action. T. Lawrence placed his arm around my head - I heard a woman scream - I took up my pistol - I saw the Turks opposite shoot - then supposing that I struck a blow with my left and against the Lieutenant's right, I fired in the air - I jumped over the step and fired 3 shots. I intended to replace the Lieutenant's pistol sideways. The pistol stayed in the hand of the Lieutenant till I saw him dying. I have remembered why I fired 3 shots, but I remember then I did. This was discovered by the expert when he examined my pistol. I cannot be sure after the Lieutenant fell whether I fired - I believe not. I am sure there were other shots besides my three. I heard more than 3 shots - I think 5. I don't know who fired them, or from where. I got the impression from the whole thing that they were fired by the other men who was with the Lieutenant. My attention is then Carla Capuzzi was somewhere around from me, a little behind me, and to my left. When I fired, the Lieutenant fell, but the Cashier in the car already been disarmed, and then his fallen pistol, which was found to the right of the body of his head. I saw Carla Capuzzi go to help, because it did not seem that the Lieutenant was dead, but after a few minutes he died. At the moment of the shots there was four people in the room of the street, and none of them ran off. After the fall of the Lieutenant, people began to run and look around. I began, as was my duty, to keep order. I did not recognise the Patrick Cashier (Constable Alberto) when he started to give evidence, but I recognised him after he gave evidence about the conversation. His account of the conversation was correct but omitted one thing. I told him, as he said, that I had acted in self-defence, and I told him that this was not the only reason that I did not hand

him to arm. In [illegible] I told him that I [illegible] element for their own long [illegible] suspicions of the news-paper office. It was at that point that the agent who [illegible] me told the Commandant that I could keep the arms, as I was watching the Front. I remember that some officers of the Allied press came to the Hotel, saying that they had seen — I have forgotten exactly. The leaders of the Allied Forces came first. I remained in the Sport about 20 minutes or half an hour. The agent came for documents, and I told him that I had only false documents. I showed them to him, and also gave him my [illegible] particulars. (Brigadier Colantonio Ovidio is known in the Court). I believe I recognise this officer as one who came up immediately afterwards, but he was dressed in civilian clothes. The Brigadier came at the same time as the Americans. I left Rome on ? June for reasons of [illegible] nature. In the Fascist Army I served only as a medical soldier, therefore knew nothing about arms. I tried to bring help to Badoglio if this was possible.

XXd

Antonello Trombadori was the person who gave me the order to join this building. He had been one of my commanders when I was with the GAP, and when I was sent to command the Partisans. He was one of the members of the Rome military Committee. I think he gave the order on Commander of the Roman National Front, of which I was a member under the National Committee of Liberation. I am not convinced of telling under [illegible] of what official position I am not sure. At that critical time we all had to keep our personalities disguised. In that clandestine period, Antonello Trombadori was known by the Nazi-Fascist police, either under the first time

and stopped — was leaving the position I was. The latter turned and they exchanged words of hostility. I could not hear what they said, but they behaved like two angry roosters. I saw in the hand of the second man an automatic — then I became frightened and precipitately climbed the stairs. As I was gaining the first steps I heard shots. In a hurry I combined hand. It was the man in the military or semi-military clothes that I saw with the pistol. He made one very rapid motion and extended his arm again the other. Seeing this I turned round and climbed the stairs. My husband accompanied me. I cannot say exactly how many shots I heard — it was more than one, and more than 4 or 5. I thought the man who had his arm extended had fired, and then the other had answered. The first shots were clearer and more staccato, the others were a deeper bark. After that I stayed at home, as I had had enough after day.

xxd

The distance I was away was not much more than the length of this hall. The military man was standing with his back to the centre of the street. He pointed his pistol at the other man whose height, but I could not see on which side. The first shots were clearer than the later ones. The distance from the bottom of the steps to the corner of Via IV Novembre is about the length of this hall, or a little less. I was about half way down the steps when I saw all this. It was the first person, the military man, who pointed the gun. He was bringing something — his arm, perhaps a pistol — I did not see exactly. It was in the right arm. He had his sleeves rolled up, and I saw nothing else on his arm. It was when he was raising the pistol that I noticed the coat on his arm. I cannot say that I saw the coat afterwards. The civilian was dressed in grey, and he had — like other

458

hand such as they use in those days. I do not notice anything else special. I could not say how the third man was dressed — I could not say whether he was military or civilian. The military man had a belt on, but I could not say if there was a holster on the belt. I remember the man by if there was a holster on the belt. I remember the coat-band of the civilian, which was red, white and green. It caught the eye. I did not see any beard. I did not notice the third man's clothes, because he was not doing anything. They did not give me the impression of being together — the military man & the third person I thought they just happened to be near each other. I did not report what I saw to the police. I am here because the Attorney happened to come to my home in connection with another matter, viz the Conspiracy Case I could recognise in this Court. There was 10-15 days ago. After the scene I ran up the steps very quickly and did not look round again.

No Re-Exam

By the Court

I think I recognise the accused, but I think perhaps he was not clean shaven as he is now. I think I recognise Carlo Cappai as the girl I saw, but I am not absolutely sure. I recognise the accused as the man who was with the girl. I do not recognise anybody else here — my attention was not concentrated — the I did not see
shots, but only as three. I am sure that the second man (the accused) had a weapon. I assume he fired, because he had the gun-band — but I turned round too quickly to see his reaction. When I first saw the military man he was coming towards me, & he turned when he was called. Then the two men had

xxd

I saw the Director of L'Unità since the elections period, which began after 8 September. I think it was on the night of 6 June a publication was to be issued by the Party Headquarters - this was after we got home from our reporting. It was extremely hard to be accurate and [illegible] a correction was published 2 or 3 days later. We published the correction [illegible] because we had learned the truth. Our earlier error was based on hearsay of the streets. We believed the original story because there were armed attacks by Fascist bands during the night of 4-5 June, and there was rumour of Fascist shots on the 5th. We might quite possibly have brought anybody down as Fascist. There were contradictions of fact - people engaged in tearing down posters. I don't remember receiving any communication from Lt. Bartucci's H.Q. with reference to the article on 6 June. Possibly such letter would not come to me personally. Since then we have changed our location 3 times. [Copy of the newspaper L'Unità for 9 June shown to witness] Seeing this, I remember now that we did receive a communication from the H.Q. of the Finance Guard. I did not receive it personally. I saw the draft of the original article the night before. I have the text and to the best of my memory an article should be published. It was based on rumours collected in the streets. I did not specify where the reporters were getting the information from. "Giustizia" in the article was for "justice" but then fine".

Read

I don't know who was the reporter who compiled the report. It was evidently a reporter's summary, and did not go through the editor's office. I can explain the error if the computer time was in the office on 5 June.

JS.

be were first conv. of the characteristic of the period. It is obvious that our journalistic work was not perfect.

By the Court

[This is not noted – as the questions were directed solely to the conduct of the newspaper in publishing without recipe- ation such a misleading article].

Fifth witness (Swan)

~~Dottoressa~~ Signora ~~[redacted]~~ Bastianina Martini known, Via Orazio 31, Roma – housewife. About 3.0 p.m. on 5 June I was coming down towards La Sediniata from the Cortonata, accompanied by my husband, on our way to an office nearby, to collect a case that he had forgotten that morning. I noticed a person going in the direction of Via Tè Cannetti, and on the other side of the road (being strips of paper from the wall. At a certain point a person instantly caught – by calling him – but I did not hear what was shouted. Then the first person turned, and they started towards. Then the first person was coming in a way that seemed angry. I did not exactly know the first person was dressed. He had military boots, breeches, shirt, carrying something in his arm, other was bare-headed. He was not dressed as a civilian – but he was not dressed completely in military clothes. The strips of paper were in a kind of window – in the street on the wall of a house, at the normal height of a person. The other man was in civilian clothes, with long trousers. I had never seen either of them before. I could not distinguish very well at the distance I was. I was distant a little more than the length of this hall. I was at the time going from the steps. There was another person standing by the man stripping the poster, and there was a woman near the second person. The second man approached

751

and moment

xxd

I don't ever remember seeing accused angry or incensed. I had never any cause to see him annoyed or injured. I don't know how he would react when angry — may have difference in life, one alters some other than ... opinion and superior.

Fourth witness (Sworn)

Celeste Carlo Negarville, Piazza di Spagna 51, journalist. I belong to the Communist party. On 5 June I was a member of the Board of the Party and Director of "L'Unità". I knew the accused. At 3.0 p.m. on June 5 I believe I was at the typographical department of "Il Messaggero". I returned to L'Unità office about 3.30 p.m. I entered in via Tè Cornelli the body of Battisti still covered with a sheet. I questioned the men on guard and learnt what happened. I met the accused. He told me that he had on some hopes he saw a man — (stopped by the Court, as the ground that evidence is available). Accused was a member of the GAP. He did not depend on me — he depended on my companions who dealt with military matters, particularly Antonelli Tombadoris and Giacomo Pellegrini. On 5 June accused received his instructions from the military Department of the National Committee of Liberation, which I was a member. The instructions were to keep order, in case of abandonment of the city by the Germans, and stand on Germans and Fascists in case of resistance. If the Germans had not left, it would have been the duty of the armed to fight them. The dispositions were in accordance with orders of General Alexander, who was believed to be in contact with the

752

Allies – at least agreements were made. Upon the arrest of General Oddone, but they were valid after his arrest.
(Objection on part of the prosecution on the ground, that Defence is not producing the "Best Evidence").
I can produce a statement of the President of the Council, Bonomi. I don't know anything in writing of the relation between the Committee and the Allies. You can ask Gen. Oddone about this.
(Advocate for the Defence indicates that Gen. Oddone will be called). A few days before Gen. Oddone's arrest we were all informed of certain contraband words, which were broadcast over the Radio from Italy and London. On 5 June I know accused was wearing the arm band of the Volunteers of Liberty, with the letters C L N, and with the stamp of the party. The bands were distributed under the care of the military detachment. Those deputies in military detachment directly were a tricolour band, those depending on the parties wore a white band. There were these two bands which were known to the military command, but there were also various other type of band which are closely controlled. Up to the 6th the patriots were armed, up to which date they were on duty. Bentivegna is a sentimental young man, and I believe that for his military efforts he had to renounce his arm in distinction, but he has succeeded in doing so. This activity was not in accordance with his character. I don't say he is impulsive and emotional. I know he valued human life, and that life should not be taken except in the supreme cause.

11.

he was only in the Bar for a few min. I believe the
word was - Benotta, but I did not examine it. I was
wearing a star and so was not. They were the usual
size star and were issued from the Band. The Allied
Command had already advised the Band to be disbanded.
I did not think I was a spy. I don't know whether
Agnes Keyes was or not. She was wearing an overcoat -
also a tie-dress, but I did not notice the writing on it.
Two pens that we both were was found that we had
been active patriots. I did not think accused was in danger
of being tried as an assassin. That is my personal opinion,
as I saw that he only injured himself. Accused told
me his name. I did not know if it was right or false.
He did not show me any identity card. The young lady
confirmed that he was Benotta Egna. I made no inquiries.
I have not seen the American Captain - Sgt. Major since.
I saw my friend the prisoner about 2200 hrs. After dinner
evening. [illegible] he stayed for night in
my house, and next morning he left. I have not heard
from him since. I did not make any written notes.
I made no note of the name or address of the officer.

Further xxd (with leave)

I did not discuss this case with my prisoner friend
after night. I did not attend at the close of the case.
I did not take any further interest in the case, because the
American Captain said he would take charge of it. I
have no entries with my opinion for the day.

Further Re-xxd (with leave)

The name of the American Prisoner is Lt Sergeant J. Alan B.
Glenn and according to the note in my possession
his serial no. is 1907260.

(Adjourned 1215-1330).

Third Witness (Rome)

Mario Cevolotto, Avvocato, Via Valadier 35, Roma. I am not a communist. I belong to the Democratic Party of Labour. I am the General Political Secretary of the Party. The political directives of the party depend on its organisation and tradition. The tactical directives depend on me. During the 9 months of Nazi domination the Federal Secretary, Bauli, came to see me, but I was able to hide and my activities under cover. They arrested my wife and kept her for 3 days. I was a member of the National Committee of Liberation, being elected member in my committee, under Marescia Laini who was first member, and being also a member of the military Directorate. This constituted the Command of the different bands, and was composed of a member of each of the 6 parties, for the deliberation of military problems. The military Detachment was in contact with Kesselring's H.Q. It was commanded by Col. Montezemolo, who, after he was arrested and shot, by General Odone. We had our contacts with General Odone, until he was arrested by the Nazis some 7 or 8 days before the Allies entered. General Odone was in direct contact with Marshal Kesselring, I suppose through radio. On the 5th June the patriots were armed with carte arms they could withstand during the period of subversive activities. I have known many cases of patriots losing their positions of my parties. I have known several for many years - his father practised before his progress to prominence in my office. The family have always come to me for advice since. (Avvocato on duty council of the conference of parties the character of the accused is in me). The relation of the accused I have always held that accused is intelligent, quiet conversation, at the same time good understanding. I, in my relations with him, have judged him to be a man of virtuous life of my own, but fundamentally a sentimentalist

+2.

755

the prisoner. He was on the left side behind me. I was sitting with my feet hanging outside the vehicle. The Captain was a Captain of the building police, and the Sgt. Major was the building Police. I only know later they belonged to the 5th Army. They were wearing hats, and the prisoner told me he was a Captain, because I could not distinguish rank. Only the Sergeant Major was wearing a hat - the Captain had a field jacket. They came to find me in the Via dei Giacchi, where the prisoner knew that I lived. I was in the office of the hotel, and they asked me to go in their company with them, because me as a guide to show them where the different stations were. When the traffic cleared, the car turned left into via Tè Cannella. In Via Tè Cannella it stopped, and we got off. I got off first. In the car remained only the driver. I was immediately near to the wounded men, and then I spoke to several. The Americans remained at the back of me. They were there in the street for everyone to see. I could do nothing because the hand had been handcuffed and I could not be seen. I don't know what the Americans were thinking. Immediately afterwards we went to the Bar at the corner of Via Tè Cannella. As soon as several said he was staying and wanted to give an explanation, we all went away to the Bar and he remained there. It seemed to me that the Americans did not attach too much importance to the incident - they invited me to the Bar. I agree that I thought their action in doing so was most intimidating. I also noticed that the body had been removed and hospitalised. The Captain and the prisoner said they would take care of that. I don't know what they took. After we came out of the Bar, several was still there - and then a civilian came who began to search round about the body. He said to me that the Captain would have come.

-9-

756

I did not attribute any more importance to the matter, because I knew the Americans would like me to do it. That is why I did not speak till Saturday. Until Saturday I never saw anything about this case in the newspapers. We had nothing else to do on that day except look for a suitable place for dinner. When we came out of the Bar, we went to the place where the incident took place. We stayed a few minutes. Benvenuto was still there. Since I had to go to the office of the Band, for the handing in of arms, I asked him to accompany me, being the officer on duty. I first met the Americans about 1430 hours. As long as I was with them they did not find a suitable, because the stations we went to had none. The first place was Pincio, Villa Borghesi, and we found one there. Then we went to the Station of Carabinieri, near the Railway Station in Via Cesare Petroio. At these places we found military personnel but no suitable. I don't know the units who owned these two places. At the second place we had an invitation, but they told us H.Q. had not arrived yet. We also went to Piazza Venezia, but we turned at H.Q. We were told there was a H.Q. there, but began going to the Captain wanted to go to the Bar. Some time the Jeep went down back to the Bar. At the time of the incident we were going to the Bar. I saw the lieutenant put his pistol in record. I saw him pull to the ground. When I arrived there was only record and the lieutenant. I saw the lieutenant's pistol in his hand and on the ground. I did not touch the pistol. It was still there when I left. It was still there - the ground - when we came from the Bar.

484

About 12 hrs I was present at the pitching of the villa. I was here relaxed on Saturday evening I saw a newspaper article about this case. I read that the witness Castellani had been unable to identify the parts of the event place and had contradicted herself. This was in the "Risorgimento". I reported the facts to my superior officer, Maresciallo Maggini, De Angelis, and I was invited by him to come here at 10 hrs. I went to the Maresciallo commanding the Station of the Polizia Stradale. He accompanied me to the Prosecuting Office — this was about 12.0 noon on Saturday. I found there 2 civilians, one at the table and one at the typewriter. I did see armed patrols in Rome on the 5th.

xxd

I have been 12 years in the CC.RR. I first met accused on 5 June, after the incident. I had never seen him before. I did not know of him before. I do not know what party accused belongs to. To go without a blouse is not permitted. Badges of rank, by the rules, must be worn on the blouse. I don't know the names of the American captain and the American surgeon-major. They were just visiting - following the 5th Army. The prisoner said he was leaving for Foggia. I told the Sig my Superiors last Saturday. Privately I told it only to my family. It did not occur to me to get the names of the American Captain or Surgeon. I was convinced that the Americans would have taken care of it all. I don't know the nationality of the accused. I spoke to him in Italian. The accused was in Italian. On 5 June I had not yet resumed duty with the CC.RR. I am now with the Centro Raccolta. That is - Company post for disbanded CC.RR. He should be despatched from there not from the Missing Persons. I don't really know my status at present.

758

we were going and in the jeep to the different Allied commands in order to find a unit for the prisoner. I left the American unit after the incident, about 1530 hrs. I went to the Grand Hotel. We were going from Via Cesare Battisti Grand Via Nazionale. We were in front of the L'unità Building. To turn into Via Tè Cavalli the jeep had to turn left. We had to stop before after traffic go past. I saw the Lieutenant turn down 3 parties. He was dead when I arrived at the spot. I got out into the street, walked to the Lieutenant, & found he was dead. When I saw him turning from the parties, we were in the jeep, stopped - via Cayetano Novembre We were still there when the shots were fired. We had to wait for many cars. They were military vehicles. In spite of the traffic I could see all I have stated. I have known who fired the shots. I left word - Saturday that I wanted to see the Prosecutor. I did not say when I was coming back. Immediately afterwards I saw an employee of the Lawyer, and said I could give evidence, & left my name and address. Immediately afterwards I was told by Avv. Nicolai to be here on Monday. I don't say that witness Cardinali gave wrong evidence - all I say is that what I said in the newspaper was wrong, and she contradicted herself. The American Captain took down the name of the street. I did not tell the accused who I was.

NO Re-Xtn

By the Court

There were 5 persons in the Jeep. I was at the back of the Jeep on the left. In front beside the driver was the Sergeant-Major. The Captain and the prisoner were in the back. The Captain was on the right, and

759

blouse, and a skirt. After the officer had taken from 3 paces he continued to walk along via Tre Cannelli towards the Stairs. He had not yet reached the Stairs. On the corner of via Cavalieri towards a young man and a young woman appeared, going in the same direction. I recognised them both here in Court (witness points to accused and to Carla Capponi). But the young man then had a light beard. Accused said something about — but I could not hear what because of the noise of traffic — and the officer then made half a turn. There was a brief exchange of angry words, which I could not understand, but could see. The officer then took out a pistol from the holster. I saw him load the pistol, cock it and point it against the accused.

(Court adjourned at 1700 hours).

18 July 1944.

Court re-assembled at 0915 hours.

I saw accused put his hand in his right hand pocket, take out his pistol, with a huge gesture shielded himself with his left hand, drew back a step, and I heard some shots. By a "huge gesture" I mean a rapid gesture. I followed Bentivegna — he was approaching the officer. He did not have a weapon in his hand — he was arm in arm with the young woman. I can definitely exclude that he had a weapon in his hand. The young woman was — the right, the accused was on the right. By "shielded himself with his left hand" I mean he tried to deflect the weapon. I don't think accused stepped back once the shots were fired. I heard 3 or 4 shots — then there was an echo, and I 13.3 say positively how many I heard altogether. When the shooting broke out the military — got behind. Then he took a few steps — if to rise, and made gestures with his hand. He made gesticulations with his hand, still trying to rise; then he fell back again, and the pistol fell from his hand, he remained on the ground with his right shoulder.

760

I did not notice how the officer was [illegible] the Finance Guard. I saw the officer take down 3 posters. I only saw one particularly, which said L'Ordre Socialiste - I assumed it was L'Ordre. When I saw the posters being taken down I saw 2 or 3 other persons near the officer, looking on. I saw Simone near him, between him & him. I did not notice who was the closest person to the officer. Accused and the officer were the persons closest to me. I could not positively say how many shots were fired. I don't know who fired the shots, or if the same person fired them all. I was dressed in riding breeches and a light coloured jumper — civilian clothes. I had a brassard with the word "Police", and a rectangular piece of cloth with a star, showing Section Commander and Squad Leader, on my left breast. I was with 3 Americans. I walked towards the wounded man to see if I could help. When I arrived near him he died. Accused approached me and said "I have not killed him to commit a murder; I did it in self-defence". He also said "Tempus, Lieutenant, I put myself at your disposal, in order that the Lyon may be saved on all the posters". I imagine he called me Lieutenant because he saw the star on the brassard. The Americans with me said that having seen what happened they would have taken care of it all. When the Americans left the scene, they left accused on the spot. They did not speak to accused at all. The Americans spoke amongst themselves in English. I did not see that the officer was acting under the authority of the Allies. On the 5 June I myself inspected some false patriots with Hand - they were also pillaging a villa. I enrolled a number of the German S.S. who came to hand and had regular meals. That was about 9.0 a.m. on the 5th.

#61

I and left [illegible], and then he was acting in a hostile way because of it. At the moment, was unable to control my emotions, and I don't know what effect it would have had on me if I had seen the Lieutenant had an automatic. If I had seen an automatic I might have acted like him and calmly why he was wearing pistols. I don't think people employed by the Allied Forces would be likely to break down our Communist Party offices. If I had known the Lieutenant was employed by the Allied Forces I should have addressed him in a calmer way. Actually I did address angrily to him in a hostile way. I did not think of the effect doing so at the time, because I was very incensed. I would agree that the way things happened we both lost our tempers. I do not agree with the evidence given by Signora Vergini. I do not know her, and she has no reason to concoct a lie against me. I think her observation was bad. I did tell the police that I had knocked away the Lieutenants' pistol with my left hand. I cannot explain why it is not in the written statement, as I regard it as most important. My pistol is a gift from a Companion, and I gave it to an Australian. Arms were not issued by our superiors, we had to get them for ourselves. I left the right to carry pistols — we were fighting and risking our lives. My band was sufficient authority to carry arms, as was wearing the Allied Radio. I speak of bands issued by the Committee of National Liberation. I did not think the band gave me the right to defy the law. I was defending the law. It was after I crossed Via Tè Cannella that I first saw the Lieutenant. It was about 10 metres away, — I cannot say exactly. I in fact started work for the Resistance Partisans without any training in

462

arms. I fired 2/1st shot in combat since then I have had a lot of experience in the last years.

Second witness (Sworn)

Colantonio Vidio, Centro Raccolta dei CC.RR. I am a Brigadiere of CC.RR. Since 8th September last I was in the Internal Camp of the CC.RR in Rome. Since 8 Sept. I have not been on duty in Rome with the Fascist Police. I was part of the Patrizi Museum's band. The band operated in Rome and outside. On 5 June about 3.0 o'clock I was in an American jeep, with an American Captain, a Sergeant and a driver — also an American prisoner who had been my guest for some time. At 3.0 o'clock we were at the corner of Via IV Novembre & Via Tè Cannelli. The American prisoner left a statement with me.

(Statement produced and read by the Court. It contains nothing but an unfavourable comment on the character of this witness, and after perusal is handed back to the witness).

We were visiting various allied offices trying to find a uniform for my prisoner. We were in Via Quattro Novembre ready to turn into Via Tè Cannelli — we were stopped by traffic waiting to make the turn. I was sitting beside the driver looking into Via Tè Cannelli. I saw a man in uniform with sleeves rolled up, jacket folded over his arm, running down pavement. The posters said Viva L'Unità, Viva l'Esercito Alleato, etc. I did not notice any particular signs on the ~~arm~~ sleeve. Later I recognised him as an officer. I did not notice if he was a band on the jacket. Our disciplinary regulations absolutely prohibit appearing without a coat, whether on duty or not. There is a general application to the police forces. Discipline / discipline prohibits it. The band is supposed to be worn on the left arm on the

763

I did not see the Lieutenant because he had fired, but because his thumb was the one indicated by the 2 shots were fired by someone else. The enemy position only has one possibility of being in by the other one. The Lieutenant's coat covered his left arm from elbow to shoulder. From where the Lieutenant was standing his pistol replacing the holster in the manner, the coat remained in the same place. He was wearing pyjamas & keep the coat in the same place, and still had the arm in the same position when he fell. I have myself, when replacing the pistol, had a right whilst holding 2 or 3 other cartridges in the other hand.

(Witness gives a demonstration in Court with a borrowed Constable's coat and pistol).

If you could see my upper arm then, it was because you had special reason for looking. I had no special reason for looking at the Lieutenant's arm. I don't remember on which side the Lieutenant carried his holster. I had the impression it was on the right and to the back. If I did not see the hand, I may suppose it was not there. I guarantee that I did not see it. If my statement says that I took a few paces back, it may be the true version & the pace interpreter.

No Reaction

By the Court

My job was to supervise the discipline of the guard on the building. Generally the duties of the guard were to keep order, to bring. Generally the duties of the guard were to keep order, to find cards, escort visitors, and to keep the street clear. The guard came to the place of arrest Nazi & Fascist elements. It was known to the police that these elements might show themselves openly. We stayed up all night for night, awaiting reports and received news of attacks on Fascist premises. There was never an attack against our building. I did not [illegible] Lieutenant's presence as an indication of an attack - [illegible]. When I made my tour of

766

inspection I was at looking for anything in particular. I had been on the move all day. It was not strictly a time of inspection. I was simply going from one place to another. I had no particular destination. My wagon had been given over by a companion. I had received no precise instructions as to opening fire. I was just invited Barbuto to accompany me to the newspaper office. I think the time was about 3.0, perhaps 2.45. I don't think it was later than after 2.30. I thought to myself I had full power as special authority. I mean authority to maintain public order. The band was in the nature of a procession. My orders were to maintain public order, if order were disturbed by any one whatsoever. I thought I had authority to fire in case of necessity. In case of disturbance my duty was to quell it peacefully — if it was an armed attack we would have answered with arms. Five or six, or perhaps ten, minutes after the shooting I moved away a short distance to carry out my duty to prevent order. Up to that time the lieutenant pistol had been lying in the same place. I do not know whether the witness Alberto Castelli arrived before or after I moved away. During the time I moved away from the body the lieutenant pistol disappeared. I immediately looked for it. At that moment an agent of P.S. had arrived and I handed over to him. He is not in Court. I should know him again. I asked those present where the pistol had gone — or rather we asked, but with no success. I agree it was a serious matter — but I was alone, and I was surrounded by a fairly large crowd. I believe I have been asked about this pistol before. The leaving down of the posters was not a cause of my firing. It is true it is an interesting case, and should not have interfered if the lieutenant had not touched the posters. I got the impression that the lieutenant was unhappy at the

had been, it must be understood — to Land, and later in the day I sent him from my office with a message. My Command had stood me to be specially alert against acts of sabotage against the Committee of Liberation and the Allies. All the things I had heard and seen made me more patient and meticulous in doing my duty as a soldier. My own person was exposed to danger. All the patriots were as exposed to danger as they could be. The things that happened did, however, disturb the general feeling of happiness among the general people of Rome. I have always been anti-Fascist. The Guardia Finanza was not a Fascist organisation, any more than the Carabinieri or the Army. I repeat this is strong — but in fact during the last 7 months the Guardia Finanza had done many things to help us — though I know many of the officers were against us. I did not know the officers were against us. I knew there were officers hostile to us in all the services. I had no animosity against any one. I organisation. I had no animosity against any one. I paper knew was proper me and my principles and my organisation — i.e. against the Nazis & Fascists. When I saw the Lieutenant tearing down posters, it was an indication that I was faced with a Nazi or Fascist. During the last 7 months I have myself torn down many Nazi or Fascist posters. During it made me angry. I did not see the uniform. During military days never noticing. Police were always at my home my families and supplies and how matters we could by hands on. The Lieutenant did not tell me who he was or M. I don't know that I should have done if it had been an old man. I only fired at the Lieutenant because he pointed the weapon at me, & his hand fell, and not because he was using from the posters. When the pistol was again

my hand I stepped sharply against the ... white danger. I agree it is possible that the third man fired into the air just to frighten us. In fact both guns were pointed, and I fired. To tell the truth I did not aim at all.

(Adjourned 1245 - 1420 hrs.)

As I said before I placed my hand in my pocket when the lieutenant was preparing his pistol, and with the cartridge between my two fingers I pushed back the percussion cap. Meanwhile the lieutenant drew his pistol and cocked it. The actions of the lieutenant and myself were simultaneous and I cannot give the exact sequence of time or the acts which succeeded each other with such amazing speed. I extracted the pistol, gave a blow to the lieutenant's arm, took a step backwards, and immediately afterwards fired. I cannot say exactly when it was the lieutenant fired his pistol at me. I have no picture in sequence. All I can say is that he did it. Perhaps the blow given had no more rapid than his pulling the trigger. I cannot say whether my blow was heavy or light, it was sufficient to displace the pistol. My jump back was - hurried step back, and I cannot say I fired before my hand arrived somewhere stopped. I only tried to displace the arm - I did not try to take his pistol. I agree for a certain point both our pistols were over. The lieutenant's pistol had hardly been pointed long/short when I gave the blow. The lieutenant said nothing. I heard 5 shots fired. The sequence of the shots. I did altogether - I cannot give the sequence of the shots. I did not say I heard 3 shots followed by 2. (What witness said was "Ce pin Pan"). After moment I knew that I should be where if the lieutenant had fired. I fired three shots, and I heard them clearly. I cannot say if the other 2 shots, and I heard them clearly. I cannot say if the other 2 sounded higher or lower - I was too excited with fire. I have never said the lieutenant fired the two shots. I said later I believe he did not fire. Even if he had fired I should have been able to note the fact, I was so excited.

767

Then I left a little while later. He had been one evening
in the Piazza di Spagna period. About at the time he came
to when he was in mixing with Giacomo Pellegrini, one of
the leaders of the Italian Communist party. Before I was put
in there had been a party, which was not to finish, —
people gathered in front of the building and there was confusion,
and I was told to take charge. Miss Capuzzi did not
come to call me. She had come to L'Unità to pick her
colleagues, and except then she phoned me. I had seen her
during the morning, or three o'clock in the afternoon,
this during the day. I don't know precisely myself what
she was doing when she came or with me. It was probably
as I was going out of the door that I got into her company,
but I cannot remember. No one told me that someone was
trying from position — I saw it with my own eyes. I saw
the line as I have described. The military men on the
corner of the two streets — the other was a little more
to the right. I could not see or tell how many
positions we had been down — I saw later there were
four. The military men were plain clothes, but I did
not see if we had guns. He was wearing grey-green
trousers. He had a shirt of other dark colour.
He did have a hat, but not the communist hat
that goes over the shoulder — or possibly I did not
see it because of his coat. The coat was down over
the top part of the upper arm, and perhaps could have
of the shoulder. I don't know what [illegible]
the communist hat was. I did not see of other
particulars in their uniform, as I don't believe anyone
else would. When I called "Help", the military man
turned round, after giving a glance to the other man,
and came towards me. He pointed on his hands as
he came towards me. At a certain point we met.

768

After a little time he said he would [illegible] he liked, I could see I was. After I spoke to him he withdrew his pistol, put it back in its holster, & pointed the pistol towards my head. Then he did that I believe I said nothing. He said nothing - he just slowly cocked the gun at my head & I, since I was keeping control - which none of the Germans, put my hand in my pocket with my pistol. With the movement between the first two fingers I seized the percussion cap, and then sprung round & the unexpected. I was facing him which he drew his pistol. The movement took his pistol pointed to my body, hoping I took mine out completely. I believe I took mine out at the moment when he actually exploded his pistol against my body. At that moment we fell over against each other. I cannot say how long we spent from that till the 2 shots were fired from elsewhere. I did not allow him time to fire because I knocked his hand away - & at this moment I cannot say whether it was the Germans who fired the two shots or not. I gave to him with my left hand. If the Germans had seen I was armed, perhaps he would have had time to shoot. He had time to cock his pistol. After he pointed the gun I gave to him which surprised it. Possibly I was more ready than he, and thought quicker than he did. In many/then he, and thought quicker than he did. In other times it might have been possible to settle matters, but we were in an excited atmosphere on that day. I was helping & was aware me: I knew they were acting together, and I thought my life was in peril. I was told that [illegible] still Nazi. Fascist elements in Turin, and that one & my companions had been wounded. I was injured that in Piazza Vittorio a couple of days

769

cause of the shots I came into possession of 3 shells. I identify Exhibits 2, as shells which I received from an officer of the Carabinieri some 10 days after the shooting. I point them out to Capt. Greenhill. I then mentioned the name of the officer of the Carabinieri. From the time I received the shells till I turned them over to Capt. Greenhill was only half an hour.

Xxlin

I took statements from all the witnesses, except Signora Vergilli who refused to sign her statement. At 1500 hours on 5 June I went to Via Tè Cannelli. I was going to the office. At the corner of Via Tè Cannelli, standing about 100 ft. away, I saw a body on the ground covered with a sheet. I enquired of the body or not a military, from the body and from the grey green tunics. I approached, because an officer of the Guardia di Finanza and one of the men of the Guardia di Finanza were standing near the body. I asked the Officer if he needed my help. He said No. I raised the sheet, and saw that the deceased was Lt. Bartolini, whom I had seen in the office the morning. A little distance from the body was the jacket of Bartolini folded. Near the window of the garden house I saw the cap of Bartolini, also folded. I noted my and found a spent 9 mm. round.

[Case for the Prosecution subject to calling Lt. Pasqua to give formal proof of the custody of the shells (Exhibit 2).]

The Court explained the rights of the accused.

(Adjourned 1245 hours.)

17 July 1944

Court re-assembled at 0910 hours.

Aw. Adelino ops.

The prosecution here are proved accused's act illegal. But the Defence can prove his innocence quite clearly. We shall prove, first, that the incident took place in an atmosphere of war, ~~and~~ that Bentivegna, under orders of Committee of Liberation, had to be in a state of anxiety & unrest. Secondly we shall prove that accused was a volunteer of Liberty on Italy, charged with the task of spreading the news of L'Unità and obtaining permission against possible attack by Nazis & Fascists. Thirdly we shall prove that accused was authorised to carry arms. Fourthly we shall prove that the patriots were bound by orders received, and at the material time it was not yet known that the Allies were taking over all police duties. Fifthly Bentivegna and the other participants, carrying the posters, were doing a thing that appeared to be hostile to the principles of the patriots — and apparently hostile to the Allies themselves. Sixthly the verbal exchange was principal objectively and subjectively. Seventhly Bentivegna reacted in a most hostile manner to accused's words, actions & pose from words & arms. Eighthly accused had no other possible escape from danger, which was actual, imminent, except in the way he did act. Ninthly, in the true view of the facts, the act of accused was, from a psychological point of view, no more than a natural act of self-preservation. Tenthly the act is not punishable by Italian law because the act of Defence of the accused was proportionate to the degree of offence offered.

Evidence for the Defence

Accused elects to give evidence on his own behalf and is duly sworn.

Rosario Bentivegna — age 22, unmarried, medical student. From 8th Sept. 1943 I have been engaged in partisan activities, in Rome and the surrounding area. Since 1939 I have engaged in political activities, and in September 1941 I was arrested by the Fascist police —

English by I saw accused at H.?., Asst. G. Police, in Palazzo Venezia. I told him I was - Captain ? P.I.D. and that I was investigating death ? Simonetta ? Finaroja, which occurred about 3.0 p.m. on 5 June. He replied - "Yes, I did it". I cautioned him, and he said "I want to tell you all about it". I said to him that I wanted him to understand that he need not say anything further unless he wanted to; that if he did say anything it would be taken down in writing and might be used in evidence. I did this through an interpreter. I identify and produce statement made by prisoner after caution, taken down - my own hand, dated where signed and signed on each page by accused. Accused signed the alterations and also. the mistakes in spelling that I had made. I made no promises and no threats to accused before taking the statement. I did not offer any advantage if he made - statement. (Statement accepted and marked Exhibit 1). I produce and identify envelope 3 cartridge cases in an envelope, which were handed to me by a Lieutenant ? the Guardia Finanza - I believe his name is Pasqua. They have never left my custody since. I actually seized the cartridge from an Ufficio di Polizia Giudiziaria called Pancotta. (Envelope containing cartridge marked Exhibit 2). I myself arrived in Rome on the very early morning ? 5 June, about 4.30 a.m. I personally posted proclamations in Rome at 6.15 a.m. on morning of 5 June, particularly Proclamations 1 and 2; I posted them in Piazza San Lorenzo in Lucina, just off Corso Umberto. At 11.30 a.m. on 7 June I visited the mortuary at the building Hospital in Rome. I saw the dead body ? a Lieutenant ? the Guardia Finanza, dressed in the uniform, which is well known to me.

772

At 2.45 p.m. I was present at the hearing when Dr. Fontana Mario carried out a post-mortem examination. I saw a wound in the front of the chest, and also a wound in the lower part of the back. The doctor examined the whole body, and there were no other injury apart from these two wounds. Later that afternoon I visited via Tè Cannelli.

No XXXIV

By the Court

From my previous experience as Londra police officer, I knew that the bullet had been fired from close, and that the hole which was obviously a hole of exit. It was smaller than the hole of entrance. I saw the doctor ascertain that there was a clear hole right through the body. He did this with a probe. There was only the one wound in the body. I examined the deceased's clothes. He had his jacket on, his breeches, jack boots, shirt, collar and tie. I could see no sign of injury on the jacket, so I undid the jacket and examined the shirt, which showed a hole in front and another in rear. I did not then know the position of the body, but I came to the conclusion that the deceased was not wearing his jacket. The shirt was slightly singed and blood-stained round the hole of entrance. The hole in the back was hardly singed at all.

XXd (with leave)

There were four layers of fabric round the hole in the shirt, indicating the shirt was folded close to. In my view the shirt.

Tenth Witness (sworn)

Pericolo Giorgio, Agente di Pubblica Sicurezza.
I received orders from A.M.G. - this case to make inquiries, and to collect signed statements. In the

I don't [illegible] if they both fired. The Second officer was carrying his pistol in a holster. I saw him take his pistol out of the holster. As I have already said, he took his pistol out, put a shell in the chamber, and pointed it at me and fired. At that time he had his hand in his pocket, possibly it was a matter of habit. I saw accused take out his pistol. The lieutenant took out his pistol first and pointed it at accused, before accused had taken out his pistol. It is not correct that the accused pointed his pistol at the lieutenant first, and that the lieutenant then took out his pistol out of the holster. I don't know who the other civilian was who was standing a few metres away. I don't know, but I think he too fired, as I heard shots pass close to me. When accused fired, the lieutenant had his gun in his hand. When the lieutenant fell, his pistol was on the ground on the right of his head. As lieutenant partly raised his body and his head. As lieutenant partly raised his body and his arms, the palms of his hands turned, and the pistol fell to the ground. He had it in his right hand. I cannot say if I saw accused fire - it was my impression that he did. I had already withdrawn to the right. I cannot say if I saw him with had his pistol from his pocket. I saw him take a step back, but he did not then have the pistol in his hand. Before accused took the step back, the lieutenant had already pointed the pistol at him - at his left side at the height of a man's belly with arm. After this he took a step back. The Australian officer has difficulty name to remember. I met him at the newspaper, because he presented himself as an Australian communist. The arm-bands, such as worn by accused, were distributed at the office

REGION IV
15.
CASE N° 7162

2 the United to all the patriots, but I don't know by whom.
It was an official and by the National Committee of Liberation,
not a band of one particular party. Arrigoni was in
command of a patrol, composed of patriots who had entered
Rome with the Allies. This was a patrol for the newspapers.
I do not know who ordered the patrol. When I left the
office with Arrigoni I did not know he was armed, nor I
cannot do. That morning I had gone to the office to
greet colleagues returned from exile, and I stayed on to keep
the patrol. When I left the office with the accused I was
going for a drink. I have known Arrigoni since the end
of September. We are quite good friends. I saw him
often for some work. I learnt the culprit of accused's
pistol when it passed from him to the Australian officer.
The accused had been in Palestine + Yugoslavia, where
he was operating. I was in Rome up to early May, or
later I left. I returned again about 3 or 4 days before
the Allies entered. I think the accused came to Rome
a little time before the Allies came. I only saw the
accused's gun afterwards - immediately afterwards. It was
a pistol - the same type as the one I saw given to the
Australian. From the command "Halt" to the shooting the
lapse of time was just sufficient for him to say the
words I have described. I cannot say how long
exactly, as I was excited at the time. It was a
minute perhaps - I cannot say.

(A good witness).

Ninth witness (Sworn)

Captain Greenhill, Capt. G.S., attached A.M.G. Rome Police.
Lt. Col. Pollock delegated to me the investigation of this case,
and to ascertain who was responsible for the shooting. I
took statements. I took a statement from accused,
after cautioning him in accordance with the procedure in

with [illegible] sitting position. He just raised the upper part of his body, raised his hands to his head, and then fell back again. He did not say anything. I thought his gestures were instructions to Kelly. I moved my head down towards the limousine. He still had the pistol in his hand — I noticed it in the hand. I then ran and cannot said "Look for help, look for someone". He said nothing else. I moved up to the entrance, but on the way I met a civilian with a police hat coming towards us. There was not a word. This civilian was the first person I saw. I think that those who had been there had kept the place. I noticed the limousine the first time when I reached the point where I could see via Tito Lucretti and via Condotta, and I then saw Lima Cutting down the vehicle from the third window. I was in company with accused. When I saw Postus being wounded, I don't remember if I said anything to accused. I don't think accused said anything. In any case it was a gesture that we were in reply con-sidered offensive. Accused showed this by saying "Hell" to the Limousine. He said it in a loud voice in an intimidating tone. The limousine was already moving. I noticed when he was moving the pistol he made a gesture — it looked very big in a hurry. I noticed he was surprised by the "Hell". I believe accused's gun was a 9 calibre Beretta. I have inspected one in Rome for sometime, and became familiar with same. This par-ticular weapon was handed to an Australian officer. I believe it was or [illegible] the kind of the Australian 4. I think the Australian was using the 38 calibre. I think the Australian shooting. It was the second shot fired. The Australian officer said the Beretta was a good pistol, that was how the question of calibre came up. The accused then went with the officer, but I was present. Accused said it was a 9 calibre. Before that time I did

776

was discuss the libre with accused. At that time I did not know what the calibre of the pistol was. I believe the policeman who took me knew the calibre. It was an Italian civilian wearing a police band. I believe his name was Alessandrini, but I don't remember exactly. (Pointed to Giorgio in Court) This is not the man.

Xxd

Accused was wearing the arm band of Volontari di Liberta. He showed it to the policeman, just as he had shown it to Bentivegni. Bentivegni did not say anything when he was shown the band. Accused had a document, but not a regular one — he had a false identity document. He had a false document, because he was being looked for by German police, & he had taken part in partisan activities. He told the policeman that the document was false, and that his name was Rosario Bentivegna. Policeman did not ask accused for his papers. He said accused had the right to have it, since he had the band. Accused was commanding the group at the newspaper office. He was of the Division of the Committee of National Liberation. I don't know what happened to the civil in that I had seen before. I believe he ran away up the Via Tiburtina which leads away to the right. I don't know of the incident that day that I witnessed myself. I know we found that the Fascists might pursue us & capture us, we knew that were still fascists in Rome. We knew that there were still Germans in Rome. When I was away for help, the accused remained 2 - 3 metres from the body.

No Re-Xn

By the Court

Both the accused & the deceased officer had pistols.

777

Temporarily, as my present assistant. He accepted, & I
obtained leave from his C.O., waiting for him at the Questura
for this purpose. He left me at mid-day for his meal,
and I never saw him again. It was within my competence
to ask for this officer, & I am responsible for the Carabinieri, Guardia di Finanza, Vigili Urbani etc. I entrusted
the Records officer to arrange the arrangement, which is the
same as that in which British police do. I never saw
him since & that is what he was issued with me exercised
his power.

XXd

It was not necessary for me to wait for the reply of the
C.O., before employing this officer. I wrote to a matter
of routine.

No Re-exn

By the Court

The Records officer was ~~duty~~ on duty at
2.30 p.m. He would have been on duty ~~all~~ day
personal assistant in the office. Till 2.30 p.m.
when he was due back, he had authority to per-
form, in respect of any office — but I cannot say office
officer is always on duty.

(Adjourned 1700 hours)

15 July 1944
Court re-assembled at 0920 hours.

Eighth Witness (Sworn)

Carla Capponi, Foro Traiano 1. I am a student. On 25
June about 2.0 p.m. I was at the office of the newspaper
L'Unità, together with my newspaper colleagues. About 3.0 p.m.
I left, accompanied by Rosario Bentivegna, the accused.
I had gone to give water as a present in Via Tre Cannelle.

Accused among us – I don't know it – and my other
witness. In Via Tè Cornelli I saw a man in uniform, who
with his right hand was removing posters of L'Unità from
the wall. He had grey-green shirt with rolled up sleeves,
– I mean the arm on his left arm, with no hand covering.
He had no distinctive sign on his arm. I did not see
any. Accused said "Halt" to the man. He stopped. Accused
asked the reason for his act. The military man did not
answer, but asked who accused was. Accused pointed
himself as a friend of the newspaper L'Unità – an armed
friend. Then accused invited the military man to follow
him to the newspaper. It was in the nature of a friendly,
not a civil conversation. They did not go to the office.
The military man put his hand to his pistol – took it
out, placed – and in the chamber, and pointed the
weapon at Buttazzoni. Buttazzoni was armed, but he
had no gun in his hand. His right hand was in his
right trouser pocket – on the hip pocket. I suppose
he had his gun in the right pocket. When Barbisi
took out his pistol, I moved and noticed about
5 metres behind him an individual in civil clothes
with a pistol in his hand. I saw Barbisi point the
pistol to the left side of the chest of the accused. When
I saw the individual behind Barbisi I threw myself
aside and cried "watch out". I heard shots immedi-
ately following my crying out. Accused did not remove
himself from Barbisi – he just took one step back-
wards and fell, I think 3 times. I cannot say if
the Lieutenant fell. I know that one shot struck,
but I do not know who fired. The Lieutenant fell to
the ground. Then he raised his upper half of the body
and pointed the gun at accused. Accused was leaning
over him trying to help him. The Lieutenant did
from me him trying to help him.

479

I don't know if the 1st one killed the 2nd one – it was just a distant. The 2nd one turned & the Lieutenant after he fired, walked in land, & did not move away. Previously I saw him running towards the Lieutenant, pistol in hand, and he had only time to say a few words before he fired. He did not move back before he fired. He doesn't say enough only to say a word or two before he fired. They were near each other when the officer got his pistol out. I saw the officer fall, the fell with his head pointing towards the middle of the road, feet towards the opposite side. Afterwards the young man stayed there with the body, fired in land, killed one or two people. As soon as I heard the 1st shot I put my hands to my head, when back from the window. I believe I heard another, not perhaps 2 other shots. I am certain I heard a second shot. They came one right after the other. I cannot say precisely how long.

XXd

I saw the Lieutenant take the pistol from his holster. I noticed that the officer was wearing a belt on his arm. It was a white belt, I believe, with certain strips on it. The Lieutenant had his jacket over his left arm. He had his shirt sleeves rolled up, and the jacket was over the upper part of the arm. I cannot be sure if the Lieutenant was wearing a cap. I did see a cap, either before or afterwards. He did wear glasses. Fig. 13 Lieutenant was alone, & the 5th man had a fall with him. After the first shot, the people in the street commenced to scream. I was about eight doors from the street & the window in this Court. I saw the windows of the American Consulate from by in the street. There were some vehicles passing along Via Quattro Novembre – which is close to Via Tre Cannelli. I saw an American

[illegible] [illegible] the 3rd Statement. [illegible] some time later. I had been at the window about 20 minutes when the shots were fired.

Re-x-d

I have attended here to-day because I was summoned.

By the Court

There were people on the corner of Via IV Novembre. That is within a few feet of my house, and of the place where the shooting took place. People were behaving normally, there was no shooting. Before the shots were fired there had been no disturbance in my street — there was complete calm. The three postmen were in three windows, one in each window. They were the only postmen in those three windows. There were other postmen in the vicinity, but the witnesses only took down those three. They were new postmen — just up either that morning or the day before. I did see the witnesses after the firing of the shots, when the shots were fired. I can only say I saw him drawing in one — I cannot say what he was for he fell in. I did not see if he was able to point it...

Further xxd

I cannot say whether the witnesses fell with the pistol.

Seventh Witness (Sworn)

Major A. Battistini, Deputy Chief Public Safety Officer, Rome. We have employed many Italian officers to work for us. There was one called Giorgio Barbiroli. On the morning of my arrival, this officer was me, by order of Col. Pollock, to conduct me to Col. Pollock. That was at 4:30 a.m. on the 5th. He took me to Col. Pollock, and remained with me till mid-day. In the meantime I had proposed to this officer that he should

781

The next thing I saw was a military man. I did not see where he did before he was shot. I was inside, I came out only when the thing happened. I was in my kitchen when I heard the shot. I heard only the one shot. Afterwards I saw nothing, because I felt sad, [illegible] they asked me to close the door [illegible] house. A young girl told me, but I could not recognise her. I was at the door when I heard the two men talking. I was still in the same place when I heard the shot. Before that I was in the kitchen. I was in my house when I first heard the conversation. When I was frightened I went up [illegible] to the second floor where [illegible] coffee. The military man who was shot was in grey uniform. I saw afterwards he had a blanket, but he was not wearing it. I did not see whether he had it on at the time of the firing, but it was on the ground afterwards.

XXd

I did not see anything. Only a night I saw the fingers at the side of the body.

No Re-Ex'n

By the Court

The body remained on the ground till about 6.0 p.m. When I heard the conversation there were only - four people in the street. The conversation I heard was the sound of fear, and I also heard people shouting. I did hear the two men talking, but I did not understand what they said. They were standing still near each other. I did not see anybody but the two men. They were speaking calmly.

(A thoroughly unreliable witness)

782

Sixth Witness (Sworn)

Signora Caterina Castellana Verzini, Via Tè Cannelli 15.
I am a property owner. I was at the window giving house on
the afternoon of 5 June, about 3.0 p.m., on the third floor.
I saw the officer walk across the street. It was the window
of the hall, opposite to the door. It looks out on to Via Tè
Cannelli. I saw the officer walk from my side to the
other side of the street, and I saw him turn from the door
on the other side three posters, on which were written
"Viva l'Unità". All three posters were exactly the same.
The officer had a blouse over his arm, his shirt sleeves
rolled up, sleeves on, and a cap in his hand. He had
no other distinguishing features. I did not see any
distinguishing marks on his arm. I did see the blouse
over his left arm. I am sure there was no mark
on the right sleeve. He succeeded in putting down the
posters. Then as he went down Via Tè Cannelli, ~~from~~
~~the~~ a young man appeared coming from Via IV November.
The young man was accompanied by a young girl. The
young man approached the officer and pointed a pistol
at his body over the heart. I believe the young man raised
his left arm. The officer had taken down the posters, but I did
not see the officer and the young man close with each other
or have words. They were close to each other almost
body to body. Then I saw the officer begin to put
his pistol out, and then I heard a shot. I saw the
pistol fire as the man fell, but he
was not in time, as the young man fired. After he
was shot, someone, I do not know who, took the pistol
away from him. It was a young man wearing a beret,
not too long. I saw him from above. He had a
beret. On his left sleeve there was an armband.
I believe colored is the man, but I cannot swear. He
had a beret on I could identify him better.

783

portion. The lieutenant placed his hand to my head – I heard a woman scream – I took it by the wrist – I threw the other off – then supposing I struck a blow with my left and caught the lieutenant's eyes, depressing it downwards – I jumped back one step, and fired 3 shots. I intended to depress the lieutenant's pistol sideways. The pistol stayed in the hand of the lieutenant till I saw him dying. I can remember why I fired 3 shots, but I remember that I did. This was ascertained by the expert when he examined my pistol. I cannot be sure that the lieutenant did not fire – I believe not. I am sure there were other shots besides my three. I heard more than 3 shots – I believe 5. I don't know who fired them, or from where. I got the impression from the whole thing that they were fired by the other man who was with the lieutenant. My recollection is that Carlo Capponi was somewhere around from me, a little behind me, and to my left. When I fired, the lieutenant fell, but the cushion in the box had already been depressed, and the fall of the pistol, which was found to the right of the back of his head. I don't Carlo Capponi to go for help, because it did not seem to me that the lieutenant was dead, but after a few minutes he died. At the moment of the shots there were four people in the pass of the street, and more of them ran off. After the fall of the lieutenant, people began to collect and look round. I began, as was my duty, to keep order. I did not recognise the Patriot leader (Cesare Alberti) when he started to give evidence, but I recognised him later when he gave evidence about the conversation. His account of the conversation was almost but omitted one thing. I told him, as he said, that I had acted in self-defence, and I told him that this was not the only reason that I did not hand

him to come. In fact I told him that I had given
account for that same day's issue of the news-
paper office. It was after point that the officer who
first arrested me told the Commandant that I could keep the
room, as I was fulfilling the limits. I immediately sent
Officers of the Allied press mission to the scene, saying that
they had been — I had mentioned exactly. The members
of the Allied Forces came first. I remained in the office
about 20 minutes or half an hour. The officer asked me
for documents, and I told him that I had only false
documents. I showed them to him, and also gave him
my true particulars. (Brigadier Columbus Ovidio
is known in the Court). I believe I recognised this officer
as one who came up immediately afterwards, but he was
dressed in civilian clothes. The Brigadier came at the
same time as the Americans. I left Rome on 7 June
for reasons of health. In the Fascist Army
I served only as a medical soldier, therefore never
fought against anyone. I, third to bring help to Barbarisi
if this was possible.

XXd

Antonello Trombadori was the person who gave me the order to
found this building. He had been one of my commanders
when I was with the GAP, and when I was sent to command
the Partisans. He was one of the members of the Rome
military Committee. I think he was the order —
Commander of the Roman National Front, of which I was
a member under the National Committee of Liberation.
I am not authorised to talk about from persons of whose
official position I am not sure. At that critical time
we all had to keep our personalities disguised. In that
clandestine period, Antonello Trombadori was sought for
by the Nazi-Fascist police, since written for the first time

and stopped — was leaving the position I was. The latter turned and they exchanged words of hostility. I could not hear what they said, but they behaved like two angry roosters. I saw in the hand of the second man an arm pointed — then I became frightened and precipitately climbed the stairs. As I was gaining the first steps I heard shots. In a hurry I continued home. It was the man in the military or semi-military clothes that I saw with the pistol. He made some very rapid motions and extended his arm against the other. Seeing this I turned round and ascended the stairs. My husband accompanied me. I cannot say exactly how many shots I heard — it was 4 or 5. I thought the man who had his arm extended had fired, and that the other had answered. The first shots were clearer and more staccato, the others were a deeper bark. After that I stayed at home, as I had had enough after day.

xxd

The distance I was away was not much more than the length of this hall. The military man was standing with his back to the entrance of the street. He pointed his pistol at the other man whose height, but I could not see on which side. The first shots were clearer than the later ones. The distance from the bottom of the steps to the corner of Via IV Novembre is about the length of this hall, or a little less. I was about half way down the steps when I saw all this. It was the first person, the military man, who pointed the gun. He was [illegible] something in his arm, perhaps a pistol — I did not see exactly. It was in the right arm. He had his sleeves rolled up, and I saw nothing else in his arm. It was when he was turning the position that I noticed the coat on his arm. I cannot say that I saw the coat afterwards. The civilian was dressed in grey, and he had — I believe

486

heard such a thing as these days. I was notice anything else special. I could not say how the third man was dressed — I could not say whether he was military or civilian. The military man had a belt on, but I could not say if there was a holster on the belt. I remember the man by the civilian, which was red, white and green. It caught the eye. I did not see any beard. I did not notice the third man's clothes, because he was not doing anything. They did not give me the impression of being together — the military man & the third person I suspect they just happened to be near each other. I did not report what I saw to the police. I am sure because the attorney happened to come to our house in connection with another matter, & in that I explained that I could testify in this case. That was 10-15 days ago. After the scene I ran up the steps very quickly and I did not look around again.

No Redirect

By the Court

I think I recognize the accused, but I think perhaps he was not then so well shaved as he is now. I think I recognize Carlo Cappuccio as the girl I saw, but I am not absolutely sure. I recognize the accused as the man who was with the girl. I don't recognize anybody else here — my attention was not concentrated — the I did not see
others, but only on them. I am sure that the second man (the accused) had a weapon. I assume he hid, because he had the second hand — but I turned around too quickly to see his reaction. When I first saw the military man he was coming towards me, & he turned when he was called. Then the two men had

xxd

I was the Director of L'Unità since the clandestine period, since August after 8 September. I think that on the night of 6 June an article was written by Bufalini and dictated [illegible] by phone by the party – this was after we got home from our reporters. It was afterwards found to be inaccurate and a correction was published 2 or 3 days later. We published the correction because we had learned the truth. Our earlier report was based on hearsay of the events. We believed the original story because there were armed attacks by Fascist bands during the night of 4-5 June, and there were known to be Fascist shots on the 5th. We might quite possibly have thought anybody leaving from our posters was a Fascist. There were no instructions to file – people engaged in taking down posters. I don't remember receiving any communication from Lt. Barbuisi's H.Q. with reference to the article on 6 June. Possibly such letter would not come to me personally. Since then we have changed our location 3 times. [Copy of the newspaper L'Unità for 9 June shown to witness] Seeing this, I remember now that we did receive a communication from the H.Q. of the Finance Guard. I did not receive it personally. I saw the draft of the original article the night before. I saw the text and no [illegible] mention an article should be published. It was based on rumors collected in the streets. I did not specify where the reporters were [illegible] for the information from. "Giustizia" in the article means for "justice has been done".

Read

I don't know who was the reporter who compiled the report. It was evidently a reporter's account, and did not go through the Editor's office. I can explain the error [illegible] was in the office on 5 June.

he was first conv. of the clandestine publication. It is obvious that my immediate arrest was not expected.

By the Court

[This is not noted – as the questions were directed solely to the Conduct of the newspaper in publishing without my participation such a misleading article]:

Fifth Witness (Sworn)

Dr. Maddalena Sig.ra Bastianina Martini Nuvoli, Via Orazio 31, Roma – Housewife. About 3.0 p.m. on 5 June I was coming from towards La Sediminta Villa Carpegna, accompanied by my husband, on our way home after office hours, to collect a case that he had forgotten that morning. I noticed a person going in the direction of Via Tre Cannelle, and as he went along the side he was tearing strips of paper from the wall. After a certain point a person interposed and made – by calling him – but I did not hear the words. Then the first person turned, and they started conversing in a way for about eight days. I did not exactly know the first person was dressed. He had military boots, breeches, shirt, carrying something in his arm, other was bare-headed. He was not dressed as a civilian – but he was not dressed completely in military clothes. The strips of paper were in a kind of cylinder – in the shape of the wall of a house, of the normal height of a person. The other man was in civilian clothes, with long trousers. I had never seen either of them before. I could not distinguish very well at the distance I was. I was distant a little more than the length of this hall. I was at the time going from the steps. There was another person standing by the man stripping the posters, and there was a woman near the second person. The second man approached

and moment

xxd

I don't ever remember seeing accused angry or incensed. I had never any cause to see him annoyed or injured. I don't know how he would react when angry – only know difference in self, our relations were better. Her superior and inferior.

Fourth witness (Sworn)

Celeste Carlo Negarville, Piazza di Spagna 51, journalist. I belong to the Communist party. On 5 June I was a member of the Board of the Party and Director of "L'Unità". I know the accused. At 3.0 p.m. on June 5 I believe I was at the typographical department of "Il Messaggero". I returned to L'Unità office about 3.30 p.m.. I noticed in Via Tre Cannelle the body of Barbieri still covered with a sheet. I questioned the men on guard and learnt what happened. I met the accused. He told me that help on some hope he saw a man – (stopped by the Court; on the ground that we cannot give effect to hearsay evidence when the best evidence is available). Accused was a member of the GAP. He did not depend on me – he depended on my companions who dealt with military matters, particularly Antonelli Tombadoro and Giacomo Pellegrini. On 5 June accused received his instructions from the military Department of the National Committee of Liberation, of which I was a member. The instructions were to keep order, in case of abandonment of the city by the Germans, and assist on Germans if Fascists in case of resistance. If the Germans had not left, it would mean the help of the second to fight them. The dispositions were in accordance with orders of General Alexander, who was believed to be in contact with the

Allies – at least agreements were made upon the arrest of General Oddone, but they were valid after his arrest.
(Objection on part of the prosecution on the ground that Defence is not producing the "Best Evidence").
I can produce a statement of the President of the Council, Bonomi. I don't know anything in writing – of the relations between the Committee and the Allies. You can ask Gen. Oddone about this.
(Avvocato for the Defence indicates that Gen. Oddone will be called). A few days before Gen. Oddone's arrest we were all informed of certain unpleasant words, which were broadcast over the Radio from Algiers and London. On 5 June I was arrested was wearing the arm band of the Volunteers of Liberty, with the letters C L N, and with the stamp of the party. The bands were distributed under the care of the military Detachment. Those depending on military Detachment directly wore a tricolour band, those depending on the parties wore a white band. There were these two bands which were known to the military command, but there were also various other type of band which were closely controlled. Up to the 6th the patriots were armed, up to which date they were on duty. Bentivegna is a sentimental young man, and I believe that in his military efforts he had to overcome his own inhibitions, but he has succeeded in doing so. This activity was not in accordance with his character. I don't say he is impulsive and emotional. I think he valued human life, and that life should not be taken except in – supreme cause.

we were only in the Bar for a few min. I believe the
word was - Benotto, but I did not examine it. I was
wearing a star and we arrived. They took the usual
steps then a card arrived from the Board. The Allied
Command had already advised the Board it is disbanded.
I did not think. I was a Lt. I don't know whether
I did not think. I was a Lt. I don't know whether
Agnis Tin should belonged. He was wearing an overcoat -
also - Tie shoes, but I did not notice the writing on it.
The first time we both were in uniform since we had
been active patriots. I did not think about was in danger
giving Enid as an excuse. That is my personal opinion,
as I saw that he only signed himself. Accused told
me his name. I did not know if it was true or false.
He did not show me any identity card. The young lady
confirmed that he was Benotto Egna. I made no inquiries.
I have not seen the American Captain - Lt. major since.
I saw my friend the prisoner about 2200 hrs. After dinner
evening. [illegible] he stayed till eight or
my house, and left nothing he left. I have not heard
from him since. I did not make any written notes.
I made no note of the name or address of the officer.

Further XXd (with leave)

I did not discuss this case with my prisoner friend
after night. I did not attain to the time of the crime.
I did not take any further interest in the case, because the
American Captain said he would take charge of it. I
had no contacts with my prisoner friend after.

Further Re-x (with leave)

J. Mac B.

The name of the American Prisoner is L Sergeant (it is
a Greek name) and reading of the letter in my possession
is serial no. is 1907260).

(Adjourned 1215-1350).

792

Third Witness (Room)

Mario Cevolotto, Avvocato, Via Valadier 35, Roma. I am not a communist. I belong to the Democratic Party of Labour. I am the General Political Secretary of the Party. The political direction of the party depends on its organisation and tradition. The tactical direction depends on me. During the 9 months of Nazi domination the Federal Secretary, Bauli, came to see me, but I was able to hide and my activities under cover. They arrested my wife and kept her for 3 days. I was a member of the National Committee of Liberation, being elected member in my committee, under Marchese Luini who was first member, also a member and being [illegible] of the Military Department. This constituted the Command of the different bands, and was composed of a member of each of the 6 parties, for the deliberation of military problems. The Military Detachment had contact with Marshal Kesselring's H.Q. It was commanded by Col. Montezemolo, who, after he was arrested and shot, by General Odone. We had our contacts with General Odone, until he was arrested by the Nazis some 7 or 8 days before the Allies entered. General Odone was in direct contact with the Marshal Kesselring, I suppose through radio. On the 5th June the patriots were armed with the arms they could withdraw during the period of clandestine activities. I don't know of any cases of patriots being done previous to any of the parties. I have known accused for many years - his father practised before me for several years in my office. The family have always come to me for advice since. (Accused was duly warned of the consequences of putting the character of the accused in issue). The relations of the accused have always been cordial, he is intelligent, quick of motivations, at the same time good and sensitive. I, in my relations with him, have judged him to be a very 493
[illegible] man, but fundamentally a sentimentalist

the prisoner was on the left side behind me. I was sitting with my feet hanging out on the vehicle. The Captain was a Captain of the building police, and the Sgt. Major was the building Police. I only know for they belonged to the 5th Army. They were wearing hands., and the prisoner told me he was a Captain, because I could not distinguish rank. Only the Sergeant Major was wearing a band – the Captain had a field jacket. They came to find me in the via dei Giacchi, where the prisoner knew that I lived. I was in the office when they arrived, and they asked me to go in and recognize them, to see me a guide – how they where the different stations were. When the traffic cleared, the car turned left into via Tè Cancelle. In via Tè Cancelle is stopped, and we got off: I got off first. In the car remained only the driver. I went immediately near the wounded men, and then I spoke to several. The Americans remained on the back yard. They were there in the street for everyone to see. I could do nothing because the hand had been handcuffed and I could not be seen. I don't know what the Americans were thinking. Immediately afterwards we went to the Bar at the corner of via Tè Cancelli. As soon as several said he was staying and wanted to give the explanations, we all went away to the Bar and left several there. It seemed to me that the Americans did not attach too much importance to the incident – they invited me to the Bar. I agree that I thought their action in doing so was most disturbing. I also noticed that the body had been removed and transported. The Captain and the prisoner said they would take care of that. I don't know what they took. After we came out of the Bar, several was still there – and then a civilian came who began to mount guard over the body. I said to Hitchin that the Captain would have come.

794

I did not think my work important to the matter, because I knew the American would like me if it. That is why I did not speak till Saturday; until Saturday I never saw anything about this case in the newspapers. We had nothing. then on Saturday except look for a witness of the prisoner. When we came out of the Bar, we went to the place where the incident took place. We stayed a few minutes. Benvenuto was with me. Since I had to go to the office of the Bank, for the handing in [illegible], I asked to be excused a few days, having the others on the scene. I first met the American about 1430 hours. As long as I was with them they did not find a witness, because the station we went to had none. The first place was Pincio, Villa Borghesi, and we found none there. Then we went to the Station of Ponte Garibaldi, near the Railway Station in Via Cestia Petronio. At these places we found military personnel but no witnesses. I don't know the units who were at those two places. At the second place we found some American soldiers, but they told us H.Q. had not arrived yet. We also went to Piazza Venezia, but we learned at H.Q. We were told there was a H.Q. there, but began going to the Castello where to go to this Bar. Somebody told the Jeep driver where to go to the Bar. At the time of the incident we were going to the Bar. I saw the lieutenant with his pistol at ready. I saw him pull it to the ground. When I arrived there was only a soldier and the lieutenant. I saw the lieutenant's pistol in his hand and on the ground. I did not touch the pistol. It was still there when I left. It was still there on the ground after we came from the Bar.

About 13 hrs I was present at the pillaging of the villa. I was released on Saturday evening I saw a newspaper article about this case. I read that the witness Capobianchi had been unable to identify the parties & they were released and had contacted Kesselring. This was in the "Risorgimento". I reported the facts to my superior officer, Maresciallo Maggiore, De Angelis, and I was invited by him to come here & testify. I went to the Maresciallo commanding the Station of the Polizia Africa. He accompanied me to the Processing Office — this was about 12.0 noon on Saturday. I found there 2 civilians, one at the table and one at the typewriter. I did see armed patrols in Rome on the 5th.

xxd

I have been 12 years in the CC.RR. I first met Lieut. on 5 June, after the incident. I had never seen him before. I had not known of him before. I do not know what party accused belongs to. To go without a blouse is not permitted. Badges of rank, & the cuffs, must be worn on the blouse. I don't know the names of the American captain and the American sergeant-major. They were just visiting - following the 5th Army. The prisoner said he was leaving for Foggia. I told the story to my Superiors last Saturday. Privately I told it only to my family. We did not refer to me by the names of the American Captain or Sergeant. I am convinced that the Americans would have taken care of it all. I don't know the nationality of the accused. I spoke to him in Italian. The accused was an Italian. On 5 June I had not yet resumed duty with the CC.RR. I am now with the Centro Raccolta That is - Temporary post for Disarmed CC.RR. he should be dispatched from there into [illegible] the necessary documents. I don't really know my status or pension &

we were going and in the jeep to the different Allied commands in order to find a wiring for the prisoner. I left the American wire after the incident, about 1530 hrs. I was at the Band H.Q. We were going from Via Cesare Battisti Road Via Nazionale. We were in front of the L'unità Building. To turn into Via Tre Cannelle the jeep had to turn right. We had to stop before the traffic go past. I saw the Lieutenant Col from 3 positions. He was dead when I arrived at the spot. I got out into the street, walked to the Lieutenant, and found he was dead. When I saw him coming from the Quattro positions, we were in the jeep, stopped - via Cavour Nazionale We were still there when the shots were fired. We had to wait for ambulances. They were military vehicles. In spite of the traffic I could see all I have stated. I do not know who fired the shots. I left word at Battalion that I wanted to see the Prosecutor. I did not say when I was coming back. Immediately afterwards I saw an employee of the Lawyer, and said I could give evidence, & left my name and address. Immediately afterwards I was told by Avv. Nicolai to be here on Monday. I do not say that witness Cappelloni gave wrong evidence - all I say is that what I read in the newspaper was wrong, and she contradicted herself. The American Captain took down the name of the street. I did not tell the accused who I was.

To Rexlin

By the Court

There were 5 persons in the Jeep. I was at the back of the Jeep on the left. In front alongside the driver was the Sergeant-Major. The Captain and the prisoner were in the back. The Captain was on the right, and

blouse, and a shirt. After the spies had been from 3 minutes he continued to walk along in the Corneille Towards the Plain. He had not yet reached the Stores. On the corner of the Corneille Avenue a young man and a young woman appeared, going in the same direction. I recognised them both here in Court (witness pointed to accused and to Counsel appeared). but the young man then had a light beard. Accused said something about — but I could not hear what because of the noise of traffic — and the officer then made half a turn. There was a brief exchange of angry words, which I could not understand, but could see. The officer then took out a pistol from the holster. I saw him load the pistol, cock it and point it against the accused.

(Court adjourned at 1700 hours).

18 July 1944.

Court re-assembled at 0915 hours.

I saw accused put his hand in his right hand pocket, take out his pistol, shielded himself with his left hand, drew back a step, and I heard some shots. By a "brusque gesture" (with a brusque gesture) I mean a rapid gesture. I followed Bentivegna — he was approaching the officer. He did not have a weapon in his hand — he was arm in arm with the young woman. I can definitely exclude that he had a weapon in his hand. The young woman was — to the left, the accused was on the right. By "shielded himself with his left hand" I mean he tried to deflect the weapon. I don't think accused stopped back more than one pace. I mean they were very near each other. I heard 3 or 4 shots — then there was an echo, and I [13] say positively two only I heard afterwards. When the shooting took place the civilians — pedestrians. Then he made a gesture — of to rise, and put pistol with his hand. He put pistol with his hand, still trying to rise; then he fell back again, and the pistol fell from his hand, which remained on the ground and with his right shoulder.

498

35.

I did not notice the Officer on arrival of the Firing Squad. I saw the Officer take down 3 posters. I only saw one particularly, which said L'Ordre Immediate - I read it as L'Ordre. When I saw the posters being taken down I saw 2 or 3 other persons near the Officer, walking by. I saw someone near him, but not of him. I did not notice who was the closest person to the Officer. Accused and the Officer were the persons closest to me. I could not precisely say how many shots were fired. I don't know who fired the shots, or if the same person fired them all. I was dressed in riding breeches and a light coloured jumper — civilian clothes. I had a khaki band with the word "Police", and a rectangular piece of cloth, with a star, showing Section Commander and Squad Leader, on my left breast. I was with 3 Americans. I walked towards the wounded man to see if I could help. When I arrived near him he died. Accused approached me and said "I have not killed him to murder; I did it in self-defence". He also said "Tempus, Lieutenant, I put myself at your disposal, in order that this life may be used in all the posters". I imagine he called me Lieutenant because he saw the Star and the band. The Americans with me said that having seen what happened they would have taken care of it all. When the Americans left the scene, they left accused on the spot. They did not speak to accused or all. The Americans spoke amongst themselves in English. I did not see that the Officer was acting under the authority of the Allies. On the 5 June I myself inspired some false patients with lead — Men who were pilfering a villa. I enrolled a number of the German S.S. who came a road and had regular meetings. That was about 9.0 a.m. on the 5th.

799

I and my ... and then he was acting in a hostile way because of it. At his moment. was unable to control my emotions, and I don't know what effect it would have had on me if I had seen him. The Lieutenant had an armband. If I had seen an armband I might have asked him more calmly why he was wearing it. I don't think people employed by the Allied Forces would be likely to tear down our Communist Party notices. If I had known the Lieutenant was employed by the Allied Forces I should have addressed him in a calmer way. Actually I did address myself to him in a hostile way. I did not think of the effect of doing so at the time, because I was very incensed. I would agree that the way things happened we both lost our tempers. I do not agree with the evidence given by Signora Virginia. I do not know her, and she has no reason to invent a lie against me. I think her observation was bad. I did tell the police that I had knocked away the Lieutenant's pistol with my right hand. I cannot explain why it is not in the written statement, as I regard it as most important. My pistol is a gift from a Companion, and I gave it to an Australian. Arms were not issued by our superiors, we had to use them for ourselves. I had to resort to using firearms — we were fighting and risking our lives. My hand was sufficient authority to carry arms, as I was attending the Allied Radio. I speak English learnt at the Committee of National Liberation. I did not think the hand gave me the right to fly the flag. I was flying the flag. It was after I arrived Via Tè Cannella that I first saw the Lieutenant. He was about 10 metres away — I cannot say exactly. I in fact started work for the Partisans without any training in

arms. I fired 2/3 shots in succession since then I have had a lot of experience in the use of arms.

Second witness (Sworn)

Colantonio Nicolis, Centro Raccolta dei CC.RR. I am a Brigadiere of CC.RR. Since 8th September last I was in the Internal Camp of the CC.RR in Rome. Since 8 Sept. I have not been on duty in Rome with the Fascist Police. I was part of the Patrizi museum's band. The band operated in Rome and outside. On 5 June about 3.0 o'clock I was in an American jeep, with an American Captain, a Sergeant and a driver — also an American prisoner who had been my guest for some time. At 3.0 o'clock we were in the corner of Via IV Novembre with Via Tè Cannelli. The American prisoner kept a statement with me.

(Statement produced and shown to the Court. It consists of nothing but an unsigned statement of the character of this witness, and after perusal is handed back to the witness).

We were visiting various Allied offices trying to find a magistrate for my prisoner. We were in Via Quattro Novembre ready to turn into Via Tè Cannelli — we were stopped by traffic coming to meet the turn. I was sitting beside the driver looking into Via Tè Cannelli. I saw a man in uniform with sleeves rolled up, fists folded on his arm, coming down footpath. The footpath said Viva L'Unità, Viva l'Esercito Alleato, etc. I did not notice any particular signs on the sleeve. Later I recognised him as an Officer. I did not notice if he was armed or had on the jacket. Our disciplinary regulations absolutely prohibit appearing without a coat, whether on duty or not. There is a General application to the police forces. Nobody is exempt from it. The band is supposed to wear on the left arm on the

201

I did not see the lieutenant because he had fired, but because his thumb was the one immediately to my left and I could hear someone else. The enemy position only has two possibility being in front of the other one. The lieutenant's coat covered his left arm from elbow to shoulder. Even when the lieutenant withdrew his pistol replacing it in the holster, the coat remained in the same place. He was therefore forced to keep the coat in the same place, and still had the arm in the same position when he fell. I have myself, when firing the Germans, fired a rifle while holding 2 or 3 other cartridges in the other hand.

(Witness gives a demonstration in Court with a borrowed Canadian coat and pistol).

I can still see my upper arm then, it was because you had special reason for looking. I had no special reason for looking at the lieutenant's arm. I don't remember on which side the lieutenant carried his holster. I had the impression it was on the right and to the back. If I did not see the hand, I may suppose it was not there. I guarantee that I did not see it. If my statement say that I took a few paces back, it may be due to a mistake on the part of the interpreter.

No Reaction

By the Court

My job was to supervise the discipline of the guard on the building. Generally the duties of the guard were to keep order, to sing. Generally the duties of the guard were to keep order, to find cards, answer letters, and to keep the street clear. He found armed attack on the part of armed Nazis or Fascist elements. It was known to the other elements either by some threatening openly. He stayed up all night for night, because we had received news of an attack or Turkish demonstration. There was never an attack against our building. I did not [illegible] pleased at an indication of an attack [illegible] When I made my [illegible]

802

inspection I was at looking for anything in particular. I had been on the move all day. It was not strictly a tour of inspection. I was simply going from one place to another. I had no particular destination. My engine had been given over by a companion. I had received no specific instructions as to opening fire. I was just invited Barbuis to accompany me to the newspaper office. I think the time was about 3.0, perhaps 2.45. I don't think it was later than 3.30. I thought the crowd I had did give me special authority. I mean authority to maintain public order. The band was in the nature of a unipom. My orders were to maintain public order, if order was disturbed by any one whatsoever. I thought I had authority to fire in case of necessity. In case of disturbance my duty was to speak it peacefully — if it was an armed attack we would have answered with arms. Five or six, or perhaps ten, minutes after the shooting I moved away a short distance to carry out my duty to preserve order. Up to that time the lieutenant's pistol had been lying in the same place. I do not know whether the witness Albert Costello carried before or after I moved away. During the time I moved away from the body the lieutenant's pistol disappeared. I immediately looked for it. At that moment an officer of P.S. had arrived and I handed over to him. He is not in Court. I should know him again. I asked those present where the pistol was again. I asked those present, but with no success. Last time — or rather he asked, but with no success. I agree it was a serious matter — but I was alone, and I was surrounded by a fairly large crowd. I believe I have been asked about this pistol before. The firing from the police was not a cause of my firing. It is true it is an indirect cause, and I should not have interfered if the lieutenant had not touched the pistol. I got the impression that the lieutenant was unhappy at the

803

and then, it would not surrender. It held, and later in the day I sent him from my office with a handgrenade. My Command had ordered me to be specially alert against acts of sabotage against the Committee of Liberation and the Allies. All the things I had heard and seen made me more patient and meticulous in doing my duty in general. My own person was exposed to danger. All the patriots were as excited as they could be. The things that happened did, however, disturb the general feeling of happiness amongst the general people of Rome. I have always been anti-Fascist. The Guardia Finanza was not a Fascist organisation, any more than the Carabinieri or the Army. I agree this is wrong — but in fact during the last 7 months the Guardia Finanza had done many things to help us — though of course many of the officers were against us. I did not know the officers were against us. I knew there were officers hostile to us in all the organisations. I had no animosity against any one. I fought those who fought me and my principles and my organisation — i.e. against the Nazis & Fascists. When I saw the lieutenant lying down [illegible], it was in obedience that I suspected with a Nazi or Fascist. During the last 9 months I have myself taken down many Nazi & Fascist posters. During it made me angry. I did not see the injuries. During military days never worry. Patriots were always on the [illegible] 14- our families and supplies & food to those whom we could by hands on. The lieutenant did not tell me how he was or M. I don't know what I should have done if it had been a Nazi man. I only fired at the lieutenant because he pointed his weapon at me, & his hand fell, and not because he was lying down the posters. When the pistol was again

804

my hand I stepped sharply against the ... district Surveyor. I agree it is possible that the third man fired into the air just to frighten us. In fact both of us were frightened, and I fired. To find the target I did not aim at ...

(Adjourned 1245 - 1420 hrs.)

As I said before I should had my hand in my pocket when the Lieutenant was preparing his pistol, and with the muzzle between my two fingers I pushed back the percussion cap. Meanwhile the Lieutenant drew his pistol and cocked it. The action of the Lieutenant and myself were simultaneous and I cannot give the exact sequence of time to these acts which succeeded each other with such amazing speed. I extracted the pistol, gave a blow to the Lieutenant's arm, took a step backwards, and immediately afterwards fired. I cannot say exactly when it was the Lieutenant fired his pistol at me. I have no feeling of sequence. All I can say is that he did it. Perhaps the blow given had not had time to push the trigger. I cannot say whether my blow was heavy or light; it was sufficient to displace the pistol. By giving back I was - knocked step back, and I should say I fired before my backward motion stopped. I only tried to displace the arm - I did not try to take his pistol. I agree that a certain point both our pistols were over. The Lieutenant's pistol had hardly been pointed to my chest when I gave the blow. The Lieutenant said nothing. I heard 5 shots from the shots. I did altogether - I cannot give the sequence of the shots. I did not say I heard 3 shots followed by 2. (other witness said in "the pistol fire"). After moment I knew that I should have wished the flame of the Lieutenant had fired. I fired 3 shots, and I heard them clearly. I cannot say if the other 2 sounded higher or lower - I was too excited at the time. I have never said the Lieutenant fired the two shots. I said that I believe he did not fire. Even if he had fired I should have been able to note the fact, I was so excited.

'Then I left a little while later. He had been one
immunities in the Ossietzky period. Also at the time he gave
the interview he was in company with Giacomo Pellegrini, one of
the leaders of the Italian Communist party. Before I was put
in the cell I had been searched, which was done outside, —.
people gathered in front of the building and there was confusion,
and I was told to take charge. Miss Capmi did not
come to call me. She had come to L'Unità to see her
colleagues, and amongst them she found me. I had seen her
during the morning, at dinner in another place, and several
times during the day. I don't know precisely why
she was doing when she came up with me. It was probably
as I was going out of the door that I got into her company,
but I cannot remember. Now me told me that someone was
taking down particulars — I saw it with my own eyes. I saw
the hand as I have described. The military man on the
nearer of the two boxes. The military man was the
nearer of the two to the door — the other was a little more
to the right. I could not see as well how many
persons he had been down — I saw later there were
three. The military men were plain clothes, but I did
not see if he had spurs. He was wearing grey-green
trousers. He had a shirt of the same colour.
He did have a belt, but not the ammunition belt
that goes over the shoulder — or possibly I did not
see it because of his coat. The coat was drawn on
the top over the left arm, and perhaps round over
the shoulder. I don't know on which shoulder
the ammunition belt goes. I did not see any other
particulars — that means, as I see what anyone
else would. When I called "Help", the military man
turned round, after giving a glance to the other man,
and came towards me. He pivoted on his heels a

After a little time he said he would go for a walk, I could see I was. After I spoke to him he withdrew his pistol, put it in the chamber, & pointed the pistol towards my head. When he did this I believe I said nothing. He said nothing - he kept silent. I said nothing before. When he pointed the gun at my head I, still kept my head lowering, which was my impression, put my hand in my pocket resting it on my pistol. With the exception between the first two fingers I raised the percussion cap, and kept myself ready for the unexpected. I was doing this while he drew his pistol. The lieutenant had his pistol pointed to my body, before I took mine out completely. I believe I took mine out at the moment when he actually rested his pistol against my body. After moments we did not speak to each other. I cannot say how long elapsed from then till the 2 shots were fired from elsewhere. I did not show him mine & fire because I knocked his hand, away - & for this reason I cannot say whether it was the lieutenant who fired the two shots or not. I gave the blow with my left hand. If the lieutenant had seen I was armed, perhaps he would have had time to shoot. He had time to cock his pistol. After he pointed the gun I gave the blow which deflected it. Possibly I was more ready than he, and thought quicker than he did. In reality then he, and thought quicker than he did. In other words it might have been possible to take away, but we were in an excited atmosphere on that day. I was suspicious & was aware me: I saw they were acting suspiciously, & I thought my life was in peril. I was told that the still Nazi-Fascist element in Turin, and that me & my companions had been warned. I was injured that in Piazza Venezia a negro soldier

'Cross-ex. "shots I came into house in 2 or 3 shots. I identify Exhibit 2, as shells which I received from an officer of the Carabinieri some 10 days after the shooting. I cannot name officer. Lieut. Greenhill. I do not remember the name of the officer of the Carabinieri. From the time I received the shells till I turned them over to Lieut. Greenhill was only half an hour.

XXXIV

I took statements from all the witnesses, except Signora Vergilli [Ver.] who previously signed her statement. At 1500 hours on 5 June I went to Via Tè Cannelli. I was going to the office. At the corner of Via Tè Cannelli, standing about 100 yr. away, I saw a body - the ground covered with a sheet. I enquired of the body and on being told it was the body of Gay from Toronto. I approached, became an officer of the Guardia di Finanza and one of the men of the Guardia di Finanza were standing near the body. I asked the Officer if he needed my help. He said No. I raised the sheet, and saw that the deceased was Lt. Ingrid Rasmussen, and I identified the body as that of Lt. Barbisi, whom I had seen in the office that morning. A little distance from the body was the jacket of Barbisi folded. Near the window of the police boxes I saw the cap of Barbisi, also folded. I noted any and found no one present.

[Case for the Prosecution subject to calling Lt. Pasqua to give formal proof of the custody of the shells (Exhibit 2).]

The Court explained the rights of the accused.

(Adjourned 1245 hours.)

17 July 1944

Court re-assembled at 0910 hours.

808

Aw. Addino opens.

The prosecution have not proved accused's act illegal. But the Defence can prove his innocence, quite clearly. We shall prove, first, that the incidents took place in an atmosphere of war, ~~secondly~~ that Bartolozzi, under orders of Committee of Liberation, had to be in a state of anxiety & unrest. Secondly we shall prove that accused was a volunteer of Liberty or Duty, charged with the task of guarding the lives of 'Unità' and other premises against possible attack by Nazis or Fascists. Thirdly we shall prove that accused was entrusted to carry arms. Fourthly we shall prove that the patriots were bound by orders received, and at the material time it was not yet known that the Allies were taking over all police duties. Fifthly Bartolozzi and the others misconstrued noises, seeing the posters, was doing a thing that appeared hostile to the principles of the patriots — and apparently hostile to the Allies themselves. Sixthly the verbal exchange was misquoted objectively and subjectively. Seventhly Bartolozzi reacted in a most hostile manner to accused's words, actions & pistol & was in mortal danger.

Eighthly accused had no other possible escape from danger, which was actual, immediate, except in the way he did act. Ninthly, in the true view of the facts, the act of accused was, from a psychological point of view, one from a motive of self-preservation. Tenthly the act is not punishable by Italian law because the act of Degasperi of the accused was pertinent to the Degree of Alfonso Ferrari.

Evidence for the Defence

Accused elects to give evidence on his own behalf and is duly sworn.

Rosario Bartolozzi — age 22, unmarried, medical student. Since 8th Sept. 1943 I have been engaged in partisan activities, in Rome and the surrounding area. Since 1939 I have engaged in political activities, and in September 1941 I was arrested by the Fascist police —

English la I saw accused v. H ?., Asst. G. Police, in Palazzo Venezia. I told him I was - Captain Price and that I was investigating death of Lieutenant of Guardia di Finanza, which occurred about 3.0 p.m. on 5 June. He replied - "Yes, I did it". I cautioned him, and he said "I want to tell you all about it". I said to him that I would like to take down what he said by writing, but would be obliged if he would do it himself in writing, in order to be quite sure. I did that through an interpreter. I identify and produce statement made by prisoner after caution, taken down - my own hand, dated where signed and signed on each page by accused. Accused signed the alterations and also the corrections in spelling that I had made. I made no promises and no threats to accused before taking the statement. I did not offer any advantage if he made a statement. (Statement accepted and marked Exhibit 1). I produce and identify envelope containing 3 cartridge cases in an envelope, which was handed to me by a Lieutenant of the Guardia di Finanza - I believe his name is Pasqua. They have been kept by Customs Police. I actually received the cartridges from an Ufficiale di Stato. I personally posted Public Prosecutor and Questore. (Envelope containing cartridge cases marked Exhibit 2). I myself arrived in Rome in the very early morning of 5 June, about 4.30 a.m. I personally posted proclamations in Rome at 6.15 a.m. on morning of 5 June, particularly Proclamations 1 and 2; I posted them in Piazza San Lorenzo in Lucina, Via del Corso included. At 11.30 a.m. on 7 June I visited the mortuary at the building Hospital in Rome. I saw the dead body of a Lieutenant of the Guardia di Finanza, dressed in the uniform, which is well known to me.

At 2.45 p.m. I was present at the hospital when Dr. Fontana Lucio carried out a post-mortem examination. I saw a wound in the front of the chest, and also a wound in the lower part of the back. The doctor examined the whole body, and there was no other injury apart from the wounds. Later that afternoon I visited via Tre Cannelle.

No XXIIIa

By the Court

From my previous experience as London police officer, I thought that the bullet had been fired from close, and that the hole at the back was obviously a hole of exit. It was smaller than the hole of entrance. I saw the doctor ascertain that there was a clear hole right through the body. He did this with a probe. There was only the one wound in the body. I examined the deceased's clothes. He had his jacket on, his trousers, jacket, boots, shirt, collar and tie. I could see no signs of tearing on the jacket, so I undid the jacket and examined the shirt, which showed a hole in front and another in rear. I did not then remove the rest of the clothing of the body, but I came to the conclusion that the deceased was not wearing his jacket. The shirt was slightly singed and blood-stained round the hole of entrance. The hole at the back was hardly singed at all.

XXd (with leave)

There were four layers of stitching round the hole in the shirt, indicating the shirt was folded once. In my view this fit.

Tenth Witness (Sworn)

Pasetto Giorgio, Agente di Pubblica Sicurezza.

I received orders from A.M.G. - this case - to make investigations, and to collect signed statements. In the

811

I don't ... if they both fire. The accused officer was carrying his pistol in a holster. I saw him take his pistol out of the holster. As I have already said, he took his pistol out, put a shell in the chamber, and pointed it at ... accused. Accused already had his hand in his pocket, possibly it was a matter of habit. I saw accused take out his pistol. The lieutenant took out his pistol first and pointed it at accused, before accused had taken out his pistol. It is not correct that the accused pointed his pistol at the lieutenant first, and that the lieutenant then tried to get his pistol out of the holster. I don't know who the other civilian was who was standing a few metres away. I don't know, but I think he too fired, as I heard shots from close to me. When accused fired, the lieutenant had his gun in his hand. When the lieutenant fell, his pistol was on the ground in the region of his head. As lieutenant partly raised his body and his head. As officer partly raised his body and his arms, the pistol fell to the ground. He had it in his right hand. I cannot say if I saw accused fire - it was my impression I cannot say if I saw him with his pistol from his pocket. I saw him take a step back, but he did not then have the pistol in his hand. Before accused took the step back, the lieutenant had already pointed the pistol at him - at his left side at the height of a man's belly naval at arm. At the point in which accused took step back. The Australian officer has difficulty name to remember. ; was in the newspaper, because he promoted himself ... an Australian Communist. The accused, Such as were by accused, was dismissed at the office

REGION IV CASE # 7762
15.

the United to all the patriots, but I don't know by whom.
It was an official and by the National Committee of Liberation,
not a band of one particular party. Accused was in
command of a guard, composed of patriots who had entered
Rome with the Allies. This was a guard for the newspapers.
I do not know who ordered the guard. When I left the
office with accused I did not know he was armed, but I
assumed so. That morning I had gone to the office to
meet colleagues returned from York, and stayed on to keep
the guard. When I left the office with the accused I was
going for a drink. I have known accused since the end
of September. We are quite good friends. I saw him
often for some work. I learnt the calibre of accused's
pistol when it passed from him to the Australian officer.
The accused had been in Palestine + Yugoslavia, where
he was operating. I was in Rome up to early May, or
then I left. I returned again about 3 or 4 days before
the Allies entered. I think the accused came to Rome
a little time before the Allies came. I only saw the
accused's gun afterwards - immediately afterwards. It was
a pistol - the same type as the one I saw given to the
Australian. From the command. "Halt" to the shooting the
space of time was just sufficient for them to say the
words I have described. I cannot say how long
exactly, as I was excited at the time. It was a
minute perhaps - I cannot say.

(A good witness).

Nil - witness (sworn)

Captain Greenhill, Capt. G.S., attached A.M.G. Rome Police.
Lt. Col. Pollock delegated to me the investigation of this case,
and to ascertain who was responsible for the shooting. I
took statements. I took a statement from accused,
after cautioning him in accordance with the procedure in

813

.0.

... [illegible] sitting position. He just raised the upper part of his body, raised his hands to his head, and then fell back again. He did not say anything. I thought his gestures were instinctive & futile. Around my head from towards the basement. He still held the pistol in his hand — I think in the left hand. I then ran and cried out "Look for help, look for someone". He said nothing else. I ran to the entrance, but on the way I met a civilian with a police hand coming towards us. There was not a sound. This civilian was the first person I saw. I think that those who had been there had kept the place. I entered the basement the first time when I reached the point where I could see via Tito Condotti and via Condotta, and I then saw him coming down the entrance from the third window. I was in company with accused. When I saw gestures being made, I don't remember if I said anything to accused. I don't think accused said anything. In any case it was a gesture that we were in only one sided offensive. Accused showed this by saying "Halt" to the Lieutenant. He said it in a loud voice in an intimidating tone. The Lieutenant was already nervous. I noticed when he was making the gestures he made a gesture — it looked very like a lunge. I noticed he was surprised by the "Halt". I think accused's face was a 9 calibre Beretta. I had recognised him in Rome for some time, & became familiar with arms. This particular weapon was handed to Lt Hasselblatt by Lt Schutz. I think it was at the time of the Abruzzi that I examined it & calibre. I think the Abruzzi was the day after the shooting. It was the second day I saw it. The Australian officer said the Beretta was a good pistol, & this was on the question of calibre came up. The conversation was between accused & the officer, & I was present. Accused said it was a 9 calibre. Before that time I did not

814

was discuss to. tibre with accused. the first time I did not know that the calibre of the pistol was. I believe the policeman who took me would know the calibre. It was an Italian civilian wearing a police band. I believe his name was Alessandrini, but I don't remember exactly. (Pinetta Giorgio is known as that) This is not the man.

XXd

Accused was wearing the arm band of Volontari di Liberty. He showed it to the policeman, just as he had showed it to Barbarisi. Barbarisi did not say anything when he was shown the band. Accused had a document, but not a regular one — he had a false identity document. He had a false document, because he was being looked for by German police, — he had taken part in partisan activities. He told the policeman that the document was false, and that his name was Rosario Bentivegna. Policeman did not ask accused for his pistol. He said accused could put the right to have it, still before the band. Accused was commanding the Gruppi of the newspaper office; He was of the Fronte of National Liberation. I don't know what Committee of National Liberation. I don't know what happened to the civil in that I had seen passer. I believe he ran away up the via Tre Cannelle which leads away to the right. I don't know of the incident then by then I witnessed myself. I know we found that the Fascists might pursue us of reprisals, we knew that were still fascists in Rome. We knew that there were still some Germans in Rome. When I went away for help, the accused remained 2 - 3 metres from the body.

No Rexlin

By the Court

Both the accused and the deceased officer had pistols.

815

[illegible] temporarily, in my personal assistance. He accepted, & I
showed letter to his C.O., asking for him to be detailed
for this service. He left me at mid-day for his meal,
and I never saw him again. It was within my competence
to ask for this officer, & I am responsible for the Carabinieri, Guardia di Finanza, Fire Brigade etc. I authorised
the Second Officer to man the wireless, which is the
first occasion on which Allied police have had
such an authorised line over it — but he was issued with no authorised
code over it.

xxd

It was not necessary for me to wait for the reply of the
C.O., before employing this officer. I wrote on a matter
of urgency.

No Re-exam

By the Court

The Second Officer was ~~duty~~ on duty on
2.30 p.m. He would have been on duty ~~any~~ any
personal assistant in the office. Till 2.30 p.m.
when he was relieved, he had authority to perform, in respect of any office — but of course a police
officer is always on duty.

(Adjourned 1700 hours)

15 July 1944
Court re-assembled at 0920 hours.

Eighth Witness (Sworn)

Carlo Cappa, Foro Traiano 1. I am a student. On 25
June about 2.0 p.m. I was in the office of the newspaper
L'Unità, together with my newspaper colleagues. About 3.0 p.m.
I left, accompanied by Romeo Bartoccini, to record.
I had gone to the water as a journalist in Via Tre Cannelle.

Accused accompanied me – I don't know if – behind my other
notes. In the Tè Cavalli I saw a man in uniform, who
with his right hand was making gestures of L'Unità from
the wall. He had – grey-green shirt with rolled up sleeves,
– jacket thrown over his left arm, with no head covering.
He had no distinctive sign on his arm. I did not see
any. Accused said "Halt" to the man. He stopped. Accused
said. Accused said to the military man did not
answer, but what the accused was. Accused pushed
himself in a front of the man per L'Unità – on a round
front. Then accused invited the military man to follow
him to the motor-car. It was in the nature of a friendly,
not a civil conversation. They did not go to the office.
The military man put his hand to his pistol – took it
out, placed – used in the chamber, and pointed the
weapon at Buttazzoni. Buttazzoni was armed, but he
had no gun in his hand. His right hand was in his
right trouser pocket – not the hip pocket. I suppose
he had his gun in the right pocket. When Buttazzoni
took out his pistol, I looked round and noticed about
5 metres behind him an individual in civilian clothes
with a pistol in his hand. I saw Buttazzoni point the
pistol to the right side of the head of accused. When
I saw the individual behind Buttazzoni I knew openly
aside and cried "look out". I heard shots immedi-
ately following my crying out. Accused did not answer
himself from Buttazzoni – he just took one step back-
wards and fell, I should say. I cannot say if
I heard one shot, two shots, three shots. I cannot say if
the Lieutenant fell. I know that accused shot,
but I do not know who fired. The Lieutenant fell to
the ground. Then he raised his upper body & the body
on his knees for a second. Accused was leaning
over him trying to help him. The Lieutenant fell

817

I don't know if the two men talked to each other — it was
for a moment. Then my mind registered the Lieutenant again
he was walking, rather in front, & did not look round.
Quickly I saw him bring his hand to his pocket, pistol in
hand, and he had only time to say a few words before he
fired. He did not move before he fired. He
doesn't say enough only to say a word or two before
he fired. They were near each other when the
officer got his pistol out. I saw the officer fall, the
fell with his head pointing towards the middle of the road,
feet towards the opposite side. Although the young man
stayed there with the body, pistol in hand, talked to one or
two people. As soon as I heard the first shot I put my
hands to my head, when back from the window. I be-
lieve I heard another, and perhaps 2 other shots. I am
certain I heard a second shot. They were one right
after the other. I cannot say precisely how long.

XXd

I saw the Lieutenant take the pistol from his holster. I
noticed that the officer was wearing - band on his arm.
It was a white band, I believe, with certain signs on
it. The Lieutenant had his jacket over his left arm.
He had his shirt sleeves rolled up, and the jacket was over
the upper part of the arm. I cannot remember if the Lieuten-
ant was wearing a cap. I did see a cap, either
before or afterwards. He did wear glasses. The Lieuten-
ant was alone, the officer had a pistol in him.
After the first shot, the people in the street ran round
the Piazza. I was about a yard from the window
and in the Court. I ran to the window to see
the Lieutenant was going by in the street. There were
some vehicles passing by via Quattro Novembre -
which is close to via Tre Cannelli. I saw an American

818

, Then [illegible] the Red Lieutenant. "It was some time later. I had been at the window about 20 minutes when the shot was fired.

Re-d

I have attended here to-day because I was summoned.

By the Court

There were people on the corner of Via IV November. That is within a few feet of my house, and of the place where the shooting took place. People were behaving normally, there was no shouting. Before the shot was fired there had been no disturbance in my street — there was complete calm. There were postmen one in three windows, one in each window. They were the only postmen in those three windows. There were other postmen in the vicinity, but the Lieutenant only took down those three. They were new postmen — just up either the morning or the day before. I did see the Lieutenant after the shot was fired. I can, only say I saw him shooting as far as I can say that for the gun is. I did not see if he was able to point it.

Further Red

I cannot say whether the Lieutenant pointed the pistol.

Seventh Witness (Sworn)

Major A. Bartolotti, Deputy Chief Public Safety Officer, Rome. We have employed many Italian officers to work for us. There was one called Giorgio Barbarisi. On the morning of my arrest, this officer sent me, by order of Col. Pollock, to conduct me to Col. Pollock. That was at 4:30 a.m. on the 5th. He took me to Col. Pollock, and remained with me till mid-day. In the meantime I had decided this officer must be shot

The one who was shot was a military man. I did not see him when he fell before he was shot. I was inside, at time - when the thing happened. I was in my kitchen when I heard the shot. I heard only the one shot. Afterwards I saw nothing, because I got hurt, — they carried a wounded man past my house. A young girl told me, but I could not recognise her. I was in the house when I heard the two men talking. I was still in the same place when I heard the shot. Before that I was in the kitchen. I was in my house when I first heard the conversation. When I was frightened I went up stairs to the second floor where I gave me coffee. The military man who was shot was in grey uniform. I saw afterwards he had a blanket, but he was not wearing it. I did not see whether he had it on at the time of the firing, but it was on the ground afterwards.

xxd

I did not see anything. Only at night I saw the pieces on the side of the body.

No Re-Exm

By the Court

The body remained on the ground till about 6.0 p.m. When I heard the conversation there were only - four people in the street. The conversation I heard was the sound of fear, and I also heard people shouting. I did hear the two men talking, but I did not understand what they said. They were standing still near each other. I did not see anybody near the two men. They were speaking calmly.

(A Norwegian unreliable witness)

Sixth Witness (Sworn)

Signora Caterina Costantina Verzini, Via Tè Cannelli 15.
I am a property owner. I was at the window giving house on
the afternoon of 5 June, about 3.0 p.m., in the third floor.
I saw the officer walk across the street. It was the window
of the hall, opposite to the door. It looks out on to Via Tè
Cannelli. I saw the officer walk from my side to the
other side of the street, and I saw him take from the box on
the other side three posters, on which were written
"Viva (Unite)". All three posters were exactly the same.
The officer had a blouse over his arm, his shirt sleeves
rolled up, uniform on, and a cap in his hand. He had
no other distinguishing features. I did not see any
distinguishing marks on his arm. I did see the blouse
over his left arm. I am sure there was no mark
on the right sleeve. He succeeded in putting down the
posters. Then he went down Via Tè Cannelli, ~~from~~
when a young man appeared coming from Via IV November.
The young man was accompanied by a young girl. He
approached the officer and pointed - pointed to the upper part
of his body over the head. I believe the young man struck
the officer had taken down the posters, but I did
not see with. They were close to each other almost
body to body. Then I saw the officer begin to pull
his pistol out, & then I heard a shot. I saw the
pistol just as he was taking it out of case, but he
was not in time, & the young man fired. After he
was shot, someone, I do not know who, took the pistol
away from him. It was a young man wearing a beard,
not too long. I saw him from above. He had a
hard hat. On his left sleeve there was an arm-band.
I believe accused is the man, but I cannot swear. If
he had - heard on I could identify him better. 321

8

station. The lieutenant placed his hand to my head – I heard a woman scream – I took it off my pistol – I saw the other officers shoot – then supposed that I should be with my right and against the lieutenant's right, expecting it to be so – I jumped over the step, and fired 3 shots. I intended to defend the lieutenant's pistol otherwise. The pistol stayed in the hand of the lieutenant till I saw him dying. I don't remember why I fired 3 shots, but I remember that I did. This was observed by the agent who had examined my pistol. I cannot be sure that the lieutenant did not fire – I believe not. I am sure there were other shots besides my three. I heard more than 3 shots – I believe 5. I don't know who fired them, or from where. I got the impression from the whole thing that they were fired by the other men who was with the lieutenant. My recollection is that Carlo Capponi was somewhere around from me, a little behind me, and to my left. When I fired, the lieutenant fell, and the contents of his head clearly scattered, and then he fell on the pistol, which was found to the right of the back of his head. I don't think Carlo Capponi had to help, because it did not seem that the lieutenant was dead, but after a few minutes he died. At the moment of the shots there were four people in the room of the street, and more of them ran off. After the fall of the lieutenant, people began to run in and look around. I began, as was my duty, to keep order. I did not recognise the Patriot leader (Corrado Alberti) when he entered the guard room, but I recognised him later when he gave evidence about the conversation. His account of the conversation was correct but omitted one thing. I told him, as he said, that I had acted in self-defence, and I told him that this was not the only reason that I did not hand

822

him to come. In fact I told him that I did not
recommend for that some long discussions at the news-
paper office. It was after prime that the officer who
fetched me told the Commandant that I could keep the
car, as I was fetching the truth. I remained there some
hours & the Allied press came to the scene, saying that
they had been — I have mentioned exactly. The leaders
of the Allied Forces came first. I remained on the spot
about 20 minutes or half an hour. The officer asked me
for documents, and I told him that I had only false
documents. I showed them to him, and also gave him
my name particulars. (Brigadier Columbus Ovidio
is known in the Court). I believe I surprised this officer
as one who came up in entirely opposite surroundings, but he was
dressed in civilian clothes. The Brigadier came at the
same time as the Americans. I left Rome on 7 June
for reasons of over which I decide. In the Fascist Army
I served only as a medical soldier, therefore knew
nothing about arms. I, tried to bring help to Belgium
if this was possible.

XXd

Antonello Trombadori was the person who gave me the order to
join this building. He had been one of my commanders
when I was with the GAP, and when I was sent to command
the Partisans. He was one of the members of the Rome
military Committee. I think he gave the order on
Commander of the Roman National Front, of which I was
a member under the National Committee of Liberation.
I can not understand to talking under from persons of what
official position I am not sure. At that critical time
as we had to keep our personalities disguised. In that
clandestine period, Antonello Trombadori was sought for
by the Nazi-Fascist police, since we then for the first time

and stopped a man leaving the portico of mine. The latter turned and they exchanged words of hostility. I could not hear what they said, but they behaved like two angry roosters. I saw in the hand of the second man an arm poised — then I became frightened and precipitately climbed the stairs. As I was gaining the first steps I heard shots. In a hurry I [illegible] turned round. It was the man in the military or semi-military clothes that I saw with the pistol. He made some very rapid motions and extended his arm against the other. Seeing this I turned round and climbed the stairs. My husband accompanied me. I cannot say exactly how many shots I heard — it was more than one, and more than 4 or 5. I thought the man who had his arm extended had fired, and then the other had answered. The first shots were clearer and more staccato, the others were a deeper [illegible]. After that I stayed at home, as I had had enough of that day.

xxd

The distance I was away was not much more than the length of this hall. The military man was standing with his back to the centre of the street. He pointed his pistol at the other man about breast height, but I could not see at which side. The first shots were clearer than the later ones. The distance from the bottom of the steps to the corner of Via IV Novembre is about the length of this hall, or a little less. I was about half way down the steps when I saw all this. It was the first person, the military man, who pointed the gun. He was [illegible] something on his arm, perhaps a [illegible] — I did not see exactly. It was on the left arm. He had his sleeves rolled up, and I saw nothing else on his arm. It was when he was leaving the portico that I noticed the coat on his arm. I cannot say that I saw the coat afterwards. The civilian was dressed in grey, and he had a [illegible]

824

heard such a thing as these Boys. I saw nothing else special. I could not say how the third man was dressed — I could not say whether he was military or civilian. The military man had a belt on, but I could not say if there was a holster on the belt. I remember the man behind the civilian, which was red, white and green. It caught the eye. I did not see any beard. I did not notice the third man's clothes, because he was not doing anything. They did not give me the impression of being together — the military man & the third person I thought they just happened to be near each other. I did not report what I saw to the police. I am sure because the attorney happened to come to me in connection with another matter, & in that I thought that I could assist in this case. That was 10-15 days ago. After the scene I ran up the steps very quickly and did not look round again.

No Re-Cross

By the Court

I think I recognise the accused, but I think perhaps he was not then so well shaved as he is now. I think I recognise Carlo Capponi as the girl I saw, but I am not absolutely sure. I recognise the accused as the man who was with the girl. I don't recognise anybody else in Court — my attention was not concentrated — the I did not see
others, but only on them. I am sure / that the second man (the accused) had a weapon. I assume he fired, because he had the smoke — but I turned round too quickly to see his reaction. When I first saw the military man he was coming towards me, & he turned when he was called. Then the two men had

xxd

I saw the Director of L'Unità since the clandestine period, this year after 8 September. I think that on the next day [6 June] or the day after the article was published [and circulated] by the party – this was also the gist from our reporters. It was afterwards found to be inaccurate and ~~a~~ a correction was published 2 or 3 days later. We published the correction ~~when~~ because we had learned the truth. Our earlier report was based on hearsay of the events. We believed the original story because there were armed attacks by Fascist bands during the night of 4-5 June, and that was known to the Fascist chief on the 5th. We might quite possibly have thought anybody leaving town on posters ~~was~~ must be a Fascist. There were no instructions to give to people engaged on taking down posters. I don't remember receiving any communication from Lt. Barbuisi's H.Q. with reference to the article on 6 June. Possibly such letter would not come to me personally. Since then we have changed our location 3 times. [Copy of the newspaper L'Unità for 9 June shown to witness] Seeing this, I remember now that we did receive a communication from the H.Q. of the Financial Guard. I did not receive it personally. I saw the draft of the original article the night before. I knew the text and ~~to~~ whether an article should be published. It was based on rumors collected in the streets. I did not specify where the reporters were ~~to~~ get the information from. "Giustizia" in the article means that "justice has been done".

Read

I don't know who was the reporter who ~~was~~ compiled the report. It was evidently a reporter's account, and did not go through the Editor's office. I can explain the error [illegible] was in the office – 5th June.

We were first conv. of on y/the clandestine - the period. It is obvious that our journalistic work was not perfect.

By the Court

[This is not noted – as the questions were directed solely to the conduct of the newspaper in publishing without verification such a misleading article].

Fifth Witness (Sworn)

Examined by Signora Bastianina Martini Bruno, Via Orazio 31, Roma – housewife. About 3.0 p.m. on 5 June I was coming from towards La Sediata to the Cordonata, accompanied by my husband, on our way home office nearby, to collect a car that he had forgotten that morning. I noticed a person going in the direction of Via Tre Cannelli, and as he went along the side he was tearing strips of paper from the wall. At a certain point a person intervened and made – by calling him – but I did not hear the words. Then the first person turned, and they started conversing in a way for a second or two. I did not exactly hear the first person was dressed. He had military boots, I suppose, shirt, carrying something in his arm, and he was bare-headed. He was not dressed as a civilian – but he was not dressed completely in military clothes. The strips of paper were in a kind of cylinder – in the shape of a tube, at the normal height of a person. The other man was in civilian clothes, with long trousers. I had never seen either of them before. I could not distinguish very well at the distance I was. I was distant a little more than the length of this hall. I was at the time going from the steps. There was another person standing by the man stripping the posters, and there was a woman near the second person. The second man approached

825

and moment

XXd

I don't ever remember seeing accused angry or irritated. I had never occasion to see him annoyed or disquieted. I don't know how he would react when angry — only know difference in age, no obstacle was ever. Ten years senior and superior.

Fourth witness (Sworn)

Celeste Carlo Negarville, Piazza di Spagna 51, journalist. I belong to the Communist party. On 5 June I was a member of the Board of the Party and Director of "L'Unità". I know the accused. At 3.0 p.m. on June 5 I believe I was at the typographical department of "Il Messaggero". I returned to L'Unità office about 3.30 p.m.. I entered in via Tre Cannelle the body of Bachini still covered with a sheet. I questioned the men on guard and learnt what happened. I met the accused. He told me that help on some hope he saw a man — (stopped by the Court, as the ground that we cannot give effect to hearsay evidence since the best evidence is available). Accused was a member of the GAP. He did not depend on me — he depended on my companions who dealt with military matters, particularly Antonello Trombadori and Giacomo Pellegrini. On 5 June accused received his instructions from the Military Department of the National Committee of Liberation, of which I was a member. The instructions were to keep order, in case of abandonment of the city by the Germans, and threaten the Germans and Fascists in case of resistance. If the Germans had not left, it would mean the duty of the accused to fight them. The dispositions were in accordance with orders of General Alexander, who was believed to be in contact with the

828

Allies – at least agreements were made. Spec the meet
of General Oddone, but they were valid after his visit.
(Objection on part of the prosecution on the ground, that
Defence is not producing the "Best Evidence").
I can produce a statement of the President of the
Council, Bonomi. I don't know anything in
writing – of the relations between the Committee and
the Allies. You can ask Gen. Oddone about this.
(Answered – the Defence indicates that Gen. Oddone
will be called). A few days before Gen. Oddone's
visit we were all informed of certain instructions
words, which were broadcast over the Radio from
Algiers and London. On 5 June I was ordered
was wearing the arm band of the Volunteers of Liberty,
with the letters C L N, and with the stamp of the party.
The bands were distributed under the care of the military
detachment. Those depending on military detachments
directly were a tricolour band, those depending on the
parties were a white band. There were then two bands
which were known to the military command, but there
were also various other type of band which closely
controlled. Up to the 6th the patriots were armed, up
to which date they were on duty. Bentivegna is a
sentimental young man, and I believe that for his
military efforts he had to receive his own indications,
but he has succeeded in doing so. This activity was
not in accordance with his character. I don't say he
is impulsive and emotional. I think he valued human
life, and that life should not be taken except in
the supreme cause.

we were only in the Bar for a short time. I believe the
word was - Benotta, but I did not examine it. I was
wearing a star and we entered from the Road. The Allied
Officer was seated and I briefly advised the Board of the Charges
against the accused person. I did not think I was a Judge. I have known another
officer named Lt. He was wearing an overcoat -
also a Canadian, but I did not notice the writing on it.
The person that we both were investigating was the
Belgian civilian patient. I did not think accused was in danger
of being tried as an impostor. That is my personal opinion,
as I saw that he only deposited himself. Accused told
me his name. I did not know if it was correct or false.
He did not show me any identity card. The young lady
confirmed that he was Benotta Eugene. I made no inquiries.
I have not seen the American Captain - Lt. Major since.
I saw my friend the prisoner about 2200 hrs. After some
evening. We discussed the night as
my friend, and not mentioning the case. I have not heard
from him since. I did not make any written notes.
I made no note of the name or address of the officer.

Further XXd (with leave)

I did not discuss this case with my prisoner friend
after night. I did not attend to the close of the case.
I did not take any further interest in the case, because the
American Captain said he would take charge of it. I
have no entries with my prisoner friend Sgt. 1330

Further Re-exam (with leave)

J. A. B.

The name of the American Prisoner is Sergeant (first
name unknown) and reading of the letter in my possession
is serial no. is 1907260.

(Adjourned 1215-1330).

830

Third Witness (Roma)

Marcello Cevolotto, Avvocato, Via Valadier 35, Roma. I am not a communist. I belong to the Democratic Party of Labour. I am the General Political Secretary of the Party. The political directives of the party depend on its organisation and tradition. The tactical direction depend on me. During the 9 months of Nazi domination the Federal Secretary, Bauli, came to meet me, but I was able to hide and carry on my activities under cover. They arrested my wife and kept her for 3 days. I was a member of the National Committee of Liberation, being elected member in my personality, under Marcello Luini who was first member, and being also a member of the Military Directorate. This constituted the Command of the different bands, and was composed of a member of each of the 6 parties, for the deliberation of military problems. The Military Detachment was in contact with Kesselring's H.Q. It was commanded by Col. Montezemolo, who, after he was arrested and shot, by General Odone. We had our contacts with General Odone, until he was arrested by the Nazis some 7 or 8 days before the Allies entered. General Odone was in direct contact with Marshal Kesselring, I suppose through radio. On the 5th June the patriots were armed with carbines and then could be found during the period of clandestine activities. I have known many cases of patriots losing their positions many of the parties. I have known several for ~~several~~ years - his father practised before his progress for prosecution in my office. The family have always come to me for advice since. (Avvocato was duly warned of the emergency regarding the character of the accused in issue). The relations of the accused have always told that accused is intelligent, prudent and conservative. I, in my relations with him, have judged him to be a very virtuous man, but fundamentally a sentimentalist

831

the prisoner was on the left side behind me. I was sitting with my feet hanging outside the vehicle. The Captain was a Captain of the building police, and the Sgt. Major was the building police. I only know later they belonged to the 5th Army. They were wearing khaki, and the prisoner told me he was a Captain, because I could not distinguish the ranks. Only the Sergeant Major was wearing a hat – the Captain had a field jacket. They came to find me in Via dei Fiacchi, where the prisoner knew that I lived. I was in the office when they arrived, and they asked me to go in their accompanying them, to ask me a guide to show them where the different stations were. When the traffic cleared, the car turned left into via Tè Cannelle. In Via Tè Cannelle it stopped, and we got off: I got off first. In the car remained only the driver. I went immediately over to the wounded man, and then I spoke to several. The Americans remained at the back of me. They were there in the street for everyone to see. I could do nothing because the hand had been thrusted and I could not be seen. I don't know what the Americans were thinking. Immediately afterwards we went to the Bar at the corner of via Tè Cannelle. As soon as several said he was staying and wanted to give the explanations, we all went away to the Bar and left several there. It seemed to me that the Americans did not attach too much importance. to the incident – they invited me to the Bar. I agree that I thought their action in doing so was most intimidating. I also noticed that the body had to be removed and disposed. The Captain and the prisoner said they would take care of that. I don't know what steps they took. After we came out of the Bar, several was still there – and then a civilian came who began to move found over the body. 832
He said – I believe that the Captain would have come.

I did not attribute any more importance to the matter, because I knew the Americans would like me to do it. That is why I did not speak till Saturday. Until Saturday I never saw anything about this case in the newspapers. We had nothing else to do on the day except look for a sniper in the prison. When we came out of the Bar, we went to the place where the incident took place. We stayed a few minutes. Benvisegna was still there. Since I had to go to the office of the Band, for the handing in of arms, I asked for an escort every day, being the officer on the Scene. I first met the Americans after 1430 hours. As long as I was with them they did not find a sniper, because the station we went to last was. The first place was Pincio, Villa Borghesi, and we found none there. Then we went to the Station of Carabinieri, near the Railway Station in Via Cristoforo Colombo. At these places we found military personnel but no snipers. I do not know the units who were at those two places. At the second place we found some American soldiers, but they told us H.Q. had not arrived yet. We also went to Piazza Venezia, but we turned to H.Q. We were told there was a H.Q. there, but before going to it the Captain wanted to go to the Bar. Some time the jeep went back to the Bar. At the time of the incident we were going to the Bar. I saw the lieutenant with his pistol in hand. I saw him fall to the ground. When I arrived there was only around the lieutenant. I saw the lieutenant's pistol in his hand and on the ground. I did not touch the pistol. It was still there when I left. It was still there on the ground after we came from the Bar.

About 13h 30 I was present at the pillaging of the villa. I was released on Saturday evening I saw a newspaper article about this case. I read that the witness Castellani had been unable to identify the parts in which they took place and had contradicted herself. This was in the "Risorgimento". I reported the facts to my superior officer, Maresciallo Maggiore, De Angelis, and I was invited by him to come here to testify. I went to the Maresciallo commanding the Station of the Police Station. He accompanied me to the Prosecuting Office — this was about 12.0 noon on Saturday. I found there 2 civilians, one of the latter sat me at the typewriter. I did see armed patriots in Rome on the 5th.

xxd

I have been 12 years in the CC.RR. I first met accused on 5 June, after the incident. I had never seen him before. I had not known of his being. I do not know what party accused belongs to. To go without a blouse is not permitted. Besides of course, by the rules, must be worn in the blouse. I don't know the names of the American captain and the American sergeant-major. They were just visiting - following the 5th Army. The pimp said he was leaving for Foggia. I told the story to my Superiors last Saturday. Privately I told it only to my family. It did not occur to me to get the names of the American Captain and Sergeant. I am convinced that the Americans would have taken care of it all. I don't know the nationality of the accused. I spoke to him in Italian. The accused was an Italian. On 5 June I had not yet resumed duty with the CC.RR. I am now with the Centro Raccolta. That is - Temporary post for Disarmed CC.RR. he should be dispatched from there and given the necessary documents. I don't really know my status at present.

23

834

We were going and in the jeep to the different Allied commands in order to find a uniform for the prisoner. I left the American wiper after the incident, about 1530 hrs. I went to the Band H.Q., We were going from Via Cesare Battisti Road Via Nazionale. We were in front of the L'Unità Building. To turn into Via Tre Cannelle the jeep had to turn left. We had to stop before the traffic go past. I saw the Lieutenant turn down 3 persons. He was dead when I waved at the sport. I got out into the street, walked to the Lieutenant, & found he was dead. When I saw him turning from the persons, we were in the jeep, stopped - Via Cappello Via Nazionale We were still there when the shots were fired. We had to wait for many jeeps. They were military vehicles. In spite of the traffic I could see all I have stated. I do not know who fired the shots. I left word at Battalion that I wanted to see the Prosecutor. I did not say when I was coming back. Immediately afterwards I was employed by the lawyer, and said I could give evidence, & left my name and address. Immediately afterwards I was told by Avv. Nicolai to be here on Monday. I do not say that witness Cappelloni gave wrong evidence - all I say is that what I read in the newspaper was wrong, and the unidentified lawyer. The American Captain took down the name of the street. I did not tell the accused who I was.

XXD Rinaldi

By the Court

There were 5 persons in the Jeep. I was at the back of the Jeep on the left. In front alongside the driver was the Sergeant-Major. The Captain and the prisoner were in the back. The Captain was on the right, and

Ghost, was in shirt. After the office had turned from 3 parties he continued to walk along in the Cannelli Tunnel. He [illegible] saw ever reached the Stairs. On the [illegible] of the Cinema towards a young man and a young woman appeared, going in the same direction. I recognised them both here in Court (witness pointed to accused and to Lance Corporal), but the young man then had a light hand. Accused said something aloud — but I could not hear what because of the noise of traffic — and the officer then made half a turn. There was a brief exchange of angry words, which I could not understand, but could see. The officer then took out a pistol from the holster. I saw him load the pistol, cock it and point it against the accused.

(Court adjourned at 1700 hours).

18 July 1944.

Court re-assembled at 0915 hours.

I saw accused put his hand in his right hand pocket, take out his pistol, [with a huge gesture] shielded himself with his left hand, there was a flash, and I heard some shots. By a "huge gesture" I mean a rapid gesture. I followed Buttivegna — he was approaching the officer. He did not have a weapon in his hand — he was now in area with the young woman. I can definitely exclude that he had a weapon in his hand. The young woman was — the right, the accused was on the right. By "shielded himself with his left hand" I mean he tried to deflect the weapon. I then which accused stepped back and the [illegible] place. Meanwhile they were very near each other. I heard 3 or 4 shots — then there was an echo, and I [13] saw distinctly how my friend Buttivegna. When the shooting took place the military police arrived. Then he made a gesture — up to face, and put his hand with his hand. He did not shoulder with his hand, still trying to live; then he fell back again, and the pistol fell from his hand, and remained on the ground with his right shoulder.

836

35.

I did not notice the officer on the Fire and Guard. I saw the officer turn from 3 persons. I only saw one particularly. Which said L spat upon something – I cannot say on what. When I saw the persons leaving him from I saw 2 or 3 other persons near the officer, walking by. I saw someone near him, backward of him. I did not notice who was the closest person to the officer. Accused was the officer were the persons closest to me. I could not positively say how many shots were fired. I do know who fired the shots, or if the same person fired them all. I was dressed in riding breeches and a light coloured jacket – civilian clothes. I had a khaki band with the word "Police", and a rectangular piece of cloth, with a star, Section Commander and Squad Leader, on my left breast. I was with 3 Americans. I walked towards the wounded man to see if I could help. When I arrived near him he died. Accused approached me and said "I have not killed him to-day – murder; I did it in self-defence". He also said "Tempus, Lieutenant, I put myself at your disposal, in order that this life may be saved on all the factors". I imagine he called me Lieutenant because he saw the star on the hand. The Americans with me said that having seen what happened they would have taken care of it all. When the Americans left the scene, they left accused on the spot. They did not speak to accused or all. The Americans spoke amongst themselves in English. I did not see that the officer was acting under the authority of the Allies. On the 5 June I myself inspired some false patriots with hands – they were who were pillaging a villa. I watched – number of the German S.S. who were a band and had regular uniforms. That was about 9.0 a.m. on the 5th.

837

I met [illegible], and then he was arrested. Hostile way because of it. At first moment. was unable to control my emotions, and I don't know what effect it would have had on me if I had seen him. The Lieutenant had an automatic. If I had seen an automatic I might have acted differently. If I had seen him carrying pistols. I don't think people employed by the Allied Forces would be likely to turn over Communist Party activities. If I had known the Lieutenant was employed by the Allied Forces I should have addressed him in a calmer way. Actually I did address angrily to him in a hostile way. I did not think of the effect doing so at the time, because I was very incensed. I would agree that the way things happened we both lost our tempers. I do not agree with the evidence given by Signora Vergini. I do not know her, and she has no reason to invent a lie against me. I think her observation was bad. I did tell the police that I had knocked away the Lieutenant's pistol with my left hand. I cannot explain why it is not in the written statement, as I regard it as most important. My pistol is a gift from a Campanian, and I fear it is an Australian. Arms were not issued by our superiors, we had to get them for ourselves. I left the right to carry pistols — we were fighting and risking our lives. My hand was sufficient authority to carry arms, as I was attending the Allied Radio. I speak of hands issued by the Committee of National Liberation. I did not think the hand gave me the right to defy the law. I was defending the law. It was after I arrived Via Tre Cannelle that I first saw the Lieutenant. It was about 10 metres away — I cannot say exactly. I in fact started work for the Partisans before my training in

838

Germans. I fired 2/3rds shot in combat. Since then I have had a lot of experience in the last years.

Second witness (Sworn)

Colantonio Ividio, Centro Raccolta dei CC.RR. I am a Brigadiere of CC.RR. Since 8th September last I was in the Internal Camp of the CC.RR in Rome. Since 8 Sept. I have not been on duty in Rome with the Fascist Police. I was part of the Patrizi Generals band. The band operated in Rome and outside. On 5 June about 3.0 o'clock I was in an American jeep, with an American Captain, a Sergeant and a driver — also an American prisoner who had been my guest for some time. At 3.0 o'clock we were in the corner of Via IV Novembre with Via Tè Cannelli. The American prisoner left a statement with me.

(Statement produced and read by the Court. It contains nothing but an unofficial statement of the character of this witness, and after proved is handed back to the witness).

We were visiting various Allied offices trying to find a uniform for my prisoner. We were in Via Quattro Novembre ready to turn into Via Tè Cannelli — we were stopped by traffic waiting to cross the turn. I was sitting beside the driver looking into Via Tè Cannelli. I saw a man in uniform with sleeves rolled up, jerkin folded over his arm, running down footpath. The footpath said Viva L'Unità, Viva l'Esercito Alleato, etc. I did not notice any particular signs on the sleeve. Later I recognised him as an officer. I did not notice if there was a band on the jerkin. Our disciplinary regulations absolutely prohibit appearing without a coat, whether on duty or not. There is a general application to the police forces. In this / disciplinary position. The band is supposed to be worn on the left arm on the

839

I did not see the lieutenant because he had fired, but because his thumb was in one indentation & my left 2 fingers were fired in another one. The enemy position was less possibility of being in-by than the nearer one. The lieutenant's coat covered his left arm from elbow to shoulder. Even when the lieutenant withdrew his pistol replacing it in its pocket, the coat remained in the same place. He was exerting pressure to keep the coat in the same place, and still had the arm in the same position when he fell. I have myself, when firing in Germany, fired a rifle while holding 2 or 3 other cartridges in the other hand.

(Witness gives a demonstration in Court with a borrowed Constabulary coat and pistol).

If you could see my upper arm then, it was because you had special reason for looking. I had no special reason for looking at the lieutenant's arm. I don't remember on which side the lieutenant carried his holster. I had the impression it was on the right and to the back. If I did not see the hand, I may suppose it was not there. I guarantee that I did not see it. If my statement say that I took a few paces back, it may be due to a mistake on the part of the interpreter.

No Reaction

By the Court

My job was to supervise the discipline of the guard on the building. Generally the duties of the guard were to keep order, to sing. Generally the duties of the guard were to keep order, to guard cards, escort witnesses, and to keep the street clear. He feared armed attack on the part of armed Nazis or Fascist elements. It was known at the time that elements might stage demonstrations openly. He stayed up all night that night, awaiting reports but had received news of an attack on Torgiertaverne. There was never an attack against the building. I did not [illegible] movement [illegible] when I made my [illegible]

8609

inspection I was at looking for anything in particular. I had been on the move all day. It was not strictly a true inspection. I was simply going from one place to another. I had no particular destination. My engine had been given to me by a companion. I had received no specific instructions as to opening fire. I was just invited Barbuto to accompany me to the mosque for service. I think the time was about 3.0, perhaps 2.45. I don't think it was later than 2.30. I thought the contract I had did give me special authority. I mean authority to maintain public order. The band was in the nature of a unique. My orders were to maintain public order, if other were disturbed by any one whatsoever. I thought I had authority to file in case of necessity. In case of disturbance my duty was to quell it peacefully — if it was an armed attack we would have answered with arms. Five or six, or perhaps ten, minutes after the shooting I moved away a short distance to carry out my duty to preserve order. Up to that time the lieutenant's pistol had been lying in the same place. I do not know whether the witness Alberto Castelli's evidence before me after I moved away. During the time I moved away from the body the lieutenant's pistol disappeared. I immediately looked for it. At that moment an officer of P.S. had arrived and I handed over to him. He is not in Court. I should know him again. I asked those present where the pistol was but was asked, but with no success. That fact — whether be asked, but with no success. I agree it was a serious matter — but I was alone, and I was surrounded by a fairly large crowd. I believe I have been asked about this pistol before. The leaving down of the position was not a cause of my firing. It is true it is an indirect cause, and should not have interfered if the lieutenant had not touched the position. I got the impression that the lieutenant was unhappy at the

861

and then, it could not be helped — to hand, and later in the day I sent him home on sick with a headache. My Commanding had ordered me to be specially alert against acts of sabotage against the Committee of Liberation and the Allies. All the things I had heard and seen made me more precise and meticulous in doing my duty as a soldier. My suspicion was expressed to Major.. All the patriots were as efficient as they could be. The things that happened did, however, disturb the general feeling of happiness amongst the general people of Rome. I have always been anti-Fascist. The Guardia Finanza was not a Fascist organisation, any more than the Carabinieri or the Army. I agree this is wrong — but in fact during the last 7 months the Guardia Finanza had done many things to help us — though some many of the officers were against us. I did not know the officers were against us. I knew there were officers hostile to us in all the organisations. I had a enmity against any one. I pursued my duty and my principles and my organisation — i.e. against the Nazis & Fascists. When I saw the Lieutenant taking down particulars, it was in connection that I suspected with a Nazi or Fascist. During the last 7 months I have myself taken down many Nazi & Fascist posters. During it made me angry. I did not see the injustice. During military days never nothing. Parties were always on offensive our families and supplies & had to use whatever we could lay hands on. The Lieutenant did not tell me what he was or ill. I don't know what I should have done if it had been a old man. I only fired at the Lieutenant because he pointed his weapon at me, & his hand fired, and not because he was taking down the posters. When the pistol was again

my heart I stepped apart against the ... street danger. I agree it is possible that the third man fired into the air just to frighten me. In fact both my ears were highest, and I fired. To find the truth I did not aim at all.

(Adjourned 1245 - 1420 hrs.)

As I said before I stood back with my hand in my pocket when the lieutenant was preparing his pistol, and with the mechanism between my two fingers I pulled back the percussion cap. Meanwhile the lieutenant drew his pistol and cocked it. The actions of the lieutenant and myself were simultaneous, and I cannot give the exact sequence of time or both acts which succeeded each other with such amazing speed. I extracted the pistol, gave a blow to the lieutenant's arm, took a step backwards, and immediately afterwards fired. I cannot say exactly when it was the lieutenant fired his pistol or me. I have no feeling of sequence. All I can say is that he did it. Perhaps the blow of my hand was more rapid than his pulling the trigger. I cannot say whether my blow was heavy or light, it was sufficient to displace the pistol. By jumping back one - hundred step back, and I should say I fired before my backward movement stopped. I only tried to displace the arm - I did not try to take his pistol. I agree that a certain point both our pistols were over. The lieutenant's pistol had hardly been pointed to my chest when I gave the blow. The lieutenant said nothing. I heard 5 shots fired altogether - I cannot give the sequence of the shots. I did not say I heard 3 shots followed by 2. (Other witness said not say "the pin fire"). After moment I knew that I should have retired the glance of the lieutenant and fired. I fired 3 shots, and I heard them clearly. I cannot say if the other 2 sounded higher or lower - I was too excited at the time. I have never said the lieutenant fired the two shots. I said later I believe he did not fire. Even if he had fired I should have still acted as I did, I was so excited.

Then I left a little while later. He had been my young commander in the Partisan period. Also at the time he was the one he was in touch with Giacomo Pellegrini, one of the leaders of the Italian Communist party. Before I was put me there had been a panic, which was over the Reich, — people gathered in front of the building and there was confusion, and I was told to take charge. Miss Capuis did not come to talk me. She had come to L'Unità to meet her colleagues, and among them she found me. I had seen her during the morning, or three in another place, and I saw her this during the day. I don't know precisely why she was doing what she came not with me. It was probably ~~she was~~ going not after the door that I got into her company, but I cannot remember. No one told me that someone was trying from position — I saw it with my own eyes. I saw the line of I have described. The military men on the corner of the two lines to the position — the other on a little more to the right. I could not see or tell how many persons he had been shot — I saw later there were dead. The military men were plain clothes, but I did not see if he had spurs. He was wearing olive-green breeches. He had a shirt of the same colour. He did have a belt, but not the ammunition belt that goes over the shoulder — or possibly I did not see it because of his coat. The coat was open on the top part of the legs one, and perhaps could have of the shoulder. I don't know what shirt the ammunition belt goes. I did not see of other particulars = their names, or I can't remember what else could. When I called "Halt", the military man turned round, after giving a glance to the other man, and came towards me. He pointed on his belt a

After a little time he said he would shoot me like a dog, as I could see I was. After I spoke to him he left his pistol, put it under the blanket, & pointed the pistol towards my heart. When he did this I believe I said something. He said nothing - he just silently laid down his pistol. When he pointed the gun at my heart this time, I, still trying not stopping crying - which none of my companions, put my hand in my pocket & put it on my pistol. Into the interval between the first two fingers I seized the percussion cap, and kept my grip ready for the unexpected. I was doing this while he drew his pistol. The instant he had his pistol pointed to my body, I put I took mine out completely. I believe I took mine out at the moment when he actually rested his pistol against my body. After moments we did not speak to each other. I cannot say how long elapsed from the time the 2 shots were fired from elsewhere. I did not show him that the pistol became disarmed, & my - after this moment I cannot say whether it was the instant when fired the two shots or not. I gave the blow with my left hand. If the instant he had seen I was armed, perhaps he would have had time to shoot. He had time to cock his pistol. After he pointed the gun I gave the blow which deflected it. Possibly I was more ready than he, and thought quicker than he did. In reality then he, and thought quicker, otherwise it might have been possible to settle matters, but we were in an excited atmosphere on that day. I was conscious of nothing except me: I knew they were acting together, and I thought my life was in peril. I was told that the still Nazi-Fascist elements in Turin, and that one of my companions had been wounded. I was informed that in Piazza Venezia a regular battle

March 24th 1974

G.S.A.
National Archives and Records Service
Harry W. John , Esq.
Washington , D.C.

Dear Sir ,

please accept my apologies for the delay in answering Your letter of June 12th 1973 , but the departure of Ms.Bernstein and my absence from the USA haven't allowed me to reply earlier .

Please find enclosed check of $ 23.20 for the electrostatic copy of the documents concerning the case of Mr. Rosario Bentivegna . After reading the material I'll let You know if my Editor wishes to apply for declassification of the other eight pages .

Sincerely Yours

(Lucio Manisco)

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION

National Archives and Records Service
Washington, D.C. 20408

May 31, 1974

Il Messaggero
Attention: Mr. Lucio Manisco
50 Rockefeller Plaza
New York, NY 10020

Dear Mr. Manisco:

We are sending electrostatic copies of the 232 page Allied Control Commission-Italy legal section case file involving Rosario Bentivegna to you under separate cover.

Since our June 1973 letter to Ms. Barnstein, the Joint Chiefs of Staff have issued declassification guidelines for combined records dating before December 31, 1945. We have reviewed the eight pages mentioned in our June 12 letter and have declassified them. We have also submitted them to the appropriate office in the Defense Department for review for possibly restricted information (information which the Freedom of Information Act indicates must be withheld from release to the public) and have been informed that the documents can be released to the public.

We can provide you with electrostatic copies of the eight pages (identified by the attached "Withdrawal Notices") for a fee of $2 (our minimum fee). If you wish to order, please send a check or money order (payable to NATFB-NNG) to the General Archives Division, National Archives and Records Service (GSA), Washington, D.C. 20409. The reproduction price quoted cannot be honored after June 30, 1975.

Sincerely,

DANIEL T. GOGGIN
Director
General Archives Division

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847

Some of your copies are not to clear because some of your ornaiks are not to Good.

'cause of the "ties I came into posse in of 3 shells. I identify Exhibit 2, as shells which I received from an officer of the Carabinieri some 10 days after the shooting. I point him — Lieut. Greenhill. I then remained with the officer of the Carabinieri. During the time I remained the shells which I turned them over to Lieut. Greenhill was only half an hour.

XXXIV

I took statements from all the witnesses, except Signora Vergilli whom I saw later. Signora previously signed her statement. At 1500 hours on 5 June I went to Via Tè Cannelli. I was going to the office. At the corner of Via Tè Cannelli, standing about 100 yr. away, I saw a body on the ground covered with a sheet. I enquired of the body or one of the civilians, from the body and from the group there. I approached, because an officer of the Guardia di Finanza and one of the men of the Guardia di Finanza were standing near the body. I asked the Officer if he needed my help. He said No. I visited the Mortuary, and saw there the deceased was Lt. Barbisi, whom I had seen in the office the morning. A little distance from the body was the jacket of Barbisi folded. Near the window of the police boxes I saw the folded. Near the window of the police boxes I saw the coat of Barbisi, also folded. I noted any and found articles of papers on one person.

[Case for the Prosecution subject to calling Lt. Pasqua to give formal proof of the custody of the shells (Exhibit 2).]

The Court explained the rights of the accused.

(Adjourned 1245 hours.)

17 July 1944

Court re-assembled at 0910 hours.

Aw.' Addino Opr.

The prosecution have not proved accused's act illegal. But the Defence can prove his innocence quite clearly. We shall prove, first, that the incident took place in an atmosphere of war, ~~and~~ that Bartirotta, under orders of Committee of Liberation, had to be in a state of anxiety & unrest. Secondly we shall prove that accused was a volunteer of Liberty on Sicily, charged with the task of guarding the seat of L'Unità and subject to permissi against possible attack by Nazis or Fascists. Thirdly we shall prove that accused was authorised to carry arms. Fourthly we shall prove that the patriots were bound by orders received, and at the material time it was not yet known that the Allies were taking over all police duties. Fifthly Bartirotta and the other militiamen, during the posters, were doing a thing that appeared to be hostile to the principles of the patriots — and apparently hostile to the Allies themselves. Sixthly the verbal exchange was principal objectively and subjectively. Seventhly Bartirotta reacted in a most hostile manner to accused's words, and was the first to pass from words to arms. Eighthly accused had no other possible escape from danger, which was actual, immediate, except in the way he did act. Ninthly, in the true view of the facts, the act of accused was, from a psychological point of view, one from a natural act of self-preservation. Tenthly the act is not punishable by Italian law because the act of defence of the accused was proportionate to the degree of offence offered.

Evidence for the Defence

Accused elects to give evidence on his own behalf and is duly sworn.

Rosario Bartirotta — age 22, unmarried, medical student. From 8th Sept. 1943 I have been engaged in partisan activities, in Rome and the surrounding area. Since 1939 I have engaged in political activities, and in September 1941 I was arrested by the Fascist police on

English by I saw several of H.?., Asst.-G. Police, in Palazzo Venezia. I told him I was - Captain 2 Police and that I was investigating death 2 Lieutenant 2 Guardia di Finanza, which occurred after 3.0 p.m. on 5 June. He replied - "Yes; I did it". I cautioned him, and he said "I want to tell you all about it". I said to him that I wanted him to understand that nothing was to be said by him unless he wanted to; that if he did say anything it would be taken down in writing and might be used in evidence. I did this through an interpreter. I identify and produce statement made by prisoner after caution, taken down in my own hand, attached where signed and signed on each page by accused. Accused signed the attestation and also the witness in spelling that I had made. I made no promises and no threats to accused before taking the statement. I did not offer any advantage if he made a statement. (Statement accepted and marked Exhibit 1). I produce and identify 3 cartridge cases in an envelope, which were handed to me by a Lieutenant 2 the Guardia di Finanza - I believe his name is Pasqua. They have never left my custody since. I actually received the cartridges from an Ufficio di Pubblica Sicurezza called Pansetta. (Envelope containing cartridges marked Exhibit 2). I myself arrived in Rome on the very early morning 2 5 June, about 4.30 a.m. I personally posted proclamations in Rome at 6.15 a.m. on morning of 5 June, particularly Proclamations 1 and 2; I posted them in Piazza San Lorenzo in Lucina, Via del Corso Umberto. At 11.30 a.m. on 7 June I visited the mortuary at the building Hospital in Rome. I saw the dead body 2 a Lieutenant 2 the Guardia di Finanza, dressed in the uniform, which is well known to me.

At 2.45 p.m. I proceeded with the assistance of Dr. Jenkins
Inspector carried out a post-mortem examination. I found a wound
in the front of the chest, and also a wound in the lower part
of the back. The doctor examined the whole body, and there
were no other injuries apart from these two wounds. Later
that afternoon I visited the Tai Cinema.

No XXIIIa

By the Court

From my previous experience as London police officer, I
knew that the blood had been fresh when, and that the
hole which was obviously a hole of exit. It was
smaller than the hole of entrance. I saw the Doctor
ascertain that there was a clear hole right through
the body. He did this with a probe. There was only
the one wound in the body. I examined the deceased's
clothes. He had his jacket on, his breeches, fine
boots, shirt, collar and tie. I could see no sign
of injury on the jacket, so I undid the jacket and
examined the shirt, which showed a hole in front
and another in rear. I did not then know the
facts of the finding of the body, but I came to the
conclusion that the deceased was not wearing his
jacket. The shirt was slightly frayed and blood-
stained round the hole of entrance. The hole at the
back was heavily frayed at all.

XXd (with leave)

There were four layers of fabric round the hole
in the shirt, indicating the shirt was folded close to.
In my view when fired.

Tenth Witness (Sworn)

Pericle Giorgio, Agente di Pubblica Sicurezza.
I received orders from A.M.G. - this case to make in-
quiries, and to collect signed statements. In the

852

I don't [illegible] if they both fired. The second officer was carrying his pistol in a holster. I saw him take his pistol out of the holster. As I have already said, he took his pistol out, put a shell in the chamber, and pointed it to the ground. At that stage he had his hand in his pocket, possibly it was a matter of habit. I saw second take out his pistol. The lieutenant took out his pistol first and pointed it at second, before second had taken out his pistol. It is not correct that the second pointed his pistol at the lieutenant first, and that the lieutenant then took out his pistol out of the holster. I don't know who the fifth civilian was who was standing a few metres away. I don't know, but I think he too fired, as I heard shots from close to me. When second fired, the lieutenant had his gun in his hand. When the lieutenant fell, his pistol was on the ground in the region of his head. As lieutenant finally raised his body and his head, the fingers of his hands opened, and the pistol came, the fingers of his hands opened, and the pistol fell to the ground. He had it in his right hand. I cannot say I saw second fire - it was my impression later he did. I had already with him to the right. I cannot say I saw him with had his pistol from his pocket. I saw him take a step back, but he did not then have the pistol in his hand. Before second took the step back, the lieutenant had already pointed the pistol at him - at his left side at the height of a man's body raised from. ~~[illegible]~~ left foot in which second took step back. The Australian officer has difficulty next to remember. ; met him at the newspaper, because he presented himself as an Australian communist. The second-hand, such as mine by second, was disinterested at the office

REGION IV CASE NO 7162 853
IS.

2 the United to all the patriots, & I don't know by whom.
It was an official and by the National Committee of Liberation,
not a band of one particular party. Account was in
command of a guard, composed of patriots who had entered
Rome with the Allies. This is a guard for the newspapers.
I do not know who ordered the guard. When I left the
office with accused I did not know he was accused, but I
assumed so. That morning I had gone to the office to
see colleagues returned from Gaeta, and I stayed on to keep
the guard. When I left the office with the accused I was
going for a drink. I have known accused since the end
of September. We are quite good friends. I saw him
often for reasons of work. I learnt the calibre of accused's
pistol when it passed from him to the Australian officer. I
The accused had been at Palestrina or Valmontone, where
he was operating. I was in Rome up to early May, or
later I left. I returned again about 3 or 4 days before
the Allies entered. I think the accused came to Rome
a little time before the Allies came. I only saw the
accused's gun afterwards - immediately afterwards. It was
a pistol - the same type as the one I saw given to the
Australian. From the command. "Halt" to the shooting the
lapse of time was just sufficient for him to say the
words I have repeated. I cannot say how long
exactly, as I was excited at the time. It was a
minute perhaps - I cannot say.

(A good witness).

Next witness (Sworn)

Captain Greenhill, Capt. G.S., attached A.M.G. Rome Police.
Lt. Col. Pollock delegated to me the investigation of this case,
and to ascertain who was responsible for the shooting. I
took statements. I took a statement from accused,
after cautioning him in accordance with the procedure in

with [illegible] sitting position. He just raised the upper part of his body, raised his hands to his head, and then fell back again. He did not say anything. I [illegible] his gestures were extraordinary [illegible]. Around my head from towards the limousine. He still had the pistol in his hand — I noticed it in his hand. I then saw and heard [illegible] "Look up, look for someone". He said nothing else. I moved [illegible] to the motorcycle, but as I got near I saw a civilian with a police hat coming towards us. There was not a word. This civilian was the first person I saw. I think that those who had been there had kept the place. I noticed the limousine the first time when I reached the point where I could see via Tito Lucretti and via Condotta, and I then saw him [illegible] down the interior from the third window. I was in company with several. When I saw persons being wounded, I don't remember if I said anything [illegible]. I don't think I said anything. In my case it was a feeling that we were in only one sided offensive. Several shots by saying "Halt" by the Policeman. He said it in a loud voice in an intimidating tone. The policeman was already nervous. I noticed when he was covering the persons he made a gesture — it looked very [illegible]. I noticed he was surprised by the "Halt". I believe afterwards [illegible] was a [illegible] Carlo Bacchi. I was transported now in Rome for questioning, I became familiar with arms. This person [illegible] was shot by the Austrian officer. I believe it was a [illegible] of the Austrian that I mentioned in relation. I think the Austrian was the first after the shooting. It was the second shot [illegible]. The Austrian officer said the Bacchi was just dead, after we had gotten [illegible] came up. The Austrian was between around the officer, but I was present. Around said it was a [illegible] Carlo. Before that time I did

355

was discussing the affair with accused. I got there late I did not know what the calibre of the pistol was. I believe the policeman who took me wants know the calibre. It was an Italian civilian wearing a police band. I believe his name was Alessandrini, but I don't remember exactly. (Pericolo Giorgio is known in Court) This is not the man.

XXd

Accused was wearing the arm band of Volunteer of Liberty. He showed it to the policeman, just as he had shown it to Bentivegni. Bentivegni did not say anything when he was shown the band. Accused had a document, but not a regular one — he had a false identity document. He had a false document, because he was being looked for by German police, — he had taken part in partisan activities. He told the policeman that the document was false, and that his name was Rosario Bentivegna. Policeman did not take accused to the pistol. He said accused had the right to have it, since he was the band. Accused was connected with the paper on the newspaper office; He was of the Dispersal of the Committee of National Liberation. I don't know what happened to the civil in that I had seen before. I believe he ran away up the Via Tiburtina which runs away to the right. I don't know of the incident that day that I witnessed myself. I know we found that the Fascists might pursue us of reprisals, we knew that were still fascists in Rome. We knew that the were still German in Rome. When I was away for help, the accused remained 2 or 3 metres from the body.

No Question

By the Court

Both the accused and the second officer had pistols.

RSC ASSOCIATES

Temporarily, my ground was struck. He accepted, & I received a letter to his C.O., asking for him to be detailed for this service. He kept me a mid-day for his meal, and I never saw him again. It was within my competence to ask for this officer, & I am responsible for the carriage, guarding & firing, &c. ground etc. I entrusted the Record office to the command, which is the Record office to-day. I never saw fear in him — but he was armed with me authorised him never it.

XXd

It was not necessary for me to wait for the reply of the C.O., before employing this officer. I wrote a letter 2 months.

No Re-cross

By the Court

The Record office was ~~duty~~ on duty at 2.30 p.m. He would have been on duty ~~duty~~ only personal matters in the office. Till 2.30 p.m. when he was the book, he had nothing to perform, in respect of my office — but I mean a police officer is always on duty.

(Adjourned 1700 hours)

15 July 1944

Court re-assembled at 0920 hours.

Eighth Witness (Sworn)

Carlo Coppini, Foro Traiano 1. I am a student. On 25 June about 2.0 p.m. I was at the office of the newspaper L'Unità, together with my newspaper colleagues. About 3.0 p.m. I left, accompanied by Romolo Bustreppa, to proceed. I had gone a little further as a journalist in Via Tre Cannelli.

Accused accompanied me – I don't know his – I had my other
motive. In Via Tè Cornelli I saw a man in uniform, who
with his right hand was waving frantically L'Unità from
his cell. He had – grey-green shirt with rolled up sleeves,
a jacket thrown over his left arm, with no hat covering.
He had no distinctive sign on his arms. I did not see
any. Accused said "Halt" to the man. He stopped. Accused
asked the man for his car. The military man did not
answer, but asked who accused was. Accused produced
himself as a friend of the newspaper L'Unità – an armed
friend. Then accused invited the military man to follow
him to the newspaper. It was in the nature of a friendly,
not a civil conversation. They did not go to the office.
The military man put his hand to his pistol – took it
out, placed – and in the chamber, and pointed the
weapon at Buttazzoni. Buttazzoni was armed, but his
left was free in his hand. His right hand was in his
right trousers pocket – not the hip pocket. I suppose
he left his free in the right pocket. When Buttazzoni
took out his pistol, I looked and noticed about
5 metres behind him an individual in civilian clothes
with a pistol in his hand. I saw Buttazzoni point the
pistol to the left side of the head of accused. When
I saw the individual behind Buttazzoni I threw myself
aside and cried "watch out". I heard shots in quick
succession following my crying out. Accused did not answer
directly following my crying out. Directly from Buttazzoni – he fired three times. I cannot say if
accused had fired. I know there were several shots,
but I do not know who fired. The Lieutenant fell to
the ground. Then he raised his upper body of the body
and turned his face to accused. Accused was leaning
down on him trying to help him. The Lieutenant did

I don't know if the two men talked to each other – it was
[illegible] instant. The young man turned & the Lieutenant spoke
to him briefly, rather curtly, & did not move away.
Presently I saw him turn towards the Lieutenant, pistol in
hand, and he had only time to say a few words before he
fired. He did not move back before he fired. He
doesn't [illegible] long enough only to say a word or two before
he fired. They were near each other when the
officer got his pistol out. I saw the officer fall, the
fell with his head pointing towards the middle of the road,
feet towards the opposite side. Afterwards the young man
stepped back with his body, pistol in hand, talked to one or
two people. As soon as I heard the first shot I put my
hands to my head, where I was pain the window. I be-
lieve I heard another, and perhaps 2 other shots. I am
certain I heard a second shot. They came one right
after the other. I cannot say precisely how long.

XXd

I saw the Lieutenant take the pistol from his holster. I
noticed that the officer was wearing – tied on his arm.
It was a white band, I believe, with certain signs on
it. The Lieutenant had his jacket over his left arm.
He had his shirt sleeve rolled up, and the jacket was over
the upper part of the arm. I cannot be sure if the Lieuten-
ant was wearing a cap. I did see a cap, either
before or afterwards. He did wear glasses. The Lieuten-
ant was alone, and the street was [illegible] a fair bit of
traffic the first shot, the people in the street [illegible]
[illegible]. I was about – right above the street – the
[illegible] – [illegible] Court. I – or the window to see
the [illegible] was going by in the street. There were
some vehicles pass[illegible] along Via Quattro Novembre –
[illegible] is close to Via Tre Cannelle. I saw an American

[illegible] shortly after the 2nd discharge. There was some time later. I had been in the window shortly about 20 minutes when the shots were fired.

Re-d

I have attended here to-day because I was summoned.

By the Court

There were people in the corner of Via IV Novembre. That is within a few feet of my house, and of the place where the shooting took place. People were believing normally, there was no shooting. Before the shots were fired there had been no disturbance in my street — there was complete calm. There were postmen one in three windows, one in each window. They were the only postmen in those three windows. There were other postmen in the vicinity, but the witnesses only took down those three. They were in uniform — part of either the morning or the day Corps. I did see the witnesses after the firing was over, only as I saw him during it was over — I cannot say what he was after he was. I did not see if he was able to point it.

Further re-d

I cannot say whether the witnesses followed the pistol.

Seventh Witness (Sworn)

Major A. Battisby, Deputy Chief Public Safety Officer, Rome. We have employed many Italian officers to work for us. There was one called Giorgio Barbarisi. On the morning of my arrival, this officer sent me, by order of Col. Pollock, to conduct me to Col. Pollock. That was at 4.30 a.m. on the 5th. He took me to Col. Pollock, and remained with me till mid-day. In the meantime I had decided that this officer that he should

860

The one who was shot was [illegible]. I didn't see
who he did before he was shot. I was inside, at home
or my place when the thing happened. I was in my kitchen
when I heard the shot. I heard only the one shot.
Afterwards I saw nothing, because I just fled, as they usual
ly do when the guns [illegible] noise. A young girl told
me, but I could not recognise her. I was at the front
door when I heard the two men talking. I was still in
the same place when I heard the shot. Before that I
was in the kitchen. I was in my house when I first
heard the conversation. When I was frightened I went up
stairs to the second floor where I was [illegible].
The military men who were shot was in grey uniform.
I saw afterwards he had a blanket, but he was not wearing
it. I did not see whether he had it on at the time of
the firing, but it was on the ground afterwards.

XXd

I did not see anything. Only at night I saw the fingers
at the side of the body.

No Re-Ex

By the Court

The body remained on the ground till about 6.0 p.m. When
I heard the conversation there were only - four people
in the street. The conversation I heard was the sound of
fear, and I also heard people shouting. I did hear
the two men talking, but I did not understand what
they said. They were standing still near each other.
I didn't see anybody near the two men. They were
speaking calmly.

(A Hausa/Fulfulde interpreter)

Sixth Witness (Sworn)

Signora Caterina Castellana Verzini, Via Tè Cannelli 15.
I am a property owner. I was at the window giving house on
the afternoon of 5 June, about 3.0 p.m., on the third floor.
I saw the officer walk across the street. He was the window
of the end, opposite to the door. He looks out on to Via Tè
Cannelli. I saw the officer walk from my side to the
other side of the street, and I saw him later from the house
on the other side three posters, on which were written
"Viva l'Unità". All three posters were exactly the same.
The officer had a blouse over his arm, his shirt sleeves
rolled up, sleeves on, and a cap in his hand. He had
no other distinguishing features. I did not see any
distinguishing marks on his arm. I did see the blouse
over his left arm. I am sure there was no mark
on the right sleeve. He succeeded in putting down the
posters. Then as he was down Via Tè Cannelli, from
the a young man appeared coming from Via IV November.
The young man was accompanied by a young girl. He
approached the officer and fraternised - placed the upper part
of his body over the lower. I believe the young man kissed
the officer had taken down the posters, but I did
not see with. They were close together other almost
body to body. Then I saw the Officer begin to put
his pistol out, after I heard a shot. I saw the
pistol fire as the was taking in my direction, but he
was not in time, as the young man fired. After he
was shot, Simeone, I have since who, took the pistol
away from him. It was a young man wearing a beard,
not too long. I saw him from above. He had a
beard. On his left sleeve there was an arm-band.
I believe accused is the man, but I cannot swear. He
had a beard as I said? I identify him better. 862

DECLASSIFIED
NND 785014
By ... NARA, Date ...

I N D E X

REPORTS AND STATEMENTS RE: DEATH OF LT. BARBARISI, GUARDIE DI FINANZA.

	pages
Report	1 to 4
Report of Dr. Fontana -p.m. of body	5 to 6
Statement of CASTELLI Alberto -witness	7 to 8
Statement of RONCUBI Anna, witness	9 -
Statement of PANETTA Giorgio, Agent Pub.Sic. . .	10-
Statement of LT. Pietro PASQUA -evidence re: cartridge cases	11-
Statement of BENTIVEGNA Rosario- assailant . . .	12 to 14
Statement of CAPPONI Carla -witness, present with assailant at the killing	15 to 16

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NND 785024
By NARS, Date

18

1.

H.Q. ROME REGION A.M.G.

3rd July, 1944.

To: Chief, Public Safety Division, H.Q. Piazza Venezia.

From: Capt. T.W.M. Greenhill.

Subject: Death of a Lieutenant of the Guardie di Finanza by shooting, and arrest of culprit.

1. Acting upon your instructions, at 10 p.m. 6th June 1944, I took up the enquiry respecting the death, by shooting, of LT. Giorgio BARBARISI, Guardia di Finanza, 2nd Company, Caserma Via Salaria, Rome.
Home Address: 195, Via salaria, Rome.

2. In consequence, I saw LT.COL. Carlo Perinetti, CC.RR., upon the matter, but he could not assist other than to inform me that the body was at the Guardie di Finanza Caserma, Via Regina Elena, Rome.
I then learned from the Officer-in-Charge of the latter Caserma that the body had been removed to the Mortuary at the Ospedale del Celio, Piazza Celimontana, Rome, in preparation for burial, and that the death took place at about 3 p.m., 5th June, 1944, at Via Tre Cannelle, Rome.
He was unable to advise me of any person who was a witness, or who had knowledge, of the occurrence.

3. Consequently, at 11.30 a.m., 7th June 1944, I visited the aforementioned hospital, saw the secretary, Major Raffaello Passalacqua, and outlined the known facts to him. I then viewed the body, noted the necessity of expert medical evidence, and sought the assistance of the Major to discover a Doctor capable of such testimony. He introduced me to Doctor Mario Fontana of the Institute of Pathologic Anatomy, Rome University, who offered his services, free of charge.
At 2.45 p.m., the same day, Dr. Fontana carried out a post mortem examination of the chest of the dead man.
His report, with translation, is attached giving a widely informative account of the operation. His deductions shortly are:

a) Death occurred from 48 to 72 hours before the P.M.
b) Death occurred rapadily from acute anaemia resultant upon the passage of a bullet which passed through the left thorax, with partial injury to the Aorta and the hemothorax, having entered in a region of the Chest corresponding to 1st left intercostal space and passing in a slightly downward direction and leaving the back at the 5th intercostal space on the paravertebral line.

73

864

DECLASSIFIED
NND 785014
By NARA, Date

c) Bull of small calibre, probably not more than m.m.

c) Distance - shot fired - about 1 to 1½ metres.

4. It was obvious from the findings that the assailant must have been standing above the Lt. when discharging the fatal bullet, and at close range.

5. The scene of the crime at Via Tre Cannelle was then visited. Immediately an explanation presented itself to account for the direction of the bullet, because the roadway has a distinct upward slope to steps leading to via 24 Maggio.

6. At this juncture I obtained the assistance of Vice Brigadiere INSACCANEBBIA and Guardia PANETTA, both Agents of the Central Questura. To date, they have given invaluable service.

7. On 23rd June 1944, in consequence of information received, I learned that the assailant was a young man named Rosario BENTIVEGNA of 122 Via Torino, Rome. I instructed Guardia Panetta to effect the detention of this man and bring him to me at this H.Q. Further he was not to make reference to the word "assassinio".

8. At 2.30 p.m. the same day I saw Bentivegna in the office of the Public Safety Division, having been detained at about 1 p.m. in the Via Nazionale by Guardia Panetta.

9. I told the suspect who I was and that I was making enquiries into the death of Lieut. Barbarisi of the Guardie di Finanza, which took place at about 3 p.m. on 5th June 1944, death resulting from a shot in the left side of the chest. I then asked him whether he could help me in the matter. The suspect replied: "Yes Sir, I did it". I then cautioned him and he replied: "I want to tell you all about it". He then made a statement in writing, under caution. The statement is attached.

In short it is a complete admission that he fired three shots directly at the deceased Lieutenant, one of which brought about the death.

He gives as an explanation for his actions that being a communist he saw the Lieutenant in Via Tre Cannelle pulling down posters from the wall, amongst which were posters of the Unita' newspaper, a communist organ. He alleges that he remonstrated with the Lieutenant who thereupon was told not to interfere.

He says that the Lieutenant then drew a revolver, charged it with a cartridge and stuck it in his, Bentivegna's body near the heart.

He alleges that he had his right hand in his trouser's pocket holding a loaded Beretta pistol and that at that moment a man in civilian clothes fired two shots. He thought they were directed to him although he was not struck. Because of the shots he stepped back a few spaces, drew his revolver from

DECLASSIFIED
NND 785024
By NARA, Date

his trouser pocket and fired three shots at the Lieutenant. He goes so far as to admit that he thought all three bullets struck the officer.

10. He disclosed the name and address of a girl who was with him at the time of the shooting. She is Carla CAPPONI, aged 24 years, of 1 Foro Traiano. I saw her at this office on 25th June 1944, and obtained a statement, attached, from her. She bears out almost in detail the story told by Bentivegna. I am satisfied, however, that she cannot be cited as an accomplice in the shooting.

11. I also submit statements taken from Anna Roncubi, 15 Via Tre Cannelle and Alberto Castelli, 98E Via 20 Settembre. The former woman alleges she was a witness to the shooting, describes the assailant and the woman who was with the latter. Mr. Castelli, who arrived soon after the shooting, apart from describing the scene, as he saw it, outlines the conversation he had on the spot with a young man, who was holding a pistol in his hand and the fact that the young man admitted the killing. He also speaks of the young lady. Having in mind the statements of the accused and his girl friend, the aofrementioned two persons provide necessary corroboration in connecting the facts.

12. Bentivenga, who is Italian, and has lived his life, to date, in Rome, alleges that he was unaware that the Lieutenant was an officer of the Guardie di Finanza. It is difficult to believe him as the uniform of a Guardie di Finanza is generally known to the Italian people. The Force has all the powers of a Police body apart from being an Arm of the Italian Military Forces.

13. Three pistol cartridge cases of 9.m.m. guage were found at the scene of the crime by Lieutenant Pietro Pasqua of the Nucleo CC.RR. Ludovisi, Via Quintino Sella. They bear identical stamp markings at the base.

14. I have been unable, to date, to trace the whereabouts of the dead man's pistol. Bentivegna says he subsequently gave his pistol away to an Australian Lieutenant, who is yet unkown.

15. I am in the process of obtaining statements to give an account of the passage of the body from the scene of the crime to its subsequent interrment.

16. The charge or charges in this case must arise from the Italian Law. I am advised by Commissario Ernesto Rodriguez

71

DECLASSIFIED
NND 785074
By NARA, Date

4.

of the Central Questura, Via San Vitale who is a Graduate of Law, that there is such an offence as wilful murder, with alternative offences of manslaughter down to assault.

17. As against a plea of self defence, I would draw attention to the fact that nobody alleges, not even the prisoner, that the Lieutenant fired a shot. The prisoner admits that he stepped back a few paces before firing. Not one shot but three shots directly at the officer. I wonder whether it could be said that having stepped back a few paces, his obligation was to run away.

18. Another point in issue is the status of the Lieutenant at the time i.e. a member of the Guardie di Finanza and therefore on duty. This point is not yet clear. One must appreciate the unusual conditions existing on 5th June 1944, which has made the enquiry fraught with difficulties..
However, I am endeavouring to produce evidence showing that he was on duty. Statements will be submitted from time to time as they arise.

19. Respectuflly submitted for information of legal department.

T.W.M. Greenhill,
Captain
Public Safety Division,
Rome

In the field,

3.7.44.

Major Hendrickson Senior Legal Officer
(thro' Col: Poletti)

Returned please

Pollock Lt Col.
Rom Regional P.S.O

3/7/44

70

864

DECLASSIFIED
NND 785074
By NARA, Date

5

REPORT OF DR. FONTANA

CELIO MILITARY HOSPITAL-ROME

Dissection Room.

At the request of the Allied Military Government I have today, June 7th, 1944 at 2.45 p.m. made the partial autopsy of the body of Giorgio BARBARISI of whose identity nothing further is known.

Queries were made to me by Captain Greenhill of the A.M.G. in regard to:

1) Presumed date of death.
2) Presumed age of deceased.
3) Cause of death.
4) Kind of injuries inflicted and their direction.
5) Type of projectile used.
6) Distance from which shot was fired.

The body of a man of apparently 25 years of age, partially undressed, lies flat on its back on the table of the dissecting room.

On inspecting the corpse green marks of putrefaction are noted on the supra and infra clavicular regions and on the lower regions of the abdomen. There are putrefactive desquamations of large pieces of skin on the limbs and on the back of the body. Rigor mortis has ceased.

On the top part of the left half of the thorax at about 2 centimetres from the sternum, on the 1st intercostal space an oval wound of 8 x 12 mm. with large axis having a perpendicular direction and edges which are clean out, introflexed, ecchymotic and tattoed for a width of 3 mm. is noted. By testing it with a specillum it is seen that the wound penetrated the thoracic cavity.

On the back, in a position corresponding to the left paravertebral line and the 5th intercostal space there is another oval wound of 1 x 1.5 cm. with edges that are ragged, ecchymotic, out-bending and not tattoed. Also here the specillum confirms that the wound penetrated the thoracic cavity. No other traumatic injuries are found anywhere else on the body.

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868

DECLASSIFIED
NND 785084
By NARA, Date

Upon opening the thorax an abandant quantity of blood(about 2 litres) is revealed, part being liquid and part coagulated in large red clots.

The examination of the passage of the bullet shows that this made a sort of tunnel and that the following partswere affected.

The skin and subcutaneous tissue of the front paries of the thorax- the aponeurosis and left pectoralis majoris muscle, the muscles of the 1st intercostal space, the front part of the left parietal pleura, the upper anterior mediastinum, the arch of the aorta(concave surface) the upper back plarietal pleura, the muscles of the 5th intercostal space, the muscles of the back, the subcutaneous tissue and the skin of the left paravertebral region.

In answer to the queries made, it may be deducted from the above data that:

1) The death occurred from 48 to 72 hours ago.

2) The deceased appears to be 25 years old.

3) Death occurred rapidly owing to acute aneamia caused by a wound inflicted with a firearm with bore through the left half of the thorax with partial injury to the aorta and hemothorax.

The bullet entered in front in a region corresponding to the 1st left intercostal space and following a slightly oblique downard direction came out on a leval with the back section of the 5th intercostal space on the paravertebral line.

4) The bullet was of small calibre, probably of not more than 7 mm.

5) The distance from which the shot was fired was of about 1 to 1½ metres.

THE DISSECTOR
Dr, Mario Fontana
of the Institute of Pathologic Anatomy
at the R. University.

68

DECLASSIFIED
NND 785014
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24

H

.M.G.
..oma Vecchia

8th June, 1944.

Statement of CASTELLI, Alberto, aged 36, Via 20 Settembre, 98E, Rome, Lieutenant, Italian Navy, who says:

At about 2.30 p.m. 5th June, 1944, I was standing at the door of the Italian Patriots building in Via Pilotta, 24, Rome, when I heard shots. Shortly afterwards a civilian, whom, I do not know, passed by me and said "A member of the Guardie di Finanza has been shot". I said "where", and the civilian, a man, replied "There" and indicated towards Via 4 Novembre. I then walked with one or two of the men standing with me towards Via 4 Novembre and when I reached the corner of Via 3 Cannelle, I saw a drowd gathered at the corner. I walked through the crowd and saw the body of man dressed in the clothes of a Lieutenant of the Guardie di Finanza. I did not know him. I was sure he was dead. The body was lying on its back with feet pointing across Via 3 Cannelle. The head was pointing towards the right pavement. I then saw two Guardie di Finanza, whom I do not know, who were passing to keep back the crowd. They did so. I then saw a man who was near the body with a revolver in his hand. A girl was with him and she had a revolver in her waist band. There was another man there who was wearing a "Patriotic" arm band. The man holding the pistol had a communist arm banc. Red with black marks stamped on it. The girl also had one. I asked the two men and woman what had happened and the man with the communist arm band said "I killed him in personal defence".

I repeated my question and the man replied "He was tearing down some communist notices. I asked him to stop and he drew his revolver and he tried to take my pistol away with that a Guardia di Finanza who was with him fired some shots, so I shot him". I asked who was present and the girl replied "I was". The girl then told me the same story as the communist had told me. She then pointed to the wall and said "You can see the notices are pulled down". I looked and saw some posters were torn, but did not see any torn paper on the ground. I did not look to see. I then asked the communist to give me his revolver, but he refused. I then asked him for personal documents but he could not produce any and stated the reason was because he was guarding the building of the Unita' Newspaper. This building is on the corner of Via 3 Cannelle, and Via 4 Novembre. The man with the "Patrioti" armband was apparently on Police duty because the arm band had "Police" stamped on it. The "patriot" then said "I am waiting for my Captain to come to investigate the matter" with that a woman who was looking out of a window nearby, with a man, said "cover up the body, it is not a nice sight". I said "well throw something down" with that the woman or the man threw down a piece of linen and

67

820

DECLASSIFIED
NND 765074
By NARA, Date

and one of the bystanders picked it up and covered the body. I lifted the linen cover and noticed that the injured man was wearing on his left arm a white arm band with English words on it. I think it was "Civil Police".

I waited and later a man, in plain clothes, arrived on the scene. He was wearing on his left arm a "patriot" armband, and on his left lapel he was wearing the gold bars of a "captain" mounted on a light red background.

As he arrived the man with "patriot" armband said "Here is the Captain". I told the Captain the whole story, including the fact that the man and girld had not any documents to show who they were. With that I walked away.

The Lieutenant was not wearing his coat. His shirt sleeves were rolled up. His coat was lying on the front of his body as though he had been carrying it at the time on his arm. I did not see any revolver on him or lying on the ground near him.

I do not know who the Captain is or any of the other three.

I feel sure I could recognise the girl again and might identify the other three persons.

The communist was about 20 years of age, about 5ft. 7 or 8 ins., medium build, clean shaven, normal face, fairish complexion, black hair, dress: grey clothes, no hat.

The girl was short, medium build, dark brown hair, dress: red designed dress, tight at the waist.

I cannot give a description of the "Captain" or the "Patriot" man, but I might recognise them again.

This statement has been read to me in Italian by Silvano Palumbo and it is true.

(sgd) Alberto Castelli

Witness T.W.M. Greenhill, Capt.
CAP.

66

871

DECLASSIFIED NND 785014 By NARA, Date

9.

ANNEXE 1.

Year 1944 10th June
in Via Tre Cannelle No.15,
Rome.

RONCUBI Anna, married Ricci, parents unknown, born at Copparo (Ferrara) on 15.2.1892, porter of house No.15 in Via Tre Cannelle, is before us, officers and agents of Judicial Police detailed with allied Military police, to be questioned regarding the murder of Sub.Lt. of Finance Guards BARBARISI. She declares as follows:

"On the 5th inst. at about 14.30 o'clock, I happened to be standing at the door of thehouse of which I am porter. I noticed a sub.lt. who had his coat over his left arm, and a man of whom I cannot describe the features, exchanging some words. Immediately after the man, height about 1.70 meters, slim, who was holding a pistol, fired at short range against the officer, wounding him mortally.

The murderere then turned to a woman: age about 20-25, height about 1.50 meters, slim, thin face, straight hair, and ordered her to make me close the house door, and to dispurse onlookers who had assembled. Being frightened, but wishing to see what was happening, I went up to the first floor and looked out of the window. Thus I was able to note that the murderer and his accomplice were still on the scene of the crime, quite near the body, talking to a man of about 50 to whom he was showing a document. The man who was talking to the murderer took out a piece of paper and a pencil, making notes.

In answer to question:
I was not able to notice if the murderer wore an armlet, nor if the woman was armed.

In answer to question:
After about two hours, the body, which had been covered with a sheet provided by Signora Verzini, had Finance Guards sentries placed by it, and at about 18 o'clock it was taken away by a small lorry belonging to Finance Guards.

In answer to question:
I have no more to say".

Read, confirmed and signed by:

Roncubi Anna

Insaccangbbia Francesco
Panetta Giorgio

65

DECLASSIFIED
NND 785024
By NARA, Date

27

10

AMG. ACC.
Piazza Venezia
Rome.

27th June, 1944.

STATEMENT OF PANETTA GIORGIO, Agent of Public Safety, Questura Centrale, Via Genova, Rome, who says:

On 5th June at about 3 p.m. I was walking along the Via 4th November when my curiosity was attracted to a group of persons who were standing in a circle in the Via Tre Cannelle, apparently looking at something. I went up to the crowd and lying in a horizontal position on the ground I saw the apparently lifeless body of a Lieutenant of Guardie di Finanze.
I now know that the dead man was named BARBARISI Giorgio.

I noticed that the officer was wearing grey-green trousers, with yellow bands down the sides, a grey-green shirt and a belt with an empty revolver holster attached. Near the dead man, I saw his jacket and his service forage cap. He was readily recognised as a member of the Guardie di Finanza.

On 25th June, acting upon the instructions of Capt. Greenhill, AMG. HQ. Piazza Venezia, at about 1 p.m. I arrested a young man named BENCIVEGNA Rosario of Via Torino 122 in the Via Nazionale.

I took him to AMG. HQ. and handed him over to Capt. Greenhill.

Later that afternoon I was present when the young man made a written statement, under caution, to Capt. Greenhill, and I heard him admit that he was the person responsible for the shooting of Lieut. BARBARISI.

(sgd) PANETTA Giorgio

64

873

DECLASSIFIED
NND 765014
By [illegible] NARA, Date

28

11

LEGIONE TERRITORIALE DEI CARABINIERI REALI
DI ROMA

NUCLEO LUDOVISI

18th June 1944

At 14,30 o'cl. on June 5th unknown persons killed Sub.Lt. Giorgio Barbarisi of Finance Guards, in via Tre Cannelle, with three pistol shots.
Three shells were picked up at the place.
This Command has not made further enquiries as the matter was passed on to the Questura.
The shells were picked up personally by undersigned, who was immediately sent to the spot.

Il Tenente Comandante
PIETRO PASQUA

873 bis

DECLASSIFIED
NND 765014
By [illegible] NARA, Date

29

HQMG-MGIAR
ALLIED CONTROL COMMISSION
A.P.O.394, U.S. ARMY
Police Headquarters

24th June,1944.

SUBJECT: Murder of Lieutenant of Finance Guards named Giorgio [illegible].

TO : Col. C. POLETTI, Rome.

copies to: General Johnson
Colonel Ames
Major Fielden
Major Hendrickson.

OK comment from Col Poletti

1. About 7 P.M. 5th June,1944 (the day of our occupation of the City) a police Finance Guard, Lieutenant, was shot dead at Via Tre Canelle, Rome. He was shot in broad daylight through the chest with one bullet, and died almost immediately. There was no clue as to the assailant.

2. Immediate instructions were given to the Questore to proceed with the enquiries in the ordinary way, but I felt the crime was such that immediate investigation was necessary by our Public Safety Division. As you know we had to disarm the overnight partisan police force of 17,000 upwards, and I felt that unless we stamped out this shooting by civilians ruthlessly the position might very soon become out of hand. Moreover, it came to my knowledge from reliable sources that many of the so-called communists and socialists were banding together to wipe up old scores with their fascist and other enemies. In short they were prepared to take the law into their own hands. The same afternoon I saw all the leaders of the various political groups, and warned them in no uncertain terms that we would tolerate no shoting or extreme measures by civilians in this city. They denied that any political parties were involved in the shooting of the Finance Guard, and they were unable to help me in the investigations.

3. I at once withdrew one of my officers from his District of Roma Vecchia, Capt. T.[illegible]. GREENHILL (B), who served with me as a detective officer, attached to the Criminal Investigation Branch, New Scotland Yard, London. Knowing his record I felt he was the one man who could handle this murder case. Capt. Greenhill at once took up the enquiries and from 5th June until last night he has been on this case day and night. By a process of elimination he has interviewed well over 200 individuals, dealt with over 100 suspects, and during the last three days narrowed the enquiries down to three or four suspects.

4. By 3 p.m. yesterday, 23rd June,1944, he had obtained sufficient evidence to arrest one Rosario [illegible], age 22, medical student, of Via Torino 122, Rome, an avowed member of the

REGION IV CASE N° 7762

874

DECLASSIFIED
NND 765014
By [illegible] NARS, Date

Communist Party and self-styled partisan.

5. I was present when Capt. Greenhill handled this individual. Bentivegna was properly cautioned and agreed to make a written statement to Capt. Greenhill. In this written statement to Capt. Greenhill, Bentivegna confessed to the shooting of the Finance Guard, his excuse being that the Finance Guard Lieutenant had attempted to pull down certain wall posters including a poster respecting the "Unita'" newspaper, which is the communist organ. The evidence is clear, the confessions is straight forward, and there is no doubt the evidence will show that Bentivegna shot the Finance Guard in cold blood.

6. In the ordinary way such cases could be tried by the Italian Courts by Italian Judges, but I submit that this case is so serious, the political issues involved are so great, that we set up a strong Allied Military Court immediately to deal with this alleged murder. This course, I submit, is highly desirable because of the possibility, in the event of it being tried by an Italian Court, of the influences from political ramifications. Left in our hands, it could not then be said, by opposition parties, that political influence had had any effect upon the result.

7. Capt. Greenhill is having all the statements of witnesses etc. typed out, and will have the case ready for presentation within two days.

8. I strongly recommend that a General Court be set up with General Johnson, Colonel Poletti, and the Senior Civilian Judge of the City to hear the case, that the widest possible publicity be given to the trial so that we can stamp out once and for all such actions of violence on the part of civilians.

9. Fortunately this is the only known case of its kind so we have been very fortunate indeed, but an example must be made at once of this individual if found guilty.

J.R. POLLOCK
Lt. Colonel
Chief, Public Safety,
Rome.

61

875

DECLASSIFIED
NND 725021
By [illegible] NARS, Date [illegible]

31

ALLIED MILITARY GOVERNMENT

HEADQUARTERS
ROME REGION

20th June 1944

TO: :Chief Public Safety Division
FROM :Capt. T.W.M.GREENHILL
SUBJ : Death of Lt of Guardia Finanza

60

846

DECLASSIFIED
NND 765021
By NARA Date

ALLIED MILITARY GOVERNMENT

HEADQUARTERS

20th June 1944

TO : Chief, Public Safety Division
A.M.G. H.Q.
FROM : Capt. T.W.M.GREENHILL
SUBJECT : Death of Lieutenant of Guardia Finanza
REFERENCE
DATE : 20th June 1944

1; Acting upon your instructions, at 10 p.m. 6th June 1944, I took up the enquiry respecting the death, by shooting, of LT. Giorgio BARBARISI, Guardia Finanza, 2nd Company, Caserma, via Salaria, Rome.
Home Address : 195, via Salaria, Rome.

2. In consequence, I saw LT.Col. Carlo Perinetti, CC.RR.,upon the matter, but he could not assist other than to inform me that the body was at the Guardia Finanza Caserma, via Regina Elena, Rome.
I then learned from the Officer-in-Charge of the latter Caserma that the body had been removed to the Mortuary at the Ospedale del Celio, Piazza Celimontana, Rome, in preparation for burial, and that the death took place at about 3 p.m., 5th June 1944, at via Tre Cannelle, Rome.
He was unable to advise me of any person who was a witness, or who had knowledge, of the occurrence.

3. Consequently, at 11.30 a.m., 7th June 1944, I visited the aforementioned hospital, saw the secretary, Major Raffaello Passalacqua, and outlined the known facts to him. I then viewed the body, noted the necessity of expert medical evidence, and sought the assistance of the Major to discover a Doctor capable of such testimony. He introduced me to Doctor Mario Fontana of the Institute of Pathologie Anatomy, Rome University, who offered his services, free of Charge.
At 2,45 p.m., the same day, Dr.Fontana carried out a post mortem examination of the chest of the dead man.
His report, with translation, is attached giving a widely informative account of the operation. His deductions shortly are : 59

DECLASSIFIED
NND 725021
By CTM NARA, Date

A. Death occurred from 48 to 72 hours before the P.M.

B. Death occurred rapidly from acute Anaemia resultant upon the passage of a bullet which passed through the left half of the thorax, with partial injury to the Aorta and the hemothorax, having entered in a region of the Chest corresponding to 1st left intercostal space and passing in a slightly downward direction and leaving the back at the 5th intercostal space on the paravertebral line.

C. Bullet of small calibre, probably not more than 7.m.m.

D. Distance – shot fired – about 1 to 1½ metres.

4. It was obvious from the findings that the assailant must have been standing above the Lt. when discharging the fatal bullet, and at close range.

5. The scene of the crime at via Tre Cannelle was then visited. Immediatly an explanation presented itself to account for the direction of the bullet, because the roadway has a distinct upward slope to steps leading to via 24 Maggio.

6. At this juncture I obtained the Assistance of Vice Brigadiere INSACCANEBBIA and Guardia PANETTA, both Agents of the Central Questura. To date, they have given invaluable service.

7. Although I have yet to trace a witness of the actual shooting, one has come to light who was on the scene soon after the happening. He is Mr. Alberto CASTELLI, via 20th September, 98 E Rome, a Lieutenant in the Italian Navy. He avers that at about 14,30 hours on 5th June 1944, he was standing at the door of via Pilotta 24, Rome, when he heard shots. He went to the corner of via Tre Cannelle, and upon pushing through a crowd of people in the street, he saw the Lieutenant lying across the roadway on his back, obviously lifeless. Near the body he saw a young man, whom he describes, with a revolver in his hand. He asked the man what had happened and he replied: "I killed him in personal defence", Mr.Castelli pressed him for further information, and the man added: " He was tearing down some communist notices. I asked him to stop and he drew his revolver and he tried to take my pistol away. With that a Guardia di Finanza who was with him fired some shots, so I shot him".

58

848

DECLASSIFIED
Authority NND 725014
By NARA, Date

Mr. Castelli says he asked the man who else was present and a girl, whom he describes, standing nearby, replied that she had been. This girl apparently told the same story as the confessed assailant, and drew Mr.Castelli's attention to torn posters on the wall close at hand.

8. Several other witnesses have been interviewed but none can add to the story told by Mr.Castelli, although they could be used to support the latter's evidence.
Neither the Guardia Finanza - alleged to have fired the shots - or the woman have yet been found.
Two interesting points have been disclosed, the finding at the scene of three cartridge cases by Lt.Pietro PASQUA, CC.RR. Ludovisi, and the fact that Barbarisi's holster was empty. The revolver, if he had one, has not yet been traced.

9. However, I have succeeded in contacting an informant and he assures me that the assailant was a man, ROSARIO BENTIVEGNA, of via Torino 122, Rome, who left Rome on 7th June 1944 for the Viterbo district with a group of " Italian Patriots " to carry out guerilla warfare in German occupied territory.
Discreet enquiries are in operation, in via Torino district, to bring about the apprehension of the suspect for interrogation, and in any event my informant will advise me should Bentivegna - assuming he is out of Rome- return here.

10. This is an Interim report, and the return of these papers are requested, after passing through Channels, for periodical recording of future developments. Statements, etc., are being retained for translation, etc.

T.W.M. GREENHILL, Capt., C.A.P.O.

In the field.
20.6.44.

57

879

Nothing to do with administration — merely a relation of police investigation

RAH

File
Courts
Gen'l
RGN.

1

56

Recd. 29-8-1944

LEGAL

Major Henderson

Regional Legal Officer
Region IV

Dear Major Henderson.

Lt Col D.A.D. Young has been asked by Brigadier Low for a brief note on the "Bentivegna" case, in which after his accused had been sentenced to 18 months imprisonment, he was released on appeal.

Could you very kindly supply such a note direct to Colonel Young, G-2, RAAC as I understand the Brigadier is anxious to get this away tomorrow, if possible.

NND 765012

DECLASSIFIED
AUTH: [illegible]
By [illegible] NARA, Date [illegible]

PLEAS OF THE ACCUSED

The accused Bentivegna Rosario pleads N.G. to the first charge; pleads ——— to the second charge; pleads ——— to the third charge.

The accused pleads to the first charge; pleads to the second charge; pleads to the third charge.

The accused pleads to the first charge; pleads to the second charge; pleads to the third charge.

FINDINGS OF THE COURT

The accused Bentivegna Rosario is found guilty ~~/ not guilty of the first charge; guilty / not guilty of the second charge; guilty / not guilty of the third charge~~ as stated in the Judgment.

The accused is found guilty / not guilty of the first charge; guilty / not guilty of the second charge; guilty / not guilty of the third charge.

The accused is found guilty / not guilty of the first charge; guilty / not guilty of the second charge; guilty / not guilty of the third charge.

SENTENCE OF THE COURT

The Court sentences the accused Bentivegna Rosario to 18 months imprisonment from Date of arrest in respect of all offences charged in the above proceedings of which the said accused has been found guilty.

~~The Court sentences the accused~~ ———

to

in respect of all offences charged in the above proceedings of which the said accused has been found guilty.

The Court sentences the accused

to

in respect of all offences charged in the above proceedings of which the said accused has been found guilty.

REVIEW

Conviction and sentence quashed

Dated 14 August 1944 Signature Richard H. Wilson
Col CAC
In the Acting Chief Commissioner

CONFIRMATION OF DEATH SENTENCE

Dated 194 Signature

877

DECLASSIFIED
NND 785074
By NARA, Date

22 July 1944

The Court reassembled at 1705 hours.

The judgment was read in Italian in open Court.

Lt. Sabatino handed in Penal Record of Accused, showing no entries (marked Exhibit 6).

Atty. Persio addresses Court in mitigation.

I ask you to restore Bentivegna to Italy, which needs him. Remember the part he played during 9 months of oppression. You can impose sentence between 6 months and 5 years, subject to 1/3 deduction for the mitigating circumstances you have found. But we ask for the minimum. I invite you to consider Art. 133. Here you have the minimum penalty of offence. I also ask for additional suspension of sentence under Arts. ~~[illegible]~~ 163 & 164. You can suspend if the sentence is up to 1 year.

Lt. Sabatino (invited to deal with the question of law)

Art. 133 deals with a large number of subjects. S.1 in effect says that you must take all aspects of the case into consideration. One of these aspects is the fact that this accused is young. Order is one of the essential things, and you must not let the people have the idea that they are free to do disorderly.

The Court retired to consider Sentence.

Sentence was delivered in open Court.

H. L. Loffler
Colonel
President

I. Campbell
Major
Members.

55

882

DECLASSIFIED
Authority NND 785024
By [illegible] NARS, Date

38

[redacted]

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION IV , LEGAL DIVISION
A.P.O. 394

30 August 1944

L/C/1007

SUBJECT : case of Rosario BENTIVEGNA.

THRU : Regional Commissioner;

TO : Lt. Col. D.A.D. Young, G-2
Roma Area Command.

1. Acting upon the written request of Major Battersbey of our Public Safety Division, I submit herewith, for Brigadier's Low's consideration, a brief statement with respect to the manner in which the above case was concluded.

2. In the city of Rome on the the above-mentioned accused, Rosario Bentivegna, was found guilty of a crime defined under the Italian law as "unintentional homicide". In the course of the trial, Counsel for the accused endeavoured to establish a case of "legittima difesa", but the Court after 9 days of most careful deliberation, concluded that a case of "legittima difesa" had not been made. The Court did conclude, however, that there were extenuating circumstances, which materially reduced the decree of the accused's offence. Thus, since the case was tried under the Italian law the sentence machinisms of the Italian law were applied in imposing sentence. Here it should be noted that though the Court finally agreed unanimously on the question of sentence, this was so only because a part of the Court felt that it would be bad policy for the Court to be divided in a case which had had so much publicity. That the sentence was exceedingly if not excessively mild was noted in the record by all Members of the Court. As you probably know the accused was sentenced to 18 months in prison.

3. Acting in strict compliance with the "consolidated instructions for Allied Military Courts" , the accused, through his avvocati , on filed his formal petition for review, in which many reasons (legal and factual) were advanced for the reversal of the trial Courts' findings and sentence.

DECLASSIFIED
Authority JCS ltr, 1/4/74
BY Lewis NARS, Date 5/28/74

Classification changed to Unclassified by Authority of O.S.D. ltr dated May 3, 1972.
Date: 5/28/74.

283

DECLASSIFIED
NND 785077
By [illegible] NARA, Date [illegible]

4. On a decision was handed down by the Chief Legal Officer of the Allied Control Commission, speaking for the Chief Commissioner, in which the Court's findings and sentence were completely reversed and set aside on factual grounds.

In other words the Chief Commissioner found that a case of "legittima difesa" had been established and that accordingly the accused was innocent of any wrong. On the basis of this decision the accused was immediately liberated.

5. The Chief Commissioner's determination was a great dissappointment and in many respects very disturbing ,but then a solder is not entitled to a personal point of view in such matters.

Robert C.Hendrickson,
Major, A.U.S.
Regional Legal Officer.

RCH/PA.

CONFIDENTIAL

53

DECLASSIFIED
DNDP 785074
By [illegible] NARS, Date

40

~~CONFIDENTIAL~~

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION IV LEGAL DIVISION
A.P.O. 394

L/C/1000. 16 August 1944

SUBJECT : Case of Bentivegna Rosario.

TO : Central Prosecutors Office,
Capt. Sam. Gilreath.

1. The formal decision on the review of the above cause is now before me.

2. Since the reviewing authority holds that a "legittima difesa" was completely established, the accused is entitled to be released forthwith.

3. Accordingly I enclose herewith the formal release with my signature appended.

4. Please see that the prisoner is released without any publicity and take such steps as may seem necessary to prevent any public display on the fact of either accused or his followers.

[signature]
ROBERT G. [illegible]
MAJOR [illegible].
REGIONAL LEGAL OFFICER.

RGH/GC

Classification changed to Unclassified by Authority of O.S.D. ltr, dated May 3, 1972. / Date: 5/24/74.

~~CONFIDENTIAL~~

51

DECLASSIFIED
Authority JCS ltr, 1/4/74
BY Lewis NARS, Date 5/28/74

885

DECLASSIFIED
AUTH 785074
By NARA, Date

41

MOD. No. 12
(riveduto)

FORM, No. 12
(revised)

COMUNICAZIONE DI SCARCERAZIONE AVVENUTA

Al capo delle carceri di Regina Coeli

Oggi, il Pontivegna Rosario,
dalle Competenti Autorità per la Revisione del Processo

è stato messo in libertà ~~dal Tribunale Militare Alleato~~ perchè

+ { gli è stato concesso la cauzione
è stato prosciolto
ha pagato la multa inflittagli
è stato giudicato ad una pena condizionale

Data: 16 Agosto 1944

(Presidente del Tribunale Militare Alleato)

TRANSLATION

STATEMENT OF RELEASE FROM PRISON

TO: The Head of the Prison of Regina Coeli

Today Pontivegna Rosario
Reviewing Authority,

has been set free by the ~~Allied Military Court~~ because he has

+ { been granted bail
been acquitted
paid the fine imposed on him
been sentenced to a suspended sentence

Dated 16 August 1944

ROBERT C. HELDRICKSON
MAJOR A.U.S.
REGIONAL LEGAL OFFICER.

50

886

DECLASSIFIED
NND 785014
By NARS, Date

42

~~CONFIDENTIAL~~

legal

HEADQUARTERS.
ALLIED MILITARY GOVERNMENT
REGION IV - LEGAL DIVISION
A.P.O. 394

L/C/1000

16 August 1944

SUBJECT : Case of BENTIVEGNA ROSARIO.

TO : Chief Legal Officer, Legal Sub-Commission,
Headquarters - Allied Control Commission.

1. Reference your letter ACC/4083/1/L dated 14 August 1944, subject as above.

2. Receipt is acknowledged of your decision, record and proceedings in the case of BENTIVEGNA ROSARIO.

ROBERT C. HENDRICKSON
MAJOR, A.U.S.
REGIONAL LEGAL OFFICER.

RCH/AC.

49

47

Classification changed to

DECLASSIFIED 1-1-74

887

Saggi
19

I FATTI DELLA STORIA
Collana diretta da
Renzo De Felice

La Roma di Charles Poletti

(giugno 1944 - aprile 1945)

Fiorenza Fiorentino

BONACCI EDITORE ROMA

ASSR

I FATTI DELLA STORIA

Collana diretta da Renzo De Felice

Saggi

19

889

Fiorenza Fiorentino

La Roma di Charles Poletti

(giugno 1944 - aprile 1945)

BONACCI EDITORE ROMA

890

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ISBN 88-7573-102-0

Sulla Napoli
— moltissimo. Sc
di Roma nel peri
Questo è avvenu
che Roma, anche
presentato quell'
deriva » — per
— e quindi non
scrittori o preocc
che si offriva ai
individuato nella
(a poco più di u
Governo: l'intere
prendere, a causa
pravvento sull'int
la città.

Ora, a me s
meriti la disatter
non soltanto per
lotta per la sopra
tutto per la molt
essa ci presenta.
tanto meno estes
sono ancora aper
scono le uniche
che manca di tut
moltiplicano gior
tissimi mezzi di
nella quale menti
Visconti, firmanc

891

boschetti, di monumenti in rovina e di rigogliosa vegetazione) sarebbe dovuta ad un gesto cavalleresco del generale Monsabert nei confronti del collega ed amico Clark, secondo lui meritevole di essere il solo ed unico trionfatore. Ma poiché il generale Monsabert comandava la 3ª divisione algerina e il gesto cavalleresco a lui attribuito dal generale Chambe assai poco si intona con il clima di eccitato antagonismo che si era creato fra gli alleati alla vigilia della caduta di Roma, sembrerebbe più attendibile la versione del divieto vaticano.[1] (I francesi ed alcuni reparti nordafricani otterranno poi come consolazione di poter fare una parata dal Colosseo a Piazza Venezia).

Comunque siano andate le cose gli americani sono i primi ad affrontare al crepuscolo di una giornata caldissima una città stranamente quieta e semideserta che però esplode all'improvviso, come impazzita, quando si rende conto di quanto sta avvenendo.

L'impressione per questa entusiastica accoglienza è tale da far passare in secondo piano — in tutti i racconti di quelle ore — l'insidiosa opera dei franchi tiratori: poco dopo le nove nei pressi di Piazza di Spagna c'è addirittura una sparatoria provocata non si sa se da fascisti o dagli ultimi tedeschi asserragliati in una casa, ma nessuno sembra impressionarsi e dopo un momento di sosta, sia la pattuglia che la folla festante intorno, riprendono il cammino.

Quella notte sono in pochi a dormire: se i romani sono eccitati, gli americani lo sono altrettanto: « Fu un'accoglienza quale nessuno di quei giovani della V Armata aveva mai conosciuto ... Naturalmente, dopo mesi di guerra tra il fango e le rovine, l'eccitazione di quei soldati al vedere i bei viali di Roma era quasi altrettanto grande. Sudici, in disordine, con le uniformi incrostate di fango delle montagne, quei ragazzi scoprivano quanto fosse piacevole, e di loro gusto, la parte dell'eroe e del conquistatore. Tutta Roma, quella notte li salutò come liberatori con evidente, ge
vano passare alcune settimane prima
affetto e di gratitudine lasciasse il pc
smo ».[2] I primi corrispondenti di gue
alberghi del centro appena abbandona
tipografia de *Il Messaggero* si prepara
Stars and Strips, organo delle forze arr
nalisti si incontrano e si scambiano
Dorme poco — sembra — anche il Pa
dalla Radio Vaticana, passa parte del
lavoro e al mattino presto è richiamato
che, precipitatasi fuori di casa alla
colonna americana che da San Pietro
l'Aurelia, vuole tributargli un primo,
all'alba del 5 giugno che il grosso c
ingresso a Roma: un momento straordi
te che ripete, ingigantendole, le sensaz
che erano entrati la sera precedente.

Il trovarsi all'improvviso dalla can
città, fra monumenti carichi di suggest
ha il felice privilegio di non avere, o
delle grandi città, una orribile periferia
passa quasi direttamente in piena can
ammirato il generale Chambe, che non
quanto tempo ancora questo privilegio
tutti un effetto enorme.

Harold L. Bond, giovane tenente
Texas e futuro professore al Dartmouth
prova una emozione indescrivibile quand
lui si erge il Colosseo risplendente di s
« ... Avevo sempre desiderato vedere Ro
tardi —. « Da ragazzo, leggendo Ce
orazioni di Cicerone, non avrei mai imm
la prima volta, dal sedile di una jee
storia .. Non so cosa passasse per la m
nella mia c'era soltanto eccitazione pro

[1] A distanza di tanti anni la voce sul divieto vaticano riappare nel recente libro di R. Trevelyan, *Roma 1944*, ma anche in questo caso viene riferita come semplice voce.

[2] R. H. Adleman-G. Walton, *Oggi è cad*
dadori 1969.

892

necessari almeno due
che i tedeschi stanno
he consentirà loro di
(un sia pur lontano
ella relazione ministe-
decrescere di « vitali-
li agosto, dopo che le
le speranze di una
sti circolano in alcuni
di Ettore Muti e gira
punto sia attendibile
preso l'abitudine di
Grand Hotel.
clima per intensificare
tano di trovare in tale
te addirittura ostilità)
urezza, ma anche gli
enuto. Oltre ad alcuni
nobili: Sandro Tasca
er aver svolto attività
Massimo — confuso
— (si era sistemato
», dove offriva « un
, calorosamente difeso
a tutti che il principe
tanti italiani. Vittorio
veranno insieme nella
o di concentramento.
Poletti sistema com-
talia alla Centrale del
i, da Regina Coeli ai
Amministrazione della
Ottolenghi provocando
hanno da ridire sui
biano altre cariche: il
di Roma è Brown, il
erale Taddeo Orlando
Quest'ultima nomina
erale che si augura che

i carabinieri possano ora svolgere il loro compito contro una malavita in continua crescita e contro la quale la Pubblica Sicurezza non può nulla (si sa ufficialmente che tutti gli agenti disponibili sono impegnati nella repressione dei reati annonari — con i risultati che abbiamo visto — e che non si può contare su di loro per altri compiti. Ma il generale Orlando viene investito da un'automobile e rimane fuori combattimento per più di un mese. Alle norme di Poletti sull'epurazione (l'ordine regionale n. 1, emanato a giugno è stato già modificato) si aggiunge per parte italiana il decreto legislativo luogotenenziale del 27 luglio sulle « sanzioni contro il fascismo », che prevede un'Alta Corte di Giustizia per giudicare i membri del governo fascista e i gerarchi. Ma molta confusione continua a regnare lo stesso, e a volte gli effetti dell'epurazione hanno conseguenze del tutto impreviste e curiose: rischia, ad esempio di saltare la sessione straordinaria di esami all'Università — con tanta insistenza richiesta — perché ci si accorge che molte cattedre sono rimaste senza titolare, per cui può capitare che ad esaminare i candidati di economia politica sia un docente di diritto romano.

Anche nei confronti della polizia viene da più parti richiesta una drastica epurazione (alcuni ne chiedono anche la smilitarizzazione) e questo è sufficiente perché si diffonda subito la voce che il 15 agosto sarà sciolto il Corpo degli agenti di Pubblica Sicurezza: la smentita arriva subito, ma anche questo episodio è una conferma del clima di incertezza che vive la città.

Confusione, incertezza, esasperazione, inasprimento della lotta politica sfociano sempre più spesso in grossi incidenti. Se ancora a metà luglio il processo a Rosario Bentivegna, accusato di avere ucciso il 5 giugno il sottotenente della Guardia di Finanza Barbarisi nei pressi della sede provvisoria del partito comunista in via IV Novembre dopo una concitata discussione (il Barbarisi era stato sorpreso mentre strappava striscioni inneggianti a Roma libera e agli alleati, e sembrava intenzionato a non cambiare atteggiamenti dopo che Bentivegna, mostrando il bracciale del CLN che portava al braccio gli aveva intimato l'alt) si svolge in piena tranquillità, d'ora in poi le cose si svolgeranno in modo ben diverso.

893

Cronaca

Interessante precisazione

Stralciamo alcuni brani dall'articolo «Due ore davanti al plotone d'esecuzione» apparso sul Tempo di mercoledì 28 marzo, dove viene narrata la straordinaria avventura di un patriota.

«Nel cortile del Forte era già schierato il plotone di esecuzione al comando di un tenente, e il condannato venne collocato con le spalle a una scarpata di terra già smossa dalle scariche delle precedenti esecuzioni. Il terreno era coperto di una polliglia rossa di polvere e sangue ancora fresco... Tutto era pronto: mancava solo l'ufficiale tedesco che doveva leggere la sentenza e presenziare l'esecuzione. Costui però tardava nè sarebbe mai giunto per la semplice ragione che in quel momento viaggiava velocemente verso il nord insieme con i suoi degni colleghi. Ma il tenente che comandava il plotone aveva evidentemente istruzioni precise dal suo maggiore ed era impaziente: «Anche se il tedesco non arriva agiremo lo stesso» disse dopo una mezz'ora di attesa. A questo punto intervenne però il Cappellano che era sempre accanto al condannato e riuscì a far sì che l'ufficiale attendesse ancora.

E il tempo passava... e l'ufficiale tedesco non arrivava. A un tratto il Cappellano non potè più reggere a una simile situazione e si avvicinò deciso all'ufficiale, col quale iniziò un concitato colloquio, al termine del quale venne dato l'ordine di ricondurre il condannato nel carcere».

Il tenente comandante del plotone di esecuzione che, malgrado l'assenza dell'ufficiale nazista, e malgrado l'opposizione più che giustificata del Cappellano, voleva a tutti i costi procedere contro il patriota, era il Ten. delle Guardie di Finanza Giorgio Barbarisi, il quale, come è noto, è stato ultimamente insignito della «Bronze Star Medal» dal Comando Supremo delle Forze Armate Alleate in Italia.

Il doppio-giuoco di Franco in un commento dell'"Isvestia,,

MOSCA, 30. — Le «Isvestia» accusano la Spagna, il Portogallo e l'Argentina di «tentare, sotto una falsa bandiera di democrazia, di sal-

COME SI DIVENTA MILIONARI

Le 116 stanze di Marav e le operazioni contabili di Biag

Il sequestratario dei beni dell'ex senatore fascista e professore universitario Maurizio Maraviglia, nazionalista, membro del Gran Consiglio, del direttorio del p. n. f. e del consiglio delle corporazioni, nonchè caporale d'onore della milizia, ha proceduto in questi giorni all'accertamento dei beni posseduti dal grasso gerarca. E' venuto così alla luce, naturalmente, un ingentissimo patrimonio, la cui parte essenziale è costituita da un castello cinquecentesco di 116 ambienti con annesso grandioso parco e tenuta di 300 ettari. Il Maraviglia spese per il suo acquisto, nel 1943, la cifra di 4 milioni.

Un'altra tenuta di 16 ettari, presso Albano, un villino di 10 vani a Santa Marinella, un negozio a via Velletri, 440 mila lire in conto corrente, mezzo milione di titoli: ecco le altre consistenze del gerarca, tutte accomulate per mezzo delle alte prebende di cui il gerarca godeva.

Siamo inoltre informati che il nucleo di P. S. addetto all'Alto Commissariato aggiunto per la punizione dei delitti fascisti ha ieri tratto in arresto l'ing. Rodolfo Nebbiosi, corresponsabile in peculato con Bruno Biagi, attualmente detenuto a Regina Coeli.

Secondo l'accusa il Nebbiosi, in accordo con Biagi, ha venduto allo Istituto di Previdenza Sociale, di cui il Biagi era presidente, immobili per un valore superiore a quello reale, ritraendone illeciti profitti. In una di tali compravendite, il Nebbiosi, d'accordo con Biagi, attribuiva ad uno stabile del valore di due milioni, quello di tredici milioni: ne ricavava così un illecito guadagno di undici milioni.

Opera buffa

Su cinque elementi del Teatro dell'Opera, già sospesi dall'Alto Commissariato di Epurazione perchè squadristi, ante marcia, marcia su Roma ecc., ben quattro ex epurandi sono stati rimessi al loro posto dalla Commissione di Epurazione del teatro stesso. E, naturalmente,

al loro posto con tutti con tutti gli arretrati. sciati dall'Ente non rimandare scusa e cercare di nare il proprio antifasc

Come possono avvenir se? Semplicissimo: per sta veder come è compo missione di Epurazione dell'Opera.

Il bello è che questa ne dovrà presto esamin tica del noto maestro D Chi può dubitare dell'es dizio, se della commissi te persino il legale d stesso, e cioè l'avv. An

Il Teatro dell'Opera p riguarda l'epurazione, st do una succursale dell' mique». I «Pagliacci» cartellone!

UN GRIDO D'A

La carne è veicolo

I competenti organi c cordano alla cittadinan aprile p. v. scade il te to per la vaccinazione i tivaiolosa obbligatoria. no il dovere di sottopo misura preventiva per ni di carattere sanitari no all'uopo in pieno i 4 ri predisposti nelle vari città; essi sono provvis vaccino.

Le autorità sanitarie chiamano inoltre l'att cittadini sulla osservan me igieniche più volt specie per ciò che si derrate alimentari a mercato nero.

A tale riguardo fann circa l'80 per cento dei

894

CRONACA DI ROMA

Due ore davanti al plotone d'esecuzione

L'accusa di aver falsificato un milione di carte annonarie - L'intervento del cappellano - Il ritorno del condannato a Regina Coeli

Mentre il mattino del 4 giugno 1944 i romani attendevano nel cuore in tumulto l'arrivo degli Alleati ed udivano i colpi di cannone avvicinarsi sempre più, non pensavano certo che al Forte Bravetta si stava per fucilare un uomo condannato a morte dai tedeschi e che solo per un miracolo, l'ultimo crimine non potè essere consumato. Abbiamo avvicinato quest'uomo, Giulio Pizzicaria, colui che per ben due ore rimase davanti al plotone di esecuzione attendendo la scarica mortale, ed egli ci ha raccontato con voce calma e pacata la straordinaria avventura di cui è stato il protagonista e che qui riferiamo senza aggiungere alcuna pennellata di colore.

Tutti ricorderanno l'annuncio dato dai giornali fascisti l'11 maggio 1944 dell'arresto e la condanna a morte di falsificatori di carte annonarie e lo sbalordimento che venne fatto dell'operazione poliziesca che portò all'arresto dei responsabili. Ebbene, Giulio Pizzicaria è il tipografo che stampò quelle carte annonarie. Egli fu associato di averne fatte uscire dal suo stabilimento nientemeno che un milione. In realtà si trattava di poche centinaia di esemplari che il Pizzicaria, iscritto a un'organizzazione partigiana, aveva stampato per i suoi compagni braccati dalle SS. tedesche e senza mezzi di sussistenza. La turpe delazione di un certo Giacomo Messori, figlio di un senatore dalla milizia membro del Tribunale Speciale, aveva fatto sì che il Pizzicaria fosse arrestato. I tedeschi capirono subito di trovarsi di fronte a una faccenda di poco conto e incaricarono il nucleo della polizia economica dell'Azienda Servizi Annonari di continuare l'inchiesta. Il Pizzicaria se la sarebbe cavata perciò con poco, ma disgrazia volle che al comando di tale nucleo fosse un uomo che vide forse presentarsi una buona occasione per guadagnare le grosse somme che i tedeschi pagavano a quelli dei loro servitori fascisti che avessero compiuto azioni di rilievo. E la faccenda venne gonfiata. Si sperò una perquisizione nella tipografia che ha sede in Via Fortunato 29, e vennero qui prelevati 120 chilogrammi di ritagli di una carta assurrina che, con molta buona volontà, poteva passare per quella delle tessere annonarie. Si calcolò che corrispondessero a un milione di carte annonarie. Kappler si profuse in elogi per il maggiore al quale venne subito corrisposto il premio e, con sommario processo, il Pizzicaria venne condannato a morte dal tribunale tedesco.

Un mese di proroga

Ora il 10 maggio, l'offensiva alleata stava già per investire Roma e l'avvocato di Pizzicaria cercò di guadagnare tempo inoltrando una domanda a Kesselring. Il quale concesse un mese di proroga per l'esecuzione ed ordinò un supplemento d'istruttoria. Il condannato perciò aveva tempo fino al 10 giugno e frattanto gli anglo-americani si avvicinavano sempre più. La salvezza era perciò certa, ma il maggiore dell'A.S.A. non si sentiva tranquillo finchè il pericoloso testimonio rimanesse in vita e i tempi furono accelerati.

La mattina del 4 giugno Giulio Pizzicaria dormiva tranquillo nella sua cella del 3. braccio di Regina Coeli quando, erano le ore 4,30 precise, venne svegliato da una guardia tedesca e condotto all'ufficio matricola del carcere. Qui, alla vista del cappellano don Antonio Sorano, il Pizzicaria capì l'atroce sorte che gli era riservata, ma non perse la calma, la sostenne la sua grande fede religiosa e si confessò [illegible]

veri e propri sopruso — dicevamo in quell'occasione — che poteva commettere indisturbato perchè ben sostenuto dai tedeschi ed quali divideva il bottino. Dopo avere accennato ad un «prelevamento» all'Annona di 2000 bottiglie di cognac, ricordavamo anche una incursione alla stabilimento «Ambrosia» al Testaccio dove furono sequestrati, dallo stesso maggiore, enormi quantitativi di cioccolato e di caramelle più 63 quintali di zucchero ed altrettanto che il Cimmino, proceduto di investire l'enorme capitale accumulato si diede all'acquisto di carta abilitando la Cartiera Tiburtina a cedere la merce a prezzo antiguerra e precisamente 20 gli a L. 8,50 al kg. e 50 q.li a L. 10.

In seguito alla pubblicazione di tale articolo il maggior Cimmino si presentò ai nostri uffici di redazione munito di lettere di presentazione di persone rispettabilissime le quali si esprimevano nella maniera più lusinghiera nei suoi riguardi e ci pregavano di rettificare trattandosi di un ufficiale onesto e di un patriota». Dal canto suo il Cimmino esibiva una quantità di documenti sulla scorta dei quali, in parte da noi controllati ed in parte accettati nella assoluta impossibilità di poterli controllare, fummo indotti a pubblicare in data 15 agosto '44 la seguente precisazione: «In un nostro articolo comparso il 13 luglio domandavamo quale [illegible] fatta di certi ufficiali annonari [illegible] pubblica amministrazione [illegible] Dopo l'esame di documenti consegnati [illegible] dobbiamo dichiarare [illegible] fondamento i dubbi avanzati nei riguardi di questo ufficiale di cui abbiamo conosciuto l'attiva partecipazione al fronte clandestino di resistenza».

Oggi, però di fronte ai dati precisi che abbiamo udito dalla viva voce del Pizzicaria, si fa sempre più strada in noi la convinzione che quando avvertimmo affermare il 15 luglio non doveva essere lontano dalla verità. È notorio che nei giorni di cui ci occupiamo la liberazione, era facile ottenere attestazioni anche le più lusinghiere. Non sta a noi giudicare. Ci risulta del resto che l'inchiesta eseguita sul conto del Cimmino dal comando della guardia di Finanza, inchiesta trasmessa fin dall'agosto 1944 al Procuratore militare, in sicuri degli episodi civilmente [illegible] il resto di [illegible] punibile. Da allora il Procuratore militare non ci risulta abbia proseguito l'azione penale, limitandosi a domandare altri chiarimenti alla Guardia di Finanza. Questi ulteriori informazioni non ci risulta [illegible] siano pervenute all'ufficio del Procuratore militare, che abbiamo ragione di credere che non dovranno ormai tardare molto.

Divieto di fabbricare di dolci e liquori zuccherati

Un decreto dell'Alto Commissario per l'Alimentazione, dott. Giacomo [illegible] materia di fabbricazione e vendita [illegible] dolciari nella [illegible] cioccolato e dei gelati, torroni e simili fabbricati in conformità delle prescrizioni dettate dal decreto stesso [illegible] in ogni caso con esclusione [illegible] di cereali, di leguminose [illegible] di zucchero [illegible] In altre parole la fabbricazione [illegible] liquori rimane [illegible] zucchero. [illegible] consentita invece la fabbricazione di biscotti tipo «cocciarelli» [illegible] all'80 per cento.

Latte agli ammalati

Disposizioni [illegible] dell'Alto Commissario [illegible] di consegnare [illegible] latte agli ammalati [illegible] Per [illegible] e dato [illegible] nostra [illegible] segnata nella [illegible]

Il Pr. Ateneo a Villa G

Si svolge oggi a Villa Giulia [illegible] sul Premio Ateneo. La riunione di [illegible] prenderà in programma [illegible] giovedì. Tra [illegible] che precederanno [illegible] parte [illegible] centro del convegno [illegible] più accreditati [illegible] sembrano Bruno, Buzzanca, Alberto [illegible] Pirelli, Pietro [illegible] Ungaretti, Cecchi, Gadda, Alberto [illegible] meriti nei confronti del primo nominato.

Ecco le nostre selezioni: Premio Ateneo: Buccari, Nozzi; Premio Venafro: Ora, Premio Nazzari: Michelangelo, Patrizi; [illegible] Cecchi, Volpi, Bonfiglio; [illegible] Bonfiglio, Cecchi, Ormanni; [illegible] Bonfiglio, Ungaretti, Buzzati; Falqui, Alicata, Barbaro, Bruno, Alberto [illegible] Avellino, Silvano, Dessia, Augusto [illegible]

Giusta punizione per 2 criminali

Robert Lane ed il suo luogotenente condannati all'impiccagione

Dopo due giorni di discussione, la Corte Straordinaria Alleata ha condannato a morte, mediante impiccagione, Werner R. Schumacher, alias Robert Lane e James Adams rispettivamente capo e vice capo della famigerata banda «Lane» imputata di omicidi, di rapine e vari crimini.

Robert Lane e il suo luogotenente hanno subito nel pomeriggio stesso, dentro una cella in un'ala del carcere di via Principe Amedeo, il fatale verdetto.

Vennero arrestati una prima volta nel dicembre scorso, ma riuscirono ad evadere dalla camera di sicurezza del Commissariato Trevi, dopo aver ucciso i guardiani. A tre giorni dall'evasione vennero riarrestati dal Commissario Migliorini e dal brigadiere Cialella in una pensione di via Carlo Alberto, arresto preceduto da un violento conflitto.

Per la cronaca la banda «Lane» era composta di 33 malviventi: 14 italiani e 8 italiani. Gli altri venti banditi furono presentati in questi giorni.

QUESTA SERA alle ore 24,45
Radio Roma trasmetterà
MAI UNA NUBE
radiocronaca di Armando Curcio
interpretata da
PEPPINO DE FILIPPO
e GIUDITTA RISSONE
E' questa la prima delle trasmissioni settimanali organizzate dalla R.A.I. per il giornale
"IL TEMPO"

Contro le bande della periferia

Il briganti si arrendon sotto la minaccia di 50 mit

Alcuni giorni fa, dopo lunghe indagini, la Polizia veniva a conoscenza che, in un paese della provincia di Roma si trovava la sede di una grossa ed organizzatissima banda di delinquenti che da mesi operava sulle strade provinciali e comunali e non di rado compiva delittuose gesta anche a Roma. Due agenti del 1. Reparto Celere, Schiavoncino e Chiocciarelli, partivano alla volta della roccaforte dei malviventi e riuscivano ad entrare a far parte della banda tramite per altre informati, mediante intelligenti servizi, i propri superiori sull'attività dei banditi.

Il capitano Galano, Comandante del Reparto, veniva informato che ieri un gruppo di banditi doveva giungere a Roma per compiere una delle solite imprese e che, verso le ore 13 circa, due macchine cariche di malfattori avrebbero transitato sotto il ponte Tiburtino.

Ieri mattina infatti una cinquantina di agenti armati di tutto punto si appostavano all'uscita del ponte in attesa della preda che non tardava a giungere. Verso le 13,30 le due macchine mentre uscivano dal ponte si trovarono di fronte a 50 mitragliatori spianati e, davanti alla forza, cedevano senza sparare un colpo.

Undici individui sono stati arrestati. Sulle macchine sono stati trovati [illegible] trafugatori platino e bombe a [illegible]

Anche la Squadra Mobile è [illegible] in azione ed ha già scoperto [illegible] grassini dove la banda teneva [illegible] le merci rubate e, molto probabile, nella giornata di oggi tutti i [illegible] briganti dell'associazione a delinquere [illegible] saranno assicurati alla giustizia.

Borsa di Roma

Rend. It. 3.50 per cento 117.50, [illegible] — Redimibile 3,50 per cento 86.80 [illegible] — Ricostruzione 3,50 per cento 83.50 [illegible] B. T. 1968 8 per cento 97 — id. 194[illegible] cento 94.80 — id. 1938 5 per cento [illegible] — id. id. II 99.30 — id. 1981 5 per [illegible] 99.30 — id. id. 4 per cento 97.75 [illegible] 1938 5 per [illegible] — Viareggio 2000 — [illegible] 1913 5. — Siemens-Halske 850 — Terni [illegible] Pirelli 700 n. — Ansaldo 340 n. [illegible] Cirio 3400 n. — Dixie 620 — [illegible] — Meyd. Weltr. 3450 — Adriat. [illegible] — Italcem 1060 n. — Peniarella [illegible] Buccheri 670 — Anic 140 — [illegible] 2700 — Palermo 1400 n. — Gerina [illegible] — Marzia 2300 n. — Viviani [illegible] Ferrovie Italiane 2 per cento 68[illegible] — 4,50 per cento 66[illegible] — Littorio 5,50 [illegible] 76[illegible], ottale 500 — 1911 4,50 [illegible] 68[illegible] — Rider 4,50 per cento 69[illegible] Fond. Roma 5 per cento 94[illegible] — [illegible] cento comm. 317 — Miglioramenti [illegible] cento comm. 800 — Pubbl. Utili 4 [illegible] ord. 800, Imiel. 836 — La Centr[illegible] cento 818.

Un negro che promette zucchero

[illegible]

Il 26 marzo 1944 [illegible]

Я Темра.

28 мая 1946

l'Unità

ORGANO DEL PARTITO COMUNISTA ITALIANO

Caruso al muro

Il bieco assassino Caruso questore di Hitler a Roma, ci consegnò ai nazisti cinquant dei trucidati di San Calisto, no è ancora stato fucilato. E' fucilato è stato gen. Del Tetto, che consegnò l'8 settembre la guarnigione e la città di Napoli nemico, onde centinaia di giovani napoletani dovettero riscatare con la vita il tradimento del generale indegno. Per contro, il « Prosecutor » del processo Bentivegna ci ha detto ieri che gli Alleati sono venuti in Italia per portare la libertà e l'ordine e ne ha tratto la conclusione che bisognava dare un esempio.

Diciamo subito, senza circonlocuzioni, che la premessa non ha appreso niente di nuovo al popolo italiano e che la conclusione è sbagliata, e peggio che sbagliata.

Il popolo italiano sapeva perfettamente, molti mesi prima della requisitoria di ieri, che gli Alleati sarebbero venuti a portare in Italia la libertà e l'ordine. Proprio per questo tutte le nostre città e i nostri villaggi hanno coperto di fiori le truppe liberatrici. Proprio per questo decine di migliaia di partigiani e di patrioti italiani, che lottano eroicamente sul fronte della resistenza, dirigono la maggior parte delle loro energie a favorire l'avanzata degli eserciti Alleati. Proprio per questo, Bentivegna ha rischiato mille volte la vita, nei nove mesi trascorsi sotto il giogo hitleriano, uccidendo decine di nazisti che non spargeranno più il sangue dei valorosi soldati Alleati. Ma la libertà e l'ordine che le Nazioni Unite hanno scritto sulla loro bandiera sono ben precisati da un aggettivo: libertà antifascista, ordine antifascista. Le quattro libertà per le quali le Nazioni Unite si battono hanno infatti come condizione inderogabile la distruzione del fascismo. Senza la distruzione del fascismo, nessuna libertà è possibile. Senza la distruzione del fascismo, non è possibile ristabilire l'ordine. E quando si sostenga che l'ordine deve essere ristabilito, non già contro i fascisti che hanno assassinato impunemente per mesi

BENTIVEGNA CONDANNATO A 18 MESI

Una pronta revisione del processo deve riparare rapidamente questo grave errore

Il fatto che le risultanze del processo abbiano persuaso la Corte a lo stesso « prosecutor » ad accettare, sia pure con la riserva dell'eccesso [illegible] della legittima difesa, *dimostrano* chiaramente la gravità dell'errore che è stato commesso ieri. L'errore era del resto cominciato nel momento in cui si era voluto *fare* un processo per un fatto avvenuto nell'atmosfera arroventata del 3 giugno ed era continuato con la decisione di sopprassedere al rinvio di Bentivegna di fronte al magistrato italiano. Ma questi errori, che si sarebbero forse potuti giustificare a posteriori se il dibattito avesse concluso al dolo, vengono invece aggravati dal riconoscimento della colpa. Resterà necessariamente, come unica possibile motivazione della condanna, un'argomentazione politica; quella pericolosa e sbagliata motivazione politica fornita dal « prosecutor », e cioè che bisognava dare un esempio. Si era voluto il processo per un eccesso rispetto di non so quali scrupoli giuridici, si era voluto artificialmente eliminare ogni considerazione politica da un processo che non poteva essere se non fortemente politico, date le circostanze e la personalità dell'imputato; si era persino affermato, all'inizio, che soltanto le argomentazioni giuridiche avrebbero avuto peso nei dibattiti; e si è in definitiva arrivati all'assurdo di condannare per ragioni politiche quando già si era assolto sulla base delle conclusioni giuridiche. E queste ragioni politiche si sono espresse con l'affermazione pericolosa che bisognava dare un « esempio »; affermazione pericolosa in quanto essa è rivolta contro tutti i patrioti italiani che solidarizzano, come noi solidarizziamo, con il compagno Bentivegna; affermazione ancor più pericolosa in quanto, mentre di comune accordo abbiamo tutti messo fuori discussione la personalità del Barbarisi, si rimette così in discussione, malgrado ogni asserzione contraria, la personalità del nostro compagno.*

Resta il fatto, gravissimo e brutale, che il primo processo politico svoltosi in Roma liberata, è stato intentato contro un patriota e ha concluso alla condanna di un patriota: anzi, di uno dei migliori e forse del più eroico patriota romano. Questa condanna contrasta violentemente con le esortazioni della propaganda alleata, con le allocuzioni estremamente chiare di Pizzardo. La Guardia che consiglia ai patrioti il porto e l'uso quotidiano del coltello; e chi, come noi, ritiene giusta e necessaria la propaganda delle Nazioni Unite, non può non ritenere sbagliata la condanna pronunciata ieri. Questa condanna contrasta violentemente con le aspettative dei patrioti d'Italia e di tutta l'Europa, i quali attendono che venga loro riconosciuto il posto che meritano nella lotta comune contro il nemico comune. Ci lascia inoltre inquieti sull'applicazione effettiva delle misure previste per l'epurazione e per la distruzione del fascismo. L'errore è vero. La Sua [illegible] *non abbia però un bagliore sinistro per i giovani italiani che debbono combattere ancora! ».*

Il P. M., riassunte brevemente le testimonianze ed ammesso che il Barbarisi abbia estratto per primo la rivoltella, chiede che il Bentivegna venga condannato per omicidio volontario, perchè è da ritenere che il Barbarisi non avesse intenzione di uccidere o di ferire con la sua arma.

La Corte ammette che Bentivegna era in stato di difesa

La Corte si ritira per deliberare. Alle 17,55 rientra nell'aula e legge il verdetto che dice:

La Corte desidera dichiarare che nel giungere alla decisione di questa causa, non è stata determinata nè dall'uno nè dall'altro lato da considerazioni politiche.

La Corte è convinta che l'imputato, vedendo il decedato strappare i manifesti, gli si rivolse in maniera arrogante ed ostile; che il decedato rispose in maniera ugualmente ostile; che tirò fuori la pistola e la puntò contro l'imputato; che l'imputato, in seguito a ciò, senza aspettare tirò fuori a sua volta la pistola e fece fuoco sul decedato. Nell'opinione della Corte, questa è una delle in cui due giovani eccitabili e impulsivi perdettero il controllo dei nervi e ricorsero precipitosamente e senza necessità all'uso di armi da fuoco.

Noi non dimentichiamo che i fatti avvennero il 3 giugno 1944, giorno in cui, senza dubbio, l'atmosfera era satura di elettricità ed i sentimenti erano eccitati. Pur considerando questo, la Corte è convinta che l'atto del decedato di estrarre la pistola non era giustificato e costituiva una « offesa ingiusta » secondo l'art. 52 del Codice Penale. Posto ciò, la Corte è però altrettanto convinta che la reazione dell'imputato è stata ugualmente ingiustificata ed eccedette palesemente i limiti della difesa proporzionata all'offesa. Come ha detto il P. M., l'imputato quando si trovò dinanzi la pistola del decedato avrebbe altri mezzi per fronteggiare la situazione senza far fuoco, uccidendo addirittura. Il fatto che il decedato estraesse la pistola non significa in alcun modo che egli avesse intenzione di sparare.

In ogni caso, è chiaro che l'imputato aveva a sua disposizione altre vie, oltre a quella estrema da lui scelta. In tali circostanze la Corte decide: 1) che la difesa, basata sull'art. 52 del Codice Penale, non è stato completamente dimostrata; 2) che l'imputato non ha agito sotto qualsiasi errore contemplato dell'ultimo paragrafo dell'art. 59.

Pertanto la causa deve essere giudicata in base all'art. 55 e il reato è punibile secondo l'art. 589.

In base alle prove, la Corte decide che l'imputato deve beneficiare dell'art. 62 n. 1 (omicidio colposo coll'attenuante della provocazione).

L'avv. Perris chiede il minimo della pena e la condizionale

Aperta la discussione sulla pena da applicarsi, si alza a parlare per la difesa l'avv. Perris:

« Noi non possiamo in non accettare il vostro verdetto », dice l'avvocato Perris Dopo aver accennato all'eccezione d incompetenza presentata dalla difesa all'inizio del processo, l'avv. Perris prosegue: « La vedrà, in base agli articoli che vel avete citato, se non sia possibile restituire Rosario Bentivegna all'Italia che ne ha bisogno. Delle azioni di Rosario Bentivegna, di quella che è stata la sua vita durante i nove mesi di feroce oppressione tedesca, fino al 5 giugno, studicherà un giorno la storia [illegible] degli italiani ».

Quindi l'avv. Perris chiede in favore del condannato l'applicazione della condizionale e il minimo della pena, diminuito di un terzo.

Il P. M. chiede "un esempio,,

Il P. M. sostiene l'opportunità politica di una condanna.

« Bisogna tener presente — egli dice — la funzione di questa Corte che è quella di mantenere l'ordine. Gli americani e gli inglesi sono venuti qui per insegnare la libertà agli italiani; per renderli consapevoli che le libertà di cui godiamo noi possono essere imparate da loro. Questa Corte deve mantenere l'ordine. E deve dare degli esempi di cui gli italiani hanno veramente bisogno. Possiamo [illegible] libero un uomo che la Corte ha ritenuto colpevole? Possiamo in questi giorni, quando vi sono tanti partiti in lotta tra loro, permettere questo? Mancheremmo al nostro scopo ».

La sentenza

La Corte si ritira per deliberare e dopo circa mezz'ora, ritornata in aula, il Presidente legge la seguente sentenza:

« Considerato il passato dell'imputato; considerato il buon lavoro fatto dall'imputato, col rischio della propria vita, nei nove mesi precedenti alla occupazione; tenuto conto dell'atmosfera che regnava a Roma il 3 giugno; considerate con cura le tesi della difesa; abbiamo deciso in merito alle richieste dell'applicazione del minimo e della condizionale rispondere negativamente, perchè siamo rimasti [illegible] impressionati dagli argomenti presentati dall'ufficiale dell'accusa, perciò stesso decide che Rosario Bentivegna abbia a soffrire in carcere per diciotto mesi ».

Quindi la Corte avverte che ammonisce domande di revisione de[illegible] non.

Il pubblico che affolla l'aula accoglie la sentenza con evidente, doloroso stupore.

... e Caruso e Del Tetto non sono ancora stati fucilati nè processati.

ASSISR

ITALIA NUOVA

Rosario Bentivegna condannato a diciotto mesi

Dopo il discorso dell'avvocato Adolfo Nicolaj e del Pubblico Ministero, entrambi applauditi, la corte, alle ore 17 di ieri ha emesso il suo verdetto, seguito a breve distanza dalla sentenza.

La Corte dichiara l'imputato colpevole ma gli concede le circostanze attenuanti, avendo egli agito in stato d'ira determinato da fatto ingiusto altrui.

L'opinione dei giudici che i due giovani, eccitati, abbiano ricorso, senza necessità, alle armi. L'atto di sottrarre la pistola da parte del Barbarisi non era giustificato, e così l'atto del Bentivegna, che aveva altri mezzi per fronteggiare la situazione.

Il P. M. si astiene dal pronunciarsi sulla durata della pena. «Gli Alleati sono qui — egli dice — per convincere gli italiani che i principi di libertà inglesi e americani sono validi per l'Italia e per tutto il mondo. La Corte è qui per mantenere l'ordine. Possiamo lasciare un esempio di questo genere, che una persona che ha commesso un atto per lo meno inconsiderato, sia assolta? Possiamo permettere che la gente si uccida per le strade? L'esempio ci vuole, così che gli italiani capiscano che con l'ordine e col giudizio si debba stabilire la normalità».

La Corte, accogliendo in parte la tesi della difesa, ma considerando particolarmente gli ultimi argomenti del P. M. decide di non accordare la sospensione della pena condizionale e condanna Rosario Bentivegna a 18 mesi di carcere.

Nel periodo di 30 giorni può chiedere la revisione della sentenza da parte di un collegio.

E' interessante osservare che la famiglia del ten. Barbarisi si era espressa in favore dell'assoluzione.

IL POPOLO

La conclusione del processo Bentivegna

18 mesi di reclusione

Il giornale conclusivo del processo Bentivegna ha richiamato nell'aula della Corte Generale Alleata un pubblico assai più numeroso del consueto.

La sentenza a 18 mesi di reclusione, è stata accolta in silenzio dall'numerosa folla che gremiva l'aula.

Frattanto fa sapere che, valendosi la difesa potrà chiedere la revisione della causa al Governatore militare alleato entro 30 giorni.

IL CORRIERE DI ROMA

Bentivegna condannato a 18 mesi di reclusione

La difesa ricorrerà al Governatore militare alleato per la revisione del processo

La giornata conclusiva del processo Bentivegna ha richiamato nell'aula della Corte Generale Alleata un pubblico assai più numeroso del consueto. Quando, alle ore 9,30, il Presidente dichiara aperta la seduta, prende la parola l'avv. Adolfo Nicolaj, per terminare la sua arringa di difesa. Egli tratta la causa sotto il profilo del diritto italiano, e chiede, come tesi sostanziale l'accoglimento della determinante della legittima difesa a favore dell'imputato.

Conclusa la sua arringa col riaffermare l'innocenza dell'imputato, il legale agì in stato di legittima difesa, l'avv. Nicolaj termina con queste parole:

«Signori, fate attenzione! La legge deve trionfare sovrana è vero, ma le scure non abbia un bagliore sinistro per i giovani italiani che debbono combattere ancora».

La Corte rivolge alcune domande esplicative al difensore e ha quindi la parola il Pubblico Ministero che è il tenente Louis Sabatino di Miami (Florida).

Questi esordisce rilevando brevemente le circostanze emerse durante la lunga sfilata dei varii testi, tra i quali dà il posto d'onore allo stesso imputato, per la esposizione da lui fatta alla Corte. Riconosce il particolare momento psicologico per tutto il popolo romano, in cui il fatto avvenne. Ma esclude che si possa accettare la tesi della legittima difesa in quanto l'imputato avrebbe avuto tutte le possibilità di agire in modo diverso sia pure facendo fuoco contro una parte non vitale del corpo del suo antagonista. Posto in rilievo come egli nella sua veste di Pubblico Ministero assolva ad un preciso dovere di militare e di uomo, privo quindi di qualsiasi interesse, animosità o pregiudizio particolari, chiede che la Corte tenga presente che la vita di un uomo è stata spezzata da un altro uomo. Un omicidio è stato commesso. Solo se il Bentivegna non avesse avuto altro modo possibile di reazione al di fuori di quella fulminea scelta in quel momento, egli potrebbe essere dichiarato innocente per aver agito in stato di legittima difesa.

A questo punto l'udienza è rinviata al pomeriggio. La Corte appare alle 17,5.

L'avv. Insegni, che ha soccorso la Corte con la sua esperienza, là dove avrebbero potuto sorgere difficoltà procedurali, legge il verdetto col quale la Corte ritiene l'imputato colpevole non dell'accusa fattagli nel foglio di accusa, ma del minore reato contemplato nell'articolo 58, punibile in relazione all'articolo 188 col beneficio delle attenuanti di cui all'articolo 62.

La Corte chiede quindi se la difesa abbia altre circostanze attenuanti da far prendere in esame. Parla l'avv. Perria, il quale chiede il minimo della pena con la condizionale, in modo che il Bentivegna possa tornare subito come uomo libero in mezzo agli uomini liberi.

Ribatte il Pubblico Ministero ammonendo la Corte a considerare quale danno arrecherebbe al desiderio di ordine perseguito dagli Alleati col non punire un giovane che, sia pure in particolari circostanze, ha ucciso un altro uomo quando poteva anche non ucciderlo. E conclude riaffermando la necessità di una condanna che sia di esempio.

Alle 17,55 la Corte si ritira per la sentenza.

Dopo appena 15 minuti la Corte rientra: Rosario Bentivegna è condannato a 18 mesi di reclusione.

La sentenza è accolta in silenzio.

Il Presidente aggiunge che volendolo, la difesa potrà chiedere la revisione della causa al Governatore Militare Alleato entro 30 giorni.

La Corte si ritira. Il pubblico sfolla, assai lentamente.

La difesa ricorrerà, a quanto risulta, al Governatore Militare per la revisione.

Avanti!

TRIBUNALE MILITARE ALLEATA

Bentivegna condannato a 18 mesi

Con l'udienza odierna si è chiuso il processo Bentivegna. In difesa dell'imputato hanno parlato gli avvocati Nicolai e Perria. L'Accusatore ha detto fra l'altro che la funzione della Corte è di mantenere l'ordine e pacificare gli animi e ha posto in rilievo che — specie in questo momento in cui vi sono tanti partiti, tante idee e tanta confusione — bisogna dare un esempio. Non si deve permettere che gli italiani combattano e si uccidano per le strade. Dopo le dichiarazioni dell'Accusatore la Corte si è ritirata per ricomparire di nuovo e leggere la sentenza:

«Considerati i buoni precedenti penali e morali dell'imputato; il buon lavoro fatto con pericolo della propria vita durante i passati nove mesi, nonchè l'atmosfera che regnava in Roma il 9 giugno, la Corte tuttavia non può accogliere le richieste dalla difesa circa il minimo della pena e la condizionale. La Corte compresa degli argomenti svolti dall'Ufficiale dell'Accusa, condanna Rosario Bentivegna a 18 mesi di carcere».

Contro la decisione è ammessa domanda di revisione al Governatore Militare Alleato di Roma.

Il pubblico ha accolto in silenzio la sentenza e ha sfollato lentamente l'aula.

L'ultima udienza

La seduta s'inizia con la continuazione dell'arringa dell'avv. Nicolai il quale sostiene la tesi della legittima difesa, eventualmente in relazione all'art. 55 del C. P., qualora si voglia ammettere che vi sia stato eccesso nella reazione del Bentivegna all'atto aggressivo del Barbarisi.

Egli conclude dicendo:

Bentivegna è un combattente non è un colpevole

«Rosario Bentivegna non conosceva le armi, era quasi un fanciullo, quando la nostra Italia è stata dilaniata e percossa.

La dominazione tedesca suscitò anche in lui quella ribellione che ha spianato il cammino agli Eserciti della Libertà.

Egli aveva buon sangue nelle vene. Un suo antenato salì per amor di Patria il patibolo eretto da un Governo che un grande inglese definì «negazione di Dio».

Egli ha odiato i vostri nemici ed ha salutato con gioia le vostre insegne. Egli ha obbedito agli ordini che giungevano ai partigiani e non si è pigramente chiuso nella resistenza passiva ma ha cercato scampo nelle abilità del doppio gioco.

Ha combattuto. Strappato dalla scuola, gettato nella mischia, arroventato dalla passione, esaltato dalla vittoria: Ecco l'uomo. Può aver errato, ma non è un omicida. Non è colpevole.

La Legge deve trionfare sovrana.

898

Ill/mo sig.Presidente della Corte Militare Alleata
presso il Palazzo di Giustizia

R O M A

Alla Direzione del Quotidiano ""Risorgimento liberale""
Via Frattina n.89

R O M A

A proposito del processo Bentivegna,parte della stampa cittadina si sforza di descrivere questi come una figura pura di patriota e quasi di eroe.A parte la considerazione che il pubblico è arciconvinto che egli sia colpevole di vero e proprio omicidio nei confronti del povero Ten.Barbarisi,resta assodato che il Bentivegna è la tipica figura del delinquente nato.Egli infatti ha sulla sua coscienza la tragica fine dei 320 delle fosse Ardeatine:se avesse avuto un minimo di senso eroi= co,avrebbe avuto il coraggio di presentarsi a suo tempo ai tedeschi per confessarsi colpevole dell'accaduto di via Rasella,per risparmiare la vita di 320 innocenti e veramente eroici patrioti.

Ma preferì sacrificare la vita di 320 patrioti,piuttosto che af= frontare egli stesso la morte:può chiamarsi ciò eroismo? no;ciò è mas= sima viltà,e le anime dei 320 del 24 marzo gridano vendetta contro il vile Bentivegna,che dovrebbe ~~rinnegato~~ essere ripudiato e sconfessato da tutti i partiti,se intendono onorare veramente la memoria dei 320 martiri delle fosse Ardeatine.

Roma,I4-luglio-I944

Un pubblico osservatore

1

899

Ill/mo sig.Presidente della Corte Militare Alleata
presso il Palazzo di Giustizia
ROMA

Alla Direzione del Quotidiano ""Risorgimento Liberale""
Via Frattina n.89
ROMA

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Roma,I4-luglio-I944

Un pubblico osservatore

900

Ill/mo sig.Presidente della Corte Militare Alleata
presso il Palazzo di Giustizia
R O M A

Alla Direzione del Quotidiano ""Risorgimento Liberale""
Via Frattina n.89
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Roma, 14 luglio 1944

Un pubblico osservatore

1

901

Ill/mo sig.Presidente della Corte Militare Alleata
presso il Palazzo di Giustizia
R O M A

Alla Direzione del Quotidiano ""Risorgimento Liberale""
Via Frattina n.89
R O M A

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Roma, 14-luglio-1944

Un pubblico osservatore

1

902

Votes by Avv. Di Segni, Assessor

CASE OF BENTIVEGNA ROSARIO

According to the Italian law, the wilful homicide is punished by th-e article 575 of the Penal Code.

Under certain circumstances, which may be special or ordinary, the crime is considered more or less serious.

The special circumstances concerning the crime of homicide (indi=cated by the art. 576 and following ones) are not involved in this case, according to the charge.

The ordinary circumstances, aggravating or extenuating, are indica=ted by the articles 61 and 62.

ORDINARY AGGRAVATING CIRCUMSTANCES. The only aggravating circumstance mentioned by the charge is the one indicated by the art. 61 N°10 : having committed the act against a public Official or a person entrusted with a public service in the course or by reason of the performance of the functions or service.

The definition of the public Official and of the person entrusted with a pubblic service is provided by the articles 357 and 358. The former is the person who exercises a public legislative administra=tive or judicial function. The latter is the person who performs a public service.

The principal points are:

A) if the Barbarisi was a public Official or entrusted with a public service.

B) if the crime was committed against the Barbarisi in the course or by reason of the performance of his functions or service, as a public Official or a person entrusted with a public service. 15

If the answers are negative, the aggravating circumstance of the

Votes by Avv. Di Segni, Assessor

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According to the Italian law, the wilful homicide is punished by th-e article 575 of the Penal Code.

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The special circumstances concerning the crime of homicide (indi=cated by the art. 576 and following ones) are not involved in this case, according to the charge.

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The ordinary circumstances, aggravating or extenuating, are indica=ted by the articles 61 and 62.

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B) if the crime was committed against the Barbarisi in the course or by reason of the performance of his functions or service, as a public Official or a person entrusted with a public service. 15.

If the answers are negative, the aggravating circumstance of the

Report for the killing of a sub-Lieutenant happened on the

5th Juin 1944 at 14.30 hours in Via Tre Cannelle.

I undersigned Sergeant Major Allesandri Virgilio, son of Cesare and Giovannini Amelia, born in Roma on 22nd Febr.1910, member of the Police Forces vith card and band N°12719 of the Group Menotti, state the following:

Standing in Via IV Novembre at the corner with Via Tre Cannelle, turning my shoulders to the mentioned street, I heard to quarrel, I turned round and saw a gray dressed man, who was turning his back to me, to point his arm to a military man without jacket and fire three or four times. The military man who later resulted to be a sub-Lieutenant fell immediately on his back. The man who shooted was stopped, he had no documents, he said his name was Bentivegna Rosario, son of Vincenzo (dead) and De Somma Valentina living at Via Torino 122, born on 22nd Juin 1922. The Bentivegna is a lithe man with a short and black smal beard. On his defence for the action, the Bentivegna, who wore a band of the P.C.I. (Italian Communist Party) N°6577 on duty at the newspaper L'Unità (previous "Lavoro Fascista" at Via IV Novembre), says of having surprised the sub-Lieutenant in the act of tearing the wall sheets of the newspaper L'Unità and having rebuked him he saw to point the pistol to him and for defence he fired immediately. A witness of the incident was Miss Capponi Carla, son of Giuseppe (dead) and Tamburri Maria, born in Rome on 7 Dec.1920, living at Foro Traiano 1, she also armed with a pistol. Also this young lady was without documents and a meber of the P.C.I., on guard of the newspaper L'Unità. They were leaded by me to the editorship of the above mentioned newspaper for their identification, and the Commander of the Guard of the Newspaper Mr. Terenzi Amerigo son of Giuseppe and Olimpia Gori, born in Roma on 17 Apr. 1909, living at Via Fogliano 15, guarantied for them.

NOTES : In the hand and the proximity of the fallen sub-Lieutenant no pistol was found by me. Miss Capponi Carla states of having seen the sub-Lieutenant to point the arm to Bentivegna and that he was rebuked because he was tearing the above mentioned wall sheets.

As I had to go away immediately because of my duty, I was told by Mr. Terenzi Amerigo that the body of the sub-Lieutenant would be removed from the street by the men of the guard of the newspaper.

By truth of what above said

Signed: Serg.Magg. Alessandri Virgilio.

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Commissariato P.S.
Magnanapoli
N.01000Gab.
Object: Internal Phonogramm

Rome 23 Juin 1944

To The Allied Command = P.S.Division
Command Rome Area =
and for knowledge to the R.Questura
R O M A

Following the notices printed in the newspaper concerning the killing of a sub-Lieutenant of the Finnnce Guard happened on the 5 Juin 1944 in Via Tre Cannelle, Mr. Alessandri Virgilio son of Cesare and Giovannini Aurelia, born in Rome on 22 Febr.1910, living at Via dei Fastini 123, has willingly come to this Office and stated to have been present to the scene and to be able to give sufficient information for finding the killer whom he says to be Bentivegna Rosario.

I let accompany the Alessandri to this Office for the further proceeding.

The Chief Commissary of P.S.
F.Cacace.

948

Report for the killing of a sub-Lieutenant happened on the

5th Juin 1944 at 14.30 hours in Via Tre Cannelle.

I undersigned Sergeant Major Allesandri Virgilio, son of Cesare and Giovannini Amelia, born in Roma on 22nd Febr. 1910, member of the Police Forces vith card and band N°12719 of the Group Menotti, state the following:

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As I had to go away immediately because of my duty, I was told by Mr. Terenzi Amerigo that the body of the sub-Lieutenant would be removed from the street by the men of the guard of the newspaper.

By truth of what above said

Signed: Serg. Magg. Alessandri Virgilio.

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Commissariato P.S.
Magnanapoli
N.01000Gab.
Object: Internal Phonogramm

Rome 23 Juin 1944

To The Allied Command = P.S. Division
Command Rome Area =
and for knowledge to the R. Questura
R O M A

Following the notices printed in the newspaper concerning the killing of a sub-Lieutenant of the Finance Guard happened on the 5 Juin 1944 in Via Tre Cannelle, Mr. Alessandri Virgilio son of Cesare and Giovannini Aurelia, born in Rome on 22 Febr. 1910, living at Via dei Pastini 123, has willingly come to this Office and stated to have been present to the scene and to be able to give sufficient information for finding the killer whom he says to be Bentivegna Rosario.

I let accompany the Alessandri to this Office for the further proceeding.

The Chief Commissary of P.S.
F. Cacace.

707

Report for the killing of a sub-Lieutenant happened on the

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I undersigned Sergeant Major Allesandri Virgilio, son of Cesare and Giovannini Amelia, born in Roma on 22nd Febr. 1910, member of the Police Forces vith card and band N°12719 of the Group Monotti, state the following:

Standing in Via IV Novembre at the corner with Via Tre Cannelle, turning my shoulders to the mentioned street, I heard to quarrel, I turned round and saw a gray dressed man, who was turning his back to me, to point his arm to a military man without jacket and fire three or four times. The military man who later resulted to be a sub-Lieutenant fell immediately on his back. The man who shooted was stopped, he had no documents, he said his name was Bentivegna Rosario, son of Vincenzo (dead) and De Somma Valentina living at Via Torino 122, born on 22nd Juin 1922. The Bentivegna is a lithe man with a short and black smal beard. On his defence for the action, the Bentivegna, who wore a band of the P.C.I. (Italian Communist Party) N°6577 on duty at the newspaper L'Unità (previous "Lavoro Fascista" at Via IV Novembre), says of having surprised the sub-Lieutenant in the act of tearing the wall sheets of the newspaper L'Unità and having rebuked him he saw to point the pistol to him and for defence he fired immediately. A witness of the incident was Miss Capponi Carla, son of Giuseppe (dead) and Tamburri Maria, born in Rome on 7 Dec. 1920, living at Foro Traiano 1, she also armed with a pistol. Also this young lady was without documents and a meber of the P.C.I., on guard of the newspaper L'Unità. They were leaded by me to the editorship of the above mentioned newspaper for their identification, and the Commander of the Guard of the Newspaper Mr. Terenzi Amerigo son of Giuseppe and Olimpia Gori, born in Roma on 17 Apr. 1909, living at Via Fogliano 15, guarantied for them.

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Signed: Serg. Magg. Alessandri Virgilio.

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Commissariato P.S.
Magnanapoli
N.01000Gab.
Object: Internal Phonogramm

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To The Allied Command = P.S.Division
Command Rome Area =
and for knowledge to the R.Questura
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I let accompany the Alessandri to this Office for the further proceeding.

The Chief Commissary of P.S.
F. Cacace.

908

ACCESS RESTRICTED

The item identified below has been withdrawn from this file:

File Designation _____

_____

Date August 30, 1944

From Robert C. Hendrickson

To Major W. W. Battersby

In the review of this file this item was removed because access to it is restricted. Restrictions on records in the National Archives are stated in general and specific record group restriction statements which are available for examination. The item identified above has been withdrawn because it contains:

☑ Security-Classified Information

☐ Otherwise Restricted Information

JCS-P.1 or guidelines
Authority

6-5-73
Date

GENERAL SERVICES ADMINISTRATION

GSA Form 7117

GSA DC 72-10421

WITHDRAWAL NOTICE

909

ACCESS RESTRICTED

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File Designation _____

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Date August 30, 1944

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To Major W. W. Battersby

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☐ Otherwise Restricted Information

JCS-B/ ... guidelines — Authority

6-5-73 — Date

GENERAL SERVICES ADMINISTRATION

GSA Form 7117 ...

GSA DC ...

WITHDRAWAL NOTICE

910

COMANDO P. S.
MARINARETTOM

Roma, 11 [illegible].6.944

N. 01000.Gab.

Risp. a N.

OGGETTO: FONOGRAMMA INTERNO

AL COMANDO ALLEATO =DIV.DI P.S.
Comando Zona di Roma Tel 67324
e.p.c., ALLA R.QUESTURA
R O M A

In seguito all'annuncio pubblicato suo quotidiani locali relativo alla uccisione di un Tenente di finanza avvenuto il 5 giugno 944 in via delle Tre Cannelle si è spontaneamente presentato in questo Ufficio il Sig.Alessandri Virgilio di Cesare e di Giovannini Aurelia, nato a Roma il 22.2.910, abit'in via dei Pastini 133, il quale ha dichiarato di essere stato presente alla scena e di poter dare esaurienti ragguagli per il rintraccio dell'uccisore che egli presume essere tal BENTIVEGNA Rosario.
Faccio accompagnare questo codesto Comando l'Allessandri per gli ulteriori incombenti.

IL COMMISSARIO CAPO DI P.S.
(F.Cocco)

911

COMMISSARIATO P. S.
MAGLIANA-OSTIA

Rom ,li ..6.944

N. 01000.Gab.

Risp. a N.

OGGETTO: FONOGRAMMA INTERNO

AL COMANDO ALLEATO =DIV.DI P.S.
Comando Zona di Roma Tel 67324
e.p.c., ALLA R.QUESTURA
R O M A

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Faccio accompagnare questo codesto Comando l'Allessandri per gli ulteriori incombenti.

IL COMMISSARIO CAPO DI P.S.
(V.Cocace)

912

COMMISSARIATO P. S.
MAGLIANA-PONTE

Roma, li 10.6.944

N. 01000.Gab.

Risp. a N.

OGGETTO: FONOGRAMMA INTERNO

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Comando Zona di Roma Tel 67324
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Faccio accompagnare questo codesto Comando l'Alessandri per gli ulteriori incombenti.

IL COMMISSARIO CAPO DI P.S.
(F.Cocace)

913

UFFICIO PASSAPORTI

PASS. N. Roma, li

Alla R. QUESTURA di

OGGETTO:

Con riferimento al telespresso del R. Consolato d'Italia a N.

in data si prega di { confermare / comunicare } gli estremi del passaporto del connazionale in oggetto andato { smarrito / distrutto } fornendo informazioni sulla di lui condotta specie politica ed esprimendo infine il parere circa il rilascio di altro analogo documento in suo favore.

PEL CAPO DELLA POLIZIA

914

UFFICIO PASSAPORTI

PASS. N. ..... Roma, li .....

Alla R. QUESTURA di

_____

OGGETTO: .....

Con riferimento al telespresso del R. Consolato d'Italia a ..... N. ..... in data ..... si prega di confermare / comunicare gli estremi del passaporto del connazionale in oggetto andato smarrito / distrutto fornendo informazioni sulla di lui condotta, specie politica ed esprimendo infine il parere circa il rilascio di altro analogo documento in suo favore.

PEL CAPO DELLA POLIZIA

915

UFFICIO PASSAPORTI

PASS. N. Roma, li

Alla R. QUESTURA di

OGGETTO:

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PEL CAPO DELLA POLIZIA

916

Verbale per l'uccisione del sottotenente avvenuta il 5/6/44 alle ore 14,30 in Via Tre Cannelle.

Io sottoscritto Sergente Maggiore Alessandri Virgilio di Cesare e di Giovannina Aurelia nato a Roma il 22/2/910 iscritto alle forze di polizia con tessera e fascio n° 12719 del fascio Flaminio affermo quanto segue. Ferma in Via IV novembre angolo Via Tre Cannelle voltando le spalle alla detta via, udii allontanare voltandomi vidi un [illegible] mi tale ventito di fisico le mi voltava le spalle fuoriuscire il braccio su un militare senza fucile e fare fuoco tre o quattro volte. Il militare le fu risultato essere un sottotenente colpito mortalmente cadde. Fermato lo sparatore le risultò sprovvisto di documenti affermò di chiamarsi Bentivegna Rosario fu Vincenzo e di Domenica Valentina abitante in Via Torino 122 nato il 22/6/922. Il Bentivegna è un tipo snello con barbetta corta e nera. Al momento fu l'atto il Bentivegna [illegible] fascista fascio del P.C.I. n° 6578 mi avvisò pure il giornale dell'Unità (Vecchio Lavoro Fascista in Via IV novembre) affermo di aver sorpreso il sottotenente nell'atto di stampare i fogli murali del giornale dell'Unità e redarguitolo si vide fuggire la rivoltella e fu difeso di non fosse

111

Verbale per l'uccisione di un sottotenente avvenuta il 5/6/44 alle ore 14.30 in Via Tre Cannelle.

Io sottoscritto Sergente Maggiore Alessandri Virgilio di Cesare e di Giovannini Amelia nato a Roma il 22/2/910 iscritto alla forza di polizia con Tessera e foglio n° 12719 del gruppo Mercotti affermo quanto segue. Fermo in Via IV novembre angolo Via Tre Cannelle volgendo le spalle alla detta via, udii allontanare colpi di arma da fuoco, mi volsi vidi un militare in tale veste di fascio che mi volgeva le spalle puntare il braccio su un militare senza fucile e fare fuoco tre o quattro volte. Il militare che fu ripetutamente colpito cadde immediatamente esanime. Fermato lo aggressore che risultò sprovvisto di documenti affermò di chiamarsi Bentivegna Rosario fu Vincenzo e di Domenica Valentina abitante in Via Torino 122 nato il 22/6/922. Il Bentivegna è un tipo snello con barbetta corta e nera. Al momento del fatto il Bentivegna ~~offermò~~ mostrò tessera del P.C.I. n° 6576 di servizio presso il giornale dell'Unità (Vecchio Lavoro Fascista in Via IV novembre) affermò di aver sorpreso il sottotenente nell'atto di staccare i fogli murali del giornale dell'Unità e redarguitolo si vide fuggire la rivoltella e fece di fatto di ucciderlo

111

Verbale per l'uccisione del sottotenente avvenuta il 5/6/44 alle ore 14,30 in Via Tre Cannelle.

Io sottoscritto Sergente Maggiore Alessandri Virgilio di Cesare e di Giovannini Aurelia nato a Roma il 22/2/910 iscritto alle forze di polizia con tessera e foglio n° 12749 del gruppo Mobile effettivo presso questa Questura in Via IV novembre angolo Via Tre Cannelle voltando le spalle alla detta via, udii allontanare velocemente alcuni passi e subito dopo vidi un individuo di sesso maschile vestito di grigio che mi voltava le spalle puntare il braccio su un militare senza fissare e fare fuoco tre o quattro volte. Il militare che fu risultato essere un sottotenente cadde immediatamente supino. Fermato lo sparatore che risultò sprovvisto di documenti affermò di chiamarsi Bentivegna Rosario fu Vincenzo e di Domenica Valentina abitante in Via Torino 122 nato il 22/6/922. Il Bentivegna è un tipo snello con barbetta corta e nera. Al momento del fatto il Bentivegna affermò di fare parte delle forze del P.C.I. n° 6577 di servizio presso il giornale dell'Unità (Vecchio Lavoro Foresta in Via IV novembre) affermò di aver sorpreso il sottotenente nell'atto di staccare i fogli murali del giornale dell'Unità e redarguitolo vide fuggire la rivoltella e fu difeso di sé stesso

111

di aver fatto fuoco immediatamente. Testimone del fatto era la Guardia Caffarri Carlo fu Giuseppe e di Tamburri Maria nata a Roma il 7/12/1920 abitante in Foro Traiano 1, munita anch'essa di pistola. Anche gli altri Guardia di Finanza tutti provvisti di documento di riconoscimento del P.C.I. si portarono al finale dell'Ufficio suddetto dove nella redazione del detto finale per le loro firme si fece firmante il comandante della guardia di finanza Ten. Col. Terenzi Amerigo di Giuseppe e di Olimpia Sori nato a Roma il 17/4/909 abitante in Via Foppiano 15.

Note: nella mano e nelle vicinanze del sottotenente caduto non fu rinvenuta da me nessuna pistola. La Guardia Caffarri Carlo afferma di aver veduto il sottotenente puntare l'arma nel Bandiera, e se fu redatto poté sfogliare i fogli minuti suddetti.

Dovendomi allontanare immediatamente per servizio, il corpo del sottotenente, ~~[illegible]~~ mi fu affidato dal Ten. Terenzi Amerigo, perché fosse tolto dalla strada dopo i rilievi del corpo di Guardia del finale. Fu redatto sopra

Imp. Magg. Olivanti Virgilio

di aver fatto fuoco immediatamente. Testimone del
fatto era la Signorina Capponi Carla fu Giuseppe e di
Tamburri Maria nata a Roma il 7/12/1920 abitante in Foro
Traiano 1, munita della carta di identità. Anche il Maresciallo
Ufficiale di Pubblica Sicurezza di Accompagnamento della
P.C.I. di Fiumicino al momento dell'Ufficiale Giudiziario che me
nella redazione del detto giornale per le loro funzioni tra
mi fece firmare il comandante della guardia del giornale
Sig. Terenzi Americo di Giuseppe e di Olimpia Sori nato a
Roma il 17/4/909 abitante in Via Foppiano 15.

Note: nella mano e nelle vicinanze del sottotenente
caduto non fu rinvenuta da me nessuna pistola.
La Signorina Capponi Carla affermò di aver veduto
il sottotenente fumare l'arma nel Baudrepan,
e le fu restituito poiché riaffatto i fogli matricolati
suddetti.

Dovendomi allontanare immediatamente per
servizio, il corpo del sottotenente, [illegible] mi fu
affidato dal Sig. Terenzi Americo, sorvegliato a vista
Tolto dalla strada dopo l'assenso del corpo di guardia
del giornale. Fu redatto sopra
Rep. Uff. Giud. Ostiani Virgilio.

di aver fatto fuoco immediatamente. Terminato del
fatto ero in Piazza Cassani Carlo fu Giuseppe e di
Tamburri Maria nato a Roma il 7/12/1920 abitante in Foro
Traiano 1 armato anch'esso di pistola. Quale addetto alla Piazza
distretto sprovvisto di documenti e sconosciuto mentre era nel
P.C.I. si portò al finale dell'Ufficio Annonario da me
nella redazione del detto finale per le loro generalità
si fece firmare il comandante della guardia al finale
Sig. Terenzi Amerigo di Giuseppe e di Olimpia Sori nato a
Roma il 17/4/909 abitante in Via Foppiano 15.

Note: nella mano e nelle vicinanze del sottotenente
caduto non fu rinvenuta da me nessuna pistola.
La Signorina Cassani Carla affermò di aver veduto
il sottotenente fuoriuscire l'arma nel Beautyroom,
e se fu recuperata poiché sfogliarono i fogli annessi
suddetti.

Dovendomi allontanare immediatamente per
servizio il corpo del sottotenente, [illegible] mi fu
consegnato dal Sig. Terenzi Amerigo, sorretto addosso
Tolto dalla strada dopo i rilievi del corpo di guardia
del finale. Fu redatto sopra
Resp. Uff. Annonario Vigile

ROSARIO BENTIVEGNA'S PERSONALITY.

We will not hesitate to define Rosario Bentivegna as a heroic fighter in the war of Italian-national liberation because his contribution to the struggle against the Nazi-Fascists, in Rome and its vicinity, is really conspicuous – even exceptional.

Bentivegna, medical student of the 5th year, after the 8th September 1943, felt that above every other personal interest was his duty of the moment to fight against the German oppressors and their Fascist accomplices.

He always showed in his activity of partisan, as a member of the Groups of Patriotic Action, of volunteer for liberty, mental and spiritual gifts completely above praise.

Here are some of Bentivegna's most important actions:–

In his activity of partisan, in May 1944, he organized at Palestrina armed groups to take in the revolt against the Germans, he destroyed the enrolment lists at the Municipio of Palestrina, organized several armed actions against groups of Germans (in all six actions), in which besides killing various Germans and capturing 28 prisoners, who succeeded later in escaping owing to the imminence of the entry of allied troops in Rome, he and several other companions having left the place where the prisoners were, took away from the enemy two Radio transmitting and receiving sets, two Diesel motors, food supplies for 500 persons to last for five days.

In his activity as a member of a group of patriotic action in Rome, amongst other things he carried out the following truly exceptional deeds:–

He damaged a German lorry in front of the Royal Opera House,

was present at the incident ~~until~~ the moment that Barbarisi had drawn his revolver and loaded it, after which he went away on his bicycle being frightened of being hit by a badly-aimed shot;
2) Mr. Domenico Musso and his wife, Via Orazio 3, Rome: the Musso couple, going up the steps of Via delle Cordonate, saw the soldier accompanied by a civilian, tearing down the advertisements; immediately afterwards they saw a young man arrive, who reproached Barbarisi; they then saw Barbarisi draw his revolver from its case and with this, threaten the young man who was coming towards him.

The defending party could indicate other witnesses able to describe the circumstances of the fact, but he reserves these in case of necessity.

Having learnt the facts of the case it is obvious that no responsibility exists against Bentivegna, who acted for legitimate defence. In fact, one is dealing with a typical case of legitimate defence, in which anybody who might have been in Bentivegna's place would have acted in the same way.

Added to this Bentivegna, on the 5th June at 3. o'clock p.m. could be and had to be legitimately armed as, not only had the proclamation imposing consignment of arms and dissolution of armed squadrons of the various Parties not yet been issued, but armed groups of single parties had been charged with duties of public order.

93

was present at the incident ~~until~~ the moment that Barbarisi had drawn his revolver and loaded it, after which he went away on his bicycle being frightened of being hit by a badly-aimed shot;
2) Mrs. Domenico Russo and his wife, Via Orazio 31, Rome: the Russo couple, going up the steps of Via delle Cordonate, saw the soldier accompanied by a civilian, tearing down the advertisements; immediately afterwards they saw a young man arrive, who reproached Barbarisi; they then saw Barbarisi draw his revolver from its case and, with this, threaten the young man who was coming towards him.

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Authorities, giving as soon as possible his real identity, which he would easily have been able to conceal, and afterwards presenting himself spontaneously to the Allied police authorities to supply all necessary explanations.

2) From statements made by witnesses:— Miss Carla Capponi, who accompanied Bentivegna and who was present at the development of the episode. Miss Capponi is a completely reliable witness for reason of her high moral qualities.

3) From a written statement, adjoined to the deed here forwarded, made by N.D. Isabella Galletti, who, while in her own home reading a book, heard some voices quarelling down below in Piazzetta delle Tre Cannelle; going to the window she saw two men, one dressed as a soldier and the other wearing the patriotic arm-band, who were having a heated argument, and then she saw that the soldier had pointed his revolver at the other's chest. Then she heard some explosions, but being frightened she left the window, and when she looked out again she saw that the soldier was lying on the ground.

Miss Galletti also states that she noticed the advertisements of the newspaper "L'Unità" had been torn down and that the soldier was not wearing either his military cap or jacket which he was carrying on his arm.

4) Other witnesses who can fully explain the circumstances of the fact and whose audition was verbally asked for by Bentivegna's defender, Avv. Corrado Perni, to the officers of Allied police who proceeded to the enquiry carrying out of enquiries and interrogations, are: 1) Italo De Tuddo, son of Amelio, aged 28, resident in Via Flaminia 19, Rome, who

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Some minutes later a police agent arrived, to whom Bentivegna immediately raccounted the facts of the incident, also giving his own exact generalities, despite the fact that at that moment he was without identity documents, only possessing several false ones which he had used in order to hide from the Nazi-Fascist police who had been looking for him during the nine months of German occupation in Rome. It is worth noting that the Nazi-Fascist authorities had placed a reward of one million and a half ~~=~~ on the head of Bentivegna.

Afterwards it was learnt that the dead soldier was a Lieutenant of the "Guardia di Finanza" by the name of Barbarisi, whom Bentivegna had never seen before that occasion.

From statements made by certain companions who spontaneously presented themselves to the "Unità", it was at first believed that Barbarisi was a well-known fascist spy who had taken part in various ~~executions~~ firing-squads of the execution of Italian patriots, but later it was found out that this identification of Barbarisi was ~~false~~ incorrect, and it appears that the idea had been taken from an Allied Radio communication from Anzio which had given indication, before the liberation of Rome, about a certain individual with a name similar to Barbarisi, a well-known and dangerous spy.

That the incident occured in the way described above can be proved:—

1) from the statements of Rosario Bentivegna who for his qualities of character and education is absolutely to be relied upon. This is shown also by the attitude of Bentivegna who, instead of trying to avoid to avoid interrogation put himself at the disposal of the

ground and died ~~immediately~~ shortly after.

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Owing to the exceptional personality of Bentivegna and all the modalities of the tragic incident in which Lt. Barbarisi was to meet with his death, we are confident in an early release of Bentivegna from prison.

Roma. 5 July 1944.

ARCHIVIO ASSOCIAZIONE

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
ROME REGION
LEGAL DIVISION
A.P.O. 394

12 July 1944

SUBJECT : Convening of General Court for the trial of the case of BENTIVEGNA Rosario

TO : Lt. Sabatino
Special Prosecutor,
Palace of Justice.

1. The General Court constituted for the trial of the above-named accused will convene at the Palace of Justice on Friday morning, 14 July 1944 at 0930 hours.

2. Transport for the Judges will leave the Albergo Ambasciatori at 0915 hours.

3. The Prosecutor , Lt. Sabatino will proceed forthwith to prepare the case for trial and to conclude all details necessary to its proper presentation.

4. The Court will convene in the Court-room now used by the Superior Court.

Robert C. Hendrickson,
Major, A.U.S.
Regional Legal Officer.

RCH/PA.

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936

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Robert C. Hendrickson,
Major, A.U.S.
Regional Legal Officer.

RCH/PA.

39

936

MEMORANDUM
for
ROSARIO BENTIVEGNA.

INCIDENT OF THE 5th JUNE 1944.

On the 5th June, at about 3 o'clock in the afternoon, Rosario Bentivegna, accompanied by the student Miss Carla Capponi, while on guard outside the building of the newspaper "Unità", in Via Quattro Novembre, and wearing the three-colour arm band of the committee of National Liberation, ~~=~~ met a soldier at the entrance to Via Tre Cannelle, without his military cap and carrying his jacket on his arm, who was impetuously tearing down the advertisements of the newspaper "L'Unità", and also other advertisements relating to the liberation of Rome and free Italy.

Bentivegna told the soldier to halt, but the latter disdainfully turned on him demanding him what right he had to interfere. So Bentivegna showed his three-coloured arm-band of the Committee of National Liberation and declared himself to be a "volunteer of liberty", on guard for the newspaper, and he invited the soldier to follow him to the newspaper's offices.

But the soldier, instead of accepting the invitation, drew out his revolver, loaded it, and pointed it at Bentivegna.

At that moment, a man in civil clothes, who was beside the soldier in the moment the latter was stopped by Bentivegna, and who was at the same distance from him, on seeing the soldier point his revolver at Bentivegna, shot several times in the direction of the group. In the same instant, Bentivegna, realising that he was seriously threatened by the soldier, stepped back and drawing his own pistol rapidly shot three times at the soldier, who immediately fell to the

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Owing to the exceptional personality of Bentivegna and all the modalities of the tragic incident in which Lt. Barbarisi was to meet with his death, we are confident in an early ~~early~~ release of Bentivegna from prison.

Roma. 5 July 1944.

ROSARIO BENTIVEGNA'S PERSONALITY.

We will not hesitate to define Rosario Bentivegna as a heroic fighter in the war of Italian-national liberation because his contribution to the struggle against the Nazi-Fascists, in Rome and its vicinity, is really conspicuous – even exceptional.

Bentivegna, medical student of the 5th year, after the 8th September 1943, felt (that above every other personal interest) was his duty of the moment to fight against the German oppressors and their Fascist accomplices.

He always showed in his activity of partisan, as a member of the Groups of Patriotic Action, of volunteer for liberty, mental and spiritual gifts completely above praise.

Here are some of Bentivegna's most important actions:-

In his activity of partisan, in May 1944, he organized at Palestrina armed groups to leave in the fort against the Germans, he destroyed the enrolment lists at the Municipio of Palestrina, organised several armed actions against groups of Germans (in all six actions), in which besides killing various Germans and capturing 28 prisoners, who succeeded later in escaping owing to the imminence of the entry of allied troops in Rome, he and several other companions having left the place where the prisoners were, took away from the enemy two Radio transmitting and receiving sets, two Diesel motors, food supplies for 500 persons to last for five days.

In his activity as a member of a group of patriotic action in Rome, among other things he carried out the following truly exceptional deeds:-

He damaged a German lorry in front of the Royal Opera House

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Here are some of Bentivegna's most important actions:–

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In his activity as a member of a group of patriotic action in Rome, amongst other things he carried out the following truly exceptional feats:–

He damaged a German lorry in front of the Royal Opera House;

together with his group he organised an ambush and killed a German in Via XXIII Marzo; he carried out a bomb dropping in Piazza Barberini; ~~and~~ an attack against S.S. troops outside Regina Coeli prison; an attack against the German Command in Corso d'Italia; a night attack on Via Cassiina destroying a German lorry, another night attack on Via Tiburtina destroying another German lorry, another attack against a group of Germans on Via Prenestina damaging a lorry; he destroyed a German telephone switchboard; he destroyed a German lorry at Monte Torto, he made an attempt on the life of Pizzirani, head of the republican fascists in Rome; together with his group he killed three fascists (they were these fascists had killed a woman, who had gone to the Caserma of the 81st Infantry in Viale Giulio Cesare, to protest that her Son had been taken away); he carried out the attack against the fascist column that was going up Via Tomacelli; he set fire to a lorry loaded with petrol in Via Flaminia; he destroyed another German lorry in Via Cavour); he took part personally in the attack against the German column of SS. in Via Rasella, in which 32 Germans were killed and more than ten others were wounded.

Bentivegna can assume full responsibility of these actions, the larger part of which were communicated by the clandestine newspapers "Tempo" and particularly "Unità", and the Italian Communist party approves them unconditionally as real and true acts of war against the Nazi-Fascists. The same must be said also about the ambush of Via Rasella, that Bentivegna accomplished with absolute disregard of the danger he was exposed to against a column of armed S.S. in full war order.

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Owing to the eccaptional personality of Bentivegna and all the modalities of the tragic incident in which Lt. Barbanti was to meet with his death, we are confident in an early ~~resta~~ release of Bentivegna from prison.

Roma. 5 July 1944.

946

A. .C.Superior Court-Rome Area
Palazzo di Giustizia, Rome

Rome, 8 July 1944

Capt. T.W.M.Greenhill,
Public Safety Division,
Rome

SUBJECT: A.M.G.v.BENTIVEGNA Rosario di Vincenzo

1. This case has been set down for hearing on Wednesday 12 July 1944 by a GENERAL COURT A.M.G.

2. Will you please arrange for the attendance at the trial of all witnesses together with the necessary exhibits.

Howell Jones Capt.
Superior Court Prosecutor

947

D e c i s i o n e

Prima di tutto la Corte desidera dic .are/~~xxx~~ che nel giungere alla decisione di questa causa, non è stata ~~xxxxx~~ determinata né dall' uno né dall'altro lato da considerazioni politiche. Nel pensiero della Corte non ha alcuna importanza il fatto che l'accusato sia o meno ~~membro~~ di qualsiasi partito politico, o chè i manifesti, i quali, venendo strappati, originarono ~~ix~~ fatti incresciosi che seguirono, appartenessero ad un qualsiasi particolare partito od organo politico. Il deceduto era un essere umano e l'imputato deve essere giudicato da questa Corte ugualmente come un essere umano.

La Corte ha già dichiarato che, a meno che ~~x~~ non sia convinta al di là di ogni ragionevole dubbio della colpevolezza dell'imputato, egli deve essere prosciolto. Nella presente causa non vi è dubbio che l'imputato ha ucciso il Tenente Barbarisi; egli stesso lo ha ammesso. Perciò, l'unica questione che rimane è se in queste particolari circostanze l'~~xxxxxx~~ uccisione è stata un atto legale o illegale. L'~~xxxxxxx~~ imputato sostiene che si trattava di un atto legale, per la ragione che egli ha agito~~x~~ in propria difesa ed invoca l'applicazione dell'art.52 del Codice Penale Italiano.

Nel valutare la fondatezza della richiesta dell'imputato, la Corte si deve lasciar guidare unicamente dalle prove risultanti dal processo. Queste prove sono state estremamente lunghe e voluminose e la Corte le ha prese molto attentamente in considerazione. Come è già stato messo in rilievo, vi è un considerevole conflitto di testimonianze fra i vari testi, con riguardo a molti particolari di maggiore o minore importanza. La Corte non si propone di esporre qui dettagliatamente il suo giudizio circa l'esattezza o meno di ogni testimonianza. Avendo sentito e valutato tutte le prove, è stato possibile formare un quadro ben chiaro dei punti essenziali di ciò che è avvenuto. 93

REGION IV CASE N° 7762

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La Corte è convinta che l'imputato,vedendo il deceduto strappare i manifesti,gli si rivolse in maniera arrogante ostile; che il deceduto rispose in maniera ugualmente ostile; che tirò fuori la pistola e la puntò contro l'imputato; che l'imputato,in seguito a ciò,senza aspettare,tirò fuori ~~xxxxxxxxxx~~ a sua volta la pistola e fece fuoco sul deceduto. Nell'opinione della Corte,questa è una causa in cui due giovani eccitabili e impulsivi perdettero il controllo dei nervi e ricorsero precipitosamente e senza necessità all'uso di armi da fuoco.

Rimangono perciò da considerare le conseguenze legali delle azioni commesse dalle due parti. Nel far ciò, noi non dimentichiamo che i fatti avvennero il 5 giugno 1944, giorno in cui,senza dubbio, l'atmosfera era satura di elettricità ed i sentimenti erano eccitati.

~~In considerazione di ciò~~, Pur considerando questo la Corte è convinta che l'atto del deceduto di estrarre la pistola non era giustificata e costituiva una"offesa ingiusta"secondo l'art.52 del Codice Penale. Posto ciò,la Corte è però altrettanto convinta che la reazione dell'imputato è stata ugualmente ingiustificata ed eccedette i limiti della difesa proporzionata all' ~~xxx~~ offesa. Come ha detto il Pubblico Ministero, l'imputato,quando si trovò dinanzi alla pistola del deceduto, aveva altri mezzi per fronteggiare la situazione,senza far fuoco uccidendo senz'altro. Il fatto che il deceduto estrasse la pistola non significa in alcun modo che egli avesse intenzione di sparare. Non vi è alcuna prova che egli avesse tale intenzione e nessun teste ha affermato che siano state scambiate parole dalle quali risulti che il deceduto aveva una tale intenzione.In ogni caso,è chiaro che l'imputato aveva a sua disposizione altre vie,oltre a quella estrema da lui scelta.

In tali circostanze,la Corte decide:

1) che la difesa,basata sull'art. 52 del Codice Penale,non è stata completamente dimostrata.

2) che l'imputato non ha agito sotto qualsiasi errore, come contemplato ~~xxxxxxxx~~

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dall'ultimo paragrafo dell'art. 59.
Pertanto, la causa deve essere giudicata in base all'art. 55 e~~x~~ il reato è punibile secondo l'art.589.
Alla conclusione delle prove,il Pubblico Ministero ha ammesso che non vi è stata prova di circostanze aggravanti,come indicato nel foglio di accusa. Pertanto la Corte deve esclusivamente ~~xxxxx~~ prendere in considerazione se vi sono le circostenze attenuanti previste dall'art.62 del Codice Penale Italiano.
In base alle prove,la Corte decide che l'imputato ha diritto a beneficiare della circostanza attenuante specificata nell'art. 62, comma 2. In relazione a detto punto,è stato fatto rilevare ~~xxxxxxxxxxxx~~ alla Corte che opinioni contrastanti sono state espresse da alte autorità giudiziarie italiane in merito alla questione se un imputato che è giudicato colpevole in base all'art. 55 possa effettivamente beneficiare dell'art.62 comma 2: ma la Corte decide che, visto tale conflitto di opinioni, ogni dubbio ~~xxxxxxxxxxxxxx~~ nella presente causa deve essere risolto in favore dell'imputato.
Per le ragioni summenzionate,la Corte dichiara l'imputato colpevole non dell'accusa fattagli nel foglio d'accusa (cioè;art.575 e 61 N° 10 del C.P.I.) ma del minore reato contemplato nell'art.55,punibile in relazione all'art.589,col beneficio dell'art. 62, N° 2).
Se la difesa desidera che,prima di emettere la sentenza,la Cortedebba prendere in considerazione altre circostanze attenuanti e se desidera fare delle osservazioni riguardanti la sentenza che dovrà essere emessa in base alle decisioni summenzionate,la Corte è pronta ad ascoltare tali argomenti. Ma,prima di udire tali argomenti della difesa,la Corte deve chiedere al Pubblico Ministero se ha da produrre prove di precedenti condanne dell'imputato

Rec'd July 10/44

Advanced Headquarters Allied Control Commission

July 8, 1944.

MEMORANDUM TO: Lt. Colonel John Pollock,
Rome Area Command.

The Secretary of the Communist Party in Italy has submitted the attached Memorandum with regard to the arrest of Rosario Bentivegna. It would be appreciated if I could be informed of the present status of this case in order that I may be in a position to reply to the communication from the Communist Party asking for further consideration of the case.

Samuel Reber
Samuel Reber
Vice President Allied Control Commission
Political Section

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Chief Legal Office
(thro' Capt Greenhill)

1) I discussed the case with Mr Reber and told him every possible facility will be extended to the accused & his counsel or advocate

2) to Also that the defence will be accorded every help in preparing their case by (Legal Section 8th Corps. Pollock Lt Col.

951

PROMEMORIA per

ROSARIO BENTIVEGNA

INCIDENTE DEL 5 GIUGNO 1944.

Il giorno 5 giugno 1944, verso le ore 15, Rosario Bentivegna accompagnato dalla studentessa Carla Capponi, mentre prestava servizio di vigilanza nei pressi del giornale "L'Unità", a Via 4 Novembre, e recava sul braccio la fascia tricolore del Comitato di Liberazione Nazionale, incontrava presso l'imboccatura della Via Tre Cannelle un militare, senza berretto e che portava la giacca sul braccio, che andava strappando con impeto alcuni manifesti del giornale "L'Unità", nonchè altri manifesti inneggianti alla liberazione di Roma e all'Italia libera.

Il Bentivegna intimò l'alt al militare, il quale, con aria sprezzante lo investì domandandogli con quale diritto egli interveniisse. Allora il Bentivegna mostrò il braccialetto tricolore del Comitato di Liberazione Nazionale e si qualificò per "volontario della libertà", di guardia al giornale, ed invitò il militare a seguirlo alla sede del giornale.

Ma il militare, anzichè ottemperare all'invito, estraeva la rivoltella, metteva un colpo in canna e la puntava al petto del Bentivegna.

In quella, un uomo in abito civile, che era accanto al militare nel momento in cui questi fu fermato dal Bentivegna, e che era alquanto distante da lui, mentre il militare faceva il gesto di puntare la rivoltella contro il Bentivegna, sparò alcuni colpi in direzione del gruppo. Nello stesso

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REGION IV CASE No 7762

istante il Bentivegna, sentendosi minacciato così gravemente dal militare, fece un passo indietro, e, estratta la propria pistola tirò fulmineamente tre colpi contro il militare, il quale cadde immediatamente a terra, e decedette poco dopo.

Qualche minuto dopo accorse un agente di polizia in borghese, al quale il Bentivegna, immediatamente, riferì le circostanze dell'accaduto, e dette le proprie esatte generalità, nonostante che in quel momento egli fosse sprovvisto di documenti di identità, possedendone alcuni falsi che gli erano serviti per sottrarsi alle ricerche della polizia nazi-fascista durante i nove mesi dell'occupazione tedesca di Roma. E' da notare che le autorità nazi fasciste avevano posto sul capo del Bentivegna una taglia di un milione e mezzo.

Si è saputo poi che l'ucciso era un tenente della Guardia di Finanza, Barbarisi, che il Bentivegna non aveva mai veduto prima di quell'occasione.

Per dichiarazioni fatte da alcuni compagni che spontaneamente si presentarono all'"Unità", si credette in un primo momento che il Barbarisi fosse una nota spia fascista, che aveva preso parte a vari plotoni di esecuzione contro patrioti italiani, ma successivamente si è chiarito che questa identificazione del Barbarisi era erronea, e pure che l'equivoco sia stato ingenerato da una comunicazione della radio alleata di Bari che aveva indicato, prima della liberazione di Roma, un individuo dal nome simile a Barbarisi, come nota e pericolosa spia.

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Che l'incidente si sia svolto nel modo so=
pra descritto è comprovato:

1°) dalle dichiarazioni di Bentivegna Rosario, che per le sue qualità di carattere, di educazio=
ne, è assolutamente credibile. E' comprovato al=
tresì dal comportamento stesso del Bentivegna, il quale, anzichè sottrarsi alle indagini dell'auto=
rità si mise a disposizione di questa, dando in un primo momento le sue vere generalità, che avreb=
be invece potuto facilmente occultare, e in un se=
condo momento presentandosi spontaneamente all'au=
torità di polizia allerta per fornire tutti i chia=
rimenti opportuni.

2°) Dalle dichiarazioni fatte dalla teste, si=
gnorina Carla Capponi, la quale accompagnava il Bentivegna, e che fu presente allo svolgimento del fatto. La Capponi è teste assolutamente insospet=
tabile, sia per le sue alte qualità morali.

3°) Dalla dichiarazione scritta, allegata al processo inviata dalla N.D. Isabella Galletti, la quale mentre si trovava nella sua casa, intent=
a a leggere un libro udì voci di un alterco che si svolgeva nella sottostante Piazzetta delle Tre Cannelle; avvicinatasi alla finestra essa vide due uomini, di cui uno vestito da militare, e l'al=
tro con il bracciale dei patrioti, che si scambia=
vano parole violente, e vide poi che il militare aveva puntato la rivoltella sul petto dell'altro: udì poi delle esplosioni, ma si ritirò impaurita dalla finestra, e quando si riaffacciò vide che il militare era stramazzato a terra.

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La signora Galletti afferma egualmente che ha notato che i manifesti del giornale "L'Unità" erano stati strappati, e che il militare non portava nè il berretto nè la giacca, che teneva sul braccio.

4°) Altri testi che possono chiarire in pieno le circostanze del fatto, e la cui audizione venne chiesta verbalmente, dall'difensore del Bentivegna, Avv. Corrado Perris, all'ufficiale della polizia allegata che ha proceduto all'inchiesta e agli interrogatori, sono: 1°) Italo De Tuddo, di Aurelio, di anni 28, residente in Roma Via Flaminia 19, che fu presente al fatto, sino al momento in cui il Barbarisi impugnata la rivoltella fece l'atto di mettere il colpo in canna, dopo di che egli si allontanò in bicicletta temendo di poter essere colpito da qualche colpo andato a vuoto; 2°) signor Musu Domenico, le miglie, Via Orazio 31, Roma: i coniugi Musu passando per le scale di Via delle Cordonate videro il militare, accompagnato da un borghese, che strappava i manifesti; subito dopo videro sopraggiungere un giovane, che rimproverò il Barbarisi; videro poi il Barbarisi trarre dalla fondina la rivoltella, e con questa minacciare il giovane che gli veniva incontro.

La difesa del Musu potrebbe indicare altri testi sulle circostanze del fatto, ma si riserva di addurli in caso di necessità.

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Così ricostruiti i fatti, non vi è dubbio che nella specie non sussista alcuna responsabilità xxxx di Bentivegna, il quale ha agito xxxxxxx per legittima difesa. Si tratta, invero, di un caso tipico di legittima difesa, in cui chiunque si fosse trovato al posto del Bentivegna, avrebbe agito nello stesso modo.

A ciò si aggiunga che alle ore 3 del 5 giugno il Bentivegna poteva e doveva legittimamente xxx andare armato, in quanto , non solo non era stato emanato ancora il bando che imponeva la consegna delle armi, e che scioglieva le squadre armate dei vari Partiti, ma, i gruppi armati dei singoli partiti erano investiti di funzioni di ordine pubblico.

PERSONALITA' DI BENTIVEGNA ROSARIO

Non esitiamo a definire Bentivegna Rosario un combattente eroico della Guerra di Liberazione nazionale italiana, perchè il contributo che egli ha dato alla lotta contro i nazi-fascisti, a Roma e nelle vicinanze di Roma, è veramente cospicuo, anzi eccezionale.

Il Bentivegna, studente in medicina del 5° anno, dopo l'8 settembre ha sentito che il suo dovere del momento attuale, al di sopra di qualsiasi interesse personale, era quello di lottare contro i tedeschi oppressori, e i loro manutengoli fascisti.

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Ha dimostrato sempre nella sua attività di par=
tigiano, di componente dei Gruppi di Azione Patriot=
tica, di volontario della libertà, doti di mente e
di cuore assolutamente superiori a qualsiasi elogio.

Ecco, alcune delle più importanti azioni compiu
te dal Bentivegna:

Nella sua attività di partigiano, egli nel mag=
gio del '44 organizzò a Palestrina bande armate che
dirigeva nella lotta contro i tedeschi, distrusse le
liste di leva al Municipio di Palestrina, operò anche
più azioni armate contro gruppi di tedeschi, (in com=
plesso sei azioni), in cui oltre ad uccidere vari te=
deschi, a catturare 28 prigionieri, che riuscirono poi
poi a fuggire nell'imminenza dell'entrata a Roma del
le truppe alleate, avendo egli ed alcuni suoi compa=
gni allontanatisi dal luogo dov'erano i detenuti, egli
tolse al nemico due radio trasmittenti e riceventi,
due motori Diesel, provviste alimentari per 500 per=
sone per la durata di cinque giorni.

Nella sua attività di componente di un gruppo
di azione patriottica a Roma, egli, fra l'altro com=
pì le seguenti gesta, che sono veramente eccezionali:

danneggiò un camion tedesco innanzi al Teatro
dell'Opera; insieme con il suo gruppo tese un'imbo=
scata e uccise un tedesco in Via XXIII Marzo; eseguì
un lancio di bombe a Piazza Barberini; eseguì un at=
tacco alle truppe SS autotrasportate presso le car=
ceri di Regina Coeli; eseguì l'attacco al comando
germanico al Corso d'Italia; eseguì un attacco not=
turno sulla Via Casilina distruggendo un camion te=
desco; eseguì un altro attacco notturno a Via Tibur=
tina distruggendo un altro camion tedesco; eseguì

83

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957

un altro attacco a un gruppo tedesco, sulla Via Prenestina, danneggiando un camion; distrusse un centralino telefonico tedesco; distrusse un camion tedesco presso il Turq Torto; eseguì un attentato contro il Pizzirani, capo dei fascisti repubblicani di Roma; insieme con il suo gruppo giustiziò tre fascisti (che avevano ucciso una donna, che era andata a protestare per aver avuto razziato un figlio, al Viale Giulio Cesare, presso la caserma dell'Aeronautica; eseguì l'attacco alla colonna fascista che si recava per Via Tomacelli; incendiò un camion carico di benzina a Via Claudia (distrusse un altro camion tedesco a Via Cavour); eseguì personalmente l'attacco alla colonna tedesca di SS in Via Rasella, in cui trovarono la morte 32 tedeschi e furono feriti più di una trentina.

Di queste azioni del Bentivegna, la stampa, in particolare quella di cui è stato comunicato dai giornali clericali del Vaticano, ed in particolare dall'"Unità", il Bentivegna può assumere la piena responsabilità, ed il Partito Comunista Italiano le approva incondizionatamente come veri e propri atti di guerra compiuti contro i nazi-fascisti. Lo stesso deve dirsi anche dell'attentato a Via Rasella, che il Bentivegna ha compiuto con assoluto disprezzo del pericolo a cui si esponeva, contro una colonna di SS armati in pieno assetto di guerra.

82

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958

Datax la personalità e-ezionale del Bentive=
gna, e le modalità tutte del tragi-o in-idente, in
-ui doveva troyar la morte il tenente Barbarisi,
[illegible] -onfidiamo in una solle
-ita es-ar-erazione di lui.

[illegible], 5 luglio 1[illegible]

81

959

CASE OF BENTIVEGNA ROSARIO

According to the Italian law, the wilful homicide is punished by th-e article 575 of the Penal Code.

Under certain circumstances, which may be special or ordinary, the crime is considered more or less serious.

The special circumstances concerning the crime of homicide (indicated by the art.576 and following ones) are not involved in this case, according to the charge.

The ordinary circumstances, aggravating or extenuating, are indicated by the articles 61 and 62.

ORDINARY AGGRAVATING CIRCUMSTANCES. The only aggravating circumstance mentioned by the charge is the one indicated by the art.61 N°10 : having committed the act against a public Official or a person entrusted with a public service in the course or by reason of the performance of the functions or service.

The definition of the public Official and of the person entrusted with a pubblic service is provided by the articles 357 and 358. The former is the person who exercises a public legislative administrative or judicial function. The latter is the person who performs a public service.

The principal points are:

A) if the Barbarisi was a public Official or entrusted with a public service.

B) if the crime was committed against the Barbarisi in the course or by reason of the performance of his functions or service, as a public Official or a person entrusted with a public service.

If the answers are negative, the aggravating circumstance of the

art.6I Nº10 does non exist.

ORDINARY EXTENUATING CIRCUMSTANCES.The extenuating circumstances which,hypothetically,might be concerned in this case are the follo= wing :

A)Art.62 Nº1 : having acted for motives which have a special moral or social value.

B) Art.62 Nº2 : having reacted when in a state of anger,caused by an injust act of an other person (provocation).

LEGITIMATE DEFENCE. A cause of exclusion of any punishment would be the legitimate defence (Art.52).

For the legitimate defence is required an actual danger of an injust injury.It is also required the necessity of the defence,so that the danger or the damage could not be avoided unless with the defence.Besides that,the offence must be proportioned to the injury.

When the fact is exceeding the limits of the law or of the ne= cessity,it is punished as an involuntary crime (Art.55).

PUNISHMENTS. The wilful homicide is punished with a period of imp= risonment not inferior to 2I years (Art.575).

If there is an aggravating circumstance,the punishment which would be imposed for the committed crime is increased as far as a third.In no case,the period of imprisonment can exceed 30 years (Art.64).

If there is an extenuating circumstance the punishment is dimi= nished of a period not exceeding a third (Art.65).Existing more than one extenuating circumstance,the punishment cannot be inferior to the fourth part (Art.67).

When there is a concourse of aggravating and extenuating circum=

stances ,the Judges decide if are prevailing the one or the others, and will considdr only the prevailing ones.They can also consider them equivalent,so that no augment or diminution will took place. (art. 69)

962

La difesa ritiene che il Pubblico Accusatore non è riu
scito a dimostrare l'illegittimità del fatto compiuto da
Rosario Bentivegna, e la responsabilità dell'accusato. -
Perciò potremmo pregare la Corte di emettere sin d'ora
la Sua decisione. Ma noi vogliamo dare la prova comple -
ta, inequivoca, positiva dell'innocenza di Bentivegna Ro
sario.-

Ci proponiamo, pertanto, di provare:

1°) che il fatto è avvenuto in un'atmosfera di guerra guer
reggiata; che il Bentivegna, come tutti i patrioti italia
ni, secondo gli ordini e le disposizioni impartite dal Co
mitato di Liberazione Nazionale, attraverso le organizza-
zioni militari, collegate con il Comando Alleato, doveva
essere in istato di allarme e di difesa;

2°) che Rosario Bentivegna, il 5 giugno, alle ore 3 pome-
ridiane, era un volontario della libertà in attività di
servizio, e che egli era stato incaricato di proteggere
la sede del giornale 'Unità' e le immediate adiacenze,
contro eventuali attacchi ed offese di elementi nazi-fa-
scisti;

3°) che Rosario Bentivegna era autorizzato a portare le
armi;

4°) che i Patrioti erano vincolati agli ordini ricevuti,
e che il 5 giugno, alle ore tre, non era ancora noto che
gli Alleati assumevano tutte le funzioni di polizia.-

5°) Che il Tenente Barbarisi, e forse anche un'altra persona non individuata, con lo stracciare i manifesti patriottici che si trovavano nelle edicole infisse all'esterno del fabbricato dove ha sede "L'Unità" ha compiuto un fatto che è apparso obbiettivamente ostile ai patrioti del movimento italiano di liberazione ed agli stessi Alleati;

6°) Che la reazione verbale e l'intervento del Bentivegna erano quindi pienamente giustificati, dal punto di vista oggettivo e soggettivo.-

7°) Che il Barbarisi ha reagito a tale intervento in modo violento, prendendo per primo l'iniziativa di passare alle armi.-

8°) Che il Bentivegna non aveva altra possibilità di scampo al pericolo grave, attuale, immediato che minacciava la sua integrità fisica, se non in una reazione altrettanto rigida ed immediata.-

9°) Stabiliti così i fatti, la difesa intende dimostrare, che anche dal punto di vista psicologico, il doloroso episodio può esser spiegato solo come dovuto ad un gesto di naturale difesa, imposto dall'istinto di conservazione.-

10°) Pertanto la difesa vuol provare che secondo la legge italiana, il fatto non è punibile perchè la reazione del Bentivegna è stata necessaria e propor-

zionata all'azione offensiva del Barbarisi, e che è applicabile nel caso in esame l'istituto della le - gittima difesa nei suoi vari aspetti, che esime da qualsiasi responsabilità.-

965

I N D E X

REPORTS AND STATEMENTS RE: DEATH OF LT. B. B...OI, NUNZIO DI FINIZIA.

	pages
Report	1 to 4
Report of Dr. Fontana -p.m. of body	5 to 6
Statement of CASTELLI Alberto -witness	7 to 8
Statement of MONDUBI Anna, witness	9 -
Statement of PALUTTA Giorgio, Agent Pub.Sic. . .	10-
Statement of Lt. Pietro PASQUA -evidence re: cartridge cases	11-
Statement of [illegible]osario- assailant . . .	12 to 14
Statement of CAPPONI Carla -witness, present with assailant at the killing	15 to 16

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966

I N D E X

REPORTS AND STATEMENTS RE: DEATH OF LT. R. [illegible], MUNICIPIO DI PITIGLIANO.

	pages
Report	1 to 4
Report of Dr. Fontana -p.m. of body	5 to 6
Statement of [illegible] Alberto -witness	7 to 8
Statement of [illegible] Anna, witness	9 -
Statement of [illegible] Giorgio, Agent Pub.Sic. . .	10-
Statement of A.P. Pietro [illegible] -evidence re: cartridge cases	11-
Statement of [illegible] -assailant . . .	12 to 14
Statement of [illegible] Carla -witness, present with assailant at the killing	15 to 16

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74

ARCHIVIO STORICO DELLA RESISTENZA

I N D E X

REPORTS AND STATEMENTS RE: DEATH OF LT. B[illegible]I, DUBOIS DI PIANOSA.

	pages
Report	1 to 4
Report of Dr. Fontana -p.m. of body	5 to 6
Statement of CASTELLI Alberto -witness	7 to 8
Statement of BONDUEL Anne, witness	9 -
Statement of PANETTA Giorgio, Agent Pub.Sic. . .	10-
Statement of A.P. Pietro PASQUA -evidence re: cartridge cases	11-
Statement of [illegible]ASCIO- assailant . . .	12 to 14
Statement of CAPPONI Carla -witness, present with assailant at the killing	15 to 16

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968

I N D E X

REPORTS AND STATEMENTS RE: DEATH OF LT. D. A. [illegible], CARABINIERI DI PITIGLIANO.

	pages
Report	1 to 4
Report of Dr. Fontana -p.m. of body	5 to 6
Statement of CASTELLI Alberto -witness	7 to 8
Statement of MONDUBI Anna, witness	9 -
Statement of PANETTA Giorgio, Agent Pub.Sic. . .	10-
Statement of Lt. Pietro PASQUA -evidence re: cartridge cases	11-
Statement of [illegible] Osorio- assailent . . .	12 to 14
Statement of CAPPONI Carla -witness, present with assailent at the killing	15 to 16

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74

969

H.Q. ZONE OF ION A.M.G.

1.

3rd July,1944.

To: Chief, Public Safety Division, H. . Piazza Venezia.

From:Ca t.T. W.H. Greenhill.

Subject: Death of a Lieutenant of the Guardie di Finanza by shooting, and arrest of culprit.

1. Acting upon your instructions, at 10 p.m.6th June 1944, I took up the enquiry respecting the death, by shooting, of LT. Giorgio BARBARISI, Guardia di Finanza, 2nd Company, Caserma Via Salaria, Rome.
Home Address: 195, Via salaria, Rome.

2. In consequence, I saw LT.COL. Carlo Perinatti, CC.RR., upon the matter, but he could not assist other than to inform me that the body was at the Guardie di Finanza Caserma,Via Regina Elena, Rome.
I then learned from the Officer-in-Charge of the latter Caserma that the body had been removed to the Mortuary at the Ospedale del Celio, Piazza Celimontana, Rome, in preparation for burial, and that the death took place at about 3 p.m.,5th June,1944, at Via Tre Cannelle, Rome.
He was unable to advise me of any person who was a witness, or who had knowledge, of the occurrence.

3. Consequently, at 11.30 a.m., 7th June 1944, I visited the aforementioned hospital, saw the secretary, Major Raffaello Passalacqua, and outlined the known facts to him. I then viewed the body, noted the necessity of expert medical evidence, and sought the assistance of the Major to discover a Doctor capable of such testimony. He introduced me to Doctor Mario Fontana of the Institute of Pathologic Anatomy, Rome University, who offered his services, free of charge.
At 2.45 p.m., the same day, Dr. Fontana carried out a post mortem examination of the chest of the dead man.
His report,with translation, is attached giving a widely informative account of the operation. His deductions shortly are:

a) Death occurred from 48 to 72 hours before the P.M.
b) Death occurred rapidly from acute anaemia resultant upon the passage of a bullet which passed through the left thorax, with partial injury to the Aorta and the Hemothorax, having entered in a region of the Chest corresponding to 1st left intercostal space and passing in a slightly downward direction and having left at the 5th intercostal space on the [illegible] line.

73

970

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c) Bullet of small calibre, probably not more than [illegible] m.m.

c) Distance - shot fired - about 1 to 1½ metres.

4. It was obvious from the findings that the assailant must have been standing above the Lt. when discharging the fatal bullet, and at close range.

5. The scene of the crime at Via Fre Pannelle was then visited. Immediately an explan tion presented itself to account for the direction of the bullet, because the roadway has a distinct upward slope to steps leading to via 24 Maggio.

6. At this juncture I obtained the assistance of Vice Brigadiere INSACCAMBRIA and Guardia PANETTA, both Agents of the Central Questura. To date, they have given invaluable service.

7. On 23rd June 1944, in consequence of information received, I learned that the assailant was a young man named Rosario BENTIVEGNA of 122 Via Torino, Rome. I instructed Guardia Panetta to effect the detention of this man and bring him to me at this H.Q. Further he was not to make reference to the word "assassinio".

8. At 2.30 p.m. the same day I saw Bentivegna in the office of the Public Safety Division, having been detained at about 1 p.m. in the Via Nazionale by Guardia Panetta.

9. I told the suspect who I was and that I was making enquiries into the death of Lieut. Barbarisi of the Guardie di Finanza, which took place at about 3 p.m. on 5th June 1944, death resulting from a shot in the left side of the chest. I then asked him whether he could help me in the matter. The suspect replied: "Yes Sir, I did it". I then cautioned him and he replied: "I want to tell you all about it". He then made a statement in writing, under caution. The statement is attached.

In short it is a complete admission that he fired three shots directly at the deceased Lieutenant, one of which brought about the death.

He gives as an explanation for his actions that being a communist he saw the Lieutenant in Via Fre Pannelle pulling down posters from the wall, amongst which were posters of the Unita' newspaper, a communist organ. He alleges that he remonstrated with the Lieutenant who thereupon was told not to interfere.

He says that the Lieutenant then drew a revolver, charged it with a cartridge and stuck it in his, Bentivegna's body near the heart.

He alleges that he had his right hand in his trouser's pocket holding a loaded Beretta pistol and that at that moment a man in civilian clothes fired two shots. He thought they were directed to him although he was not struck. Because of the shots he says he took to open spaces, dre[illegible] from

72

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hi. trouse pocket and fired three sh s at the Lieutenant. He goes so far as to admit that he thought all three bullets struck the officer.

10. He disclosed the name and address of a girl who was with him at the time of the shooting. She is Carla [illegible], aged 24 years, of 1 Foro Traiano. I saw her at this office on 25th June 1944, and obtained a statement, attached, from her. She bears out almost in detail the story told by Bentivegna. I am satisfied, however, that she cannot be cited as an accomplice in the shooting.

11. I also submit statements taken from Anna Roncubi, 15 Via Tre Cannelle and Alberto Castelli, 98 Via 20 Settembre. The former woman alleges she was a witness to the shooting, describes the assailant and the woman who was with the latter. Mr. Castelli, who arrived soon after the shooting, apart from describing the scene, as he saw it, outlines the conversation he had on the spot with a young man, who was holding a pistol in his hand and the fact that the young man admitted the killing. He also speaks of the young lady. Having in mind the statements of the accused and his girl friend, the aforementioned two persons provide necessary corroboration in connecting the facts.

12. Bentivenga, who is Italian, and has lived his life, to date, in Rome, alleges that he was unaware that the Lieutenant was an officer of the Guardie di Finanza. It is difficult to believe him as the uniform of a Guardie di Finanza is generally known to the Italian people. The Force has all the powers of a Police body apart from being an Arm of the Italian Military Forces.

13. Three pistol cartridge cases of 9.m.m. guage were found at the scene of the crime by Lieutenant Pietro Pasqua of the Nucleo C.R.R. Ludovisi, Via Quintino Sella. They bear identical stamp markings at the base.

14. I have been unable, to date, to trace the whereabouts of the dead man's pistol. Bentivegna says he subsequently gave his pistol away to an Australian Lieutenant, who is yet unknown.

15. I am in the process of obtaining statements to give an account of the passage of the body from the scene of the crime to its subsequent interment.

16. The charge or charges in this case must arise from the Italian Law. I am advised by Commissione Alleata to Codesto

71

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of the Sen[illegible] dottura, Vic Dan Fitzle who is a Graduate of Law, that there is such an offence as wilful murder, with alternative offences of manslaughter down to assault.

17. As against a plea of self defence, I would draw attention to the fact that nobody alleges, not even the prisoner, that the Lieutenant fired a shot. The prisoner admits that he stepped back a few paces before firing. Not one shot but three shots directly at the officer. I wonder whether it could be said that having stepped back a few paces, his obligation was to run away.

18. Another point in issue is the status of the Lieutenant at the time i.e. a member of the Guardie di Finanza and therefore on duty. This point is not yet clear. One must appreciate the unusual conditions existing on 5th June 1944, which has made the enquiry fraught with difficulties..
However, I am endeavouring to produce evidence showing that he was on duty. Statements will be submitted from time to time as they arise.

19. Respectufully submitted for information of legal department.

T.W.M. Greenhill,
Captain
Public Safety Division,
Rome

In the field,
3.7.44.

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Major Hendrickson, Senior Legal Officer
(thro' Col: Poletti)

Referred please

Pollock Lt Col.
Rome Regional P.S.O

3/7/44

73

973

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REPORT OF DR. GIUSTI

RE: AUTOPSY HOSPITAL-MORGUE

Dissection Room.

At the request of the Allied Military Government I have today, June 7 th, 1944 at 2.45 p.m. made the partial autopsy of the body of Giorgio BARBARESI of whose identity nothing further is known.

Queries were made to me by Captain Greenhill of the A.M.G. in regard to:

1) Presumed date of death.

2) Presumed age of deceased.

3) Cause of death.

4) Kind of injuries inflicted and their direction.

5) Type of projectile used.

6) Distance from which shot was fired.

The body of a man of apparently 25 years of age, partially undressed, lies flat on its back on the table of the dissecting room.

On inspecting the corpse green marks of putrefaction are noted on the supra and infra clavicular regions and on the lower regions of the abdomen. There are putrefactive desquamations of large pieces of skin on the limbs and on the back of the body. Rigor mortis has ceased.

On the top part of the left half of the thorax at about 2 centimetres from the sternum, on the 1st intercostal space an oval wound of 8 x 12 mm. with large axis having a perpendicular direction and edges which are clean cut, introflexed, ecchymotic and tattoed for a width of 3 mm. is noted. By testing it with a specillum it is seen that the wound penetrated the thoracic cavity.

On the back, in a position corresponding to the left paravertebral line and the 5th intercostal space there is another oval wound of 1 x 1.5 cm. with edges that are ragged, ecchymotic, out-bending and not tattoed. Also here the specillum confirms that the wound penetrated the thoracic cavity. No other traumatic injuries are found anywhere else on the body.

69

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Upon opening the thorax an abundant quantity of blood (about 2 litres) is revealed, part being liquid and part coagulated in large red clots.

The examination of the passage of the bullet shows that this made a sort of tunnel and that the following parts were affected.

The skin and subcutaneous tissue of the front paries of the thorax- the aponeurosis and left pectoralis majoris muscle, the muscles of the 1st intercostal space, the front part of the left parietal pleura, the upper anterior mediastinum, the arch of the aorta(concave surface) the upper back plarietal pleura, the muscles of the 5th intercostal space, the muscles of the back, the subcutaneous tissue and the skin of the left paravertebral region.

In answer to the queries made, it may be deducted from the above data that:

1) The death occurred from 48 to 72 hours ago.

2) The deceased appears to be 25 years old.

3) Death occurred rapidly owing to acute aneamia caused by a wound inflicted with a firearm with bore through the left half of the thorax with partial injury to the aorta and hemothorax.

The bullet entered in front in a region corresponding to the 1st left intercostal space and following a slightly oblique downard direction came out on a level with the back section of the 5th intercostal space on the paravertebral line.

4) The bullet was of small calibre, probably of not more than 7 mm.

5) The distance from which the shot was fired was of about 1 to 1½ metres.

THE DISSECTOR
Dr. Mario Fontana
of the Institute of Pathologic Anatomy
at the R. University.

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M.I.5.
Rome Detachment

8th June, 1944.

Statement of [illegible], Alberto, s/o [illegible], Via 20 Settembre, 98?, Rome, Lieutenant, Italian Navy, who says:

At about 2.30 p.m. 5th June, 1944, I was standing at the door of the Italian Patriots building in Via Flaminia, 24, Rome, when I heard shots. Shortly after this a civilian, whom, I do not know, passed by me and said "A member of the Guardia di Finanza has been shot". I said "where", and the civilian, a man, replied "There" and indicated towards Via 4 Novembre. I then walked with one or two of the men standing with me towards Via 4 Novembre and when I reached the corner of Via S Cannelle, I saw a crowd gathered at the corner. I walked through the crowd and saw the body of man dressed in the clothes of a Lieutenant of the Guardia di Finanza. I did not know him. I was sure he was dead. The body was lying on its back with feet pointing across Via S Cannelle. The head was pointing towards the right pavement. I then saw two Guardia di Finanza, whom I do not know, who were passing to keep back the crowd. They did so. I then saw a man who was near the body with a revolver in his hand. A girl was with him and she had a revolver in her waist band. There was another man there who was wearing a "Patriotic" arm band. The man holding the pistol had a communist arm band. Red with black marks stamped on it. The girl also had one. I asked the two men and woman what had happened and the man with the communist arm band said "I killed him in personal defence".

I repeated my question and the man replied "He was tearing down some communist notices. I asked him to stop and he drew his revolver and he tried to take my pistol away with that a Guardia di Finanza who was with him fired some shots, so - shot him". I asked who was present and the girl replied "I was". The girl then told me the same story as the communist had told me. She then pointed to the wall and said "You can see the notices are pulled down". I looked and saw some posters were torn, but did not see any torn paper on the ground. I did not look to see. I then asked the communist to give me his revolver, but he refused. I then asked him for personal documents but he could not produce any and stated the reason was because he was guarding the building of the Unita Newspaper. This building is on the corner of Via S Cannelle, and Via 4 Novembre. The man with the "Patrioti" armband was apparently on Police duty because the arm band had "Police" stamped on it. The "patriot" then said "I am waiting for my Captain to come to investigate the matter" with that a woman who was looking out of a window nearby, with a man, said "Cover up the body, it is not a nice sight". I said "Get them some thing to cover" with that one woman of the men took down [illegible] and

67

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and one of the bystanders picks it up and covered the body. I lifted the linen cover and noticed that the injured man was wearing on his left arm a white arm band with English words on it. I think it was "Civil Police".

I waited and later a man, in plain clothes, arrived at the scene. He was wearing on his left arm a "patriot" armband, and on his left lapel he was wearing the gold bars of a "captain" mounted on a light red background.

As he arrived the man with "patriot" armband said "Here is the Captain". I told the Captain the whole story, including the fact that the man and girld had not any documents to show who they were. With that I walked away.

The Lieutenant was not wearing his coat. His shirt sleeves were rolled up. His coat was lying on the front of his body as though he had been carrying it at the time on his arm. I did not see any revolver on him or lying on the ground near him.

I do not know who the Captain is or any of the other three.

I feel sure I could recognise the girl again and might identify the other three persons.

The communist was about 2[illegible] years of age, about 5ft. 7 or 8 ins., medium build, clean shaven, normal face, fairish complexion, black hair, dress: grey clothes, no hat.

The girl was short, medium build, dark brown hair, dress: red designed dress, tight at the waist.

I cannot give a description of the "Captain" or the "Patriot" man, but I might recognise them again.

This statement has been read to me in Italian by Silvano Palumbo and it is true.

(sgd) Alberto Castelli

Witness T.[illegible]. Greenhill, Capt. C.A.P.

ATTI N. 1.

Year 1944 10th June
in Via Tre Cannelle No.15,
Rome.

RONCUBI Anna, married Ricci, parents unknown, born at Copparo (Ferrara) on 15.2.1892, porter of house No.15 in Via Tre Cannelle, is before us, officers and agents of Judicial Police detailed with allied Military police, to be questioned regarding the murder of Sub.Lt. of Finance Guards BARBARISI. She declares as follows:

"On the 5th inst. at about 14.30 o'clock, I happened to be standing at the door of thehouse of which I am porter. I noticed a sub.lt. who had his coat over his left arm, and a man of whom I cannot describe the features, exchanging some words. Immediately after the man, height about 1.70 meters, slim, who was holding a pistol, fired at short range against the officer, wounding him mortally.

The murderere then turned to a woman: age about 20-25, height about 1.50 meters, slim, thin face, straight hair, and ordered her to make me close the house door, and to dispurse onlookers who had assembled. Being frightened, but wishing to see what was happening, I went up to the first floor and looked out of the window. Thus I was able to note that the murderer and his accomplice were still on the scene of the crime, quite near the body, talking to a man of about 50 to whom he was showing a document. The man who was talking to the murderer took out a piece of paper and a pencil, making notes:

In answer to question:
I was not able to notice if the murderer wore an armlet, nor if the woman was armed.

In answer to question:
After about two hours, the body, which had been covered with a sheet provided by Signora Verzini, had Finance Guards sentries placed by it, and at about 18 o'clock it was taken away by a small lorry belonging to Finance Guards.

In answer to question:
I have no more to say".

Read, confirmed and signed by:

Roncubi Anna

Insaccanebbia Francesco
Panetta Giorgio

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948

Verb. 1.

Rome, 10th June
Via Lucullo No.13,
Rome.

[illegible], married, parents unknown, born at Foggia (Capitanata) on 10.5.1892, porter of house No.15 in Via Lucullo, in before us, officers and agents of Judicial Police detailed with allied Military police, to be questioned regarding the murder of Sub.Lt. of Finance Guards [illegible]. She declares as follows:

"On the 5th inst. at about 14.30 o'clock, I happened to be standing at the door of thehouse of which I am porter. I noticed a sub.lt. who had his coat over his left arm, and a man of whom I cannot describe the features, exchanging some words. Immediately after the man, height about 1.70 meters, slim, who was holding a pistol, fired at short range against the officer, wounding him mortally.

The murderere then turned to a woman: age about 20-25, height about 1.50 meters, slim, thin face, straight hair, and ordered her to make me close the house door, and to disperse onlookers who had assembled. Being frightened, but wishing to see what was happening, I went up to the first floor and looked out of the window. Thus I was able to note that the murderer and his accomplice were still on the scene of the crime, quite near the body, talking to a man of about 50 to whom he was showing a document. The man who was talking to the murderer took out a piece of paper and a pencil, making notes:

In answer to question:
I was not able to notice if the murderer wore an armlet, nor if the woman was armed.

In answer to question:
After about two hours, the body, which had been covered with a sheet provided by Signora Terzini, had Finance Guards' capotes placed by it, and at about 18 o'clock it was taken away by a small lorry belonging to Finance Guards.

In answer to question:
I have no more to say".

Read, confirmed and signed by:

Antonia Anna

[illegible]
Arnetta Virgilio

65

979

10

HQ. ...
...ma Ventuno
Rome.

27th June, 1944.

...O, ...ent of Public Safety,
Questura Centrale, Via Genova, Rome, who says:

On 5th June at about 3 p.m. I was walking along the Via 4th November when my curiosity was attracted to a group of persons who were standing in a circle in the Via Tre Cannelle, apparently looking at something. I went up to the crowd and lying in a horizontal position on the ground I saw the apparently lifeless body of a Lieutenant of Guardia di Finanze.
I now know that the dead man was named BARBARISI Giorgio.

I noticed that the officer was wearing grey-green trousers, with yellow bands down the sides, a grey-green shirt and a belt with an empty revolver holster attached. Near the dead man, I saw his jacket and his service forage cap. He was readily recognised as a member of the Guardie di Finanza.

On 28th June, acting upon the instructions of Capt. Greenhill, HQ. MG. Piazza Venezia, at about 1 p.m. I arrested a young man named BENCIVENGA Rosario of Via Torino 122 in the Via ...nazionale.

I took him to HQ. MG. and handed him over to Capt. Greenhill.

Later that afternoon I was present when the young man made a written statement, under caution, to Capt. Greenhill, and I heard him admit that he was the person responsible for the shooting of Lieut. BARBARISI.

(sgd) PALETTA Giorgio

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980

II

LEGIONE TERRITORIALE DEI CARABINIERI REALI
DI ROMA

NUCLEO LUDOVISI

18th June 1944

At 14,30 o'cl. on June 5th unknown persons killed Sub.Lt. Giorgio Barbarisi of Finance Guards, in via Tre Cannelle, with three pistol shots.
Three shells were picked up at the place.
This Command has not made further enquiries as the matter was passed on to the Questura.
The shells were picked up personally by undersigned, who was immediately sent to the spot.

Il Tenente Comandante
PIETRO PASQUA

63
981

Reparto, questo documento è molto importante perchè dimostra la propria responsabilità del ten. Col. Pollock

ZONE ENGLISH
ALLIED CONTROL COMMISSION
A.F.H.Q. No.204, U.S. ARMY
Police Headquarters

24th June, 1944.

SUBJECT: Murder of Lieutenant of Finance Guards named Giorgio CALOGERO.

TO : Col. C. POLETTI, Rome.

copies to: General Johnson
Colonel Ames
Major Fielden
Major Hendrickson.

OK
concerne
generale
Poletti

1. About 3 P.M. 5th June, 1944 (the day of our occupation of the City) a police Finance Guard, Lieutenant, was shot dead at Via Tre Canelle, Rome. He was shot in broad daylight through the chest with one bullet, and died almost immediately. There was no clue as to the assailant.

2. Immediate instructions were given to the Questore to proceed with the enquiries in the ordinary way, but I felt the crime was such that immediate investigation was necessary by our Public Safety Division. As you know we had to disarm the overnight partisan police force of 17.000 upwards, and I felt that unless we stamped out this shooting by civilians ruthlessly the position might very soon become out of hand. Moreover, it came to my knowledge from reliable sources that many of the so-called communists and socialists were banding together to wipe up old scores with their fascist and other enemies. In short they were prepared to take the law into their own hands. The same afternoon I saw all the leaders of the various political groups, and warned them in no uncertain terms that we would tolerate no shooting or extreme measures by civilians in this city. They denied that any political parties were involved in the shooting of the Finance Guard, and they were unable to help me in the investigations.

3. I at once withdrew one of my officers from his District of Roma Vecchia, Capt. T. [illegible] GREENHILL (3), who served with me as a detective officer, attached to the Criminal Investigation Branch, New Scotland Yard, London. Knowing his record I felt he was the one man who could handle this murder case. Capt. Greenhill at once took up the enquiries and from 6th June until last night he has been on this case day and night. By a process of elimination he has interviewed well over 200 individuals, dealt with over 100 suspects, and during the last three days narrowed the enquiries down to three or four suspects.

4. By 8 p.m. yesterday, 23rd June, 1944, he had obtained sufficient evidence to arrest one Rolando [illegible], age 22, medical student, of Via Torino 152, Rome, an avowed member of the

REGION IV CASE N° 7762

982

Communist Party and self-styled partisan.

5. I was present when Capt. Greenhill handled this individual. Bentivegna was properly cautioned and agreed to make a written statement to Capt. Greenhill. In this written statement to Capt. Greenhill, Bentivegna confessed to the shooting of the Finance Guard, his excuse being that the Finance Guard Lieutenant had attempted to pull down certain wall posters including a poster respecting the "Unita'" newspaper, which is the communist organ. The evidence is clear, the confessions is straight forward, and there is no doubt the evidence will show that Bentivegna shot the Finance Guard in cold blood.

6. In the ordinary way such cases could be tried by the Italian Courts by Italian Judges, but I submit that this case is so serious, the polticial issues involved are so great, that we set up a strong Allied Military Court immediately to deal with this alleged murder. This course, I submit, is highly desirable because of the possibility, in the event of it being tried by an Italian Court, of the influences from political ramifications. Left in our hands, it could not then be said, by opposition parties, that political influence had had any effect upon the result.

7. Capt. Greenhill is having all the statements of witnesses etc. typed out, and will have the case ready for presentation within two days.

8. I strongly recommend that a General Court be set up with General Johnson, Colonel Poletti, and the Senior Civilian Judge of the City to hear the case, that the widest possible publicity be given to the trial so that we can stamp out once and for all such actions of violence on the part of civilians.

9. Fortunately this is the only known case of its kind so we have been very fortunate indeed, but an example must be made at once of this individual if found guilty.

J.R. POLLOCK
Lt. Colonel
Chief, Public Safety,
Rome.

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983

ALLIED MILITARY GOVERNMENT

HEADQUARTERS
ROME REGION

20th June 1944

TO: :Chief Public Safety Division
FROM :Capt. T.W.M.GREENHILL
SUBJ : Death of Lt of Guardia Finanza

989

60

ALLIED MILITARY GOVERNMENT

HEADQUARTERS

20th June 1944

TO : Chief, Public Safety Division
A.M.G. H.Q.
FROM : Capt. T.W.M.GREENHILL
SUBJECT : Death of Lieutenant of Guardia Finanza
REFERENCE
DATE : 20th June 1944

1; Acting upon your instructions, at 10 p.m. 6th June 1944, I took up the enquiry respecting the death, by shooting, of LT. Giorgio BARBARISI, Guardia Finanza, 2nd Company, Caserma, via Salaria, Rome.
Home Address : 195, via Salaria, Rome.

2. In consequence, I saw LT.Col. Carlo Perinetti, CC.RR.,upon the matter, but he could not assist other than to inform me that the body was at the Guardia Finanza Caserma, via Regina Elena, Rome.
I then learned from the Officer-in-Charge of the latter Caserma that the body had been removed to the Mortuary at the Ospedale del Celio, Piazza Celimontana, Rome, in preparation for burial, and that the death took place at about 3 P.m., 5th June 1944, at via Tre Cannelle, Rome.
He was unable to advise me of any person who was a witness, or who had knowledge, of the occurrence.

3. Consequently, at 11.30 a.m., 7th June 1944, I visited the aforementioned hospital, saw the secretary, Major Raffaello Passalacqua, and outlined the known facts to him. I then viewed the body, noted the necessity of expert medical evidence, and sought the assistance of the Major to discover a Doctor capable of such testimony. He introduced me to Doctor Mario Fontana of the Institute of Pathologic Anatomy, Rome University, who offered his services, free of Charge.
At 2,45 p.m., the same day, Dr.Fontana carried out a post mortem examination of the chest of the dead man.
His report, with translation, is attached giving a widely informative account of the operation. His deductions shortly are : 52

985

A. Death occurred from 48 to 72 hours before the P.M.

B. Death occurred rapidly from acute Anaemia resultant upon the passage of a bullet which passed through the left half of the thorax, with partial injury to the Aorta and the hemothorax, having entered in a region of the Chest corresponding to 1st left intercostal space and passing in a slightly downward direction and leaving the back at the 5th intercostal space on the paravertebral line.

C. Bullet of small calibre, probably not more than 7.m.m.

D. Distance - shot fired - about 1 to 1½ metres.

4. It was obvious from the findings that the assailant must have been standing above the Lt. when discharging the fatal bullet, and at close range.

5. The scene of the crime at via Tre Cannelle was then visited. Immediatly an explanation presented itself to account for the direction of the bullet, because the roadway has a distinct upward slope to steps leading to via 24 Maggio.

6. At this juncture I obtained the Assistance of Vice Brigadiere INSACCANEBBIA and Guardia PANETTA, both Agents of the Central Questura. To date, they have given invaluable service.

7. Although I have yet to trace a witness of the actual shooting, one has come to light who was on the scene soon after the happening. He is Mr. Alberto CASTELLI, via 20th September, 98 E Rome, a Lieutenant in the Italian Navy. He avers that at about 14,30 hours on 5th June 1944, he was standing at the door of via Pilotta 24, Rome, when he heard shots. He went to the corner of via Tre Cannelle, and upon pushing through a crowd of people in the street, he saw the Lieutenant lying across the roadwey on his back, obviously lifeless. Near the body he saw a young man, whom he describes, with a revolver in his hand. He asked the man what had happened and he replied: "I killed him in personel defence", Mr.Castelli pressed him for further information, and the man added: " He was tearing down some communist notices. I asked him to stop and he drew his revolver and he tried to take my pistol away. With that a Guardia Stanza who was with him fired some shots, so I shot him".

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986

Mr. Castelli says he asked the man who else was present and a girl, whom he describes, standing nearby, replied that she had been. This girl apperently told the same story as the confessed assailant, and drew Mr.Castelli's attention to torn posters on the wall close at hand.

8. Several other witnesses have been interviewed but none can add to the story told by Mr.Catselli, although they could be used to support the latter's evidence.
Neither the Guardia Finanza – alleged to have fired the shots – or the woman have yet been found.
Two interesting points have been disclosed, the finding at the scene of three cartridge cases by Lt.Pietro PASQUA, CC.RR. Ludovisi, and the fact that Barbarisi's holster was empty. The revolver, if he had one, has not yet been traced.

9. However, I have succeeded in contacting an informant ahd he assures me that the assailant was a man, ROSARIO BENTIVEGNA, of via Torino 122, Rome, who left Rome on 7th June 1944 for the Viterbo district with a group of " Italian Patriots " to carry out guerilla warfare in German occupied territory.
Discreet enquiries are in operation, in via Torino district, to bring about the apprehension of the suspect for interrogation, and in any event my informant will advise me should Bentivegna – assuming he is out of Rome– return here.

10. This is an Interim report, and the return of these papers are requested, after passing through channels, for periodical recording of future developments. Statements, etc., are being retained for translation, etc.

T.W.M. GREENHILL, Capt., C.A.P.O.

In the field.
20.6.44.

57

987

Nothing to do
with administration -
merely a relation
of police investigation

P.D.

File
Courts
General

R.C.N.

56

988

LEGAL

Recd. 29-8-1944

Major Hendrickson

Regional Legal Officer

Region IV.

CONFIDENTIAL

Dear Major Hendrickson.

Lt Col D.H.D. Young has been asked by Brigadier Low for a brief note on the "Bentivenga" case, in which after the accused had been sentenced to 18 months imprisonment, he was released on appeal.

Could you very kindly supply such a note direct to Colonel Young, G-2, RAAF as I understand the Brigadier is anxious to get this through tomorrow, if possible.

989

MOD. No. 12
(riveduto)

FORM. No. 12
(revised)

COMUNICAZIONE DI SCARCERAZIONE AVVENUTA

Al capo delle carceri di Regina Coeli

Oggi, il Bentivegna Rosario,
dalle Competenti Autorità per la Revisione del Processo
è stato messo in libertà ~~dal Tribunale Militare Alleato~~ perchè

+ { gli è stato concesso la cauzione
è stato prosciolto
ha pagato la multa inflittagli
è stato giudicato ad una pena condizionale

Data: 16 Agosto 194 4

(Presidente del Tribunale Militare Alleato)

TRANSLATION

STATEMENT OF RELEASE FROM PRISON

TO: The Head of the Prison of Regina Coeli

Today Bentivegna Rosario
Reviewing Authority,
has been set free by the ~~Allied Military Court~~ because he has

+ { been granted bail
been acquitted
paid the fine imposed on him
been sentenced to a suspended sentence

Dated 16 August, 194 4

(President of Allied Military Court)
ROBERT C. HENDRICKSON
MAJOR A.U.S.
REGIONAL LEGAL OFFICER.

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990

HEADQUARTERS.
ALLIED MILITARY GOVERNMENT
REGION IV.
LEGAL DIVISION
A.P.O. 394

L/1030

8 August 1944.

SUBJECT : Decision of Court in case of BENTIVEGNA ROSARIO.

TO : "Corriere Giudiziario"
Avv. Lombardi,
Via Montebello N/22.

1. In accordance with your request, I am forwarding herewith the decision of the Court in the famous trial of BENTIVEGNA ROSARIO.

2. I will be only too happy to supplement, at your request, any further information in regard to the case.

ROBERT C. HENDRICKSON
MAJOR, A.U.S.
REGIONAL LEGAL OFFICER.

RCH/AC.

991

D e c i s i o n .-

Prima di tutto la Corte desidera dichiarare che nel giungere alla decisione di questa causa, non è stata determinata nè dall'uno nè dall'altro lato da considerazioni politiche. Nel pensiero della Corte non ha alcuna importanza il fatto che l'accusato sia o meno membro di qualsiasi partito politico o che i manifesti, i quali, venendo strappati originarono i fatti incresciosi che seguirono, appartenessero ad un qualsiasi particolare partito od organo politico. Il deceduto era un essere umano e l'imputato deve essere giudicato da questa Corte ugualmente come un essere umano.
La Corte ha già dichiarato che, a meno che non sia convinta al di là di ogni ragionev ole dubbio della colpevolezza dell'imputato, egli deve essere prosciolto. Nella presente causa non vi è dubbio che l'imputato abbia ucciso il Tenente Barbarisi; egli stesso lo ha ammesso. Perciò, l'unica questione che rimane è se in queste particolari circostanze l'uccisione è stata un atto legale o illegale. L'imputato sostiene che si trattava di un atto legale, per la ragione che egli ha agito in propria difesa ed invoca l'applicazione dell'art. 52 del Codice Penale Italiano.

Nel valutare la fondatezza della richiesta dell'imputato, la Corte si deve lasciare guidare unicamente dalle prove risultanti dal processo. Queste prove sono state estremamente lunghe e voluminose e la Corte le ha prese molto attentament in considerazione. Come è già stata messo in rilievo, vi è un considerevole conflitto di testimonianze fra i vari testi, con riguardo a molti particolari di maggiore o minore importanza. La Corte non si propone di esporre qui dettagliatamente il suo giudizio circa l'esattezza o meno di ogni testimonianza. Avendo sentito e valutato tutte le prove, è stato possibile formare un quadro ben chiaro dei punti essenziali di ciò che è avvenuto.

La Corte è convinta che l'imputato, vedendo il deceduto strappare i manifesti, gli si rivolse in maniera arrogante ed ostile; che il deceduto rispose in maniera ugualmente ostile; che tirò fuori la pistola e la puntò contro l'imputato; che l'imputato, in seguito a ciò, senza aspettare, tirò fuori a sua volta la pistola e fece fuoco sul deceduto. Nell'opinione della Corte, questa è una causa in cui due giovani eccitabili e impulsivi perdettero il controllo dei nervi e ricorsero precipitosamente e senza necessità all'uso di armi da fuoco.

Rimangono perciò da considerare le conseguenze legali delle azioni commesse dalle due parti. Nel far ciò, noi non dimentichiamo che i fatti avvennero il 5 Giugno 1944, giorno in cui, senza dubbio, l'atmosfera era natura di elettricità ed i sentimenti erano eccitati. Pur considerando questo, la Corte è convinta che l'atto del deceduto di estrarre la pistola non era ingiustificato e costituiva una "offesa ingiusta" secondo l'art.52 del Codice Penale. Posto ciò, la Corte

992

è però altrettanto convinta che la reazione dell'imputato è stata ugualmente ingiustificata ed eccedette colposamente i limiti della proporzionata all'offesa. Come ha detto il Pubblico Ministero, l'imputato, quando si trovò dinnanzi alla pistola del deceduto, aveva altri mezzi per fronteggiare la situazione, senza far fuoco uccidendo senz'altro. Il fatto che il deceduto estraesse la pistola non significa in alcun modo che egli avesse intenzione di sparare. Non vi è alcuna prova che egli avesse tale intenzione e nessun teste ha affermato che siano state scambiate parole dalle quali risulti che il deceduto aveva una tale intenzione. In ogni caso, è chiaro che l'imputato aveva a sua disposizione altre vie, oltre a quella estrema da lui scelta.
In tale circostanza, la Corte decide :

1) che la difesa, basata sull'art. 52 del Codice Penale, non è stata completamente dimostrata.

2) che l'imputato non ha agito sotto qualsiasi errore, come contemplato dall'ultimo paragrafo dell'art 59.

Pertanto, la causa deve essere giudicata in base all'art. 55 e il reato è punibile secondo l'art. 589.
Alla conclusione delle prove, il Pubblico Ministero ha ammesso che non vi è stata prova di circostanze aggravanti, come indicato nel foglio di accusa. Pertanto la Corte deve esclusivamente prendere in considerazione se vi sono le circostanze attenuanti previste dall'art 62 del Codice Penale Italiano.

In base alle prove, la Corte decide che l'imputato ha diritto a beneficiare della circostanza attenuante specificata nell'art 62, comma 2. In relazione a detto punto, è stato fatto rilevare alla Corte che opinioni contrastanti sono state espresse da alte autorità giudiziarie Italiane in merito alla questione se un imputato che è giudicato colpevole in base all'art. 55 possa effettivamente beneficiare dell'art. 62 comma 2 ; ma la Corte decide che, visto tale conflitto di opinioni, ogni dubbio nella presente causa deve essere risolto in favore dell'imputato. Per le ragioni summenzionate, la Corte dichiara l'imputato colpevole non dell'accusa fattagli nel foglio d'accusa (cioè,-art.575 e 61 N.10 del C.P.I.) ma del minore reato contemplato nell'art.55, punibile in relazione all'art.589, col beneficio dell'art. 62, N.2.

43

Se la difesa desidera che, prima di emettere la sentenza, la Corte debba prendere in considerazione altre circostanze attenuanti o se desidera fare delle osservazioni riguardanti la sentenza che sarà emessa in base alle decisioni summenzionate, la Corte

è pronta ad ascoltare tali argomenti. Ma, prima di udire tali argomenti della difesa, la Corte deve chiedere al Pubblico Ministero se ha da produrre prove di precedenti condanne dell'imputato.

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Fld. Rel. 1023

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

/rlg.
5 August 1946.

ACC/4003/1/L.

SUBJECT : Petition for Review - BENAVIDES Rosario.

TO : Regional Legal Officer (ZIVIL Regional Commissioner), Region IV.

1. I return herewith the Petition for Review in the above case and the Remarks of the Court. You will notice that I have written a note on the two last sentences - sentences which affect neither the verdict nor the sentence of the court.

2. No doubt, you will submit the record for review in due course.

I. Campbell LtCol

I.G.H. CAMPBELL,
Lt. Col.,
Chief Judicial Officer,
for Acting Chief Legal Officer.

Encl.

43

REGION IV CASE N° 7762

995

JUL 28 1944

AVV. RUGGERO DI SENI

ROMA - LUNGOTEVERE ALTO

TELEF. 580-588

1007

Rome, June 27, 1944

To: Major Hendrickson
Legal Division
Rome Region

Dear Sir,

I enclose herewith the bill regarding the case of Benti=
vegna.
I have changed the figure we spoke about, thinking the importance of the case and the responsability would justify it. But will you please decide as you think better.
I thank you,

yours

41

996

AVV. RUGGERO DI SE[illegible]NI
ROMA - LUNGOTEVERE ALTO [illegible]
TELEF. [illegible]

Rec'd Aug 4'44

Legal

August 1944

1107

To : A.M.G.

ROME REGION

LEGAL DIVISION

I enclose the new copies of my bill regarding the Bentivegna case, as requested with your letter dated I August I944.

I return also the previous letter and bill.

Enclosures:
I) Letter and bill dated 27 July I944.
2) Two copies of the bill.

40

997

A.M.C.Superior Cour Rome Area
Palazzo di Giustizia, Rome

July 10

Rome ,July 8th 1944

Major Robert C. Hendrickson
C.M.P.,
Regional Legal Officer,
Roma

SUBJECT: A.M.G.v. BENTIVEGNA ROSARIO.di VINCENZO

1. Confirming conversation with Capt.Gazziano the Prosecution is now prepared to proceed with the case on Wednesday July 12th 1944.
2. May arrangements now be made for a Court.
3. Copy charge sheet served on the accused is enclosed herewith.

Howell Jones Capt.
Howell Jones Capt.
Superior Court Prosecuter

Enclosure: Copy charge sheet

33

998

Talked to Col. Pollock about this. He feels that if any harm has been done, it is over with. It would have no effect on our courts. Newspapers should be strongly warned by our P.R.O. that they are not to discuss cases in papers as they have done in Bentivegna case.

Recommend I talks to major Leacacos about this.

RAG

file RAG

Recd July 18, 44

P/Q/P/16

Confidential-Urgent.

Office of D.C.P.S.
Rome, 16/7/44.

Lt. Col. J.R.Pollock,
Chief Public Safety, Rome.

May I draw your attention to the attached newspaper - L'Unita, dated 14/7/44, page 1, Col.1 and the caption at the right ~~hand~~ nand top corner of page 1.

The column is one such as would not be permitted in even the most provocative of presses. Two cases are referred to:

(i) That of Bentivegna

(ii) That of Caruso.

The first is under trial and the case is therefore sub-judice.

The second has not yet been brought to trial, yet Caruso is, in this article, already condemned by the paper as the "Assassin of Ardeatina".

I would like to suggest that this article oversteps the bounds of press liberty, and that the caption, if not illegal, is an improper one at a moment when the accused, Bentivegna, is under trial.

Could legal opinion please be obtained, with a view to correction of this type of journalism.

The law books at my disposal do not cover this subject sufficiently.

Major.

Deputy Chief Public Safety.

Copy to:

Director Public Relations.
(For information)

Cc Maj Lucas (Koo' Maj. Kendrick) but not much can be done now, perhaps Re Press might be warned to possible injustice to accused when case is sub judice to refrain from such comments

Pollock 6/7

1917

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T R A N S L A T I O N

Document: Newspaper.
Date: I4th July I944.
From: Newspaper "L'Unità".
To:

The Case BENTIVEGNA.

The high number of Germans killed in the hardest of the wars, the partisan war in the roads, now they are not in our Country, they do not terrorize the Italian population, subject to the enemy joke, they do not fight against the liberators of our democracy, Armies. The 84 Germans strike off the fight by Bentivegna, in 9 months time, they will not kill, they will not pour more brave blood of British, American and French soldiers who fight for the liberation of our Country? This is the mind which rise, to day in the spirit of the Roman Patriots and becomes moved sentiment in the reminding of one of the most shining image of the heroic resistance of Rome.

9 month of terror. The Roman peuple, under the German heel subject to the brutal domination of Hitlerians and to the sadic torture of their brutal companions, the Fascist; suffers reists and rebels himself. A phalanx of heros encourages the resistance, drives the revolt, the G.A.P.. And among the G.A.P. who are for the popular mind as heros of legend, an image contrasts, harder, clearer better engraved than any else, an image that only his companions know to which very few can give a name, but the enemies of the peuple cannot remind without a frozen trembling of fright. A man, an hero among the heros, from whom also the death seems fright, Rosario Bentivegna. 50 war actions against Germans and Fascists, 84 enemies killed in action, this is the balance of 9 month Bentivegna's war activity.

And when the Germans would be sent out from Rome, thought the Roman workers, will be the heros of resistance to be in charged to destroy what Fascists hve left; to contribute , holding the first rank, to purify the life of our country. And when the Germans went away from Rome, while the Allied Military Authorities had not organized their Control power, the heros of resistance have been in charged by the Committee of National Liberation to mainatain the order, to,watch and reperess all offensive return of Fascists.

Undoubtely & with reason Rosario Bentivenga exchanged man dressed as soldier for fascist or militia-man - who 35 on the 5th (while he was on duty) tore from walls with gesture of hatred & contempt - manifests of Liberation Committee ~~Party~~ and Communist Party - And his impression was strengthened by fact that upon intimation of ceasing stranger took out pistol & aimed against patriot against whom in meantime another fired.

In evident state of legitimate defense against aggression that he rightfully thought came from fascists - Bentivenga reacted with same spirit as when he fought in the 50

1001

battles during past nine months.
After aggressor was killed it was made clear that it was not a fascist but ~~fixxxxxxxxfixxxr~~.custom officer.

But as the facts happened do not give any relief to the displeasing misunderstanding.

Remains complete and incontestable all the true that Bentivegna has proceeded for self defence, and the Roman citizens truly are surprised because Bentivegna is in prison, accused of murder.

Bentivegna who during 9 months has spent his life, every day for the defence of hid Country, fighting on the front of liberty to hemp with the most dangerous and efficient action the advanc e of the liberator Allied Armies. Bentivegna, the hero of all the battles, closed in the same prison where is Caruso, the dark murder of Ardeatina Grave! Bentivegna the heroic purifier of the heroic time of Nazi terror, purified him also because he has done his task being in duty.

Bentivegna thé hero of antifascism prosecuted by antifascistx Authorities.

With reason today the Bentivenga case - troubles the conscience of patriots & of all the Italians. Only one way is to appease or calm this - apply the law with equanimity - with justice & democratic drsire to serve population & so acquit & free the heroic patriot.

(2)

The peuple and the Patriots of Rome wait for the liberation of Rosario Bentivegna.

34

1002

file Bentivegna

To the President of the Allied Military Court
at the Palace of Justice.
Rome.

In case:

To the Direction of the Daily Paper "Risorgimento liberale"
Via Frattina 89.
Rome.

With reference to the Bentivegna case, part of the foreign press forces itself to describe the latter as the pure figure of a patriot and almost a heroe. Apart from the fact that the public is more than convinced that he is guilty of a real and proper murder of the poor Lieutenant Barbarisi, it is obvious that Bentivegna is the typical figure of a born delinquent. In fact he has on his conscience the tragic end of 320 persons in the Ardeatine caves: if he had had the smallest amount of heroic sense, he would have had the courage to present himself at the right time to the Germans to confess his guiltiness of the incident of Via Rasella, in order to save the lives of 320 innocent and really heroic patriots.

But he preferred to sacrifice the life of 320 patriots rather than face death himself: can this be called heroism? no; this is the utmost degree of cowardice, and the souls of the 320 persons of the 24th March call out for vengeance against the cowardly Bentivegna, who should be repudiated and disowned by all parties, if they intend really to honour the memory of the 320 martyrs of the Ardeatine caves.

Rome. 14th July 1944

32

A pub he osservi

ALLIED CONTROL COMMISSION
ROME REGION

Roma, 12 luglio 1944

Spett.Redazione
"IL CORRIERE DI ROMA"

Vogliate pubblicare nel numero del "CORRIERE DI ROMA" di domani 13 luglio 1944 il seguente articolo:

Domani 14 luglio 1944,alle ore 9,30, avrà inizio presso la Corte Generale del Governo Militare Alleato il processo a carico di Bentivegna Rosario di Vincenzo, imputato di omicidio nella persona del Sottotenente della Guardia di Finanza Giorgio Barbarisi.L'omicidio ebbe luggo in Roma il 5 giugno 1944.
L'udienza sarà pubblica.

Lt. Louis A.Sabatino
Prosecutor General Military Court

P.S. Reporter giornalistici potranno intervenire all'udienza, con l'intesa che nulla sarà pubblicato senza il preventivo consenso delle Autorità Alleate.

31

1004

Aim G/ACC.
H.Q.
Piazza Venezia,
Rome,
23rd. June 1944

Statement of BENTIVEGNA, Rosario, age 22yrs.
Via Vincenzo, Medical Student, of Via Nomo, No 122, (Apartment on second floor). Rome, Who, says:-

I have been cautioned that I need not say anything unless I wish, but anything I do say will be taken down in writing and may be used in evidence.

Bentivegna Rosario -

I was a partisan in Roma and in the Country from 8th September, 1943, when the Armistice was signed. At that time I was a Communist, in fact, I still am. I was arrested on 20th September 1941, in Rome by the Fascist Police on Clericity grounds. I was taken to the Questura in Collegio Romano [illegible]

1005

Am G/ACC.
A.G.
Piazza Venezia,
Rome,
23rd June 1944

Statement of BENTIVEGNA, Rosario, age 22yrs.
Via Vincenzo, Medical Student, of Via Sotino, No 122, (Apartment on second floor).
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1006

Am G/ACC.
A.G.
Piazza Venezia,
Rome,
23rd. June 1944

Statement of BENTIVEGNA, Rosario, age 22yrs.
fu Vincenzo, Medical Student, of Via Nomentano, No 122, (apartment on second floor). Rome, who says:-

I have been cautioned that I need not say anything unless I wish, but anything I do say will be taken down in writing and may be used in evidence.

Bentivegna Rosario -

I was a partisan in Roma and in the Countryside from 8th September, 1943, when the armistice was signed. At that time I was a Communist, in fact, I still am. I was arrested on 20th September 1941, in Rome by the Fascist Police on security grounds. I was taken to the Questura in Collegio Romano [illegible]

1007

and was interrogated because they found out that I ordered on 5th May 1941, to distributing Anti-Fascist bills. They kept me for four or five days and released on the condition that if I was caught again circulating this propaganda within three years I would be imprisoned. After about eighteen months I again started my Communist activities. During the eighteen months I took up my R3 medical studies. In February 1943, because of my age, I was called up for the Army and was put into a Sanitary Company, No 8. and remained in Rome in the military Hospital at Celio. I was there until May 1943, when I was released for an indefinite period. I was still assisted in Anti-Fascist and in July 1943, I again contacted my Communist Comrades. We could not become active openly, so I became an active member of the Communist underground movement in

K

1008

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K

1009

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R3 Italian Co. Camp

K

Rome. My idea was in the Order of Rome and I was the second in Command. I held the position until 15th november 1943, when I became involved in the G.A.P. which means Gruppo Azione Patriotica, a part of the Communist Party, and was the Commander of the "Pisacane" squadron. On 22nd January 1944, when the Allies landed at Anzio I was sent to Cantocille in charge of the Partisans there. In March I was recalled to Rome and again took up my previous Command, and have been here ever since. In may, 1944, I was sent out of Rome in charge of the Partisans between Rome and the Cassino front. I returned to Rome on 2nd June 1944 to make a report to my headquarters. On 4th June 1944, I

Mon Gr Capt

Rome [illegible] was in the Gates of Rome and I was the Second in Command. I held the Position until 15th November 1943, when I became involved in the S.A.P. which means Squadre Azione ~~Patriotica~~ Patriotica, a part of the Communist Party, and was the Commander of the "Pisacane Squadron". On 22nd January 1944, when the Allies landed at Anzio I was sent to Centocelle in charge of the Partisans there. In March I was recalled to Rome and again took up my previous Command, and have been here ever since. In May, 1944, I was sent out of Rome in charge of the Partisans between Rome and the Cassino front. I returned to Rome on 2nd June 1944 to make a report to my Headquarters. On 4th June 1944, I

Mon Gr Capt

Rome. My area was in the Castelli of Rome and I was the Zone Commander. I held the position until 15th November 1943, when I became involved in the G.A.P. which means Gruppo Azione ~~Patriotica~~ Patriotica, a part of the Communist Party, and was the Commander of the "Pisacane" squadron. On 22nd January 1944, when the Allies landed at Anzio I was sent to Cantocille in charge of the Partisans there. In March I was recalled to Rome and again took up my previous Command, and have been here ever since.

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Lt Col Gr Capt

4 to Lascia in sul V.le

war on my return when I was stopped
by Italian troops near the Ponte
Mammolo about 10 kilometers
outside of Rome on Via Tiburtina,
and owing to the fighting I returned
to Rome, and took up service with
my patriots in the San Lorenzo
District On the morning of 5th June
1944, I was sent to guard the
building of the Unità newspaper
in Via 4 Novembre, Roma, near
Via Le Cannelle. I arrived there at
about 10:30 am. At about 3 pm,
I walked into Via Le Cannelle on
a tour of inspection and saw two
men, one in civilian clothes and one
in uniform, who was carrying
coat over his arm. It was an
Italian officer's uniform and I did not recognise
what arm of the Italian service it
belonged to. These two men, I see

Lt Col Capt

his Atmey

1016

4 to Cassino front
was on my return when I was stopped
by Allied troops near the Ponte
Mammolo about 10 kilometers
outside of Rome on Via Tiburtina,
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1944, I was sent to guard the
building of the Unità newspaper
in Via 4 Novembre, ~~Novembre~~ Road, near
Via Due Macelli. I arrived there at
about 10:30 am. at about 3 pm,
I walked into Via Due Macelli on
a tour of inspection and saw two
men, one in civilian clothes and one
in uniform, who was carrying two
Italian Capt. ~~Capt~~ attaché cases like ours. I was an
officer
investigating and I asked that person
what item of the Italian services he
belonged to. These two men, I said

1015

4 to Cassino front 12

was on my return back I was stopped by Allied troops near the Ponte Mammolo about 10 kilometers outside of Rome on Via Tiburtina, and owing to the fighting I returned to Rome, and took up service with my patriots in the San Lorenzo district on the morning of 5th June 1944, I was sent to guard the building of the Unità newspaper in Via 4th November, Rome, near Via Due Macelli. I arrived there at about 10.30am. at about 3pm, I walked into Via Due Macelli on a tour of inspection and saw two men, one in civilian clothes and one in uniform, who was carrying his Staff car key in his hand. I was an Italian officer of gun commissario officer. Uniform and I did not recognise what arm of the Italian service he belonged to. These two men

Capt

1016

Waving down from the
wall near the steps leading from Via
del Carnelle to Via 24th May,
including posters of the Mussolini
newspaper. I was with a friend
named Carla Capponi, a lady, who
lives in Via del Foro Traiano, 1, Rome.
Carla and I went up to men and
I asked them why they were tearing
down the posters. The man in uniform
answered arrogantly, "I can do as
I please. Who are you?" I replied,
"I am a member of the Committee of
Liberation" and showed him my
armband, which I was wearing
on my left arm. The one I had
upon is the one I was wearing at
this moment the man in uniform
pulled his revolver from the back
of me took a callidge in his hand

Mussolini Castle

Waving letters from the
wall near the steps leading from Via
Del Carmelle to Via Sistina, many
including posters of the Unità
newspaper. I was with a friend
named Carla Cattoni, a lady, who
lives in Via del Boro Traiano, 1, Rome.
Carla and I went up to men and
I asked them why they were tearing
down the posters. The man in uniform
answered arrogantly, "I can do as
I please. Who are you?" I replied,
"I am a member of the Committee of
Liberation" and showed him my
armband, which I was wearing
on my left arm. The one I had
upon is the one I was wearing at
this moment the man in uniform
pulled his revolver from the back
of his jacket a calibre 9 and

Mussolini Capo

Wearing Italian leaders from the
waist near the hips leading from Via
Sistina Cannella to Via Frattina may,
including footsteps of the Media
newspapers. I was with a friend
named Carla Cattani, a lady, who
lives in Via del Moro Trastevere, 1, Rome.
Carla and I went up to men and
I asked them why they were tearing
down the Posters. The man in uniform
answered arrogantly, "I can do as
I please. Who are you?" I replied,
"I am a member of the Committee of
Liberation" and showed him my
armband, which I was wearing
on my left arm. The one I wear
now is the one I was wearing at
this moment the man in uniform
pulled his revolver from the back
of his belt a calibre 9 and

Winston Cobb

struck the revolver in my body
near the heart. I had my right
hand in my trousers pocket, holding
a loaded "Beretta" pistol, calibre
9 mm. (short). At the time the uniformed
man put the pistol to my body, the
man in civilian clothes fired two
shots. I thought they were at me.
I was not struck by them. I stepped
back a few paces, drew out my
pistol and fired three shot at the
uniformed man. I thought all shots
struck him in the body. The uniformed
man then fell to the ground. The
man in civilian clothes then ran
away. I cannot remember which
way he went. As I saw the man on
the ground I then noticed he
was a lieutenant of the guardia
nfranza. My old friend was lieut.

Luis Cano

1020

struck the revolver in my body
near the heart I had my right
hand in my trousers pocket, holding
a loaded "Baretta" pistol, calibre
9 mm. (short). At the time the Uniformed
man put the pistol to my body, the
man in civilian clothes fired two
shots. I thought they were at me.
I was not struck by them I stepped
back a few paces, drew out my
pistol and fired three shot at the
Uniformed man. I thought all shots
struck him in the body. The uniformed
man then fell to the ground. The
man in civilian clothes then ran
away I cannot remember which
way he went. As I saw the man on
the ground I then noticed he
was a lieutenant of the Guardia
Nacional. My said friend was Brenda

Lindley Case

struck the revolver in my body
near the heart I had my right
hand in my trousers pocket, holding
a loaded "Beretta" pistol calibre
9 mm. (short). At the time the uniformed
man put the pistol to my body, the
man in civilian clothes fired two
shots. I thought they were at me.
I was not struck by them I stepped
back a few paces, drew out my
pistol and fired three shots at the
uniformed man. I thought all shots
struck him in the body. The uniformed
man then fell to the ground. The
man in civilian clothes then ran
away I cannot remember which
way he went. As I saw the man on
the ground I then noticed he
was a lieutenant of the Guardia
Nacional. My said friend was friendly

Lt. Wong Case

1022

And she saw all that happened.
There were people also at the windows
of surrounding houses. I did not
know the informed man or the man
in civilian clothes. The girl and I
kept the public back. Shortly afterwards
a man, who I learned knows as one
wearing a white armband with "Police
on it, came up and asked me what
happened. I told him and he asked
me for my name and documents. I
showed him the Identity Card and
Military Licence and told him they
were false. However, I gave the man
my real name and address. I remained
there for about ~~five~~ twenty ~~ten~~ minutes, and returned to the
Municipal building with the girl, Carla,
and the man who had taken
particulars from, and he verified
my identity. I left Rome on 4th

Identity Card

And so saw all that happened. There were people also at the windows of surrounding houses. I did not know the informed man or the man in civilian clothes. The girl and I kept the public back. Shortly afterwards a man, who I assumed knows a com- wearing a white armband with "Police" on it, came up and asked me [illegible] what happened. I told him and he asked me for my name and documents. I showed him the Identity Card and Military license and told him they were false. However, I gave the man my real name and address. I remained there for about ~~five~~ twenty ~~ten~~ minutes, and returned to the Questa building with the girl, Carla, and the man who had taken particulars from, and he verified my identity. I left Rome on [illegible]

Identity Card

1029

And she saw all that happened. There were people also at the windows of surrounding houses. I did not know the informed man or the man in civilian clothes. The girl and I kept the public back. Shortly afterwards a man, who I assumed knows a com- wearing a white armband with "Police" red, white and green in centre
on it, came up and asked me what happened. I told him and he asked me for my name and documents. I showed him the I Entity Card and Military licence and told him they were false. However, I gave the man my real name and address. I remained there for about ~~five~~ twenty ~~ten~~ minutes, and returned to the Malta building with the girl, Carla, and the man who had taken particulars from, and he verified my identity. I left Rome on 4th

Ldg/Capt

June 1944 and work at Ht. Viterbo District I stopped there until 19th June 1944, doing Communist work, and then returned to Rome. I had given the false identity card and Militari licence. I gave my pistol, as a present, to an Australian Lieutenant who called at the Unità offices on 6th June 1944. I think his name was "PETTER". He was with the Fifth Army. They all know him at the Unità office. I last saw him about 19th June 1944. Carla had a pistol on her at the time. I do not know whether she still has it or not. I told the Lieutenant he could be had sold his pistol to my body at that

Sworn by Court

8.

June 1944 and went to the Vittorio District I stopped there until 19th June 1944, doing Communist work, and then returned to Rome. I hand you the false identity card and Militari licence. I gave my pistol, as a present, to an Australian Lieutenant who called at the Ufficio on 6th June 1944. I think his name was "PETTER". He was with the Fifth Army. They all know him at the Ufficio. I last saw him about 19th June 1944. Carla had a pistol on her at the time. I do not know whether she still has it or not. I think the Lieutenant he could be has sold his pistol to my body. At that

106

Justin J. Ciani

1027

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106

Victim's Card

1028

I thought the Lieutenant was going to shoot me because he appeared very aggressive. At the moment I thought he was a Fascist, but I have since been told he was a patriot so I am sorry that it happened. Carla had nothing to do with the shooting. I carried the fake identity cards and military licence because the Fascists were looking for me because of my Anti-Fascist activities and for no other reason. I have a good character. This statement has been read to me in Italian by Cpl. Conti, 167th Regiment, Corps. and it is the truth. Rosario Bentivegna 10/5/45

Witness: Alan Tidenhall. Capt.
24/5/45

I thought the Lieutenant was going to shoot me because he appeared very aggressive. At the moment I thought he was a Fascist, but I have since been told he was a patriot so I am sorry that it happened. Carla had nothing to do with the shooting. I carried the fake identity cards and military licence because the Fascists were looking for me because of my Anti-Fascist activities and for no other reason. I have a good character. This statement has been read to me in Italian by Cpl. Conti, 167th Regiment, Coy. and it is the truth. Rosario Bentivegna 10.5.45

Witness: John Tillerhill. Capt.

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Witness Alan Tillenhall. Capt
24/5/45

(In answer to a question by the Court the Prosecuting Officer stated that he does not intend to prove "aggravating circumstances" under Art. 61 (10)).

As to extenuating circumstances - I say this second is wholly fictitious, but subsidiarily I rely on Art. 62 (1) and (2). My defence is based on s. 52 - (indeed s. 55 is a positive physical danger, and the motive must be criminal. I question whether I can rely on s. 52 there must be actual necessity. This needs very delicate weighing, and must be raised subjectively, it appears, and not objectively in the light of surrounding circumstances, and not objectively in the whole atmosphere of the case - see Art. 59 & Art. 52 and provide a good defence, notwithstanding that the Court considered the accused entirely responsible in the circumstances that prevailed. Whether or not the error was [illegible] the latter legitimate defence error may [illegible]. But the Petitioner - it is covered by Art. 59 (last paragraph). But the accused's error must be [illegible] error - If he is guilty of unreasonable error, then it is a case of "culpa"; for which he can be convicted under Art. 55. This is provided by the Code specifically under Art. 55. Art. 55 only in relation to Sup. Defence, under Art. 55. Art. 55 applies only to cases of Sup. Defence - but this section is the punishment is fixed by Art. 56). This section is limited by the limits set in the section - but certain cases there is [illegible] provided sentence (See Arts. 163 and 164).

All this is academic, since I rely on error in the sup. defence, and not on "culpa". Error in the sup defence is [illegible] "mistake". But I also rely on Hall, vol. II, p. 320 (2nd Edn.), which contains the following passage dealing particularly with "Legislative Defence [illegible]". I also rely on "Criminal Law" Pinto by

(In answer to a question by the Court the Prosecuting Officer stated that he does not intend to prove "aggravating circumstances" under Art. 61 (10)).

As to extenuating circumstances - I say this would be chiefly matters, but subordinately I rely on Art. 62 (1) and (2). My defence is based on s. 52 - I admit s. 55 is a possible physical damage, and the motive must be considered. I agree that I can rely on s. 52 that must be proved necessity. This needs very delicate weighing, and must be viewed subjectively, as appears from the case of the thief in the light of surrounding circumstances, and not objectively in the cold dissection of the law Court - see Art. 59 & Art. 52 and provide a good defence, notwithstanding that the Court considered the reasonable apprehension that provoked him was the circumstances that provoked him to commit the criminal offence. But the error may (principle - the criminal Legislation Digest error - it is covered by Art. 59 (last paragraph). But the criminal error must be a reasonable error. If he is guilty of unreasonable error, then it is a case of "culpa", to which we turn to Art. 55. This is covered by the Code specifically Art. 55. Art. 55 only in relation to self-defence, under Art. 55. Art. 55 applies only to cases of self-defence - but this case is the punishment is fixed by Art. 58). The question is limited by the limits set in the section - but this certain case there is a fixed sentence (see Art. 115 163 and 164).

All this is wrong, because I rely on error in the exp. defence, and not on "culpa". Legislative exp defence is - "mistake" law. But I also refer to Brit. Magazine, Vol. II, p. 320 (2nd Edn.), which contains a ruling particularly like "Legislative Digest interpretation". I rely on "Criminal Code" Penalty by

1033

(In answer to a post in by the Crown Prosecution Office stating that he does not intend to pursue "aggravating circumstances" under Art. 61 (10)).

As to Extenuating Circumstances - I say this second is wholly fictitious, but secondarily I rely on Art. 62 (1) and (2).

My defence is based on s. 52 - I admit s. 55 is a possibility. s. 52 is framed to deal with wanton damage, but the wanton must be malicious. physical damage, and the wanton must be I question whether I can rely on s. 52 there must be actual necessity. This needs very delicate weighing, and must be ruined subjectively, & appear to the mind of the actor in the light of reasonably circumstances, and objectively in the cold dispassionate light of the Court - See Art. 59 & Art. 52 and provide a good defence, notwithstanding that the Court considered the reasonable circumstances that presented themselves to him was the circumstances that presented themselves to the ordinary legislative person - the ordinary legislative person error (principle - Art. 59 (last paragraph). But the But this - it is caused by reasonable error. Where is guilty caused by error must be a reasonable error, & which unreasonable error, then it is a case of "culpa", to which we turn to Art. 55. This is dealt with by the Code specifically in relation to Self-Defence, under Art. 55. Art. 55 applies only to cases of justified Self-Defence - but in this case the punishment is fixed by Art. 59. The discretion is limited by the limits set in the section - but discretion is exercised within prescribed sentence (See Arts. 115 163 and 164).

All this is preamble, because I rely on error in the self-defence, and not on "culpa". Legislative self-defence is defence, and not a "homicide" case. But I do rely on 15 L.J.P. Magazine, Vol. II, p. 320 (2nd Edn.), which carries a statement dealing particularly with "Legislative Defence - Giving Parents" by [illegible]. I also rely on "Giving Parents" by

1034

Sinibaldi e Jannitto p. 149 – which appears – in fact is
wrong by "printed" self. Signed. I also refer to the Article
by Prof. Gallizioni in "Il Progetto Rocco nel Pensiero
Giuridico Contemporaneo", at p. 77.

In order to come to a decision you must first ascertain
the place in the sentence. Nobody could have acted differ-
ently.

I ask you to remember the part played in
assisting the Allies in the Partisan movement.

(In answer to question by the Court as to whether would
be the position if Bartucci had first borrowed
Witness Bentivegna). That might be a case of "Recipro-
cal" self. Defence, as suggested by the Witness Ferri.

Lieut. Sabatini sums up.

This case must be decided on the facts, not on the brilliance
of the Advocate's Defence. There is considerable conflict of
evidence in detail – though the general effect is the same.
I don't say there is any of the witnesses we have called is the
familiar case of a number of people seeing the same thing
happen but getting different impressions of the detail.
There are 3 possibilities :-
(1) Accused approached Bernardi and fired either from
the bicycle like this:
(2) Accused passed Bernardi on foot, and fired
in self defence:
(3) Deceased passed Accused on bicycle, and the latter
fired because he had sworn that he would.
Accused admitted having fired on leaving the Hostaria,
and he admits having challenged deceased in a
proper manner. He admits he would have acted in a
cowardly manner if he had run away. There is little
left for us to consider as regards, and then the
Accused was in difficulties. The fact that the Hostaria was

1035

Sabbadini e Jannitto p. 149 – which again – in what is meant by "practice" self defence. I also refer to the Article by Prof. Battaglini in "Il Progetto Rocco nel Pensiero Giuridico Contemporaneo", at p. 77.

In order to come to a decision you must put yourselves in this place in the situation. Nobody could have acted differently.

I ask you to remember the part played in assisting the Allies in the Partisan movement.

(In answer to question by the Court as to whether would be the position if Barbuscia had fired first and killed Bentivegna). That might be a case of "Reciprocal" self defence, as envisaged by the Italian Penal.

– Lieut. Sabatino sums up.

This case must be decided on the facts, not on the brilliance of the Advocate's defence. There is considerable conflict of evidence in detail – though the general effect is the same. I don't say there any of the witnesses are liars – this is the familiar case of a number of people seeing the same thing happen but getting different impressions of the details. The case has possibilities :–

(1) Accused opened fire and killed either during the Bentivegna line-up:

(2) Deceased pulled revolver or grenade, and fired in self defence:

(3) Deceased pulled revolver or grenade, and the latter fired before he had actually fired himself.

Accused acted before deceased on seeing the pistol, and he might have thought deceased in a desperate manner. He didn't in fact have time to aim in a calculating way if he had seen to aim. The evidence that he aimed was anti-climactic, and that the deceased was in jeopardy. The fact that the pistol was

1036

Sinibaldi e Jannitto p. 149 – which again - was not in court by "parti" self Depns. I also refer to an Article by Prof. Stellhorn in "Il Progetto Rocco nel Pensiero Giuridico Contemporaneo", at p. 77.

In order to save the witness you must put questions in this place in the structure. Nobody could be called differently.

I ask you to remember the part played by Allies in the Partisan movement.

(In answer to question by the Court is further noted in the position of Bartolazzi and Field Marshal Kesselring). That might be a case of "Reciprocal" Self-Defence, as suggested by the Italian Penal Code.

Lieut. Salvatino sums up.

This case must be decided on the facts, not on the brilliance of the Advocate's Defence. There is considerable conflict of evidence in detail – though the general effect is the same. I don't say that any of the witnesses we have heard is the familiar case of a number of people seeing the same thing happen but getting different impressions of the details.

There are 3 possibilities :-

(1) Accused opened fire and killed either Giuseppe or Lorenzo: or

(2) Deceased pointed revolver at Accused, who killed in self Defence: or

(3) Deceased pointed revolver at Accused, and the latter killed them both with premeditation.

Accused admitted having fired on seeing the posters, and he admits having changed and fired in a savage manner. He admits he would have acted in a cold blooded way if he had seen the posters. The evidence that he would not do so is circumstantial, and that the posters were in position.

The fact that the posters were

1037

Adv. Nicolaj. Summ. up for the Defence.

You have to resolve any doubt in favour of the accused.
We don't put this case forward as an incident of war — but
I submit it has taken place in an atmosphere of war, & that
affects the reaction of the parties.

Hitherto the Allies had treated Rome, admirably but not yet
returned to Rome, and it was not even certain that the Last
German had left.

It is a mystery why Bartucci should in this day be guilty
of an act so hostile to liberty as to tear down these posters.
Accused's reaction was [illegible] mentally, physically, [illegible] medically.
I don't say that alone would [illegible] liability, but it
[illegible] aimed in big offended, and was in making threats.

But it is necessary to examine the reaction of Bartucci.
This is a question on which there is a conflict of witnesses.
You should accept the evidence of Carla Coppini. You should
accept De Tuddo, who was completely independent, also Mr.
and Mrs. Brusati, whose spontaneous reaction was so eloquent.
Also the evidence of Colantonio. It is not one finds that we
could not support his evidence with that of his prisoner friend.
Maybe there are various features in his story — but we must
examine them often things in this case which are generally
admitted. There is no [illegible] about Colantonio's sincerity.
There is plenty of confirmation for his [illegible] with the
American officer [illegible]. The evidence against him
is not acceptable.

(Captain Greenhill mixed having the missing statement,
which he says has been found in the office, in [illegible] wrong
file. Court asks that this be done by the Defence, who
say that it is in evidence & they wish to do so.
Defence after seeing the statement does not tender it
in evidence. Document ordered [illegible] marked Exhibit
"F").

1038

Hon. Mr. Justice [illegible] for the Defence.

You have to resolve any doubt in favour of the accused. We don't put this case forward as an incident of war - but I shall show it has taken place in an atmosphere of war, & that affects the relation of the contents of the parties.

Although the Allies had entered Rome, hostility had not yet returned to Rome, and it was not known certain that the last German had left.

It is a mystery why Bartolini should in this day be guilty & am not so hostile to Italy as to turn down their testimony. Accused's position was [illegible] morally, politically, [illegible]. I don't say that this alone would [illegible] leading, but it [illegible] should be kept afforded; and you in weighing it must.

But it is necessary to examine the position of Bartolini. This is a question on which there is a conflict of witnesses. You should accept the evidence of Carlo Coppini. You should accept De Tuddo, who was completely independent, who has. and has. himself; whose spontaneous position was so eloquent. Also the evidence of Colantonio. It is not for Italy that we could not support his evidence with that of his prisoner friend. Maybe there are curious features in his story - but no more curious than other things in this case which are generally admitted. There is no [illegible] about Colantonio's sincerity. There is plenty of confirmation that he [illegible] with the American officer [illegible]. The evidence against him is not acceptable.

(Captain Churchill enters having the missing statement, which he states has been found in the office, in [illegible] wrong file. Court rules that this is [illegible] the dispute, and may use it in evidence if they wish to do so.

Defence after seeing the statement elect to use it in evidence. Document marked and entered Exhibit [illegible]).

Adv. Nic. Maj. sums up for the Defence.

You have to resolve any doubt in favour of the accused. We don't put this case forward as an incident of war - but I shew it to have taken place in an atmosphere of war, & that affects the valuation of the conduct of the parties.

Nothing the Allies had served Rome, wouldn't have got returned to Rome, and it was not even certain that the best German had left.

It is a mystifying why Bastianini should in this day be guilty of an act so hostile to Italy as to turn down these peaces. Accused's motives are [illegible] mentally, politically, individually. I don't say that these alone would [illegible] decision, but it [illegible] entered in the opposite, and are in support thereof.

But it is necessary to examine the motives of Bastianini. This is a question which there is a complete of witnesses. You should accept the evidence of Carlo Coppini. You should accept De Cicco, who was completely independent, also Mr. and Mrs. Knight, whose spontaneous reaction was so eloquent. Also the evidence of Colonel Mio. It is not for [illegible] that we could not support his evidence with that of his prisoner friend. Maybe there are curious features in his story - but no more curious than other things in this case which are [illegible] admitted. There is no [illegible] about Colonel Mio's sincerity. There is plenty of confirmation that his [illegible] with the American officer was true. The evidence against him is not acceptable.

(Captain Gambill arrives bearing the missing statement, which he states has been found in the office, & [illegible] wrong file. Court rules that this is [illegible] the Defence, who may use it in evidence if they wish to do so.

Defence after seeing the document elect to use it in evidence. Document marked and named Exhibit [illegible]).

1040

Avv. Nicolaj continues

The witness Castellana was evidently lying for some reason. You cannot believe her story. For one thing — no one's story at three o'clock would like Lt Bartolini. Even the evidence of this witness, Lauria, supports my defence of legittima Difesa.

You must believe that Bartolini had a weapon and was using it — otherwise there was no possible motive for the killing.

There is something wrong with the evidence of Alessandri. Why did he appear so late on the scene? If his present story is true, he would have been found by Bartolini when they interviewed Tenaglia immediately afterwards. The original report, now produced, is consistent with my case, and shows that from the outset the case of the accused was that he acted in self defence.

It was quite likely that Bartolini would be distinctly hostile to Alessandri, whether he was friend or foe, — his actions would suggest the latter. I don't think that he intended no harm by drawing his pistol.

(Adjourned 1900, Lunch)

22 July 1944.

Court re-assembled at 0910 hours.

Avv. Nicolaj continues

The experiences carried me backward in time to the extreme unpleasantness with which the events took place:
Homicide is dealt with in Arts. 575 and 584 of the Code.
There are 2 forms of homicide, intentional and preterintentional.
The idea of self defence negatives the notion of intentional killing but creates action only to avoid a danger.
Homicide may be (1) voluntary
(2) Preterintentional (literally beyond intent)
(3) Colposo (negligence or imprudence)
Legittima Difesa does not apply to homicide alone, but to all acts which might otherwise be criminal:
Aggravating and extenuating circumstances (Arts. 61 & 62) apply to both forms of crime.

1051

Avv. Nicolaj continues

The witness Castellana was evidently lost in the room. You cannot believe her story. Nor the thing — nor story of three witnesses would like Mr Barbarisi. Even the evidence of this witness, known, suspect of defence of legitimate Difesa.

You must believe Mr Barbarisi had a weapon and was using it — otherwise there was no possible motive for the killing.

There is some mystery behind the evidence of Alessandri. Why did he appear so late on the scene? If his present story is true, he would have been found by Barbarisi when they interviewed Tassoni immediately afterwards. The original report, not produced, is missing like my car, and seems likely from the outset the case of the accused was that he acted in self defence.

It was quite likely that accused would be startled from the door of the deceased, when he was fired at first, — his actions would suggest the latter. I don't think that he intended no harm by drawing his pistol.

(Adjourned 1900, Lunch)

22 July 1944.

Court re-assembled at 0910 hours.

Avv. Nicolaj continues

The experiences carried out by accused in Court show the extreme rapidity with which the events took place:
Homicide is dealt with in Arts. 575 and 584 of the Code.
There are 2 forms of homicide, intentional and preterintentional.
The idea of self defence negatives the notion of intentional killing but consents notion only to avoid a danger.
Homicide may be (1) voluntary
(2) Preterintentional (intending harm;)
(3) Colposo (negligence or imprudence)
Legittima Difesa does not apply to homicide alone, but to acts which might otherwise be criminal.
Aggravating and extenuating circumstances (Arts. 61 & 62) only to cases of dolo.

1052

Avv. Nicolaj continues

The witness Castellana was evidently lying for some reason. You cannot believe her story. For one thing — as her story of three killers would like Lt Barbarisi. Even the evidence of this witness, however, supports my defence of legitimate Difesa.

You must believe that Barbarisi had a weapon and was using it — otherwise there was no possible motive for the killing.

There is some mystery behind the evidence of Alessandri. Why did he appear so late on the scene? If his present story is true, he would have been found by Barbarisi upon their interview Tenagi immediately afterwards. The original report, now produced, is consistent with my case, and shows that from the outset the case of the accused was that he acted in self defence.

It was quite likely that accused would be startled from the door of the Record, when he was fired on first, — his actions would suggest the latter. I don't think that he intended no harm by drawing his pistol.

(Adjourned 1900, Lunch)

22 July 1944.

Court re-assembled at 0910 hours.

Avv. Nicolaj continues

The experiences carried out by accused in Court show the extreme rapidity with which the events took place.

Homicide is dealt with in Arts. 575 and 584 of the Code.

There are 2 forms of homicide, intentional and preterintentional.

The idea of self defence negatives the notion of intentional killing but considers action only to avoid a danger.

Homicide may be (1) voluntary
(2) Preterintentional (exceeding ours:)
(3) Colposo (negligence or imprudence)

Legittima Difesa does not apply to homicide alone, but to acts which might otherwise be criminal.

Aggravating and extenuating circumstances (Arts. 61 & 62) only took place of crime.

1053

Exhibit No.4'
F.D. Lawless
Cpl.

15

...S.S.M.I.
Piazza Venezia

25th June,1944.

Statement of Carla [illegible], aged 24 years, single, of Foro Traino,1, Flat No.12, Rome, who says:-

I live with my mother at the above address. My father died four years ago. I have not been employed since last December because the Fascists and Germans were looking for me.

For the past seven months I have been a Communist and anti-fascist. In fact, I have always been anti-fascist.

I have known Rosario Bentivegna, who lives in Via Torino,Rome, for the past year. He has, so far as I am aware, always been anti-fascist and connected with the communist party. I am engaged to Bentivegna, but not officially because I have not known him long enough.

At about 2 p.m. on 5th June,1944, I was at the offices of the Unita' newspapers a Communist organ, in Via 4 Novembre, Rome, when I was asked to remain and help to guard the building because we were afraid that Fascist elements might enter the place. Rosario Bentivegna was there in charge of the Guard.

At about 3 p.m. that day, Rosario, asked me to accompany him on a walk round the building. I agreed to. Rosario had a revolver in his right trouser pocket, but I was not armed. The two of us walked into Via Pre Gemelle, nearby, and when we turned into the street, I saw a man in army uniform, with his coat over his left arm. I do not recollect whether he had a hat on. With him was a man in plain clothes. The man in uniform, I did not know what arm of the Italian services he belonged, was pulling down "patriot" posters, including those of the Unita' newspaper from the wall near where the steps lead up to Via 24 Maggio. I do not know whether the man in civilian clothes was with the uniformed man, but I formed the impression he was. Rosario and I went up to the two men. Rosario asked the uniformed man to stop pulling down the posters and asked why he was doing it. The uniformed man replied "Who are you to ask me questions". Rosario was wearing a "National Liberation" arm band on his left arm. Rosario pointed to his arm band and said " I am in charge of the Unita' newspaper guard, and told the man what the arm band stood for. Please come to my office and explain the reason". Both became very excited and shouted at each other. With that the uniformed man took a revolver from his holster, charged the revolver with a cartridge and struck it at the left side of Rosario. No words passed at that moment between the uniformed man and Rosario.

The other man who was in civilian clothes stood at the back of the uniformed man. I stood beside him, while the man in civilian clothes who had remained [illegible] put his hand in his right trouser pocket. [illegible] I thought this man [illegible] to shoot [illegible] Rosario took [illegible] the uniformed man. [illegible] I do not know. [illegible] 10

1044

Exhibit No.4.
F.V. Lawless
A.D.C.

15

H.Q. M.P.
Piazza Venezia

25th June,1944.

Statement of Carlo LAMPUGNI, aged 24 years, single, of Foro Trajano,1, Flat No.12, Rome, who says:-

I live with my mother at the above address. My father died four years ago. I have not been employed since last December because the fascists and Germans were looking for me.

For the past seven months I have been a Communist and anti-fascist. In fact, I have always been anti-fascist.

I have known Rosario Bentivegna, who lives in Via Torino,Rome, for the past year. He has, so far as I am aware, always been anti-fascist and connected with the communist party. I am engaged to Bentivegna, but not officially because I have not known him long enough.

At about 2 p.m. on 5th June,1944, I was at the offices of the Unita' newspapers a Communist organ, in Via 4 Novembre, Rome, when I was asked to remain and help to guard the building because we were afraid that Fascist elements might enter the place. Rosario Bentivegna was there in charge of the Guard.

At about 3 p.m. that day, Rosario, asked me to accompany him on a walk round the building. I agreed to. Rosario had a revolver in his right trouser pocket, but I was not armed. The two of us walked into Via Pie Camelle, nearby, and when we turned into the street, I saw a man in army uniform, with his coat over his left arm. I do not recollect whether he had a hat on. With him was a man in plain clothes. The man in uniform, I did not know what arm of the Italian services he belonged, was pulling down "patriot" posters, including those of the Unita' newspaper from the wall near where the steps lead up to Via 24 Maggio. I do not know whether the man in civilian clothes was with the uniformed man, but I formed the impression he was. Rosario and I went up to the two men. Rosario asked the uniformed man to stop pulling down the posters and asked why he was doing it. The uniformed man replied "who are you to ask me questions". Rosario was wearing a "National Liberation" arm band on his left arm. Rosario pointed to his arm band and said " I am in charge of the Unita' newspaper guard, and told the man what the arm band stood for. "Please come to my office and explain the reason". Both became very excited and shouted at each other. With that the uniformed man took a revolver from his holster, charged the revolver with a cartridge and stuck it at the left side of Rosario. No words passed at that moment between the uniformed man and Rosario.

The other man who was in civilian clothes stood at the back of the uniformed man. He had walked [illegible] the man in civilian clothes who had [illegible] took his revolver from his right trouser pocket. At the same time I pulled out "Liberation" and moved quickly over to the uniformed man. I caught hold of his right arm to [illegible] and struck [illegible] the uniformed man. I [illegible] and close to me. [illegible] to the ground on my [illegible] and I [illegible]

10

1045

Exhibit No.4.
H. C. Smith
15

...H.Q.
Piazza Venezia

25th June,1944.

Statement of Carla [illegible], aged 24 years, single, of Foro Traino,1, Flat No.12, -ome, who says:-

I live with my mother at the above address. My father died four years ago. I have not been employed since last December because the Fascists and Germans were looking for me.

For the past seven months I have been a Communist and anti-fascist. In fact, I have always been anti-fascist.

I have known Rosario Bentivegna, who lives in Via Torino,Rome, for the past year. He has, so far as I am aware, always been anti-fascist and connected with the communist party. I am engaged to Bentivegna, but not officially because I have not known him long enough.

At about 2 p.m. on 5th June,1944, I was at the offices of the Unita' newspapers a Communist organ, in Via 4 -ovembre, Rome, when I was asked to remain and help to guard the building because we were afraid that Fascist elements might enter the place. Rosario Bentivegna was there in charge of the Guard.

At about 3 p.m. that day, -osario, asked me to accompany him on a walk round the building. I agreed to. Rosario had a revolver in his right trouser pocket,but I was not armed. The two of us walked into Via Pre Damnelle, nearby, and when we turned into the street, I saw a man in -rmy uniform, with his coat over his left arm. I do not recollect whether he had a hat on. -ith him was a man in plain clothes. The man in uniform, I did not know what arm of the Italian services he belonged, was pulling down "patriot" posters, including those of the Unita' newspaper from the wall near where the steps lead up to Via 24 -aggio. I do not know whether the man in civilian clothes was with the uniformed man, but I formed the impression he was. -osario and I went up to the two men. Rosario asked the uniformed man to stop pulling down the posters and asked why he was doing it. The uniformed man replied "Who are you to ask me questions". -osario was wearing a "National -iberation" arm band on his left arm. -osario pointed to his arm band and said " I am in charge of the Unita' newspaper Guard, and told the man what the arm band stood for. Please come to my office and explain the reason". Both became very excited and shouted at each other. -ith that the uniformed man took a revolver from his holster, charged the revolver with a cartridge and stuck it at the left side of -osario. -o words passed at that moment between the uniformed man and Rosario.

The other man who was in civilian clothes stood at the back of the uniformed man. [illegible] the man in civilian [illegible] trouser pocket. [illegible] "Patriot" [illegible] to me. [illegible] to me. [illegible] 10

1046

16

...ked him to give it to him. At that moment the civilian ...ranged in the direction of the Questura. With that a man in civilian clothes, a police sergeant came on the scene from the direction of the Prefettura. He told Rosario that he had seen everything and asked Rosario for his name and address and other particulars. Rosario produced an identity card and said "this is mine". Rosario still held the revolver in his hand. Rosario did give the policeman his proper name and address. The policeman lifted the dead man's coat and then said that the dead man was a detective of the Questura di Palermo. A crowd began to gather and persons from the Unita' newspaper were coming to the spot. Rosario told the latter persons to return to the Unita' building.

One of these men, I don't know his name, but they would know it at the newspaper's office, handed me a revolver and - helped to keep the crowd back. At that time members of the Guardia di Finanze arrived on the scene. I recognised them as such because of their headware. They then took charge and Rosario and I went with the policeman to the "Unita'" newspaper office. I then handed the revolver I had back to the man who had given it to me. A man at the newspaper offices vouched for us to the policeman.

I cannot help you as to the whereabouts of the dead man's revolver because I looked away on the occasion to keep the crowd back and upon looking again at the dead body I saw that the revolver had disappeared. I asked the policeman and later the Guardia di Finanze whether they had picked up and they all replied "no".

I had no hand in the shooting of the Assente of the Guardia di Finanze, neither did I, at any time, urge Rosario to fire at him. I was more or less an innocent bystander. I had never seen the dead man or the other civilian before in my life. I do not know even now the identity of the civilian.

This statement has been read to me in Italian by Gabriella Parotti and it is the truth.

Carlo CARACCI

T. ... Greenhill, Capt.

25.6.44.

103

1067

...ed his revolver by his head. At that moment the civilian ...ang in the direction of the Questura. With that a man in civilian ...o the Questura, a police arm...and came on the scene from ...direction of the Questura. ...s told Rosario that he had seen ...everything and asked Rosario for his name and address and other particulars. Rosario produced an identity card and said "this is false". ...o who still held the revolver in his hand. ...Rosario did give the policeman his proper name and address. The policeman lifted the dead man's coat and then said that the dead man was a lieutenant of the Guardia di Finanze. A crowd began to gather and persons from the 'Unita' newspaper were coming to the spot. Rosario told the latter persons to return to the 'Unita' building.

One of these men, I don't know his name, but they would know it at the newspaper's office, handed me a revolver and - helped to keep the crowd back. At that time members of the Guardia di Finanze arrived on the scene. I recognised them as such because of their headware. They then took charge and Rosario and I went with the policeman to the "Unita'" newspaper office. I then handed the revolver I had back to the man who had given it to me. The men at the newspaper offices vouched for us to the policeman.

I cannot help you as to the whereabouts of the dead man's revolver because I looked away on the occasion to keep the crowd back and upon looking again at the dead body I saw that the revolver had disappeared. I asked the policemen and later the Guardia di Finanze whether they had picked up and they all replied "no".

I had no hand in the shooting of the Tenente or the Guardia di Finanze, neither did I, at any time, urge Rosario to fire at him. I was more or less an innocent bystander. I had never seen the dead man or the other civilian before in my life. I do not know even now the identity of the civilian.

This statement has been read to me in Italian by Gabriella Bartoli and it is the truth.

Carla CAPECHI

E. M. Greenhill, Capt.

25.6.44.

103

1058

16

...ed his revolver by his head. At th t moment the civilian ...t away in the direction of Via Mentana. With that a man in civilian clothes wearing a police arm band came on the scene from the direction of Via Cavour. He told Rosario th t he had seen everything and asked Rosario for his name and address and other particulars. Rosario produced an identity card and said "this is false". Rosario still held the revolver in his hand. However Rosario did give the policeman his proper name and address. The policeman lifted the dead man's coat and then said that the dead man was a lieutenant of the Guardia di Finanze. A crowd began to gather and persons from the 'Unita' newspaper were coming to the spot. Rosario told the latter persons to return to the Unita' building.

One of these men, I don't know his name, but they would know it at the newspaper's office, handed me a revolver and - helped to keep the crowd back. At that time members of the Guardia di Finanze arrived on the scene. I recognised them as such because of their headware. They then took charge and Rosario and I went with the policeman to the "Unita'" newspaper office. I then handed the revolver I had back to the man who had given it to me. A man at the newspaper offices vouched for us to the policeman.

I cannot help you as to the whereabouts of the dead man's revolver because I looked away on the occasion to keep the crowd back and upon looking again at the dead body I saw that the revolver had disappeared. I asked the policeman and later the Guardia di Finanze whether they had picked up and they all replied "no".

I had no hand in the shooting of the Tenente or the Guardia di Finanze, neither did I, at any time, urge Rosario to fire at him. I was more or less an innocent bystander. I had never seen the dead man or the other civilian before in my life. I do not know even now the identity of the civilian.

This statement has been read to me in Italian by Gabriella Parretti and it is the truth.

Carla CAPECHI

T. A. Greenhill, Capt.

25.6.44.

103

1059

102

Exhibit 3
H.L. Loitlmeier
Colonel

1950

Exhibit 3
H.L. Hoffman
Colonel

102

151

Esibito 3
H.a. Lotti
Colucci

102

2501

che non dovevano essere trascurate perchè dei nove mesi che precedet= tero l'arrivo degli Alleati egli fu uno di quei valorosi partigia= ni di quali ogni giorno si rivolge il Comando Supremo delle Forze Alleate per suscitarne la combattività ed elogiarne il contributo di azione.

Un giovane poco più che ventenne, in una atmosfera ardente di com= battimento e di patriottismo, se può essere caduto in qualche errore di valutazione, non può essere considerato nè un delinquente nè un uomo pericolo per l'ordine sociale e politico del suo paese.

Vogliamo perciò sperare che la sentenza della Corte Generale che pure ci ha profondamente soddisfatti per il riconoscimento sostan= ziale della legittimità della reazione compiuta da Rosario Benti= vegna, venga almeno modificata per quel che si riferisce alla misu= ra della pena ed alla applicazione dell'art.163 del codice penale (condanna condizionale) che contiene una disposizione saggia e pru= dente a favore di coloro che offrono garanzia di ritornare rapidamen= te entro i limiti della legalità.

Roma, I agosto 1944

163

1053

non solo non può apparire tanto grave in sè da richiedere esemplarità di pena ma deve invece essere giudicato tenue proprio per il fatto che fu determinato dalla azione ingiusta della vittima e da una sovreccitazione di carattere eccezionale dovuta sia all'atmosfera del momento, sia alla azione provocatoria riconosciuta dalla Corte.

Il criterio della esemplarità della pena finisce per determinare una valutazione ingiusta nei riguardi del singolo imputato e male si accorda con la serena premessa del verdetto della Corte, premessa nella quale si afferma di volere giudicare umanamente un essere umano. Ma anche accettando il criterio della esemplarità, si deve riconoscere che l'episodio non denuncia affatto, come ha mostrato di ritenere il P.M., seguito dalla Corte, un particolare stato di disordine della vita cittadina, una proclività alla rissa dei cittadini romani, uno scarso senso di disciplina civica ecc.

L'episodio rimane inquadrato nella eccezionalità di un momento particolarmente delicato della vita della città di Roma; ma gli Alleati debbono riconoscere che questa città non ha imposto loro gravi problemi di ordine pubblico; ma ha dimostrato una concordia patriottica ed una disciplina politica contro la quale nessun tentativo rilevante è stato compiuto.

Ma noi vogliamo aggiungere una ultima considerazione:

L'art.133 del cod.pen.italiano, fissando i criteri di valutazione per la determinazione della pena; attribuisce particolare importanza ai precedenti dell'imputato ed ai motivi che hanno determinato la sua azione.

L'art.163 poi del cod.penale deve essere messo in relazione con il 133 e consente la sospensione dell'esecuzione della condanna quando si ha motivo di ritenere che l'imputato non ricadrà nel delitto.

Rosario Bentivegna meritava un trattamento di maggiore indulgenza e non doveva essere lasciato più a lungo in carcere, con danno gravissimo dei suoi studi e del suo avvenire.

Rosario Bentivegna è un incensurato; appartiene ad una onesta e laboriosa famiglia. E' un giovane studioso del quale il Prof. Carnelutti dell'Università di Roma ha tessuto il più invidiabile elogio dal punto di vista intellettuale e dal punto di vista morale.

1054

Egli è stato [illegible] i suoi studi e le sue attività

che non dovevano essere trascurate perchè dei nove mesi che precedettero l'arrivo degli Alleati egli fu uno di quei valorosi partigiani ai quali ogni giorno si rivolge il Comando Supremo delle Forze Alleate per suscitarne la combattività ed elogiarne il contributo di azione.

Un giovane poco più che ventenne, in una atmosfera ardente di combattimento e di patriottismo, se può essere caduto in qualche errore di valutazione, non può essere considerato nè un delinquente nè un uomo pericolo per l'ordine sociale e politico del suo paese.

Vogliamo perciò sperare che la sentenza della Corte Generale che pure ci ha profondamente soddisfatti per il riconoscimento sostanziale della legittimità della reazione compiuta da Rosario Bentivegna, venga almeno modificata per quel che si riferisce alla misura della pena ed alla applicazione dell'art.163 del codice penale (condanna condizionale) che contiene una disposizione saggia e prudente a favore di coloro che offrono garanzia di ritornare rapidamente entro i limiti della legalità.

Roma, I agosto 1944

163

1055

FORM No. 11

ALLIED MILITARY GOVERNMENT

APPLICATION FOR REVIEW OF SENTENCE

(To be used for Review of Cases tried in either Allied Military or Italian Courts)

NOTE: This form must be filed within 30 days of Sentence.

PROVINCE OF .....

..... COURT OF .....

Name of Accused .....

Address of Accused .....

Date of Arrest .....

Charge .....

.....

Date of Trial ..... Date of Sentence .....

Sentence .....

Name of Judge and Court .....

.....

Reasons for Application .....

.....

.....

.....

.....

.....

Date ..... 194 .....

(Signature of Accused or of his Attorney)

REMARKS BY TRIAL JUDGE, PROVINCIAL SENIOR LEGAL OFFICER, OR PROCURATORE, IF APPLICABLE.

.....

.....

.....

Date ..... 194 .....

(Signature and Description)

166

DECISION OF CHIEF CIVIL AFFAIRS OFFICER

Date 194

NOTE: This form will be submitted to the Senior Legal Officer of the Province.

1943 Appel. R. Exp. Sentences

1056

an individual who, in company with another, was leaving
those premises at the last show which was on the building.
They are on the ground floor of the north which faces Via Tè
Cannelli (marked by crosses on attached sketch plan).
I also went with a [redacted] to the door of the building from
which I came out. (Sketch plan attached to Record
and marked Exhibit 3). I did not recognise the two
individuals. One individual, slightly to the west of
the other was wearing posters. He seemed to be in uniform,
or rather in parts of a uniform. The other was a little
in front of the first individual, a matter of six perhaps,
and gave me the impression that they were together.
I don't think he was wearing posters. There were no
posters in the show windows. The civilians were dispir-
itedly in civilian clothes. When I saw them, I approached
them telling them to stop doing what they were doing.
I addressed them both, but only one of them answered
directly to my "Halt". It was the military man who
answered. He was [redacted], without a hat, with a coat
over his arm, his sleeves rolled up, and I cannot
say whether he wore any signs or not. I did not
recognise him as an officer, nor as an officer of any
particular branch. Many people in Rome had to
wear uniform, because they had no civilian clothes.
He was wearing black boots, breeches, a grey green
shirt, and a coat over his left arm. From the
same uniform — that was to say similar [illegible]
officers and officers of the militia — officers and
non-commissioned officers. His coat was folded and
had been taken over the top part of the arm, and
covered the upper part completely. I don't know
which side out the coat was folded. The 1054
military man was very excited. He seemed surprised

[illegible] "Lost" an. [illegible] [illegible]. He
turned and addressed me in a most unpleasant manner.
He said he could do what he liked - in any case for
I should say who I was. I replied rather angrily
that I was a volunteer officer, and I showed him my
badge. Both [illegible] were somewhat excited. As I
entered him, the military man put his hand on his
pistol in his holster (which was attached to his belt,
rather towards the back), drew the pistol out, put a
bullet into the chamber by cocking the pistol. He
uncocked the safety catch and pointed the pistol to the
upper side in the middle of my body. The pistol evidently
had a clip in place, for presently there was no
bullet in the chamber. I had my pistol in my
right side trousers pocket. I believe it was while
he was doing this pistol I was talking him I was a
VC, and that he should follow me to the Office
of the newspaper. I told him of my rank - Commandant
of the Irish Free State. He rested his pistol on the
right of my chest, with a very threatening air. I
kept my pistol in my trousers pocket, with my
hand on. My pistol had a bullet in the chamber,
without safety catch, and the percussion pin cocked.
In that position all that was needed was a slight
pressure of the muscles between my fingers to push
the percussion pin in a firing position. While the
military man was drawing his pistol I had already
made what I was decided, in what to do pre-
pare for the worst. At this point [illegible]
[illegible] had arrived in a very [illegible] state - I [illegible]
[illegible] succession, [illegible] shots were fired on my

'security' ... ds. I was called up, military service in January 1943, and discharged for my studies in May 1943. In autumn 1943, I became a member of the Partisan Groups (GAP) under auspices of National Committee of Liberation. I was a member of GAP Pisacane. The GAP are very light armed organised by the partisans for action in the city streets. I was the commander of the GAP Pisacane. In January, following the Allied landing, the National Committee ordered me to form Groups of the Communist partisans. I returned to Rome in March, when the arrival of the Allies was no longer near, and resumed command of GAP Pisacane. I had to leave Rome to go to partisan zone in early May. I returned to Rome on 2 June to bring a report to my superiors. My command was the military assisting of the Committee of National Liberation, working in accord with Allied military authorities. I was sent to Cassino and Frosinone by GAP commander, and I have carried out activities for liberating information. On 4 June, as the arrival of the Allies was not considered imminent, my command sent me to the Partisan Zone. I left at 7.30 p.m. Towards 11.00 a.m. on Via Tiburtina, I saw Allied panzers, cautiously returned, considering that my mission was no longer valid. Returning to Rome, I got in contact with my Hdq., I met contact with my colleagues of San Lorenzo District. On the night of 4-5 I was ordered to my activities for security and order in this District. On morning of 5 June I left my companions of San Lorenzo, and went to meet for my commander. For I knew I could find at his door of my party. I did not notice Allied Proclamations during the morning of the 5th June. I was this with some San Lorenzo to the door of the newspaper

1059

L'unità, which was also the Rome daily paper, was banned for 2 days and nights. I did not move from Via Rasella number and its surroundings, except that I was - for a few minutes - in Via Boncompagni where I lived in that area. On 5 June I was informed by the party concerning the building of L'Unità. One party's person gave further instructions. The building is on the corner Via Rasella number and via Tre Cannelle, the corner - via della Consulta. There were several posters around the building, calling the arrival of the Allies, liberation of Rome, the Allied Forces, the anti-fascist parties and the communist party. Posters were of regular format - "Viva L'Italia Libera", "Viva gli Eserciti Alleati," "Viva il Partito Comunista Italiano", and "Viva l'Unità". There were no Nazi or Fascist posters - the building. In the afternoon I was home as usual, with my sister Carla in the apartment. I was wearing blue shirt. I open and close my eyes. I was wearing blue shirt. I had a very serious head on my chin and moustaches which covered from the neck. I had a red, white and green armband, inscribed VL (= Volontari della Libertà), with serial number and stamp of the party. It had been given me by Sen. Longo of my company, from which I departed on that morning. The armband was given by the National Committee of Liberation, & number was known by the leaders of the Committee. In the afternoon of the 5th I took proper visit of the partisan and the premises, and did not leave the vicinity. At 3.0 p.m. I took a walk of inspection. I went on through the main entrance on Via Rasella number 2 (located exactly around Via Tre Cannelle). Carla Cassini was with me. I did not know at the time who accompanied me. When I entered Via Tre Cannelle I saw regard the "allied" of the street

and no witness has suggested that any words were spoken to show that the accused had any such intention. In any case, it is clear that a number of other courses were open to the accused outside the extreme course which he took.

In these circumstances, the Court rules (i) that the defence put forward under art 52 of the PC has not been fully made out: & (ii) that for the accused ~~In the text of the~~ ~~that~~ did not act under any such error as is envisaged in the last paragraph of Art 59.

Therefore, the case falls to be dealt with under Art 55 and as such is punishable under Art 584.

At the conclusion of the ~~Langament~~ evidence, it was admitted by the prosecution that there was no evidence of aggravating circumstances as alleged in the charge sheet. The Court has, therefore, to consider only whether there are any Extenuating circumstances within Art 62 of the Italian Penal Code. On all the evidence, the Court rules that the accused is entitled to the benefit of the extenuating circumstances specified in Art 62 (2). ~~In the~~ In relation to this point, it has been pointed out to the Court that conflicting opinions have been expressed by high judicial authority in Italy as to whether an accused who is found guilty under Art 55 can properly claim the benefit of art 62 (2): but the Court decides that in view of the unfettered discretion given to it, by law, it should in favour of the accused.

For the above reasons, the Court finds the accused guilty not of the offence charged 1061

in the charge sheet (namely arts 575 & 61 (1) of the P.C.) but of the lesser offence contemplated by art 55 J, punishable in accordance with art. 537 with the benefit of art 62(2).

If the Defence so desires that, before imposing sentence, the Court should take into consideration other extenuating circumstances or whether to make any deduction on the ~~sentence~~ sentence to be imposed on the basis of the above pleas, the Court will be pleased to hear their submissions. But, before hearing any such submissions by the defence, ~~the Court must~~ the Prosecutor if he has any evidence of previous convictions to adduce.

stances ', the Judges decide if are prevailing the one or the other and will consider only the prevailing ones. They can also consider them equivalent, so that no augment or diminution will took place. (art. 69).

art.6I Nº IO does non exist.

ORDINARY EXTENUATING CIRCUMSTANCES. The extenuating circumstances which, hypothetically, might be concerned in this case are the following :

A) Art.62 Nº1 : having acted for motives which have a special moral or social value.

B) Art.62 Nº2 : having reacted when in a state of anger, caused by an injust act of an other person (provocation).

LEGITIMATE DEFENCE. A cause of exclusion of any punishment would be the legitimate defence (Art.52).

For the legitimate defence is required an actual danger of an injust injury. It is also required the necessity of the defence, so that the danger or the damage could not be avoided unless with the defence. Besides that, the offence must be proportioned to the injury.

When the fact is exceeding the limits of the law or of the necessity, it is punished as an involuntary crime (Art.55).

PUNISHMENTS. The wilful homicide is punished with a period of imprisonment not inferior to 2I years (Art.575).

If there is an aggravating circumstance, the punishment which would be imposed for the committed crime is increased as far as a third. In no case, the period of imprisonment can exceed 30 years (Art.64).

If there is an extenuating circumstance the punishment is diminished of a period not exceeding a third (Art.65). Existing more than one extenuating circumstance, the punishment cannot be inferior to the fourth part (Art.67).

When there is a concourse of aggravating and extenuating circum-

Evidence for the Prosecution

First Witness (Sworn)

Lieut. Filippi Silvestro, Officer of the Guardia di Finanza. About 1.0 p.m. on 5 June I was at our Office's house, in Via Regina Elena, Rome. Some other Officers were with me. I remember 2/Lt. Lebro was there, also 2/Lt. Iannotta, also Lieut. Ercolgi. There were others, but I don't remember who. 2/Lieut. Barbarisi was also there. I had known him since October 1943. He was in civilian clothes; he had on his belt, and a pistol on his arm with which in English written on it - except that I saw "A.M.G." on it. I spoke with 2/Lt. Barbarisi. I saw him again that afternoon. About 1600 hours I was in Italy when I was informed by a Maresciallo that a 2/Lieut. had been killed. At 1630 I saw Barbarisi in Via Tre Cannelle. He was lying on the ground dead and covered with a blanket. My colleagues had examined the body. I did not examine the corpse myself. I never saw his face. When I saw the body of Peluso is away, I suspected who it was by the uniform and by the colour of his hair.

No XXXIX

155

Second Witness (Sworn)

Fontana Mario Luigi, Assistant at the Pathological Institute, as a qualified medical practitioner. I saw the body that day I was informed by Capt. Gandolfi that there was an autopsy. I was told it was the body of Lt. Barbarisi. It was a man of 25-26 years old. It was Lt. Gandolfi who told me who it was, and also the Captain, I believe. I carried out an autopsy. Death had taken place about 48 hours before. The autopsy was on 7 June about 15:0 hours. Death was caused by acute anaemia caused by haemorrhage which penetrated in the top part of the left lung

1065

2/ the thorax is over 2 cm. from the sternum on the
first intercostal space, an oval wound of 8 x 12 mm.,
on the left side. Death was caused by the bullet, which
penetrated the aorta, causing loss of about 3 litres of
blood. Death must have been very rapid, because of
heavy internal haemorrhage, within about 15 minutes.
After a maximum of 5 minutes he would lose consciousness,
because of the brain not being fed with blood. The
shot must have been fired at a short distance. This is
shown by the fact that it caused a large wound, and by
the distance the bullet travelled in the body. The range
must have been ½ to 1 metre.

XXd

I found one bullet only. I should say that the bullet
came from slightly above, and obliquely, from front to
rear. The inclination may be due to the fact that the
bullet struck a bone in the thorax. The body was partially undressed, the upper part wholly. The autopsy was
limited to the thorax and the abdomen, because when
I found that fully explained the cause of death. We
stopped the body completely upon examination.

No Relation.

~~Lodge~~
By the Court

I did not find a bullet – the bullet had passed right
through the body. I merely found a hole. I found
no other wounds in the body at all.

Dixon (with leave)

There was a wound of entrance, and a wound of exit.

(Adjourned 1200 - 1330 hours).

Third Witness. (Sworn)

Lieut. Tenaglia Aldo, of the Guardia di Finanza. About 1.0 p.m. on 5 June I was at the Officers' Mess in Via Regina Elena, Rome. Lt. Filippi, Lt. Calzi & Lt. Barbisi were with me. I saw Barbisi again that afternoon. He was dead. I saw him about 1615 hours in Via Tre Cannelle. His body was on the ground. I saw his face and recognised it as that of Lt. Barbisi. The body was covered by a blanket - I cannot say the body was dressed, as all appearances he was dead. I had talked to Lt. Barbisi that afternoon. When I saw his body in the street, he had boots, Trousers, shirt, belt and a band on his left sleeve. He had the band on in Mess at 1.0 o'clock. I was able to read some words - "Civil Police" - I am not certain. He had the same band when I saw him dead.

XXd

He did not wear a blouse in Mess. He had no blouse when I saw the body. I don't remember whether he was carrying a blouse when he came in Mess. The blouse must have been there near the body, because when the body was first picked up a blouse. When I saw him in Mess he had his shirt sleeves rolled up. When I saw the body, the shirt sleeves were still rolled up. The white band was on the upper part of the arm, and the sleeve was rolled up to the elbow. Lt Angelo Lieut. Barbisi to the Questura, and with a colleague I made an inventory of that which belonged to the deceased. The list has been given, together with the articles, to the authorities of the Questura, and I believe that enquiries are being carried out by the Questura's notes. I heard that letter from Questura notes. I have come to certain of the articles which have been returned to me. You can find out from the Questura who took

1067

delivery, a pass to accused's motor. I saw one was a hand in the sleeve of Lt. Barbasini's blouse. I examined the blouse in the hospital where we took the body, and I found in the pockets. If there was a hand in the sleeve I should have noticed it. There were often words besides "Civil Police", but I don't remember what. When I saw Lt Barbasini he was wearing his belt and holster, but I did not notice whether there was a pistol in the holster. I believe that the body was buried with the shirt i.e. I heard that his mother was looking for his handkerchief and pierced it somewhere in the forepart of the shirt.

No Rextion

Fourth Witness (Sworn)

Castelli Alberto, commander of the Patriot's Group. I live at via XX Settembre 98. About 2.30 p.m. on 5 June I was in front of the door of my H.Q. in via Pilotta. A civilian passed me (I think it was a civilian), who said "They have killed a Fascist Guard". I called two of my men who said "Let's go and see what has happened." I went to via Te Canneti. Before arriving I saw an assembly of people standing around. I elbowed with my men and went through. I saw the accused there. I was coming from via IV Novembre and accused was coming from me — the body between us. When I arrived there was confusion. I don't remember exactly how accused was dressed. He had a pistol in his hand. I asked him first "What has happened?" I said "What has happened, who is killed?" The accused answered "I have killed". I don't know the accused's name — I spoke of the accused as I enquired him from whom I spoke to. I also asked the accused "Why?" He replied "Per Legittima Difesa!" 1068

I heard him order me to pick. I agreed, because he still
had that pistol in his hand. He said he had asked the
security police, meaning the Lieutenant had drawn his pistol.
He told me when to descend first, or his pistol. There
was another civil in Via who would have fired. He
told me he told the lieutenant to stop teasing. Some certain
words. The posters which the lieutenant was hanging to these
doors are in glass boxes in Via Tre Cannelle: they are
glass cases, but the glass is missing. I don't remember
what was on the posters that remained there. There
was with the accused a girl who, the defendant said,
could testify in his favour. I saw the lieutenants' body
on the ground. I don't think I knew him. I noticed
how he was dressed. He was wearing his blouse —
it was known as his shirt-tunic, as it had four pockets
up. I noticed a tear on left sleeve of his shirt and a blood with
mark. I noticed a tear on left sleeve of his shirt and blood with
some writing in indelible ink on it. I did not read
what the last said — but I have since seen photo
like it. I did see part of the hand which said "Police".
The accused did not say how many times he had fired — I
did not ask him. When I arrived there was with the
accused, besides the girl, a third man with the girl's
brother-in-law. I asked him what he was doing,
and he said "I am waiting for my captain, whom I
have sent for". I said "Yes, we will wait"; as I did
not wish to be left with shooting there but to
report to motor office. As the deceased lay on the
ground, his arm had apparently moved. I did not
see his sleeve roll up. But I had a glance
which he was carrying which covered part of his body.
Only a small piece of the arm-band could be seen. The
arm was obscured partly by the blouse, and partly by the
position of the arm.

XXd

I don't remember if the accused said anything else. I do not believe he said anything else. He had already said "I killed him", and I thought my life was complete, as the Caporale had been dealt with. Accused did not say he was a "Volontario Della Libertà", but I said that he was by his own hand. I believe it was a red hand, with the letters VL. I was not too interested in these particulars — when interested we were that he should receive them. I did not enquire him as a Volontario Della Libertà, as I simply asked him for documents to prove that he had not taken a hand. He had no documents, nor did the young girl with him.

No Question.

By the Court

I believe the posters were in Italian, but I am not sure, because I did not observe them. Some were full posters and I did not look at them closely.

Fifth Witness (Sworn)

Signora Ronchi Anna, Via Tè Cennelli 15. I am a housekeeper. On afternoon of 5 June I was in my kitchen, when I heard a conversation. I went to the door of my house. I saw a young man talking. I could not understand what they said. As I entered I heard a shot, and saw the two fall to the ground. I did not understand, as I was excited, being a woman, & I thought I might be shot. I saw another man & I ran to the ground. I did not understand, because they were a bit distant, & I could not hear well. I did not recognise who it was. One of the men was military - the other I cannot swear.

1070

(Fac)

Al
Ministero Grazia e Giustizia
Roma -

Il sottoscritto, Rosario BENTIVEGNA, fu Vincenzo, ~~[illegible]~~ a di de Somma Valentina, nato a Roma il 22-6-1922, domiciliato a Roma in via Foro Traiano, 1 a - chiede copia della sentenza emanata nel l'agosto del 1944 dall' Alta Corte Militare Alleata, ed in cui, in seguito a revisione del processo, veniva assolto dall' imputazione di omicidio preterintenzionale nella persona del Ten. Giorgio Barbarini, con la formula piena della legittima difesa. 165
Si richiede per uso di concorso -
Con osservanza
Roma, 10 settembre 1947
Rosario Bentivegna

Si trasmette l'unita richiesta con preghiera di voler inviare urgentemente detta copia di sentenza
10-9-47
L' ufficiale di collegamento
Thomas

1071

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION IV , LEGAL DIVISION
A.P.O. 394

30 August 1944

L/C/1007

SUBJECT : case of Rosario BENTIVEGNA.

THRU : Regional Commissioner;

TO : Lt. Col. D.A.D. Young, G-2
Roma Area Command.

1. Acting upon the written request of Major Battarsbey of our Public Safety Division, I submit herewith, for Brigadier's Low's consideration, a brief statement with respect to the manner in which the above case was concluded.

2. In the city of Rome on the the above-mentioned accused, Rosario Bentivegna, was found guilty of a crime defined under the Italian law as "unintentional homicide". In the course of the trial, Counsel for the accused endeavoured to establish a case of "legittima difesa", but the Court after 9 days of most careful deliberation, concluded that a case of "legittima difesa" had not been made. The Court did conclude, however, that there were extenuating circumstances, which materially reduced the decree of the accused's offence. Thus, since the case was tried under the Italian law the sentence machinisms of the Italian law were applied in imposing sentence. Here it should be noted that though the Court finally agreed unanimously on the question of sentence, this was so only because a part of the Court felt that it would be bad policy for the Court to be divided in a case which had had so much publicity. That the sentence was exceedingly if not excessively mild was noted in the record by all Members of the Court. As you probably know the accused was sentenced to 18 months in prison.

3. Acting in strict compliance with the "consolidated instructions for Allied Military Courts" , the accused, through his avvocati , on filed his formal petition for review, in which many reasons (legal and factual) were advanced for the reversal of the trial Courts' findings and sentence.

DECLASSIFIED
Authority JCS ltr, 1/4/74
BY Lewis NARS, Date 5/28/74

Classification changed to Unclassified by Authority of O.S.D. ltr dated May 3, 1977

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION IV , LEGAL DIVISION
A.P.O. 394

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1073

DECLASSIFIED
Authority JCS ltr, 1/4/74
BY Lewis NARS, Date 5/28/74

Classification changed to Unclassified by Authority of O.S.D. ltr dated May 3, 1972.

4. On a decision was handed down by the Chief Legal Officer of the Allied Control Commission, speaking for the Chief Commissioner, in which the Court's findings and sentence were completely reversed and set aside on factual grounds.

In other words the Chief Commissioner found that a case of "legittima difesa" had been established and that accordingly the accused was innocent of any wrong. On the basis of this decision the accused was immediately liberated.

5. The Chief Commissioner's determination was a great dissappointment and in many respects very disturbing, but then a solder is not entitled to a personal point of view in such matters.

Robert C.Hendrickson,
Major, A.U.S.
Regional Legal Officer.

RCH/PA.

~~SECRET~~

1076

HEADQUARTERS.
ALLIED MILITARY GOVERNMENT
ROME REGION
LEGAL DIVISION
A.P.O. 394

L/1007

1 AUGUST 1944.

SUBJECT : Bill for service in BENTIVEGNA case.

TO : Avv. Ruggero di Segni.

1. The bill enclosed in your letter is entirely in order, however it is essential that it be submitted in triplicate to meet our procedural requirements, before it can be approved by the appropriate authorities.

ROBERT C. HENDRICKSON
MAJOR, A.U.S.
REGIONAL LEGAL OFFICER.

RCH/AC.

ENCLOSURES:

Letter from Avv. R. Di Segni to Legal Division dated 27/7/44,
Bill from Avv. R. Di Segni , dated 27/7/44 for Lit.4.000,= Re.
Bentivegna case.

42

REGION IV CASE No 7762

DECLASSIFIED
Authority: JCS 1/4/74 H-
By: Lewis, NARS. Date: 5/24/74

1045

HEADQUARTERS.
ALLIED MILITARY GOVERNMENT
ROME REGION
LEGAL DIVISION
A.P.O. 394

L/1007

1 AUGUST 1944.

SUBJECT : Bill for service in BENTIVEGNA case.

TO : Avv. Ruggero di Segni.

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ROBERT C. HENDRICKSON
MAJOR, A.U.S.
REGIONAL LEGAL OFFICER.

RCH/AC.

ENCLOSURES:

Letter from Avv. R. Di Segni to Legal Division dated 27/7/44,
Bill from Avv. R. Di Segni , dated 27/7/44 for Lit.4.000,= Re. Bentivegna case.

REGION IV CASE No. 1762

DECLASSIFIED
Authority: JCS 1/4/74 Ltr
By: Lewis, NARS. Date: 5/24/74

[redacted]

HEADQUARTERS,
ALLIED MILITARY GOVERNMENT
REGION IV - LEGAL DIVISION
A.P.O. 394

L/C/1000

16 August 1944

SUBJECT : Case of BENTIVEGNA ROSARIO.

TO : Chief Legal Officer, Legal Sub-Commission,
Headquarters - Allied Control Commission.

1. Reference your letter ACC/4083/1/L dated 14 August 1944, subject as above.

2. Receipt is acknowledged of your decision, record and proceedings in the case of BENTIVEGNA ROSARIO.

ROBERT C. HENDRICKSON
MAJOR, A.U.S.
REGIONAL LEGAL OFFICER.

RCH/AC.

49

Classification changed to Unclassified by Authority of OSD ltr, dated May 3, 1972; Date: 5/24/74

[redacted]

DECLASSIFIED
Authority JCS ltr, 1/4/74
By Lewis NARS, Date 5/28/74

1077/1

~~CONFIDENTIAL~~

HEADQUARTERS,
ALLIED MILITARY GOVERNMENT
REGION IV - LEGAL DIVISION
A.P.O. 394

L/C/1000

16 August 1944

SUBJECT : Case of BENTIVEGNA ROSARIO.

TO : Chief Legal Officer, Legal Sub-Commission,
Headquarters - Allied Control Commission.

1. Reference your letter ACC/4083/1/L dated 14 August 1944, subject as above.

2. Receipt is acknowledged of your decision, record and proceedings in the case of BENTIVEGNA ROSARIO.

ROBERT C. HENDRICKSON
MAJOR, A.U.S.
REGIONAL LEGAL OFFICER.

RCH/AC.

49

~~CONFIDENTIAL~~

Classification changed to Unclassified by Authority of OSD ltr, dated May 3, 1972; Date: 5/28/74

DECLASSIFIED
Authority JCS ltr, 1/4/74
BY Lewis NARS, Date 5/28/74

1078/1

L/C/1007

30 August 1944

SUBJECT: Docrio DENIZEN, cmdo.

TO : Major K. W. Battersby
Deputy Chief Public Safety Officer.

1. This is to assure you of immediate compliance with your request of 27 August 1944, in respect to the above.

2. I am grateful for the opportunity to be of assistance myself on this matter.

Robert C. Hendrickson,
Major, A.U.S.
Regional Legal Officer.

RCH/ph.

DECLASSIFIED
Authority JCS Ltr, 1/4/74
By Lewis NARS, Date 5/29/74

Classification changed to Declassified by Authority of JCS Ltr. dated May 2, 1972.
Date: 5/29/74

Mu. Rost
If. Cats. } Cats.

I Cerb. / Cor. d.
mastiff, bat-mum
cum ... ci Gal-mang-
-Sats II.

To Peter

Kindly request
can Recent.
of Rosario Buitrago

167

1081

To Peter

Kindly request
the Record.
care Rev. Boyd Carpenter
of

167

1082

Rec'd 15/8/44
AUG 1 - 1944
L/1017

~~SECRET~~

Lead file
LEGAL

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4083/1/L. /rlp.

14 August 1944.

SUBJECT : Case of BENTIVEGNA Rosario.

TO : Regional Legal Officer (THRU: Regional Commissioner), Region IV.

1. The record in the case of BENTIVEGNA Rosario is returned herewith with decision on review endorsed thereon. Please acknowledge receipt.

2. My decision on review, which is made with the approval of the Acting Chief Commissioner, is that the conviction and sentence are quashed.

3. The reasons for this decision are that in my opinion on the facts as found by the court, the defense of "legittima difesa" was completely established. I am satisfied that on this particular day the mere act by a young, excited Italian of drawing and pointing a pistol is sufficient evidence of an intention of shooting to justify immediate action by the accused in self-defense. Beyond this, there was definite evidence that the deceased "placed a round in the chamber." In these circumstances, where a life and death decision has to be taken in a fraction of a second, it is not in my opinion reasonable to expect the accused to deliberate upon the various courses which the court believed to have been open to him: still less is it reasonable to say that the method of defense which he did adopt was not "proporzionata all'offesa."

Richard H Wilmer

RICHARD H. WILMER,
Colonel, CAC,
Acting Chief Legal Officer.

DECLASSIFIED
Authority: JCS 1/4/74 Ltr.
By: Lewis, NARS. Date: 5/24/74.

~~SECRET~~

48

1083

~~CONFIDENTIAL~~

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION IV LEGAL DIVISION
A.P.O. 394

L/C/1000.

16 August 1944

SUBJECT : Case of Dantivegna Rosario.

TO : Central Prosecutors Office,
Capt. Sam. Gilreath.

1. The formal decision on the review of the above cause is now before me.

2. Since the reviewing authority holds that a "legittima difesa" was completely established, the accused is entitled to be released forthwith.

3. Accordingly I enclose herewith the formal release with my signature appended.

4. Please see that the prisoner is released without any publicity and take such steps as may seem necessary to prevent any public display on the part of either accused or his followers.

ROBERT C. HENDRICKSON
MAJOR A.U.S.
REGIONAL LEGAL OFFICER.

RCH/CC

1088

51

~~CONFIDENTIAL~~

Classification changed to Unclassified by Authority of O.S.D. ltr, dated May 3, 1972. Date: 5/24/74.

DECLASSIFIED
Authority JCS ltr, 1/4/74
BY Lewis NARS, Date 5/29/74

Legal file

HEADQUARTERS,
ALLIED MILITARY GOVERNMENT
REGION IV.
LEGAL DIVISION
A.P.O. 394

L/1007

6 AUGUST 1944.

SUBJECT: Petition for Review BENTIVEGNA ROSARIO.

TO: Chief Legal Officer, Allied Control Commission.

1. Pursuant to the requirements established by paragraph 6 of Art. 32 of the Consolodated Instructives for Allied Military Courts, I enclose herewith :

a Petition for Review in the above stated matter with the comments of the trial judges appended thereto.

b Complete record of case, plus six exhibits.

2. In view of the political atmosphere which has surrounded this case since its inception, the remarks of the trial judges should be carefully noted and considered by the Reviewing Authority.

ROBERT C. HENDRICKSON
MAJOR, A.U.S.
REGIONAL LEGAL OFFICER.

RCH/AC.

[redacted]

37

[redacted]

DECLASSIFIED 1085
Authority: JCS 1/4/74 ltr.
By: Lewis, NARS. Date: 5/24/74.

1086

~~CONFIDENTIAL~~

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION IV LEGAL DIVISION
A.P.O. 394

L/C/1000.

16 August 1944

SUBJECT : Case of Montivegna Rosario.

TO : Central Prosecutors Office,
Capt. San. Gilreath.

1. The formal decision on the review of the above cause is now before me.

2. Since the reviewing authority holds that a "legitt... difesa" was completely established, the accused is entitled to be released forthwith.

3. Accordingly I enclose herewith the formal release with my signature appended.

4. Please see that the prisoner is released without any publicity and take such steps as may seem necessary to prevent any public display on the fact of either accused or his followers.

ROBERT C. HENDRICKSON
MAJOR A.U.S.
REGIONAL LEGAL OFFICER.

RCH/CC

1087

51

~~CONFIDENTIAL~~

Classification changed to Declassified by Authority of O.S.D. ltr. dated May 3, 1972. Date: 5/24/74.

DECLASSIFIED
Authority JCS ltr, 1/4/74
BY Lewis NARS, Date 5/28/74

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION

National Archives and Records Service
Washington, D.C. 20408

May 31, 1974

Il Messaggero
Attention: Mr. Lucio Manisco
50 Rockefeller Plaza
New York, NY 10020

Dear Mr. Manisco:

We are sending electrostatic copies of the 232 page Allied Control Commission-Italy legal section case file involving Rosario Bentivegna to you under separate cover.

Since our June 1973 letter to Ms. Bernstein, the Joint Chiefs of Staff have issued declassification guidelines for combined records dating before December 31, 1945. We have reviewed the eight pages mentioned in our June 12 letter and have declassified them. We have also submitted them to the appropriate office in the Defense Department for review for possibly restricted information (information which the Freedom of Information Act indicates must be withheld from release to the public) and have been informed that the documents can be released to the public.

We can provide you with electrostatic copies of the eight pages (identified by the attached "Withdrawal Notices") for a fee of $2 (our minimum fee). If you wish to order, please send a check or money order (payable to NATFB-NNG) to the General Archives Division, National Archives and Records Service (GSA), Washington, D.C. 20409. The reproduction price quoted cannot be honored after June 30, 1975.

Sincerely,

Daniel T. Goggin

DANIEL T. GOGGIN
Director
General Archives Division

WITHDRAWAL NOTICE

1088

ASSAI

1089

[illegible] that the Communist Party is not important because it is a party that has the elected presidency. It does not follow that the man [illegible] down a Communist party is a fascist. Assuming the truth of the accused's statement does his action amount to self-defence. Self-defence means that there is a peril which there is no other way of avoiding, and that the force used is no more than is necessary for the purpose. Because the deceased pointed a pistol it does not follow he was going to fire. In any case the accused had other ways of dealing with the situation, e.g. running with him, seizing his pistol, if necessary firing at his legs. I fully appreciate the atmosphere in Rome on 5 June. Accused had no ground for thinking that deceased was actually going to shoot. Deceased had had an opportunity of shooting already, and had not shot.

As to Italian law, the only enactments that accused could possibly rely on are those in ss. (1) and (2) of Article 62. I say those written of those sections do apply on those facts. The pointing out of the pistol by the deceased was not an "unjust act" in the circumstances, since being in uniform he was in authority. I think Art. 59 does not apply — it applies only to an act which is prima facie lawful, e.g. one person giving another a push which unfortunately results in death.

In answer to Court's last question to the Defence, I submit that for accused possibly have legitimate self-defence on both sides. One must always be the aggressor.

By the principles of civilised States the unlawful taking of human life is a thing that must be punished. If you think no other course was open to accused, you will acquit him — otherwise you must convict.

(The Court adjourned at 1230 hours to consider its judgment).

1090

a written report of [illegible] to say in 3-4-5 days afterwards. I came here to-day because I read in the "Avanti" this morning that there was a photograph containing a man with an extraordinary nose, and I was the only person interested I thought I had better come here. But for that article I should not have come.

- Avvocato Pinto applies for permission to have Accused, Carla Cappai, and Colaianni recalled, also for permission to call Terenzi.

Dr. Sabatino

I object to the case being reopened. But if I am told what they are to be asked, and the inquiry is limited to that I should not object. I do not make any distinction between my client & me. But I insist that we should know beforehand what is to be asked.

(Adjourned 1230 - 1400 hours)

Court rules that at the present stage of this trial is cannot hear further evidence from Carla Cappai or Colaianni. But leave is granted to call the witness Terenzi, to be examined by the Court. Accused will have the right to go back into the witness box and make - statements, instructed however to keep matters which are dealt with in the evidence of the last witness.

Amerigo Terenzi, called by the Court - sworn, and examined by the Court.
I live at via Poggino 15, Rome. I am in the commercial side of the newspaper L'Unità. I know the accused. I was in the office of the newspaper working that afternoon. I saw the accused that afternoon. I saw him several times. An incident took place outside our office that afternoon. I was not a witness myself. But the incident was reported. 1091

not war war, & agreements provided for the maintenance of public order during the period of change from war to peace.
When I say Germans, I include also the Republican-Fascist armed forces with offensive purposes against us. By preserving public order I mean keeping maintaining normal life against any disturbance. During the period of waiting by the Allies I was under arrest, and had no contacts with the Italian front. I can give you - general idea of the order in the event of a German evacuation. There was nothing in writing, for reasons of security - only oral orders were exchanged between me and the various parties. Of my own knowledge I don't know what happened to the military detachments after my arrest. I was arrested on 29 May. I was released, or rather came out, or down on 5 June - simply because the guards had changed their posts. Our relations with the partisans were excellent. The military clandestine front acted on the orders of the Italian command. I have reason to believe that the Italian command informed the Allied command of what was going on and what was being prepared in Rome. I have seen, & believe that the communications of General Ambrosio and Bencivenga were sent with the agreement of the Allies. I don't of my own knowledge know of the existence of agreed passwords. I did not have charge of radio communications - so I don't know if passwords were given by Radio Algiers or Radio London. In normal times I have never seen - Finance Guard on duty with an officer - but it might happen in case this or that case. I don't know the police rules well.

xxd

The military detachments were formed with the object of fighting the Nazis and Fascists, not in the purpose of fighting the enemies of the parties, unless they were Nazis or Fascists. It was formed for military purposes, not for public order, and not for carrying out petty

1092

[illegible] soft [illegible] in my experience. I have not made my investigations [illegible] of this Department but for the military police office. Normally a person who has a statement to make will be shown in there, and not left with the police officer. But this man came with an Italian statement and I should have had him shown in there, and would have taken my own statement in English. (Evidence of Alexandria and Corporal) That does not imply any criticism of my conduct. I have nowhere being concerned in any incident like that.

2nd Lt. Sabatino

I do not know my Italian P.S. again in my office - called Rodrigues. I do not think I should trust a statement like that casually in a case like this. No other Allied Captain took my article part in this case.

2nd Av. Nicolai

I know the agent Pantha. He was interested in this case, acting under my instructions. He was present at the interrogation of the accused. Pantha may have seen this man once with a statement, but I cannot recall him. I have never had any of the Commissario Luogo Negli. I do not remember seeing a letter from them.

Second recalled to give statement

I did not immediately move from Alexandria, leaving the Lieutenant, but after a little time when the situation was clearer on the ground. I went to meet Alessandria, because nothing was arrived civilian I wanted to see whether application be forwarded to. I enquired for the one that. When I saw the had with "Polizia" on it I got myself a complete disguise. He took my pistol in his hand, he examined the magazine and missing from the clip, and he counted for 3 were missing.

As already stated, he told me [illegible] and I stood. When my companions did come out to the road, I ordered them home to their posts. I and Carlo Coppi took care of closing house doors. Alessandri gave me his pistol, which I then kept in my hands. I remember perfectly this — the day I was at the Allied Command, waiting to begin with Capt. Greenhill, Alessandri did bring in a statement, which was read by Pancetta. I believe it was presented to Captain Greenhill. If I remember right, the typed Pancetta or the interpreter brought the statement in to Captain Greenhill; and it was on half sheets, folded and written on both sides.

2nd Lieut. Sabatino

I don't think I said "Italians, this is how traitors die!" I don't remember doing so, and anyhow some [illegible] I did not. I remember that the three guys, after a minute or two, began to shout [illegible] for the pistol. Then people were near the body, and I told them were to stay inside and keep the public away. Alessandri was near the first person to go near the body. I don't know who was. Alessandri handed me a companion. I had not seen him before that afternoon. I don't know what party he belongs to.

Rezel

Alessandri and I were together by appointment into the Liberty Building. I remember talking to Terenzi. Then we went a bit apart from the crowd.

I was in my office when I heard some shots. I went down stairs & saw people going towards Via Teatro Valle, and I myself went outside and went in that direction. I saw a young man in shirt sleeves on the ground. I did not see the accused in the confusion. I did see the accused later that afternoon, about 20-25 minutes after the incident. I sent him in to my office. Two men named Purple Hart, including a Volunteer Patriots who was acting for his identification. I examined the last witness as to Volunteer Liberty. I don't remember specially who else was present. It was agreed between me because I was alone in the office, and it was agreed between me that [illegible] identification. The Volunteer Patriots Lawyer Accused - the accused identified, and I was able to identify him. The accused told me that in the street he had seen [illegible] a person standing from the crowd; that having insulted this person [illegible] and struck; that having insulted this person to [illegible] him with his pistol; that in order to defend himself from his pistol; that is what I remember. The accused told me that he had shot the Volunteer Liberty was present when accused told this story. I am quite sure the accused told me this story. The V.L. asked me if I could remember, and if I could say that accused was wearing a suit. I was able to identify the accused. The V.L. told me that he was passing by the time when pistol shots; he told me that he saw and [illegible] that he saw a person - the ground and [illegible] that happened; that he asked accused for his identity, and seeing that he had false papers, brought him to the office to confirm his identity. I remember that he did not tell me he had insulted the incident. What he said was that he was going on some distance.

1095

Xxd Lt. Sabatini

The V.L. when he came to my office was not particularly excited. I don't think he came in for any purpose other than to identify accused. So far as I could see there was no contradiction between the accused and the V.L. I don't exclude the possibility that the story might have been told in greater detail." There did not appear to be any contradiction. There was no particular reason why he should have given me a full, detailed account.

No xxtion by Defence

By the Court

I was not in Court last this morning, nor at any time during this trial.

Capt. Gerard recalled (xd by Court)

I have not seen Alexandrini Virgilio since this morning. His name conveys nothing to me. So far as I remember nobody came to my office or left a statement on 23 June. If a statement was left in my office relating to this case, it must come to me. I have studied the office to-day, and can find no such statement. I cannot of course exclude the possibility that such a statement is somewhere in the office — possibly in the wrong file — but I do not remember seeing such a statement, and I should certainly have been glad to receive one in this case. I believe there was a military police office in the same building on 23 June. It is of course possible that the person bringing the document may perhaps have taken it to the military police office. It is not a thing that

seemed - dead. When I arrived, he was motionless, but
then in my presence he made some motions. I did not
notice that Bertinini was in ambush. I did not see one.
I did not examine Bertiniqua's pistol. I did not take
it in my hand, and I don't remember if he showed it to
me. I don't remember if he showed me the missing rounds.
I don't know who picked up the shells from the ground. I
did not touch the body nor move it at all. I ~~crouched~~ bent down
slightly over the body. I did not think of examining the
body. I did not notice if Bertinini had a holster or a belt.
I did not check up on the posters. There were few people
when Bertiniqua and I arrived at the body. On arrival we
cleared them away. No one was on the scene before me.
I did not see anybody around the body before me — it is
possible that someone did. I did not see my Finance
Guard approach the body. When Bertinini was hit he
turned to the right and fell back. He was lying
on his right side in the street. The feet were pointing
towards L'Unità building, with the head away. It was
the shots that made me turn round. Before the shots
I saw nothing. I don't know what happened to the
jeep after the officer took the photograph. I did not
see if the jeep came back later. I saw the officer
going towards the jeep, but I did not notice if he
got in. I reported to the Commissioner Magna
Napoli in the same day that I went to A.M.G. I
went there only then because my Captain told me to do so. My
Captain is Dallastella Filippo. He was my captain 1197
2 years ago. He was not present at the incident.
... some time just before I accompanied Bertiniqua to
the newspaper office. I agree it was only in the 1097
23. Since then I reported to the P.S. or A.M.G. up.
... then I had reported only to my captain. I made

a written report of [illegible] copy in 3-4-5 days afterwards. I could have it by Monday because I read in the "Avanti" this morning that the same photographer continuing a man with an automatic rifle, and I was the only person armed I thought I had better come here. But for this article I should not have come.

Avvocato Pecis applies for permission to have Accused, Carla Capponi, and Colantonio recalled, also for permission to call Terenzi.

Mr. Salvatico

I object to the Court being requested. But if I am told what they are to be asked, and the inquiry is limited to that I should not object. I do not make any distinction between my client and the others. But I insist that we should know beforehand what is to be asked.

(Adjourned 1230-1400 hours)

Court rules that at the present stage of this trial is cannot hear further evidence from Carla Capponi or Colantonio. But leave is granted to call the witness Terenzi, to be examined by the Court. Accused with leave of the Court to go back into the witness box and make a statement, instructed known to him matters which are dealt with in the evidence of the last witness.

Amerigo Terenzi, called by the Court, sworn, and examined by the Court.

I live at via Doglino 15, Rome. I am in the commercial side of the newspaper L'Unità. I know the accused. I was in the office of the newspaper working that afternoon. I saw the accused that afternoon. I saw him several times. An incident took place outside our office that afternoon. I was not a witness myself. But the incident was reported.

1098

Commissario Luigi Napoli, and then with an accompanying letter from the Commissario I went to Piazza Venezia. I was told by an Allied Sergeant it was too late that morning and I was to come back at 1430. It was more than 4 days later. Commissario Luigi Napolitano a District H.Q. of Public Security. When I went in to Piazza Venezia, I found Buttiglione. I also found a plain clothes Italian police agent, and I showed him my agent, and he asked for a typed copy. The girl typist said she could not type it as she had no index. Then the Captain & when Buttiglione was there, came in. Buttiglione & the agent came in to the Captain's office. The P.S. P.S. agent came in & showed the statement. I gave him my statement again. He took it into the Captain, & then he returned. I asked for a copy & a receipt & he - the agent said the Captain said that was all right. I still had the accompanying letter. I waited waiting. I still had the accompanying letter. I asked the Italian who was standing near by... I asked the Italian who was standing near by... I asked the interpreter named Luigi Bruno in the office where the Captain sat - I was told to wait. He returned Captain sent - I was to wait. He returned and said the Captain wanted me. I could ask me again if he wanted me.

XXd Aug. Paris

On 5 June, at 2.30 - 3.0 p.m., I was - one of via Tre Cannelle via Quattro Novembre. I was standing still, and alone, waiting for my captain. I was alone for about 10 minutes. I was standing still at the same place, moving a little sometimes, looking me at me in the same direction most of the time; watching the Allied troops in via Quattro Novembre. I was not approached by anybody. I did not notice 1079 anybody was by, & Buttiglione came.

71. REGION IV CASE No. 7762

'I heard an interval conversation – not e. – 7 miles. I heard 2 or 3 people, possibly even four. I am a Flemish, not a policeman. After firing Buttiglione stepped on the sidewalk with pistol in hand, and immediately afterwards came towards me. He came towards me spontaneously. I was about 10-15 metres from the scene of the incident. He did not run towards me. I was going at – fast step towards him. I met him 4 or 5 metres from the body. As soon as we met we spoke. The first thing I've came to my mind was to stop Buttiglione – then he came with me to the body. I was wearing a white band with a tricolour strip in the middle. Buttiglione's band was partly tricolour. I was visibly armed. I had an automatic rifle. Perhaps Buttiglione considered me – policeman, perhaps not. I asked him for his weapon. It was then that his Capporal came up. I could not assist him as I was alone. The municipality agent to help. I did not declare Buttiglione to be in a state [illegible], or in a state of "fermo". If it were possible I should like to kill him. I did not like at his Capporal for their names. Agent did not show me his false documents, but he told me about them. He still had not gone to the body of Buttiglione. It was 35-40 seconds from the shooting to the time when I met Buttiglione. From the time I went on to the body was 20-25 seconds. It might be more, I don't know how much time. Many time has not passed and I cannot remember on how long it was. It might be 1½ – 2 minutes. Buttiglione was wearing a grey-green shirt – I did not notice anything in it. I don't remember how his sleeves were. I did not enquire if he was an officer. I don't remember if he was a cadet. When I approached the body, it 1100

'I heard an interval conversation – not e. – 4 cries. I heard 2 or 3 people, possibly even four. I am a Zionist, not a politician. After firing Buttigieg stepped on the sidewalk with pistol in hand, and immediately afterwards came towards me. He came towards me spontaneously. I was about 10-15 metres from the scene of the incident. He did not run towards me. I was going 4 - four step towards him. I met him 4 or 5 metres from the body. As soon as we met we spoke. The first thing that came to my mind was to stop Buttigieg – then he came with me to the body. I was wearing a white hat with a tricolour strip in the middle. Buttigieg's hat was wholly tricolour. I was visibly armed. I had an automatic rifle. Perhaps Buttigieg confused me – policeman, perhaps not. I asked him for his weapon. He gave it to me. Meanwhile Coppini came up. I could not meet him as I was alone. The magistrate agreed to help. I did not believe Buttigieg to be in a state of arrest, or in a state of "fermo". If it were possible I should have held him. I did not hit him at his Coppini for their arms. Agius did not show me his false documents, but he told me who he was. He said that we gave to the body of Buttigieg. It was 35-40 seconds from the shooting to the time when I met Mr Buttigieg. From the hat I gave me to the body was 20-25 seconds. It might be more, I don't know how much more. A long time has now passed and I cannot remember now long it was. It might be 1½ - 2 minutes. Buttigieg was wearing a grey-green shirt – I did not notice anything on it. I don't remember how he shaved me. I did not recognise if he was an officer. I don't remember if he was a cadet. When I approached the body, it

1101

Some people ran, we ran, but my attention was fixed on these two. I cannot say whether any of the others were looking at us. Nobody else fired. Bentivegna was alone. I recognise Carla Capponi — she came by me when I was with Bentivegna, & soon as I stopped him. She was coming down from Via Tre Cannelle. I cannot say if she was there at the time of the shooting, nor whether she was with Bentivegna or after him. To me Bentivegna seemed alone. I was a little perplexed, but then I began to turn towards the scene, and I stopped Bentivegna. He was coming towards me with weapon in hand. He was coming away from the scene. I stopped him by asking if he had gone crazy. He said "He was leaving from the portone of L'Unità". He made a gesture to give me the weapon, and then drew back and said "No, I will not be disarmed". I said "That's quite all right — but it's loose in your pocket". As soon as he put it loose Sigona Capponi approached us. She was armed with a pistol, carried in a bag. I asked for Bentivegna and then, Sigona Capponi for their documents. Bentivegna told me his documents were false, because he was being searched for. Sigona Capponi had no documents. I asked what duties they were pursuing, & Bentivegna told me he was living NCS of L'Unità, and I took his no. of his card, 6577. Sigona Capponi had no card. Then I accompanied them to the newspaper L'Unità. Before going, I saw there a [illegible] lorry with two hands similar to mine, and I had the people there leave from the scene. 2 or 3 companions of Bentivegna participated in this. As soon as I stopped Bentivegna I went towards the body, and at the corner the [illegible] fled. It was then that I took it [illegible] if he had an arm. I don't think anybody reached the body after me. I did not see a pistol near

1102

his head. If he had been me there I think I should have said it. Before I went to the newspaper office a jeep arrived, and an officer got out and took some pictures. It was some minutes after the shooting, say 1 - 1½ minute. After taking the pictures the officer went away. I don't think he took any further interest. There were 2 or 3 other people in the jeep. A priest came and knelt beside the body. On the way to the newspaper office I met a Maresciallo of Carabinieri in uniform, and I asked him to take an interest, but he said he had other responsibility. When I was sure the body had been carried by the Italy. I did not meet Bentivegna since I did not know the circumstances, Bentivegna was wearing an uniform, and in my case I am not an agent 2/P.S. When I got to L'Unità office, I asked who was in charge, and a gentleman called Terenzi presented himself. I made a report to him on what had happened. Terenzi did not put him under arrest. I left them there and came away.

xxd Lt. Salvini.

Bentivegna came towards me, fired in the air, and he said "~~Sono~~ Romani (or Italiani), we are friends to their country." He said this to the world at large. I did not hear any shots before I turned round. They seemed to be a succession of shots: I cannot say how far off Via Tre Cannelle Signorina Capponi was. I did not see anything to that boy until after. He did not appear to try to say anything to me. When he fell he tried to get up, but fell back to the same position. I saw him fall in the first instance. I did not notice anything in his hand. He drew his last breath before my eyes. I made a report to the Allied Command 2 days I had been. I first went to

The Court directed that it would not give argument from the Defence on the first three points submitted by the Defence in opening, but that the argument should be limited to the remaining seven points. It was agreed that the Advocate for the Defence should address the Court in Italian, the Court calling for interpretation only where any member failed to follow the thread of the argument. An application by the Defence for permission to have the last word was refused. At the request of the Defence the Court adjourned till 0930 hours tomorrow morning.

(Adjourned 1230 hours).

21 July 1944.
Court re-assembled at 0920 hours.

Lieut. Sabatino
Within the last half hour a new witness has reported to me, who claims to have been an eye-witness.
Court, after hearing the Defence, rules that the witness shall be called & examined by the Court.

Alessandro Virgilio di Cesare (Sworn)
I reside at Via Di Pastini 133, Rome. I am a florist. I came to Court this morning, because I read in the newspaper that you were looking for a photograph taken by an Allied officer, which showed me with a rifle at the scene of the incident. I have no such photograph, but I know that an officer took me at two pictures. I don't know who the officer was, but he was an Allied officer — I cannot say if he was British or American. On 5 June ~~[illegible]~~ at 2.35 I was at corner of Via Tre Cannelle & Via IV novembre, just beside shoe-shop of Boffarini — that is the same as L'Unità building. I was on duty waiting for my Captain who had ~~[illegible]~~ gone to see another Captain in — nearby building. I belonged to General Bencivenga's forces. I was a Surgeon Major. I was dressed in civilian clothes with an armband — ~~[illegible]~~ a white band with a circular centre, marked "Polizia". 1104

It was issued by the Captain on the afternoon of 4th June.
I thought it a different organisation from the second. I don't
know Castelli Alberto. My organisation did not belong
to any one political party. It was composed of elements of
the Army. I was myself in the Army. Our job was to
stop the Bandits [illegible] — by Captain with 8 men was to
stop it on afternoon of 4th and I did it until the Allies
arrived. On 5th an Allied officer arrived and told me, we
were wrong. At 2.35 p.m. I was not on my particular
job — I was just waiting for my Captain — the street
corner. I was standing with my back to Via Tre Cannelli.
I heard 2 or 3 people talking in an agitated way, behind
me some 15 metres away. I could not hear what they
were talking about — they were men. I turned immediately.
When I turned I saw — young man dressed in grey, with
his back turned, who was pointing a pistol and firing.
As soon as I turned he began to fire. He fired 3 or
4 rounds. He was standing up — military man with not
a coat. The military man was facing the civilian with
his front facing me. He was 1–1½ metres from the
civilian. I did not know who either of them were.
I would know them again. I recognise Buntiz Ugo
in Court — he was the one who fired. I recognise him
because afterwards I stopped him. I believe the military
man was without a cap. I could not tell what organ-
isation he belonged to. At that moment when I ran to
the door I did not see my mum. I did not see my
sister. I looked round & I did not see my aunty.
I did not notice if he was wearing a belt with a
holster. I did not look — I only looked round the
body. I did not see my mum in the front room
the body. He had no arms in his hand. He appeared
to me to be a completely unarmed man. There were

I do not see, sir him. Nobody in a official position under the Detail's organisation came on the scene and questioned me shortly afterwards. NO – (question misunderstood) A civilian with an armband did come up and ask questions. It was not Costabile Alberto, but a policeman in civilian clothes who arrived immediately after the incident. I did not take his name. He has not been here to give evidence. I am surprised at that. I should know him again. It was not Colantonio Ovidio, the Brigadiere who gave evidence here. I recognised him in Court, recognised him as one of the first who arrived on the spot. I don't remember where he did when he arrived. I don't remember if he arrived alone or with anybody. When I remember seeing him he was on foot. Right away I did not notice if there was a car. After a little I did notice a station wagon car, from which an officer got off, who took some photographs. He was Allied, but I don't know whether American or British. I cannot remember exactly where the car was, but it was very near the ~~incident~~ scene of the incident. The vehicle was a Jeep. I only saw the officer when he took the photograph. I do not say he came out of the Jeep. I only saw him when he turned to take photographs. I approached, but he told me he was a police officer, and I left him taking photographs. I spoke a little at which I spoke was in the Jeep. I spoke to the officer in English. I don't English. I spoke to the officer in English. I don't think the Brigadiere of Carabinieri was dressed in uniform. I think he was in civilian clothes.

Xxd Avv. Perri

(Statement 2 Luglio was called for, and admissible by the Court, and put in evidence as Exhibit).

No other questions. 1106

Xxd Lt. Sabatino.

I remember that Colantonio Ovidio was in civilian clothes.

Had he been in my way I should have said more. But I cannot tell you any more to show he was drunk.

By the Court

The Statement was taken in Italian by means of an interpreter. The English was interpreted by the interpreter into Italian. I corrected one or two words in it I signed. It was the English translation. I was frightened. I did not understand the thing. My answers were retracted to writing. I am satisfied that the Statement does represent what I want to say. I was called before Captain Grenfell on 24th or 27th. I was not arrested. I was invited to go there, and I accepted the invitation.

there. I - and the deceased was armed, because he had a belt. I did not see if he had a holster. Where the holster should have been was covered by a coat, and I cannot say either whether there was a holster or, if so, whether there was anything in it. There was no pistol beside the body, either in his hand or on the ground. I did not look for one, but if there was one lying where I should have noticed it, as I walked around the body. When the incident happened there was no crowd, but there was a crowd in the vicinity. I did see a man on the scene who had a pistol, but I cannot say if it was his own or the deceased's. He was a civilian, but he had an armband, and one with the letters VL. That was the accused. Little the accused was a young lady who had a pistol, but not in her hand - inside the belt. I cannot say if that could have been the pistol after removed, as I did not examine it. The pistol was just tucked into her belt. There was a third armed person, but he had a rifle and I don't know if he also had a pistol. So far as I know those were the only armed people on the spot. I saw nothing of a Jeep in the neighborhood. I saw no American officers on the spot. But there was a group of people on the corner of Via Rasella Building, and another group on the opposite corner. There was one member of the Allied forces in the group at the corner. I saw no marks of rank. He raised to his eye something that looked like a camera and took a picture. I had never seen Celentano Ovidio before the fire-12
fight. He certainly was not on the scene when I was there - but he may have been in one of the groups at the corner. I don't know if there is a Bar in Via Tè Cannelli. I did not see a Jeep standing anywhere in Via Tè Cannelli. I was on the scene for about 20 minutes approximately.

1108

Xxd Avv. Nicolai.

There might be a flaw in the upper part of his Tè Cannelli, and the might have been a pimple there — but I never went beyond the counter since the end matters so. Sharp turn.

xxd Lt. Sabatino

I think the pistol the lady had was a Beretta — an Ordnance type, large size. It is the type normally issued by the Italian Army.

Carla Capponi (recorded by Amor)

I remained on the scene of the shooting for about 20 minutes. When the Lieutenant fell, the pistol was in his hand. Then he raised his head a bit, thrust his arm forward — then he brought his arm to the height of his head, opened the palm, and the pistol fell to the right side of his head, near his hair. He remained on the side of his body for some time — 5 or 10 minutes. Then I went away from the spot for a bit, to notify the Finance guards who had arrived on the scene to keep public order. These Finance guards had not been witnesses in this case. I returned later, in the time it took to go up the stairs to via Condotti and return. When I returned the pistol was gone. I cannot say who had taken the pistol. I asked the 3 Finance Guards and a policeman in civilian clothes with an arm band, and none of them could tell me anything about it. There were many civilians there, especially many soldiers. I did not know on the spot immediately after the incident. But then 3 young men who had witnessed from the newspaper came — to see. He and told them to go back to duty, but one of the three gave me a pistol. I have already handed over this to Capo. Guanciali. It was a Beretta 9. It is not right that I had — pistol at the time of the incident. (Castelli Alberto is brought into Court). I don't remember seeing this man before.

1109

I was married that day, because that morning I was a fellow countryman in Piazza Vittoria. I was approached by 5 soldiers who told me to show them my pistol. I showed it to them, but they put it in their pocket and ran off. That is why I was married that day.

XXI Avv. Persio

That day I came out of hospital and went to a house of friend. That I ate and went slowly to my barracks. I came from Corso Vittoria, by Piazza Vergine, along Via Quattro Novembre to Via Tè Cannelli. Arrived At the scene I was no one else on Via Tè Cannelli. I was walking alone. At times were 30 seconds between me of Via Tè Cannelli. I was walking fast. At some points I ran, but I was stopping because if I could find anyone to bring aid. It is 30-40 metres from the scene of the shooting to Via Tè Cannelli. I crossed that in about 30 seconds, but there was traffic and I could not cross. The street of the street was deserted. The other people I saw were behind. There were 3 people in the direction where I was going. Barbarisi fell — I am speaking after the incident. I did not approach them then, because I did not know them and did not know their intentions. I did not speak to anyone, and no one spoke to me in Via Tè Cannelli. I was dressed that day as I am now — with nothing in my hand. I was wearing a beret, and not the helmet. Immediately after I was disarmed I was ordered to report to my Superiors. My Legion is at Santa Maria Maggiore. It is about 1 - 1½ Km. from Via Tè Cannelli to there. In that distance I met no police agent. It was about 10.30 a.m. when I was disarmed. I was then coming from my barracks. I reported immediately to my Superiors. They did not give me another weapon. I had no weapon in the afternoon. It would have been useful 1110 I was not, as I could have acted in the case of the

incident of Bucci report. I/I was found - was in the ground - and the [illegible] is in being examined. I was to the hospital in the morning for treatment, after I had reported to my superiors about the loss of the weapon. I was being treated for diarrhoea. The hospital is in Viale del Re. After having diarrhoea. The hospital is in Viale del Re. After having my sister's lunch, to the hospital I went by my sister's lunch, in Via Cavour, to East. I was there about 11.45. I stayed there about half an hour. I was with my weapon then. Leaving my sister's I stopped for a while in Piazza Navona. I then went to Palazzo Braschi. Then I went through L'Arco Argentino around to Piazza Venezia, and then on to Via IV Novembre. I was 7-8 paces from Barbisi when the incident happened. Barbisi was carrying his pistol in his left arm. I remember it was the left arm, because I saw the hand as well, which is now - the left arm. He was wearing a shirt with long sleeves. I noticed the hand on the shirt. At first I was confused, but then noticing the yellow stripes - his trousers, I concluded Barbisi was an officer in the Financial Guards. Before 5 June officers were authorised to wear shirt-sleeves, in public and on duty. I was going to my barracks for lunch duty. The hospital is called Gallicano.

Lt. Tenente Aldo (recalled by Court)

There was a ~~lost~~ holster on Lt. Barbisi's belt. When I saw Barbisi's body afterwards, I did not see his pistol. He then looked around & then found nothing. He then only noticed some 2 hours after the incident. I am sure only positively that the pistol was not in the holster, which I saw was open and empty.

Cadet Alberto (recalled by Court) 1111

As soon as I heard the shot I looked to the scene, on foot. My H.Q. is about 200 yards away. I cannot exactly

Esibito in 6
H. h. 1 Atti
Corte

CASELLARIO GIUDIZIARIO

PROCURA DEL RE IMPERATORE DI ROMA

CERTIFICATO GENERALE

Al nome di Bonfiglio Mariano

di o fu Vincenzo *di o fu* .....

nato il ..... *in* .....

Circondario o Stato di .....

Sulla richiesta della Corte Generale Militare

per motivo di ufficio -

si attesta che in questo Casellario Giudiziale risulta:

ANULLA

162

Stamperia Reale di Roma (365-s)

1112

Esibito il 6 H.h.1 Ottobre Corrente

CASELLARIO GIUDIZIARIO

PROCURA DEL RE IMPERATORE DI ROMA

CERTIFICATO GENERALE

Al nome di Bonfiglio Mario

~~*di*~~ *o fu* Vincenzo *di o fu* .....

nato il ..... *in* .....

Circondario o Stato di .....

Sulla richiesta della Corte Generale Militare

per motivo di ufficio -

si attesta che in questo Casellario Giudiziale risulta:

NULLA

162

Stamperia Reale di Roma (365-s)

1113

Recd July 13 44

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
ROME REGION
LEGAL DIVISION
A.P.O. 394

SUBJECT : Order convening General Military Court.

In pursuance of the power conferred upon me by the appointment dated 1st. July 1944

I hereby DIRECT that the General Military Court shall meet at the Palace of Justice at 0930 hours on Friday the 14 day of July 1944 and such other days as may be necessary for the trial of the offences brought before it AND that the composition of the Court (in compliance with such order) shall be as follows:

Col. H. G. WILLMER	President
Lt. Col. IAN, CAMPBELL	Member
Major ROBERT C. HENDRICKSON	Member

Dated 12 July 1944

Charles Poletti

CHARLES POLETTI
Col. A.U.S.
Regional Commissioner.

163

1114

Judgment.

The Court desires to say at the outset that in arriving at its decision in this case it has not been affected one way or the other by any political considerations. It makes no difference in the mind of the Court that the accused happened to be a member of any political party or that the parties, the trying down of which was the original cause of the unhappy events which followed, were those of any particular political party or organ. The deceased man was a human being & the accused is to be judged by this Court as a human being.

It has already been stated in this Court that unless the Court is satisfied beyond reasonable doubt that the accused is guilty he must be acquitted. In the present case there is no doubt that the accused killed the deceased: he himself has admitted it. The only question which remains, therefore, is whether in the particular circumstances the killing of the deceased was a lawful or an unlawful act. The accused claims that it was a lawful act on the ground that he was acting in his own defence & he invokes Art 52 of the Italian P.C.

In assessing the validity of this claim by the accused, the Court must be guided solely by the evidence given during this trial. This evidence has been extremely lengthy & voluminous & the Court has attended very carefully to the whole of it. As has already been pointed out, there has been considerable variation of testimony between the various witnesses with regard to many details of greater or lesser importance. The Court does not propose to set out here in detail its judgment on the accuracy or otherwise of the witness. Having heard (and weighed)

1115

the incident, it has been possible to form a fairly clear view of the main events of what happened. The Court is satisfied that the accused, seeing the deceased coming down the porters, addressed him in an arrogant & hostile manner: that the deceased replied in an equally hostile manner; and that he pulled & pointed it at the accused: that accused thereupon, without waiting, pulled out his own pistol in turn & shot the deceased. In the view of the Court, this is a case in which two excitable & impulsive young men lost their tempers & reacted precipitately & unnecessarily to ~~extract~~ the use of firearms.

It remains, therefore, to consider the legal consequences of ~~their~~ ~~words~~ and action taken by the parties. In doing this we do not forget that the events took place on the 5th June – a day, doubtless, when the atmosphere was fraught with electricity & feelings ran high.

Allowing for this, the Court is satisfied that the action of the deceased in drawing his pistol was ~~[illegible]~~ unwarranted & amounted to an ~~[illegible]~~ "offesa ingiusta" within the ~~[illegible]~~ meaning of ~~[illegible]~~ 52 of the P.C. Having said this, however, the Court is equally satisfied that the re-action of the accused was also unwarranted and ~~[illegible]~~ exceeded the bounds of defence proportionate to the "offesa". As was said by the Prosecuting Officer, when confronted by the pistol of the deceased, the accused had other means of dealing with the situation without shooting to kill straight away. [illegible] not a ~~[illegible]~~ the least effort; [illegible] the deceased ~~[illegible]~~ his pistol, he had any intention of shooting. There is no evidence to

1116

2714

Form No. 8

ALLIED MILITARY GOVERNMENT

PROCEEDINGS OF AN ALLIED MILITARY COURT

Held at The ex Governatorato of Rome.

on the 14th day of July 194 4. and succeeding days.

Before Col. H.G. Willmer. Pres. } Constituting a General Military Court.
Lt Col. Jon Campbell. Member
Maj. R.C. Hendrickson Member.
(Name and rank of President and/ or Magistrate constituting the Court).

REFERENCE No. Avvocato Di Segni Ruggero sat with the Court as an Assessor.

ACCUSED

Name: Bentivegna Roberto di Vincenzo

Address: Via Torino 122. Roma.

Description: Single

Occupation: Retired Student

Age: 22

INTERPRETER

Name Cpl. Hugo Tellona is duly sworn

PROSECUTING OFFICER

Name: 2nd. Lt. L. A Sabatino.

ADVOCATE FOR ACCUSED

Name and Address Avv. Corrado Perris
Avv. Adelmo Niccolai
Avv. Giulio Bonvi D'Arezzo.

CHARGE (S)

(This space need not be completed if a copy of the Summons or charge sheet is attached).

Charge Sheet attached.

REGION IV CASE No 7762

1117

2274

Form No. 8

ALLIED MILITARY GOVERNMENT

PROCEEDINGS OF AN ALLIED MILITARY COURT

Held at The ex Governatorato of Rome.

on the 14th day of July 1944 and succeeding days.

Before Col. H.G. Willmer. Pres. } Constituting a General Military Court.
Lt Col. Jan Campbell. member
Maj. R.C. Hendrickson member. (Name and rank of President and/ or Magistrate constituting the Court).

REFERENCE No. Avvocato Di Segni Ruggero sat with the Court as an Assessor.

ACCUSED

Name: Bentivegna Roberto di Vincenzo

Address: Via Torino 122. Roma.

Description: Single

Occupation: Medical Student

Age: 22

INTERPRETER

Name Cpl. Hugo Tellona. is duly sworn

PROSECUTING OFFICER

Name: 2nd Lt. L. A Sabatino.

ADVOCATE FOR ACCUSED

Name and Address Avv. Corrado Perris
Avv. Adelmo Niccolai
Avv. Giulio Bonfi D'Arezzo.

CHARGE (S)

104

(This space need not be completed if a copy of the Summons or charge sheet is attached).

Charge Sheet attached.

1118

REGION IV CASE No 7762

1. The evidence, any statements by the prosecution and defence before sentence, and any opinion the Court wishes to record as to its findings will be written or typed on th and the following page. When the length of the evidence requires, further sheets of pap serially numbered will be inserted in this file.

2. This record will be signed by the President and members of the Court.

---

14 July 1944.

The Court assembled at 0955 hours.

The Convening Order was read.

The Interpreter was sworn.

The Accused for the Defence was asked upon Jurisdiction in this Court.

In answer to question by the Court Lt. Schatzing submits that a long term of imprisonment would be the maximum sentence.

Accused is arraigned, and pleads "not guilty".

Adv. Comando objects to the jurisdiction, and applies that the case be heard by an Italian Court. Allied Proclamations had not yet gone into effect at the time of the alleged offence.

Court rules that case must proceed, with liberty to Defence to renew their application at any stage, if at the end no prima facie appears that there are good grounds for transfer to an Italian Court.

Lieut. Schatzing

Prosecution will show that Accused was a member of Guardia di Finanza, and that he was missing from the Allies when shot. He wore distinguishing marks on his clothing to show he was working under Allied authority. Accused attempted to arrest certain persons that had been affixed to the walls in this City. Accused knew Accused was attempting to remove posters. Accused asked him what he was doing. Accused wanted to know who Accused was and why he ripped the posters. Accused without explanation opened fire and inflicted fatal injuries on Accused. The homicide was unlawful and without justification.

1119

1. The evidence, any statements by the prosecution and defence before sentence, and any opinion the Court wishes to record as to its findings will be written or typed on thi and the following page. When the length of the evidence requires, further sheets of pape serially numbered will be inserted in this file.

2. This record will be signed by the President and members of the Court.

---

14 July 1944.

The Court assembled at 0955 hours.

The Convening Order was read.

The Interpreter was sworn.

The Accused & his Defence Counsel appeared before the Court.

In answer to questions by the Court Lt. Sabatino submits that a long term of imprisonment would be the maximum sentence.

Accused is arraigned, and pleads "not guilty".

Adv. Corrado objects to the jurisdiction, and applies that the case be heard by an Italian Court. Allied Proclamations had not yet gone into effect at the time of the alleged offence.

Court rules that case must proceed, with liberty to Defence to renew their application at any stage, if at the end case given it appears that there are good grounds to transfer to an Italian Court.

Lieut. Sabatino

Prosecution will show that Accused was a member of Guardia di Finanza, and that he was missing from the Allies when short. He wore distinguishing marks on his clothing to show he was working under Allied authority. Deceased attempted to remove certain posters that had been affixed to the walls in this City. Accused became disturbed that deceased was attempting to remove posters. Accused asked him what he was doing. Deceased wanted to know who accused was and why he caused the posters. Accused without explanation opened fire and inflicted fatal injuries on deceased. The homicide was undisputed and without justification.

1120

, some posters. The officer was in V. Tè Cannelle. The posters were exposed in certain open windows, on Via Tè Cannelle. I was on the right side, and the posters were on the left side. The officer was 8-10 paces away from me — just across the road. I don't know what corps the officer belonged to, but he had an armband, a white band with black writing, on his left arm. I thought he was a police officer. He wore a yellow band on his trousers, and I imagined he was an officer of the Finance Guard. He had a pistol in a holster on the right side of the breast. He had no belt. He had a jacket rolled with the lining inside out, which he was carrying rolled over his left arm — the lower part of the arm. The arm band was on the other part. His appearance seemed strange, and I was surprised that he was not wearing a hat. I don't think he had been drinking. While I was going on my way I heard a shot. Hearing this I turned round and saw the officer falling head towards the ground, and with extended pistol continuing to fire. I had seen Bentivegna when I was passing the door of L'Unità. The first time I saw him was when I turned round on hearing the shot. I was just near the turn of the street when I saw him. Before hearing the shot I heard no shots. After I turned round on the first shot, I heard 3 or 4 more shots. Bentivegna fired them all — he was the only person who fired. I saw after. There were 2 or 3 other people there — civilians — but I saw no arms. I [illegible] know what the Lieutenant got his pistol out, because on the ground I saw no pistol. Seeing the happening under Bentivegna I went [illegible] my business, continuing [illegible] Cannelle. I could not make out whether the officer, because dressed in civil clothes, pistol in hand, at the time of the 1121
firing or after. Two persons [illegible] firing to help — after

because I was frightened. I had no pistol myself. I saw number 19 there was a Jeep with Americans in it. I did not say anything, Bentivegna said nothing to me. The pistol was pointed at the back man, and I. was in that direction too. I could not approach him to ask him anything. When I saw Bentivegna at the door of L'Unità he was standing there looking into the street. He was alone at that time. I did not see anything in his hands. I could not see if he was armed. I was walking along the street, minding my own business. I said the Second looked like a "Carabiniere" officer, because I could not distinguish whether he was an officer. He had the trousers, puttees shoes of an officer. The fact that he was leaving the portone was the thing that made me suspicious.

(Adjourned 1730 hours)

20 July 1944.
Court re-assembled at 0920 hours.

xxd Lt. Sabatino

When I saw the Lieutenant coming from portone I was directly across the street from him. I just turned my head to look at him and continued walking slowly. I did not look at him again till I heard the shots. When I heard the shots I looked round again. I turned back a few steps and I saw him fall back to the ground. I saw a civilian with a gun in his hand. Before I heard the shots I did not hear anything else — I was absent-minded at the time. I did not say anything to the civilian. I was a little frightened as Bentivegna looked so threatening. I thought it would be impossible to escape and identify the wounded man and Bentivegna. I was disarmed and I thought I too might be killed. I went for my bicycle, hoping that on the way I should meet an agent, who could help in the identification. Being unable to find my agent in the street, I had to go right 1122
to the barracks where I reported the facts to my officer

Section XXI (11th June)

The two men I saw were near the place where the street runs
a big-boy, and became unknown.

Eighth Witness (Sworn).

Giuseppe Cassian Carnia, Salita San Nicola da Tolentino,
Rome. I am a professor in the University of Rome, in the
faculty of Contagious Diseases. I belong to the Democratic
Christian Party — more called the Popular Party. I am Rector
of the University of Rome, appointed by Col. Policetti. I have
known accused many years. I am on friendly relations with
his family and parents. I first saw accused 5 or 6 years ago
when he was ill. I have always had the impression that he was
a young man of ambition, firm character. Since his
illness I have known him to be a medical student, and
have had occasion to see him. He was a young man
of much discipline, studious, virtuous, athletic, both in
his medical studies and in his political movements. His
athleticism sometimes revealed a notable spirit of sacrifice.
He was always used to collaborate kindly with everyone.
During the Nazi occupation I frequently saw him. Often he
was pursued by Nazis, and at times he would come to my clinic
to see me by his request.

No Section

Ninth Witness (Sworn)

Ivano Domenico, Via Orazio 31. I am Director of the
Istituto Istituto Dei Ingegneri — a study institute organ-
ization in favour of Italian architects. I am husband of
the fifth witness. On 5 June 1944 I was living
[illegible] Via Lombardia, with my wife, in my
own flat in Via Quattro Novembre 144.
While descending the steps I noticed — young men in [illegible]
[illegible] with some rifles, [illegible]

from certain view up on the wall. I saw a young man come up and I had the impression then he addressed the one in grey-green. I thought the man in grey-green was a military man, but he had no blouse. I did not know him — but I know now his name was Barbuisi. The other young man I recognised as the accused, although at the time he seemed thinner and more sun-burned. Barbuisi was in shirt sleeves. I did not notice if he wore any distinguishing marks. Near Barbuisi I believe there was a civilian. Accused was followed by a Sergeant. I saw accused and Barbuisi talking animatedly. After a certain interval Barbuisi took out a pistol and pointed it at accused. I don't know if accused was armed, because another woman my wife, who was very frightened, invited me to turn back — She had already begun to go up. I did not notice what accused was doing with his hands. As soon as I turned towards the stairs I heard shooting. I heard some 5 or 6 shots. I did feel then the shots had a different tone. My wife and I went up again + returned home.

xxd

I could not tell where the two men were facing. I saw the military man point his pistol at the accused. I then turned round and ascended the steps. During the conversation the accused was gesticulating with his hands. I believe the accused was dressed in dark clothes, as I think his shirt collar was open. The young woman was in a light dress. I cannot say exactly how the other civilian was dressed. There appeared to be two groups of shots. I believe the first was the louder group. I did not notice when I saw Bergonzi. I, for him the story to the Advocate when I met him. I never reported to the police. I met the Advocate about 15 days ago to discuss certain questions about my in-

1124

, ventotto. I militia detachment or had any one person
our headquarters — it held its meetings anywhere. I saw
Kuno where H.Q. was on 5 June. If I saw a man dressed
in officer's clothes, but carrying his pistol, and in his shirt
sleeves, with his Sam Browne belt over his shirt, I should
regard him as an officer.

Re-d

The fact that I am regarding an officer obliges me to recognise
another officer in such case. But I believe that the public
can recognise my officer by his boots, belt and shirt.
An officer without my Sam Browne or cap might be taken for an
N.C.O. Before 5 June an officer of the Finance Guard
could be distinguished from an officer of the militia,
because the latter wore a black shirt. But an officer
without a Sam Browne could be mistaken for an officer in the
Republican Fascist army.

Seventh witness (Sworn)

De Tuddo Italo, Via Flaminia 19, Rome. I am a journalist.
On 5 June about 1500 hours I was coming from ~~Piazza~~ Piazza
Sant' Apostoli in Via Quattro Novembre. Because of the heat
I was walking and pushing my bicycle. Reaching corner of a
shoe shop (called Bufferini) I heard some shouts. From the
direction of the shouts I saw two persons facing each other.
I was surprised rapidly to see a military man without a
Sam Browne with shirt sleeves rolled up. My attention was
attracted by this. The other person was a civilian. I
cannot precisely say how he was dressed. I vaguely remember
that he was dressed in something grey. I did not notice
whether he had any distinctive marks - many people were
walking towards that way. I did not know the civilian.
I saw him back to me. I did not know the military
man. It was a very brief scene. I saw the two men
fighting. I saw the military man produce a pistol,

[illegible] . I heard a shot. I [illegible] running
[illegible] I thought it was time to get
out of the way. I turned my bicycle and [illegible]
I had come. I could not see what type of weapon it was.
I did not see if the civilian was armed or not. It seemed
to me that he had his hands [illegible], perhaps as his father -
in-law was not moving them. I was in a hurry to
get out of the way. I jumped on my bicycle and rode off.
As I rode from the hill I heard shots — I cannot say exactly
how many, but they were numerous, perhaps 5 or 6. I cannot
say if they all came from the same weapon. There were a
few people in the street. I believe there was a woman there,
but I cannot specify who was there. I could not
recognise the men or the women.

XXd

The military man was without a shirt. There was some-
thing strange about — because in the Italian army we are
very formal. I did not see the civilian do anything while
the military man loaded his pistol, but I do not exclude
the possibility that he did. A few days ago I started
working for "Il Tempo". Previously to 5 June I had been
unemployed for 9 months. I do not belong to any political
party.

No Reading

By the Court

I was parking my bicycle in the street, on the left side,
in order to have the traffic facing me. There was normal
traffic. I don't remember the traffic particularly — it was
normal. I don't remember my starting vehicle. I don't
remember if there was a starting jump or the comes -
it would have been no novelty. There was nothing on the
[illegible] corner where I was. If there was a vehicle coming
from left side via Tre Cannelli it would not have
interested me because I was stopped.

1126

Station ... as taking him after had stopped on J
Jones, and I mentioned this case. I met the Accused (Acc.
Davis) on the way (in the Bay – he confirmed this.
I showed him by some signs that:

No Reaction

By the Court

I did not look back till I reached the summit of the stairs.
I turned round rapidly and saw a group of people who had
already gathered at the spot. Two were about half way down
the steps, when we reached the top. We were up the
stairs as fast as we could. We had about 25-30 stairs
to climb. It would take more than half a minute. By the
time we got to the top and I looked back there was already
a group of people. On via IV Numbers vehicles were going
by. I cannot say whether there was one standing still. The
accused arrived from Via Quattro Novembre, coming from
my right side. The young women was at my left
side – I cannot say on which side. I noticed these
two because there were very few people in the street.
I don't think accused had anything in his hand before he
addressed Barbisio. While the two were having their
argument I could see only part of the body of the accused,
especially the left part of his body. I did not see
anything in the accused's hands during the argument – I
saw him gesticulating during the first part of the argument.
The Accused came to see me about the Institute. The
conversation about this case was incidental. The
Accused came to me for information, which we had to
obtain for a newspaper. It was 15-20 days ago. I could
only see part of the body of the accused, because the rest
was hidden by the military men. I think the incident
happened about 3.0, perhaps a little later. It could
not possibly have been earlier than 2.30.
(Adjourned 1245 – 1430)

1127

(Tenth witness sworn)

Sorrino Camillo, Via Nazionale 181, Rome — merchant.
On 5 June about 3.0 p.m. I was in a school near Via Tè
Cannelli, where I had been hiding for nine months to escape
the Germans, as I am a Jew. That afternoon we were having
a dinner in honour of the liberators. We heard some shots,
about 3.0 p.m.; I cannot say exactly. The school is in Via
Tre Cannelli, and from the terrace I could see part of what
happened. It is below the crossing of Via IV Novembre, and
is looking towards the window of l'Unità and the stairway to
Via Condotta. The pistol shots came from outside. I
got up and ran to the terrace and looked out. I cannot say
exactly how many shots I heard, as I got up several times,
and I was unable to count. There were definitely more
than 3 shots. When I looked out I saw an officer in the
German, in a shirt with rolled up sleeves, his legs a bit
spread out: I did not notice a cap. I also noticed a
soldier of the Finance and a civilian. The soldier had
a brief case in one hand, and with the other he was putting
his pistol into the holster. The terrace I was
on is immediately over a cinema — it is about 5-6 metres
high. The civilian disappeared from my sight, because he
crossed the street.

(After discussion it is agreed to admit, for what it is worth,
the evidence of this witness as to the effect of conversation
he had with the guards di Finanza — see R.16).

I asked the Finance guard what had happened. He answered
that an officer of the Finance had been killed. I asked him
why he did not help, because it seemed strange that he
did not. I did not know whether the officer was alive
or dead. He did not answer, as at that moment a priest
came out stopped to speak with him. The Finance guard
was about - step in front of the civilian. The civilian 1128
then turned round and the Finance guard with his.

'Stivation. ' as taking him & what had happened on 5 June, and I mentioned this case. I met the Accused (Anr. Denis) for the first time that day — he was dressed in uniform. I knew him by name before then.

No Reaction

By the Court

I did not look back till I reached the summit of the stairs. I turned round quickly and saw a group of people who had already gathered at the scene. We were about half way down the steps, when we decided to go home. We went up the stairs as fast as we could. We had about 25-30 stairs to climb. It would take more than half a minute. By the time we got to the top and I looked back there was already a group of people. On via IV Novembre vehicles were going by. I cannot say whether there was one standing still. The car which came from Via Quattro Novembre, came from my right side. The two young women were at my left side — I cannot say on which side. I noticed these two because they were very few people in the street. I don't think I heard anything in his hand before he addressed Barbisio. While the two were having their argument I could see only part of the body of the accused, especially the upper part of his body. I did not see anything in the accused's hands during the argument — I saw him gesticulating during the first part of the argument. The Avvocato came to see me about the Institute. The conversation about this case was incidental. The Avvocato came to me for information, which we had to obtain for a newspaper. It was 15-20 days ago. I could only see part of the body of the accused, because he was hidden by the milling men. I think the incident happened about 3.0, perhaps a little later. It could not possibly have been earlier than 2.30.

(Adjourned 1245 - 1430)

1129

street close to the P.O. Office's head. Then my lines were not for a bar I did not notice me. I stayed there for some time, I cannot say how many minutes. I cannot remember a jeep driving up. I did see an officer — I think he was British by his hat — who approached the body and took photographs. He arrived in a car — I believe a Jeep, but am not sure. I only saw the Officer — I did not see any soldiers with him. It was 5-10 minutes later, maybe 13-14 minutes.

(Case for the Defence).

Prosecuting Officer applies to call a fresh witness who has been discovered since prosecution's case was closed.

Court rules that witness cannot be called in rebuttal under Rule 9. Court invites Defence to state whether they object to witness being called by the Court under Rule 9(E).

Accused for Defence objects.

Court rules that witness be heard and recalled by Court.

Witness called by the Court (Sworn)

To Maresciallo Antonio, Carabinieri di Firenze, via Cavour 9, Rome. I am a member of the Finance Guard. I was serving as such on 5 June, though I was not on duty. On the afternoon of 5 June I was walking in via Tè Cornelia when the incident happened. Barbadi happened. I had never seen him before, and did not know him. I cannot say the exact time, but it must have been about 17.30. I was walking along via Tè Cornelli going to the Barracks. I was going on the left in the direction of Porta Maggiore. I was coming from Piazza Venezia. I was in the front of via Tè Cornelia when I saw a crowd in the street. At the moment I was passing I saw an unknown officer, with crimson striped with yellow, lying

1130

It is rather dark. I cannot say I saw the military man point the arm. As he had his back towards me I could not exactly see where he was pointing. He was not wholly back towards me and I could see the extended arm. I could see the whole of the civilian's body, but only a third of the military man's body — by that I mean he was partially turned round. The third person was some two steps from the military man, slightly to the rear of him. I could not see the person of this body, only the shoulders. I did not notice if he was armed.

(Adjourned 1730 hours)

19 July 1944
Court re-assembled at 0915 hours.

Sixth Witness (Sworn)

General Odone Angelo, Via Montevideo 22, Rome. I am a regular officer of the Italian army. My rank is Generale di Brigata. I had contacts with the military detachments of the parties. The parties had representatives in the military detachment, for the purpose of establishing the relations to be maintained in the military field, both during the Nazi occupation and during the time after the Nazis left. After the time when General Ambrosio was Supreme Commander of the Italian army (in agreement with the Allies) I was second in command, and then when General Roatta succeeded him I was his Chief of Staff. Ambrosio was in command from January to March, and Roatta after that till 25 May. On that date I was arrested by the Germans and brought to Via Tasso. Peace agreements were made in order to put an end with the military hostilities in the common interest. The agreements are between representatives of the military field and the representatives of the parties in the military detachments. The agreements caused the parties in the error. As I am now recounting Rome there was a struggle in which the agreements provided for the employment of an insurrection against the Germans. In this trial

REGION IV CASE No. 7162.

Form. No. 4

ALLIED MILITARY GOVERNMENT
(GOVERNO MILITARE ALLEATO)

CHARGE SHEET
(FOGLIO D'ACCUSA)

Place (luogo) Rome

Date (data) 8 July 1944

BENTIVEGNA Rosario di Vincenzo — Via Torino 122, Roma

Name of defendant (nome dell'accusato) — Address (indirizzo)

Is hereby charged with the following offenses:
(E' qui accusato delle offese seguenti):

First charge: Responsible of the offence contemplated by Art.575-61 N°10 Penal Code (Italian Law)

Particulars: For having killed in Rome, on June 5th, 1944, by three shots of pistol the Lieutenant Guardia di Finanza Giorgio Barbarisi.

Second charge

Particulars

TRADUZIONE

Prima accusa: Colpevole del reato di cui agli Art. 575 - 61 N.10 del Codice Penale Italiano

Dettagli: Per avere in Roma, il giorno 5 giugno 1944, ucciso con tre colpi di arma da fuoco il Sottotenente della Guardia di Finanza Giorgio Barbarisi.

Seconda accusa

Dettagli

(Se non tradotto dall' ufficiale, voi dovete farvelo tradurre da un amico o presso qualsiasi Ufficio di Questura).

The above charges are referred for trial before an A.M.G. GENERAL COURT, Palazzo di Giustizia, Rome, on 12 July 1944, at 0930 hours. (time and address of Court)

(Le suddette accuse sono riferite a processo davanti alla CORTE GENERALE del G.M.A., Palazzo di Giustizia, Roma, il giorno 12 luglio 1944, alle ore 9,30.)

By order
(Per ordine)

Judge, Summary Military Court or other authorized person.
(Giudice, Tribunale Militare inferiore o altro individuo autorizzato).

FOR RIGHTS OF DEFENDANT SEE REVERSE SIDE OF THIS SHEET.

1132

Form. No. 4

ALLIED MILITARY GOVERNMENT
(GOVERNO MILITARE ALLEATO)

CHARGE SHEET
(FOGLIO D'ACCUSA)

Place (luogo): Rome

Date (data): 8 July 1944

BENTIVEGNA Rosario di Vincenzo — Via Torino 122, Roma

Name of defendant (nome dell'accusato) — Address (indirizzo)

Is hereby charged with the following offenses:
(E' qui accusato delle offese seguenti):

First charge Responsible of the offence contemplated by Art.575-61 N°10 Penal Code (Italian Law)

Particulars For having killed in Rome, on June 5th, 1944, by three shots of pistol the Lieutenant Guardia di Finanza Giorgio Barbarisi.

Second charge

Particulars

TRADUZIONE

Prima accusa Colpevole del reato di cui agli Art. 575 - 61 N.10 del Codice Penale Italiano

Dettagli Per avere in Roma, il giorno 5 giugno 1944, ucciso con tre colpi di arma da fuoco il Sottotenente della Guardia di Finanza Giorgio Barbarisi.

Seconda accusa

Dettagli

(Se non tradotto dall' ufficiale, voi dovete farvelo tradurre da un amico o presso qualsiasi Ufficio di Questura).

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By order
(Per ordine)

Judge, Summary Military Court or other authorized person.
(Giudice, Tribunale Militare inferiore o altro individuo autorizzato).

FOR RIGHTS OF DEFENDANT SEE REVERSE SIDE OF THIS SHEET.

1133

EVERY DEFENDANT BEFORE AN ALLIED MILITARY COURT IS ENTITLED:

(Ogni accusato di fronte ad un Tribunale Militare ha diritto:)

A) To have in advance a copy of the charges upon which he is to be tried, if he so desires.

A) Di avere in anticipo una copia delle accuse sotto lequali egli sarà processato, se egli così desidera.

B) To consult a lawyer before the trial and have a lawyer defend him at the trial, duin any case involving the death penalty, the General Military Court, if the defendant so requests, shall assign to him a Legal officer of the Allied Military Government to assist him in the defense of the case in addition to such other lawyer as he may select.

B) Di consultare un avvocato prima del processo e di avere un avvocato in sua difesa durante il processo. In ogni causa che porta con sè la pena di morte il Tribunale Militare Generale, se l'accusato lo richiede, gli assegnerà un Ufficiale addetto alla Giustizia del Governo Militare Alleato per assistere nella difesa della causa oltre a tale altro avvocato che egli potrà scegliere.

C) To apply to the Court for time to prepare his defence, which application the Court may grant or deny in its discretion.

C) Di fare richiesta al Tribunale per ottenere un periodo di tempo sufficiente per preparare la sua difesa, richiesta che il Tribunale può concedere o rigettare a propria discrezione.

D) To bring with him such witness as he may desire or have them summoned by the court at his request.

D) Di farsi accompagnare dinanzi al Tribunale da testimoni a sua difesa, se così desidera, o far richiesta di farli comparire per ordine del Tribunale.

E) To give evidence on his own behalf at the trial, but he may not be compelled to do so.

E) Di fornire evidenza a suo vantaggio durante il processo, ma non potrà essere costretto a fornirle.

F) To have the proceedings translated for his benefit when he is unable to understand them otherwise.

F) Di farsi tradurre i procedimenti per il suo beneficio quando egli non è capace di comprenderli altrimenti.

1134

38

TIP. A. DE VITO - ROMA, 27538

22 July 1944

The Court re-assembled at 1705 hours.
The Judge Advocate was present in Uniform in open Court.
Lt. Sibatino handed in Penal Record of Accused, showing no entries.
(Marked Exhibit 6).

Adv. Perris addresses Court in mitigation.

I ask you to restore Bardiverga to duty, which needs him. Remember the part he played during 9 months of oppression. You can impose sentence between 6 months and 5 years, subject to 1/3rd Reduction for the mitigating circumstances you have found. But we ask for the minimum. I invite you to consider Art. 133. Here you have the minimum punishment of Officers. I also ask for individual suspension of sentence under Arts. ~~133~~ 163 & 164. You can suspend if the sentence is up to 1 year.

Lt. Sibatino (invited to deal with the question of law)

Art. 133 deals with a large number of subjects. S.1 in effect says that you must take all aspects of the case into consideration. One of those aspects is the fact that this occupied territory. Order is one of the essential things, and you must not do anything that disturbs the discipline that they are for the discipline.

The Court retired to consider Sentence.
Sentence was delivered in open Court.

H. L. Littler, Colonel — President

I. Campbell, LtCol
[illegible], Major — Members.

55

1135

PLEAS OF THE ACCUSED

The accused Bentivegna Rosario pleads N.G. to the first charge; pleads — to the second charge; pleads — to the third charge.

The accused . pleads to the first charge; pleads to the second charge; pleads to the third charge.

The accused pleads to the first charge; pleads to the second charge; pleads to the third charge.

FINDINGS OF THE COURT

The accused Bentivegna Rosario is found guilty ~~/ not guilty of the first charge; guilty / not guilty of the second charge; guilty / not guilty of the third charge~~ as stated in the Judgment.

The accused is found guilty / not guilty of the first charge; guilty / not guilty of the second charge; guilty / not guilty of the third charge.

The accused is found guilty / not guilty of the first charge; guilty / not guilty of the second charge; guilty / not guilty of the third charge.

SENTENCE OF THE COURT

The Court sentences the accused Bentivegna Rosario to 18 months imprisonment from Date of arrest in respect of all offences charged in the above proceedings of which the said accused has been found guilty.

~~The Court sentences~~ the accused to in respect of all offences charged in the above proceedings of which the said accused has been found guilty.

The Court sentences the accused to in respect of all offences charged in the above proceedings of which the said accused has been found guilty.

REVIEW

Conviction and sentence quashed

Dated 14 August 1944 Signature Richard H Williams
Col CAC
For the acting chief Commissioner

CONFIRMATION OF DEATH SENTENCE

Dated 194 Signature

1136

General Services Administration
National Archives and Records Service
Washington, DC 20409

April 11, 1984

Reply to: NNMF84-1508-WGL

Mr. Rosario Bentivegna
Via Asmara 34
Roma 00199
ITALY

Dear Mr. Bentivegna:

We can provide you with an authenticated, electrostatic copy of your Allied Military Government/Allied Control Commission Italy court case for $127.60 (this includes the surcharge for foreign airmail delivery).

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Sincerely,

William G. Lewis

WILLIAM G. LEWIS
Modern Military Field Branch
Military Archives Division

1137

1138

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