action. The lineman placed his arm to my head — I heard a woman scream — I took out my pistol — I heard the echo of some shots — I can't tell how I struck a blow with my left and caught the lineman's right, deflecting it to my right — I jump near one step and fire 3 shots. I intended to deflect the lineman's pistol sideways. The pistol stayed in the hand of the lineman till I saw him dying. I don't remember why I fired 3 shots, but I remember that I did. This was discovered by the coroner when he examined my pistol. I cannot be sure exact when he examined my pistol. I cannot be sure that the lineman 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 lineman. My recollection is that Carlo Capozzi was somewhat around from me, a little behind me, and to my left. When I fired, the lineman fell, but the coroner says that have already been described, and then he fell the pistol, which was found to the right of the back of his head. I saw Carlo Capozzi go for help, because it did not seem that the lineman was dead, but after a few minutes he died. At the moment of the shots there were very few people in that part of the street, and most of them ran off. After the fall of the lineman, people began to return and look around. I began, as was my duty, to keep order. I did not recognize the Patrick Carlo (Carlo Alberto) when he started to give evidence, but I recognized him later when he gave evidence about the conversation. His account of the conversation was accurate 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 the arm. In fact I told him that I had to give evidence for that same very fierce suspicion of the newspaper office. It was at that point that the officer who questioned me told the Commandant that I could keep the arm, as I was telling the truth. I remember that some officers of the Allied press came to the scene, saying that they had seen — I have forgotten exactly. The members 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 true particulars. (Brigadier Colantonio Ovidio is longer 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 7 June for reasons of how most delicate. In the Fascist Army I served only as a retired soldier, although never anything about arms. I tried to bring help to Badoglio if this was possible.

XXd

Antonello Trombadore was the person who gave me the order to guard this building. He had been one of my commanders when I was with the GAP, and later I was sent to command the Partisans. He was one of the members of the Rome military Committee. I think he gave the order as Commander of the Roman National Guard, of which I was a member under the National Committee of Liberation. I am not accustomed to taking orders from persons of lower official position I am not sure. At that critical time we all had to keep our personalities disguised. In that clandestine period, Antonello Trombadore was singer for the Nazi-Fascist police, air waves for the first time

and stopped to see being the posters from. 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 contributed 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. Being there 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 sharp, the others were a deeper bark. 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 heart 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 holding something in his arm, perhaps a pistol — I did not see exactly. It was in the left arm. He had his sleeve rolled up, and I saw nothing else on his arm. It was when he was leaving the posters 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 tie-clip

hand such as they use in those days. I did 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 armband 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 sure because the attorney happened to come to our house in connection with another matter, & this then transpired 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 round again.

No Question

By the Court

I think I recognised 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 do not recognise anybody else there — my attention was not concentrated on the others, but only on them. I am sure I did not see that the second man (the accused) had a weapon. I assume he fired, because he had the armband — but I turned round too quickly to see his reaction. When I first saw the military man he was coming towards us, & he turned when he was called. Then the two men had

xxd

I was the Director of L'Unità since the clandestine period, this began after 8 September. I think that on the next day, 6 June, a paragraph was published in the Unità that Barbarisi had been expelled and executed by guerrillas of the party – this was what we got 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 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 were known to be Fascist cars on the 5th. The night quite possibly had brought anybody taking down our posters must have been Fascists. There were warnings to file on people engaged in taking down posters. I don't remember receiving any communication from Lt. Barbarisi's H.Q. with reference to the article on 6 June. Possibly such letters 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 drafts of the original article the night before. I have the least mind as to whether an article should be published. It was based on rumours 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".

Pard

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 by the confusion there was in the office on 5 June.

PS.

be one for conv. of one of the clandestine - the period. It is obvious that our immediate work was not proper.

By the Court

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

Fifth Witness (Swan)

~~[illegible]~~ Signora ~~[illegible]~~ Bastianina Martini known, Via Orazio 31, Rome - housewife. About 3.0 p.m. on 5 June I was coming from towards La Sedinata to the Centrale, 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 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 what they spoke. Then the first person turned, and they started towards. Then the first person turned, and they started conversing in a way that seemed angry. I did not exactly know the first person was dressed. He had military boots, trousers, shirt, carrying something on 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 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 them 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 does ever remember seeing accused angry or irritated. I had never occasion to see him excited or injured. I does know how he would react when angry — only some difference in age, our relations were rather those of 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 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 Cavalli the body of Bartolini still covered with a sheet. I questioned the men on guard and learnt what happened. I met the accused. He told me that he helped an honour hospe he saw a man — (stopped by the Court, on the ground that we cannot give effect to hearsay evidence where 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 Tombadorio and Giacomo Pellegrini. On 5 June accused received his instructions from the military Delegation 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 attack on Germans & Fascists in case of resistance. If the Germans had not left, it would have been the duty of the accused to fight them. These dispositions were in accordance with orders of General Odone, who was believed to be in contact with the

Allies – at least agreements were made after the death of General Oddone, but they were valid after his death. (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 as to the relation 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 death we were all informed of certain conventional words, which were broadcast over the Radio from Algiers and London. On 5 June I know certain men wearing the armbands 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. These were these two bands which were known to the military command, but there were also various other types of band not so 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 become his own instructor, but he has succeeded in doing so. This activity was not in accordance with his character. I don't say he is impulsive and sentimental. I think he valued human life, and that life should not be taken except in a superior cause.

he was only in the Bar for a few days. I believe the word was – Beretta, but I did not examine it. I was wearing a star and was armed. They took the usual injury star and revolver from the Band. The Allied Command had already ordered the Band to be disbanded. I did not think I was a Judge. I don't know to which organisation accused belonged. He was wearing an armband – also a tie-clasp, but I did not notice the writing on it. The place that we both were in bands showed that we had been active partisans. I did not think accused was in danger being tried as an assassin. That is my personal opinion, as I saw that he only repeated himself. Accused told me his name. I did not know if it was false or false. He did not show me any identity card. The young lady confirmed that he was Beretta Angelo. I made no inquiries. I have not seen the American Captain or Sgt. Major since. I saw my friend the prisoner about 2200 hrs. that same evening. ~~[illegible]~~ He slept that night at my house, & next morning he left. I have not heard from him since. I did not make any written notes. I made no notes of the name or address of the officer.

Further XXd (with leave)

I did not discuss this case with my prisoner friend that night. I did not return to the scene 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 contact with my prisoner for some days.

Further Re-XXd (with leave)

The name of the American Prisoner is John B. Sergeant (it is a Greek name) and according to the notes in my possession his serial no. is 19072607.

(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, Bardi, 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 second member in my Committee, under Marcello Leoni 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 had contact with Marshal Kesselring's H.Q. It was commanded by Col. Montezemolo, who was arrested and shot, by General Oddone. After he was arrested and shot, by General Oddone. We had our contacts with General Oddone, until he was arrested by the Nazis some 7 or 8 days before the Allies entered. General Oddone was in direct contact with the Marshal Kesselring, I suppose through radio. On the 5th June the patriots were armed with all the arms they could be found during the period of clandestine activities. I have knowledge of many cases of patriots losing their posts of any of the parties. I have known accused for many years — his father practised before his pension for prosecutions in my office. The family have always come to me for advice since. (Avvocato was duly warned of the consequences of putting the character of the accused in issue). The relations of the accused have always told that accused is intelligent, quick and vivacious, at the same time good and obstinate. I, in my relations with him, have judged him to be a very vivacious young man, but fundamentally a sustained and

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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 military police, and the Sgt. Major was also military Police. I only know that they belonged to the 5th Army. They were wearing bands, and the prisoner told me he was a Captain, because I could not distinguish ranks. Only the Sergeant Major was wearing a band – the Captain had a field jacket. They came to find me in the Via dei Gracchi, where the prisoner knew that I lived. I was in the office of the band, and they asked me to get in and accompany them, to act as a guide to show them where the different stations were. When the traffic cleared, the car turned left into Via Tre Cannelle. In Via Tre Cannelle is 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 accused. The Americans remained at the back of me. They were there in the street for everyone to see. I could do nothing because the band had been dispersed 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 Tre Cannelli. As soon as accused said he was staying and wanted to give us explanations, we all went away to the Bar and left accused 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 extraordinary. I also declared that the body had to be removed to hospital. 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, accused was still there – and then a civilian came who began to examine good over the body. He said an Italian police Captain would have come.

I did not attach any more importance to the matter, because I knew the Americans would take care of 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 uniform for 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 still there. Since I had to go to the office of the Band, for the handing in of arms, I asked to be excused & went away, leaving the others on the scene. I first met the Americans about 1430 hours. As long as I was with them they did not find a uniform, because the stations we went to had none. The first place was Pincio, Villa Borghesi, and we found ~~none~~ none there. Then we went to the Station ~~of~~ of Genova Casalecia, near the Railway Station in Via Castel Petrio. At those places we found military personnel but no uniforms. 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 searched at H.Q. We were told there was a H.Q. there, but before going to the Captain wanted to go to this Bar. So we turned the Jeep and came back to the Bar. At the time of the incident we were going to the Bar. I saw the lieutenant point his pistol at accused. I saw him fall to the ground. When I arrived there was only accused 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 when we came from the Bar.

About 12 noon I was present at the pillaging of the villa. I was here released on Saturday morning. I saw a newspaper article about this case. I said that the witness Castellani had been unable to relate the facts as they took place and had contradicted himself. This was in the "Ricostruzione". I reported the facts to my superior officer, Maresciallo Maggiore, De Angelis, and I was invited by him to come here to visit. I went to the Maresciallo commanding the Station of the Police of Justice. He accompanied me to the Prosecuting Office — this was about 12.0 noon on Saturday. I found these 2 civilians, one at the table and one at the typewriter. I did see armed patriots in Rome on the 5th.

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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 him before. I do not know what party accused belongs to. To go without a blouse is not permitted. Badges of rank, by the way, 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 story to my Superior last Saturday. Previously I told it only to my family. It did not occur to me to get the names of the American Captain and 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 Ricerche. That is a temporary post for disarmed CC.RR. I shall be dispatched from there not given the necessary documents. I don't really know my status at present.

We were going, and in the jeep to the Officers Allied Commands in order to find a witness for the prosecution. I left the American witness after the incident, about 1530 hrs. I went to the Grand Hotel. We were going from Via Cesare Battisti toward Via Nazionale. We were in front of the L'Unità Building. To turn into Via Tè Cannelli the jeep had to turn left. We had to stop because of the traffic go past. I saw the Lieutenant lying down 3 positions. He was dead when I arrived on the spot. I got out into the street, walked to the Lieutenant, & found he was dead. When I saw him lying down the positions, we were in the jeep, stopped in Via Quattro 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 do not know who fired the shots. I left word in Sabatucci 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 Cardhani gave wrong evidence – all I say is that what I read in the newspaper was wrong, and the contradicted himself. The American Captain took down the name of the street. I did not tell the accused who I was.

NO Rexton

By the Court

There were 5 of us in the Jeep. I was on 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 office had turn from 3 paces he continued to walk along via Tre Fontane towards the Statue. He had not yet reached the Statue. On the corner of via Cristoforo Colombo 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 hold 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 as 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 on 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 stepped back more than one pace, because they were very near each other. I heard 3 or 4 shots — then there was an echo, and I 133 say positively that my friend Morgatta. When the shooting took place the military man fell backwards. Then he made a gesture — as to rise, and made gestures with his hand. He made contractions with his hand, still trying to rise; then he fell back again, and the pistol fell from his hand, and remained on the ground near with his right shoulder. 760

I did not notice that the officer was in [illegible] of the Finance Guard. I saw the officer tear down 3 posters. I only saw one particularly, which said L apostrophe something – I remembered it was L'Unità. When I saw the posters being torn down I saw 2 or 3 other persons near the officer, walking by. I saw someone near him, beckoned 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 do know who fired the shots, or if the same person fired them all. I was dressed in riding breeches and a light coloured jersey – civilian clothes. I had a tricolour band with the word "Police", and a rectangular piece of cloth with a star, meaning Sector 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 "Tempo, Lieutenant, I put myself at your disposal, in order that light may be shed on all the factors". I inferred 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 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 surprised some false partisans with bands – there were two who were pillaging a villa. I arrested a member of the German S.S. who wore a band and had regular documents. That was about 9.0 a.m. on the 5th.

I had left [illegible], and then he was coming in a hostile way because of it. All this moment was enough to control my emotions, and I don't know what effect it would have had on me if I had seen this 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 lead down our 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 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 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 among 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 companion, and I gave it to an Australian. Arms were not issued by our superiors, we had to get them for ourselves. I had the right to carry firearms — we were fighting and risking our lives. My band was sufficient authority to carry arms, as was according to 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 arrived via Tre Cancelle that I first saw the Lieutenant. He was about 10 metres away — I cannot say exactly. I in fact started work for the Partigiano Partisans without any training in

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

Second Witness (Sworn):

Colonnello Vidio, Centro Raccolta dei CC.RR. I am a Brigadiere of CC.RR. Before 8th September last I was in the Internal Corps 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 Tre Cannelli. The American prisoner left a statement with me.

(Statement produced and read by the Court. It contains nothing but an unofficial testimonial to 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 Tre Cannelli — we were stopped by traffic waiting to make the turn. I was sitting beside the driver looking into Via Tre Cannelli. I saw a man in uniform with sleeves rolled up, jacket folded over his arm, running down posters. The posters 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 jacket. Our disciplinary regulations absolutely prohibit appearing without a coat, whether on duty or not. There is a general application to the police forces. Military & civilian prohibition is. The band is supposed to be worn on the left arm on the

I did not fire at the lieutenant because he had fired, but because his throat was the nearest immediately to my left & I felt I should have fired at someone else. The enemy frontier army has less possibility of doing injury than the regular one. The lieutenant's coat covered his left arm from elbow to shoulder. Even when the lieutenant unfastening his pistol replacing the holster in the chamber, 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 fighting the Germans, fired a rifle while holding 2 or 3 other captured ones 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 do not 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 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 stand sentry, remove loiterers, and to keep the street clear. The guard carried attack on the part of armed Nazi & Fascist elements. It was known to me that the Italian elements might show themselves openly. We stayed up all night that night, awake, because we had received news of an attack on Tarpignatica. There was never an attack against our building. I did not [illegible] 'incident' please is an indication of an attack [illegible] When I made my tour of

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inspection I was not looking for anything in civil. 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 route had been given me by a companion. I had received no precise 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 can have been before 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 uniform. My orders were to maintain public order, if order were disturbed by any cause 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 affair we would have encountered 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 arrived 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 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 where this pistol came. The leaning from of the postures was not a cause of my firing. It is true it is an interesting case, and I should not have interfered if the lieutenant had not touched the postures. I got the impression that the lieutenant was unhappy at the

had been attacked and wounded – the hand, and later in the day I saw him from my office with a bandage. My Commandant 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 guard. 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 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 agree this is strange – but in fact during the last 7 months the Guardia Finanza has 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 paying those who were paying me and my principles and my organisation – i.e. against the Nazis & Fascists. When I saw the Lieutenant taking down posters, it was an indication that I suspected with a Nazi or Fascist. During the last 4 months I have myself torn down many Nazi or Fascist posters. Saving is made me angry. I did not see the uniform. Seeing military dress meant nothing. Patriots were always our friends and supplies & had to use whatever we could by hands on. The Lieutenant did not tell me who he was or all. I don't know what 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 friend fired, and not because he was taking down the posters. When the pistol was against

my heart I dropped my gun against the [illegible] drawer. I agree it is possible that the third man fired into the air just to frighten us. In fact both guns were fired, and I fired. To tell the truth I did not aim at all.

(Adjourned 1245 – 1420 hrs.)

As I said before I already had my hand in my pocket when the lieutenant was preparing his pistol, and with the movement 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 my own were simultaneous and I cannot give the exact sequence of time of 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 pointed his pistol at me. I have no points of reference. 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. My jump back was – hurried 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 aimed for a certain point but my pistols were out. The lieutenant's pistol had hardly been pointed towards my chest when I gave the blow. The lieutenant said nothing. I heard 5 shots altogether – I cannot give the sequence of the shots. I did not say I heard 3 shots followed by 2. (Other witnesses said "Le pin Ste") After moment I have thought that I should have entered the phase if the lieutenant had fired. I fired the 5 shots, and I heard them clearly. I cannot say if the other 2 sounded higher or lower – I was too excited with the fire. 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 not have been able to notice the fact, I was so excited.

that I had a long walk home. He had been one of my
informants in the Quirinale period. Also at the time he gave
the order he was in company with Giacomo Pellegrini, one of
the leaders of the Italian Communist party. Before I was put
on there had been a point, which was not too decisive, —
people gathered in front of the building and there was confusion,
and I was told to take charge. Miss Caponi did not
come to call me. She had come to L'Unità to press her
colleagues, and amongst them she found me. I had seen her
during the morning, or dinner in another place, and discussed
this during the day. I don't know precisely myself why
she was doing when she came on 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
leaving from position — I saw it with my own eyes. I saw
the two as I have described. The military man was the
nearer of the two to me. The military man was the
nearer of the two to the position — the other was a little more
to the right. I could not see or note how many
positions he had been from — I saw later there were
three. The military man wore black boots, but I did
not see if he had spurs. He was wearing grey-green
breeches. He had a shirt of about the same colour.
He did have a belt, but not the cartridge belt
that goes over the shoulder — or possibly I did not
see it because of his coat. The coat was thrown over
the top part of the left arm, and perhaps covered part
of the shoulder. I don't know the shape of the shoulder
the cartridge belt goes. I did not see any other
particulars in the moment, and I don't believe anyone
else would. When I called "Halt", the military man
turned round, after giving a glance to the other man,
and came towards me. He pivoted on his heels as
he came towards me. At a certain point we met.

After a little time he said he would shoot me dead, I asked who I was. After I spoke to him he withdrew his pistol, put it back in the holster, & pointed the pistol towards my heart. When he did this I believe I said something. He said nothing - he just slowly said something before. When he pointed the gun at my heart I, since things were happening around me which were of importance, put my hand in my pocket resting it on my pistol. With the mechanism between the first two fingers I seized 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, hence I took aim at completely. I believe I took aim at at the moment when he actually rested his pistol against my body. At that moment 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 allow him time to fire because I knocked his hand away - after this moment I cannot say whether or not the lieutenant also 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 younger quicker than he did. In other times it might have been possible to take way, but we were in an excited atmosphere on that day. I was feeling 2 men behind me: I saw they were acting together, and I thought my life was in peril. I was told that ~~were~~ still Nazi-Fascist elements in Turin, and that one 2 my companions had been wounded. I was informed that in Piazza Venezia a negro soldier

cause of my "Yes I came into posse in of 3 shells. I identify Exhibit 2, as shells which I received from an officer of the Carabinieri since 10 days after the shooting. I point them to Capt. Greenhill. I don't remember 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.

XXtion

I took statements from all the witnesses, except the Signora Vergilli refused to sign her statement. At 1500 hours, on 5 June I went to Via Tre Cannelli. I was going to the office. At the corner of Via Tre Cannelli, standing about 100 yr. away, I saw a body on the ground covered with a sheet. I approached the body or rather a mattress, from the body out from the grey green trousers. 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 blanket, and saw that the deceased was 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 windows of the porter boxes I saw the cap of Barbisi, also folded. I moved away and joined a group of persons who were present.

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

The Court explained the rights of the accused.

(Adjourned 1245 hours.)

17 July 1944

Court re-assembled at 0910 hours.

Aw. Adelino opens.

The prosecution here will prove 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, and that the Bertinaria, 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 guarding the Sector of L'Aquila and adjacent premises 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 Bertinari and the other unidentified man, removing the posters, was 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 interpreted objectively and subjectively. Seventhly Bertinari 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, imminent, except in the way he did act. Ninthly, on a 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 Bertinari — 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 on

English by I saw accused at H.Q., Adm. G. Police, in Palazzo Venezia. I told him I was - Captain of Police 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 wanted him to understand that accused not by 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, attached where required 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 induce him before taking the statement. I did not offer any comment before taking the statement. (Statement accepted and marked Exhibit 1). I produce and identify 3 cartridge cases in an envelope, which were handed to me from a Lieutenant of the Guardia Finanza - I believe his name is Pasqua. They have never left my custody since. I actually received the cartridges from an Agente di Pubblica Sicurezza called Paretta. (Envelope containing cartridge marked Exhibit 2). I myself arrived in Rome on 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, 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 of a Lieutenant of the Guardia Finanza, dressed in the uniform, which is well known to me.

At 2.45 p.m. I proceeded with the hearing. Dr. Dentice Maria 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 these two wounds. Later that afternoon I visited Via Tre Cannelli.

No XXIm

By the Court

From my previous experience as London police officer, I thought that the shot 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 breeches, jack boots, shirt, collar and tie. I could see no signs of injury on the jacket, so I unbuttoned 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 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 traces of tattooing round the hole in the shirt, indicating the shot was fired close to. In my view this fit.

Tenth Witness (sworn)

Pasetta Giorgio, Agente di Pubblica Sicurezza.

I received orders from Ag. G. – this case to trace infirm, 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 the gun 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 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 fingers of his hands opened, and the pistol fell to the ground. The hand is in his right hand. I cannot say I saw accused fire – it was my impression that he did. I had already withdrawn to the right. I cannot say I saw him withdraw 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 an injuriously raised arm. [illegible] the pistol in which accused took a step back. The Australian officer bears difficult name to remember. I met him in the newspaper, because he presented himself as an Australian communist. The arm-bands, such as worn by accused, are distributed at the office

of the United to all the patriots, but I does 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, nor I cannot so. That morning I had gone to the office to get cheques cashed from Gold, 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. The accused had been in Palestine or Melbourne, 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 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 minutes 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 arrest the man who was responsible for the shooting. I took statements. I took a statement from accused, after cautioning him in accordance with the procedure in

took from the 'king' position. He first 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 indications of death. Accused only turned from towards the lieutenant. He still had the pistol in his hand — I believe in the same hand. I then ran and accused said "Look for help, look for someone". He said nothing else. I moved up to the newspaper, but on the way I met a civilian with a police band 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 left before the place. I noticed the Lieutenant the first time when I reached the prior when I could see Via Tre Cannelli and Via Condotta, and I then saw him falling down the entrance from the third window. I was in company with accused. When I saw persons being around, 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 con-sidered 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 moving the persons he made a gesture — if I remember rightly in a hurry. I noticed he was surprised by the "Halt". I believe accused's gun was a 9 calibre Beretta. I have transported arms in Rome for some time, so I became familiar with arms. This particular weapon was handed to an Australian officer. I believe it was at the time of the detention that I examined the calibre. I think the detention was the day after the shooting. It was the accused who told it. The Australian officer said the Beretta was a good pistol, after we had the question of calibre came up. The conversation was between accused and the officer, but I was present. Accused said it was a 9 calibre. Before that time I did

not discuss the libre with accused. At the time I did not know what the calibre of the pistol was. I believe the policemen who took our names knew the calibre. It was an Italian civilian wearing a police band. I believe his name was Alessandrini, but I do not remember exactly. (Paretta Giorgio is brought into Court) This is not the man.

Xxd

Accused was wearing the armband of Volunteers of Liberty. He showed it to the policemen, 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, as he had taken part in partisan activities. He told the policemen that the document was false, and that his name was Rosario Bonavenia. Policeman did not ask accused for his pistol. He said accused had the right to have it, since he had the band. Accused was commanding the guards at the newspaper office. He was at the disposal of the Committee of National Liberation. I do not know what happened to the civilian that I had seen passed. I believe he was sent up the Via Tre Cannelli which leads away to the right. I do not know of other incidents that day that I witnessed myself. I know we found that the Fascists might perhaps be of reprisals, and we knew that we 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 or 3 metres from the body.

No Redxn

By the Court

Both the accused and the second officer had pistols.

temporarily, my personal assistant. He accepted, and
addressed a letter to his C.O., asking for him to be delegated
for this service. He left me at mid-day for his meal,
and I never saw him again. It was within my competence
to make for this office, as I am responsible for the Carabinieri,
Guardia di Finanza, Fire guards etc. I authorised
the accused officer to wear the armband, which is the
same as that issued to civil police to-day. I never saw
him wear it — but he was issued with one & authorised
to wear 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-xin

By the Court

The accused officer was ~~duty~~ due to return to duty at
2.30 p.m. He would have been on duty only ~~—~~
personal assistant in the office. Till 2.30 p.m.
when he was due back, he had no duties to perform, in respect of my 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 Capponi, Foro Traiano 1. I am a student. On 5
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 drink water at a fountain in Via Tre Cannelli.

Accused accompanied me - I don't know if - behind my other motor. 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 a grey-green shirt with rolled up sleeves, a jacket thrown over his left arm, with no head 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 reason for his act. 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, pointed it - aimed in the chamber, and pointed the weapon at Bartolucci. Bartolucci was armed, but his weapon was in his hand. His right hand was in his left as I saw in his hand. His right hand was in the hip pocket. I suppose right trousers pocket - not the hip pocket. I suppose he had his gun in the right pocket. When Bartolucci 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 Bartolucci point the pistol to the left side of the chest of the accused. When I saw the individual behind Bartolucci I threw myself aside and cried "watch out". I heard shots immediately following my crying out. Accused did not immediately follow my crying out. He just took one step backwards from Bartolucci - he just took one step backwards and fell, I believe 3 times. I cannot say if the bullets fell. I know there were several shots, but I do not know who fired. The bullets fell to the ground. Then he raised his upper half of the body and turned the face as accused. Accused was leaning over him trying to help him. The bullets did

I do not know if the two men talked to each other – it was just a instant. The young man unarmed by the lieutenant after he shooting, motioned in hand, & did not move away. Previously I saw him move 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 paused long enough only to say a word or two before he fired. They were near each other when the ~~young~~ 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 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, & drew back from the window. I believe I heard another, but 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 – 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 sleeve 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. The Lieutenant was alone, and the other man had a pail with him. After the first shot, the people in the street approached the scene. I was about a right above the street & the corner in this Court. I – at the window to see the Americans pass 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] photographs the dead lieutenant. This was some time later. I had been at the window already about 20 minutes when the shot was fired.

Re-xd

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 shouting. Before the shot was fired there had been no disturbance in my street — there was complete calm. The three posters were in three windows, one in each window. They were the only posters in those three windows. There were other posters in the vicinity, but the lieutenant only took down these three. They were new posters — put up either that morning or the day before. I did see the lieutenant after the fired on the bicyclists, when the shot was fired. I can only say I saw him drawing in one — I cannot say what for he got in. I did not see if he was asked to paint it.

Further xxd

I cannot say whether the lieutenant fell with the pistol.

Seventh Witness (Sworn)

Major A. Battersby, 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 was sent, by orders of Col. Pollock, to conduct me to Col. Pollock. This 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

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The one who was shot was a military man. I didn't see who he did before he was shot. I was inside, it came on 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 bad, so they asked me to close the gate of my house. A young girl told me, but I could not recognise her. I was at the gate 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 commotion. When I was frightened I went up to a friend on the second floor who gave me coffee. The military man who was shot was in grey uniform. I saw afterwards he had a blouse, 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-xtn

By the Court

The body remained on the ground till about 6.0 p.m. When I heard the commotion there were only a few people in the street. The commotion 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 but the two men. They were speaking calmly.

(A thoroughly unreliable witness)

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Sixth Witness (Sworn)

Signora Caterina Castellana Verzini, Via Tè Cannelli 15.
I am a property owner. I was at the window of my 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 tear from the boxes on the other side three posters, on which were written "Viva l'Unità". All these posters were exactly the same. The officer had a blouse over his arm, his shirt sleeves rolled up, glasses 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 upper sleeve. He succeeded in pulling down the posters. Then as he went down Via Tè Cannelli, ~~from~~ ~~the~~ a young man appeared coming from Via IV Novembre. The young man was accompanied by a young girl. He approached the officer and spoke - pistol to the upper part of his body over the heart. I believe the young man asked why the officer had taken down the posters, but I did not hear well. They were close to each other almost cheek to cheek. Then I saw the officer begin to sway body to body. Then I saw the officer draw his pistol out, and then I heard a shot. I saw the pistol pointed at the young man, but he was not in time, as the young man fired. After he was shot, someone, I don't 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 beard. On his left sleeve there was an armband. I believe accused is the man, but I cannot swear. If he had a beard as I could identify him better.

petition. The lieutenant placed his arm round my waist – I heard a woman scream – I took out my pistol – I knew the Tello opposed shots – even suppose that I struck a blow with my left and against the lieutenant's orders, deflecting it to another – I jump out me step, and fire 3 shots. I intended to deflect the lieutenant's pistol sideways. 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 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 Caponi was somewhat around from me, a little behind me, and to my left. When I fired, the lieutenant fell, but the contractions that have already been described, and then he fell the pistol, which was found to the right of the back of his head. I don't Carlo Caponi to go for 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 very few people in the pass of the street, and most of them ran off. After the fall of the lieutenant, people began to return and look round. I began, as was my duty, to keep order. I did not arrest the Patriot leader (Carlo Alberto) when he started to give evidence, but I enquired him later when he gave evidence about the conversation. His account of the conversation was accurate 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 occasion that I did not hand

him the arm. In fact I told him that I had to give account for that arm to my direct superiors at the newspaper office. It was at that point that the officer who questioned me told the Commandant that I could keep the arm, as I was telling the truth. I imagine that some officers of the Allied press came to the scene, saying that they had seen — I don't remember exactly. The members 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 true particulars. (Brigadiere Colantonio Ovidio is longer in the Corps). I believe I recognise this officer as one who came up immediately afterwards, but he was dressed in civilian clothes. The Brigadiere came at the same time as the Americans. I left Rome on 7 June for reasons of a very most delicate. In the Fascist Army I served only as a retired soldier, therefore knew nothing about arms. I tried to bring help to Bertini if this was possible.

XXd

Antonello Trombadore was the person who gave me the order to guard this building. He had been one of my commanders when I was with the GAP, and later I was sent to command the Partisans. He was one of the members of the Rome military committee. I think he gave the order as Commander of the Roman National Guard, of which I was a member under the National Committee of Liberation. I am not accustomed to taking orders from persons of lower official position I am not sure. At that critical time we all had to keep our personalities disguised. In that clandestine period, Antonello Trombadore was sought for by the Nazi-Fascist police, and was taken for the first time

and stopped to see being the posters & so. 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 again the other. Being there 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 responded. 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 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 twenty yards, 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 holding something in his arm, perhaps a pistol — I did not see exactly. It was in the left arm. He had his sleeves rolled up, and I saw nothing else in his arm. It was when he was turning the posters 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 tie-clasp

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band such as they use in those days. I did 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 armband 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 men and 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, and then transpired 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 round again.

No Question

By the Court

I think I recognised the accused, but I think perhaps he was not then so well shaved as he is now. I think I recognise Carlo Cappuccio 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 on the others, but only on them. I am sure that I did not see the second man (the accused) had a weapon. I assume he did, because he had the armband — but I turned round too quickly to see his action. When I first saw the military man he was coming towards me, and he turned when he was called. Then the two men had

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xxd

I was the Director of L'Unità since the Christie period, with regard after 8 September. I think that on the week of 6 June a published was the effect that Battisti had been identified and executed by members of the party – this was what we got 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 account 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 these were known to be Fascist after on the 5th. We might quite possibly have thought anybody tearing down our posters was a Fascist. There were no instructions to give – people engaged in tearing down posters. I don't remember receiving any communication from Lt. Battisti's H.Q. with reference to the article on 6 June. Possibly such letters 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 drafts of the original article the night before. I have the last word as to whether an article should be published. It was based on rumours collected in the streets. I did not specify where the reporters were to get the information from. "Giustiziato" in the article means that "justice has been done".

Fexd

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 by the confusion that was in the office on 5 June.

be were just coming out of the clandestine stage period. It is obvious that our journalistic course was not perfect.

By the Court

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

Fifth Witness (Sworn)

~~[illegible]~~ Signora ~~[illegible]~~ Bastianina Martini Bruna, Via Orazio 31, Roma – housewife. About 3.0 p.m. on 5 June I was coming from towards La Sedinata to the Carbonata, accompanied by my husband, on our way to our office nearby, to collect a case 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 a sign calling him – but I did not hear the words. Then the first person turned, and they started conversing in a way that seemed angry. I did not exactly know the first person was dressed. He had military boots, trousers, shirt, carrying something on 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 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 them 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

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and moment

xxd

I don't ever remember seeing accused angry or irritated. I had never any cause to see him annoyed or irritated. I don't know how he would react when angry – owing to difference in age, our relations were rather those of superior and inferior.

Fourth witness (Suzzoni)

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 Tre Cannelli the body of Barbieri still covered with sheets. I questioned the men on guard and learnt what happened. I met the accused. He told me that he had an hour before he saw a man – (stopped by the Court, on the ground that we cannot give effect to hearsay evidence where the best evidence is available). Accused was a member of the GAP. He did not depend on me – he ~~lived~~ depended on my companions who dealt with military matters, particularly Antonelli Tombadorio and Giacomo Pellegrini. On 5 June accused received his instructions from the military Detachment for 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 attack on Germans & Fascists in case of resistance. If the Germans had not left, it would have been the duty of the accused to fight them. The dispositions were in accordance with orders of General Odone, who was believed to be in contact with the

Allies – at least agreements were made upon the news of General Oddone, but they were valid after his death.
(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 death we were all informed of certain conventional words, which were broadcast over the Radio from Bari and London. On 5 June I know certain men wearing the armband of the Volunteers of Liberty, with the letters CLN, 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. These were these two bands which were known to the military command, but there were also various other types of band not so 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 become his own instructor, but he has succeeded in doing so. This activity was not in accordance with his character. I don't say he is impulsive and sentimental. I think he valued human life, but this life should not be taken except in a superior cause.

we were only in the Bar for a few minutes. I believe the word was – Bruette, but I did not examine it. I was wearing a star and we arrested. They took the usual steps then we were escorted from the Bar. The Allied Command had already ordered the Bar to be disbanded. I did not think. I was in doubt. I don't know to what organisation accused belonged. He was wearing an overcoat – also a tie-clip, but I did not notice the writing on it. The place that we both were in hands showed that we had been active patriots. I did not think accused was in danger giving himself as an assassin. 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 Bertiglia. I made no inquiries. I have not seen the American Captain – Lgt. Major since.

I saw my friend the prisoner about 2200 hrs. that same evening. ~~[illegible]~~ He slept that night at my house, I sleep working the night. I have not heard from him since. I did not make any written notes. I made no notes of the names or addresses of the officers.

Further XXd (with leave)

I did not discuss this case with my prisoner friend that night. I did not attain to the scene 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 have not entered into any discussions since then.

Further Re-XXd (with leave)

The name of the American Prisoner is J. Sergeant B. (it is a Greek name) and according to the letter in my possession his serial no. is 19072607.

(Adjourned 1215–1350).

Third Witness (Croom)

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 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 second member in my committee, under Marcello Leoni who was first member, also a member and being ~~part~~ of the military detachment. 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 contacts with Marshal Kesselring's H.Q. It was commanded by Col. Montezemolo, 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 all the arms they could be found during the period of clandestine activities. I do know of many cases of patriots being shot positive of any of the parties. I have known accused for ~~[illegible]~~ many years – his father practised before his pension for premature in my office. The family have always come to me for advice since. (Avvocato was duly warned of the consequences of giving the character of the accused in issue). The relations of the accused have always told that accused is intelligent, quick motivations, at the same time good and obstinative. I, in my relations with him, have judged him to be a very vivacious young man, but fundamentally a sentimental

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the prisoner was on the left side next me. I was sitting with my feet hanging out on the vehicle. The Captain was a Captain of the Military Police, and the Sgt. Major was the Military Police. I only know that they belonged to the 5th Army. They were wearing bands, and the prisoner told me he was a Captain, because I could not distinguish ranks. Only the Sergeant Major was wearing a band – the Captain had a field jacket. They came to find me in the Via dei Gracchi, where the prisoner knew that I lived. I was in the office of the band, and they asked me to get in and accompany them, to use me as a guide to show them where the different stations were. When the traffic cleared, the car turned left into Via Tre Cannelle. In Via Tre 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 Clement. The Americans remained at the back of me. They were there in the street for everyone to see. I could do nothing because the band had been disbanded 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 Tre Cannelle. As soon as Clement said he was staying and wanted to give us explanations, we all went away to the Bar and left Clement 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 interesting. I also thought that the body had to be removed to hospital. 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, Clement was still there – and then a civilian came who began to measure round over the body. He said an Italian police Captain would have come.

I did not attach any more importance to the matter, because I knew the Americans would take care of 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. We went on for days except look for a uniform 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 still there. Since I had to go to the office of the Band, for the handing in of arms, I asked to be excused & went away, leaving the others on the scene. I just met the Americans about 1430 hours. As long as I was with them they did not find a uniform, because the stations we went to had none. The first place was Pincio, Villa Borghesi, and we found ~~none~~ none there. Then we went to the Station of Genova Cornelia, near the Railway Station in Via Castel Petrio. At these places we found military personnel but no uniforms. I don't know the units who owned but no uniforms. 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 an armed guard. 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 this Bar. So we turned the Jeep and went back to the Bar. At the time of the incident we were going to the Bar. I saw the lieutenant point his pistol at accused. I saw him pull the trigger. When I arrived there was only accused 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 when we came from the Bar.

About 13.00 hrs I was present at the pillaging of the villa. I was released on Saturday morning. I saw a newspaper article about this case. I read that the witness Cappellini had been unable to relate the facts as they took place and had contradicted himself. This was in the "Ricostruzione". I reported the facts to my superior officer, Maresciallo Maggiore, De Angelis, and I was invited by him to come here to identify. I went to the Maresciallo commanding the Station of the Police of Justice. 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 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 him before. I do not know what party accused belongs to. To go without a blouse is not permitted. Badges of rank, by the way, 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 priest said he was leaving for Foggia. I told the story to my Superiors last Saturday. Previously I told it only to my family. It did not occur to me to get the names of the American Captain and 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 Ricerche. That is a temporary post for disabled CC.RR. He shall be discharged from there just given the necessary documents. I don't really know my sister was present at

We were going, and in the jeep to the Officers Allied Commands in order to find a wagon for the prisoner. I left the American officer after the incident, about 1530 hrs. I went to the Bank H.Q. We were going from Via Cisace Battista towards Via Nazionale. We were in front of the L'Unità Building. To turn into Via Tre Cannelli the jeep had to turn left. We had to stop to let other traffic go past. I saw the Lieutenant turn from 3 positions. He was dead when I arrived on the spot. I got out into the street, walked to the Lieutenant, & found he was dead. When I saw him turning from the Quattro positions, we were in the jeep, stopped ~~on~~ Via ~~Tre~~ ~~Cannelli~~ November 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 on 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 do not say that the witness Carrickani 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.

xo Rexlin

By the Court

There were 5 of us 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

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blouse, and a shirt. After the officer had taken from 3 paces he continued to walk along in the Cannelli Tunnel, the claim. He had not yet reached the stairs. On the corner of the Cannelli tunnel 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 Lamb in appeal). 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 left, 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 some three paces. Meanwhile they were very near each other. I heard 3 or 4 shots — then there was an echo, and I 13 say positively that my I heard altogether. When the shooting took place the militia [illegible] fell backwards. Then he made a gesture — as to rise, and made gestures with his hand. He was [illegible] with his hand, still trying to rise; then he fell back again, and the pistol fell from his hand, and remained on the ground near with his right shoulder.

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I did not notice the officer on [illegible] of the Fire and Guard. I saw the officer tear down 3 posters. I only saw one particularly, which said L apostrophe something – I remember it was L'Unità. When I saw the posters being torn down I saw 2 or 3 other persons near the officer, walking by. I saw someone near him, beckoned to 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 do know who fired the shots, or if the same person fired them all. I was dressed in riding breeches and a lighter coloured jersey – civilian clothes. I had a blue band with the word "Police", and a rectangular piece of cloth with a star, meaning Sector 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 "Tempo, Lieutenant, I put myself at your disposal, in order that lists may be struck on 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 inspected some false partisans with bands – there were those who were pillaging a villa. I arrested a member of the German S.S. who wore a band and had regular documents. This was about 9.0 a.m. on the 5th.

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I had left, and then he was coming in. 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 him. The Lieutenant had in mind: if I had seen an enemy I might have acted. Him more calmly why he was wearing pistols. I don't think people employed by the Allied Forces would be likely to lend down our 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 myself to him in a hostile way. I did not think of the effect of doing so at the time, because I was very irritated. 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 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 get them for ourselves. I had the right to carry firearms — we were fighting and risking our lives. My band was sufficient authority to carry arms, or least according to 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 arrived Via Tè Cannella that I first saw the Lieutenant. He was about 10 metres away — I cannot say exactly. I in fact started once for the Partigiano Partisano without my knowing in

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arms. I fired 2/3rds shot in anger. Since then I have had a lot of experience in the use of arms.

Second Witness (Sworn):

Colantonio Ovidio, Centro Raccolta dei CC.RR. I am a Brigadiere of CC.RR. Before 8th September last I was in the Internal Group 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 Partisan Museoli'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 on the corner of Via IV Novembre & Via Tè Cannelli. The American prisoner left a statement with me.

(Statement produced and handed to the Court. It contains nothing but an unbridled testimonial to the character of this witness, and after perusal is handed back to the witness).

We were visiting various allied officers trying to find a magazine 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, jerkin folded over his arm, running down pushing. The posters 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. Hence, I deduce positively it. The band is supposed to be worn on the left arm on the

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I did not fire at the lieutenant because he had fired, but because his threat was the more immediate. If I fired at the 2 others were fired at someone else. The enemy position among has less possibility of doing injury than the nearer one. The lieutenant's coat covered his left arm from elbow to shoulder. Even when the lieutenant withdrew his pistol replacing the holster in the chamber, the coat remained in the same place. He was breathing 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 practising the Germans, fired a rifle while holding 2 or 3 other captured ones in the other hand.

(Witness gives a demonstration in Court with a borrowed Carabinieri 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 do not 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 due to a mistake on the part of the interpreter.

No Redirect

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 stand sentry, remove bystanders, and to keep the street clear. We found armed attack on the part of armed Nazi & Fascist elements. It was known to the Italian elements higher up. Some times they openly. We stopped up all night the night, because we had received news of an attack on Torpignattara. There was never an attack against our building. I did not [illegible] the lieutenant's presence is an indication of an attack [illegible] When I made my tour of

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inspection I was not looking for anything in it. 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 route had been given me by a companion. I had received no specific instructions as to opening fire. I was just invited Bartlett to accompany me to the newspaper office. I think the time was about 3.0, perhaps 2.45. I don't think it can have been before 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 uniform. My orders were to maintain public order, if order were disturbed by any cause 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 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 Costelli 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 had gone — or rather I asked, but with no success. Last June — or rather I was asked, but I was alone, and 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 where this pistol began. The firing from the position was not a cause of my firing. It is true it is an inferior cause, and I should not have interfered if the Lieutenant had not touched the position. I got the impression that the Lieutenant was unhappy at the

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had been, it seemed, automatic. The Land, and later in the day I saw him pass our office with a bandage. 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 prudent and meticulous in doing my duty in a 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 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 agree this is strange — but in fact during the last 7 months the Guardia Finanza has done many things to help us — through 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 paper knew who favoured 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 & Fascist posters. Seeing it made me angry. I did not see the uniform. Seeing military dress meant nothing. Patriots were always on off from our families and supplies & had to use whatever we could lay hands on. The lieutenant did not tell me who 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 the weapon at me, & his friend fired, and not because he was tearing down the posters. When the friend was against

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

(Adjourned 1245 – 1420 hrs.)

As I said before I already had my hand in my pocket when the lieutenant was preparing his pistol, and with the result that 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 the time at 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 pointed his pistol at me. I have no feeling of sequence. All I can say is that he did it. Perhaps the blow given had 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 giving back arm – hurried 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 out. The lieutenant's pistol had hardly been pointed towards chest when I gave the blow. The lieutenant said nothing. I heard 5 shots altogether – I cannot give the sequence of the shots. I did not say I heard 3 shots followed by 2. (Other witness said was "the pin fire"). At the moment I does know that I should have noticed the flame if 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 not have been able to notice the fact, I was so excited.

that I had a bad name. He had been one of my
informants in the Ossietzky period. Also at the time he gave
the order he was in engaged with Giacomo Pellegrini, one of
the leaders of the Italian Communist party. Before I was put
on there had been a panel, which was set to the side, so
people gathered in front of the building and there was confusion,
and I was told to take charge. Miss Caponi did not
come to call me. She had come to L'Unità to meet 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 does know precisely exactly what
she was doing when she came on 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
taking from posters — I saw it with my own eyes. I saw
the two as I have described. The military man was the
nearer of the two to me. The military man was the
nearer of the two to the posters — the other was a little more
to the right. I could not see or tell how many
posters he had taken down — I saw later there were
three. The military man wore black boots, but I did
not see if he had spurs. He was wearing grey-green
breeches. He had a shirt of about 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 of the left arm, and perhaps covered part
of the shoulder. I does know on which shoulder
the ammunition belt goes. I did not see of other
particulars — their numbers, and I do not believe anyone
else would. When I called "Halt", the military man
turned round, after giving a glance to the other man,
and came towards me. He pivoted on his heels or

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After a little time he said he would shoot me last, so I could see I was. After I spoke to him he withdrew his pistol, put it back in the holster, and pointed the pistol towards my heart. When he did this I believe I said something. He said nothing - he just slowly said something before. When he pointed the gun at my heart I, since things were happening around me which were of importance, put my hand in my pocket resting it on my pistol. With the membrane 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, hence I took aim at completely. I believe I took aim at 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 allow him time to fire because I knocked his hand away - and 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 other times it might have been possible to make away, but we were in an existed atmosphere on that day. I was feeling I was about me: I saw they were acting together, and I thought my life was in peril. I was told that ~~one~~ still Nazi-Fascist elements in Trieste, and that me & my companions had been unmasked. I was imprisoned there in Piazza Venezia a negro soldier

Cross-exd. by Mr. Pacifici. I came into possession 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 passed them to Capt. Greenhill. A few days earlier the same officer of the Carabinieri. During the time I received the shells till I turned them over to Capt. Greenhill was only half an hour.

Xxd. Cmr.

I took statements from all the witnesses, except Signora Vergilli refused to sign her statement. At 1500 hours, on 5 June I went to Via Tre Cannelli. I was going to the office. At the corner of Via Tre Cannelli, standing about 100 yds. away, I saw a body on the ground covered with a sheet. I enquired of the body or rather a military, from the body and from the grey green tunic. 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. Barbisi, whom I had seen in the office that morning. A little distance from the body was the jacket of Barbisi folded. Near the windows of the porter's boxes I saw the cap of Barbisi, also folded. I moved away and joined a group of persons who were 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.

Aw. Adelino opens.

The prosecution here will prove 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, and that Rosario 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 guarding the seat of L'Unità and adjacent premises against possible attack by Nazis or Fascists. Thirdly we shall prove that accused was authorized 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 unidentified man, removing the posters, was 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 interpreted objectively and subjectively. Seventhly Bentivegna 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, imminent, except in the way he did act. Ninthly, on a 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. 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?., Actg. G. Police, in Palazzo Venezia. I told him I was - Captain of Police 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 warned him 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, signed where required 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 induce him to make 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 were handed to me from a Lieutenant of the Guardia Finanza - I believe his name is Pasquale. They have been kept in my custody since. I actually received the cartridges from an Atlanta di Sicurezza Pubblica Sergeant called Pasetta. (Envelope containing cartridge marked Exhibit 2). I myself arrived in Rome on 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, just off Corso Umberto. At 11.30 a.m. on 7 June I visited the mortuary at the Policlinico Hospital in Rome. I saw the dead body of a Lieutenant of the Guardia Finanza, dressed in the uniform, which is well known to me.

At 2.45 p.m. I commenced the hearing when Dr. Fontana kindly 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 these two wounds. Later that afternoon I visited Via Tre Cannelli.

No xxtion

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 clean 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 injury on the jacket, so I unbuttoned 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 in the back was hardly frayed at all.

xxd (with leave)

There were four traces of tattooing round the hole in the shirt, indicating the shot was fired close to. In my opinion that fit.

Tenth Witness (sworn)

Pasquale Giorgio, Agente di Pubblica Sicurezza. I received orders from A.M.G. – this case to trace in-finder, and to collect signed statements. In the

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I don't [illegible] if they both fired. 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 you or 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 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 gently 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. The hand is in his right hand. I cannot say I saw accused fire – it was my impression that he did. I had already with drawn to the right. I cannot say I saw him with drawn 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 navel. ~~[illegible]~~ The two positions which accused took – step back. The Australian officer has difficult name to remember. I saw him in the newspaper, because he presented himself as an Australian Communist. The accused, such as I know him, was disinterested in the office

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15.

of 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 get cheques cashed from Gort, and I stayed on to keep the guard. When I left the office with the accused I was going for a drink. I had 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. The accused had been in Palestine or Yalmatone, where he was operating. I was in Rome up to early May, so 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 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).

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 him the 'thing' position. He jerked 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 intentions of death. Accused only moved from towards the Lieutenant. He still had the pistol in his hand – I believe in the same hand. I then saw Accused said "Look for yourself, look for someone". He said nothing else. I moved to the newspaper, but on the way I met a civilian with a police band 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 left the place. I noticed the Lieutenant the first time when I reached the point where I could see Via Tre Cannelli and Via Cordinata, and I then saw him falling down the outside from the third window. I was in company with accused. When I saw persons being murdered, 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 unanimously considered offensive. Accused showed this by saying "Hello" to the Lieutenant. He said it in a loud voice in an intimidating tone. The Lieutenant was already wounded. I noticed when he was making the gesture he made a gesture – it longer way in a hurry. I noticed he was surprised by the "Hello". I believe accused's gun was a 9 calibre Beretta. I have transported arms in Rome for some time, and became familiar with arms. This particular weapon was handed to an Australian officer. I believe it was at the time of the detention that I ascertained it calibre. I think the detention was the day after the shooting. It was the second or third day. The Australian officer said the Beretta was a good pistol, after we had the question of calibre came up. The conversation was between accused and the officer, and I was present. Accused said it was a 9 calibre. Before that time I did 814

not discuss the matter with accused. At the time I did not know what the calibre of the pistol was. I believe the policemen who took our names knew the calibre. It was an Italian civilian wearing a police band. I believe his name was Alessandrini, but I don't remember exactly. (Prosecutor Giorgio's hunches into Court) This is not the main.

XXd

Accused was wearing the armband of Volunteers of Liberty. He showed it to the policemen, 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 policemen that the document was false, and that his name was Rosario Bonicione. Policeman did not take accused for his pistol. He said accused had the right to have it, since he had the band. Accused was commanding the guards at the newspaper office; he was at the disposal of the Committee of National Liberation. I don't know what happened to the civilian that I had seen present. I believe he ran away up the Via Tre Cannelli which runs away to the right. I don't know of other incidents that day that I witnessed myself. I knew we found that the fascists might purge all of suspects, and we knew there 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 or 3 meters from the body.

No Redirect

By the Court

Both the accused and the second officer had pistols.

815

temporarily, my personal assistant. He accepted, and
delivered a letter to his C.O., asking for him the delegation
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, as I am responsible for the Carabinieri, Guardia di Finanza, Fire guards etc. I authorised
the Second officer to wear the armband, which is the
same as that issued to civil police to-day. I never said
to him never it – but he was issued with one & authorised
to wear 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 courtesy.

No Re-xin

By the Court

The Second officer was due to return to duty at
2.30 p.m. He would have been on duty as my
personal assistant in the office. Till 2.30 p.m.
when he was due back, he had no duties to perform, in respect of my 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 Capponi, Foro Traiano 1. I am a student. On 5
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 drink water at a fountain in Via Tre Cannelli.

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Accused accompanied me – I don't know if I had any other motive. In Via Tre Cannelli I saw a man in uniform, who with his right hand was removing posters of L'Unità from the wall. He had a grey-green shirt with rolled up sleeves, a jacket thrown over his left arm, with no head covering. I didn't see he had no distinctive sign on his arms. I did not see. 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 ID. The military man did not asked the man for his ID. The military man did not answer, but asked who accused was. Accused gave his answer, but asked who accused was. Accused gave his answer, but asked who accused was. Accused introduced himself as a friend of the newspaper L'Unità – he introduced himself as a friend of the newspaper L'Unità – he invited the military man to follow him to the newspaper. It was in the nature of friendly, invited the military man to follow him to the newspaper. It was in the nature of friendly, not a civil conversation. They did not go to the office. not a civil conversation. They did not go to the office. The military man put his hand to his pistol – took it out, placed it on the chamber, and pointed the weapon at Bartolesi. Bartolesi was armed, but the weapon at Bartolesi. Bartolesi was armed, but the weapon at Bartolesi. His right hand was in his belt so I saw in his hand. His right hand was in his belt so I saw in his hand. His right hand was in his right trousers pocket – not the hip pocket. I suppose he had his gun in the right pocket. When Bartolesi 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 Bartolesi point the pistol to the left side of the chest of the accused. When I saw the individual behind Bartolesi I threw myself aside and cried "watch out". I heard shots immediately following my crying out. Accused did not immediately follow my crying out. Accused did not immediately follow my crying out. Bartolesi – he just bore me step back. Bartolesi – he just bore me step back. Bartolesi – he just bore me step back. I cannot say if words and fired, I whether 3 times. I cannot say if words and fired, I whether 3 times. I cannot say if words and fired, I whether 3 times. I know there were several shots, the Lieutenant fired. I know there were several shots, the Lieutenant fired. I know there were several shots, but I don't know who fired. The Lieutenant fell to but I don't know who fired. The Lieutenant fell to but I don't know who fired. The Lieutenant fell to the ground. Then he raised his upper half of the body the ground. Then he raised his upper half of the body the ground. Then he raised his upper half of the body and turned to face the accused. Accused was leaning and turned to face the accused. Accused was leaning and turned to face the accused. Accused was leaning down on him trying to help him. The Lieutenant did down on him trying to help him. The Lieutenant did down on him trying to help him. The Lieutenant did

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I don't know if the two men talked to each other – it was for an instant. The young man turned to the lieutenant after he shooting, rather in haste, & did not move away. Quickly I saw him wave 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 paused long enough only to say a word or two before he fired. They were near each other when the ~~young~~ 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, pistol in hand, & talked to one or two people. As soon as I heard the first shot I put my hands to my head, & then back from the window. I believe 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 – hard 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 be sure if the lieutenant was wearing a cap. I did see a cap, either before or afterwards. He did wear glasses. The lieutenant was alone, and the other man had a girl with him. After the first shot, the people in the street scattered from the scene. I was about a right above the street on the balcony in this Court. I was at the window to see the Nurse was 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

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There upstairs at the Red Lieutenant. It was some time later. I had been at the window already about 20 minutes when the shot was 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 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. The three posters were in three windows, one in each window. They were the only posters in those three windows. There were other posters in the vicinity, but the lieutenant only took down these three. They were new posters — put up either the morning or the day before. I did see the lieutenant get the pistol out of the holster, after the shot was fired. I can only say I saw him drawing it out — I cannot say what for he got it. I did not see if he was able to point it.

Further x'd

I cannot say whether the lieutenant fired with 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 orders of Col. Pollock, to conduct me to Col. Pollock. This 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

The one who was shot was a military man. I didn't see
who he did expect he was shot. I was inside, at time
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 got out, as they asked
me to close the door of my house. A young girl told
me, but I would 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 commotion. When I was frightened I went up
to a friend on the second floor who gave me coffee.
The military man who was shot was in grey uniform.
I saw afterwards he had a blouse, 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-Exam

By the Court

The body remained on the ground till about 6.0 p.m. When
I heard the commotion there were only – four people
in the street. The commotion I heard was the sound of
feet, 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 but the two men. They were
speaking calmly.

(A thoroughly unreliable witness)

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Sixth Witness (Sworn)

Signora Caterina Castellana Verzini, Via Tre Cannelli 15.
I am a property owner. I was at the window of my 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 Tre Cannelli. I saw the officer walk from my side to the other side of the street, and I saw him tear from the boxes on the other side three posters, on which were written "Viva l'Unità". All these 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 upper sleeve. He succeeded in pulling down the posters. Then as he went down Via Tre Cannelli, 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 fired – fired at the upper part of his body over the heart. I believe the young man opened fire with the pistol he had taken from the posters, but I did not see the officer had taken down the posters. They were close to each other when the shot was fired. They were close to each other when the officer began to fire body to body. Then I saw the officer begin to pull his pistol out, and then I heard a shot. I saw the pistol just as he was taking it out of the case, 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 beard, not too long. I saw him from above. He had a beard. On his left sleeve there was an armband. I believe accused is the man, but I cannot swear. If he had – beard on I could identify him better.

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position. The lieutenant placed his arm on my heavy – I heard a woman scream – I took out my pistol – I knew the two opposite shots – even suppose that I struck a blow with my left and against the lieutenant's right, deflecting it to the right – I jump near the step, and fire 3 shots. I intended to deflect the lieutenant's pistol sideways. 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 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 Caponi was somewhat around from me, a little behind me, and to my left. When I fired, the lieutenant fell, but the contents of his hand already had deserted, and then he fell the pistol, which was found to the right of the back of his head. I don't Carlo Caponi to go for 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 very few people in the pass of the street, and most of them ran off. After the fall of the lieutenant, people began to return and look around. I began, as was my duty, to keep order. I did not interpose the Patriot's leader (Cornelio Alberti) when he started to give evidence, but I enquired him later when he gave evidence about the conversation. His account of the conversation was accurate 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 the arm. In p r I told him that I had to give account for that arm to my direct superiors at the newspaper office. It was after points that the officer who questioned me told the Commandant that I could keep the arm, as I was telling the truth. I remember that some officers of the Allied press came to the scene, saying that they had seen — I have remembered exactly. The members 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 true particulars. (Brigadiere Colantonio Ovidio is longer in the Corps). I believe I recognise this officer as one who came up immediately afterwards, but he was dressed in civilian clothes. The Brigadiere 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 orderly, therefore knew nothing about arms. I tried to bring help to Bertini if this was possible.

XXd

Antonello Trombadore was the person who gave me the order to guard this building. He had been one of my commanders when I was with the GAP, and then I was sent to command the Partisans. He was one of the members of the Rome military Committee. I think he gave the order as Commander of the Roman National Guard, of which I was a member under the National Committee of Liberation. I am not accustomed to taking orders from persons of lower official position I am not sure. At that critical time we all had to keep no formalities despised. In that characteristic period, Antonello Trombadore was sought for by the Nazi-Fascist police, air was then for the first time

and stopped to see being the posters I saw. 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. During these I turned round and climbed the stairs. My husband accompanied me. I cannot say exactly how many shots I heard — it was [illegible]. 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 responded. The first shots were clearer and more sharp, the others were a deeper noise. 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 twenty feet, but I could not see in 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 holding something in his arm, perhaps a pistol — I did not see exactly. It was in the left arm. He had his sleeves rolled up, and I saw nothing else in his arm. It was when he was turning the posters 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]

band said anything to me in those days. I did 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 armband 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 and 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 matter happened to come to my home in connection with another matter, and then transpired 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 round again.

No Question

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 Caponi 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 there — my attention was not concentrated on the others, but only on them. I am sure I did not see that the second man (the accused) had a weapon. I assume he shot the girl, because he had the same hand — but I turned round too quickly to see his action. When I first saw the military man he was coming towards us, and he turned when he was called. Then the two men had

xxd

I was the Director of L'Unità since the clandestine period, which began after 8 September. I which then on the next day, 6 June, was published was to the effect that Barbarisi had been identified and executed by partisans of the party – this was then received 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 account 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 were known to be Fascist cars on the 5th. The night quite possibly have temporarily employed Fascist. There were no instructions to give a people engaged on taking down posters. I don't remember receiving any communication from Lt. Barbarisi's H.Q. with reference to the article on 6 June. Possibly such letters 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 last word as to whether an article should be published. It was based on rumours collected in the streets. I did not specify where the reporters were to get the information from. "Giustiziato" in the article means that "justice had been done".

Resd

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 by the confusion that was in the office on 5 June.

826

We were just coming out of the clandestine - the period. It is obvious that our journalistic course 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 our recipe- ction such a misleading article].

Fifth Witness (Sworn)

~~[illegible]~~ Signora ~~[illegible]~~ Bastianina Martini known, Via Orazio 31, Rome - housewife. About 3.0 p.m. on 5 June I was coming from towards La Sediniata to the Cordonata, accompanied by my husband, on our way to our office nearby, when I noticed a case 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 that seemed angry. I did not exactly know the first person was dressed. He had military boots, trousers, shirt, carrying something on 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 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 them 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

827

and moment

xxd

I don ever remember seeing accused angry or irritated. I had more experience to see him excited or irritated. I don know how he would react when angry – only know difference in age, our relations were rather those of 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 knew the accused. At 3.0 p.m. on June 5 I believe I was at the typographical department of "Il messagero". I returned to L'Unità office about 3.30 p.m.. I entered in Via Tre Cannelli the body of Bastianini still covered with sheets. I questioned the men on guard and learnt what happened. I met the accused. He told me that help on lower floor 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 ~~[illegible]~~ 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 Detachment ~~for~~ 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 attack on Germans & Fascists in case of resistance. If the Germans had not left, it would have been the duty of the accused to fight them. These dispositions were in accordance with orders of General Alexander, who was believed to be in contact with the

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Allies – at least agreements were made upon the meeting of General Oddone, but they were valid after his death.

(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 – to 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 death we were all informed of certain conventional words, which were broadcast over the Radio from Bari and London. On 5 June I know certain were wearing the arm band of the Volunteers of Liberty, with the letters CLN, 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. These were these two bands which were known to the military command, but there were also various other types of band not so 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 overcome his own inclinations, but he has succeeded in doing so. This activity was not in accordance with his character. I don't say he is impulsive and sentimental. I know he valued human life, and that life should not be taken except in a superior cause.

we were only in the Bar for a few minutes. I believe the word was – Beretta, but I did not examine it. I was wearing a star and an armband. They gave the usual signs that we should proceed from the Bar. The Allied Commandant and Deputy entered the Bar & dismissed. I did not think I was in duty. I don't know to what organisation accused belonged. He was wearing an armband – also a tie & shoes, but I did not notice the writing on it. The place that we both were in bands showed that we had been active patriots. I did not think accused was in danger giving himself as an assassin. That is my personal opinion, as I saw that he only disguised himself. Accused told me his name. I did not know if it was false or false. He did not show me any identity card. The young lady confirmed that he was Beretta Giovanni. I made no inquiries. I have not seen the American Captain – Sgt. Major since.

I saw my friend the prisoner about 2200 hrs. that same evening. ~~[illegible]~~ He slept that night in my house, & was working the night. I have not heard from him since. I did not make any written notes. I made no notes of the names or addresses of the officers.

Further XXd (with leave)

I did not discuss this case with my prisoner friend that night. I did not return to the scene 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 have no contact with my prisoner friend since then.

Further Re-XXd (with leave)

The name of the American Prisoner is J. Sergeant B. (it is a Greek name) and according to the letter in my possession his serial no. is 19072607.

(Adjourned 1215–1330).

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 directives of the party depend on its organisation and tradition. The political 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 second member in my Committee, under Marcello Leoni who was first member, and being also a member of the military Detachment. 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 contacts with Marshal Kesselring's H.Q. It was commanded by Col. Montezemolo, 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 all the arms they could be found during the period of clandestine activities. I have known of many cases of patriots being shot posture of any of the parties. I have known accused for ~~[illegible]~~ many years – his father practised to get his passport for protectorate in my office. The family have always come to me for advice since. (Avvocato was duly warned of the consequences of putting the character of the accused in issue). The relatives of the accused have always told that accused is intelligent, quiet, and vivacious, at the same time good and submissive. I, in my relations with him, have judged him to be a very virtuous young man, but fundamentally a submissive

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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 Military Police, and the Sgt. Major was also Military Police. I only know that they belonged to the 5th Army. They were wearing bands, and the prisoner told me he was a Captain, because I could not distinguish ranks. Only the Sergeant Major was wearing a band – the Captain had a field jacket. They came to find me in Via dei Gracchi, where the prisoner knew that I lived. I was in the office of the band, and they asked me to go in and accompany them, to act as a guide to show them where the different stations were. When the traffic cleared, the car turned left into Via Tre Cannelle. In Via Tre 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 accused. The Americans remained at the back of me. They were there in the street for everyone to see. I could do nothing because the band had been dispersed 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 Tre Cannelle. As soon as accused said he was staying and wanted to give us explanations, we all went away to the Bar and left accused 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 changed their attitude in doing so was most extraordinary. I also declared that the body had to be removed to hospital. 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, accused was still there – and then a civilian came who began to mount guard over the body. 832
He said an Italian police Captain would have come.

I did not attach 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. We went on for days except look for a weapon for 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 still there. Since I had to go to the office of the Bank, for the handing in of arms, I asked to be excused & went away, leaving the others on the scene. I first met the Americans about 1430 hours. As long as I was with them they did not find a weapon, because the stations we went to had none. The first place was Pincio, Villa Borghesi, and we found ~~none~~ none there. Then we went to the Station of Genova Carrabenia, near the Railway Station in Via Castel Petrio. At these places we found military personnel but no weapons. 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 an armed guard. 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 the Captain wanted to go to this Bar. Some time around the 7th of June we came back to the Bar. At the time of the incident we were going to the Bar. I saw the lieutenant point his pistol at a second. I saw him fall to the ground. When I arrived there was only a second 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 when we came from the Bar.

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About 13.0 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 said that the witness Castellani had been unable to relate the facts as they took place and had contradicted himself. This was in the "Risorgimento". I reported the facts to my superior officer, Maresciallo Maggione, De Angelis, and I was invited by him to come here to testify. I went to the Maresciallo commanding the Station of the Police of Justice. 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 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 him before. I do not know what party accused belongs to. To go without a blouse is not permitted. Badges of rank, by the way, 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 priest said he was leaving for Foggia. I told the story to my Superiors last Saturday. Previously I told it only to my family. It did not occur to me to get the names of the American Captain and Sergeant. 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 an Italian. On 5 June I had not yet resumed duty with the CC.RR. I am now with the Carabinieri. That is a temporary post for discharged CC.RR. he shall be dispatched from there and given the necessary documents. I don't really know my status at present.

834

We were going, and in the jeep to the Officers Allied Commands in order to find a uniform for the prisoner. I left the Americans right after the incident, about 1530 hrs. I went to the Band H.Q., we were going from Via Cesare Battisti toward Via Nazionale. We were in front of the L'Unità Building. To turn into Via Tre Cannelli the jeep had to turn left. We had to stop to let other traffic go past. I saw the Lieutenant turn from 3 positions. He was fired when I arrived on the spot. I got out into the street, walked to the Lieutenant, & found he was dead. When I saw him turning from the positions, we were in the jeep, stopped – Via Quattro ~~XXX~~ November ~~Cavalleria~~ 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 on 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 do not say that the witness Castellani gave wrong evidence – all I say is that what I read in the newspaper was wrong, and the unknown lieutenant. The American Captain took down the name of the street. I did not tell the accused who I was.

xo Rexton

By the Court

There were 5 of us in the Jeep. I was on 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

almost, over a shirt. After the office had turn from 3 paces he continued to walk along in Via Cavalli Tonnel, the alone. He had not yet reached the steps. On the corner of Via Cavalli Tonnelle a young man and a young woman appeared, going in the same direction. I surprised them both here in lower (witness points to accused and to Carla approx). 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, cocked 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 now in arm with the young woman. I can definitely exclude that he had a weapon in his hand. The young woman was — 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 stepped back more than one pace, because they were very near each other. I heard 3 or 4 shots — then there was an echo, and I 133 say positively how many I heard altogether. When the shooting came over the officer fell backwards. Then he made a gesture — up to rise, and made gestures with his hand. He was entangled with his hand, still trying to rise; then he fell once again, and the pistol fell from his hand, and remained on the ground and with his right shoulder.

836

I did not notice how the officer was in relation to the Finance Guard. I saw the officer take down 3 posters. I only saw one particularly. Which said L. spoke opposite something – I remembered it was L' Duce. When I saw the posters being torn down I saw 2 or 3 other persons near the officer, walking by. I saw someone near him, behind 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 do know who fired the shots, or if the same person fired them all. I was dressed in riding breeches and a light coloured jersey – civilian clothes. I had a kind of band with the word "Police", and a rectangular piece of cloth with a star, meaning Sector 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 "Tempo, Lieutenant, I put myself at your disposal, in order that this life may be saved on 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 arrested some false patriots with bands – there were those who were pillaging a villa. I arrested a member of the German S.S. who wore a band and had regular documents. That was about 9.0 a.m. on the 5th.

I had left, and then he was coming in. 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 armband. If I had seen an armband I might have asked him more calmly why he was wearing fascists. I don't think people employed by the Allied Forces would be likely to wear them or Communist Party articles. 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 irritated. 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 companion, and I gave it to an Australian. Arms were not issued by our superiors, we had to get them for ourselves. I had the right to carry firearms — we were fighting and risking our lives. My band was sufficient authority to carry arms, or least according to 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 arrived Via Tre Cannelle that I first saw the Lieutenant. It was about 10 metres away — I cannot say exactly. I in fact started once for the Partigiano Partisano without my turning in

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Arms. I fired 2/3rd shot in anger. Since then I have had a lot of experience in the last years.

Second Witness (Sworn)

Colantonio Ovidio, Centro Raccolta dei CC.RR. I am a Brigadiere of CC.RR. Since 8th September last I was in the Internal Corps 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 on the corner of Via IV Novembre & Via Tre Cannelli. The American prisoner left a statement with me.

(Statement produced and read by the Court. It contains nothing but an unofficial testimonial to 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 Tre Cannelli — we were stopped by traffic waiting to make the turn. I was sitting beside the driver looking into Via Tre Cannelli. I saw a man in uniform with sleeves rolled up, jacket 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 jacket. Our disciplinary regulations absolutely prohibit appearing without a coat, whether on duty or not. There is no general application to the police forces. Military & civilian prohibition is.

The band is supposed to be worn on the left arm on the

I did not see the lieutenant because he had fired, but because his throat was the same immediately in the 2 shots were fired by someone else. The enemy position among has less possibility of being in play than the nearer one. The lieutenant's coat covered his left arm from elbow to shoulder. Even when the lieutenant withdrew his pistol replacing the holster in the chamber, 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 the Gunners, fired a rifle while holding 2 or 3 other cartridges in the other hand.

(Witness gives a demonstration in Court with a borrowed Cavalrymen 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 do not 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 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 [illegible] guard, remove bystanders, and to keep the street clear. We feared armed attack on the part of armed Nazi or Fascist elements. It was known to the duty officer that these elements might show themselves openly. We stayed up all night that night, awaiting because we had received news of an attack on Torpignattara. There was never an attack against our building. I did not [illegible] lieutenant's presence is an indication of an attack [illegible] when I made my tour of

inspection I was not 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 vague had been given me by a companion. I had received no specific instructions as to opening fire. I was just invited Barbieri 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 about 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 mob. My orders were to maintain public order, if other were disturbed by any crowd 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 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 'carried' rifle 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 had gone — 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 leaving from after 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

had been, it seemed, automatic — to hand, and later in the day I saw him pass our office with a bandaged hand. My Commandant had advised 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 prudent and meticulous in doing my duty in a good and big way. My 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 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 agree this is strange — but in fact during the last 7 months the Guardia Finanza had done many things to help us — through 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 paying attention to my duty 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. Seeing it made me angry. I did not see the uniform. Seeing military dress meant nothing. Patriots were always on off from our families and supplies & had to use whatever we could lay hands on. The Lieutenant did not tell me who he was or all. I don't know what 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 friend fired, and not because he was tearing down the posters. When the pistol was against

my hand I defended myself against the . attack dangerous. I agree it is possible that the third man fired into the air just to frighten me. In fact both my eyes were frightened, and I fired. To tell the truth I did not aim at all.

(Adjourned 1245 - 1420 hrs.)

As I said before I already had 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 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 pointed his pistol at 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 jerking back my arm - hurried 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 out. The lieutenant's pistol had hardly been pointed towards me when I gave the blow. The lieutenant said nothing. I heard 5 shots altogether - I cannot give the sequence of the shots. I did not say I heard 3 shots followed by 2. (Other witness said "the pin fire") After moment I does know that I should have retired the place 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 that I believe he hit our pie. Even if he had fired I should not have been able to notice the fact, I was so excited.

After I had a long walk home. He had been one of my
commanders in the Partisan period. Also at the time he gave
the order he was in company with Giacomo Pellegrini, one of
the leaders of the Italian Communist party. Before I was put
on there had been a parade, which was over the Feast, —.
people gathered in front of the building and there was confusion,
and I was told to take charge. Miss Caponi did not
come to call me. She had come to L'Unità to press her
colleagues, and amongst them she found me. I had seen her
during the morning, at dinner in another place, and spoken
briefly during the day. I does know precisely exactly when
she was doing when she came out 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
taking from posters — I saw it with my own eyes. I saw
the two as I have described. The military man was the
nearer of the two to me. The military man was the
nearer of the two to the posters — the other was a little more
to the right. I could not see or tell how many
posters he had taken down — I saw later there were
three. The military man wore black boots, but I did
not see if he had spurs. He was wearing grey-green
breeches. He had a shirt of about 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 thrown over
the top part of the left arm, and perhaps covered part
of the shoulder. I does know the shape of the shoulder
the ammunition belt goes. I did not see of other
particulars in their uniform, as I can believe anyone
else would. When I called "Halt", the military man
turned round, after giving a glance to the other man,
and came towards me. He pivoted on his heels or

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[illegible] At a last in point we met.

After a little time he said he would shoot me dead, & asked who I was. After I spoke to him he withdrew his pistol, put it either in the holster, & pointed the pistol towards my heart. When he did this I believe I said something. He said nothing – he just silently said something before. When he pointed the gun at my heart I, still thinking we happening around – which were of importance, put my hand in my pocket resting it on my pistol. With the membrane 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 lieutenant had his pistol pointed to my body, hope I took mine out completely. I believe I took mine out at the moment when he actually rested his pistol against my body. At that moment 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 allow him time to fire because I removed 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 perhaps he would have had time to draw his pistol. After he pointed the gun I gave the blow which deflected it. Possibly I was more ready than he, and therefore quicker than he did. In other times it might have been possible to escape away, but we were in an excited atmosphere on that day. I was feeling I was exact me: I saw they were acting together, and I thought my life was in peril. I was told that ~~the~~ still Nazi-Fascist elements in Trieste, and that one of my companions had been wounded. I was informed that in Piazza Venezia a negro soldier

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. 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
Director
General Archives Division

Keep Freedom in Your Future With U.S. Savings Bonds

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

'cause of my "stars" 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 present them to Capt. Greenhill. I hope remember the name of the officer of the Carabinieri. During the time I received the shells till I turned them over to Capt. Greenhill was only half an hour.

Xxtion

I took statements from all the witnesses, except Signora Vergilli refused to sign her statement. At 1500 hours precisely on 5 June I went to Via Tre Cannelli. I was going to the office. At the corner of Via Tre Cannelli, standing about 100 yr. away, I saw a body on the ground covered with a sheet. I uncovered the body or rather a military, from the body and found the grey green tunic. 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 asked the Officer if he needed my help. He said No. I visited the Hunter, and saw that 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 windows of the porter boxes I saw the cap of Barbisi, also folded. I moved away and joined a group of persons who were present.

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

The Court explained the rights of the accused.

(Adjourned 1245 hours.)

17 July 1944

Court re-assembled at 0910 hours.

Art. Adolino Opes.

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 Bartirogna, 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 guarding the Sector of L'Aquila and adjacent provinces 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 Bartirogna and the other unidentified man, removing the posters, was 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 interpreted objectively and subjectively. Seventhly Bartirogna 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, imminent, except in the way he did act. Ninthly, on a 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 Bartirogna — 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 on

English by I saw accused at H.Q., Adm.-G. Police, in Palazzo Venezia. I told him I was - Captain of Police 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 wanted him to understand that accused not by saying 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 that 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 alterations and also the mistakes in spelling that I had made. I made no promises and no threats to induce him to make 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 of the Guardia Finanza - I believe his name is Pasquale. They have been kept in my custody since. I actually received the cartridges from an Atlanta di Pubblica Sicurezza called Paretta. (Envelope containing cartridge marked Exhibit 2). I myself arrived in Rome on 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, just off Corso Umberto. At 11.30 a.m. on 7 June I visited the mortuary at the Policlinico Hospital in Rome. I saw the dead body of a Lieutenant of the Guardia Finanza, dressed in the uniform, which is well known to me.

At 2.45 p.m. I resumed after hearing evidence 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 injuries apart from these two wounds. Later that afternoon I visited Via Tre Cannelli.

No XXIII

By the Court

From my previous experience as London police officer, I thought that the knife had been fired from close, and that the hole with bare 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 signs of singeing on the jacket, so I unbutt 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 skin was slightly frayed and blood-stained round the hole of entrance. The hole in the back was hardly frayed at all.

XXd (with leave)

There were faint traces of tattooing round the hole in the shirt, indicating the shot was fired close to. In my have been fit.

Fourth Witness (sworn)

Pinotta Giorgio, Agente di Pubblica Sicurezza.

I received orders from A.M.G. – this case to trace in-finder, and to collect signed statements. In the

I don't [illegible] if they both fired. 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 a civilian. 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 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 painfully raised his body and his head. As lieutenant painfully raised his body and his arms, the fingers of his hands opened, and the pistol fell to the ground. The hand is in his right hand. I cannot say I saw accused fire – it was my impression that he did. I had already with them to the right. I cannot say I saw him with drew 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 navel. I left right the pistol in which accused took a step back. The Australian officer had difficult name to remember; I saw him in the newspaper, because he prosecuted himself as an Australian communist. The accused, such as was by accused, was disarmed in the office

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IS.

of the United to all the patriots, i.e. I don 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 get cheques cashed from Gort, and I stayed on to keep the guard. When I left the office with the accused I was going for a drink. I had known accused since the end of September. We are quite good friends. I saw him often for reason of work. I leave the calibre of accused's pistol when it passed from him to the Australian officer. The accused had been in Palestine or Yalmarone, 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 lapse 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).

Nisi – 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 him the 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 intentional on Hall's. Accused only turned from towards the Lieutenant. He still had the bayonet in his hand — I believe in the same hand. I then heard accused said "Look for help, look for someone". He said nothing else. I moved up to the newspaper, but on the way met a civilian with a police band 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 left the place. I noticed the Lieutenant the first time when I reached the point where I could see Via Tre Cannelli and Via Cordusio, and I then saw him falling 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 my case it was a gesture that we were in only concerned offensive. Accused showed this by saying "Hall" to the Lieutenant. He said it in a loud voice in an intimidating tone. The Lieutenant was already wounded. I noticed when he was making the gestures he made a gesture — it longer way in a hurry. I noticed he was surprised by the "Hall". I believe accused's gun was a 9 calibre Beretta. I have transported arms in Rome for some time, and became familiar with arms. This particular weapon was handed to an Australian officer. I believe it was a 9 calibre. I know the Australian was the day after the shooting. It was the second shot gun I. The Australian officer said the Beretta was a good pistol, after we had the question of calibre came up. The conversation was between accused and the officer, but I was present. Accused said it was a 9 calibre. Before that time I did

not discuss the libre with accused. At the time I did not know what the calibre of the pistol was. I believe the policemen who took me name knew the calibre. It was an Italian civilian wearing a police band. I believe his name was Alessandrini, but I don't remember exactly. (Paretta Giorgio is bringing it here) This is not the main.

XXd

Accused was wearing the armband of Volunteers of Liberty. He showed it to the policemen, 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, as he had taken part in partisan activities. He told the policemen that the document was false, and that his name was Rosario Bonnacorso. Policemen did not ask accused for his pistol. He said accused had left the pistol in, since he had the band. Accused was commanding the guards at the newspaper office; he was at the disposal of the Committee of National Liberation. I don't know what happened to the civilian that I had seen passing. I believe he ran away up the Via Tre Cannelli which runs away to the right. I don't know of other incidents that day that I witnessed myself. I know we found that the Fascists might purge all of suspects, and we know there were still fascists in Rome. We knew that there were still some Germans in Rome. When I was away for help, the accused remained 2 or 3 metres from the body.

No Redxn

By the Court

Both the accused and the second officer had pistols.

Fortunately, my personal assistant, he accepted, and
delivered a letter to his C.O., asking for him to be delegated
for this service. He left me at mid-day for his meal,
and I never saw him again. It was within my competence
to call for this officer, as I am responsible for the Carabinieri,
Guardia di Finanza, Fire guards etc. I authorised
the accused officer to carry the armband, which is the
same as that issued to civil police to-day. I never saw
him wear it — but he was issued with one & authorised
to wear 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 minutes.

No Re-xam

By the Court

The accused officer was not on duty at
2.30 p.m. He would have been on duty if my
personal assistant in the office. Till 2.30 p.m.
when he was off duty, he had authority to perform,
in respect of my 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 Coppini, Foro Traiano 1. I am a student. On 5
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 drink water at a fountain in Via Tre Cannelli.

Accused accompanied me – I don't know if – had any other motive. In Via Tè Cavalli I saw a man in uniform, who with his right hand was removing posters of L'Unità from the wall. He had a grey-green shirt with rolled up sleeves, a jacket thrown over his left arm, with no head 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 ID. The military man did not answer, but asked who accused was. Accused gave false answer, but asked who accused was. Accused gave false answer, but asked who accused was. Accused invited the military man to follow him to the newspaper. It was in the nature of a friendly, not a civil invitation. They did not go to the office. The military man put his hand to his pistol – took it out, pointed it at the accused in the character, and pointed the weapon at Bartolini. Bartolini was armed, but the weapon at Bartolini. Bartolini was armed, but the left hand was in his left hand. His right hand was in his right trouser pocket – not the hip pocket. I suppose he left his gun in the right pocket. When Bartolini 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 Bartolini point the pistol to the left side of the chest of the accused. When I saw the individual behind Bartolini I threw myself aside and cried "Look out!" I heard shots immediately following my crying out. Accused did not immediately follow my crying out. Accused did not immediately follow my crying out. Bartolini – he fired three or four times. I cannot say if he fired. I know there were several shots, the bullets fired. I know there were several shots, but I do not know who fired. The bullets fell to the ground. Then he raised his upper body of the body and turned to face the accused. Accused was running and turned to face the accused. The bullets did not run on him trying to help him.

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I don't know if the two men talked to each other – it was
for an instant. The young man unarmed by the Lieutenant after
he shooting, walked in hand, & did not move away.
Previously I saw him wave 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
cannot have spoken only to say a word or two before
he fired. They were near each other when the ~~young~~
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 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, where have been 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 – hung on his arm.
It was a white band, I believe, with certain figures 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 other man had a pistol with him.
After the first shot, the people in the street scattered
in all directions. I was about a right above the street on the
balcony in this Court. I went to the window to see
the Archduke pass by in the street. Two more
three vehicles pass along Via Quattro Novembre –
which is close to Via Tè Cannelli. I saw an American

, Rome a photograph of the dead lieutenant. This was some time later. I had been at the window already about 20 minutes when the shots were fired.

Rexd

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 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 lieutenant only took down these three. They were new postmen — part of either the morning or the day legal. I did see the lieutenant get the pistol out of the holster, after the shots was fired. I can only say I saw him drawing it out — I cannot say what for he got it. I did not see if he was able to point it.

Further xxd

I cannot say whether the lieutenant fell with 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 Barbarini. On the morning of my arrival this officer sent me, by orders of Col. Pollock, to conduct me to Col. Pollock. This 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

The one who was shot was a Mr. Mears. I didn't see who he did hope he was shot. I was inside, at home 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 tired, and they asked me to close the front ~~of~~ my house. 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 commotion. When I was frightened I went up to a friend on the second floor who gave me coffee.

The military man who was shot was in grey uniform. I saw afterwards he had a blouse, but he was not wearing it. I did not see whether he had it on at the time of the firing, but it was found afterwards.

XXd

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

No Re-Exam

By the Court

The body remained on the ground till about 6.0 p.m. When I heard the commotion there were only a few people in the street. The commotion I heard was the sound of feet, 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 thoroughly unreliable witness)

Sixth Witness (Sworn)

Signora Caterina Castellana Verzini, Via Tè Cannelli 15.
I am a property owner. I was at the window of my 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 tear from the boxes on the other side three posters, on which were written "Viva l'Unità". All these 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 pulling down the posters. Then as he went down Via Tè Cannelli, ~~from~~ a young man appeared coming from Via IV November. ~~He~~ The young man was accompanied by a young girl. He approached the officer and fired – pistol to the upper part of his body over the heart. I believe the young man assaulted the officer had taken from the posters, but I did not hear well. They were close to each other almost not hand to body. Then I saw the officer begin to pull his pistol out, after I heard a shot. I saw the pistol fire as he was taking it out of the case, but he was not in time, as the young man fired. After he was shot, someone, I don't 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 beard. On his left sleeve there was an armband. I believe accused is the man, but I cannot swear. If he had – beard or I could identify him better. 862

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I N D E X

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

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NND 785024
By NARA, Date

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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.

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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

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his trous(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 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

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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. Respectufllly 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)

Referred please

Pollock Lt Col.
Rome Regional P.S.O

3/7/44

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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.

Upon/

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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.

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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 Filotta, 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

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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.

DECLASSIFIED NND 785014 By NARA, Date

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

Insaccanebbia Francesco
Panetta Giorgio

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By NARA, Date

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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

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By NARA, Date

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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

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NND 785084
By NARA, Date

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ROME REGION
ALLIED CONTROL COMMISSION
A.P.O. No. 394, U. S. ARMY
Rome 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
general court
C 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

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REGION IV CASE N° 7762

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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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NND 785081
By ... NARA, Date ...

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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

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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 :

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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 Finanza who was with him fired some shots, so I shot him".

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Authority NND 785074
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

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

In the field.
20.6.44.

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

RAG

File
General Courts
RGN.

1

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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 Law for a brief note on the "Bentinck" case, in which after his accused has 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 summary tomorrow, if possible.

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NMP 78504

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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~~ as stated in the Judgment. 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.

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

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. Salvatino hands in Penal Record of Accused, showing no entries (marked Exhibit 6).

Adv. Perris 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 1/3rd 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 offence. I also ask for conditional suspension of sentence under Arts. 163 & 164. You can suspend if the sentence is up to 1 year.

Lt. Salvatino (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 occupied territory. Order is one of the essential things, and you must not so act that people have the idea that they are free to be disorderly.

The Court retired to consider Sentence.

Sentence was delivered in open Court.

H. G. Loittner
Colonel — President

I. Campbell
Major

[illegible]
Major — Members.

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Authority NND 785024
By NARA, Date

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[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.

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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.

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NND 785024
By NARA, Date

4. On 1 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~~

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Authority NND 785024
By NARS, Date

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~~RESTRICTED~~

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 Prosecuters 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.

ROBERT G. MERRINGTON
MAJOR U.S.A.
REGIONAL LEGAL OFFICER.

RGM/GC

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

~~CONFIDENTIAL~~

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BY Lewis NARS, Date 5/28/74

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AUTH: NND 785024
By NARA, Date

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MOD. No. 12
(riveduto)

FORM. No. 12
(revised)

COMUNICAZIONE DI SCARCERAZIONE AVVENUTA

Al capo delle carceri di Regina Coeli

Oggi, il Pontivegna Rosario,

è stato messo in libertà ~~dal Tribunale Militare Alleato~~ dalle Competenti Autorità per la Revisione del Processo 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

has been set free by the ~~Allied Military Court~~ Reviewing Authority, 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.

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NND 785024
By NARA, Date

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legal

~~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.

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Classification changed to

DECLASSIFIED 1.1.74

887

Saggi
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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

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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

[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.

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 abbandon
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

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

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necessari almeno due
che i tedeschi stanno
che 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
o 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
rale 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.

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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 poltiglia 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-

Crona

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 accumulate 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. sciti dell'Ente non rimanere 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 p 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 1'80 per cento

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Anno II - N. 74 Il Tempo 27 marzo 1946 IL

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 col 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 strombazzamento che venne fatto dell'operazione poliziesca che portò all'arresto dei responsabili. Uno, Giulio Pizzicaria è il tipografo che stampò quelle carte annonarie. Egli fu accusato 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 seniore della 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 operò una perquisizione nella tipografia che ha sede in Via Portuense 29, e vennero qui prelevati 130 chilogrammi di ritagli di una carta azzurrina 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

Era 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 angloamericani si avvicinavano sempre più. La salvezza era perciò certa, ma il maggiore dell'A.S.A. non si sentiva tranquillo finchè il pericoloso testimonio rimaneva 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, lo sosteneva la sua grande fede religiosa e si confessò [illegible]

veri e propri soprusi — dicevamo in quell'occasione — che poteva commettere indisturbato perchè ben sostenuto dai tedeschi coi quali divideva il bottino. Dopo avere accennato ad un «prelevamento» all'Annona di 3000 bottiglie di cognac, ricordavamo anche una incursione allo stabilimento «Ambrosia» al Testaccio dove furono sequestrati, dallo stesso maggiore, notevoli quantitativi di cioccolato e di caramelle più 45 quintali di zucchero ed aggiungevamo che il Cimmino, preoccupato di investire l'enorme capitale accumulato si diede all'acquisto di carta obbligando le Cartiere Tiburtine a cedere la merce a prezzo anteguerra e precisamente 20 q.li a L. 4,50 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 insospettabili 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 14 luglio domandavamo quale [illegible] riguardi di questo ufficiale di cui abbiamo conosciuto l'attiva partecipazione al fronte clandestino di resistenza».

Oggi, però di fronte ai fatti che abbiamo udito dalla viva voce del Pizzicaria, si fa sempre più strada in noi la convinzione che quanto avevamo affermato il 14 luglio non doveva essere lontano dalla verità. E' notorio che nei giorni di caos che succedettero 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 alcuni degli episodi [illegible] il resto di [illegible]. Da allora il Procuratore militare non ci risulta abbia proseguito l'azione penale, limitandosi a domandare altri chiarimenti alla Guardia di Finanza. Questi ulteriori [illegible] del Procuratore militare, ma abbiamo ragione di credere che non dovranno ormai tardare molto.

Divieto di fabbricazione di dolci e liquori zuccherati

Un decreto dell'Alto Commissariato per l'Alimentazione detta disposizioni in materia di fabbricazione e vendita di prodotti dolciari [illegible] cioccolato e dei gelati, torroni [illegible] fabbricati in conformità delle prescrizioni dettate dal decreto stesso. In ogni caso con esclusione [illegible] zucchero. [illegible] liquori [illegible] zucchero. [illegible]

Latte agli ammalati

[illegible] segnata metà razione.

Il Pr. Ateneo a Villa G[illegible]

Si svolge oggi a Villa Glori [illegible] del Premio Ateneo, la riunione di [illegible] incluse in programma al giovedì. [illegible] Ecco le nostre selezioni: Premio [illegible] Buccari, Nuzzo; Premio Venafro [illegible] Avellino; Silvano. [illegible]

Giusta punizione per 2 criminali

Robert Lane ed il suo luogotenente condannati all'impiccagione

Dopo due giorni di dibattito, la Corte Marziale Alleata ha condannato a morte, mediante impiccagione, Werner E. Schumacher alias Robert Lane e James Adams rispettivamente capo e vice capo della famigerata banda «Lane» imputata di [illegible], di rapina e vari omicidi.

Robert Lane e il suo luogotenente hanno ucciso, nel novembre scorso, durante una rapina in un'osteria di via Principe Amedeo, il figlio dell'oste Ferretti.

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

Per la cronaca, la banda «Lane» era composta di 32 malviventi: 16 stranieri e 16 italiani. Gli altri venti banditi saranno processati in questi giorni.

QUESTA SERA alle ore 21.45
Radio Roma trasmetterà
MAI UNA NUBE
radiocommedia 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[o] sotto la minaccia di 50 mi[tra]

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 tempo operava sulle strade provinciali e comunali e non di rado compiva delittuose gesta anche a Roma. Due agenti del 1. Reparto Celere, Schiavottiello e Chiavarelli, partivano alla volta della roccaforte dei malviventi e riuscivano ad entrare a far parte della banda tenendo per altro 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 malviventi avrebbero transitato sotto il ponte Tuscolano.

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 ombra di reazione.

Undici individui sono stati arrestati.

Sulle macchine sono stati trova[ti] [illegible] pistole e bombe a m[ano]. Anche la Squadra Mobile è [illegible] in azione ed ha già scoperto [illegible] dove la banda teneva [illegible] le merci rubate e, molto probabilmente, nella giornata di oggi tutti i [illegible] dell'associazione a delinquere [illegible] assicurati alla giustizia.

Borsa di Roma

[illegible]

Un negro che promette zucchero fa arrestare i [illegible]

✝

Il 26 marzo 1946 [illegible]

595

Il Tempo.

28 maggio 1946

896

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 Vernicione e la città di Napoli nemico, onde centinaia di giovani napoletani dovettero riscattare 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 permesso la Corte e lo stesso «prosecutor» ad accettare, sia pure con la riserva dell'eccesso la tesi 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 Pizzello La Guardia che consiglia ai patrioti il porto e l'uso quotidiano del coltello; e chi, come noi, ritenga giusta e sacrosanta la propaganda delle Nazioni Unite, non può non ritenere sbagliata la condanna pronunziata ieri. Questa condanna contrasta violentemente con le aspettative dei patrioti d'Italia e tutta l'Europa, i quali attendono che venga loro riconosciuto il posto che meritano nella lotta comune contro il nemico comune, non lascia inoltre inquieti sull'applicazione effettiva delle misure previste per l'epurazione e per la distruzione del fascismo. L'errore è vero. La Sua scure 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, perché 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 17,35 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 od astile; che il decedato rispose in maniera egualmente astile; 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 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.

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 altresì convinta che la reazione dell'imputato è stata egualmente ingiustificata ed eccedente coloro nei limiti della difesa proporzionata all'offesa. Come ha detto il P. M., l'imputato quando si trovò disarmato la pistola del decedato aveva altri mezzi per fronteggiare la situazione senza far fuoco, uccidendo quest'altro. 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 stata completamente dimostrata; 2) che l'imputato non ha agito sotto qualsiasi errore 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.

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 e non accettiamo il vostro verdetto», dice l'avvocato Perris. Dopo aver accennato all'eccezione di incompetenza presentata dalla difesa all'inizio del processo, l'avv. Perris prosegue: «Io vedrei, in base agli articoli che voi avete citato, se non sia possibile restituire Rosario Bentivegna all'Italia che ne ha bisogno. Dalle azioni di Rosario Bentivegna, di quella che è stata la sua vita durante i nove mesi di feroce oppressione tedesca, fino al 5 giugno, studieranno un giorno la storia dei figli degli italiani».

Quindi l'avv. Perris chiede a 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 impiegate da loro. Questa Corte deve mantenere l'ordine. E deve dare degli esempi di cui gli italiani hanno [illegible] bisogno. Possiamo [illegible] libero un uomo che la Corte ha ritenuto colpevole? Possiamo in questi giorni, quando vi sono tutti 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, perché siamo rimasti [illegible] impressionati dagli argomenti presentati dall'ufficiale dell'accusa, perciò stiamo decisi che Rosario Bentivegna abbia a soffrire in carcere per diciotto mesi».

Quindi la Corte avverte che ammetta domanda di revisione di [illegible].

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.

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ITALIA NUOVA

Rosario Bentivegna condannato a diciotto mesi

Dopo il discorso dell'avvocato Adelino Nicolai 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.

E' opinione dei giudici che i due giovani, eccitati, abbiano ricorso, senza necessità, alle armi. L'atto di estrarre la pistola da parte del Barberisi 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 di 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 avvertimenti 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. Barberisi si sia espressa in favore dell'assoluzione.

IL POPOLO

La conclusione del processo Bentivegna

18 mesi di reclusione

La giornata conclusiva del processo Bentivegna ha richiamato nell'aula della Corte Generale Alleata un pubblico assai più numeroso del consueto.

La pena a 18 mesi di reclusione è stata accolta in silenzio dall'uditorio, fatta che gravava l'aula. Prevedendo la seguito che, valendosi la difesa potrà chiedere la revisione della causa al Governatore Militare Alleato entro 30 giorni.

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. Anselmo Nicolai, 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 quale agì in stato di legittima difesa, l'avv. Nicolai 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 riepilogando brevemente le circostanze emerse durante la lunga sfilata dei vari testi, tra i quali dà il posto d'onore allo stesso imputato, per la deposizione 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 certamente volendolo, la possibilità di agire in modo diverso sì 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 sensibile di reazione al di fuori di quella funesta 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 55, punibile in relazione all'articolo 585 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, quasi lentamente.

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

Avanti!

NERALE 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 5 giugno, la Corte tuttavia non può accogliere le richieste della 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 Barberisi.

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 nè 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 avere errato, ma non è un omicida. Non è colpevole.

La Legge deve trionfare sovrana.

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 arcicontinto che egli sia colpevole di vero e proprio omicidio nei confronti del povero Gen.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 ~~rinunziare~~ essere ripudiato e sconfessato da tutti i partiti,se intendono onorare veramente la memoria dei 320 martiri dele fosse Ardeatine.

Roma,I4-luglio-I944

Un pubblico osservatore

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

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 Gen. 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 eroico, 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 affrontare egli stesso la morte: può chiamarsi ciò eroismo? no; ciò è massima viltà, e le anime dei 320 del 24 marzo gridano vendetta contro il vile Bentivegna, che dovrebbe ~~rinunzia~~ essere ripudiato e sconfessato da tutti i partiti, se intendono onorare veramente la memoria dei 320 martiri dele fosse Ardeatine.

Roma, 14 luglio 1944

Un pubblico osservatore

900

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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Ma preferì sacrificare la vita ai 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 ~~rinnegare~~ essere ripudiato e sconfessato da tutti i partiti, se intendono onorare veramente la memoria dei 320 martiri delle fosse Ardeatine.

Roma, 14 luglio 1944

Un pubblico osservatore

1

901

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

Roma, 14-luglio-1944

Un pubblico osservatore

1

902

Notes 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 ~~the~~ 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

Notes by Avv. Di Segni, Assessor

CASE OF BENTIVEGNA ROSARIO

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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.

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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 with card and band N°127190 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 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.

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 with card and band N° 127190 of the Group Henotti, 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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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.

- - - - - - - - - - -

Commissariato P.S.
Magnanapoli
N. 01000 Gab.
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

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 with 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.

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By truth of what above said

Signed: Serg. Magg. Alessandri Virgilio.

- - - - - - - - - - -

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 133, 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.

108

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. / ... guidelines — Authority

6-5-73 — Date

GENERAL SERVICES ADMINISTRATION

GSA Form 7117

WITHDRAWAL NOTICE

908

ACCESS RESTRICTED

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Date August 30, 1944

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To Major W. W. Battersby

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JCS-P/ on guidelines
Authority

6-5-73
Date

GENERAL SERVICES ADMINISTRATION

GSA Form 7117

GSA DC 72-16421

WITHDRAWAL NOTICE

910

COMMISSARIATO P. S.
MAGGIANNEPOLI

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
ROMA

In seguito alll'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.Cocace)

911

COMMISSARIATO P. S.
MAGGIANICOLO

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

912

COMMISSARIATO P. S.
MAGGIANNEPOLI

Roma, li ..6.1944

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
ROMA

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Faccio accompagnare questo codesto Comando l'Allessandri 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.

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Alla R. QUESTURA di

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PEL CAPO DELLA POLIZIA

916

Verbale per l'uccisione di un sottotenente avvenuta il 5/10/44 alle ore 14,30 in Via Tre Cannelle.

Io sottoscritto Sep. Uoff. Alessandri Virgilio di Cesare e di Giovannini Amelia nato a Roma il 22/2/910 iscritto alle forze di polizia con tessera e foglio n° 1219 del gruppo Menotti affermo quanto segue. Ferma in Via IV novembre angolo Via Tre Cannelle voltando le spalle alla detta via, udii allontanare voltatami vidi un ~~[illegible]~~ individuo vestito di grigio che mi voltava le spalle puntare il braccio su un militare senza fucile e fare fuoco tre o quattro volte. Il militare che fu risultato essere un sottotenente cadde immediatamente supino. Fermato lo aggressore che risultò sprovvisto di documenti affermò di chiamarsi Bentivegna Rosario fu Vincenzo e di De Simone Valentina abitante in Via Torino 122 nato il 22/6/922. Il Bentivegna è un tipo snello con barbetta corta e nera. Al suo seguito fu l'atto il Bentivegna, ~~[illegible]~~ portando foglio del P.C.I. n° 6577 in servizio presso il giornale dell'Unità (Vecchio Lavoro Fascista in Via IV novembre) affermò di aver sorpreso il sottotenente nell'atto di strappare i fogli murali del giornale dell'Unità e nel riprendersi si vide puntare la rivoltella e per difesa di sè stesso

///

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 alle forze di polizia con tessera e fascia n° 12719 del gruppo Menotti affermo quanto segue. Fermo in Via IV novembre angolo Via Tre Cannelle voltando le spalle alla detta via, udii allontanare voltandomi vidi un ~~[illegible]~~ individuo vestito di grigio che mi voltava le spalle puntare il braccio su un militare senza fucile e fare fuoco tre o quattro volte, il militare che fu risultato essere un sottotenente cadde immediatamente supino. Fermato lo aggressore che risultò sprovvisto di documenti affermò di chiamarsi Bentivegna Rosario fu Vincenzo e di De Simone Valentina abitante in Via Torino 122 nato il 22/6/922. Il Bentivegna è un tipo snello con barbetta corta e nera. Al suo seguito per l'atto il Bentivegna ~~[illegible]~~ portando fascia del P.C.I. n° 6577 in servizio presso il giornale dell'Unità (Vecchio Lavoro Fascista in Via IV novembre) affermò di aver sorpreso il sottotenente nell'atto di strappare i fogli murali del giornale dell'Unità e requisitolo si vide puntare la rivoltella e per difesa di sè stesso

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

Io sottoscritto Sep. Ufff. Alessandri Virgilio di Cesare e di Giovannini Aurelia nato a Roma il 22/2/910 iscritto nelle forze di polizia con tessera e foglio n° 12749 del gruppo Menotti affermo quanto segue. Fermo in Via IV novembre angolo Via Tre Cannelle voltando le spalle alla detta via, udii allontanarsi veloccemente vidi un ~~[illegible]~~ un tale vestito di grigio che mi voltava le spalle puntare il braccio su un militare senza fucile e fare fuoco tre o quattro volte. Il militare che fu risultato essere un sottotenente cadde immediatamente supino. Fermato lo aggressore che risultò sprovvisto di documenti affermò di chiamarsi Bentivegna Rosario fu Vincenzo e di Di Somma 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 ~~[illegible]~~ portava forza del P.C.I. n° 6577 in servizio presso il giornale dell'Unità (Vecchio Lavoro Foresta in Via IV novembre) affermò di aver sorpreso il sottotenente nell'atto di strappare i fogli murali del giornale dell'Unità e requisitolo si vide puntare la rivoltella e fu difeso di sito fatto

111

di aver fatto fuoco immediatamente. Testimone del fatto era la Signorina Caffani Carla fu Giuseppe e di Tamburini Maria nata a Roma il 7/12/1920 abitante in Foro Traiano 1, ernata anch'essa di pistola. Anche alcuni Signori distinti sopravvisti di documenti e qualità sostennero nel P.C.I. di guardia al finale dell'Università suddetti da me nella redazione del detto finale per le loro generalità si fece garante 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 Fogliano 15.

Note: nella mano e nelle vicinanze del sottotenente caduto non fu rinvenuta da me nessuna pistola. La Signorina Caffani Carla affermò di aver veduto il sottotenente puntare l'arma nel Bentivegna, e le fu restituito quelli stroffati i fogli matrici suddetti.

Dovendomi allontanare immediatamente per servizio il corpo del sottotenente, ~~fu tolto~~ mi fu consegnato dal Sig. Terenzi Amerigo, sarebbe stato tolto dalla strada dagli uomini del corpo di guardia del finale. In fede di quanto sopra

Sup. Uff. Ufficiali Vigili

di aver fatto fuoco immediatamente. Testimone del fatto era la Signorina Caffoni Carla fu Giuseppe e di Tamburini Maria nata a Roma il 7/12/1920 abitante in Foro Traiano 1, arrestata anch'essa dai fascisti. Anche sulla persona del signorina sopradetta di documenti e sull'auto stessa nel P.C.I. si trovarono al finale. Nell'Ufficio Candotti da me nella redazione del detto finale per le loro generalità si fece garante il comandante della guardia al finale Sig. Terenzi Americo di Giuseppe e di Olimpia Sori nato a Roma il 17/4/909 abitante in Via Fogliano 15.

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Dovendomi allontanare immediatamente per servizio il corpo del sottotenente, ~~fu tolto~~ mi fu consegnato dal Sig. Terenzi Americo, sorelle stato tolto dalla strada dagli uomini del corpo di guardia del finale. Fu redatto il presente sopra

Sup. Ufficiale Alessandri Virgilio

di aver fatto fuoco immediatamente. Terminare del fatto era la Sig.ra Caffoni Carla fu Giuseppe e di Tamburri Maria nata a Roma il 7/12/1920 abitante in Foro Traiano i quali erano armati di pistola. Anche il detto sig.ra era del detto sprovvisto di documenti e si trovava nel P.C.I. di guardia al finale. Nell'Ufficio Candotti da me nella redazione del detto finale per le loro generalità si fece firmare il comandante della guardia al finale Sig. Terenzi Americo di Giuseppe e di Olimpia Sori nato a Roma il 17/4/909 abitante in Via Foglia no 15.

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Dovendomi allontanare immediatamente per servizio il corpo del sottotenente, ~~fu tolto~~ mi fu custodito dal Sig. Terenzi Americo, sorelle stesso tolto dalla strada dagli uomini del corpo di guardia del finale. In fede di quanto sopra

Sup. Uff. Ufficiali Vigili

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 at the 5th year, after the 8th September 1943, felt that above every other personal interest not only his duty but his moral 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 organised at Palestrina armed groups to serve in the revolt 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, 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 Musu and his wife, Via Orazio 31, Rome: the Musu 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.

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Authorities, giving as soon as possible his real identity, which he would easily ~~be~~ 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 carrying out of enquiries and interrogations, are: 1) Italo De Tudro, 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 occurred 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.

Some minutes later a police agent arrived, to whom Bentivegna immediately recounted 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~~ on the head of Bentivegna.

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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 ~~rele~~ release of Bentivegna from prison.

Roma. 5 July 1944.

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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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 "Unita", 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'Unita", 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 he stated 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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INCIDENT OF THE 5th JUNE 1944.

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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 he stated 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 ~~rele~~ release of Bentivegna from prison.

Roma. 5 July 1944.

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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 his only duty was 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 organised at Palestrina armed groups to leave in the revolt 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, amongst 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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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 Casilina 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 Muro 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 had~~ 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 S.S. 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 exceptional 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 ~~rele~~ release of Bentivegna from prison.

Roma. 5 July 1944.

A.M.G.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

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D e c i s i o n e

Prima di tutto la Corte desidera dichiarare che nel giungere alla decisione di questa causa, non è stata 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 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 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'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 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

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REGION IV CASE N° 7762

La Corte è convinta che l'imputato,vedendo il deceduto strappare i manifesti,gli si rivolse in maniera arrogante e 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. Pur considerando questo ~~In considerazione di ciò~~,la Corte è convinta che l'atto del deceduto 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 colpevolmente 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. 93

2) che l'imputato non ha agito sotto qualsiasi errore/cosa contemplato ~~xxxxxxxx~~

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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 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 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).
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 Officer
(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 Rat Corps.

Pollock Lt Col.

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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 vigilan= za nei pressi del giornale "L'Unità", a Via 4 No= vembre, e recava sul braccio la fascia tricolore del Comitato di Liberazione Nazionale, incontrava presso l'imboccatura della Via Tre Cannelle un mi= litare, senza berretto e che portava la giacca sul braccio, che andava strappando con impeto alcuni manifesti del giornale "L'Unità", nonchè altri ma= nifesti inneggianti alla liberazione di Roma e al= l'Italia libera.

Il Bentivegna intimò l'alt al militare, il quale, con aria sprezzante lo investì domandandogli con quale diritto egli intervenisse. Allora il Ben= tivegna mostrò il bracciale tricolore del Comitato di Liberazione Nazionale e si qualificò per "volon= tario della libertà", di guardia al giornale, ed in= vitò 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 a= canto al militare nel momento in cui questi fu fer= mato dal Bentivegna, e che era alquanto distante da lui, mentre il militare faceva il gesto di pun= tare la rivoltella contro il Bentivegna, sparò al= cuni 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 alleata 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, sia

3°) Dalla dichiarazione scritta, allegata al processo inviata dalla N.D. Isabella Galletti, la quale mentre si trovava nella sua casa, intem= ta 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.

49) 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 alleata 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, e miglie, ~~xxxxxxxxxxxx~~ Via Orazio 31, Roma: i coniugi Musu ~~xxxxxxxxxx~~ 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~~ da Bentivegna, il quale ha agito ~~xxxxxxxx~~ 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 partigiano, di componente dei Gruppi di Azione Patriottica, di volontario della libertà, doti di mente e di cuore assolutamente superiori a qualsiasi elogio.

Ecco, alcune delle più importanti azioni compiute dal Bentivegna:

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

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

danneggiò un camion tedesco innanzi al Teatro dell'Opera; insieme con il suo gruppo tese un'imboscata e uccise un tedesco in Via XXIII Marzo; eseguì un lancio di bombe a Piazza Barberini; eseguì un attacco alle truppe SS autotrasportate presso le caserme di Regina Coeli; eseguì l'attacco al comando germanico al Corso d'Italia; eseguì un attacco notturno sulla Via Casilina distruggendo un camion tedesco; eseguì un altro attacco notturno a Via Tiburtina distruggendo un altro camion tedesco; eseguì

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un altro attacco a un gruppo tedesco, sulla Via Prenestina, danneggiando un camion; distrusse un centralino telefonico tedesco; distrusse un camion tedesco presso il Turo 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 muoveva 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 diecina.

Di queste azioni del Bentivegna, la maggior parte delle quali è stata comunicata dai giornali clandestini del Tempo, ed in particolare dell'"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.

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Data la personalità eccezionale del Bentivegna, e le modalità tutte del tragico incidente, in cui doveva trovar la morte il tenente Barbarisi, confidiamo in una sollecita escarcerazione di lui.

Roma, 5 luglio 1944

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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 6I and 62.

ORDINARY AGGRAVATING CIRCUMSTANCES. The only aggravating circumstance mentioned by the charge is the one indicated by the art. 6I N°IO : having committed the act against ~~the~~ 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.

If the answers are negative, the aggravating circumstance of the

art.6I N°I0 does non exist.

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

A) Art.62 N°1 : having acted for motives which have a special moral or social value.

B) Art.62 N°2 : 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 non 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=

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)

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La difesa ritiene che il Pubblico Accusatore non è riuscito 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 completa, inequivoca, positiva dell'innocenza di Bentivegna Rosario.-

Ci proponiamo, pertanto, di provare:

1°) che il fatto è avvenuto in un'atmosfera di guerra guerreggiata; che il Bentivegna, come tutti i patrioti italiani, secondo gli ordini e le disposizioni impartite dal Comitato di Liberazione Nazionale, attraverso le organizzazioni 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 pomeridiane, 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-fascisti;

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.-

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I N D E X

REPORTS AND STATEMENTS RE: DEATH OF LT. B. E. MOI, QUESTORE DI FIRENZE.

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Statement of MARTIVENA Rosario- assailant . . .	12 to 14
Statement of CAPPONI Carla -witness, present with assailant at the killing	15 to 16

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REPORTS AND STATEMENTS RE: DEATH OF
LT. BALDISSI, ORLANDO DI FILIPPO.

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REPORTS AND STATEMENTS RE: DEATH OF
LT. B. BARBISI, DUCHIN DI FIUMEL.

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I N D E X

REPORTS AND STATEMENTS RE: DEATH OF
LT. DE BERTOZZI, GUARDIA DI FINANZA.

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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 PASTUA -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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1.

H.Q. ZONE OF ROME 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 Ferinatti, 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 lst left intercostal space and passing in a slightly downward direction and leaving the back at the 5th intercostal space on the vertebral line.

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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 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 INSACCAMERIA 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 ducked back into spaces, drew his revolver from

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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 SANTONI, 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, 98I 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 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 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 Commissione Alleata di Controllo

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of the Generale Questura, Vito 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. Respectufully 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)

Referred please

J. Pollock Lt Col.
Rome Regional P.S.O

3/7/44

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REPORT OF DR. GRIMALDI

HEAD MILITARY HOSPITAL-ROME

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. Wound on 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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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.C.
Rome Detachment

8th June, 1944.

Statement of [illegible], Alberto, s. of [illegible], Via 20 Settembre, 98Z, Rome, Lieutenant, Italian Navy, who says:

At about 2.30 p.m. 6th June, 1944, I was standing at the door of the Italian Patriots building in Via Filotta, 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 "Well, throw some thing down" with that the woman or the man threw down a piece of linen and

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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 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. A.M. Greenhill, Capt.
CAP.

ATTACH 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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Annex 1.

Rome, 19th June
in Via Tre Orologi No.15,
Rome.

[illegible], married [illegible], parents unknown, born at Toppero (Pescara) on 16.3.1892, porter of house No.15 in Via Tre Orologi, 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 [illegible]. He 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 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:

Monetti Anna

Ambassenati Francesco
Ronetta Virgilio

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MG. HQ.
Piazza Venezia
Rome.

27th June, 1944.

S[illegible] OF[illegible] [illegible], [illegible]ARDIO, 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 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 Guardia di Finanza.

On 28th June, acting upon the instructions of Capt. Greenhill, MG. HQ. Piazza Venezia, at about 1 p.m. I arrested a young man named BEVCIVENGA Rosario of Via Torino 122 in the Via Nazionale.

I took him to MG. 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) PALATELLA Giorgio

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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

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Proprio, questo documento è molto importante perché dimostra la propensione e la faziosità del ten. Col. Pollock

ROME REGION
ALLIED CONTROL COMMISSION
A.F.H.Q. No. 394, U.S. ARMY
Police Headquarters

24th June, 1944.

SUBJECT: Murder of Lieutenant of Finance Guards named Giorgio CALDARELLI.

TO : Col. C. POLETTI, Rome.

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

OK
comune
general court
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. N. 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 Rosario SCHIVENTI, age 22, medical student, of Via Spalino 182, Rome, an avowed member of the

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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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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

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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 :

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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 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 Danza who was with him fired some shots, so I shot him".

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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.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

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

In the field.
20.6.44.

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

RGS

File
Sheriff Courts
RGN.

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, RAAC as I understand the Brigadier is anxious to get this sorted tomorrow, if possible.

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MOD. No. 12
(riveduto)

FORM. No. 12
(revised)

COMUNICAZIONE DI SCARCERAZIONE AVVENUTA

Al capo delle carceri di Regina Coeli

Oggi, il Bontivegna 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

Legal

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.

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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 increscioso 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 satura di elettricità ed i sentimenti erano eccitati. Pur considerando questo, la Corte è convinta che l'atto del deceduto di strappare la pistola non era giustificato 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 colpevolmente 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 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 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.

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Se la difesa desidera che, prima di emettere la sentenza, la Corte debba prendere in considerazione altre circostanze attenuanti e ne desidera fare delle osservazioni riguardanti la sentenza che dovrà essere emessa in base alle decisioni summenzionate, la Corte

è pronta ad accettare 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.

- - - - - - - - - - - - - - -

994 ½

File Rel. 1029

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

/Flg.
5 August 1944.

ACC/4083/1/L.

SUBJECT : Petition for Review - BRENIVIERA Rosario.

TO : Regional Legal Officer (THROUGH: 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 Lt Col

I.G.H. CAMPBELL,
Lt. Col.,
Chief Judicial Officer,
for Acting Chief Legal Officer.

Encl.

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REGION IV CASE N° 7762

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JUL 28 1944

AVV. RUGGERO DI SE"NI
ROMA - LUNGOTEVERE ALTE
TELEF. 580-500

1007

Rome, Ju' 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

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996

AVV. RUGGERO DI SE[illegible]NI
ROMA - LUNGOTEVERE ALTO [illegible]
TELEF. [illegible]

Rec'd Aug 4'44

Legal

1107

August 1944

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.

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A.M.G.Superior Court Rome Area
Palazzo di Giustizia, Rome

File
NH
1803

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

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 talk to Major Leacacos about this.

RAG

File RAG

999

Rec'd July 18, 44

P/Q/P/16

Confidential-Urgent.

Office of D.C.P.S.
Rome, 16/7/44.

Dali 18

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~~ 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 Lucacs (Rec'd Maj. Hendrickson)
Not much can be done now, but
perhaps the Press might be warned of
possible injustice to accused, when case
is sub judice & to refrain from such comments
Pollock 18/7

RWB

1000

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 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

35

1001

battles during past nine months.
After aggressor was killed it was made clear that it was not a fascist but ~~fixxxxxxxxfixxxx~~.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 the 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 desire 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 case

President of the Allied Military Court
at the Palace of Justice.
Rome.

To the Direction of the Daily paper "Risorgimento liberale"
Via Frattina 89.
Rome.

With reference to the Bentivegna case, part of the town 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 Bartarisi, 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 pretended 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

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A public observer

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.

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1009

Am G/ACC.
H.Q.
Piazza Venezia,
Rome,
23rd June 1944

Statement of BENTIVEGNA, Rosario, fu Vincenzo, age 22 yrs., Medical Student, of Via Torino, 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 so 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 sent to the Questura in Collegio Romano [illegible]

Statement

1005

Am G/ACC.
H.Q.
Piazza Venezia,
Rome,
23rd June 1944

Certified true copy
H. Lt Colonel

Statement of BENTIVEGNA, Rosario, fu Vincenzo, age 22 yrs., Medical Student, of Via Torino, 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 so 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]

Statement

1006

Am G/ACC.
H.Q.
Piazza Venezia,
Rome,
23rd June 1944

Statement of BENTIVEGNA, Rosario, fu Vincenzo, age 22 yrs., Medical Student, of Via Torino, 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 so 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]

Statement

1007

and was interrogated because they found out that I, on the 5th May 1941, in 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 R3 again started my Communist activities. During the eighteen months ~~[illegible]~~ I took up my 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 interested 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

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Photo Copy

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K

Mon Gr Cap.

Rome. My area was in the Center of Rome and I was the second in Command. I held the position until 15th November 1943, when I became involved in the GAP 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 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

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Tom G. Capt

was on my returning to Lazzaretto 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 Ne November, Rome, 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 his coat over his arm. It was an Italian officer or non commissioned officer uniform and I did not recognise what arm of the Italian services it belonged to these two men, were

Italian Capt

1019

4 to Lassini front

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Italian Capt

1015

4 to Lassini front

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Italian Capt

1016

having torn posters from the wall near the steps leading from Via Tre Cannelle to Via 4th May, including posters of the Malta newspapers. 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 hand you is the one I was wearing at this moment. The man in uniform pulled his revolver from the back of his belt a cartridge in his hand

Written by Carla

Mussolini Cold

Having been posters from the wall near the steps leading from Via Tre Cannelle to Via Sistina, including posters of the Anita newspapers. I was with a friend named Carla Cattoni, a lady, who lives in Via del Moro 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 hand you is the one I was wearing at this moment. The man in uniform pulled his revolver from the back of him like a cartridge in his hand

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Winifred Cook

stuck 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. (show). 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 franza. my girl friend was present.

Luigi Cani

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Judge Cant

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Mary Cash

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 presumed knew a man wearing a white armband, red, white and green in centre 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 Unità building with the girl, Carla, and the man who had taken particulars from, and he verified my identity. I left Rome on Sept

Mont. Capt

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Nov 9, 1944

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Mon 5 Sept

1025

June 1944 and went to the Viterbo District I stopped there until 19th June 1944, doing Communist work, and then returned to Rome. I heard you the false identity card and military 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 shot the Lieutenant because he had held his pistol to my body at that

Fabio Cardi

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Fabio Cianti

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Fabian 4. Cont.

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 false 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, 267th Regiment, Cos. and it is the truth. Rosario Bentivegna

Witness: Alan Tillenhall. Capt.

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 false 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, 207th Regiment, Cos. and it is the truth. Rosario Bent 1035

Witness: Wm Allenhill Capt
RAPWC

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Witness Alan Allenhall. Capt
267/AC

(In answer to a question by the Court I Prosecuting Officer stated that he does not intend to plead "aggravating circumstances" under Art. 61 (10)).

As to Extenuating circumstances — I say this accused is utterly faithless, but subordinately I rely on Art. 62 (1) and (2). My defence is based on S. 52 — (indirectly S. 55 on a possibility). S. 52 is drafted to deal with matters of danger, not to actual physical damage, and the matter must be immediate. I regret that I can rely on S. 52 there must be actual necessity. This needs very delicate weighing, and must be varied subjectively, as it appears to the time or the state in the light of surrounding circumstances, and not objectively in the cold atmosphere of the law Court — see Art. 59 & Art. 52 and provide a good defence, notwithstanding that the Court considered the accused's actions unnecessary, if in the circumstances that presented themselves to him the error was justifiable — be a better legitimate defence error. But the Prosecution — it is covered by Art. 59 (last paragraph). If he is guilty accused's error must be unreasonable error. If he is guilty of unreasonable error, then it is a case of "culpa", for which we have Art. 55. This is considered by the Code specifically under Art. 55. Art. 55 only in relation to self-defence, under Art. 55. Art. 55 appears only to cover a mistaken self-defence — in this case the extent of the self-defence is fixed by Art. 59. The discretion is limited by the limits set in the section — but the discretion is a power to impose sentence (see Arts. 115 163 and 164).

All this is scrambling, hence I rely on legitimate self-defence, and not on "culpa". Legitimate self defence is defence, and not on "culpa". But I also refer to the "Manual" law. But I also refer to 15 Op. Magazine, Vol. II, p. 320 (2nd Edn.), which contains a statement dealing particularly with "legitimate defence against [illegible]". I also rely on "Gianopulos' Penal" by

1032

(In answer to a question by the Court I Prosecuting Officer states that he does not intend to prove "aggravating circumstances" under Art. 61 (10)).

As to extenuating circumstances — I say this accused is wholly faultless, but subsidiarily I rely on Art. 62 (1) and (2). My defence is based on S. 52 — I indicate S. 55 as a possibility. S. 52 is designed to deal with martial danger, not to actual physical danger, and the martial must be imminent. I regret that I can rely on S. 52 there must be actual necessity. This needs very delicate weighing, and must be viewed subjectively, as it appears to the time in question, and not objectively in the light of surrounding circumstances, and not objectively in the cold atmosphere of the Court — see Art. 59 & Art. 52 and provide a good defence, notwithstanding that the Court considered the accused's conduct, in the circumstances that presented themselves to him, the error was culpable — he committed legitimate defence error. But the Prosecution — it is covered by Art. 59 (last paragraph). If he is guilty caused by error must be inexcusable error. If he is guilty of culpable error, then it is a culpable "error", for which he is liable under Art. 55. This is considered by the Code specifically in relation to self-defence, under Art. 55. Art. 55 only in relation to self-defence, in this case appears only to cover culpable self-defence — the extent is fixed by Art. 59. The discretion is limited by the limits set in the section — but in certain cases there is a power to suspend sentence (see Arts. 163 and 164).

All this is secondary, because I rely on legitimate self-defence, and not on "culpable". Legitimate self-defence is defence, and not on "culpable". But I also refer to R.P. magazine, vol. II, p. 320 (2nd Edn.), which contains a statement dealing particularly with "legitimate defence [illegible]". I also rely on "Gimiopadhaya's Penal" by

(In answer to a question by the Court I Prosecution 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 faithless, but subsidiarily I rely on Art. 62 (1) and (2).

My defence is based on s. 52 — I indicate s. 55 as a possibility. s. 52 is designed to deal with mutiny to danger, not to actual physical damage, and the mutiny must be immediate.

I question whether I can rely on s. 52 there must be actual necessity. This needs very delicate weighing, and must be viewed subjectively, as it appears to the man at the time in the light of surrounding circumstances, and not objectively in the cold atmosphere of the law court — see Art. 59 & Art. 52 and provide a good defence, notwithstanding that the Court considered the accused's conduct, apart in the circumstances that presented themselves to him, the error very culpable — he offered legitimate defence.

But the Prosecution — it is covered by Art. 59 (last paragraph). But the accused's error must be a reasonable error. If he is guilty of unreasonable error, then it is a culpable "error", for which we turn to Art. 55. This is considered by the Code specifically in relation to self-defence under Art. 55. Art. 55 only in relation to self-defence — in this case appears only to cover the self-defence. Given this section is the punishment is fixed by Art. 59. Given this section limited by the limits set in the section — but in certain cases there is a power to impose entire (see Arts. 163 and 164).

All this is secondary, because I rely on right to self-defence, and not on "error". Legitimate self-defence is defence, and not on "error". But I do refer to a "humorous" case. But I do refer to 15 Rep. Magazine, Vol. II, p. 310 (2nd Edn.), which contains a statement dealing particularly with "Legitimate Defence against Gunfighting Pirates" by

Sindoni & Tannitta p. 149 – which again – aims that is meant by "partita" self-defence. I also refer to an Article by Prof. Stellpflug in "Il Progetto Rocco nel Pensiero Giuridico Contemporaneo", at p. 77.

In order to come to a conclusion you must put yourselves in his place in that situation. Nobody could have acted differently.

I ask you to remember the part actually played in assisting the Allies in the Partisan movement.

(Incidentally to justify the truth is another world to the position of Bartolini and Pietro Mazzucchi called Bentivegna). That might be a case of "Reciprocal" self-defence, as envisaged by the Italian Penal.

Lines. Substance 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 seen 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 deceased and fired either firing the fatal shot:

(2) Deceased pointed revolver at deceased, who fired in self defence:

(3) Deceased pointed revolver at accused, and the latter fired before he had such fired by accused.

Accused acted because deceased was taking the posters, and he thought being challenged ~~and~~ deceased in a proper manner. He thought he would have acted in a calmer way if he had seen the contract. There is little fear to accused as over-enthusiastic, and that the deceased was injudicious. The fact that the posters were

1035

Sindoni & Tamaitis p. 149 – which again – aims what is meant by "practical self defence". I also refer to an Article by Prof. Stallybrass in "Il Progetto Rocco nel Pensiero Giuridico Contemporaneo", at p. 77.

In order to come to a conclusion you must fit Gnocchi in his place in the situation. Nobody could have acted differently.

I ask you to remember the part actually played in assisting the Allies in the Partisan movement.

(In answer to question by the Court is another would be the position if Barbarossi had fired first and killed Bentivegna). That might be a case of "Reciprocal" Self-Defence, as suggested by the Writer Ferri.

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 that any of the witnesses we have heard is the familiar case of several people seeing the same thing happen but getting different impressions of the details.

There are 3 possibilities:–

(1) Accused approached Deiana and fired either firing the first shot himself:

(2) Deiana fired without provocation, and Gnocchi in self defence:

(3) Deiana fired without provocation, and the latter fired before he had actually fired himself.

Accused stated he was drunk on taking the posters, and he admits having shot Deiana in a proper manner. He admits he would have acted in a calmer way if he had been sober. This is evidence that he was not anti-Fascist, and that he drunk was in jubilation. The fact that the posters were

1036

Sindoni & Tamaitta p. 149 – which again – aim that is meant by "partial self defence". I also refer to an Article by Prof. Stellghera in "Il Progetto Rocco nel Pensiero Giuridico Contemporaneo", at p. 77.

In order to see the relevance you must put yourselves in his place in that situation. Nobody could have acted differently.

I ask you to remember the part actually played in assisting the Allies in the Partisan movement.

(In answer to question by the Court is another would be the position if Bastianini had fired himself with Bentivegna). That would be a case of "Reciprocal" Self-Defence, as envisaged by the Italian Penal.

Lins. 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 approached Donati and fired either giving the warning shot or not:

(2) Donati pursued unknown to Appuntato, who fired in self defence:

(3) Donati pursued unknown to accused, and the latter fired knowing he had such fired upon him.

Accused acted because Donati was taking the posters, and he thought being challenged ~~and~~ Donati in a proper manner. He thought he would have acted in a calmer way if he had been challenged. There is evidence that he acted as an anti-Italian patriot, and that the Donati was in politics. The fact that the posters were

1037

Adv. Nicolaj. summing 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 believe it did take place in an atmosphere of war, as this affects the valuation of the conduct of the parties.

Although the Allies had entered Rome, armistice had not yet returned to Rome, and it was not from certain that the last German had left.

It is a mystery why Barbarisi should on this day be guilty of an act so hostile to liberty as to tear down these posters. Accused's action was justified morally, politically, juridically. I dare say that this alone would justify acquitting, but it justify accused in being offended, and even in insulting others.

But it is necessary to examine the action of Barbarisi. This is a question in which there is a complete of witnesses. You should accept the evidence of Carlo Coppini. You should accept De Tuddo, who was completely independent, also Mrs. and Mrs. Hunsch, whose spontaneous action was so eloquent. Also the evidence of Colantonio. It is not our fault that we could not support his evidence with that of his prisoner friend. Maybe that are curious features in his story — but no more curious than other things in this case which are generally admitted. There is no doubt Colantonio's sincerity. There is plenty of corroboration that his story with the American officer was true. The evidence against our case is not acceptable.

(Captain Greenhill mentioned having the missing statement, which he stated has been found in the office, in the wrong file. Counsel asks that this be sent to the Defence, who may use it in evidence if they wish to do so.
Defence after seeing the document decline to use it in evidence. Document marked and marked Exhibit).

1038

Adv. Nicolaj. summing 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 shows it's a true picture in an atmosphere of war, as the affects the relation of the conduct of the parties.

Although the Allies had entered Rome, hostility had not yet returned to Rome, and it was not even certain that the last Germans had left.

It is a mystery why Bartolini should on this day be guilty of an act so hostile to liberty as to turn down these prisoners. Accused's action was justified morally, politically, juridically. I don't say that this alone would justify killing, but it justify attempt to bring offender, and even in unusual methods.

But it is necessary to examine the action of Bartolini. This is a question on which there is a complete of witnesses. You should accept the evidence of Carlo Coppoli. You should accept De Tuddo, who was completely independent, also Mrs. and Mrs. Hunsell, whose spontaneous action was so eloquent. Also the evidence of Colantonio. It is not our fault 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 doubt Colantonio's sincerity. There is plenty of corroboration that his talk with the American officer was true. The evidence against our case is not acceptable.

(Captain Greenhill arrives bearing the missing statement, which he states has been found in the office, in the wrong file. Counsel asks that this be sworn to the deponent, who may use it in evidence if they wish to do so.
Deponent after seeing the document does so and it is in evidence. Document marked and numbered Exhibit [illegible]).

Aw. Nie. Raj. sums up for the Defence.

You have to resolve any doubt in favour of the accused.
We don for this case prepared as an incident of war — but
I believe it is took place in an atmosphere of war, & this
affects the valuation of the conduct of the parties.

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returned to Rome, and it was not even certain that the last
German had left.

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of an act so hostile to Liberty as to tear down these posters.
Accused's action was justified morally, politically, juridically.
I don't say that this alone would justify acquitting, but it
justify attitude in being offended, and even in insulting Liberals.

But it is necessary to examine the reaction of Barbarisi.
This is a question in which there is a conflict of witnesses.
You should accept the evidence of Carlo Coppini. You should
accept De Tuddo, who was completely independent, also Mr.
and Mrs. Hunsch, whose spontaneous reaction was so eloquent.
Also the evidence of Colantonio. It is not our fault 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 doubt Colantonio's sincerity.
There is plenty of corroboration that his fight with the
American officer was true. The evidence against the accused
is not acceptable.

(Captain Greenhill arrives bearing the missing statement,
which he states has been found in the office, in the wrong
file. Counsel states that this be sworn to the Defence, and
may use it in evidence if they think fit to do so.
Defence after seeing the document decline to use it
in evidence. Document received and marked Exhibit
[illegible]).

1040

Adv. Needley continues

The witness Castellana was evidently hostile to us for some reason. You cannot believe her story. For one thing — on her story all three witnesses would have Lt Bartolini. Even the evidence of this witness, however, supports my defence of legitimate defence.

You must believe that Bartolini 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 bound to contradict Bartolini when they interviewed Tessari 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 distrustful from the dress of the accused, whether we were friend or foe, — his actions would suggest the latter. I don't think that he intended no harm by drawing his pistol.

(Adjourned 1900 hours)

22 July 1944.

Court re-assembled at 0910 hours.

Adv. Needley continues

The experiment carried out yesterday in Court shows 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 preter intentional.

The idea of self defence negatives the notion of intentional killing but counter action only to avoid a danger.

Homicide may be (1) voluntary
(2) Preterintentional (including manslaughter)
(3) Colposo (negligence or imprudence)

Legitimate self defence does not apply to homicide alone, but to all acts which might otherwise be criminal.

Aggravating and extenuating circumstances (Arts. 61 & 62) apply to all forms of crime.

1051

Adv. Nicolaj continues

The witness Castellano was evidently hostile towards for some reason. You cannot believe her story. Does one think — on her story all three accused would like Lt Bartolisi. Even the evidence of this witness, however, supports my defence of legitimate Defence.

You must believe that Bartolisi 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 Bartolisi upon when they interviewed Tessari 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 the accused would be doubtful, from the dress of the deceased, whether he was friend or foe, — his actions would suggest the latter. I does dress that he intended no harm by drawing his pistol.

(Adjourned 1900 hours)

22 July 1944.

Court re-assembled at 0910 hours.

Adv. Nicolaj continues

The experiment carried out by accused in Court shows 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 counter action only to avoid a danger.

Homicide may be (1) voluntary
(2) Preterintentional (intending harm:)
(3) Colposo (negligence or imprudence)

Legitimate self defence does not apply to homicide alone, but to acts which might otherwise be criminal.

Aggravating and extenuating circumstances (Arts. 61 & 62) only come from a crime.

1052

Adv. Needley continues

The witness Castellano was evidently hostile to us for some reason. You cannot believe his story. For one thing — on his story all three bullets would hit Lt Bartolini. Even the evidence of this witness, however, supports my defence of legitimate defence.

You must believe that Bartolini 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 Bartolini upon when they interviewed Tersagni 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 shot by, from the loss of the second, whether he was killed or not, — his actions would suggest the latter. I dare doubt that he intended no harm by drawing his pistol.

(Adjourned 1900 hours)

22 July 1944.

Court re-assembled at 0910 hours.

Adv. Needley 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 counter action only to avoid a danger.

Homicide may be (1) voluntary
(2) Preterintentional (intending one thing)
(3) Colposo (negligence or imprudence)

Legitimate self defence does not apply to homicide alone, but to all acts which might otherwise be criminal.

Aggravating and extenuating circumstances (Arts. 61 & 62) only took place of crime.

1053

Exhibit No. 4
F.B. Lombardi
Cpl.

15

S.S.S.N.D.
Piazza Venezia

25th June, 1944.

Statement of Carla LOMBARDI, 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' newspaper, 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 Tre Cannelle, 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. [illegible] the man in civilian [illegible] right trouser pocket. [illegible] I thought this man [illegible] Rosario [illegible] the uniformed man. [illegible] the man in civilian [illegible] the uniformed man [illegible] Rosario [illegible] 10

1044

Exhibit No. 4.
F.L. Lillie
Col.

15

H.Q. M.T.
Piazza Venezia

25th June, 1944.

Statement of Carla [illegible], aged 24 years, single, of Toro Torino, 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' newspaper 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 Fra Cannella, 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. [illegible] the man in civilian clothes [illegible] revolver from his right hand trouser pocket. At the same time [illegible] "Attention" [illegible] thought this man [illegible] to do. [illegible] uniformed man. [illegible] with [illegible] close to us. [illegible] to [illegible] 2 p.m. [illegible] 10

1045

Exhibit No. 4.
[illegible]

15

[illegible] H.Q.
Piazza Venezia

25th June, 1944.

Statement of Carla [illegible], aged 24 years, single, of Toro 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' newspaper 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 Cannelle, 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. [illegible] beside him, [illegible] the man in civilian clothes who was behind [illegible] drew a revolver from his right hand trouser pocket. At the same time [illegible] "Partigiani" [illegible] moved quickly over to [illegible] thought this man [illegible] in [illegible]. [illegible] to [illegible] the uniformed man. [illegible] to the [illegible] gun. [illegible] will [illegible] note. [illegible] man [illegible] gun [illegible] to me. [illegible] other man [illegible] to [illegible] the [illegible] the [illegible] the [illegible] the [illegible]

10

1046

16

ordered him to give up his weapon. At that moment the civilian fled away in the direction of Via Mazzini. With that a man in civilian clothes with a police armband came on the scene from the direction of Via Novembre. 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 false". Rosario still held the revolver in his hand. Whereupon 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 I 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 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 Parbati and it is the truth.

Carlo CAMPONI

T. M. Greenhill, Capt.

25.6.44.

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[illegible]ed his revolver by his side. At that moment the civilian [illegible] in the direction of Via Mazzola. Just that a man in civilian clothes wearing a police armband came on the scene from the direction of Via Governo. I 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". 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 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 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 Bartoli and it is the truth.

Carla CAPECHI

E. M. Greenhill, Capt.

25.6.44.

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1058

16

cocked his revolver by his head. At that moment the civilian ran away in the direction of Via Mazzoniale. With that a man in civilian clothes wearing a police armband came on the scene from the direction of Via Nov More. 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 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 I 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 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 Partoni and it is the truth.

Carla CAPPONI

T. M. Greenhill, Capt.

25.6.44.

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Exhibit 3
H.L. Leitner
Colonel

1050

Exhibit 3
H. L. Leitner
Colonel

Exhibit 3
H.L. Leitner
Colonel

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1052

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

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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 di 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 figlio di Prof. Bernardo Prof. ordinario della Università di Roma ha tessuto il più invidiabile [illegible] del mondo di vita intellettuale come del mondo di vita morale.

Rosario [illegible] 1054

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 quelli 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

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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

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DECISION OF CHIEF CIVIL AFFAIRS OFFICER

Date 194

NOTE: This form will be submitted to the Senior Legal Officer of the Province.

1941 Segnl. R. Tip. [illegible]

1056

an individual who, in keeping with another, was removing some posters of the last show which was on the building. They were on the front of the wall which faces Via Tè Cannelli (marked by crosses on attached sketch plan). I also noticed with a [illegible] the door of the building from which I came out. (Sketch plan attached to Record and marked Exhibit 3). I did not recognize the two individuals. One individual, slightly to the rear of the other was removing 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 metre or so perhaps, and gave me the impression that they were together. I don't think he was removing posters. There were no posters in the show windows. The second man was definitely 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 [illegible], 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 recognize him as an officer, or 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 shirt, and a coat over his left arm. [illegible] the same uniform as there were for some time Fascist 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 of the coat was folded. The military man was very excited. He seemed surprised

1057

for my "Lost" as I turned to move to my. He turned and addressed me in a most insolent manner. He said he could do what he liked - in my place for I should by who I was. I replied rather angrily that I was a Volunteer of Liberty, and I showed him my band. By this time somewhat excited. As I approached 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 cartridge into the chamber by cocking the pistol. He lowered 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, but personally there was no cartridge in the chamber. I had my pistol in my right side trousers pocket. I believe it was while he was pointing his pistol I was telling him I was a VL, and that he should follow me to the office of the newspaper. I told him of my duty as commandant of the Grand Hotel. He rested his pistol on the trigger of my heart, with a very threatening air. I had my pistol in my trousers pocket, with my hand on it. My pistol had a cartridge 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 press the percussion pin in a firing position. While the military man was having his pistol I had already made what I was threatened, in order to be prepared for the unexpected. At this point several things happened in a very short time - I don't know if successive, or whether they were simultaneous in my

security forces. I was called up, military service in January 1943, and discharged for hostilities in May 1943. In November 1943, I became a member of the partisan group (GAP) under auspices of National Committee of Liberation. I was a member of GAP Pioneers. The GAP are very light armed organised by the partisans for action in the city streets. I was the commander of the GAP Pioneers. In January, following the Allied landing, the National Committee ordered me to take charge of the Cassetta partisans. I returned to Rome in March, when the arrival of the Allies was no longer near, and resumed command of GAP Pioneers. I had to leave Rome to go to a partisan zone in early May. I returned to Rome on 2 June to bring a report to my superiors. My concern was the military assisting of the Committee of National Liberation, working in concert with Allied military authorities. I was sent to Cassino and Frosinone as GAP commander, and I have carried out activities for obtaining information. On 4 June, on the arrival of the Allies was well assured imminent, my command went to the Partisan Zone. I left at 7.30 p.m. Towards 11.00 a.m. on Via Tiburtina, I saw Allied formations, accordingly returned, considering that my mission was no longer valid. Returning to Rome, being unable to return with my Hdq., I made contact with my colleagues of San Lorenzo District. On the nights of 4-5 I was ordered to carry out activities for security and order in this District. In the morning of 5 June I left my companions of San Lorenzo, and went to seek for my commander, that I knew I could find in the Sector of my party. I did not notice Allied proclamations during the morning of the 5th June. I was the only person San Lorenzo to the sector of the occupied

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L'Unità, which was also the Hol. group's, and remained there for 2 days and nights. I did not move from Via Quattro Novembre and its surroundings, except that I was a few times to Tivoli. I did not see Allied Prisoners-of-war passed in this area. On 5 June I was commander of the guard group surrounding the building of L'Unità. One of my 3 men gave another mission. The building is on the corner Via Quattro Novembre and Via Tre Cannelli, the corner Via Quattro Novembre and Via Villa Giustiniani. There were constantly posters around the building, calling the arrival of the Allies, the liberation of Rome, the Allied Forces, the anti-fascist parties and the Communist party. Posters were or regular intervals — "Viva l'Italia Libera", "Viva gli Eserciti Alleati", "Viva il Partito Comunista Italiano", and "Viva l'Unità". There were no Nazi or Fascist posters on the building.

In the afternoon I was dressed as usual, with my shirt collar open and over my coat. I was wearing this shirt. I had a very narrow beard on my chin and moustaches which had a very narrow beard on my chin and moustaches which had been cracked from the wind. I had a red, white and green cockard, inscribed VL (= Volontari della Libertà), with serial number and the stamp of the party. It had been given to me by Sam Lungo of my companies, from which I departed on that morning. The cards were given by the National Committee of Liberation, & members were known by the leaders of the Committee.

In the afternoon of the 5th I made frequent visits of inspection around the premises, and did on leave the vicinity. At 3.0 p.m. I made a round of inspection. I went on through the main entrance on Via Quattro Novembre and exited myself round Via Tre Cannelli. Carlo Cassoni was with me. I did not know at the time who accompanied me. When I turned Via Tre Cannelli I saw beyond the "island" of the street

1060

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 ~~[illegible]~~ (i) that the defence put forward under art 52 of the PC has not been fully made out; & (ii) that ~~In the text of the Co~~ the accused ~~that~~ did not ~~comm~~ 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 589.

At the conclusion of the ~~argument~~ 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 circumstance specified in Art 62 (2). ~~[illegible]~~

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 conflict of opinion any doubt must, in this case, be resolved in favour of the accused.

For the above reasons, the Court finds the accused guilty not of the offence charged

in the charge sheet (namely arts 575 & 61 (1c) of the P.C.) but of the lesser offence contemplated by art 55 punishable in accordance with art. 587 with the benefit of art 62 (2).

If the Defence desires that, before imposing sentence, the Court should take into consideration other extenuating circumstances or wishes to make any observations on the ~~proper~~ sentence to be imposed on the basis of the above findings, 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).

1063

art.6I N°IO does non exist.

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

A) Art.62 N°1 : having acted for motives which have a special moral or social value.

B) Art.62 N°2 : 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 non 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. Lebre was there, also 2/Lt. Iannotta, also Lieut. Icalgi. 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 uniform, without a blouse; he had on his belt, and a white band on his arm with words 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 Maresciallo that a 2/Lieut. had been killed. About 1630 I saw Barbarisi in Via Tre Cancelle. He was lying on the ground dead and covered with a blanket. My colleagues had examined his dead. I did not examine the corpse myself. I never saw his face. When they raised the body of Tiche is away, I recognised who it was by the uniform and by the colour of his hair.

No XXtion

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Second Witness (Sworn)

Fontana Mario Luigi, Assistant at the Pathological Institute, and a qualified medical practitioner. I saw the body that day I was authorised by Capt. Greenhill to carry out an autopsy. I was told it was the body of Lt. Barbarisi. It was a man of 25-26 years old. It was the interpreter 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 1500 hours. Death was caused by acute anaemia caused by haemorrhage which penetrated on the top part of the left lung

The thorax is over 2 cm. from the sternum; on the first intercostal space, the only real wound of 8 x 12 mm., on the left side. Death was caused by the bullet, which perforated 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 the brain was 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 these fully explained the cause of death. We stopped the body completely upon examination.

No Rexton.

~~Lockart~~
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.

Rexd (with leave)

There was a wound of entrance, and a wound of exit.

(Adjourned 1200 - 1330 hours).

Third Letter. (Sworn)

Lieut. Tamaddeo Aldo, of the Guardia 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. Barbarisi were with me. I saw Barbarisi 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. Barbarisi. The body was covered by a blanket – I removed the blanket, saw the body was dead, and to all appearances he was dead. I had talked to Lt. Barbarisi 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 over his arm in Mess. The blouse must have been there near the body, because when they removed the body one of those present 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. He bought Lieut. Barbarisi to the Station, 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 our organisation, and I believe that everything was then handed over to the deceased's mother. I heard that later from deceased's mother. I don't know for certain if or the articles & clothes have been returned to her. You can find out from the Carabinieri who took

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delivery, or from the accused's mother. There was not a bread in the sleeve of Lt. Baldassini's blouse. I examined the blouse in the hospital where we took the body, and I found in the sockets. If there were bread in the sleeve I should have noticed it. There were other words besides "Civil Police", but I don't remember what. When I saw Lt Baldassini 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 heard that his mother was looking for his bracelet and pinned it on purposely in the pocket of the shirt.

No Rexton

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 saying "Let's go out to see what has happened." I went to Via Tre Cannelli. Before arriving I saw an assembly of people standing around. I advanced with my men and saw the crowd away, which of course through. I saw the accused there. I was coming from Via Tre Cannelle and accused was standing away from me – the body before 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 asked "What has happened, who has killed?" The accused answered "I have killed". I don't know the accused's name – I spoke of the accused as I recognised him by sight as the man I spoke to. I also asked the accused "Why?" He replied "Per Legittima Difesa."

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I heard him refuse me the pistol. I asked, because he said he had written in self defence. He said he had asked for self defence, because the Lieutenant had drawn his pistol. He told me, when the accused had taken, or his pistol, there was another civil in there who would have fired. He told me he told the lieutenant to stop testing. Then certain notices. The posters which the lieutenant was trying to take down are in glass boxes in Via Tre Cannelli: they are glass cases, but the glass is missing. I don't remember what was on the posters that accused showed me. There was with the accused a girl who, the defendant said, could testify in his favour. I saw the Lieutenant's body on the ground. I don't think I knew him. I noticed how he was dressed. He was not wearing his blouse — it was thrown on his shoulders, as if he had taken it off in haste. I noticed a tear in the left sleeve of his shirt, with a band with some lettering in indelible ink on it. I did not read what the band said — but I have since seen others like it. I did see part of the band 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 P. Guard's Executive command. 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 go and with something that had been reported to another officer. As the deceased lay on the ground, his arm had been partly covered. I did not see his sleeves rolled up. But he had a blouse 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.

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I do not 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 task was complete, as the Captain had been already informed. Accused did not say he was a "Volontario della Libertà", but I said that he was by his armband. I believe it was a red band, with the letters VL. I was not too interested in these posters — when interested we were that he should receive — when interested... We were that he should receive him there. I did not recognise him as a Volontario della Libertà, so I simply asked him for the documents he had to prove that he had the right to wear a band. He had no documents, and 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. Rome was full of posters and did not look at them closely.

Fifth Witness (Sworn)

Signora Rosetti Anna, Via Tè Cennelli 15. I am a housekeeper. On afternoon of 5 June I was in my kitchen, when I heard a commotion. I went to the door of my house. I saw a young man falling. I could not understand what they said. As I entered I heard a shot, and the man fell to the ground. I did not understand the words they said, as I was excited, being a Christian, and I thought I might be next. I got excited as soon as I saw the man fall to the ground. I did not understand, because they were a bit distant, and I could not hear well. I did not recognise who it was. The man was wearing a hat which I cannot swear.

(File)

al
Ministero Grazia e Giustizia
Roma.-

Il sottoscritto, Rosario BENTIVEGNA, fu Vincenzo, ~~[illegible]~~ e di de Somma Valentina, nato a Roma il 22-6-1922, domiciliato a Roma in Piazza 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 leggittima difesa. Si richiede per uso di concorso.

Con osservanza

Roma, 10 settembre 1947

Rosario Bentivegna

Si trasmette l'unita richiesta con preghiera di volere inviare urgentemente detta copia di sentenza

L'ufficiale di collegamento
Thomas

10-9-47.

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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, 1977

[redacted]

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

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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.

1

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.

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~~CONFIDENTIAL~~

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~~R E S T R I C T E D~~

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 proceedural 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

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~~RESTRICTED~~

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.

42

REGION IV CASE No 7762

DECLASSIFIED
Authority: JCS 1/4/74 H
By: Lewis, NARS. Date: 5/24/74

1076

~~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

Classification changed to Unclassified by Authority of OSD ltr, dated May 3, 1972; Date: 5/24/74

~~CONFIDENTIAL~~

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

1077

~~CONFIDENTIAL~~

Legal

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

L/C/1000

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MAJOR, A.U.S.
REGIONAL LEGAL OFFICER.

RCH/AC.

49

Classification changed to Unclassified by Authority of OSD ltr, dated May 3, 1972; Date: 5/28/74

~~CONFIDENTIAL~~

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

1078

MILITARY

APO [illegible] DIVISION

L/C/1007

30 August 1944

SUBJECT: Rosario BENTIVEGNA case.

TO : Major K. W. Batterabey
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 service myself on this matter.

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

RCH/Pa.

RECLASSIFIED
Authority JCS Ltr. 1/4/74
By Lewis NARS, Date 5/28/74

Classification changed to Declassified by Authority of S.D. Ltr. dated May 2, 1972.
Date: 5/28/74

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REGION IV CZ N° 7762

Mr. Prest } Cats.
Lt. Cats. }

I certify that
manuscript, batteries,
ammunition, cartridges
were in

1080

To Peter

Kindly request
care Record.

Of Rosario Bentivegna

167

1081

To Peter

Kindly request
can Record.

of Bosanko Anthropo

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~~

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~~CONFIDENTIAL~~

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

L/C/1000.

16 August 1944

SUBJECT : Case of Bontivogna 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.

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

RCH/GC

1088

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~~CONFIDENTIAL~~

Classification changed to Declassified by Authority of O.S.D. ltr, dated May 3, 1972. Date: 5/24/79.

DECLASSIFIED
Authority JCS ltr, 1/4/74
BY Lewis NARS, Date 5/20/74

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.

~~Not a Classification~~
~~Removed for~~
~~Documents below~~

37

~~R E T R I E V E D.~~

DECLASSIFIED
Authority: JCS 1/4/74 ltr.
By: Lewis, NARS. Date: 5/24/74.

1085

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~~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. 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 "legitima 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

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that of a communist party is not important because it is a fact that has the accused personally. It does not follow that the man throwing down a communist pamphlet is a fascist. Assuming the truth of the accused's statement does his action amount to self-defence. Self-defence connotes 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 doesn't follow he was going to fire. In any case the accused had other ways of dealing with the situation, e.g. disarming 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 at only, and had not shot.

As to Italian law, the only extenuating circumstances that accused could possibly rely on are those in ss. (1) and (2) of Article 62. I say that neither of these sections do apply on these facts. The pulling out of the pistol by the deceased was not an "unjust act" in the circumstances, since being in uniform he was in authority. I submit Art. 59 does not apply — this 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 you cannot 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).

a written report to give it to my cousin 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 interesting 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 Pecis applies for permission to have Accused, Carla Cappai, and Colantonio recalled, also for permission to call Terenzi.

Mr. Salustro

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 witnesses. 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 Colantonio. But there is permitted to call the witness Terenzi, to be examined by the Court. Accused will be given the right to go back into the witness box and make statements, instructed lawyers to have 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 Doplino 15, Rome. I am on 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.

not war, it agreements provided for the maintenance of public order during the period of change from one occupation to another. When I say Germans, I include also the Republican-Fascist armed press with aggressive purposes against us. By passing public order I mean keeping maintenance of normal life against any disturbance. During the period of entry by the Allies I was under arrest, and had no contacts with the military front. I can give you a general idea of the orders in the event of a German evacuation. There was nothing in writing, for reasons of security — only small notes were exchanged between me and the various parties. Of my own knowledge I do not know what happened to the military detachments after my arrest. I was released on 29 May. I was released, or rather came out, or down on 5 June — simply because the Germans had abandoned their posts. Our relations with the parties were excellent. The military clandestine front acted on the orders of the National Command. I have reason to believe that the National Command informed the Allied Command of what was going on and what was being prepared in Rome. I have reason, I believe that the nomination of Generals Anders and Berenger was agreed with the agreement of the Allies. I do not of my own knowledge know of the existence of equal passwords. I did not have charge of radio communications — so I do not know if passwords were given by Radio Algiers or Radio London. In normal times I have never seen — France Quand on dit with or without a pistol — but it might happen in abnormal times as these were. I do know the police rules well.

xxd

The military detachment was formed with the object of fighting the Nazis and Fascists, not for 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 any investigations to see if this Dec. never has got to the military police office. Normally a person who has a statement to make will be shown in time, and not left with the police office. But this man came with an Italian statement, and I should have had him shown in time, and would have taken my own statement in English. (Evidence of Alessandri and witness) That does not bring anything incident like that.

xxd Lt. Sabatino

Yes I do have my Italian P.S. again in my office – called Rodriguez. I do not think I should take a statement like that casually in a case like this. No other Allied Captain took my police post in this case.

xxd Arr. Needs

I know the agent, Paretta. He was interested in this case, acting under my instructions. He was present at the interrogation of the accused. Paretta may have seen this man came with a statement, but I cannot recall him. I have never heard of the Commercio Inoque Napoli. I do not remember receiving a letter from them.

Accused recalled to issue statement

I did not immediately move towards Alessandri, leaving the Lieutenant, but after a little time when the Lieutenant was already on the ground. I went to meet Alessandri, because nothing an armed civilian I wanted to see what organisation he belonged to. I compared the [illegible] on time. When I saw the band with "Polizia" on it I got myself at his complete disposal. He took my pistol in his hands, he examined how many rounds were missing from the clip, and he claimed that 3 were missing.

1093

As already stated, he told me he had 5 shots. When my companions did come out to take our guard, I ordered them back to their posts. I and Carlo Coppini took care of closing house doors. Alessandri gave me back my pistol, which I then kept in my hands. I remember perfectly that a Fly officer of the Allied Commission, waiting to cross 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 agent 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 am almost sure I did not. I remember that the three agents, after a minute or two, began to search for the pistol. Many people were near the body, and I with others were to keep order and keep the public away. Alessandri was not the first person to go near the body. I don't know who was. Alessandri treated me as a companion. I had not seen him before that afternoon. I don't know what party he belongs to.

Recall

Alessandri and I went together by appointment into the L'Unità Building. I remember talking to Terenzi. There were quite a lot of people there already.

I was in my in the office when I heard some shots. I went down stairs & saw people going towards Via Tè Lancelli, 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 the officer. There were several people there, including a volunteer Alberti who was asking for his identity. I enquire the last witness as the volunteer of justice. I remember specially who else was present. Liberty. I don't remember specially who else was present. It was explained to me because I was alone in the office, and it was explained to me that someone had wounded partisan and it was explained to me that someone had wounded partisan. The Volunteer Alberti brought Accused to me to identify him. The accused identified, and I was able to identify him. The accused told me that in the street he had seen a person running down towards the south; that having insulted this person to stop, the latter had assumed an aggressive manner and stay; the latter had assumed an aggressive manner and stay; that in order to defend himself he had drawn his pistol; that in order to defend himself he had drawn his pistol — that is what I remember. The self-defence pistol — that is what I remember. The volunteer of liberty was present when accused told this volunteer of liberty was present when accused told this story. I am quite sure the accused told me this story story. I am quite sure the accused told me this story that day. The V.L. asked me if I could recognize, and that day. The V.L. asked me if I could recognize, and if I could say that accused was guilty or not. I was if I could say that accused was guilty or not. I was able to identify the accused. The V.L. told me that able to identify the accused. The V.L. told me that as he was passing by he heard some pistol as he was passing by he heard some pistol shots; he told me that he saw and that he saw shots; he told me that he saw and that he saw a person on the ground and asked what had happened; a person on the ground and asked what had happened; that he asked accused for his identity, and seeing that he asked accused for his identity, and seeing that he had false papers, brought him to the office to confirm he had false papers, brought him to the office to confirm his identity. I remember that he did not tell me he his identity. I remember that he did not tell me he had himself seen the incident. What he said was that had himself seen the incident. What he said was that he was coming at some distance. he was coming at 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 himself. 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 here this morning, nor at any time during this trial.

Capt. Greenhill recalled (xd by Court)

I have not see Alessandrini Virgilio here this morning. His name conveys nothing to me. So far as I remember anybody 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 searched 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 don't even 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 statement may perhaps have taken it to the military police office. It is not a thing that

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seized — Then I came, I saw nothing, but
I was in my place. I saw nothing. I did not
notice that Barbieri was in another. I did not see one.
I did not examine Barbieri's pistol. I did not take
it in my hand, 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 or more is about. I bent down
slightly over the body. I did not think of examining the
body. I did not notice if Barbieri had a holster — or a belt.
I did not check up on the posters. There were few people
around Barbieri and I did not examine the body. On arrival we
found there nothing. No one was in the street before me.
I did not see anything around the body before me — it is
possible that Barbieri died. I did not see any Finance
Guards around the body. When Barbieri was hit he
fell backwards — his eyes fell back. He was lying
turned towards the street. There were people in
the higher floors of the houses. It was
towards L'Unità building. The last thing
that struck their attention was Barbieri. Before the shots
I saw nothing. I don't know what happened to the
pistol after the officer took the photographs. I did not
see if the Jeep came back. I saw the officer
fling towards the Jeep, but I did not notice if he
got in. I reported to the Commissione Mogne
Napoli in the same day that I went to A.M.G. I
was the only person my Captain told me to write. My
Captain is Dallastelli Filippo. He was the Captain
2 years ago. He was not present at the incident.
I gave my first report I accompanied Barbieri to
the newspaper office. I agree it was only in the
23. That I reported to the P.S. or A.M.G. up.
to then I had reported only to my Captain. I made

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a written report of what is to say cost 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 attractive wife, and I was the only person interested. I thought I had better come here. But for that article I should not have come.

Avvocato Pecci applies for permission to have Accused, Carla Cappai, and Colantonio recalled, also for permission to call Terenzi.

Mr. Salvatino

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 & the four. 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 Colantonio. But leave is granted to call the witness Terenzi, to be examined by the Court. Accused with leave of the Court to go into the witness box and make a statement, restricted however to those 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 Doplino 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 Maggiore 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 evening and I was to come back at 1.30. It was more than 4 days later. Commissario Maggiore Napoli was a District H.Q. of Public Security. When I went into Piazza Venezia, I found Buttiglione. I also found a plain clothes Italian police agent, and he asked 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 notes. Then the Captain to whom Buttiglione was to report came in. Buttiglione & the P.S. agent went in to the Captain. Later the P.S. agent came out and asked for my statement. I gave him my statement & then he returned into the Captain, & then he returned. I asked for a copy of a receipt & the agent said the Captain said that was not - but the agent said the Captain said that was not necessary. I still had the accompanying letter. I waited for half an hour or thereabouts. I called the interpreter and told him to tell the Captain I was going to wait. He returned Captain said I was to go back & wait. He returned Captain stated he would call me again if he wanted me.

xxd Aug. Penis

On 5 June, at 2.30 - 3.0 p.m., I was in Via Tre Cannelli via Quattro Venti. 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 and turning, looking one way in the same direction most of the time, watching the Allied troops in Via Quattro Venti. I saw the usual people going by. I did not notice Buttiglione pass by, or Buttiglione

1079
CASE No 7762
71. REGION IV

I heard an interested conversation – not a, – 4 miles. I heard 2 or 3 people, possibly even four. I am a flaneur, not a policeman. After firing Bentivegna 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 after incident. He did not run towards me. I was going a – fast 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 Bentivegna – then he came with me to the body. I was wearing a white band with a tricolour strip in the middle. Bentivegna's band was wholly tricolour. I was visibly armed. I had an automatic rifle. Perhaps Bentivegna considered me a policeman, perhaps not. I asked him for his weapon. It was then that Mario Cappucci came up. I could not meet him as I was alone. The municipalitto agreed to help. I did not declare Bentivegna to be in a state of guilt, or in a state of "fermo". If it were possible I should have held him. I did use him and his Cappucci for their names. Accused did not show me his false documents, but he told me about them. He still had not gone to the body of Bartolucci. It was 35-40 seconds from the shooting to the time when I actually met Bentivegna. From the time I went on to the body was 20-25 seconds. It might be more, I don't know how much more. A long time has not passed and I cannot remember on how long it was. It might be 1½ – 2 minutes. Bartolucci was wearing a grey-green shirt – I did not notice anything in it. I don't remember how his sleeves were. I did not recognise if he was an officer. I don't remember if he wore a belt. When I approached the body, it

I heard an interested conversation – not a, a – 4 miles. I heard 2 or 3 people, possibly even four. I am a pleasant, not a policeman. After firing Bertrique 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 a – fast 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 Bertrique – then he came with me to the body. I was wearing a white band with a tricolour strip in the middle. Bertrique's band was wholly tricolour. I was visibly armed. I had an automatic rifle. Perhaps Bertrique took me – policeman, perhaps not. I asked him for his weapon. It was then that Mme Coppini came up. I could not meet him as I was alone. The Marseillais agreed to help. I did not believe Bertrique to be in a state of guilt, or in a state of "ferme". If it were possible I should have held him. I did see him at Mme Coppini for their names. Acknard did not show me his false documents, but he told me about them. He said he had not gone to the body of Bertrisi. It was 35-40 seconds from the shooting to the time when I actually met Bertrique. Then the time I took 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 how long it was. It might be 1½ – 2 minutes. Bertrisi was wearing a grey-green shirt – I did not notice anything on it. I don't remember how his sleeves were. I did not enquire if he was an officer. I don't remember if he wore a belt. When I approached the body, is

1101

Some people had, we may, but my attention was fixed on these two. I cannot say whether any of the others were looking on. Nobody else fired. Bentivegna was alone. I recognise Carla Cappuccio – she came to me when I was with Bentivegna, as soon as I stopped him. She was coming down from Via Tre Cannelli. I cannot say if she was there at the time of the shooting, nor whether she was with Bentivegna at that time. To me Bentivegna seemed alone. I was a little perplexed, but then I began to run 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 let myself be disarmed". I said "That's quite all right – put it back in your pocket". As soon as he put it back Signora Cappuccio approached us. She was armed with a pistol, carried in a belt. I asked Gino Bentivegna and then, Signora Cappuccio for their documents. Bentivegna told me his documents were false, hence he was being searched for. Signora Cappuccio had no documents. I asked what sort of thing they were preparing, & Bentivegna told me he was going off for L'Unità, and I took the no. of his contract, 6577. Signora Cappuccio had no card. Then I accompanied them to the newspaper L'Unità. Before going, I saw there a tall fair-haired person with new hands similar to mine, and I had the people taken back from the scene. 2 or 3 companions of Bentivegna participated in this. As soon as I stopped Bentivegna I went towards the body, and as I was near the body fired. It was then that I lost it – as if he had no arm. I don't think anybody reached the body after me. I did not see a pistol near

his head. If he had been one foot I think I should have noticed 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 to go to report for duty. When I went away the body had been covered by a sheet. I did not meet Bertinaria since I did not know the circumstances, Bertinaria was wearing an overcoat, and in any case I am not an agent of P.S. When I got to L'Unità office, I asked who was in charge, and a gentleman called Tuengi presented himself. I made a report to him on what had happened. Tuengi did not put him under arrest. I left them there and came away.

XXd Lt. Sabatino.

Bertinaria came towards me, pistol in hand, and he said "~~Sorte~~ Romeo (or Italian), go back to your 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 up Via Tre Cannelli Bajamina Coppi was. I did not say anything to the dying military man. 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 of what I had seen. I first went to

The Court directed that it would not give judgment from the Defence on the first three points submitted by the Defence in opening, but that the argument should be directed 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 to-morrow 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 pistols. 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 in Corso di Via Tre Cannelle 2nd 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 Sergeant Major. I was dressed in civilian clothes with an armband — ~~[illegible]~~ a white band with a circular centre, marked "Polizia".

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It was issued by the Captain on the afternoon of 4th June.
I belonged to a different organisation from the accused. 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 supply in the Army. Our job was to stage the Bandello bread — by Captain with 8 men was to stage it on afternoon of 4th and held it until the Allies arrived. On 5th an Allied officer arrived and those men, we were away. At 2.35 p.m. I was not on any particular job — I was just waiting for my Captain on 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 to me, who was pointing a pistol and firing. As soon as I turned he began to fire. He fired 3 or 4 rounds. He was shooting at — military man without 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 Bentivegna 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 organisation he belonged to. At that moment when I ran to the door I did not see my mates. I did not see my father. I looked round & did not see my army. 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 any arms on the ground round the body. He had no arms in his hand. He appeared to me to be a completely unarmed man. There were

1105

I do not see, see him. Nobody in an official position under the Patriots' organisation came on the scene and questioned me shortly afterwards. NO – (question misunderstood) A civilian with an armed bid came up and took photos. He was not Carlotti 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. He 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 what 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 stationary 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 it 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 tried to take photographs. I opposed, but he told me he was a police officer, and I let him take exposure. I did not notice if anyone was in the Jeep. I spoke a little English. I spoke to the officer in English. I don't think the Brigadiere of Carabinieri was armed 12 January. I think he was in civilian clothes.

XXd Avv. Penis

(Statement of Witness called for, and admissible by the Court, and put in marked Exhibit 4).

No other questions.

1106

XXd Lt. Sabatino.

I remember that Colantonio Ovidio was in civilian clothes.

Had he been in my room I should have a bad one. But I cannot tell you any more as to how he was dressed.

By the Court

The statement was taken in Italian by Giacomo Zen interpreter. The English was retranslated by the interpreter into Italian. I corrected one or two words and then I signed. It was the English translation. I was frightened. I did not remember the story. My answers were reduced to writing. I am satisfied that the statement does represent what I want to say. I was called before Captain Grunhill on 24th or 27th. I was not arrested. I was invited to go there, and I accepted the invitation.

1107

there. I - said that 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 assumed nothing. 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 about I should have noticed it, as I walked around the body. Where 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 black 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 deceased, 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 neighbourhood. I saw no American officers on the spot. But there was a group of people on the corner of l'Unità 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 smoke. He raised to his eye something that looked like a camera and took a picture.

12

I had never seen Calantonio Orlando before the preliminary hearing. 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. Nicola.

There might be a door on the upper part of Via Tè Cannelli, and there might have been a peep there – but I never went beyond the corner where the road makes its 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 Cappuzzi (recalled by Court)

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 hand a bit, thrust his arms 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, by order of the Finance Guards who had arrived on the scene to keep public order. These Finance Guards have not been witnesses in this case. I returned later, in the time it takes to go up the stairs to Via Cannelli and return. When I returned the pistol had 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 the four could tell me anything about it. There were many civilians there, especially many soldiers. I did not have an arm tied immediately after the incident. But then 3 young men who had arrived passed over the newspaper came – to stop. He could not then to go back to Italy, but one of the three gave me a pistol. I have already described what this is to Capt. Greenhill. It was a Beretta 9. It is not larger than I had – pistol at the time of the incident. (Castelli Alberto is brought into Court). I do not remember seeing this man before.

1109

I was unarmed that day, because that morning I met a fellow countryman in Piazza Vittoria. I was approached by 5 soldiers who asked me to show them my pistol. I showed it to them, but they got it in their possession and took it. That is why I was unarmed that day.

XXd Avv. Perris

That day I came out of hospital and went to a house of friend. Then I ate and went slowly to my barracks. I came from Corso Vittoria, by Piazza Venezia, along Via Quattro Novembre to Via Tre Cannelli. After the scene I met no one else on Via Tre Cannelli. I was walking alone. It takes about 30 seconds to get out of Via Tre 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 Tre Cannelli. I crossed that in about 30 seconds, but there was traffic and I had to cross. The street of the street was deserted. The other people I saw were below. There were 3 people in the direction where Barbarini fell — I am speaking after the incident. I did not approach these three, 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 Tre Cannelli. I was dressed that day as I am now — with nothing in my hand. I was wearing a beret, and not the dressed hat. Immediately after I was disarmed I took a cigar to my superior. My legion is at Santa Teresa, Maggiore. It is about 1 - 1½ Km. from Via Tre Cannelli to there. In that distance I met no police agent. It was about 10.3 a.m. when I was disarmed. I was then coming from my barracks. I reported immediately to my superior. They did not give me another weapon. I had no weapon in the afternoon. It would have been useful if I had one, as I could have acted in the case of the

1110

incident of Bart. repn. I/1 had fired a gun on the ground and he landed in a tree behind. I went 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 bronchitis. The hospital is in Viale del Re. After leaving the hospital I went to my sister's house, in Via Cavour, to eat. I went 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 and on to Piazza Venezia, afterwards on to Via IV Novembre.

I was 7-8 paces from Barbarisi when the incident happened. Barbarisi was carrying his jacket rolled on his left arm. I remember it was the left arm, because I saw the band on it well, which is worn on the left arm. He was wearing a shirt with long sleeves. I noticed the band on the shirt. At first I was surprised, but then noticing the yellow stripes on his trousers, I concluded Barbarisi was an officer in the Finance Guards. Before 5 June officers were authorised to wear shirt-sleeves, in public and on duty. I was going to my barracks for reasons of duty. The hospital is called Gallieno.

Lt. Tamotta Aldo (recalled by Court)

There was a ~~lost~~ holster on Lt. Barbarisi's belt. When I saw Barbarisi's body afterwards, I did not see his pistol. He had looked around on the ground but found nothing. He only noticed some 2 hours after the incident. I am sure definitely that the pistol was not in the holster, which I saw was open and empty.

Cadetti Alberto (recalled by Court) 1111

As soon as I heard the news I hastened to the scene, on foot. My H.Q. is about 200 yards away. I cannot exactly say how long after the incident I got

Esibito 6 H.h.1 Aug Cornel

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:

ANNULLA

IL SEGRETARIO

162

Stamperia Reale di Roma (365-s)

1112

Esibito in 6 H.h.1 Aprile Comel

CASELLARIO GIUDIZIARIO

PROCURA DEL RE IMPERATORE DI ROMA

CERTIFICATO GENERALE

Al nome di Bonfiglioni 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

CONTRO IL SUDDETTO

162

Stamperia Reale di Roma (365-s)

1113

Recd July 15 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

Charles Poletti

Dated 12 July 1944

CHARLES POLETTI
Col. A.U.S.
Regional Commissioner.

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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 firing 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 conflict 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 each witness. Having heard (and weighed)

1115

the evidence, it has been possible to form a fairly clear view of the main incidents of what happened. The Court is satisfied that the accused, seeing the deceased tearing down the posters, addressed him in an arrogant & hostile manner: that the deceased retorted 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 irritable & impulsive young men lost their tempers & resorted precipitately & unnecessarily to ~~extreme~~ the use of firearms.

It remains, therefore, to consider the legal consequences of these events: and action taken by two 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 ~~quite~~ unwarranted & amounted to an ~~unjust~~ "falta injusta" within the ~~(2) of the~~ meaning of Sec. 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 ~~he~~ exceeded the bounds of defence proportionate to the "ofensa". 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. Allow that, because he was not a is the least of the deceased's pistol, he had any intention of shooting. There is no evidence to [illegible] such intention or the

1116

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 194 4. and succeeding days.

Before Col. H.G. Willmer. Pres. } Constituting a General Military Court.
Lt Col. J 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 Tellomai 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 Bucci 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. / Lt Col. J. Jan Campbell. member / Maj. R.C. Hendrickson member. } Constituting a General Military Court. (Name and rank of President and/ or Magistrate constituting the Court).

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ADVOCATE FOR ACCUSED

Name and Address Avv. Corrado Perris
Avv. Adelmo Niccolai
Avv. Giulio Bucci 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 and Counsel were present in this Court.

In answer to question by the Court Lt. Sabatino submits that a long term of imprisonment would be the maximum sentence.

Accused is arraigned, and pleads "not guilty".

Atty. Comito objects to the jurisdiction, and applies that the case be heard by an Italian Court. Allied Proclamations had not yet come into effect at the time of the alleged offence.

Court rules that case must proceed, with liberty to Defence to renew this application at any stage, if on the evidence prima facie appears that there are good grounds for transfer to an Italian Court.

Lieut. Sabatino

Prosecution will show that deceased 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 serving 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 asked the question. Accused without explanation opened fire and inflicted fatal injuries on deceased. 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 this and the following page. When the length of the evidence requires, further sheets of paper serially numbered will be inserted in this file.

2. This record will be signed by the President and members of the Court.

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The Court assembled at 0955 hours.

The Convening Order was read.

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The Accused for the Defence and Counsel were given permission in this Court.

In answer to question 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 come into effect at the time of the alleged offence.

Court rules that case must proceed, with liberty to Defence to renew this application at any stage, if on the evidence given it appears that there are good grounds for transfer to an Italian Court.

Lieut. Sabatino

Prosecution will show that deceased was a member of Guardia di Finanza, and that he was working for the Allies when shot. 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 asked the question. Accused without explanation opened fire and inflicted fatal injuries on deceased. The homicide was unprovoked 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 does know what rank the officer belonged to, but he had an armband, a white band with black stripes, on his right arm. I thought he was a police officer. He wore a yellow band on his trousers, and I inferred he was an officer of the Finance Guard. He had a pistol in a holster on the left side of the breast. He had no hat. He had a jerkin, rolled with the lining inside out, which he was carrying rolled over his left arm — the lower part of the arm. The armband was on the other part. His appearance seemed strange, and I was surprised that he was not wearing a hat. I does 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 back towards the ground, collapsed 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 above the turn of the street when I saw this. Before hearing the shot I heard no shots. After I turned round at the first shot, I heard 3 or 4 more shots. Bentivegna fired them all — he was the only person who fired. I am sure of that. There were 2 or 3 other people there — civilians — but I saw no arms. I does know whether the Lieutenant got his pistol out, because on the ground I saw no pistol. Seeing the happening under Bentivegna I was = upset to my injections, crying and thought I was going to faint. I could not render assistance to the officer, because around was still there, pistol in hand, until such time as I disappeared. Two passers-by came to help — also

1121

because I was 8½ yrs old. I had no pistol on my belt. I don't remember if there was a Jeep with Americans in it. I did not say anything, Bertinaria said nothing to me. The pistol was pointed at the bad man, and I was in the direction too. I could not approach him to ask him anything. When I saw Bertinaria 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 "commissario" officer, because I could not distinguish whether he was an officer. He had the trousers, puttees & boots of an officer. The first thing he was doing the position 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 bandit coming from position 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 Bertinaria looked so threatening. I thought it would be impossible to escape and identify the wounded man and Bertinaria. I was dismayed and I thought I too might be killed. I went for my business, hoping that on the way I should meet an officer, who could help in the identification. Being unable to find an officer in the street, I had to go right to the commissariato where I reported the facts to my officer

1122

Further XXI (7th hearing)

The two men I saw were near the place where the street makes a zig-zag, and becomes narrower.

Eighth Witness (Sworn).

Giuseppe ~~[illegible]~~ Caronia, 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 — we called the Popolare Party. I am Rector of the University of Rome, appointed by Col. Poletti. 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 subversive, fiery character. Since his illness I have known him to be a medical student, and have had occasion to see that he was a young man of much discipline, studious, generous, enthusiastic, both in his medical studies and in his political movements. His Fascism sometimes revealed a notable spirit of sacrifice. He was always ready to collaborate himself with my Longer. During the Nazi occupation I frequently saw him. Often he was pursued by Nazis, and at times he would come to my clinic to satisfy his hunger.

No XXIII

Ninth Witness (Sworn)

Ivanoe Domenico, Via Orazio 31. I am Director of the Istituto Istituto Dei Infortuni — a state insurance organisation for insurance of labour accidents. I am husband of the fifth witness. On 5 June about 1500 hours I was going down the staircase of Via Lombardia, with my wife, on my way to my office in Via Quattro Novembre 144. While descending the steps I noticed a young man in prison [illegible] to the city with some [illegible], piece of paper

from certain windows on the north. I saw a young man come up and I had the impression that 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 Barbarisi. The other young man I recognised as the accused, although at the time he seemed thinner and more sun-burned. Barbarisi was in shirt sleeves. I did not notice if he wore any distinguishing marks. Near Barbarisi I believe there was a civilian. Accused was followed by Sciarrina. I saw accused and Barbarisi talking animatedly. At a certain moment Barbarisi 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 that the shots had a different tone. My wife and I went up again & entered home.

xxd

I could not tell where the two men were standing. I saw the military man point his pistol at the accused. I then turned round and descended the steps. During the conversation the accused was gesticulating with his hands. I believe the accused was dressed in dark clothes, and 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 report what I saw to anyone. I gave him the story to the Avvocato when I met him. I never reported to the police. I met the Avvocato about 15 days ago to discuss certain questions about my law-

1124

ventilated. The military detachment or bodyguard of the permanent headquarters — it held its meetings anywhere. I don't know where H.Q. was on 5 June. If I saw a man dressed in officer's clothes, but carrying his jacket, and in his shirt sleeves, with his Sam Browne belt over his shirt, I should regard him as an officer.

Re-xd

The fact that I am myself an officer helps 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 a blouse 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 blouse 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 ~~the~~ Piazza Santi Apostoli in Via Quattro Novembre. Because of the heat I was walking and pushing my bicycle. Reaching corner by a shoe shop (called Bufferini) I heard some shots. From the direction of the shots I saw two persons facing each other. I was surprised rapidly to see a military man with no a blouse and with 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 coming towards that way. I did not know the civilian. He had his back to me. I did not know the military man. It was a very brief scene. I saw the two men facing. I saw the military man produce a pistol,

[illegible] Italian — character and [illegible] is. If it was pointing more or less in my direction, I thought it was time to get out of the way. I turned my bicycle and went back the way 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 at his sides — at any rate he was not waving them. I was in a hurry to get out of the way. I jumped on my bicycle and rode off. As I rode down 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 man or the woman.

XXd

The military man was without a [illegible]. There was something strange about — because in the Italian army we are very formal. I did not see the civilian do anything while the military man handed 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 Rexton

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 any stationary vehicle. I don't remember if there was a stationary jeep at the corner — it would have been no novelty. There was nothing on the jeep corner where I was. If there was a vehicle waiting between left side via Tre Cannelli it would not have interested me because I was stopped.

1126

Stivalettin. ' on taking him after had happened on 5 June, and I mentioned this case. I met the Avvocato (Avv. Denis) for the first time the day – he confirmed to me. I showed him by same inspection.

No Reaction

By the Lower

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. We were about half way down the steps, when we decided to go home. We went up the steps as fast as we could. We had about 25-30 stairs to climb. It could 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 accused arrived from Via Quattro Novembre, coming from my right side. The young woman was almost at his 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. Hope 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 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 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 12.45 – 14.30)

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Tenth Witness (Sworn)

Sonnino Camillo, Via Nazionale 181, Rome — merchant.

On 5 June about 3.0 p.m. I was in a school near the Via Tre Cannelle, where I had been hiding for eight 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 Cannelle, and from the terrace I could see part of what happened. It is below the crossing of Via IV Novembre, and it looks towards the windows of L'Unità and the stairway to Via Condotti. The pistol shots came from outside. I got up and went to the terrace and looked out. I cannot say exactly how many shots I heard, as I got up soon at once, and I was unable to count. There were definitely more than 3 shots. When I looked out I saw an officer on the ground, 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 back the officer's 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 guardia 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 bring aid, 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 then turned back towards the Finance guard and his.

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'Stabilation.' on taking him after had happened on 5 June, and I mentioned this case. I saw the Avvocato (Avv. Pavia) for the first time that day – he conducted some. I saw him by some lapse later..

No Reaction

By the time

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. 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 accused emerged from Via Quattro Novembre, coming from my right side. The young woman was at his side – I cannot say on which side. I noticed these two because there were very few people in the street. I saw the accused 'Lot' something in his hand. Lupo he addressed Bartolisi. 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 phase 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 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 12.45 – 14.30)

1129

stairs close to the P.S. Office's head. There may have been one 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 bar – 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 examined by Court.

Witness called by the Court (Sworn)

My name is Antonio, Cosimo di Firenze, via Lebiena 9, Rome. I am a member of the Finance Guard. I was serving as such on 5 June, though I was not on duty. In the afternoon of 5 June I was walking on via Tè Cancelle when the incident of Fiume Bubaudi happened. I had never seen him before, and did not know him. I cannot say the exact time, but it must have been about 14.30. I was walking along via Tè Cancelle going to the Barnabites. I was going up the hill in the direction of S. Maria Maggiore. I was coming from Piazza Venezia. I was in the four by via Tè Cancelle that goes up towards the stairs. At the moment I was passing I saw an unknown officer, with tunics striped with yellow, leaning

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this angry look. I cannot say I saw the military man produce the arm. As he had his back turned to us I could not exactly see where he was pointing. He was not wholly back to us and we 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 other 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 representative members in the military detachment, for the purpose of establishing the behaviour to be maintained on the military front, both during the Nazi occupation and during the time after the Nazis left. At the time when General Anfuso was Supreme Commander of the Italian army (in agreement with the Allies) I was second in command, and then when General Berardiengo succeeded him I was his Chief of Staff. Anfuso was in command from January to March, and Berardiengo after that till 25 May. On that date I was arrested by the Germans and brought to Villa Tosso. Precise agreements were made in order to do the work with these military bodies in the common interest. The agreements were between the representatives of the military front and the representatives of the parties in the military detachments. The agreements covered the nothing in the order. The Germans were concerning Rome without a struggle in which case the agreements provided for the employment of an strength against the Germans. In this case this did

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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 — Name of defendant (nome dell'accusato)

Via Torino 122, Roma — 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. (name 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.

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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 — Name of defendant (nome dell'accusato)

Via Torino 122, Roma — Address (indirizzo)

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(E' qui accusato delle offese seguenti):

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Particulars: For having killed in Rome, on June 5th, 1944, by three shots of pistol the Lieutenant Guardia di Finanza Giorgio Barbarisi.

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Particulars:

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Prima accusa: Colpevole del reato di cui agli Art. 575 - 61 N.10 del Codice Penale Italiano

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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.

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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.

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TIP. A. DE VITO - TEL. 27558

22 July 1944

The Court resumed at 1705 hours.

The Judgment was read in Italian in open Court.

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

Adv. Perris addresses Court in mitigation.

I ask you to restore Bartolucci 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 1/3rd 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 offence. I also ask for conditional suspension of sentence under Arts. ~~[illegible]~~ 163 & 164. You can suspend if the sentence is up to 1 year.

Lt. Sibatrino (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 occupied territory. Order is one of the essential things, and you must not do anything that would have the effect that they are free to disorderly.

The Court retired to consider Sentence.

Sentence was delivered in open Court.

H. G. Littlewood
Colonel — President

I. Campbell Lt Col
[illegible] Major — Members.

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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
For the Acting Chief Commissioner

CONFIRMATION OF DEATH SENTENCE

Dated 194 Signature

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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

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