

DECLASSIFIED
Authority E.O. 13526

Policy File No. 23

Claims By the Commonwealth and/or Republic
of the Philippines

Item No.	Date of Paper	DESCRIPTION
1.	27 Jul 45	Right to Occupy Commonwealth Property be Obtained by Emergency Agreement without Stipulations As to Rental Payments
2.	11 Aug 45	Amendment of Foreign Claims Act - Application to P. I.
3.	6 Sept 45	Comments re Combat Damage to Public Property
4.	16 Sept 45	Emergency Agreement re Leases of Commonwealth Pro- perty Not Applicable to Property Owned by Political Subdivisions
5.	24 Sept 45	Real Estates Policy in the Philippines
6.	1 Oct 45	Procurement and Disposition of the Real Estate Res- ponsibility of CG, APWERRAC
7.	16 Oct 45	Real Estate Letter No. 13 - Leases of Commonwealth Owned Property
8.	18 Nov 45	Memorandum No. 3, Government Claims Will Be Investi- gated - No Authority to Pay
9.	13 Dec 45	Recommendation that Policy Be Adopted Denying Govern- ment Claims
10.	24 Jan 46	Claim of a Bureau Denied by a COC on the Grounds of Lack of Jurisdiction
11.	6 Feb 46	Memorandum No. 3 - Claims by Phil Commonwealth, Provinces, Municipalities or Barrios
12.	27 Mar 46	Claims Arising From Occupancy of Government Property to be Forwarded to GRC, AYTA6
13.	2 May 45	Recommendation that Agreement on Government Level be Had for Settlement of Claims
14.	14 Jun 46	Transfer of Surplus Property to Phil Govt

DECLASSIFIED
Authority: EMD 155328

DECLASSIFIED
 Authority NND 63-3076

Item No.	Date of Paper	DESCRIPTION
15.	24 Oct 46	Claim of Phil National Bank Returned to Claimant, Settlement Under the Surplus Property Agreement
16.	28 Jan 47	Policy - Payment of Rentals for Government Property
17.	12 May 47	Suggested that Treaty Settlement of all Claims be Accomplished
18.	28 Jan 46	Conference Concerning Rentals and Other Claims Re Use of Philippine Government Property
19.	30 Jun 47	Claim for Support of Japanese POW's Subsequent to 4 July 1946 is Payable
20.	22 Aug 47	Memorandum No. 8
21.	17 Sept 47	Directive FEC - Property of Phil Govt Held Subject to Seizure Without Compensation
22.	19 Sept 47	Property of Phil Govt Seized by Army not Compensable
23.	19 Sept 47	Use of Real Estate of Phil Govt Not Compensable
24.	12 Jan 48	Memorandum No. 1, Claims of Commonwealth of the Phil and Subdivision - Jurisdiction and Processing Thereof
25.	26 Jan 48	Claim for Rental of Property Not Within Terms of Bases Agreement Subsequent to Independence-Opinion
26.	30 Jan 48	Claims Service Not Authorized to Accept or Process Philippine Government claims
27.	24 Feb 48	Administrative Order No. 12 - Claims of Philippine Govt and Subdivisions
28.	-	Claims Under AR 25-90 Subsequent to Independence
29.	23 Mar 48	Claims Not In Jurisdiction of Claims Service Can Be Forwarded to Proper Agency
30.	24 Aug 48	Claims of Government Corporations for Seizure and/or Destruction of Property Not Payable
31.	14 Sep 48	Claims of Expenditures by Provinces for Support of USAFFE Not Payable
32.	1 Oct 48	Claim of Phil Govt Not Payable Based on Rights of Prior Decisions and Settlement Under S. F. Agreement
33.		Cross Reference Sheet

HEADQUARTERS
PHILIPPINES-MILITARY COMMAND
OFFICE OF THE COMMANDING GENERAL

GPD/PAG/GR/ade

APG 707
20 December 1947

SSOR/450/1882

Humble

Mr. Edmundo S. Pinga
Judge, Municipal Court
Sanboanga City, Philippines

Dear Mr. Pinga:

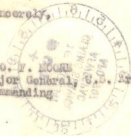
Receipt is acknowledged of your letter, dated 24 November 1947, with inclosure, requesting information regarding the collection of your unpaid salary while a Justice of the Peace during the Japanese occupation.

Claims for services rendered by civilians as officials or employees in the re-establishment and conduct of civil government in the Philippines, or its provinces, cities, municipalities, and instrumentalities, are not obligations incurred by the United States Army. They are, by specific provisions of the Constitution of the Philippines and the Administrative Code, responsibilities of the Republic of the Philippines. At present, there is no statute, regulation, executive order, or appropriation of the United States Government authorizing the payment of Philippine Government employees holding such positions during the occupation.

Trusting that the above information clarifies the matter for you, I am

Sincerely,

GEO. F. ROGGE
Major General, U.S. Army
Commanding



Comdant Army in AG's Comp. file.

02/10/1982

OFFICE OF THE GOVERNING COUNCIL
REPUBLIC OF THE PHILIPPINES

30 December 1981

2207/1882
Humbert

Mr. Eduardo A. Lim
Judge, Manila Court
Manila, Philippines

Dear Mr. Lim:

Receipt is acknowledged of your letter, dated 24 November 1981, with information regarding information re- garding the collection of your unpaid salary with a justice of the peace during the Japanese occupation.

Claims for services rendered by civilians as officials or employees in the re-establishment and conduct of civil government in the Philippines, or the provinces, cities, municipalities, and instrumentalities, are not obligations incurred by the United States Army. They are, by specific provisions of the Constitution of the Philippines and the Administrative Code, responsibilities of the Republic of the Philippines. At present, there is no statute, regulation, executive order, or appropriation of the United States Government entitling the payment of Philippine Government employees holding such positions during the occupation.

Respectfully, the above information clarifies the matter for you, I am



Handwritten note at the bottom right of the page.

GENERAL HEADQUARTERS
G P C

CIRCULAR
NO. 70

4 May '45

By virtue of the powers vested in me, the following appointments and designations of civil officials are hereby announced effective May 16, 1945; or as soon thereafter as they can qualify:

1. Mr. Primo Bendijo, designated Justice of the Peace for Dapitan, Zamboanga, is hereby ordered to resume his former position as Justice of the Peace for Aurora and Pagadian, Zamboanga, with the compensation fixed by law for the Justice of the Peace of said municipalities.

2. Miss Milagros Callepose is hereby appointed as Justice of the Peace for Dapitan, Zamboanga, Vice Mr. Primo Bendijo, with the compensation fixed by law for said position.

3. Mr. Ricardo Dioso, incumbent Justice of the Peace for Aurora and Pagadian, Zamboanga, is hereby transferred to act as Justice of the Peace for Margosatubig, Zamboanga, with the compensation fixed by law for the Justice of the Peace of said municipality.

4. Mr. Edmundo S. Pinga is hereby appointed Justice of the Peace for the municipalities of Kabasalan and Guruan, Zamboanga, with the compensation fixed by law for the position of Justice of the Peace for said municipalities.

(Sgd.) W. W. Fertig
Lt-Col (CE) Inf AUS
Commanding

DISTRIBUTION:

Judge, Court of First Instance of Zamboanga
Provincial Treasurer, Zamboanga
Provincial Auditor
Officials concerned
File.

A TRUE COPY:

(Sgd.) F. S. Lagman
1st Lt Inf
Asst The Adjutant General

CROSS REFERENCE

Policy File No.

- | | |
|--|--------|
| 1. Funds Advanced to USAFFE | 14, 30 |
| 2. Philippine National Bank | 14, 30 |
| 3. Obligations - Surplus Property Agreement | 30 |
| 4. Treaty of General Relations | |
| 5. Military Bases Agreement
(Rentals of Government Property) | 30 |
| 6. Claims of Philippine Government Officials
for Salaries Not Payable | 22, 5 |

GSJA 095

1 Oct 1948

The Honorable Thomas H. Lockett
 Charge d' Affaires ad interim
 American Embassy
 Manila, P. I.

Dear Mr. Lockett:

The Embassy's letter under date of 14 September 1948, inclosing a copy of a note from the Department of Foreign Affairs of the Republic of the Philippines protesting the determination of PHILEYCOM in the claim of the Iloilo School of Arts & Trades, is acknowledged.

I am unable to amend my previous decision which was predicated on established policy, and to this may be added the fact that my headquarters is not authorized to effect payment of such claims by instrumentalities or the Government of the Philippines. Such claims were settled by the agreement between the United States and the Republic of the Philippines for the sale of certain surplus war property, dated 11 September 1946. In this agreement the Philippines Government undertook to indemnify and hold the United States Government harmless from such demands.

Sincerely,

J. W. ANDERSON
 Major General, U. S. Army
 Command

C
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Manila, September 8, 1948

COPY

The Department of Foreign Affairs presents its compliments to the American Embassy and has the honor to request, on behalf of the Iloilo School of Arts and Trades, a government institution under the Department of Education of this Government, for a reconsideration of the decision of the PHILRYCOM disallowing the claims in the amount of FIVE THOUSAND TWO HUNDRED THIRTY TWO (P5,232.00) PESOS representing the value of one truck V-8 Ford, Model 1939, one Chevrolet Master 85 Sedan, Model 1939, and office supplies and equipment commandeered by the Army during the war.

It appears that the opinion of the PHILRYCOM is based on the ground that the Philippines was then an insular possession of the United States over which it exercised sovereign powers, and the United States had the power to receive or even take the money or property of the Commonwealth Government and use the same without compensation, especially in this case where its use was for the mutual benefit of the Philippines and the United States.

The foregoing contention of the PHILRYCOM, in the opinion of this Government, is untenable, since even on the assumption that the United States could take the property of the Commonwealth Government before July 4, 1946, because it then possessed supreme power over the Philippines, it is nonetheless clear that only Congress can authorize such action unless military necessity required the commandeering of those property. There is no act of Congress of the United States which allows the seizure of the property of any local political subdivision nor does it appear that the exigencies of the war required such action.

It will therefore be highly appreciated if the Embassy can use its good offices with a view to requesting the PHILRYCOM to reconsider favorably the petition of the Iloilo School of Arts and Trades by allowing the claims hereinabove described.

Manila, September 8, 1948

(Stamped)

EMBASSY OF THE UNITED STATES
OF AMERICA
Sept 10 1948
Manila, Philippines

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DECLASSIFIED
Authority NND 883078

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GSJA 095

1 Oct 1948

The Honorable Thomas H. Lockett
Charge d' Affaires ad interim
American Embassy
Manila, P. I.

Dear Mr. Lockett:

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Sincerely,

J. W. ANDERSON
Major General, U. S. Army
Command

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It will therefore be highly appreciated if the Embassy can use its good offices with a view to requesting the PHILRYCOM to reconsider favorably the petition of the Iloilo School of Arts and Trades by allowing the claims hereinabove described.

Manila, September 8, 1948

(Stamped)

EMBASSY OF THE UNITED STATES
OF AMERICA
Sept 10 1948
Manila, Philippines

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Authority 1000000000

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WSE/gm

14 Sept 48

GSY 150

The Honorable Thomas H. Lockett
Charge d'Affaires ad interim
American Embassy
Manila, P. I.

Dear Mr. Lockett:

Your letter of September 2, inclosing a copy of a note and inclosure from the Department of Foreign Affairs of the Republic of the Philippines dated July 7, 1948, is acknowledged.

Although no authority is mentioned by the Acting Provincial Treasurer of the province of Leyte for the expenditure of certain funds prior to May 25, 1942, at the time of the incident, the Philippines was an insular possession and territory of the United States over which it exercised sovereign powers. That being the case, the United States had the power to receive or even take the money or property of any province or municipality and use the same without compensation, especially in this case where its use was for the mutual benefit of both the United States and the Philippines.

In no case involving the Commonwealth Government or the government of a province or municipality of the then Commonwealth Government may a claim be accepted for adjudication by Headquarters, PHILCOM.

No claim for incidents prior to 1 July 1946 may be accepted by Headquarters, PHILCOM after 31 March 1948. A copy of the indorsement, Far East Command, referring to claims of the Commonwealth, is attached.

Sincerely,

J. W. ANDERSON
Major General, US Army
Commanding

1 Incl
Copy of ind
dtd 17 Sept 47

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Authority ~~ND 88308~~

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WSE/ma

GSY

Claim of the Province of Leyte

FROM: Chief, Adjustment Section TO: CG 10 Sept 1948
THRU: OS

I. DISCUSSION: On September 2, 1948, Mr. Robert Y. Brown, First Secretary of the American Embassy, wrote a letter to General Anderson (Tab A), inclosing a note from the Department of Foreign Affairs of the Republic of the Philippines, dated July 7, 1948, transmitting a letter from the Acting Provincial Treasurer of the province of Leyte dated February 25, 1948, requesting information concerning the redemption of pre-war checks issued by that office in favor of USAFFE Finance Officers.

a. In the attached proposed letter (Tab B) to the Honorable Thomas H. Lockett, Charge d'Affaires ad interim, he is informed that this headquarters cannot entertain a claim concerning an incident of the then Commonwealth of the Philippines or one of its provinces or municipalities. There is also attached to the letter to be sent Mr. Lockett a copy of the first indorsement, Far East Command, dated 17 September 1947, which explains that such claims may not be legally recognized by Headquarters, PHILCOM.

II. RECOMMENDATION: That the attached letter for the signature of the Commanding General be signed.

2 Incls

- 1 - Ltr fr Am Emb dtd
2 Sept 48 (Tab A)
w/incls
- 2 - Proposed ltr for signature of CG w/incls
(Tab B)

WILLIAM S. ELEY
Colonel, Infantry
Chief, Adjustment Section

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American Embassy,
September 2, 1948.

My dear General Anderson:

There is enclosed a copy of a note and enclosure from the Department of Foreign Affairs of the Republic of the Philippines dated July 7, 1948 transmitting a letter from the Acting Provincial Treasurer, Tacloban, Leyte, in which inquiry is made concerning reimbursement for the sum of P321,987.37 allegedly paid by the Office of the Treasurer, Leyte, for maintenance and operation of USAFFE soldiers stationed in that province prior to May 25, 1942.

I should appreciate receiving information upon which to base an appropriate reply.

Sincerely yours,

For the Charge d' Affaires a. i.:

Robert Y. Brown
First Secretary

Enclosures:

Copy of Foreign Office
note, July 7, 1948, with
its enclosures.

Major General J. W. Anderson, USA,
Commanding,
Philippines Command,
APO 707

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Authority ND 883016

HEADQUARTERS
PHILIPPINES COMMAND

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GSCL 095

AF0 707
24AUG 48

National Development Company,
trustee of
Panay Cooperative Fisheries
Calle Pureza, Santa Mesa
M a n i l a , P. I.

Attention: Mr. Vicente Satalvaro, General Manager

Dear Sir:

Your 26 June 1948 and 14 July 1948 letters concerned your request for reconsideration of the claim originally filed by Panay Cooperative Fisheries, Manila, P. I., for the value of fresh and dried fish allegedly requisitioned by the Sixth Military District Guerrillas, the National Development Company now presenting itself as trustee for the Fisheries.

It will be noted that at the time of the incident giving rise to the Fisheries claim, the Commonwealth of the Philippines was an insular possession and territory of the United States, the United States obviously exercising sovereign powers over the Commonwealth and its agencies.

That being true, the United States had the power to receive, take and/or use without compensation the money or property of the Commonwealth or of any province, municipality or of any public corporation in effect owned or in substance controlled by the Commonwealth. This was especially true in the case of your claim where United States use was for the mutual benefit of both the United States and the Commonwealth.

Consequently, as outlined in our letter of 13 April 1948 to Panay Cooperative Fisheries, the prior decision of this office not to accept and process your claim must stand.

Your reference to the claim of the National Footwear Cooperative as being the same as the instant claim of the Panay Cooperative Fisheries cannot be accepted. The Footwear case can be distinguished from the instant case in at least one respect; the footwear case

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Authority NND 883078

arose out of an express written contract entered into before the war by properly constituted peacetime procurement agents of the United States Army who followed proper peacetime procurement procedures and thereafter certain deliveries of shoes were made. This office simply paid for the shoes delivered at the agreed contract price. No such contract or procedure appears in the instant claim. The fisheries case arose out of wartime requisitioning and not out of peacetime procurement.

The determination heretofore made is final and your claim, therefore, cannot be again considered by this headquarters.

Sincerely,

NORMAN L. QUIGG
CWO, USA
Asst Adj Gen

C O P Y

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Authority NND 633078

ROUTINE CLEAR

8 47

TOO 220729Z

RECD 23 MAR 48 0800/H

FROM CINCFE

TO CG PHILRYCOM

RAM/BJL

PHILRYCOM DIST

ACTION CLAIMS

INFO JA

FILE

CITE Z 42825

REURAD G 22738 GSCL DTD 11 MAR 48; LEGAL QUESTIONS INVOLVED
IN CLAIMS REFERRED TO AS HELD IN SUSPENSE, NOT DETERMINABLE BY
COMMISSIONS, SHOULD BE REFERRED TO JA PHILRYCOM. IF AFTER OPINION
JA PHILRYCOM IS OBTAINED, THERE REMAINS QUESTION REQUIRING DETERMINATION
BY HQS FEC ON PARTICULAR CLAIM, THE OPINION OF PHILRYCOM JA SHOULD BE
FWDED WITH FILE AND QUESTION.

ROUTINE CLEAR

INCOMING

PAGE 1 OF 1 PAGE

C O P Y

23

DECLASSIFIED
Authority NND 883078

CG PHILLYOON

UNCLASSIFIED

CINCPAC, APO 500

ROUTINE

10 March
11 March 1948

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CPY

O 22738 GSGL

ATTN JA CLM REQUEST RESULT OF STAFF STUDY ON CLAIMS OF CORPORATIONS
WHOLLY OR SUBSTANTIALLY OWNED BY COMMONWEALTH GOVT CMA ITS BUREAUS
CMA DEPARTMENTS AND ANY SUBSIDIARY THEREOF NOW BEING HELD IN SUSPENSE
BY THIS OFFICE PD

Filing Sec



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Authority NND883076

HEADQUARTERS
PHILIPPINES-BYUKYUS COMMAND
OFFICE OF THE CHIEF OF CLAIMS SERVICE

CEP/FCS/AS/adc

AF0 707
12 March 1948

The Director
Bureau of Customs
Manila

Dear Sir:

True copy of Bill No. 9-11-47, dated 5 September 1947, signed by the Accounting Officer of the Bureau of Customs representing the cost of damage on the bulkhead of Pier 7 caused by Barge No. BC-809 of United States Army Transportation Corps, was forwarded through channels to this office for direct reply.

In order that this office may be fully apprised of the incident leading to and the extent of the obligation incurred by the United States Army in this particular case, it is requested that the inclosed Claims Service Form No. 28 be accomplished under oath in accordance with the policy of PHILRYCOM that obligations incurred by the same be submitted in the required form. When completed, four (4) copies of this form, together with any other documentary evidence supporting this claim, should be mailed to: Commanding General, PHILRYCOM, APO 707, Attention: Chief of Claims Service.

Upon receipt of the completed claims form together with the documentary evidence, this claim will be docketed and processed. When final determination is made by a Commission, this office will notify the authorized representative in writing of the decision.

Sincerely,

1 Incl
CS Form No. 28
(5 copies)

C. P. DERRICK
Major, Infantry
Executive Officer

C O P Y

28

DECLASSIFIED
Authority ~~NND 88308~~

JRM:HBB:pja
Port 55

GSTCL 560 Barge EC-809

FROM: Transportation 0 TO: Chief of Claims 8 March 1948

1. The records of 8130th Service Detachment (OT & L Group), Cavite, show that the EC-809 was at Cavite as an excess craft on 15 June 1947. Barge was not removed from Cavite until 10 July 1947. On that date it was turned over to OFLC for delivery to Kiangnan Drydock Division of the Chinese Navy.

2. The records of this office do not show any report of damage to Pier #7 on 15 June 1947.

1 Incl:
Ltr fr American Embassy,
dtd 2 Mar 48 w/2 incls.

s/Joshua R. Messersmith
t/JOSHUA R. MESSERSMITH
Lt. Colonel, TO
Transportation Officer

COPY/adc

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Commonwealth Republic

HEADQUARTERS
PHILIPPINE-RYUKYU COMMAND
OFFICE OF THE CHIEF OF CLAIMS SERVICE

DECLASSIFIED
Authority NND8308

AFO 707
24 February 1948

ADMINISTRATIVE ORDER NO. 13

SUBJECT: Claims of the Commonwealth or Republic of the Philippines, Provinces, Municipalities, or Barrios, Bureaus and Departments, and Public Owned Corporations.

TO: All Claims Service Personnel

1. Memorandum No. 1, ca; this office, dated 12 January 1948, subject, as above, is hereby rescinded.
2. References:
 - a. Per Sb, AR 2590, 31 July 1945.
 - b. 1st Indorsement, FEC, 17 September 1947, file AG 150 (8 Aug 47)JA, to basic letter from Chief of Claims Service, PHILRYCOM, 8 Aug 47, subj: "Claims of Bureau of Forestry, Republic of the Philippines."
 - c. Opinion of Commission, Claim of Bureau of Forestry, file No. CC-63-X-20494.
 - d. Opinion of Commission, Province of Leyte, CC-43-X-21111.
 - e. Opinion of Commission, National Development Co., file No. CC-63-X-13238.
 - f. Sec 2 of Article I, and Sec 17 of Article IV, Book I, Chapter I of Revised Administrative Code of the Philippine Islands, 1934.
 - g. Secs 12 and 15, Ordinance Appended to the Constitution of the Philippines, (Philippine Independence Act of March 24, 1934 (48 Stat. 457, par 14)).
 - h. Cincinnati Soap Co. v U. S., 301 U.S. 306 (1936).
 - i. Worcester v Worcester Consol. Street R. Co., 1964 U. S. 539 (1904).

j. Long Island Water Supply Co., v Brooklyn 166 U. S. 685 (1897).

k. City of Trenton v State of New Jersey, 262 U. S. 182 (1902).

l. Newark v New Jersey, 262 U. S. 193 (1922).

3. Regulations superseded:

Memorandum No. 3, Claims Service, AFWESPAC, 6 Feb 46.

SECTION I. PROCUREMENT CLAIMS

4. Claims of the Commonwealth of the Philippines arising prior to independence, and filed by the Commonwealth of the Philippines, or by the Republic of the Philippines, and claims of Bureaus and Departments of the Commonwealth of the Philippines, are not payable. Such claims shall be investigated to the extent that it is determined the Commonwealth or such Bureaus or Departments are involved. All such claims will be returned to the Department or Bureau filing the claim by a letter prepared for the signature of the Chief of Claims Service, or as otherwise directed by PHILRYCOM regulations providing for the preparation of such correspondence.

5. Claims arising either prior or subsequent to independence and filed by:

- (1) Provinces
- (2) Cities
- (3) Municipalities
- (4) Barrios, or
- (5) Municipal Corporations

will after completion of investigation be forwarded to the Commission Branch for necessary action.

(6) Corporations which are wholly or substantially owned by the Commonwealth Government, its Bureaus or Departments, or any subsidiary thereof, will be investigated to determine such fact, and forwarded to the Director of the **Processing Division** for appropriate administrative disposition, in accordance with directives from the Commander-in-Chief, Far East Command, when received.

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SECTION II. MILITARY CLAIMS

6. Claims filed by the Commonwealth or Republic of the Philippines, Provinces, Municipalities, or Barrios for damage to or loss or destruction of public property in the Philippine Islands are not payable under the provisions of the Foreign Claim Act or AR 25-90, but may be within the scope of AR 25-25 or AR 25-80. They will be fully investigated, and reports or investigation forwarded for appropriate Commission disposition.

BY ORDER OF COLONEL ELEY:

Willard F. Wyman
WILLARD F. WYMAN
CWO. USA
Adjutant

DISTRIBUTION:

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C O P Y

HEADQUARTERS
PHILIPPINES-RYUKYUS COMMAND
OFFICE OF THE CHIEF OF CLAIMS SERVICE

CPD/ECT/mvc

AFO 707
30 January 1948

GSCL1.01
PRO-U-10-110,590

The Director
Bureau of Posts
M a n i l a

Dear Sir:

This is in reference to the claim filed by the Post-master of Malaybalay, Bukidnon, for and in behalf of the Bureau of Posts against the U.S. Army for the recovery of the value of twenty-four (24) postal money orders under different serial numbers and postage stamps of various denominations.

It is to be noted that at the time of the incident giving rise to subject claim, the Philippines was an insular possession and territory of the United States, over which it exercised sovereign powers. That being the case, the United States had the power to receive or even take the money or property of the Commonwealth Government or that of any province or municipality and use the same without compensation, especially in this case where its use was for the mutual benefit of both the United States and the Philippines. For this reason, this office cannot accept and process the claim of the Bureau of Posts.

Trusting that the above information clarifies this matter for you,
I am

Sincerely,

t/ C. P. DERRICK
Major, Infantry
Executive Officer

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DECLASSIFIED
Authority ND88308

C O P Y

AG 150 (2 Jan 48)JA

1st Ind.

GENERAL HEADQUARTERS, FAR EAST COMMAND, APO 500, 26 January 1948

TO: Commanding General, Philippines-Ryukyus Command, APO 707
ATTENTION: Chief of Claims Service.

1. Upon the evidence presented in the attached file, the Commander-in-Chief, Far East, does not concur in the determination of Contract Claims Commission #53.
2. There is no evidence upon which it can be held that the lease between the United States and the Province of Loyte was void for want of authority when executed. There is no evidence upon which to base a finding of mutual mistake in the stipulated rental.
3. Until and unless the claimant produces persuasive evidence to the contrary, the lease must be considered as a legal and binding contract, and both parties thereto bound by its expressed terms.

BY COMMAND OF GENERAL MacARTHUR:

s/ J. Hubbard
Stamped/ JEROME HUBBARD
Major, AGD
Asst Adjutant General

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o/a 10 Jan 48

GENERAL HEADQUARTERS

FAR EAST COMMAND

Proceeding. (Merritt FAR EAST COMMAND). During the existence of the lease as OFFICE OF THE JUDGE ADVOCATE a change therein in the assessed value of the property as indicated on the face of the lease. This request was contained in a letter from the Province of Leyte.

1. General Headquarters, Far East Command, does not concur in the determination of Contract Claims Commission #63 to pay the Province of Leyte for the use and occupancy of real estate, owned by the said Province, after the date of independence under the facts and circumstances included in the claims file submitted and herewith returned.

2. The determination to pay the province of Leyte for the use and occupancy of the real estate in question was based on the conclusion of the Claims Commission that a lease entered into between the United States of America and the Province of Leyte was a nullity for the reasons that:

a. It was in contravention of a directive applicable to occupancy of commonwealth property;

b. It did not employ the form recommended for such leases; and,

c. It was not representative of the intentions of the principals.

3. These conclusions are not concurred in for the following reasons:

a. While it is true that on 27 July 1945, General Headquarters, USAFPC, by first indorsement to the Commanding General, USAFWSBAC, directed that the right to occupy commonwealth property would be obtained under emergency agreement with no stipulation as to rental payments, the property in question had been taken over and occupied by the Air Forces of the United States Army three months prior to such directive. Even though the form or lease may have been unauthorized at the date of signing, an unauthorized Government contract may be ratified by a responsible officer, such as by acquiescence, acceptance, payment, etc. (Ford v. U.S. 17 Ct. Cl. 60). The terms of the lease were fully complied with. Rental for the entire term of occupancy was paid by the United States and accepted by the Province of Leyte.

b. An emergency agreement form was adopted by the United States of America, but this form was, as stated in paragraph 3 thereof, provisional in character, and, at the convenience of the government, to be superseded by a standard form of lease. The standard form of lease used by the U. S. Army Engineers was executed by the Province of Leyte and the Government of the United States for the property in question.

c. The file in no place indicates wherein the intentions of the two parties were not represented in the lease as signed. If, because of a mutual mistake, the lease failed to express the real agreement of the parties, the lease could have been cancelled or re-formed by appropriate

proceedings. (Merritt v. Kay - 295 Federal 973). During the existence of the lease no demand was made for other than a change therein in the assessed value of the property as indicated on the face of the lease. This request was contained in a letter from the Treasurer of the Province of Leyte, written 25 January 1947, asking that the assessed value of ₱1,552.71, as shown in the lease, be corrected to ₱15,520.00.

4. The file does not disclose any request for a change in rent during the effective term of the lease. On 26 April 1947, one month after the United States had vacated the property and terminated the lease, the claimant, predicating his claim on the difference in the assessed value, made demand for ₱3,245.69; this sum being the difference between ₱155.20 per month and ₱15.50 per month, the latter being the sum agreed to in the lease. No evidence indicates that it was the intention of the parties to lease the property on a basis of 1% a month of the assessed property valuation; and, although assuming that such was the case, preliminary negotiations and agreements are deemed to be merged in the final settled instrument executed by the parties thereto. (See *Mash v. Towne*, 72 US 669; 29 US 232). Furthermore, mere inadequacy of consideration or inequality in the terms of a lease are not sufficient cause for rescinding it. (See *Brewster v. Lanyon Zinc Company*, 140 Federal 801; *Eyre v. Potter*, 56 US 42).

5. It is our opinion from the evidence submitted that the lease thus entered into is valid and binding; that the contract was fully executed by both parties; that no legal ground has been established by the Province of Leyte to make claim for an increase in rent over that expressly stipulated in the contract and agreed to between the parties and concluded in good faith.

t/ J. H. W.

(Initials above are those of
J. H. Wilkins, Captain, JAGD,
FEC)

C O P Y

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Authority NND 88307B

HEADQUARTERS
PHILIPPINES-RYUKYUS COMMAND

COPY

in the Determination of the Claims Commission,
to pay the Province of Leyte the balance of \$1,006.87 for the use
of the Province of Leyte after Independence, is requested.

APO 707

2 Jan 1948

FOR THE COMMANDING GENERAL:

SUBJECT: Payment of Claim to Province of Leyte, Philippines,
(for rental) after Independence. Procurement Claim
CC-53-X-21111.

TO: Commander-in-Chief
Far East Command
APO 500 (Inter-island Mail)
ATTENTION: Judge Advocate

R. B. CANTRELL,
Captain, A.G.D.,
Asst Adj Gen

1 - 1. The Province of Leyte, Philippines, filed a claim against
the United States for the occupancy of real estate by the United
States Army, from 20 April 1945 to 27 March 1947. The claim includ-
ing a copy of the opinion of Contract Claims Commission 53, and of
the Determination of the Commission on the claim are attached. The
facts are described in detail in such inclosures.

2. Prior to independence the real estate involved was subject
to expropriation for the use described, without compensation payable
to the Province of Leyte. Subsequent to independence, it is the
opinion of this Command that the Province of Leyte is entitled to
be paid for the use and occupation of the its real estate from 4 July
1946 to 27 March 1947, being 8 months and 24 days. This real estate
is not described in the Base Agreement between the Governments,
dated 14 March 1947. The reasonable value of the use referred to
is established from the evidence at \$155.20 per month, totaling
\$1,365.69. This sum is subject to a claim in favor of the United
States for the amount paid by the United States under the unauthor-
ized lease No. W-2568 ENG-B CE-4403, of \$360.11, leaving a balance
now due and payable to the Province of Leyte of \$1,006.57 (\$502.78).

3. Reference is made to your 1st Indorsement of 17 September
1947 to this Command Subject: Claim of Bureau of Forestry, Republic
of the Philippines, on Claim No. CC-5-X-2797. These directions are
not directly applicable to the instant claim wherein a portion of
the obligation arose subsequent to independence.

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Authority NND 88308

4. Concurrence in the Determination of the Claims Commission, to pay the Province of Leyte the balance of ₱1,005.57 for the use of the real estate after independence, is requested.

FOR THE COMMANDING GENERAL:

R. E. CANTRELL,
Captain, A.G.D.
Asst Adj Gen

3 Incls:

- 1 - Opinion of Claim Commission
- 2 - Determination
- 3- Claim file.

COPY

HEADQUARTERS
PHILIPPINES-RYUKYU COMMAND
OFFICE OF THE CHIEF OF CLAIMS SERVICE

Claimant: Province of Leyte : File No. CC-58-M-21111
: :
: :
: : OPINION OF COMMISSION

NATURE AND HISTORY OF THE CLAIM

1. On the 22nd day of December 1945, the United States executed a lease signed by the Provincial Government of Leyte as the LESSOR, for the use of certain designated lots located at Cataran, San Jose, Tacloban, Leyte for the period beginning 20 April 1945 and extending until 30 June 1947, unless sooner terminated by the United States. The lease is signed with the provision for the United States to pay the lessor a monthly rental of \$15.50, payable semi-annually. (See Item 5, Exhibit C). This is Lease No. W-2568, Eng-B CB-4403, executed by the Real Estate Division, of the Engineer Corps, at Base K, then AFWESPAC, now under the jurisdiction of Real Estate Division, District Engineer, Manila Sub-Division APO 900, which has the jurisdiction over all of the use and occupation without leases, with leases and by Emergency Agreement of all Real Estate for all purpose for this command now named, the Philippines-Ryukyus Command.

2. A statement of the computation of this claim made by the Real Estate Division is attached in Item 21, Exhibit 5, to the claim, as follows:

- a. Monthly rental claimed by the Lessor as having been agreed upon orally at the time of negotiating this written lease . . . \$155.20
- b. Monthly rental provided for in the written lease 15.50
- c. Difference now claimed for per month \$139.70
- d. Claim for 23-7/30 months' period of occupation at this monthly difference of \$139.70 \$1,045.69

The land used as part of an airstrip was occupied beginning 20 April 1945 and ending 27 March 1947, a total of 23-7/30 months. The rental as called for in the lease was paid \$360.11.

3. As per Exhibit H, claimant has amended its claim requesting reimbursement for 5,312 coconut trees.

4. Exhibit U, valuation statement, sets forth that the claimed for rental, \$155.20 per month is fair and reasonable.

5. The Province of Leyte was an arm of the Government of the Commonwealth of the Philippines at the time of signing this lease. On 4 July 1946, the Commonwealth of the Philippines became the Republic of the Philippines. An agreement between the Republic of the Philippines and the United States of America concerning Military Bases was entered upon 14 March 1947.

6. Upon closing of the Real Estate Branch Office at Base K, Tacloban, Leyte by the District Engineer, Manila Engineer District, this claim was forwarded to Claims Service, for final action.

THE ISSUES

- 1. Was the Province of Leyte an arm of the Commonwealth of the Philippines at the time this incident occurred?
- 2. Does the execution of this lease by the United States Army establish a binding obligation, as it was executed subsequent to the is-

... of specific instructions authorizing Emergency Agreement, and not authorizing leases for the occupancy of public lands? ...

3. Considering the occupancy of the Real Estate as the basis of this entire claim, as being paramount to the execution of the original lease, and as paramount to the proposed but unused execution of an Emergency Agreement, is the United States liable to pay compensation for the use and occupancy of the lands of the Province of Leyte?

4. Does the Independence of the Philippines alter the status of the claimant in relation to this claim so as to render the United States Army liable for rent after 4 July 1947?

5. Is the property herein described covered in the Agreement between the Republic of the Philippines and the United States of America concerning Military Bases? (14 March 1947)

6. For what period and in what amount may rental be recovered?

7. May amounts of rent improperly paid be set off against any sum found due and owing to the claimant?

8. Is claimant entitled to recovery for coconut trees allegedly damaged or destroyed on the herein described premises during the period of occupancy?

LEGAL DISCUSSION

1. As to the status of the Province of Leyte:
Revised "Administrative Code of the Philippine Islands"
1934, Book I, Chapter I.

Article I. -- Definitions

Sec. 2. Words and phrases defined. -- The Government of the Philippine Islands is a term which refers to the corporate governmental entity through which the functions of government are exercised throughout the Philippine Islands, including, save as the contrary appears from the context, the various arms through which political authority is made effective in said Islands, whether pertaining to the central government or to the provincial or municipal branches or other form of local government.

Book III, Title VIII Provinces, Chapter 56.

Article I. -- General Provisions

Sec. 2067. Corporate character and powers of provinces. -- Each province is a political body corporate, and as such is endowed with powers to be exercised by and through its respective provincial government in conformity with law.

Such powers include the following:

- (a) To have continuous succession in the corporate provincial name;
- (b) to sue and be sued;
- (c) to have and use a corporate seal;
- (d) to acquire and convey real property;
- (e) to make

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2. It is desired that no steps be taken to terminate leases with or reletures the Commonwealth property occupied by the United States Army, Navy, Air Force, and Marine Corps, and (g) to exercise such other rights and incur such other obligations as are expressly authorized by law.

2. It is desired that no steps be taken to terminate leases with or reletures the Commonwealth property occupied by the United States Army, Navy, Air Force, and Marine Corps, and (g) to exercise such other rights and incur such other obligations as are expressly authorized by law.

Sec. 2068. Execution of deeds and contracts. -- When the government of a province is party to a deed or instrument conveying the title of real property, such deed or instrument shall be executed on behalf of said government by the provincial governor; upon resolution of the provincial board, and with the approval of the Governor-General.

2. As to the Lease Agreement Undertaken:
 w/c
 ASST. ADJ. GEN.

BASIC: Ltr, CG, AFWESPAC, file GSCOE 601, subj: "Lease of Property Owned by Philippine Commonwealth." dated 14 July 1945.

AG 601 (14 July 1945) CFB 1st Ind.

GENERAL HEADQUARTERS, UNITED STATES ARMY FORCES, PACIFIC, APO 500, 27 JULY 1945.

TO: Commanding General, United States Army Forces, Western Pacific, APO 707.

1. The right to occupy Commonwealth property will be obtained under Emergency Agreement without stipulation as to rental payments.

2. In order to facilitate review by this Headquarters to determine appropriate terms of the final contract which will be acceptable to the Commonwealth, it is desired that a report be submitted listing Commonwealth structures occupied by the United States Forces, with statement as to usage, alternative accommodations furnished, and rehabilitation work. Unimproved lands, parks, etc., will be separately listed.

BY COMMAND OF GENERAL MACARTHUR:
 The United States may, by Presidential Proclamation, exercise the right to occupy the Commonwealth of the Philippines and for the maintenance of the

cc: Col Kramer
 0-4
 t/ M. BOGASKI
 ASST. ADJ. GEN.

A TRUE COPY:

w/c s/t/ SEBASTIAN B. LORENZO
 Captain, Inf., AUS

BASIC: Ltr fr CG AFWESPAC, file AG 601, dtd 8 Feb 46, subject: "Final Accounting - Philippine Commonwealth Owned Properties."

AG 601 (8 Feb 46) CG 1st Ind.

GENERAL HEADQUARTERS, UNITED STATES ARMY FORCES, PACIFIC, APO 500, 27 March 1946.

TO: Commanding General, United States Army Forces, Western Pacific, APO 707.

1. It is desired that no steps be taken to consummate leases with or reimburse the Commonwealth of the Philippines for Commonwealth property occupied by the United States Army.

2. It is desired that a record be established of the estimated value of each property at the time of occupancy and a further record be established of the estimated value of the property upon release. The estimated value of improvements to each property occupied by the United States Army will be clearly set forth and will be applied against any claim made by the Philippine Commonwealth Government for compensation for the use of such properties. Any such claims received will be forwarded to General Headquarters, United States Army Forces, Pacific.

BY COMMAND OF GENERAL MacARTHUR:

Not operations, Acts of God, or other causes excepting its own negligence.

s/t/ HENRY A. WEISS
Captain, AGD
Asst. Adj. Gen.

Incl: n/c

3. Shall fairly compensate the LESSOR for the property and for any property of value belonging to the LESSOR which may be removed or destroyed by the GOVERNMENT.

A CERTIFIED TRUE COPY:

s/t/ SEBASTIAN B. LORENZO, Capt., Inf., AUS
(Please see Page 4-a for Lease Form)

3. As to Compensation:

"The Philippine recognizes the right of the United States to expropriate property for public uses, to maintain military and other reservations and armed forces in the Philippines, and, upon order of the President of the United States, to call into the service of such Armed Forces all military forces organized by the Government of the Commonwealth of the Philippines". (Constitution of the Philippines, Ordinance Appended thereto, Section 12).

The basis of invoking the above was provided in the undertakings of the United States Government as set forth in the Philippine Independence Act of March 24, 1934 (48 Stat. 457, Par. 14) and the Constitution of the Philippines, Ordinance Appended thereto, Section 15).

"The United States may, by Presidential Proclamation, exercise the right to intervene for the preservation of the Government of the Commonwealth of the Philippines and for the maintenance of the

ENG-B PH EMERGENCY AGREEMENT

THE UNITED STATES OF AMERICA, hereinafter called the GOVERNMENT, has entered upon and taken (or is about to enter and take) possession of the property, situated and described as follows:

That by virtue of these presents, the GOVERNMENT leases the said property from ... residing

DECLASSIFIED
Authority: AWP 6500B

at(acting herein by his duly
constituted agent) hereinafter
called the LESSOR, subject to the following terms and conditions:

1. THE GOVERNMENT;

- a. Takes immediate possession.
- b. May use the property for any purpose, alter or remove any existing structures and improvements and build and remove additional structures or improvements.
- c. Is not responsible for damages resulting from combat operations, Acts of God, or other causes excepting its own negligence.
- d. Shall fairly compensate LESSOR for the use of the property and for any property of value belonging to the LESSOR which may be removed or destroyed by the GOVERNMENT.

2. That the term of this lease shall be for the duration of the war and six (6) months thereafter, unless sooner terminated by the GOVERNMENT by posting a copy thereof conspicuously upon the leased premises, or, by delivery or mailing same to the LESSOR, or his authorized agent, at the address first above stated, or other address upon this lease.

3. This Emergency Agreement is provisional in character and may, at the convenience of the GOVERNMENT, be superseded by its standard form of lease. The LESSOR undertakes to execute such standard form when requested by the GOVERNMENT.

IN WITNESS WHEREOF, the parties have executed this instrument

in duplicate at, Philippines,
this day of 1945

THE UNITED STATES OF AMERICA
(GOVERNMENT)

Signed in the presence of:

By:

.....
.....

.....
(LESSOR)

Government is provided in the Constitution thereof, and for the protection of life, property, and individual liberty and for the discharge of Government obligations under and in accordance with the provisions of the Constitution.

An examination of authority on the subject of the status of the Philippines during the pertinent period (1941-1945) is excerpted and set forth below.

"In reference to the territories * * *. They bear such the same relation to the general government that counties do to the states and Congress may legislate for them as states do for their municipal organizations."

"The National Government may do for one of its dependencies whatever a state might do for itself or

one of its political subdivisions, since over such a dependency the nation possesses the sovereign powers of the general government plus the powers of a local or a state government in all cases where legislation is possible." Cincinnati Soap Co. v. U.S., 301 U. S. 308, 81 L. Ed. 1122; 57 S. Ct. 764 (1936).

The term "Expropriation", although recognized generally as denoting "a taking" based upon varied legal grounds, has not been clearly defined with respect to the element, if any, of attendant compensation. A study of authoritative expressions is submitted.

This word primarily denotes a voluntary surrender of rights or claim; the act of divesting oneself of that which previously claimed as one's own, or renouncing it. In this sense it is the opposite of "Appropriation". But a meaning has been attached to the term, imported from its use in foreign jurisprudence, which makes it synonymous with the exercise of the power of eminent domain, i. e., the compulsory taking from a person, on compensation made, of his private property for the use of a railroad, canal or other public work. Black's Law Dictionary.

"Act of expropriating, or state of being expropriated; specifically, the action of the state in taking or modifying the property rights of individuals in the exercise of its sovereignty, as when property is sold under eminent domain". Webster's Dictionary.

Origin of Phrase:

Eminent domain, known in England and Canada as "Expropriation", is a phrase which seems to have been invented by Cretius in 1628 to designate the power of a sovereign state to take or to authorize the taking of any property within its jurisdiction for the public use without the owner's consent. 18 Am. Jr. 630 Par. 2; Scott v. Toledo (U. C.) 36 Fed 385.

It appears that "Expropriation" partakes substantially of the elements of Eminent Domain, and further, generally, is considered synonymous with Eminent Domain. The salient features are set forth below, coupled with the extent and circumstances under which this power may be exercised.

Constitutional Limitations:

The exercise of the power of eminent domain is subject to all the prohibitions found in the constitutions of the United States and of the several states. The provisions by which the power is chiefly limited are: (1) that property shall not be taken for public use without just compensation, and (2) that no person shall be deprived of his life, liberty, or property without due process of law. 18 Am. Jur., 632, Par. 3.

The problem, as it now presents itself, appears thus: (1) there was an authorized taking (2) by the sovereign (3) of the property of a political subdivision (4) for purpose of defense. Accordingly, is a public body entitled, as a matter of right, to compensation for its property taken by the sovereign for public use, viz., national defense?

The property of which a city, town, or county has acquired absolute ownership as an agency of the state, and which it holds strictly for public uses, is subject to legislative control. Such property charged with the same duties, or it may be devoted to another agency of government, or it may be devoted to other public pur-

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Authority NND 88-308

poses, without the consent of the city or town to which it may belong, and without compensation. Worcester v. Worcester Canal, Street R. Co. 196 U.S. 539 (1904); State Highway Commission v. Elizabeth 140 A 335 (affirmed in 143 A 196) (1928).

Property devoted to the public use may be taken by authority of the legislature for a different use even if the earlier enterprise is thereby wholly destroyed. And under general authority to condemn for public use, it is settled that property devoted to one public use may be condemned for another which is superior rank in respect of public necessity or which may be exercised consistently with the use first attaching. Long Island Water Supply Co. v. Brooklyn 166 U.S. 685, 17 S. Ct. 718 (1897); United States v. Gettysburg Electric Co. 160 U.S. 668, 18 S. Ct. 427 (1896).

After a municipal corporation has been brought into existence by the legislature and allowed to acquire property, the control of the legislature over such property is by no means as complete and absolute as its control over the powers of such a corporation or even of its right to continue in existence. The power of the legislature over the property which a municipal corporation has acquired in its public or governmental capacity, and devoted to public or governmental uses, is so complete that a municipality in dealing with public property is subject to such restrictions and limitations as the legislature may impose. Wisconsin Gas & Electric Co. v. Ft. Atkinson 193 Wis. 232, 213 Nw 873 (1927).

The state may, at its pleasure, modify or withdraw the power to hold and manage property, or take such property without compensation, hold it itself or vest it in other agencies, conditionally or unconditionally, with or without consent of the citizens, or against their protest; City of Trenton v. State of New Jersey, 262 U.S. 182, 87 L. Ed. 937, 43 S. Ct. 534 (1922); Hunter v. City of Pittsburg, 207 U.S. 161, 52 L. Ed. 151, 28 S. Ct. 40 (1907); Pawmiska v. Pawhuska Oil & Gas, 250 U.S. 394, 63 L. Ed. 1054, 39 S. Ct. 526 (1918). It may require the municipality to expand its funds for the acquisition and maintenance of such property; or it may provide whatever regulations for the use and management thereof it may deem to be for the public interest. Athen v. State of Kansas, 191 U.S. 207, 48 L. Ed. 148, 24 S. Ct. 124 (1903).

The control which the legislature may exercise is limited; it may not act by public agencies and for public uses exclusively. If the municipality has purchased property for purposes which are strictly and purely public, as a mere instrumentality of the state, such property is so far subject to the control of the legislature that other instrumentalities of the state may be substituted for its management and care; but even the state itself has no power to require the municipality to transfer the title from public to private ownership. Proprietors of Mt. Hope Cemetery v. City of Boston, 158 Mass 509 33 Nw 695 (1893).

The state has powers over the rights and property of cities which is unrestricted by the contract or due process clauses of the Federal Constitution. Newark v. New Jersey 262 U.S. 192, 67 L. Ed. 943, 43 S. Ct. 539 (1922); Trenton v. New Jersey, 262 U.S. 182, 67 L. Ed. 937, 43 S. Ct. 534 (1922).

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Authority NND 6306

4. As to the Status of the Province of Leyte After Independence Creating Liability on the Part of the United States:

The United States of America agrees to withdraw and surrender, and does hereby withdraw and surrender, all right of possession, supervision, jurisdiction, control or sovereignty existing and exercised by the United States of America in and over the territory, and the people of the Philippine Islands, except the use of such bases, necessary appurtenances to such bases, and the rights incident thereto, x x x Article I, Treaty of General Relations Between the Republic of the Philippines and the United States of America.

The rule of contracts is too elementary to warrant discussion, contracts are express if their terms are stated by parties * * * Contracts implied in fact are implied from the facts and circumstances of the case, and not formally or exclusively stated in words.

This court will not apply to contracts made by the Government, nor give to its actions under such contract, a construction and an effect different from those which courts of justice apply to contracts between individuals. *Smart v. U.S.*, 15 Wall. 36, 21 L. Ed. 107, 82 U.S. 107.

A foreign sovereign can bring a civil suit in the courts of the United States x x x our own government has largely availed itself of the like privilege to bring suits in the English courts in cases growing out of our late Civil War. *The Sapphire v. Napoleon III*, 11 Wall. 184, 20 L. Ed. 127, 78 U.S. 127.

CHARLES W. MILLER

Commissioner

Contract Claims Commission No. 63

7. As to Set Offs:

All set offs, counter claims, claims for damages whether liquidated or unliquidated or other demands whatsoever on the part of the Government of the United States may be asserted against any claimant against the Government. 28 USCA 250, Subd. II.

CONCLUSIONS:

1. The Province of Leyte was an arm of the Government of the Commonwealth of the Philippines from the beginning of the occupancy of the real estate herein described until Independence, 4 July 1946.

2. The lease agreement contained in the file, Item 5, Exhibit C, was (1) in contravention of the directives applicable to occupancy of Commonwealth property and (2) did not employ the form, with its attendant provisions, principally, "that no payment would be made for rental". Accordingly, Lease W-2568 Eng-B CE-4403 was unauthorized, is not representative of the intentions of the principals, United States Army and the Commonwealth of the Philippines, and is therefore a nullity.

3. The United States was authorized to take the herein described property of the Province of Leyte while it was an arm of the Government of the Commonwealth of the Philippines for the purposes described, without compensation. Therefore, no compensation is due the claimant for the period 20 April 1945 to 4 July 1946.

4. Upon the independence of the Philippines, the Province of Leyte may assert a claim for its property against the Government of the United States and is entitled to recovery of rental for the period 4 July 1946 to 27 March 1947 amounting to 8 months and 24 days.

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Authority NND 682078

5. The property herein described was not included in the Agreement concerning Military Bases. (Certificate added, Exh T).

6. Rental should be allowed for the period 4 July 1946 to 27 March 1947. The Commission finds that the rate of rental claimed, \$155.20 per month is fair and reasonable.

7. The Government of the United States may set off against this claimant the sum of \$360.11, paid under the Agreement of Lease.

8. The amendment to the claim, loss and/or damage to coconut trees, is disallowed for insufficient evidence as to (1) when the trees were damaged or lost and (2) the extent of the loss or damage.

RECOMMENDATIONS:

Total approved from 4 July 1946 to 27 March 1947 @ \$155.20 per month	\$1,365.68
Credit by unauthorized payment on illegal lease same land	<u>360.11</u>
Balance due claimant	<u>\$1,005.57</u>

CHARLES W. MILLER
Commissioner
Contract Claims Commission No. 53

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HEADQUARTERS
PHILIPPINES-RYUKYU COMMAND
OFFICE OF THE CHIEF OF CLAIMS SERVICE

AFO 707
12 January 1948

GSCL

MEMORANDUM NO. 1

SUBJECT: Claims of the Commonwealth or Republic of the Philippines, Provinces, Municipalities, or Barrios, Bureaus and Departments, and Public Owned Corporations.

TO: All Claims Service Personnel

1. References:

- a. Par. 5b, AR 25-90, 31 July 1947.
- b. 1st Indorsement, FEC, 17 September 1947, file AG 150 (8 Aug 47) JA, to basic letter from Chief of Claims Service, PHILRYCOM, 8 Aug 47, Subj: Claims of Bureau of Forestry, Republic of the Philippines.
- c. Opinion of Commission, Claim of Bureau of Forestry, file no. CC-63-X-20494.
- d. Opinion of Commission, Province of Ayte, CC-43-X-21111.
- e. Opinion of Commission, National Development Corp., file no. CC-63-X-13223.
- f. Sec. 2 of Article I, and Sec. 17 of Article IV, Book I, Chapter I of Revised Administrative Code of the Philippine Islands, 1934.
- g. Secs. 12 and 15, Ordinance Appended to the Constitution of the Philippines, (Philippine Independence Act of March 24, 1934 (48 Stat. 457, par. 14).
- h. Cincinnati Soap Co. v U.S., 301 U.S. 306 (1936).
- i. Worcester v Worcester Busch. Street R. Co., 1964 U.S. 539 (1904).
- j. Long Island Water Supply Co., v Brooklyn, 166 U.S. 685 (1897).
- k. City of Trenton v State of New Jersey, 262 U.S. 182 (1902).
- l. Newark v New Jersey, 262 U.S. 192 (1922).

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2. Regulation Superseded:

Memorandum No. 3, Claims Service, AFWESPAC, 6 Feb 46:

SECTION I. PROCUREMENT CLAIMS

3. (Claims of the Commonwealth of the Philippines arising prior to independence, and filed by the Commonwealth of the Philippines, or by the Republic of the Philippines, and claims of Bureaus and Departments of the Commonwealth of the Philippines, are not payable.) Such claims shall be investigated to the extent that it is determined the Commonwealth or such Bureaus or Departments are involved. All such claims will be returned to the Department or Bureau filing the claim by a letter prepared for the signature of the Chief of Claims Service, or as otherwise directed by PHILRYCOM regulations providing for the preparation of such correspondence.

4. Claims arising either prior or subsequent to independence and filed by:

(1) Provinces

(2) Cities

(3) Municipalities

(4) Barrios, or

(5) Any other Municipal Corporation, or

(6) Corporations which are wholly or substantially owned by the Commonwealth Government, its Bureaus or Departments, or any subsidiary thereof,

will be investigated to determine such fact, and forwarded to the Director of the Commission Division, to be placed in suspense, for appropriate administrative disposition, in accordance with directives from the Commander-in-Chief, Far East Command, when received.

SECTION II. MILITARY CLAIMS

5. Claims filed by the Commonwealth or Republic of the Philippines, Provinces, Municipalities, or Barrios for damage to or loss or destruction of public property in the Philippine Islands are not payable under the provisions of the Foreign Claim Act or AR 25-90, but may be within the scope of AR 25-25 or AR 25-80. They will be fully investigated, and reports or investigation forwarded for appropriate Commission disposition.

DISTRIBUTION:

G

William S. Eley
WILLIAM S. ELEY
Colonel, Infantry
Chief of Claims Service

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Authority NND 883078



HEADQUARTERS
 PHILIPPINES-HIUKYSE COMMAND
 OFFICE OF THE CHIEF OF CLAIMS SERVICE

PROCEEDING NO. CO-63-X-24085 : Place Where Claim Arose: Barrio Potot,
 : Masud, Camarines Norte, P.I.
 Claimant: BUREAU OF FORESTRY : Date Presented: 11 February 1946-
 Amount Claimed: P1,719.38 : Date Determined: 17 November 1947
 (\$ 859.89)

CERTIFICATE OF DISAPPROVAL OF CLAIM

1. Pursuant to the authority contained in Circular 92, Far East Command, 29 August 1947; First War Powers Act of 1941 (Public Law No. 354, 77th Congress); Executive Order No. 9001, 27 December 1941; Circular 217, WD, 13 August 1947; and Par 11, SO 43, 20 Feb 47, PHILBYCOM; Par 6, SO 18, 22 Jan 47, PHILBYCOM; and Par 26, SO 129, 9 June 47, PHILBYCOM, Contract Claims Commission No. 83 has made the following determination:

a. That the attached claim of the BUREAU OF FORESTRY against the United States of America is within the jurisdiction of this Commission under the above authority.

b. FACTS:

This claim is made in the name of the Commonwealth of the Philippines for timber allegedly cut by the 1279 Engineer Corps, U.S. Army from the public forest in or about Barrio Potot, Masud, Camarines Norte, Philippine Islands during June to August 1945; the charges or royalties on the said timber claimed is in the sum of P1,719.38.

The loss referred to above had as its initial inception that fateful day of December 7, 1941 when the Japanese Imperial Forces dropped their bombs on Pearl Harbor and Northern Luzon, P. I., the convulsions of which were felt in Manila as strongly as in Washington, D.C. With that blow, there was forged, a unity of spirit, determination, man-power and resources of the Philippines and the United States to eradicate this menace to their respective Democratic Governments. To ferend this invasion of the Philippine Islands, the President of the United States, on July 26 1941, under and by virtue of the authority vested in him by the Constitution of the United States (Section 2 (a) (12) and by the Philippine Independence Act of March 24, 1934 (48 Stat. 457) and by the corresponding provision of the ordinance appended to the Constitution of the Commonwealth of the Philippines, and as Commander-in-Chief of the Army and Navy of the United States, called and ordered into the service of the Armed Forces of the United States all the organized military forces of the Government of the Commonwealth of the Philippines. In the great and prolonged conflict that ensued, Filipino and American munitions of war were indiscriminately and voraciously consumed. The vast expenditure of men and material representing the contribution of the Philippines and the United States of America in this great, mutual endeavor can never be fully reduced to monetary basis by mathematical calculation.

As to this consideration of upon whom the liability devolves for the procurement of the Bureau of Forestry owned or controlled property, the Commission finds that:

1. The Bureau of Forestry was a Bureau of the Government of the Commonwealth of the Philippines. (Revised Administrative Code of the Philippine Islands (1934), Book I, Article I, Chapter I, Section 2; Book I, Article IV, Chapter I, Section 17; and Book II, Title VI, Chapter 47, Article I, Section 1816).

2. That the United States was authorized to expropriate property of the Government of the Commonwealth of the Philippines without compensation. (Constitution of the Philippines, Ordinance Appended thereto, Section 12; Philippine Independence Act of March 24, 1934 (48 Stat. 457, Par. 14); Constitution of the Philippines, Ordinance Appended thereto, Section 15; Cincinnati Soap Co. v. US 301, U.S. 308, 81 L.Ed. 1122; 57 S. Ct. 754 (1936); 18 Am. Jur. 630, Par. 2; Scott v. Toledo (C.C.) 36 Fed. 385; 18 Am. Jur. 632, Par. 3; Worcester v. Worcester Council. Street R. Co. 198 U.S. 539 (1904); State Highway Commission v. Elizabeth 140 A 335 (affirmed in 143 A 196) 1928; Long Island Water Supply Co. v. Brooklyn, 166 U.S. 685, 17 S. Ct. 718 (1897); United States v. Gettysburg Electric Co., 160 U.S. 689, 16 S. Ct. 427 (1896); Wisconsin Gas & Electric Co. v. Ft. Atkinson 193 Wis. 332, 215 NE 873 (1927); City of Trenton v. State of New Jersey, 262 U.S. 182, 67 L. Ed. 937, 43 S. Ct. 534 (1922); Hunter v. City of Pittsburgh, 207 U.S. 161, 52 L. Ed. 151, 28 S. Ct. 40 (1907); Pawhuska v. Pawhuska Oil & Gas, 250 U.S. 394, 63 L. Ed. 1054, 39 S. Ct. 526 (1918); Atkins v. State of Kansas, 191 U.S. 507, 48 L. Ed. 148, 24 S. Ct. 124 (1903); Proprietors of Mt. Hope Cemetery v. City of Boston, 188 Mass. 508 NE 695 (1933); and 43 S. Ct. 329 (1922); Trenton v. New Jersey, 262, U.S. 182, 67 L. Ed. 937, 43 S. Ct. 534 (1922).

3. Upon independence, the provisions of Article 17 of the Constitution of the Philippines provide that the bureau departments and political subdivisions of the Commonwealth are dissolved into and become a part of the Republic of the Philippines, and as a result, the present Bureau of Forestry is now an integral part of the Republic of the Philippines.

2. WHEREFORE, the subject claim is disapproved.

CONTRACT CLAIMS COMMISSION NO. 63

/s/ Harwood Shoemaker
 /t/ HARWOOD SHOEMAKER, President

(ABSENT)

/s/ LOREN H. LAUGHLIN, Member
 /t/ LOREN H. LAUGHLIN, Member

/s/ Charles W. Miller
 /t/ CHARLES W. MILLER, Member

HEADQUARTERS
PHILIPPINE-MYUNTS COMMAND
OFFICE OF THE CHIEF OF CLAIMS SERVICE

Claimant: BUREAU OF FORESTRY : File No. CC-63-X-20494
: :
: : OPINION OF COMMISSION
: :

NATURE AND HISTORY OF THE CLAIM

1. This is a claim by the Bureau of Forestry in the sum of ₱404.71 for forest charges predicated upon the allegation that the 8th Army of The United States installed a sawmill at Matling, Lalabang, Mindanao, P. I. and therein cut timber for its own use.

THE ISSUES

1. Was the Bureau of Forestry an arm of the Commonwealth of the Philippines at the time the incident occurred?
2. Is the claimant entitled to remuneration for the forest charges claimed?

LEGAL DISCUSSION

1. As to the Status of the Bureau of Forestry:

x x x "The Government of the Philippine Islands" is a term which refers to the corporate Governmental entity through which the functions of the government are exercised throughout the Philippine Islands, including, same as the contrary appears from the context, the various arms through which political authority is made effective in said Islands, whether pertaining to the central government or to the provincial or municipal branches or other form of local government. Revised Administrative Code of the Philippine Islands (1934), Book I, Article I, Chapter I, Section 2.

The executive, legislative, and judicial powers of the Philippine Government are distributed, respectively, among the executive, legislative and judicial branches, severally exercising the functions and powers conferred on them by law. The executive authority is vested in the following agencies: The Governor-General of the Philippine Islands, as Chief Executive; the several Departments and Bureaus of the Insular Government, with their lawful instrumentalities; and the provincial and local governments, with their subordinate functionaries, in the exercise of the administrative powers conferred on them. x x x. Administrative Code of the Philippine Islands (1934), Book I, Chapter I, Article IV, Section 17.

Jurisdiction of Bureau of Forestry.--The Bureau of Forestry shall have jurisdiction and authority over the demarcation, protection, management, reproduction, reforestation, occupancy and use of all public forest reserves and

and over the granting of licenses for game and fish, and for the taking of forest products, including stone and earth, therefrom. Administrative Code of the Philippine Islands, (1934), Book II, Title VI, Chapter 47, Article I, Section 1816.

2. As to Compensation:

The Philippines recognizes the right of the United States to appropriate property for public purposes, to maintain military and other reservations upon the Philippine Islands, and, upon order of the President of the United States, to take into the service of such Armed Forces all the military forces organized by the Government of the Commonwealth of the Philippines. Constitution of the Philippines, Ordinance appended thereto, Section 12.

It appears that "Expropriation" takes substantially of the elements of the United States Government as set forth in the Philippine Independence Act of March 24, 1934 (48 Stat. 457, Par. 14) and the Constitution of the Philippines, Ordinance appended thereto, Section 15).

Constitutional Limitation:

The United States may, by Presidential Proclamation, exercise the right to intervene for the preservation of the Government of the Commonwealth of the Philippines and for the maintenance of the Government as provided in the Constitution thereof, and for the protection of life, property, and individual liberty and for the discharge of Government obligations under and in accordance with the provisions of the Constitution.

An examination of authority on the subject of the status of the Philippines during the pertinent period (1941-1945) is excerpted and set forth below.

In reference to the territories * * *. They bear such the same relation to the general government that counties do to the states and Congress may legislate for them as states do for their municipal organization. The national government may do for one of its dependencies whatever a state might do for itself or one of its political subdivisions, since over such a dependency the nation possesses the sovereign powers of the general government plus the powers of a local or state government in all cases where legislation is possible. Cincinnati Soap Co. v. U. S., 301 U.S. 308, 81 L. Ed. 1124; 57 S. Ct. 764 (1936).

The term "Expropriation", although recognized generally as denoting "a taking" based upon varied legal grounds, has not been clearly defined with respect to the element, if any, of attendant compensation. A study of authoritative expressions is submitted.

This word primarily denotes a voluntary surrender of rights or claims; the act of divesting oneself of that which previously claimed as one's own, or renouncing it. In this sense it is the opposite of "appropriation". But a meaning has been attached

to the term, imported from its use in foreign juris-
prudence, which makes it synonymous with the exer-
cise of the power of eminent domain, i.e., the com-
pulsory taking from a person, on compensation made,
of his private property for the use of a railroad,
canal or other other public work. Black's Law
Dictionary.

Origin of Phrase:

Eminent domain, known in England and Canada as
"Expropriation", is a phrase which seems to have
been invented by Grotius in 1625 to designate the
power of a sovereign state to take or to authorize
the taking of any property within its jurisdiction
for the public use without the owner's consent.
18 Am. Jur. 630, Par. 2; Scott v. Toledo (C.C.)
36 Fed 385.

It appears that "Expropriation" takes substantially of the elements of
Eminent Domain, and further, generally, is considered synonymous with E-
minent Domain. The salient features are set forth below, coupled with their
extent and circumstances under which this power may be exercised.

Constitutional Limitation:

The exercise of the power of eminent domain is
subject to all the prohibitions found in the consti-
tutions of the United States and of the several states.
The provisions by which the power is chiefly limited
are: (1) that property shall not be taken for public
use without just compensation, and (2) that no person
shall be deprived of his life, liberty, or property
without due process of law.

The problem, as it now presents itself, appears thusly: (1) there was an
authorized taking (2) by the sovereign (3) of the property of a politi-
cal subdivision (4) for purposes of defense. Accordingly, is a public body
entitled, as a matter of right, to compensation for its property taken by
the sovereign for public uses, viz., national defense?

Property of which a city, town or county has acquired absolute ownership as an agency of the state, and which it holds strictly for public uses, is subject to legislative control. Such property is charged with the same duties, or it may be devoted to other public purposes, without the consent of the city or town to which it may belong, and without compensation. Worcester v. Worcester Canal Street R. Co. 196 U.S. 539 (1904); State Highway Commission v. Elizabeth 140 A 335 (affirmed in 143 A 196) (1928).

Property devoted to the public use may be taken by authority of the legislature for a different use even if the earlier enterprise is thereby wholly destroyed. And under general authority to condemn for one public use may be condemned for another which is superior rank in respect of public necessity or which may be exercised consistently with the use first attaching. Long Island Water Supply Co. V. Brooklyn 166 U.S. 685, 17 S. Ct. 718 (1897); United States v. Gettysburg Electric Co. 160 U.S. 668, 16 S. Ct. 427 (1896).

After a municipal corporation has been brought into existence by the legislature and allowed to acquire property, the control of the legislature over such property is by no means as complete and absolute as its control over the powers of such a corporation or even of its right to continue in existence. The power of the legislature over the property which a municipal corporation has acquired in its public or governmental uses, is so complete that a municipality in dealing with public property is subject to such restrictions and limitations as the legislature may impose. *Wisconsin Gas & Electric Co. v. Ft. Atkinson* 193 Wis. 232, 213 NE 873 (1927).

DECLASSIFIED

Authority NND 652018

The state may, at its pleasure, modify or withdraw the power to hold and manage property, or take such property without compensation, hold it itself or vest it in other agencies, conditionally or unconditionally, with or without the consent of the citizens, or against their protest. *City of Trenton v. State of New Jersey*, 263 U.S. 182, 67 L. Ed. 937, 43 S. Ct. 534 (1922); *Hunter v. City of Pittsburgh*, 207 U.S. 161, 52 L. Ed. 151, 28 S. Ct. 40 (1902); *City of Pittsburg v. Oklahoma*, 233 U.S. 658, 63 L. Ed. 1054, 39 S. Ct. 528 (1918). It may require the municipality to expend its funds for the acquisition and maintenance of such property; or it may provide whatever regulations for the use and management thereof it may deem to be for the public interest. *Athens v. State of Kansas*, 191 U.S. 207, 48 L. Ed. 148, 24 S. Ct. 124 (1903).

The control which the legislature may exercise is limited; it may act by public agencies and for public uses exclusively. If the municipality has purchased property for purposes which are strictly and purely public, as a mere instrumentality of the state, such property is so far subject to the control of the legislature that other instrumentalities, of the state may be substitute for its management and care; but even the state itself has no power to require the municipality to transfer the title from public to private ownership. *Proprietors of Mt. Hope Cemetery v. City of Boston*, 158 Mass 509, NE (1893).

The state has powers over the rights and property of cities which is unrestricted by the contract of due process clauses of the Federal Constitution. *Newark v. New Jersey* 262 U.S. 192, 67 L. Ed. 943, 43 S. Ct. 539 (1922); *Trenton v. New Jersey*, 262, U.S. 182, 67 L. Ed. 937, 43, S. Ct. 534 (1922).

CONCLUSIONS

1. The Bureau of Forestry was an arm of the Government of the Commonwealth of the Philippines.
2. As an arm of the Government of the Commonwealth of the Philippines, the Bureau of Forestry is not entitled to compensation.

RECOMMENDATION:

1. That the claim of the Bureau of Forestry be disapproved.

s/ Charles W. Miller
 t/ CHARLES W. MILLER
 Member, Contract Claims Commission
 No. 63

DECLASSIFIED
Authority NND 883078

Report on Trip to GHQ, Far East Command.

AG and Ex O

TO: COOS

19 September 1947

R E S U M E

2. G. Payment to Republic of the Philippines for Use of Real Estate.

Colonel Beck, Chief of Military Affairs Division, FEG, arranged a conference with Major Minnich, and Captain Wilkins, to advise Claims Service of the action already taken on a request for opinion originating in Manila on the responsibility of the army to pay the Republic for the use of Commonwealth or Republic owned real estate. The determination of a staff study rested upon the Act of the United States Congress establishing the Commonwealth of the Philippines. After several days effort through the Philippine Delegation of SCAP and the Philippine member of the International War Trials Commission and the libraries of the Tokyo University and War Crimes Division of SCAP, the undersigned located the Commonwealth of the Philippines Constitution, with comparable provisions authorizing under certain circumstances the expropriation of property of the Commonwealth by the United States, prior to independence. It should be recognized that the use of real estate subsequent to independence may require the consideration of the provisions of the Bases Agreement between the two countries which exempts the payment of rental for a short period of time. A study of the decisions of the United States courts supports the conclusion of this staff study that the use of real estate is considered a property right, that such property of the Commonwealth may be expropriated by the United States under the facts involved as presented by Manila, that the expropriation should be made without reimbursement as it is between sovereign branches of the same government, prior to complete independence. A copy of this opinion was secured and forwarded the Legal Research Division of Claims Service.

BASIL A. WOOD
Lieutenant Colonel, JAGD
Asst. Chief of Claims Service

Report on Trip to GHQ, Far East Command

AG and Ex O

TO: OOS

19 September 1947

R I P P R T

2. h. Claims of the Commonwealth, now Republic of the Philippines,
Its Provinces and Municipalities.

Claims Service has received approximately fifty claims filed by departments of the Republic of the Philippines, of the Commonwealth of the Philippines, its provinces, cities, municipalities and instrumentalities. FEG was advised no instructions had been received about appropriate Claim GC-5-K-2797, filed by the Bureau of Forestry, Commonwealth, now Republic of the Philippines, seeks payment for "quinine" bark shipped to Australia by United States submarine during 1942-1943. This Bureau is a department established by the Philippine Congress. The Far East Command is in process of completing its staff study and the conclusions of such staff study at this time holds that the quinine bark was the property of the Commonwealth, that the Philippine Constitution authorizes the United States to expropriate such property, that the decisions of the United States court holds such expropriation should be without reimbursement, and that Claims Service, PHILRYCOM, should be instructed to prepare the reply to the Republic of the Philippines in accordance with PHILRYCOM requirements, advising no payment is authorized. This determination will apply to other claims as well.

BASIL A. WOOD
Lieutenant Colonel, JAGD
Asst. Chief of Claims Service

HEADQUARTERS
PHILIPPINES-RYUKYUS COMMAND
OFFICE OF THE CHIEF OF CLAIMS SERVICE

AF 707
8 August 1947

CC-5-X-2797

SUBJECT: Claim of the Bureau of Forestry, Republic of the Philippines

TO: Commander-in-Chief
Far East
APO 500
ATTENTION: Judge Advocate

There is inclosed file of the above claim for consideration in connection with all of the claims of the Republic of the Philippines.

1 Incl
Claim of Bureau of
Forestry File

s/ W. S. Eley
t/ W. S. ELEY
Colonel, Inf
Chief of Claims Service

AG 150 (8 Aug 47)JA

1st Ind.

GENERAL HEADQUARTERS, FAR EAST COMMAND, APO 500. 17 September 1947.

TO: Commanding General, Philippines-Ryukyus Command, APO 707.
ATTENTION: Chief of Claims.

1. This office concurs in the opinion expressed in the second paragraph of the letter from Major General Geo. F. Moore, Commanding General, Philippines-Ryukyus Command, to the Under Secretary of Foreign Affairs, Republic of the Philippines (item 14, of the inclosed file) that no authority is vested in Claims Service, Philippines-Ryukyus Command to pay procurement claims of the Commonwealth of the Philippines against the United States.

2. At the time of the accrual of the subject claim, the Philippine Islands were an insular possession and territory of the United States, over which the United States exercised sovereign powers in the same manner in which a state may exercise its sovereign powers over its counties or municipalities.

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BASIC: Ltr fr CG, Philippines-Ryukyus Command, subj: Claim of Bureau of Forestry, Republic of the Philippines, to Commander-in-Chief, Far East, dtd 8 August 1947.

"The Philippine Islands are an insular possession appurtenant to the United States, and constitute a territorial possession which may be dealt with as Congress of the United States deems proper." (34 Op. Atty. Gen. 460).

"In reference to the territories * * *. They bear much the same relation to the general government that counties do to the states and Congress may legislate for them as states do for their municipal organization." (Cincinnati Soap Co. v. U.S., 81 L. Ed. 1123, quoted in Am. Jur. p. 326).

"The State may at its pleasure, modify or withdraw the power to hold and manage property of a municipality or take such property without compensation * * * with or without the consent of the citizens or against their protest." (37 Am. Jur. Sec. 92, p. 701.)

"The National Government may do for one of its dependencies whatever a state might do for itself or one of its political subdivisions, since over such a dependency the nation possesses the sovereign powers of General Government plus the powers of a local or state government in all cases where legislation is possible." (Cincinnati Soap Co. v. U.S., 81 L. Ed. 1123).

3. The United States Government being a position to take the property of a territory without compensation, the use of such property without a right to compensation must necessarily follow, especially in the present case where the use of such property was for the mutual benefit of both the United States and the territory and was a military necessity.

4. It follows from the above citations of law and authorities that Claims Service, Philippines-Ryukyus Command, could not legally recognize the claim of the Bureau of Forestry of the Commonwealth of the Philippines when said Commonwealth was a possession of the United States.

BY COMMAND OF GENERAL MacARTHUR:

s/ J. W. Mann
J. W. MANN,
Lt. Col., AGD,
Asst. Adjutant General.

1 Incl:
No change

COPY

TO THE SECRETARY OF DEFENSE
ATTENTION: ASSISTANT SECRETARY FOR
POLICY AND PLANS

FROM: [Illegible]

SUBJECT: [Illegible]

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[Illegible body text]

(Stamped)

Rec'd
Miami Av.
2 Oct 47

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HEADQUARTERS
PHILIPPINES-RYUKYUS COMMAND
OFFICE OF THE CHIEF OF CLAIMS SERVICE

C O P Y

AFO 707
22 August 1947

OSCLA

MEMORANDUM No. 8

SUBJECT: Civilian and Military Claims Arising Out of Activities of the Philippine Army, Including Recognized Guerrilla Units Serving with the Armed Forces of the United States.

TO: All Claims Service Personnel

1. References:

- a. AR 25-90, 31 July 1946.
- b. Information Bulletin Number 11, Headquarters, Claims Service, AFWESPAC, Office of the Chief of Claims, 3 April 1946.
- c. Letter from Director, Investigation Division, Headquarters, Philippines-Ryukyus Command, Office of the Chief of Claims Service, to the Director, Camp Spencer Branch Office, Claims Service, dated 26 February 1947, subject: Current Wage Claims and Claims of Military Government Employees.
- d. Check Sheet from Chief of Claims Service to Commanding General, Philippines-Ryukyus Command, dated 24 June 1947, subject: Claims for Pay of Provincial Officials -- Ilocos Sur.
- e. Letter from Commanding General, Philippines-Ryukyus Command, to Commander-in-Chief, Far East, dated 27 June 1947, Subject: Claims for Pay of Provincial Officials-- Mecario T. Passo.
- f. Executive Order No. 19-W, President of the Philippines, 21 September 1944.
- g. Memorandum of Understanding, subject: Pay of Officials and Employees of City of Manila and Temporary Officials and Employees Outside Greater Manila, undated, signed by Tomas Confessor and Edgar S. Crossman.

COPY

2. Regulations superseded:

a. Letter from Director, Investigation Division, Headquarters, Philippines-Ryukyus Command, Office of the Chief of Claims Service, to the Director, Camp Spencer Branch Office, Claims Service, dated 26 February 1947, subject: Current Wage Claims and Claims of Military Government Employees.

3. Claims otherwise within the purview of AR 25-90 arising out of acts or omissions of personnel of the Philippine Army units, including the Guerrilla units recognized as having the status of Philippine Army units, called into the service of the Armed Forces of the United States, will be accepted and docketed, and forwarded directly to the Chief of Claims Service without investigation.

4. Claims for services rendered by persons in their capacity as Provincial or Municipal officials appointed by the United States Army or by the Philippine Army, including Guerrilla units recognized as having the status of Philippine Army units, called into the services of the Armed Forces of the United States, will be accepted and docketed, and forwarded directly to the Chief of Claims Service without investigation.

FOR THE CHIEF OF CLAIMS SERVICE:

s/t/ HENRY G. MYERS
Captain, Infantry
Director
Administration Division

DISTRIBUTION:

G

COPY

REPUBLIC OF THE PHILIPPINES
MUNICIPALITY OF CAPALONGA
Camarines Norte
Office of the Treasurer

June 30, 1947

The Commanding General
PHILYOON, Apo 707.
Manila.

S i r :

I have the honor to submit herewith Bill No. 2-47,
duly verified by the Provincial Auditor in the amount of ₱65.72
covering the expenses incurred by the municipality of Capalonga,
C. Norte, for the maintenance of five (5) Japanese POW who surren-
dered to the municipal authorities on February 11, 1947.

Due to the unavailability of transportation and the
rough sea weather the said prisoners were only turned over to the
Provincial Commander or MPC Headquarters on February 21, 1947.

In this connection, attention is also invited to the let
indorsement dated June 18, 1947. of the Provincial Commander to whom
the bill was first rendered, copy attached.

Your favorable action and early settlement of the within
bill shall be highly appreciated.

Very respectfully,

s/ FELIX B. ROSALINAS
t/ FELIX B. ROSALINAS
Municipal Treasurer

Encl.: Bill No. 2-47
and supporting papers.

C O P Y

NOTE: This claim was paid.

19

19

LRD

XX 900

25 JUN 1947

W08VR

SUBJECT: Minutes of Conference Concerning Payment of Rental
and Other Claims Arising Out of the Use of Property
Owned by the Republic of the Philippines

TO : Commanding General
Philippines-Ryukyus Command
APO 707
ATTN: Chief, Claims Service

Enclosed herewith is a copy of the minutes of a
conference held at the United States Embassy on 24 June 1947
concerning the payment of rentals and other claims arising out
of the use property owned by the Republic of the Philippines.

FOR THE ACTING DISTRICT ENGINEER:

Incl:
Cy of Minutes of
Conference dtd 24
June 1947

ERLAND A. TILMAN
Lt. Colonel, CE
Chief, Real Estate Division

File cc/ Rep. of Phil.





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2004 10 10 1947
330 06 100 018

TO :
FROM :
SUBJECT :

RE: [Illegible]

[Illegible text]

[Illegible text]

[Illegible]

[Illegible]

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F B D

WAR DEPARTMENT
CORPS OF ENGINEERS
OFFICE OF THE DISTRICT ENGINEER
MANILA DISTRICT
APO 900

24 June 1947

SUBJECT: Conference Concerning Payment of Rentals and other Claims
Arising out of the Use of Property owned by the Republic of
the Philippines

1. In accordance with the recommendations contained in the first indorsement from the Chief of Engineers to General Headquarters Far East Command through the Division Engineer, Western Ocean Division, dated 12 May 1947, to letter from General Headquarters Far East Command to Chief of Staff, United States Army, subject: "Payment of Rentals for Property Owned by the Republic of the Philippines," dated 28 January 1947, and in accordance with instructions contained in CINCPAC radio to CG PHILRYCOM, cite GX 53226, dated 10 June 1947, a conference was held on 24 June 1947, attended by representatives of the United States Embassy, in Manila, the Foreign Liquidation Commission, Headquarters, PHILRYCOM, Manila Engineer District, Western Ocean Division, and Office, Chief of Engineers as follows:

Mr. N. P. Davis	Civ.	U. S. Charge d'Affaires
E. H. Kreuter	Col. GSC	Military Attache
L. S. Graham	Col.	G-4 Sec PHILRYCOM
Basil A. Wood	Lt. Col	Claims Service PHILRYCOM
S. R. Hamner	Lt. Col	Engr Sec PHILRYCOM
T. E. Sibley	Lt. Col	G-4 Sec PHILRYCOM
W. E. Janairo	Lt. Col	Engr Sec PHILRYCOM
James C. Bigler	Lt. Col	U. S. Marines (Navy)
Erland A. Tillman	Lt. Col	Real Estate Div, MAREP
W. W. Cave	Maj	G-4 Sec PHILRYCOM
J. A. McConnell	Civ	FLC Dep Central Field Com.
J. A. Warner	Civ	FLC Fixed Instal. Dir.
Woodrow Berge	Civ	Engineers OGE Washington, DC
Fred H. Roenay	Civ	Engineers OGE Washington, DC
Clyde J. Fitzgerald	Civ	Engineers Western Ocean Div
J. A. Hensleigh	Civ	Engr Sec PHILRYCOM

2. The purpose of this conference was outlined to all present briefly as follows: Upon returning to the Philippines, General Headquarters United States Army Forces Pacific established the policy that the right of the Armed Forces to occupy Philippine Commonwealth property would be obtained under Emergency Agreement without stipulation as to rental payments. It was further directed that no steps be taken to consummate leases with or reimburse the Commonwealth of the Philippines for Commonwealth property occupied by the United States. It was further the intent of these instructions that the rental to be paid for real property of the Government of the Philippines used by the United States Army would be determined by negotiations at which time consideration would be given not only to the fair rental value of all such properties, but also to the value of all improvements made thereon by the United

LRD

File of Rep. of Phil.

States as well as any claims for restoration or damage. It is considered that these properties were used in the pursuance of the common mission of expelling an enemy from the Philippines and in equity the United States and the Republic of the Philippines should consider all aspects in reaching a final agreement. Therefore, the mission of this conference was to formulate procedures and methods for effecting a settlement between the two governments for the use of said properties, if in fact a legal requirement exists for the United States to pay for this use. The following aspects of the problem were also discussed:

a. It is possible that due to the status of the Philippines as a Commonwealth, the United States had the legal right to use Commonwealth property without recompense for all or part of the time used in the prosecution of a joint war. The legal right to use Philippine Government owned properties must logically be considered under three phases: the period prior to 4 July 1946 (Commonwealth status); the period from 4 July 1946 to 18 March 1947 (effective date of the Base Agreement); and the period subsequent to 18 March 1947 (Base Agreement provides for free use of Republic property). It was concluded that these legal requirements for payment should be explored both by PHILRYOON and General Headquarters Far East Command and that the conclusions therefrom should be used in connection with any negotiations looking toward settlement of this matter.

b. It was brought out that the payment for restoration and rentals was only one element to be considered in the overall settlement of US-Philippines claims. Claims Service, PHILRYOON, is presently considering such other matters as timber cut by the Armed Forces, shipment of Quinine bark during the war, and commandeering of Philippine Government vehicles and other properties by the Armed Forces for use against the enemy. It was concluded that where feasible it would be desirable to include consideration of all such claims in any negotiations leading to settlement of the use of Philippine Government property.

c. It was brought out during the course of the discussion that the payment of rental obligations might be considered as being in a different category from the obligation to pay restoration in lieu of damages. However, it was concluded that it would be highly desirable to consider rentals and restoration as an entity in any negotiations leading toward settlement for the use of Philippine Government property.

d. The Chief of Engineers' representative presented the attitude of the War Department General Staff that no funds were presently available for settlement of such claims for rental and restoration and that any settlement should avoid the necessity for the payment of funds.

Business of 1939.

Business of 1939. The business of 1939 was a very busy one. The business of 1939 was a very busy one. The business of 1939 was a very busy one.

Business of 1939.

Business of 1939. The business of 1939 was a very busy one. The business of 1939 was a very busy one. The business of 1939 was a very busy one.

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3. The recommendation of the Chief of Engineers that the Foreign Liquidation Commission enter into negotiations with the Philippine Government to obtain a release of the United States from all rental and other claims arising out of the use of Philippine government property as a supplement to the Bulk Sale Agreement was discussed with the representatives of Foreign Liquidation Commission. This discussion brought out the following facts:

a. It was positively stated by Mr. Davis and Lt Col Wood, who were present during the negotiation of the Bulk Sale Agreement, that the settlement of rentals and other claims were considered during the negotiations but were excluded from the terms of the Bulk Sale Agreement. This negates the possibility that it was the intention of the negotiators to consider rental and other claims as part of the consideration for the Bulk Sale Agreement.

b. For this reason Foreign Liquidation Commission stated that it was impossible for them to request the Philippine Government to enter into a supplemental agreement to the Bulk Sale Agreement whereby the United States will be released from all rentals and other claims arising out of the use of the leased premises by the United States Government, except under the terms of Article 4 of that Agreement. This Article provides that if a material disparity is found to exist between the property transferred to the Philippines and the consideration given therefor, the two governments will consult together to fix an appropriate adjustment in the price paid. This is an exceedingly inopportune time to discuss this disparity Article because at the present time the Philippine Government feels that the return which they are obtaining from the surplus property turned over to them under this Agreement is not nearly what they had expected. Future developments may change this picture so that at some later time this attitude of the Philippine Government may have changed. In such a contingency, if settlement has not been obtained by other means, it may be possible to reopen settlement of rentals and other claims under this Article of the Bulk Sale Agreement. It was concluded that some other method of settlement should be explored.

4. The following alternate methods of settlement of such claims were discussed in the priority indicated:

a. That the United States Embassy enter into negotiations with the Philippine Republic to obtain a release for the United States from all rentals, and claims arising out of the use of Philippine property and any other claims which can be feasibly included in the same settlement. It was agreed that the general basis for such negotiations would be the prosecution of a joint mission by the United States and the Government of the Philippines in expelling a common enemy from the Philippines as evidenced by the proclamations issued by former President Quezon and Vice-President Osmeña making available

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to the Armed Forces the use of the full resources of the Philippines for the prosecution of the war. It was thought that the Base Agreement in giving the United States the use rent free of Philippine Republic property after 18 March 1947 could be considered as showing intent for similar free use of such property prior to that date. As assistance in such negotiations it was agreed that the legal requirements for payment as outlined in paragraph 2a above should be explored by PHILRYCOM and General Headquarters Far East Command. It was also agreed that PHILRYCOM would ask GHE Far East Command to furnish information on all commitments, settlements, etc. if any, or other matters bearing on the attitude of the Philippine Government and the United States toward the free use of or payment for real estate occupied by the Armed Forces.

b. That the settlement of these claims be considered in connection with the negotiations leading to the transfer to the Philippine Government of title to such military and naval bases of the United States in the Philippines as the United States does not intend to retain. The value of these claims is small compared to the value of these bases, but it is believed that negotiations looking toward the transfer of title of such military and naval bases affords an appropriate opportunity to arrive at an overall settlement of US-Philippine claims and property rights. This matter has been referred by the United States Embassy in Manila to the State Department with a request for instructions and is presently being considered by State-War-Navy Coordinating Committee.

c. In the event of failure to reach a satisfactory solution under a and b above, settlement of real estate and other claims can be considered under any possible future renegotiation of the Bulk Sale Agreement under Article 4 thereof, or as an outright claim settlement under the appropriate claims regulations.

5. It was agreed that the minutes of this meeting would be transmitted to PHILRYCOM with the request that:

- a. The legal aspects as outlined in paragraph 2a above be determined.
- b. Information be obtained from GHE Far East Command on any prior commitments as outlined in paragraph 2a above.
- c. Approval of GHE Far East Command of the proposed method of procedure be obtained.
- d. A copy of these minutes be transmitted to Mr. Davis of the Embassy, and that upon receipt of approval by GHE as to the method of procedure, he be requested to proceed with negotiations as outlined in paragraphs 4a and 4b above.



U.S. DEPARTMENT OF STATE
OFFICE OF THE ASSISTANT SECRETARY FOR PUBLIC AFFAIRS
WASHINGTON, D.C. 20520

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692 - Was Pac -
Installations - ENGLT

1st Ind
(Pas: 28 Jan 47)

SUBJECT: Payment of Rentals for Property Owned by the
Republic of the Philippines.

OCE; Washington 25, D. C. 18 May 1947
Liquidation Commissioner will
be able to secure a supplement to the Bulk Sale Agreement, whereby the
THRU: The Division Engineer, Western Ocean Division,
Corps of Engineers, SAUSALITO, CALIFORNIA, the United States Govern-
ment.

TO: General Headquarters, Far East Command,
AFO 500, SAN FRANCISCO, CALIFORNIA.
Republic of the Philippines will assume all responsibility after the
right 1. The basic communication addressed to the Chief of Staff, United
States Army, Washington, D.C., was referred to this office by the Director
of Service, Supply and Procurement, War Department General Staff, for
direct reply.

2. The properties which were leased by the United States Government
from the Republic of the Philippines, were used in the war effort against
the common enemy. It was agreed that the amount paid for rental and
property removed or destroyed would be determined by negotiation.

3. The United States Government granted independence to the Republic
of the Philippines on 4 July 1946, and the Congress of the United States
enacted the Philippine Rehabilitation Act of 1946, in order that certain
vitaly needed supplies located in the Philippines might be utilized for
relief and rehabilitation.

4. The Foreign Liquidation Commissioner, Department of State, entered
into a Bulk Sale Agreement with the Republic of the Philippines on 11 Septem-
ber 1946, for the sale of all surplus property owned by the United States
Government and located in the Philippines.

5. It is the opinion of this office that the United States Government
has been exceedingly generous with the Republic of the Philippines as in-
dicated by the Bulk Sale Agreement and that a release to the United States
from all lease rentals and all other claims arising out of the use of the
leased premises by the United States Government, might very well have been
a part of the consideration for the Bulk Sale Agreement, pursuant to the
provisions of the Fulbright Act.

6. It is recommended that representatives of your command, together
with representatives from the Office of the Western Ocean Division and the
Office of the Manila District Engineer confer with the Foreign Liquidation
Commissioner at Manila, relative to securing a settlement with the Republic
of the Philippines, releasing the United States from all liability for
lease rentals up to the date such property is returned to the Philippine
Government, and all other claims arising out of the use of the leased
premises by the United States Government.

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Authority NND 833078

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Installations - ENGLT

12 May 1947

7. It is believed that the Foreign Liquidation Commissioner will be able to secure a supplement to the Bulk Sale Agreement, whereby the United States will be released from all rentals and all other claims arising out of the use of the leased premises by the United States Government.

8. Article 2, c. of the Bulk Sale Agreement provides that the Republic of the Philippines will assume all responsibility after the right to possession of the property has passed to the Philippines with the exception of such charges as shall have rightfully accrued prior to the time the Philippines acquired right to possession.

9. The suggested action will provide a means whereby the liability of the United States Government for the use of property owned by the Republic of the Philippines, can be settled as a unit rather than by a large number of separate actions.

10. Request this office be kept advised of action taken.

FOR THE CHIEF OF ENGINEERS:

/s/ Peter F. Goetz
/s/ PETER F. GOETZ
Colonel, Corps of Engineers
Assistant Chief of Engineers for
Real Estate

5 Incls:

1. Cy ltr dtd
24 Sept 45,
as amended by
(cy ltr dtd
19 Jan 46.
2. Cy ltr dtd
14 Jul 45, w/1 Ind.
3. Cy ltr dtd
29 Sept 45, w/1 Ind.
4. Cy ltr dtd
8 Feb 46, w/1 Ind.
5. Ltr dtd 8 Nov 46,
w/5 Incls.

C O P Y

AG 601 (15 Jan 47) CE

GENERAL HEADQUARTERS
FAR EAST COMMAND
APO 500

AG 601 (15 Jan 47)CE 28 January 1947 of all
be determined by negotiations. Small first consideration not only to
the United States Army of all such properties, but also to the
interests of the United States Army in all such claims

SUBJECT: Payment of Rentals for Property Owned by the Republic of the
Philippines

TO : Chief of Staff, United States Army, Washington 25, D. C.
a final agreement.

1. References:

a. Letter, General Headquarters, AG 601, dated 24 September 1945,
"Real Estate Policy in the Philippines," as amended by Letter, General Head-
quarters, same file and subject, dated 18 January 1946. Inclosure No. 1.

b. Letter, United States Army Forces Western Pacific, GSCER 601,
dated 14 July 1945, "Lease of Property Owned by the Philippine Commonwealth,"
with 1st Indorsement by General Headquarters, dated 27 July 1945. Inclosure
No. 2.

c. Letter, United States Army Forces Western Pacific, GSCER 601,
dated 29 September 1945, "Commonwealth Owned Properties Occupied by the United
States Army," with 1st Indorsement by General Headquarters, dated 10 October
1945. Inclosure No. 3.

d. Letter, United States Army Forces Western Pacific, no file, dated
8 February 1946, "Final Accounting - Philippine Commonwealth Owned Properties",
with 1st Indorsement by General Headquarters, dated 27 March 1946. Inclosure
No. 4.

e. Radio, WCL 28447, of 29 March 1946.

f. Letter, General Headquarters, AG 600.1, dated 25 May 1946, "Transfer
of Real Estate Activities to the Chief of Engineers, United States Army."

g. Letter, District Engineer Manila, file WOVVR 150, dated 11
September 1946, "Use of Philippine Government Real Property", with 3 indorse-
ments.

2. a. The theater policy governing the use of real property owned by
the Republic of the Philippines is set forth in references la, b, c, and d
above. It was the definite intent that the rental to be paid for real prop-
erty of the Republic of the Philippines used by the United States Army

1st 3 - (ref. 1a)
1st 4 - (ref. 1b)
1st 5 - (ref. 1c)

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Authority NND 883078

be determined by negotiation and would give consideration not only to the fair rental value of all such properties, but also to the value of all improvements made thereon by the United States Army as well as any claims for restoration or damage.

b. These properties were used in pursuance of the common mission of expelling an enemy from the Philippines and, in equity, the United States and the Republic of the Philippines should consider all aspects in reaching a final agreement.

3. a. The District Engineer, Manila, by reference 1h, requested permission to transfer improvements to the Republic of the Philippines in lieu of rental. This request was denied by 2nd Indorsement, OCE, file 602 - WESPAC - Installations - ENGLT, dated 20 November 1946.

b. Reference 1g forwards a claim for restoration of a facility used by the United States Army and owned by the Republic of the Philippines. It is felt that such items should not be handled separately but as a part of the entire problem, including improvements to the property, as well as the fair rental value. It should be noted that reference 1e authorized the use of surplus property to satisfy claims.

4. It is strongly urged that reconsideration be given to the problem presented above and particularly to the treatment of all pertinent factors as a unit instead of as separate actions. It is suggested that joint negotiations be undertaken with the Republic of the Philippines by representatives of the Chief Engineers and Commanding General, Philippine-Ryukyus Command. It is believed that only in this way will the United States receive proper credit for the work which has been done on these properties and for the improvements and facilities that are being returned to the Republic of the Philippines.

5. Advice by radio is requested of your action in this matter.

FOR THE COMMANDER-IN-CHIEF:

cc: FNAF, PHILRYCOM, W. C. Div and MANED

/s/ John B. Cooley
/t/ JOHN B. COOLEY
Colonel, AGD,
Adjutant General.

5 Incls:
Incl 1 - (ref. 1a)
Incl 2 - (ref. 1b)
Incl 3 - (ref. 1c)
Incl 4 - (ref. 1d)
Incl 5 - (ref. 1g)

HEADQUARTERS
CLAIMS SERVICE, AFRES-PAG
OFFICE OF THE CHIEF OF CLAIMS

AFO 707
24 October 1946

Philippine National Bank
Manila,
P. I.

Gentlemen:

Attached find all of the original checks and papers filed by you in support of the claim against the United States Army from your Iloilo Branch in the amount of 76,737,884.62.

These papers are returned and the claim has been closed as a result of the acceptance by the Republic of the Philippines of all liabilities for the obligations described in the claim, as provided in the contract executed with the United States. In addition, some portions of the obligations described in the claim are included in Republic Act 22, H. 508, First Congress of the Republic of the Philippines, First Session, referring to Emergency Currency Board jurisdiction.

Yours very truly,

BASIL A. WOOD
Lieutenant Colonel, JAGD
Chief of Claims

1 Incl:
Box - Original checks



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CONFIDENTIAL
OFFICE OF THE CHIEF OF CLERKS
OFFICE OF THE CHIEF OF CLERKS

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24 October 1946

Religious National Bank
Washington, D.C.
F. I. R.
Confidential

Attached find all of the original checks and papers filed in
your report of the claim against the United States Army from
your Radio Branch in the amount of \$6,737.88.

These papers are returned and the claim has been closed as a
result of the acceptance by the Republic of the Philippines of all
liabilities for the obligations described in the claim, as provided
in the contract executed with the United States. In addition, some
portions of the obligations described in the claim are included in the
Republic Act No. 308, Third Congress of the Republic of the Phil-
ippines, Third Session, referring to Emergency Currency Board Juris-
diction.

Yours very truly,

WILLIAM A. WOOD
Lieutenant Colonel, USA
Chief of Clerks

Box - Original checks
1 Incl.



100-833078

COPY

DEPARTMENT OF STATE
FOREIGN LIQUIDATION COMMISSION
CENTRAL FIELD COMMISSIONER FOR PACIFIC AND CHINA
City Hall Annex
Manila, P. I.
APO 707

DECLASSIFIED
Authority: MJ0563076

14 June 1946
Date

C E R T I F I C A T E

This is to certify that as of above date the Central Field Commissioner for the Pacific and China has transferred to the Government of the Commonwealth of the Philippines, through the Government Procurement Commission, surplus property of the fair value of \$4,391,595.98, which property is in use by the Manila Railroad Company. The equipment so transferred were supplied by the following services of the United States Army: Engineer, Ordnance, Transportation, Quartermaster, and Signal Corps.

The fair value of the property so transferred was computed, as provided in contract No. W-ANL (PA-I)-1611, i.e., the declared cost of the property plus 25% for transportation charges less depreciation for condition, as provided by the Revised American Appraisal Company Schedule, dated 27 December 1945.

The fair value of the property so transferred to the Government of the Commonwealth of the Philippines will be deducted from the fair value of the property authorized to be transferred under Title II of the Philippine Rehabilitation Act of 1946.

(Sgd.) HENRY P. NEEDHAM
Commodore, U.S.N.
Assistant Central Field Commissioner
for the Pacific and China and
Director of Sales

A TRUE COPY:

/s/ Lawrence R. Pierce, Jr.
/t/ LAWRENCE R. PIERCE, JR.
1st Lt., Infantry
Recorder, Luzon Railway Settlement Board
A F W E S P A C

(EXHIBIT "W")

COPY

14

CONFIDENTIAL

HEADQUARTERS, ARMY SERVICE FORCES
Office of The Judge Advocate General
Washington 25, D.C.

SFJGD/17790-C

2 May 1946

SUBJECT: Claims by the Philippine Commonwealth, Provinces, Municipalities, or Barrios.

THRU : Commander-in-Chief, AFPAC
APO 500, c/o Postmaster
San Francisco, CaliforniaTO: Commanding General, AFWSFAC
APO 707, c/o Postmaster
San Francisco, California
ATTENTION: Chief of Claims

1. Inclosed is copy of letter of this office addressed to you under date of 11 August 1945 together with copy of 1st indorsement thereto, relative to subject type of claims. Subsequently this office received your Memorandum No. 3 dated 15 November 1945 (Subject: Claims by the Philippine Commonwealth, Provinces, Municipalities, or Barrios) addressed to All Claims Service Officers. Thereafter your revised Memorandum No. 3 dated 6 February 1946 was also received.

2. This office has now received from your headquarters the claim of Department of Instruction, Philippine Commonwealth Government (FOG-324-115) which was forwarded with your letter dated 2 March 1946. Examination of this claim file discloses a claim for damage to a motor vehicle which would be properly allowable in the amount of \$130.90 under the provisions of the Act of July 3, 1943 and AR 25025, provided claims of the Commonwealth Government and subordinate governmental units are to be handled on the same basis as are similar claims of states of the United States and their respective subordinate governmental units.

3. It is apparent that maintenance of proper relations with the Commonwealth Government (and later with the Philippine Republic) will not admit the disallowance of claims for damage to public property in the Philippine Islands on the basis of a policy established unilaterally by the War Department. If such claims are not to be paid by the War Department, it would appear that such action should be taken only because of balancing benefits conferred, or to be conferred, upon the Philippine Government and its subordinate units and then only after an

Rep. & John Phil

SPJCN/17790

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appropriate agreement with that Government.

4. Accordingly, as a basis of determining what further steps should be taken to establish a permanent policy with respect to subject type of claim, and whether the facts would justify approaching the proper Commonwealth authorities with a view to obtaining a mutually satisfactory agreement, it is desired that this office be advised with respect to the following:

a. Whether the repair and reconstruction of public property (including roads) in the Philippines by the Army as an incident to conduct of military operations has resulted (or will result) in benefits conferred upon the Commonwealth Government and its subordinate units substantially equal to or greater than the existing and anticipated amount of claims for damage to or destruction of public property as an incident to non-combat operations of the Army prior to 4 July 1946.

b. Whether an agreement would be equitable contemplating that the Commonwealth Government would until 4 July 1946 permit the use and occupancy of public property by United States armed forces rent free and waive all claims for non-combat damage to public property (assuming all claims of its subordinate governmental units) in return for the Army leaving all temporary repairs and improvements when such premises are vacated and waiving all claims for damage to or destruction of its property as a result of tortious acts of the Commonwealth Government, its subordinate governmental units and their respective agents and employees acting within the scope of their employment. What are the facts and equities for and against such an agreement?

c. Whether a straight knock-for-knock agreement (and mutual waiver of past claims) would result in substantial equity.

5. Your comments and suggestions with respect to this matter are invited.

FOR THE JUDGE ADVOCATE GENERAL:

s/ HARRY E. CLARKE
t/ HARRY E. CLARKE
Colonel, JAGC
Chief of Claims Division

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Opp ltr 2/1145, w/1st Ind
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MEMORANDUM

DATE: 1/10/66

MEMORANDUM FOR THE RECORD

1. The purpose of this memorandum is to advise you of the results of the review of the file of [redacted] in connection with the [redacted] case. The review has revealed that [redacted] was [redacted] on [redacted] and [redacted] on [redacted].

2. It is noted that [redacted] was [redacted] on [redacted] and [redacted] on [redacted]. The review has also revealed that [redacted] was [redacted] on [redacted] and [redacted] on [redacted].

3. The review has also revealed that [redacted] was [redacted] on [redacted] and [redacted] on [redacted]. The review has also revealed that [redacted] was [redacted] on [redacted] and [redacted] on [redacted].

4. The review has also revealed that [redacted] was [redacted] on [redacted] and [redacted] on [redacted]. The review has also revealed that [redacted] was [redacted] on [redacted] and [redacted] on [redacted].

FOR THE RECORD

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DEPARTMENT OF STATE
FOREIGN LIQUIDATION COMMISSION
CENTRAL FIELD COMMISSIONER FOR PACIFIC AND CHINA
City Hall Annex
Manila, P. I.
APO 707

14 June 1946
Date

CERTIFICATE

This is to certify that as of above date the Central Field Commissioner for the Pacific and China has transferred to the Government of the Commonwealth of the Philippines, through the Government Procurement Commission, surplus property of the fair value of \$4,391,595.98, which property is in use by the Manila Railroad Company. The equipment so transferred were supplied by the following services of the United States Army: Engineer, Ordnance, Transportation, Quartermaster, and Signal Corps.

The fair value of the property so transferred was computed, as provided in contract No. W-AMC (PA-I)-1611, i.e., the declared cost of the property plus 25% for transportation charges less depreciation for condition, as provided by the Revised American Appraisal Company Schedule, dated 27 December 1945.

The fair value of the property so transferred to the Government of the Commonwealth of the Philippines will be deducted from the fair value of the property authorized to be transferred under Title II of the Philippine Rehabilitation Act of 1946.

(Sgd.) HENRY P. NEEDHAM
Commodore, U.S.N.
Assistant Central Field Commissioner
for the Pacific and China and
Director of Sales

A TRUE COPY:

/s/ Lawrence R. Pierce, Jr.
/t/ LAWRENCE R. PIERCE, JR.
1st Lt., Infantry
Recorder, Luzon Railway Settlement Board
A F W E S P A C

(EXHIBIT, "W")

COPY

14

CONFIDENTIAL

HEADQUARTERS, ARMY SERVICE FORCES
Office of The Judge Advocate General
Washington 25, D.C.

SPJED/17790-C

2 May 1946

SUBJECT: Claims by the Philippine Commonwealth, Provinces, Municipalities, or Barrios.

THRU : Commander-in-Chief, AFPAG
APO 500, c/o Postmaster
San Francisco, California

TO: Commanding General, AFHSPAG
APO 707, c/o Postmaster
San Francisco, California
ATTENTION: Chief of Claims

1. Inclosed is copy of letter of this office addressed to you under date of 11 August 1945 together with copy of 1st indorsement thereto, relative to subject type of claims. Subsequently this office received your Memorandum No. 3 dated 15 November 1945 (Subject: Claims by the Philippine Commonwealth, Provinces, Municipalities, or Barrios) addressed to All Claims Service Officers. Thereafter your revised Memorandum No. 3 dated 6 February 1946 was also received.

2. This office has ¹not received from your headquarters the claim of Department of Instruction, Philippine Commonwealth Government (FOO-324-4215) which was forwarded with your letter dated 2 March 1946. Examination of this claim file discloses a claim for damage to a motor vehicle which would be properly allowable in the amount of \$110.90 under the provisions of the Act of July 3, 1943 and AR 25025, provided claims of the Commonwealth Government and subordinate governmental units are to be handled on the same basis as are similar claims of states of the United States and their respective subordinate governmental units.

3. It is apparent that maintenance of proper relations with the Commonwealth Government (and later with the Philippine Republic) will not admit the disallowance of claims for damage to public property in the Philippine Islands on the basis of a policy established unilaterally by the War Department. If such claims are not to be paid by the War Department, it would appear that such action should be taken only because of balancing benefits conferred, or to be conferred, upon the Philippine Government and its subordinate units and then only after an

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appropriate agreement with that Government.

4. Accordingly, as a basis of determining what further steps should be taken to establish a permanent policy with respect to subject type of claim, and whether the facts would justify approaching the proper Commonwealth authorities with a view to obtaining a mutually satisfactory agreement, it is desired that this office be advised with respect to the following:

a. Whether the repair and reconstruction of public property (including roads) in the Philippines by the Army as an incident to conduct of military operations has resulted (or will result) in benefits conferred upon the Commonwealth Government and its subordinate units substantially equal to or greater than the existing and anticipated amount of claims for damage to or destruction of public property as an incident to non-combat operations of the Army prior to 4 July 1946.

b. Whether an agreement would be equitable contemplating that the Commonwealth Government would until 4 July 1946 permit the use and occupancy of public property by United States armed forces rent free and waive all claims for non-combat damage to public property (assuming all claims of its subordinate governmental units) in return for the Army leaving all temporary repairs and improvements when such premises are vacated and waiving all claims for damage to or destruction of its property as a result of tortious acts of the Commonwealth Government, its subordinate governmental units and their respective agents and employees acting within the scope of their employment. What are the facts and equities for and against such an agreement?

c. Whether a straight knock-for knock agreement (and mutual waiver of past claims) would result in substantial equity.

5. Your comments and suggestions with respect to this matter are invited.

FOR THE JUDGE ADVOCATE GENERAL:

s/ HARRY E. CLARKE
t/ HARRY E. CLARKE
Colonel, JAGC
Chief of Claims Division

Incl
Cpy ltr 8/1145, w/1st Incl -

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DIVISION CHIEF
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C O P Y

BASIC: Ltr, TJAG, Claims Div., file SFJGD/17790-C, dated 2 May 1946,
Subj: "Claims by the Philippine Commonwealth, Provinces, Muni-
cipalities, or Barrios."

AG 150/8 (2 May 46) JA 1st Ind

GENERAL HEADQUARTERS, UNITED STATES ARMY FORCES, PACIFIC, APO 500, 13
May 1946.

TO: Commanding General, United States Army, Forces, Western Pacific,
APO 707.

s/t/ D. W. D.

1 Incl: n/c

C O P Y

C O P Y

BASIC: Ltr fr CG AFWSBPAC file AG 801 dtd 8 Feb 46, subject: "Final Accounting - Philippine Commonwealth Owned Properties."

AG 801 (8 Feb 46) GB

1st Ind

GENERAL HEADQUARTERS, UNITED STATES ARMY FORCES, PACIFIC, APO 500
27 March 1946

TO: Commanding General, United States Army Forces, Western Pacific, APO 707

1. It is desired that no steps be taken to consummate leases with or reimburse the Commonwealth of the Philippines for Commonwealth property occupied by the United States Army.
2. It is desired that a record be established of the estimated value of each property at the time of occupancy and a further record be established of the estimated value of the property upon release. The estimated value of improvements to each property occupied by the United States Army will be clearly set forth and will be applied against any claim made by the Philippine Commonwealth Government for compensation for the use of such properties. Any such claims received will be forwarded to General Headquarters, United States Army Forces, Pacific.

BY COMMAND OF GENERAL MacARTHUR:

1 Incl: n/c

HENRY A. WHISS
Capt, AGD-Assst. Adj Gen

MEMO FOR RECORD:

1. It is believed that a statement of conditions of all property is made by the Real Estate people AFWSBPAC upon occupancy and release of real properties. This record is available at any time to determine the value of rentals which may be due the Philippine Commonwealth, the value of improvements remaining, and will also serve as a record against claims for damages to the property by the occupying elements.
2. G-4 complete.

C O P Y

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COPY

HEADQUARTERS
UNITED STATES ARMY FORCES WESTERN PACIFIC
OFFICE OF THE COMMANDING GENERAL

AFO 707
8 Feb 1946

SUBJECT: Final Accounting-Philippine Commonwealth
Owned Properties.

TO: Commander-in-Chief, United States Army Forces, Pacific,
AFO 500

1. Reference is made to letter this headquarters subject: "Lease of Property Owned by Philippine Commonwealth," dated 14 July 1945, and 1st indorsement thereto dated 27 July 1945, copies of which are inclosed.

2. Pursuant to instructions contained in the above-mentioned correspondence, the right to occupy Commonwealth property has been obtained under Emergency Agreement without stipulation as to rental payments. A record of improvements made by the United States Government on each parcel of Commonwealth owned property has been maintained. However, this record has not been consolidated.

3. Occupancy of Commonwealth property is being rapidly relinquished at present. In order to estimate future personnel requirements information is requested as to the probable date on which the United States Government will reimburse the Commonwealth for the occupancy of its property.

FOR THE COMMANDING GENERAL:

Incl:
As stated in
Par. 1

JOHN A. MAKSALL
1st Lt. Inf.
Asst Adjutant General

COPY

Capt Huff

HEADQUARTERS
CLAIMS SERVICE, AFWESPAC
OFFICE OF THE CHIEF OF CLAIMS

13

MEMORANDUM NO. 3

AFO 707
6 February 1946

SUBJECT: Claims by the Philippine Commonwealth, Provinces,
Municipalities, or Barrios.

TO : All Claims Service Officers.

1. Memorandum No. 3, Claims Service, AFWESPAC, 15 November 1945 is rescinded.
2. Claims filed by the Commonwealth of the Philippine Islands will be investigated to the extent that it is determined only the Commonwealth is involved. All such claims together with reports of investigation will be forwarded direct to the Chief of Claims. Payment of such claims is not authorized at this time.
3. Claims filed by corporations substantially or wholly owned by the Commonwealth will be investigated as in other cases, but reports of investigation will be forwarded direct to the Chief of Claims.
4. Claims filed by provinces, municipalities, or barrios based upon the wrongful taking, damage or destruction of property, or the injury or death of persons are not payable under the provisions of the Foreign Claims Act and AR 25-96. However, unless such claims are withdrawn by claimant, they will be fully investigated, and the reports of investigation will be forwarded direct to the Chief of Claims.
5. Prerequisite claims filed by provinces, municipalities, or barrios for goods or services furnished or commandeered will be investigated and forwarded to Claims Commissions for consideration, and award in appropriate cases.

[Handwritten signature]
 J. A. KYATT
 Colonel, JAGD
 Chief of Claims

DISTRIBUTION:
A, B, D

HEADQUARTERS
CLAIMS SERVICE, AFWESPAC
OFFICE OF THE CHIEF OF CLAIMS

CG-5-X-2797

AFO 707
24 January 1946

Mr. Jose S. Reyes
Secretary to the President
Malacanan Palace
Manila

Dear Sir:

Your letter of November 25, 1945 addressed to the Assistant Chief of Staff, G-5, AFWESPAC with reference to claim of the Bureau of Forestry, Department of Agriculture and Commerce for quinine bark furnished from the Cinchona Plantation at Kautuan, Malaybalay, Bukidnon to USAFIP (Guerrilla), between November 8, 1942 and October 5, 1945, has been referred to this Service for action.

This claim has been presented to the senior United States Army Contract Claims Commission in this theater and has been carefully studied by it. The Commission has denied an award on the ground that:

"No legal basis exists for the allowance by this Commission of any claim filed by the Commonwealth of the Philippines for the value of goods or supplies furnished its own forces or citizens. The facts do not constitute a controverted claim, but present a fiscal problem requiring an adjustment of finance between various Commonwealth departments. The adjustment of such fiscal matter is not within the jurisdiction of this Commission."

Accordingly, the file and all related papers are returned herewith.

Sincerely yours,

1 Incl: File

J. A. MYATT
Colonel, JAGD
Chief of Claims

C O P Y

10

1

Claim of Department of Agriculture
of Commonwealth (Chinchona Plantation).

Chief of Claims TO: Chief of Staff 13 December 1945

1. Attention is invited to attached claim of the Department of Agriculture (Chinchona Plantation), Commonwealth of the Philippines, in which payment is sought from funds provided by the United States, for Chinchona bark furnished guerrilla forces in Mindanao from November 8, 1942 to October 5, 1945. Any payment authorized by this Service would have to be made by the Commonwealth from the appropriation "Expenses, Army of the Philippines."

2. A number of claims have recently been filed by government bureaus of the Commonwealth and by barrios, municipalities, and provinces seeking payment for supplies or services furnished by them to United States Army or guerrilla forces. These claims are being investigated but none have as yet been paid.

3. It is recommended that a policy be adopted denying payments to the Commonwealth or its bureaus or political subdivisions (barrios, municipalities, provinces) on claims for goods or services furnished the United States Army, Philippine Army, or guerrillas, as it is believed that such matters can properly be disposed of under the general rehabilitation program affecting the Commonwealth.

4. Request that Claims Service be furnished appropriate directives as to paying mentioned claims.

1 Incl: File - Chinchona
Plantation claim.

J. A. MYATT,
Colonel, JAGD,
Chief of Claims.

MEMORANDUM FOR FILE:

1. On 13th of December 1945, Colonel J. A. Hyatt discussed the type, claim, and the matter of paying claims of the Commonwealth and its political subdivisions thereof with the Chief of Staff, AFWSFPAU (Gen. Wood).

2. The summary of Gen. Wood's instruction was that Claims Commission of this Service have the discretion to allow or disallow claims; that he concurred in adopting a policy that where the claim arose out of supplies or service furnished by the Commonwealth, that the same should be treated as a contribution of the Commonwealth, to the war probably be taken into consideration in the assistance which the United States was rendering to the Commonwealth free of charge.

3. Gen. Wood stated that there was no objection to the Commission adopting that said claims should not be paid and denying payment on the same, and that if there should be any protest on the part of the Commonwealth it would be considered at future date and if necessary forwarded to the War Department for recommendation.

4. In view of the foregoing, this Service will adopt the following policies as to claims of Commonwealth and its subdivisions:

- a. Claims asserted by the Commonwealth or its governmental bureaus will not be allowed.
- b. Claims by provinces, municipalities, and barrios will be allowed if otherwise in proper condition for payment.

c. Claims of private corporations stocks of which is owned by the Commonwealth, will be treated as the facts in individual man and all such cases will be referred to the Chief of Claims prior to payment.

d. Investigation in all cases involving the Commonwealth should be made to the extent that the facts are sufficiently established to indicate that it is clearly a Commonwealth matter and should for that reason be denied.

s/ J. A. Hyatt

C O P Y

HEADQUARTERS
CLAIMS SERVICE, AFWESPAC
OFFICE OF THE CHIEF OF CLAIMS

AFO 707
15 November 1945

MEMORANDUM NO. 3.

SUBJECT: Claims by the Philippine Commonwealth, provinces or Municipalities.

TO : All Claims Service Officers.

1. Claims filed by the Commonwealth, Provinces or Municipalities of the Philippine Islands will be indexed, numbered and investigated as now prescribed for claims of similar type.
2. Upon completion of an investigation the claim together with recommendations will be forwarded to this headquarters.
3. This Service is not authorized to approve payment of such claims at this time.

s/t/ J. A. MYATT,
Colonel, OSC
Chief of Claims

C O P Y

4

C O P Y

HEADQUARTERS
UNITED STATES ARMY FORCES, WESTERN PACIFIC
OFFICE OF THE CHIEF ENGINEER

GSCER 601

AFO 707
16 October 1946

SUBJECT: Lease of Commonwealth Owned Property (R. E. Letter No. 13)

TO : Chief, Manila Real Estate Branch, AFO 75
Chief, Real Estate Branch M, AFO 70
Chief, Real Estate Branch R, AFO 73
Chief, Real Estate Branch K, AFO 72
Chief, Real Estate Branch S, AFO 718
Chief, Real Estate Branch Eighth Army, AFO 717

1. Reference is made to previous instructions from this office to the effect that leases will not be obtained on property belonging to the Commonwealth Government, and that in lieu thereof an Emergency Agreement, with no stipulated rental, will be entered into. It has been determined by higher authority that this arrangement is applicable only to property owned by the Commonwealth Government and not to that owned by Provinces, Municipalities or other political sub-divisions. Properties owned by political sub-divisions will be leased in the same manner as privately owned property at the appraised rental value.

2. At the present time, it has not been definitely determined just how compensation for use of Commonwealth owned properties will be made to the Commonwealth Government. However, in order that the total amount of rental due the Commonwealth Government may be computed, it is desired that all Commonwealth owned properties on which Emergency Agreements have been drawn, be appraised to determine the fair rental value and that a report thereof, together with copy of the Emergency Agreement and condition survey, be submitted to this office.

FOR THE CHIEF ENGINEER:

/s/t/ Wm. Z. BOWIE
Lt. Col. CE
Chief, Real Estate Division

DISTRIBUTION:

5 - 8th Army Branch
10 - Branch "K", "M", "R", & "S"
20 - Manila RE Branch
1 - EA Officer RE Div., AFWESPAC
1 - Policy File
1 - Chief, Control Div. OCE

C O P Y

7

BASIC: Ltr, fr HQ, CG, AFWESPAC, file GSCMR 601, dtd 29 Sept 45,
subj: "Commonwealth Owned Properties Occupied by U.S. Army".

AG 601 (29 Sep 45) GD 1st Ind. C-RE-LGY/ACS/nmc
GENERAL HEADQUARTERS, UNITED STATES ARMY FORCES, PACIFIC, APO 500
1 October 1945

TO: Commanding General, United States Army Forces, Western Pacific,
APO 707

The procurement and disposition of all real estate for U.S. Army use in the Philippines is now a responsibility of your command in accordance with paragraph 1 of letter this headquarters, file AG 601.0 (24 Sep 45) GD dated 24 September 1945, subject: "Real Estate Policy in the Philippines." Accordingly, the final arrangements with the Philippine Commonwealth Government for use of Commonwealth properties is a matter pertaining to your command.

BY COMMAND OF GENERAL MACARTHUR:

C. Z. SHUGART
Colonel, AGD
Asst. Adj. General

1 Incl - n/c

Memorandum for Record: 1st Ind. this headquarters, file AG 601 (14 July 45) GPD dtd 28 July 45 to basic communication from CG, AFWESPAC, file GSCMR 601, subject: lease of Property owned by Philippine Government," requested that WESPAC furnish this headquarters with a list of all Commonwealth properties occupied by the U.S. Army in order to facilitate review to determine appropriate terms of the final contract which will be acceptable to the Commonwealth. Since GPE functions have been transferred to AFWESPAC, this matter is now entirely within the responsibility of AFWESPAC.

LGY/ACS

COPY

COPY

HEADQUARTERS
UNITED STATES ARMY FORCES, WESTERN PACIFIC
OFFICE OF THE COMMANDING GENERAL

APO 707
29 September 1945

GSCER 601

SUBJECT: Commonwealth Owned Properties Occupied by U.S. Army
TO: Commander-in-Chief, United States Army Forces, Pacific,
APO 500

Forwarded for your information as requested is list of subject
properties in the Esse "M" area.

FOR THE COMMANDING GENERAL:

Incl: Report dtd 12 Sep 45
Not recorded.
G-4 (Info) 29 Sept
C.A.R.

H. E. WEYDT
Capt., AGD
Asst. Adj. Gen.

COPY

INCL #3

GENERAL HEADQUARTERS
UNITED STATES ARMY FORCES, PACIFIC

AFO 500
24 September 1945

AG601 (24 Sep 45)GD

SUBJECT: Real Estate Policy in the Philippines.

TO : Commanding General, Far East Air Forces, APO 925
Commanding General, United States Army Forces,
Western Pacific, APO 707
Commanding General, Southwest Pacific Wing, Pacific Division,
Air Transport Command, APO 359
Commanding Officer, Seventh Army Airways Communications System Wing,
APO 75.

1. The commanding General, United States Army Forces, Western Pacific, is responsible for the acquisition, disposition, and maintenance of records of all real estate in the Philippine Islands required for use by the United States Army except in areas allocated to the United States Navy as bases. The Commanding General, United States Army Forces, Western Pacific, is hereby authorized to prepare and publish such regulations, procedures, forms and schedules in general accordance with present practice and the policies set forth herein, as may be necessary to implement the acquisition, payment for, and disposition of real estate.

2. The following considerations will govern the use of real estate:

a. Civilian and Commonwealth structures will be requested only as a temporary expedient until other facilities can be provided. Existing construction will be requested in the following priority:

- (1) Vacant Buildings.
- (2) Public Buildings.
- (3) Hotels, warehouses, and commercial establishments.
- (4) Educational institutions and hospitals.
- (5) Private homes.

b. Private cultivated premises, elementary schools and churches or other places of worship will be requested only in case of established necessity.

c. Structures will normally be used for the purpose for which originally constructed, that is, hospitals for hospitalization, warehouses for storage, etc. Alterations will be kept to a minimum and will be consonant with projected occupancy by United States Army.

COPY

BASIC: Ltr, GHQ, AFPAC to FMAF, AFWESPAC, SWP PD ATC, AACCS, file AG 601.
(24 Sept 45) GD dtd 24 Sep 45, subject: "Real Estate Policy in the
Philippines."

d. The guiding principle in the use of any building, area or other real property acquired by the United States Army, will be to return the maximum amount thereof to the owner at the earliest practicable date.

e. No property will be acquired for Army use when by so doing it will cause hardship to local population. Particular attention will be given to prompt and equitable compensation for occupancy and for damage or loss resulting therefrom.

f. Careful consideration will be given to the rehabilitation of agriculture and industry cultivated land will not be taken out of production when suitable adjacent uncultivated land is available.

g. Real estate will not be used until an Emergency Agreement, Bill of Sale, or lease has been consummated. In the event will property be used over the protest of the owner. When necessary, condemnation proceedings will be by due process of law on the part of the Philippine Commonwealth.

3. Areas allocated to this headquarters and to major subordinate commands will be controlled by the headquarters or command to which allocated. Such commands will make request for acquisition of specific properties and notice of release thereof, direct to the Commanding General, United States Army Forces, Western Pacific. At no time will property under lease to the United States Army be left without protection. Leases will be terminated as soon as real estate becomes vacant. Upon completion evacuation of an area or specific property by the command to which allocated the control of such area or property will revert to the Commanding General, United States Army Forces, Western Pacific. All presently unallocated areas will be considered to be under the control of Commanding General, United States Army Forces, Western Pacific.

4. This headquarters will continue to make allocations to the United States Navy and to the Philippine Army, in the greater Manila area. Real estate acquisition, protection and disposition will be performed by the Navy in areas allocated to the Navy. The Commanding General, United States Army Forces, Western Pacific, will acquire and dispose of real estate required by the Navy in Army Bases; similarly the Navy will handle real estate in Navy Bases that may be required by the Army.

5. This headquarters will coordinate and resolve any conflicting interests between major subordinate commands which cannot be settled by mutual agreement. Routine negotiations with the Commonwealth Government will be conducted by the Commanding General, United States Army Forces, Western Pacific. Negotiations on matters of policy will be conducted by this headquarters.

6. a. The following letters are rescinded:

- (1) Letter, General Headquarters, Southwest Pacific Area, file AG 323.31 (26 Feb 45)D, dated 26 February 1945, subject: "Building and Area Assignments in Manila."
- (2) Letter, General Headquarters, Southwest Pacific Area, file AG 323.31 (11 Mar 45)D, dated 11 March 1945, Subject:

COPY

BASIC: Ltr, GHQ, AFPAC to FEAF, AFWESPAC, SWP ED ATC, AACCS, file AG 601.
(24 Sept 45) AG 24 Sep 1945, subject: "Real Estate Policy in the
Philippines."

"Allocation, Acquisition and Assignment of Real Estate."

(3) Letter, General Headquarters, Southwest Pacific Area, file
AG 600 (22 May 45) D, dated 22 May 1945, subject: "Allocation of Areas in
Luzon Area."

b. Pending the publication of appropriate regulations by the
Commanding General, United States Army Forces, Western Pacific, applicable
provisions of United States Army Forces in the Far East Regulations 45-6,
dated 8 May 1945, remain in full force and effect.

By command of General MacARTHUR:

B. M. FITCH
Brigadier General, U.S. Army
Adjutant General

cc: Comdr Philippine Sea Frontiers

COPY

COPY

AFD 500
18 January 1946

AG (601) (18 Jan 46) GD

SUBJECT: REAL ESTATE POLICY IN THE PHILIPPINES

TO : Commanding General, Pacific Air Command, United States Army, APO 925
Commanding General, United States Army Forces, Western Pacific, APO 707.
Commanding General, Southwest Pacific Wing, Pacific Division, Air Transport Command, APO 359
Commanding Officer, 7th Army Airways Communications System Wing, APO 75
Chief of Staff, Philippine Army

1. Reference is made to letter this headquarters file AG 601 (24 September 1945) GD, same subject as above dated 24 September 1945.

2. Reference letter is amended by substituting the following for the fourth paragraph thereof:

"4. Requests for allocations for the U.S. Navy and the Philippine Army will be made directly to the Commanding General, United States Army Forces, Western Pacific. Direct communication between these commands is authorized. Real estate acquisition, protection, and disposition will be performed by the Navy in areas allocated to the Navy. The Commanding General, United States Army Forces, Western Pacific will acquire and dispose of real estate required by the Navy in Army Bases; similarly the Navy will handle the real estate in Navy Bases that may be required by the Army."

For the Commander-in-Chief:

BILLY B. GOLDBERG
Major, A.G.D.
Asst. A. G.

COPY

BASIC: Ltr, Hqs, AFWESPAC, O /CG, filed SSCER 601, subj: "Lease of Property Owned by Political Sub-Division of Commonwealth Government", to CINC, AFPAC, dtd 31 Aug. 45.

AG 601 (31 Aug 45) DCS 1st Ind.
GENERAL HEADQUARTERS, UNITED STATES ARMY FORCES, PACIFIC, APO 500,
16 September 1945.

TO: Commanding General, United States Army Forces, Western
Pacific, APO 707

It was intended that this arrangement should apply only to property of the Commonwealth Government, not to that of provinces, municipalities or other political sub-divisions.

By command of General MacARTHUR:

s/t/ HAROLD FAIR,
Lt. Col., AGD
Asst. Adjutant General

1 Incl: n/c

COPY

DECLASSIFIED
Authority: NND663075

Inclow #2

4

HEADQUARTERS
UNITED STATES ARMY FORCES, WESTERN PACIFIC
OFFICE OF THE COMMANDING GENERAL

APO 707
31 Aug 1945

DECLASSIFIED
Authority: AWD033076

GSCER 601

SUBJECT: Lease of Property Owned by Political Sub-Division of
Commonwealth Government.

TO : Commander-in-Chief, United States Army Forces, Pacific,
APO 500.

1. Reference is made to 1st indorsement from your headquarters dated 27 July 45, file No. AG 601 (14 Jul 45) GEB, to basic communication from this Headquarters dated 14 July 45, file No. GSCER 601, subject: "Lease of Property Owned by Commonwealth Government". Copy of this correspondence is inclosed for ready reference.

2. It will be noted that in this 1st indorsement it is stated that the right to occupy Commonwealth property will be obtained under Emergency Agreement without stipulation as to rental payments. The question arises whether or not this arrangement is also applicable to properties owned by political sub-divisions of the Commonwealth viz. Provincial, Municipal and School District properties.

3. A clarification of this situation is requested.

FOR THE COMMANDING GENERAL:

s/t/CHARLES C. CLARK
Major, AGD
Asst. Adjutant General

Incl: Copy of ltr from this Hqs
dtd 14 Jul 45 w/1 ind.

COPY

Enclosure # 1

BASIC: Ltr OTJAG, Wash. 25, D.C., dtd 11 Aug 45, file SPJGD/D-17190.
subject: Amendment of Foreign Claims Act.

GACL/150

1st Ind

HEADQUARTERS UNITED STATES ARMY FORCES WESTERN PACIFIC, APO 707, 6 September 1945

THRU: Commander-in-Chief, United States Army Forces, Pacific, APO 500.

TO : The Judge Advocate General, Washington 25, D.C.

1. All public buildings or other public property belonging to the Philippine Commonwealth have been acquired and used by the Army since the landing on Leyte in October 1944, pursuant to emergency procurement and without the execution of formal leases. Only necessary temporary repairs have been made to such buildings as were damaged by combat action, and practically all such temporary repairs and improvements ultimately will have to be removed in order to make essential permanent repairs. To date no rental has been paid by the Army for the use of such property and no agreement has been entered into relative to the adjustment of rents, damages and value of improvements made, but in all probability the value of the improvements will be more than offset by the value of the use of said properties.

2. No claims involving damage to public property by non-combat activity have been filed with Claims Service, AFWESPAC, and there is no present indication that any such claims will be filed with said Service or with other Army agencies. Although there would appear to be no objection to the adoption of a policy authorizing the payment of claims for damage to public property in the Philippines arising out of non-combat activities of the Army, it is believed that such claims as may arise will be incident to the present occupancy and use of public buildings by the Army and will be settled by the procurement agencies concerned upon the execution of formal leases or other formal agreements.

FOR THE COMMANDING GENERAL:

DECLASSIFIED
Authority AND 883078

/s/ G. E. Reed
G. E. REED
1st Lt AGD
Asst Adjutant General

Incl: w/d

AG 150 (11 Aug 45)JA

2d Ind

SFC/hlh

GENERAL HEADQUARTERS, UNITED STATES ARMY FORCES, PACIFIC, APO 500, 8 September 1945.

TO: The Judge Advocate General, Washington 25, D.C.

14-00000
SUBJECT: THE JUDGE ADVOCATE GENERAL'S OFFICE, WASHINGTON 25, D.C., 4th 11 Aug 45, File 27000-11700

HEADQUARTERS UNITED STATES ARMY FORCES WESTERN PACIFIC, APO FOU, 6 September 1945

THRU: Commander-in-Chief, United States Army Forces, Pacific, APO SPO.

TO : The Judge Advocate
DECLASSIFIED
Authority: ~~14-00000~~

1. All public buildings or other property belonging to the Philippine Commonwealth have been acquired and used by the Army since the landing on Leyte in October 1944, pursuant to emergency procurement and without the execution of formal leases. Only necessary temporary repairs have been made to such buildings as were damaged by combat action, and practically all such temporary repairs and improvements immediately will have to be removed in order to make essential permanent repairs. To date no rental has been paid by the Army for the use of such property and no agreement has been entered into relative to the adjustment of rents, damages and value of improvements made, but in all probability the value of the improvements will be more than offset by the value of the use of said properties.

2. No claims involving damage to public property by non-combat activity have been filed with Claims Service, WASHINGTON, and there is no present indication that any claims will be filed with said Service or with other Army agencies. Although there would appear to be no objection to the adoption of a policy authorizing the payment of claims for damage to public property in the Philippines arising out of non-combat activities of the Army, it is believed that such claims as may arise will be incident to the present occupancy and use of public buildings by the Army and will be settled by the procurement agencies concerned upon the execution of formal leases or other formal agreements.

FOR THE COMMANDING GENERAL:

1st Lt AGD
G. E. HESS
1st Lt AGD

Incl: w/4



2PC/vjh

14-00000
FOR THE JUDGE ADVOCATE GENERAL, WASHINGTON 25, D.C.
HEADQUARTERS UNITED STATES ARMY FORCES WESTERN PACIFIC, APO FOU, 6 September 1945

BASIC: I-107 MAG, Wash. 25, D.C., 264 11 Aug 45, File 57323A-117
Subject: Department of Foreign Claims Act.

HEADQUARTERS UNITED STATES ARMY FORCES WESTERN PACIFIC, APO 707, 6 September 1945
Case No. 130

THRU: Commanders-in-Chief, United States Army Forces, Pacific, APO 500.

TO : The Judge Advocate
Authority **ND 6330B**

1. All public buildings or other property belonging to the Philippine Commonwealth have been acquired and used by the Army since the landing on Leyte in October 1944, pursuant to emergency procurement and without the execution of formal leases. Only necessary temporary repairs have been made to such buildings as were damaged by combat action, and practically all such temporary repairs and improvements immediately will have to be removed in order to make essential permanent repairs. To date no rental has been paid by the Army for the use of such property and no agreement has been entered into relative to the adjustment of rental, damages and value of improvements made, but in all probability the value of the improvements will be more than offset by the value of the use of said properties.

2. No claims involving damage to public property by non-combat activity have been filed with Claims Service, WASHINGTON, and there is no present indication that any such claims will be filed with said Service or with other Army agencies. Although there would appear to be no objection to the adoption of a policy authorizing the payment of claims for damage to public property in the Philippines arising out of non-combat activities of the Army, it is believed that such claims as may arise will be incident to the present occupancy and use of public buildings by the Army and will be settled by the procurement agencies concerned upon the execution of formal leases or other formal agreements.

FOR THE COMMANDING GENERAL:

1st Lt AGO
G. E. REED
1st Lt AGO
1st Lt AGO

Enc: 1



ENC 1/11

For the Judge Advocate General, Washington 25, D.C.
GENERAL HEADQUARTERS, UNITED STATES ARMY FORCES, WESTERN PACIFIC
APO 500 (11 Sep 45)

COPY

HEADQUARTERS, ARMY SERVICE FORCES
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON 25, DC

SPJGD/D-17790

11 Aug 45

SUBJECT: Amendment of Foreign Claims Act

TO: Commanding General, AFWESPAC
APO 707, c/o Postmaster
San Francisco, California
ATTENTION: Chief of Claims

1. By radio (6 August 1945) this office advised you that the amendment to the Foreign Claims Act (act of January 2, 1942, as amended by the act of April 22, 1943), making that act applicable to claims arising in the Philippines of inhabitants of the Philippines and permitting presentation of such claims within one year after the establishment of peace, had been approved by the President on 31 July 1945 as Public Law 170, 79th Congress. The radio also advised that effective 31 July 1945 and pending revision, AR 25-90 (3 July 1945) was made applicable to such claims.

2. A copy of Public Law 170, 79th Congress, is inclosed.

3. It will be noted that Public Law 170 does not cover damage to or loss or destruction of public property. Accordingly, such claims arising in the Philippines will be paid administratively, if at all, only under the act of July 3, 1943 and AR 25-25. Claims of states, counties, municipalities and other governmental bodies in the United States are so paid. No reason of policy for not so paying claims for public property damage in the Philippines is immediately apparent to this office. However, before a decision is reached, it is requested that this office have your views as to the factors bearing on this policy question together with your recommendations. One factor which it is particularly desired to consider is the question of whether the extent of repairs and improvements of public property (previously damaged by combat) by the Army ~~is~~ ^{is} incident to military needs would justify the position of not paying the relatively small claims for non-combat damage to public property. In other words, would an automatic result (analogous to reciprocal aid) be justified by the physical, military and political situation?

FOR THE JUDGE ADVOCATE GENERAL:

(Signed)
RALPH G. BOYD
Colonel, JAGD
Chief of Claims Division

COPY

2

HEADQUARTERS, ARMY SERVICE FORCES
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON 25, DC

11 Aug 45

EX-100-17790

DECLASSIFIED
Authority AND 88307B

SUBJECT: Amendment of Foreign Claims Act

TO: Commanding General, WMEBPC
APO 707, c/o Postmaster
San Francisco, California
ATTENTION: Chief of Claims

1. By radio (6 August 1945) this office advised you that the amendment to the Foreign Claims Act (act of January 2, 1945) as amended by the act of April 22, 1945), making that act applicable to claims existing in the Philippines or insularities of the Philippines and pending presentation of such claims within one year after the establishment of peace, had been approved by the President on 21 July 1945 as Public Law 170, 79th Congress. The radio also advised that effective 31 July 1945 and pending revision, AR 23-90 (3 July 1945) was made applicable to such claims.

2. A copy of Public Law 170, 79th Congress, is inclosed.

3. It will be noted that Public Law 170 does not cover damage to or loss or destruction of public property. Accordingly, such claims existing in the Philippines will be paid administratively if at all, only under the act of July 2, 1945 and AR 23-90. Claims of states, countries, municipalities and other governmental bodies in the United States are so paid. In reason of delay for not so paying claims for public property damage in the Philippines is immediately apparent to this office. However, before this office have your report that you are desiring to question the position of whether the extent of repairs and replacement of damaged property (especially military needs) would be paid by the Government. It is requested that you advise this office of the position of whether the non-combat damage to public property in the Philippines would be paid by the physical, military and political authorities.



FOR THE JUDGE ADVOCATE GENERAL:

(Signed)
WALTER G. BOYD
Colonel, JAGC
Chief of Claims Division

BASIC: Ltr, CG, AFWESPAC, file GSCEN 601, subject: "Lease of Property Owned by Philippine Commonwealth", dated 14 July 1945.

AG 601 (14 July 45) OPB

1st Ind.

GENERAL HEADQUARTERS, UNITED STATES ARMY FORCES, PACIFIC, APO 500
27 July 1945.

TO: Commanding General, United States Army Forces, Western Pacific,
APO 707

1. The right to occupy Commonwealth property will be obtained under Emergency Agreement without stipulation as to rental payments.

2. In order to facilitate review by this Headquarters to determine appropriate terms of the final contract which will be acceptable to the Commonwealth, it is desired that a report be submitted listing Commonwealth structures occupied by the United States Forces, with statement as to usage, alternative accommodations furnished, and rehabilitation work. Unimproved lands, parks, etc., will be separately listed.

BY COMMAND OF GENERAL MacARTHUR:

DECLASSIFIED
Authority NND 883078

E. BOGASHI
Maj. AGD
Asst. Adj. Gen.

cc: Col Kramer
C-4



*original in
Samuel*

BASIG: Ltr, CG, AFWESPAC, file GSCER 601, subject: "Lease of Property Owned by Philippine Commonwealth", dated 14 July 1945.

AG 601 (14 July 45) OPB 1st Ind.

GENERAL HEADQUARTERS, UNITED STATES ARMY FORCES, PACIFIC, APO 500
27 July 1945.

TO: Commanding General, United States Army Forces, Western Pacific,
APO 707

1. The right to occupy Commonwealth property will be obtained under Emergency Agreement without stipulation as to rental payments.
2. In order to facilitate review by this Headquarters to determine appropriate terms of the final contract which will be acceptable to the Commonwealth, it is desired that a report be submitted listing Commonwealth structures occupied by the United States Forces, with statement as to usage, alternative accommodations furnished, and rehabilitation work. Unimproved lands, parks, etc., will be separately listed.

BY COMMAND OF GENERAL MACARTHUR:

DECLASSIFIED
Authority NND 883076

E. BOGASKI
Maj. AGD
Asst. Adj. Gen.

cc: Col Kramer
0-4



*Original in
Samefile*

REPORT: ITC, CO. AMWESPAC, ETC. UNDER GOV. SUBJECT: Lease of Property Owned by Philippine Commonwealth, dated 11 July 1947.

AS GOV. (IN JULY 1947) THE

GENERAL INVESTIGATIONS, UNITED STATES AND FOREIGN, PACIFIC, AND SOO
BY JULY 1947.

TO: Commanding General, United States Army Forces, Western Pacific, AFOP

1. The right to occupy Commonwealth property will be obtained under emergency agreement without application as to rental payments.

2. In order to facilitate review by this Headquarters to determine appropriate terms of the final contract which will be acceptable to the Commonwealth, it is desired that a report be submitted listing Commonwealth structures occupied by the United States Forces, with statement as to usage, alternative accommodations furnished, and rehabilitation work. Unimproved lands, parks, etc., will be separately listed.

BY COMMAND OF GENERAL INVESTIGATIONS

E. BOGARD
Maj. Gen.
Asst. Dir. Gen.

Col. K...
0-1

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Authority NND 883078



Handwritten signature

COPY

HEADQUARTERS
UNITED STATES ARMY FORCES, WESTERN PACIFIC
OFFICE OF THE COMMANDING GENERAL

DECLASSIFIED

Authority NND 88308

AFPO 707
14 July 1945

OSGER 601

SUBJECT: Lease of Property Owned by Philippine Commonwealth

TO: Commander-in-Chief, United States Army Forces, Pacific, AFPO 500
ATTN: General Purchasing Agent.

Confirmation is requested of verbal instructions to this Headquarters that leases will not be obtained on property belonging to the Philippine Commonwealth; and that in lieu thereof Emergency Agreements, with no stipulated rental, will be entered into.

FOR THE COMMANDING GENERAL:

CHARLES C. GLANK
Capt. A. G. D.
Asst. Adjutant General



*Original of this letter
is filed in xam file*

COPY

HEADQUARTERS
UNITED STATES ARMY FORCES, WESTERN PACIFIC
OFFICE OF THE COMMANDING GENERAL

DECLASSIFIED

Authority NND88308

AFPO 707
14 July 1945

GSCER 601

SUBJECT: Lease of Property Owned by Philippine Commonwealth

TO: Commander-in-Chief, United States Army Forces, Pacific, APO 500
ATTN: General Purchasing Agent.

Confirmation is requested of verbal instructions to this Headquarters that leases will not be obtained on property belonging to the Philippine Commonwealth; and that in lieu thereof Emergency Agreements, with no stipulated rental, will be entered into.

FOR THE COMMANDING GENERAL:

CHARLES C. CLARK
Capt. A. C. D.
Asst. Adjutant General



*Original of this letter
is filed in same file*

Incl #2

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HEADQUARTERS
UNITED STATES ARMY FORCES, WESTERN PACIFIC
OFFICE OF THE COMMANDING GENERAL

NO 101
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DECLASSIFIED
Authority NND 883078

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SUBJECT: Lease of Property Owned by Philippine Commonwealth
Commander-in-Chief, United States Army Forces, Pacific, APO 700
ATTN: General Procuring Agent.

Confirmation is requested of verbal instructions to this head-
quarters that leases will not be obtained on property belonging to
the Philippine Commonwealth; and that in lieu thereof Embassy
Agreements, with no stipulated terms, will be entered into.

FOR THE COMMANDING GENERAL:

CHARLES C. CLARK
Capt. A. G. H.
Asst. Adjutant General



*Original of this letter
is in file*

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PHILIPPINE GOVERNMENT CLAIMS

CL-57

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