government, and (c) it is of purely local significance not affecting other Provinces. Provincial Orders will in no circumstances be published except in relation to subjects on which authority to legislate locally has been expressly conferred by the Regional Commissioner. For the present authority to legislate by way of Provincial Order is delegated to Provincial Commissioners in relation to the following subjects:-

(a) Curfew:

(b) Extent to which inhabitants may be permitted to circulate during daylight hours. In this connection Provincial Commissioners are authorized to issue such orders from time to time as they deem necessary extending the 10 Km. restriction 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) Controlling sale of intoxicating liquors:

(f) Restricting street pedlars

(g) Regulating the use of public streets and highways within their Provinces:

(h) Restricting the local use of water and electricity:

(i) Care and preservation of ancient monuments:

(j) Restricting the use of buildings which are unsafe or insanitary:

(k) Local health and sanitary regulations:

(l) Air Raid Protection

(m) Any matter necessary for the preservation of law and order:

7. If any other subject arises which appears to require

publication of Provincial Orders where (a) the subject matter is not within the competence of the Prefect to make a Regulation, (b) it is of ephemeral importance not intended to survive the transfer of the territory to the Italian Government, and (c) it is of purely local significance not affecting other Provinces. Provincial Orders will in no circumstances be published except in relation to subjects on which authority to legislate locally has been expressly conferred by the Regional Commissioner. For the present authority to legislate by way of Provincial Order is delegated to Provincial Commissioners in relation to the following subjects:-

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(i) Care and preservation of ancient monuments:

(j) Restricting the use of buildings which are unsafe or insanitary:

(k) Local health and sanitary regulations:

(l) Air Raid Protection

(m) Any matter necessary for the preservation of law and order:

7. If any other subject arises which appears to require a Provincial order, Provincial Commissioners will, except in case of emergency, report the facts to Regional HQ and request authority to issue the proposed Provincial Order. In case of Emergency a Provincial Commissioner may issue such order as the situation appears to require, but in such case he must immediately send full particulars to Regional HQ.

8. Provincial Commissioners are authorized to delegate to Provincial Officers power to issue local orders within

1 2 0 2

their own Communes on any of the subjects listed in paragraph 6.

9. Whenever a Provincial Order is published Provincial Commissioners are required to comply with the following instructions:-

(a) The order should be drafted by, or with the assistance of the Provincial Legal Officer, any question of difficulty or doubt being referred to Regional HQ

(b) Sufficient copies of the order must be sent to Regional HQ for (i) the RC (ii) the Legal Division (in all cases) (iii) any other special Division likely to be affected (iv) transmission to the Legal Sub-Commission ACC (in all cases) and any other Sub-Commission likely to be affected (v) transmission to neighbouring Regions.

(c) The Provincial Commissioner himself will be responsible for forwarding copies to all adjacent provinces within Region IV.

Regional Commissioner

Distribution:-

Lists "B" and "D"

All Legal Officers

Appendix "A"

/mz

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

ACC/4010/2/L

SUBJECT : Directive on Promulgation of Italian Decrees in
Occupied Territory.

1. Italian legislation in occupied territory is promulgated by publication of Decrees in the Gazzetta Ufficiale, Special Series, issues of which have already been distributed to Italian officials in occupied territory for information.
2. So that such decrees may be implemented in occupied territory, when so desired, this Sub-Commission has arranged as follows:
 3. That as necessity arises issues of the Gazzetta Ufficiale will have a space left at the end of the ordinary text to allow of an endorsement to be added by the Executive Commissioner, ACC, ordering that certain decrees printed either in the current or previous issues of the Gazzetta shall become operative in each Province within occupied territory as of the date when the Prefect thereof shall first receive from the Allied Control Commission a copy of the issue containing the said endorsement.
 4. In order to make the operative date certain, every issue of the Gazzetta Ufficiale containing the said endorsement will be accompanied by a form of receipt on which each prefect concerned will record at the request of the Provincial Commissioner the date of receipt of the relevant issue of the Gazzetta, together with his confirmation that each copy will be stamped, or otherwise marked, with the said date.
 5. The Gazzetta containing such endorsement will be sent out to each Provincial Commissioner in packets containing sufficient quantities and with the necessary indication to enable the Prefect to effect distribution to Italian officials and to all whom it concerns. Accompanying the overall packet will be a triplicate form of receipt in Italian and English, the copy of which bearing the Prefect's signature will be returned by the Provincial Commissioner to this Subcommission at soonest possible time.
 6. It is not proposed to circulate the endorsed Gazzetta to Provincial Commissioners in Army areas.

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6. It is not proposed to circulate the endorsed Gazzetta to Provincial Commissioners in Army areas.

G. R. UPJOHN,
Colonel,
Chief Legal Officer

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

EP/pa

Tel.No.484234

REFERENCE : ACC/4039/L.

25 Jul 44

SUBJECT : Appointment of Judicial Officials.

TO : RLO (THRU: Regional Commissioner)RegionVIII.

1. Reference your RVIII/19/15 dated 24 Jul 1944.
2. Herewith as requested further copy of ACC/4039/L of 3rd May.
3. A copy of the directive was forwarded to Executive Officer, Region VIII on the 10th June 1944 as Appendix "C" to our ACC.4088/L. It is suggested you obtain this letter from the Executive Officer as several legal directives of interest to a newly activated region were enclosed therewith of which no further copies are available here.


G.G. HANNAFORD,
Lt.Colonel,
Officer i/c Italian Branch,
for Acting Chief Legal Officer.

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APC 194

ACC/4039/L

3 May 1944

SUBJECT: Appointment of Judicial Officials in Occupied and Unoccupied Territory

TO : RCOs (thru AGs) Regions 1, 2, 3, 4, 5, 6 & 7.
SIOs AG 5th & 6th Armies.

In pursuance to and partial modification of previous Directive issued on this subject:

1. Occupied Territory.

A. Whenever it is necessary in occupied territory to appoint a judge or a magistrate locally or to promote such official to a higher office, the following procedure will be adopted:

(i) The name of the candidate will be forwarded to this Subcommission who will consult the Minister of Justice for his advice on the candidate's suitability.

(ii) This Subcommission will inform the MIO of the Region or Army concerned, who can then proceed with the appointment.

(iii) Order appointing Italian State or Provincial personnel, judicial or otherwise, must be signed by the SMO, RO or PC as the case may be, not by the SJO.

(iv) Appointments must be of a temporary nature for the period of occupation not to prejudice the right of the Italian Government to proceed with regular transfer of personnel after the territory has been restored to their administration.

(v) As soon as the order of appointment is issued, the finance officer should be notified and he, in turn, should instruct the local "Intendenza di Finanza" to pay the salary attached to the office.

(vi) The office always carries the salary irrespective of the "grado" of the official in charge.

B. The foregoing does not preclude the right of duly authorized officers in occupied territory to make temporary appointments to take effect immediately where cases are required urgently to be tried. This will happen most frequently in army areas.

In making such temporary appointments however it will be made clear that they are made subject to confirmation by higher authority; this is particularly necessary where an official is being appointed to an office of higher grade than that which he holds.

C. The Regional or Provincial Commissioners may as formerly dismiss any judicial official for incompetence, political views, security or other grounds. In any such case a report will be made to Legal Subcommission HQ ACC stating briefly in a Confidential letter the grounds of the dismissal.

2. Unoccupied Territory.

See Para. 9 of Directive on Legal Liaison Officers in unoccupied territory ACC/4155/L dated 1 May 44.

in pursuance to an official modification of previous Directive issued on this subject:

1. Occupied Territory.

A. Whenever it is necessary in occupied territory to appoint a judge or a magistrate locally or to promote such official to a higher office, the following procedure will be adopted:

(i) The name of the candidate will be forwarded to this Subcommission who will consult the Minister of Justice for his advice on the candidate's suitability.

(ii) This Subcommission will inform the MIO of the Region or Army concerned, who can then proceed with the appointment.

(iii) Order appointing Italian State or Provincial personnel, judicial or otherwise, must be signed by the SMO, RO or PC as the case may be, not by the SIO.

(iv) Appointments must be of a temporary nature for the period of occupation not to prejudice the right of the Italian Government to proceed with regular transfer of personnel after the territory has been restored to their administration.

(v) As soon as the order of appointment is issued, the finance officer should be notified and he, in turn, should instruct the local "Intendenza di Finanza" to pay the salary attached to the office.

(vi) The office always carries the salary irrespective of the "grado" of the official in charge.

B. The foregoing does not preclude the right of duly authorized officers in occupied territory to make temporary appointments to take effect immediately where cases are required urgently to be tried. This will happen most frequently in army areas.

In making such temporary appointments however it will be made clear that they are made subject to confirmation by higher authority; this is particularly necessary where an official is being appointed to an office of higher grade than that which he holds.

C. The Regional or Provincial Commissioners may as formerly dismiss any judicial official for incompetence, political views, security or other grounds. In any such case a report will be made to Legal Subcommission HQ ACC stating briefly in a Confidential letter the grounds of the dismissal.

2. Unoccupied Territory.

See Para. 9 of Directive on Legal Liaison Officers in unoccupied territory ACC/4155/L dated 1 May 44.

G. R. UPJOHN, Colonel
Chief Legal Officer.

LEGAL SUBCOMMISSION
Legal Subcommittee
(NO 19)

21 JUL 44

100/4039/1

SUBJECT: Appointment of Judicial Officials in IGO Territory.

TO : RIGs (thru IGO) Regions 3, 4, 5, 8, 9, Rome Region.
Regions 1, 2, 6, 7 & SICs 5th & 6th Army for information.

In partial notification of this Subcommittee's directive 100/4039/1 of 3 May 1944 and of previous directives on this subject

1. IGO territory administered by Regions.

Whenever it is necessary in such territory to appoint, transfer or promote locally a judicial official of any category or grade the following procedure will be adopted:

- (i) The PIO will forward the name of the candidate to RIG who will refer it to the competent Procuratore Generale.
- (ii) The Procuratore Generale will obtain from the Minister of Justice his advice on the candidate's suitability and communicate the result of the inquiry to the RIG. The Minister will forward to Legal Subcommittee a copy of his communication to Procuratore Generale.
- (iii) If there is a vacancy in an office for which no suitable candidate is locally available, the PIO will advise the RIG who will request the competent Procuratore Generale to obtain the name of a suitable candidate from the Ministry. The Minister will forward to Legal Subcommittee a copy of his communication to Procuratore Generale. Upon receipt of the name the Procuratore Generale will communicate it to the RIG.

B. Whenever the Minister of Justice requests that a judicial official be transferred, appointed or promoted in the aforesaid territory the following procedure will be followed:

- (i) The Minister will direct his request (cop. to Legal Subcommittee) to the competent Procuratore Generale and if the proposed movement of an official involves offices subject to different Procuratori Generali, the Minister will contact all Procuratori Generali concerned.
- (ii) The Procuratori Generali will relay the request of the Minister to their respective RIGs for their recommendation.

C. Whenever the seat of the competent Procuratore Generale is in an army area or enemy occupied territory its functions in this respect will devolve upon the competent Procuratore del Regno.

D. All provisions contained in the directive 100/4039/1 of 3 May 1944 Section A Parts (III), (IV), (V), (VI) and Section B and C remain in full force.

2. As in the past all communications between Italian authorities in IGO and army territory on one side and those in Italian administered territory on the other will be forwarded thru the usual 100/4039/1 channels (PIO-IGO-Local Subcommittee).

2. In territory administered by the army.

The procedure set out in the directive 100/4039/1 of 3 May 1944 will be followed without change.

Richard H. [Signature]

RICHARD H. WILKINSON
Colonel, CIC
Acting Chief Legal Officer.

procedure will be adopted:

- (i) The PIO will forward the name of the candidate to the IO who will refer it to the competent Procureure Generale.
- (ii) The Procureure Generale will obtain from the Minister of Justice his advice on the candidate's suitability and communicate the result of the inquiry to the IO. The Minister will forward to Legal Subcommission a copy of his communication to Procureure Generale.
- (iii) If there is a vacancy in an office for which no suitable candidate is locally available, the PIO will advise the IO who will request the competent Procureure Generale to obtain the name of a suitable candidate from the Ministry. The Minister will forward to Legal Subcommission a copy of his communication to Procureure Generale. Upon receipt of the name the Procureure Generale will communicate it to the IO.

B. Whenever the Minister of Justice requests that a judicial official be transferred, appointed or promoted in the aforesaid territory the following procedure will be followed:

- (i) The Minister will direct his request (copy to Legal Subcommission) to the competent Procureure Generale and if the proposed movement of an official involves offices subject to different Procuratori Generali, the Minister will contact all Procuratori Generali concerned.
- (ii) The Procuratori Generali will relay the request of the Minister to their respective IOs for their recommendation.

C. Whenever the seat of the competent Procureure Generale is in an Army area or enemy occupied territory his functions in this respect will devolve upon the competent Procureure del Re no.

D. All provisions contained in the Directive 100/4039/L of 3 May 1944, Section A Parts (III), (IV), (V), (VI) and Section B and C remain in full force.

E. As in the past all communications between Italian authorities in A.G. and Army territory on one side and those in Italian administered territory on the other will be forwarded thru the usual 100/4039/L channels (PIO-IO-Local Subcommission).

2. In territory administered by the Army.

The procedure set out in the Directive 100/4039/L of 3 May 1944 will be followed without change.

Richard H. Miller

WILLIAM H. MILLER
Colonel, GIC
Acting Chief Legal Officer.

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394

Regional Control and Military Government Section

Ref: 17/43/CA

4 July 1944

EXECUTIVE MEMORANDUM)
NUMBER 68)

RELATION BETWEEN ALLIED CONTROL COMMISSION
HEADQUARTERS AND REGIONS. REGIONAL ORDERS.

1. The powers delegated to Regional Commissioners are set out in Paragraph 1 of Executive Memorandum No. 30, to which this Memorandum is supplemental.
2. This Memorandum is issued with the intention of clarifying the principles which should govern the publication of Regional Orders in whatever form or whatever ^{by} description promulgated.
3. Regional Orders must not deal with over-all policies, such as censorship and defascistization. (see 1, II para 50 - ACC not.)
4. Matters involving long term policy (i.e. extending beyond occupation) should be done by Italian decree, or by General Order (where it will take too long to await the issuance of an expected Italian decree), and not by Regional Order. A simple machinery has been established whereby Italian decrees can be made effective in Military Government Territory by an endorsement signed by the Executive Commissioner, and published in the Gazzetta Ufficiale. The above procedure should be followed whenever possible and HQ ACC should be approached to make the necessary arrangements.
5. It is important that Regional Orders should not contravene Proclamations or General Orders. It is not permissible for a Regional Order to purport to amend or construe a Proclamation or General Order, and any attempt to do so is legally ineffective. Further it is not permissible for a Regional Order to purport to transfer to Italian Courts the trial of offenses which would normally be heard before Allied Military Courts. Whenever it is desired to make any such transfer, the matter must always be referred to HQ ACC.
6. Every Regional Order is to be submitted before signature to the Regional Legal Officer, who should sign a certificate that the Order conforms with the principles laid down above and is in proper form for signature.

(Sgd) Brigadier, Executive Commissioner.

2. All officials appearing on List "A" and "B" will be arrested by or handed over to FSS for evacuation through POW channels to 371 PW Cage. Those on List "C" will be dismissed and allowed to go free unless considered a menace to security.

3. CAOs will give to FSS full particulars of persons to be arrested with reasons so that GSI (b) can include them in their fortnightly list of persons arrested.

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