

ENGINEER CONSTRUCTION (CEBU) 7

DECLASSIFIED
Authority NND 883078

ENGINEERS of CEBU
IN

BUILDING CONSTRUCTION

DEFENSE "

AIRFIELD "

CORPS OF ENGINEERS

CONSTRUCTION PROJECTS of

82nd + 83rd INFANTRY

Claims of Engineers, Cebu, P.I.

(1) FROM: OIG, Civ Sec TO: Director, Rec Pers Div DATE: 25 Apr 46

1. We have approximately 1250 claims from persons on Cebu, P.I., claiming to have worked for the War Department between 8 December 1941 and 10 April 1942 on various engineering projects including Defense Construction, Building Construction, Airfield Construction and Corps of Engineers and construction projects of 82d and 83d Infantry.

2. a. Joaquin L. Panis, at present Under-Secretary of Public Works and Communication, Manila, and formerly District Engineer on Cebu, states that a total of 27 USAFFE projects (Exhibits A and B) were undertaken by the District Engineers between 15 December 1941 and 10 April 1942.

b. Mr. Panis makes the following statement: "All the laborers therefore working in different Army projects were paid in Army payrolls by Capt. Villacastin, Finance Officer, USAFFE, except some of my higher salaried assistant engineers who preferred to collect their salaries from the Government. On or about the beginning of February 1942, at the height of our construction activities wherein we were employing about 6000 laborers in all Army projects, a schedule of daily wages and salaries was prepared by Quartermaster Colonel J. D. Cook and approved by the Commanding General relative to wages and salaries of the men employed under me. The schedule so far as I can remember provided for common laborers at $\text{P}1.20$ per day of eight hours with double pay for overtime and a maximum of $\text{P}8.00$ for an assistant engineer in charge of a major project and $\text{P}6.00$ for an assistant engineer in charge of smaller projects. With this classification, many of my assistant engineers whose salaries in the government ranged between $\text{P}2.40$ per day to $\text{P}125.00$ a month preferred to be paid under Army payrolls. Some of them, however, continued to received their salaries from the Government as a sort of a bonus in view of the heavy assignments given to them, sometimes involving twenty-four hour service without extra for overtime. The paymasters were continuously in the field, paying out payrolls made weekly in many cases, and forth nightly in other cases where the work was quite distant from the Capital."

c. Mr. P.M. Lanas, a resident of Cebu, and engineer in charge of defense projects with the 82nd Division states in his affidavit (Exhibit C): "I had about 1000 men working for me. Laborers, foremen and capatas were hired under the

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Cabo system and money for their payment came from USAFFE funds. It is possible that project engineers who were working for the District Engineer prior to the outbreak of the war received pay from the Commonwealth Government Offices while engaged in working for USAFFE. USAFFE funds may have been turned over to the Commonwealth Government in payment for the services of these engineers. I do know that the payrolls for these engineers were made up by Commonwealth Government clerks whereas my payroll was made up at USAFFE headquarters."

d. Benigno G. Karaos, Engineer, in his statement (Exhibit D), states: "I was engineer in charge on construction of barricades and air raid shelters in Cebu City and the waterworks in Camp "X". I had approximately 70 workers under my control. I was paid in full by the Commonwealth Government on 31 March 1942.

e. Ulpiano M. Presbitero, Engineer, states that: "I was engineer in charge of the following projects that were initiated by the Bureau of Public Works and that on 27 December 1941 I and some of the other Engineers under my supervision began receiving pay from Captain Francisco Villacastin, Finance Officer, USAFFE, in Cebu."

It will be noted that these various projects were started 27 December 1941; lasting from three weeks to two months. (Exhibit E)

f. Fedelino G. Rodriguez, Chief Surveyor of the Office of the City Engineer states that: "I am a regular civil service employee of the City Government of Cebu and that I was assigned to investigate the proposed water supply for the Base Hospital and Camp "X". Then I was assigned to locate the proposed road from Bonbon to Sirao. That this party consisted of 6 other survey men." (Exhibit F)

g. Esperidion T. Lazaga, Capataz, Road Construction and Defense Project, states that: "I was employed as Capataz in the Cabo system from 30 December 1941 to 2 March 1942 and that on 2 March 1942 I was rotated." (Exhibit G)

h. Aurelio Tangenti, Capataz, Dita-Adlawon Road Construction, USAFFE, states that: "I was employed as laborer in the Bureau of Public Works before commencing to work as

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a Capataz, Dita-Alawon Road Construction and that the Capataz system of employment was used. I hired 63 men." (Exhibit H)

Review of some of the payrolls that are available pertaining to various projects indicate that the Engineers and Assistant Engineers were paid at the rate of ₱4.00 to ₱6.00 per day, being paid weekly. Attached are three payrolls, marked as Exhibits I, J, K.

3. Reference is made to letter, AFPAC, dated 2 October 1945 addressed to Honorable C. F. Hanson, Deputy Commissioner, U.S. Employees Compensation Commission. (Exhibit L)

a. From what funds are these civilians paid and how are such funds disbursed?

(1) To provide a complete background in connection with the funds appropriated by the U.S. Government for used in the Philippines, it becomes necessary to trace the origin of such funds currently being used to the Independent Offices Appropriation Act, 1942 (Public Law 2878th Congress) approved 5 April 1941, appropriating monies for "Emergency Funds for the President". This legislation enabled the President of the United States to make funds available for emergencies affecting national security extent at that time. This appropriation was continued in the First Supplemental National Defense Appropriation Act, 1942 (Public Law 353-77th Congress), under the heading entitled "Army of the Philippines", and provided that any expenditures heretofore or hereafter made from said appropriation, "Emergency Funds for the President", for the purposes and in the manner authorized under the heading in this Act are hereby authorized and validated. Funds made available by this Act to the Commonwealth of the Philippines are for the operation and maintenance of the Army of the Philippines, including the expenditures incident to pay, allowances, operation, maintenance, and other activities of units and personnel of the Philippine Army. Expenditures could be made without regard to the provisions of law regulating the expenditure of, or the accounting for, funds of the United States, but shall be expended in a manner prescribed by the President of the United States. (Executive Order 9011, 3 January 1942). Funds provided for in the above cited appropriation acts are advanced to the Commonwealth of the Philippines and are accounted for by the Commonwealth without reference to laws and regulations of accounting for public funds of the United States. In this connection it

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should also be noted the "statutory laws of the United States hereinafter enacted shall not apply to the Philippine Islands except when they specifically so provide or it is so provided or it is so provided in this Act" (48 United States Code 1002).

(2) Prior to the enactment of the emergency legislation cited above, monies made available in the Military Appropriation act could not legally be expended for Philippine Army operations when such expenditures involved a cost to that appropriation or any other cost over and above that was necessary to carry on the regular army functions (Section 2135, Digest of Opinions of the Judge Advocate General of the Army, 1912-1940). Accordingly, a limited sum of the funds used in the payment of civilian employees in the Philippine Army could be considered as appropriated monies of the United States, but qualified to the extent that such appropriated monies are for the purpose of assisting the Commonwealth of the Philippines in maintaining its army. Cognizance should be taken that the Commonwealth of the Philippines appropriates from its own sources funds to meet current expenses in the governmental branches.

(3) Disbursements made from the above mentioned sources are expended by Philippine Army disbursing officers in accordance with Philippine Army laws and regulations. To some extent, the Commanding General, United States Army Forces in the Far East, may administratively review expenditures made by Philippine Army disbursing officers, in accordance with Executive Order 9011. Generally speaking, however, such funds are managed, controlled and accounted for by the Commonwealth.

c. Are these persons regarded by the United States Army as employees of the United States Army or as employees of the Philippine Army?

(1) From the information furnished in reply to question a. above, it may readily be seen that Philippine Army civilian employees are not accorded the statutory rights granted United States civilian employees and as outlined above, the funds used in payment of services rendered would in the ordinary sense be considered as Philippine Army appropriations, therefore the United States Government could not consider employees under the Commonwealth of the Philippines direct control as employees of the United States Army. Extract of Supplement II of the Military Laws of the United States, dated 31 December 1942, page 444 is inclosed marked as Exhibit N.

Claims of Engineers, Cebu, P.I.

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4. In view of the above information it appears that all construction activities in southern islands were that of the Philippine Army, Commonwealth Government, and not United States Government activities. The troops stationed in these islands were Philippine Army with some American officers in command of them and few in key positions. It will be noted that practically all employees were paid on General Form No. 7(a) (Time Book and Pay Roll) which indicates to be a Commonwealth payroll.

5. It is therefore recommended that these construction activities be considered as project of the Commonwealth Government and not entitled to benefits under the Missing Persons Act.

13 Incls

W.G.B.

- Incl 1 - Affidavit, Panis (Tab A)
 - Incl 2 - Affidavit, Panis (Tab B)
 - Incl 3 - Affidavit, Lanas (Tab C)
 - Incl 4 - Affidavit, Karaos (Tab D)
 - Incl 5 - Affidavit, Presbitero (Tab E)
 - Incl 6 - Affidavit, Rodriguez (Tab F)
 - Incl 7 - Affidavit, Lazaga (Tab G)
 - Incl 8 - Affidavit, Tangente (Tab H)
 - Incl 9 - Time Book & Pay Roll (Tab I)
 - Incl 10 - Time Book & Pay Roll (Tab J)
 - Incl 11 - Time Book & Pay Roll (Tab K)
 - Incl 12 - Letter, dtd 2 Oct 45 (Tab L)
 - Incl 13 - Extract, Military of U.S. (Tab M)
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Claims of Engineers, Cebu, P.I.

2 FROM: Legal Officer TO: Director, RPD 14 May 46

1. In addition to the letter from General Fitch pertaining to the use of funds appropriated to pay, maintain and operate the Philippine Army attention is directed to the following:

a. At page 16 and 17 of publication entitled, The Philippine Army: Its establishment, organization and legal basis, it is said that shortly after General MacArthur assumed command of USAFFE, he issued a statement in which reads in part:

"The general plan for the integration of all the armed forces in the Philippines has been formulated by General MacArthur." x x x "The plan envisions an immediate construction program at strategic localities to house the thousands of reservists involved as well as the intensive development of new air fields for the rapidly expanding air forces. All Philippine elements which come under American control will maintain their national integrity. They will retain their own uniforms, their own scale of pay, their own promotion list, their own rations, and their own code of military law. Their training, however, will be under the immediate direction of the officers of the American Army. On muster into the American service they will be paid and supplied from American sources."

b. In a letter to 1st Lt. Arsenio Imperial dated 2 Sept. 1941, the Adjutant General, USAFFE, stated:

"The United States government has adopted the policy of using the agency of the Philippine Army in the employment of the manpower of the Philippines. The Philippine Army, retaining its own identity, will serve side by side with the United States under a single command." (underscoring supplied)

c. The construction referred to in the plan announced by General MacArthur was started prior to the outbreak of the war. Apparently it was under the direct supervision and control of a liaison section designated as Philippine Army Section in each staff section of the United States Headquarters. This conclusion is based upon copy of memorandum 24, 15 October 1945, Office

of the Dept. of Const. Officer, Philippine Department,
(TAB C.), which reads:

"1. Referring to the employment of laborers, semiskilled laborers, capataces, foremen and technical assistants which you were authorized to employ to assist you in the construction of the buildings in your respective areas, the following second indorsement is hereby quoted:

"AGS (Ex.Div.) 201-Pineda, Irineo (Civ.) 2nd Indorsement PHILIPPINE ARMY HEADQUARTERS, Manila, October 11, 1941. To: The Commanding Officer, Casual Det. USAFFE, PA Headquarters, Manila. In view of the authority granted by His Excellency, the President in 5th indorsement of October 1, 1941, copy attached, authorizing the employment by the Philippine Army, without issuing formal appointments, of building inspectors, draftsmen, foremen, and skilled laborers at more than $\frac{1}{3}$.00 but not exceeding $\frac{1}{5}$.00 per day, payable from the $\frac{1}{2}$ 000,000.00 authorized in the letter of August 11, 1941 of the Office of the Commanding General, United States Army Forces in the Far East, it is believed that the issuance of formal appointment to Mr. Pineda is not necessary. For the Chief of Staff" (Sgd.) LOIS RAMOS, Colonel, A.G.S. The Adjutant General. Encl. 5th Indorsement of October 1, 1941."

The indorsement referred to above, was the reply of the Hq Philippine Army to a letter from the "USAFFE" Constructing Officer, Cabanatuan area, 1st Lt. Eduardo R. Escobar, CE-RES "USAFFE".

d. Promotions of member of the Philippine Army announced in USAFFE Special Orders, after the outbreak of the war, contained the phrase "By Direction of the President of the Commonwealth of the Philippines" indicating that the Philippine Army retained its identity after the outbreak of the war in accordance with the plan.

2. In view of the foregoing it appears that employees of the Philippine Army were employees of the Philippine Commonwealth and not employees of the U. S. Army. Section VIII of the War Department plan expressly states that employees of the Commonwealth are not within the provisions of the Missing Persons Act.

The fact that a unit was commanded by an American officer would not mean that an employee of such unit was not an employee of the Philippine Army as there were various units of the Philippine Army which were commanded by American Army Officers, and there were various U. S. Army Officers and enlisted men on detached service with Philippine Army units.

4. The forces in the Southern Islands were originally under the command of General Sharp, and his headquarters was designated as Headquarters Visayan-Mindanao Force. Apparently these forces were later divided into the Mindanao Force and the Visayan Force. Little information is available to this Division as to the number of U. S. Army units, installations and projects in the Southern Islands. It is possible that some of the installations and projects were U. S. Army and/or were being financed out of U. S. funds and not the special Philippine Army appropriation. However, it will be noted that Mr. Paris states that laborers on army projects were paid by Capt. Villacastin, Finance Officer, USAFFE, except some of his engineers who preferred to collect their salaries from the government. Mr. Lanas states he was Construction Engineer for USAFFE Defense Projects with 82d Inf Regiment and had about 1000 men working for him. The 82d Inf Regiment was a P A unit. He states that Lt. Col. Egdamio David was in charge and took his orders from Col. Erwin Scudder. This quite clearly indicates that the employees under him were employees of the Philippine Army. It should also be noted that laborers were hired under the "cabo" system, which appears to be a system wherein a capataz hires and fires the employees and collects and distributes the pay in many cases. This is a custom or system of employment that is local in character which indicates that the projects were being carried on under Philippine Law and by Philippine agencies or the Philippine Army.

5. In view of the foregoing it is my opinion:

a. An employee of the Philippine Army is not a "civilian employee" of the War Department within the meaning of that term as used in the Missing Persons Act.

b. A laborer hired on a per diem wage under the "cabo" system of employment is not a civilian employee of the War Department as defined in the Missing Persons Act but would be local labor casually hired.

c. An employee who worked for less than 30 days would not be civilian employee of the War Department within the meaning of the Missing Persons Act in absence of evidence clearly indicating that the individual was hired for an indefinite period of time and was intended to be retained as a permanent part of the U. S. military establishment for an indefinite period.

d. Employees who were hired on a per diem basis and who actually worked more than 30 days but the 30 days consisted of intermittent periods of employment should not be considered.

to be civilian employees of the War Department but to be intermittent employees not within the provisions of the Missing Persons Act.

e. Employees of the civil government of the Commonwealth of the Philippines or a subdivision thereof are not employees of the Philippine Army or the War Department and the fact that they temporarily performed services for the military forces does not change their status.

f. The evidence available indicates that most of the employees referred to in basic C/R were employees of the Philippine Army or the civil government since they were employed by the District Engineer but in my opinion this can not be assumed in all cases.

7. I therefore recommend that:

a. All persons employed under the "casbe" system on a per diem basis be determined not to have been War Department employees within the provisions of the Missing Persons Act for the following reasons:

(1) Evidence available this headquarters indicates subject was employed by the Philippine Army or the Civil Government of the Commonwealth and is insufficient to establish subject was employed by the War Department.

(2) Subject was local labor casually hired on a per diem and would not be a civilian employee entitled to the War Department.

b. All persons who worked less than 30 days be determined not to be civilian employees of the War Department for the same reasons.

c. That all persons who worked at intervals which amounted to more than 30 days but less than 30 days at any one time be determined not to be civilian employees of the War Department entitled to the benefits of the Missing Persons Act for the following reasons:

(1) Same as a (1) above.

(2) Subject would be a part time or intermittent employee if employed by the War Department.

d. That employees of the District Engineer who were paid by the Commonwealth be determined not to be War Department employees but to have been Commonwealth Employees.

e. Where claim or evidence shows conclusively that claimant was employed by a Philippine Army unit, installation or activity.

650RP

Claims of Engineers, Cebu, P.I.

NHM/ret

(3) FROM: Dir, Rec Pers Div TO: OIC, Civ Sec, DATE: 15 May 46
Rec Pers Div

Attention is invited to the study submitted by the Legal Officer and the included recommendations. These recommendations are hereby approved and will act as a guide in making determinations in cases of civilians claiming to be War Department employees. In case it is necessary to make further investigation as indicated in paragraph 7 f, you are directed to present the necessary information to the Chief, I & R Branch for investigation.

13 Incls: n/e

N. H. M.

It should be determined that he was an employee of the Philippine Army and not an employee of the War Department within the Missing Persons Act. Other pertinent reasons should also be stated such as (Part time employment, intermittent employment or local labor casually hired per diem basis).

f. That determinations in all cases where the evidence does not establish casual or intermittent employment or clearly establish employment by a PA unit be suspended temporarily while additional evidence is obtained as to whether funds being used were funds appropriated for the Philippine Army and whether any of the projects were actually under direct control of the U. S. Army.

13 Incls: n/c

H. W. R.

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File No. GSXRP Subject: Claims of Engineers, Cebu, P. I.

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c. Mr. P. M. Lanas, a resident of Cebu, and engineer in charge of defense projects with the 82nd Division states in his affidavit (Exhibit C): "I had about 1000 men working for me. Laborers,

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3. Reference is made to letter, AFPAC, dated 2 October 1945 addressed to Honorable C. F. Hanson, Deputy Commissioner, U. S. Employees Compensation Commission. (Exhibit L)

a. From what funds are these civilians paid and how are such funds disbursed?

(1) To provide a complete background in connection with the funds appropriated by the U. S. Government for used in the Philippines, it becomes necessary to trace the origin of such funds currently being used to the Independent Offices Appropriation Act, 1942 (Public Law 28-78th Congress) approved 5 April 1941, appropriating monies for "Emergency Funds for the President". This legislation enabled the President of the United States to make funds available for emergencies affecting national security extent at that time. This appropriation was continued in the First Supplemental National Defense Appropriation Act, 1942 (Public Law 353-77th Congress), under the heading entitled "Army of the Philippines", and provided that any expenditures heretofore or hereafter made from said appropriation, "Emergency Funds for the President", for the purposes and in the manner authorized under the heading in this Act are hereby authorized and validated. Funds made available by this Act to the Commonwealth of the Philippines are for the operation and maintenance of the Army of the Philippines, including the expenditures incident to pay, allowances, operation, maintenance, and other activities of units and personnel of the Philippine Army. Expenditures could be made without regard to the provisions of law regulating the expenditure of, or the accounting for, funds of the United States, but shall be expended in a manner prescribed by the President of the United States. (Executive Order 9011, 3 January 1942). Funds provided for in the above cited appropriation acts are advanced to the Commonwealth of the Philippines

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(2) FROM: Legal Officer TO: Director, RPD 14 May 46

1. In addition to the letter from General Fitch pertaining to the use of funds appropriated to pay, maintain and operate the Philippine Army attention is directed to the following:

a. At page 16 and 17 of publication entitled, The Philippine Army: Its establishment, organization and legal basis, it is said that shortly after General MacArthur assumed command of USAFFE, he issued a statement in which reads in part:

"The general plan for the integration of all the armed forces in the Philippines has been formulated by General MacArthur." x x x "The plan envisions an immediate construction program at strategic localities to house the thousands of reservists involved as well as the intensive development of new air fields for the rapidly expanding air forces. All Philippine elements which come under American control will maintain their national integrity. They will retain their own uniforms, their own scale of pay, their own promotion list, their own rations, and their own code of military law. Their training, however, will be under the immediate direction of the officers of the American Army. On muster into the American service they will be paid and supplied from American sources."

b. In a letter to 1st Lt. Arsenio Imperial dated 2 Sept. 1941, the Adjutant General, USAFFE, stated:

"The United States government has adopted the policy of using the agency of the Philippine Army in the employment of the manpower of the Philippines. The Philippine Army, retaining its own identity, will serve side by side with the United States under a single command." (underscoring supplied)

c. The construction referred to in the plan announced by General MacArthur was started prior to the outbreak of the war. Apparently it was under the direct supervision and control of a liaison section designated as Philippine Army Section in each staff section of the United States Headquarters. This conclusion is based upon copy of memorandum 24, 15 October 1945, Office

of the Dept. QM Const. Officer, Philippine Department, (TAB O.), which reads:

"1. Referring to the employment of laborers, semi-skilled laborers, capataces, foremen and technical assistants which you were authorized to employ to assist you in the construction of the buildings in your respective areas, the following second indorsement is hereby quoted:

"AGS (Ex.Div.) 201-Pineda, Irineo (Civ.) 2nd Indorsement PHILIPPINE ARMY HEADQUARTERS, Manila, October 11, 1941. To: The Commanding Officer, Casual Det. USAFFE, PA Headquarters, Manila. In view of the authority granted by His Excellency, the President in 5th indorsement of October 1, 1941, copy attached, authorizing the employment by the Philippine Army, without issuing formal appointments, of building inspectors, draftsmen, foremen, and skilled laborers at more than ₱3.00 but not exceeding ₱5.00 per day, payable from the ₱2000.000.00 authorized in the letter of August 11, 1941 of the Office of the Commanding General, United States Army Forces in the Far East, it is believed that the issuance of formal appointment to Mr. Pineda is not necessary. For the Chief of Staff" (Sgd.) LUIS RAMOS, Colonel, A.G.S. The Adjutant General. Encl. 5th Indorsement of October 1, 1941."

The indorsement referred to above, was the reply of the Hq Philippine Army to a letter from the "USAFFE" Constructing Officer, Cabanatuan area, 1st Lt. Eduardo R. Escobar, CE-RES "USAFFE".

d. Promotions of member of the Philippine Army announced in USAFFE Special Orders, after the outbreak of the war, contained the phrase "By Direction of the President of the Commonwealth of the Philippines" indicating that the Philippine Army retained its identity after the outbreak of the war in accordance with the plan.

2. In view of the foregoing it appears that employees of the Philippine Army were employees of the Philippine Commonwealth and not employees of the U. S. Army. Section VIII of the War Department Plan expressly states that employees of the Commonwealth are not within the provisions of the Missing Persons Act.

3. The majority of the troops in the southern Islands appear to have been Philippine Army Units. These units having been called into service of the Armed Forces of the United States have been commonly referred to as "USAFFE" from the beginning. Therefore, although, a person, alleges in his claim that he was employed by USAFFE it does not mean that he was not actually an employee of the Philippine Army, and being paid by Philippine Army Finance Service Officers from the appropriation for the operation and maintenance of the Philippine Army.

The fact that a unit was commanded by an American officer would not mean that an employee of such unit was not an employee of the Philippine Army as there were various units of the Philippine Army which were commanded by American Army Officers, and there were various U. S. Army officers and enlisted men on detached service with Philippine Army units.

4. The forces in the Southern Islands were originally under the command of General Sharp, and his headquarters was designated as Headquarters Visayan-Mindanao Force. Apparently these forces were later divided into the Mindanao Force and the Visayan Force. Little information is available to this Division as to the number of U. S. Army units, installations and projects in the Southern Islands. It is possible that some of the installations and projects were U. S. Army and/or were being financed out of U. S. funds and not the special Philippine Army appropriation. However, it will be noted that Mr. Panis states that laborers on army projects were paid by Capt. Villacastin, Finance Officer, USAFFE, except some of his engineers who preferred to collect their salaries from the government. Mr. Lanas states he was Construction Engineer for USAFFE Defense Projects with 82d Inf Regiment and had about 1000 men working for him. The 82d Inf Regiment was a PA unit. He states that Lt. Col. Egdamio David was in charge and took his orders from Col. Erwin Scudder. This quite clearly indicates that the employees under him were employees of the Philippine Army. It should also be noted that laborers were hired under the "cabo" system, which appears to be a system wherein a capataz hires and fires the employees and collects and distributes the pay in many cases. This is a custom or system of employment that is local in character which indicates that the projects were being carried on under Philippine Law and by Philippine agencies or the Philippine Army.

5. In view of the foregoing it is my opinion:

a. An employee of the Philippine Army is not a "civilian employee" of the War Department within the meaning of that term as used in the Missing Persons Act.

b. A laborer hired on a per diem wage under the "cabo" system of employment is not a civilian employee of the War Department as defined in the Missing Persons Act but would be local labor casually hired.

c. An employee who worked for less than 30 days would not be civilian employee of the War Department within the meaning of the Missing Persons Act in absence of evidence clearly indicating that the individual was hired for an indefinite period of time and was intended to be retained as a permanent part of the U. S. military establishment for an indefinite period.

d. Employees who were hired on a per diem basis and who actually worked more than 30 days but the 30 days consisted of intermittent periods of employment should not be considered

to be civilian employees of the War Department but to be intermittent employees not within the provisions of the Missing Persons Act.

e. Employees of the civil government of the Commonwealth of the Philippines or a subdivision thereof are not employees of the Philippine Army or the War Department and the fact that they temporarily performed services for the military forces does not change their status.

6. The evidence available indicates that most of the employees referred to in basic C/N were employees of the Philippine Army or the civil government since they were employed by the District Engineer but in my opinion this can not be assumed in all cases.

7. I therefore recommend that:

a. All persons employed under the "cabo" system on a per diem basis be determined not to have been War Department Employees within the provisions of the Missing Persons Act for the following reasons:

(1) Evidence available this headquarters indicates subject was employed by the Philippine Army or the Civil Government of the Commonwealth and is insufficient to establish subject was employed by the War Department.

(2) Subject was local labor casually hired on a per diem and would not be a civilian employee entitled to the benefits of the Missing Persons Act if employed by the War Department.

b. All persons who worked less than 30 days be determined not to be civilian employees of the War Department for the same reasons.

c. That all persons who worked at intervals which amounted to more than 30 days but less than 30 days at any one time be determined not to be civilian employees of the War Department entitled to the benefits of the Missing Persons Act for the following reasons:

(1) Same as a(1) above.

(2) Subject would be a part time or intermittent employee if employed by the War Department.

d. That employees of the District Engineer who were paid by the Commonwealth be determined not to be War Department employees but to have been Commonwealth Employees.

e. Where claim or evidence shows conclusively that claimant was employed by a Philippine Army unit, installation or activity

it should be determined that he was an employee of the Philippine Army and not an employee of the War Department within the Missing Persons Act. Other pertinent reasons should also be stated such as (Part time employment, intermittent employment or local labor casually hired per diem basis).

f. That determinations in all cases where the evidence does not establish casual or intermittent employment or clearly establish employment by a PA unit be suspended temporarily while additional evidence is obtained as to whether funds being used were funds appropriated for the Philippine Army and whether any of the projects were actually under direct control of the U. S. Army.

13 Incls: n/c

HWR.
H. W. R.

Finis

A F F I D A V I T


I, JOAQUIN L. PANIS, whose address is Under Secretary of Public Works and Communications, Manila, being duly sworn according to law, depose and say that the following information is true and correct to the best of my knowledge and belief:

That the following is a list of USAFFE Projects undertaken between December 15, 1941 to April 10, 1942, under supervision and control of J. L. Panis, District Engineer of Cebu and Major C. E. USAFFE, Cebu:

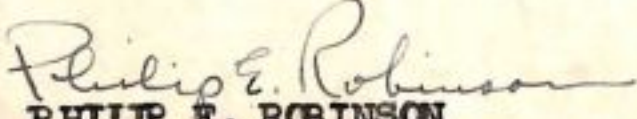
1. Improvement and maintenance of Lahug A/F
2. Construction and maintenance of Medellin A/F
3. Construction and maintenance of Tuburan A/F
4. Construction of Cantabaco-Uling Military Road
5. Construction of Dita-Adlaon Road
6. Construction of Adlaon-Sayao-Bonbon Road
7. Repair of Mabais and Canapnapan Road
8. Construction of Camp 4-Bonbon Road
9. Construction of Water supply system, Camp E
10. Construction of Water supply system, Camp X
- > 11. Construction of Buildings at Camp H
- > 12. Construction of Buildings at Camp X
- > 13. Construction of Barracks at Masaba, Camp 10
- > 14. Construction of Buildings and Warehouse at Camp Green
- > 15. Construction of Warehouses at Camp 8, Taop, Bonbon, Adlaon, Uling, Dita and Marmol
- > 16. Construction of Base Hospitals at Camp X, Camp 6, Taop, Marmol
- > 17. Construction of Pill boxes along Tabonoc-Toledo Road, Naga-Uling Road and Talamban-Dita Road
18. Construction of Tank traps and obstacles at Camp 3, Camp 4, Camp 8, Ilihan (Toledo) and at Pandan, (Naga-Uling Road)
- > 19. Construction of Tunnels for Money at Camp X
- > 20. Construction of Tunnels for Gasoline at Lahug A/F, Tuburan A/F and Medellin A/F

- 2 -

- > 21. Construction of Beach defense at Toledo
- > 22. Construction of Underground operating room at Base Hospital at Camp 6
- > 23. Construction of Barricades at Cebu City, along Tabonoc-Toledo Road, and Naga-Uling Road
- > 24. Construction of air-raid shelters in Cebu City for various army buildings and officers' quarters
- > 25. Preparation and loading up of demolition charges at various places along Tabonoc-Toledo Road, Dita-Adlaon Road and at several other places designated for demolition
- > 26. Construction of Japanese concentration camp at Sayao
- > 27. Miscellaneous other small jobs


JOAQUIN L. PANIS

Subscribed and sworn to before me this 16th day of APRIL,
1946 at MANILA, P.I.


PHILIP E. ROBINSON
1st Lt. @RD.
Rec. Pers. Det.
Civilian Section

Summary Court

A F F I D A V I T

I, JOAQUIN L. PANIS, whose address is Under Secretary of Public Works and Communications, Manila, being duly sworn according to law, depose and say that the following information is true and correct to the best of my knowledge and belief:

That the following are the facts relative to the work undertaken by me in connection with the U.S. Army in Cebu during the period from December 15, 1941, to April 10, 1942:

1. At the outbreak of the war on December 8, 1941, I was the District and City Engineer of Cebu under the Commonwealth Government. I was also at that time ~~the~~ 1st Lt. C.E.R., Philippine Army, ~~and in active status~~. ^{Reserve} Soon after this date I was called by Col. Wm. F. Sharp, commanding the Visayas Forces, U.S. Army, with HQ in Cebu City. He informed me that in the absence of any military engineer under his command he wanted me to undertake all the engineering work required by the Army in Cebu, ~~possibly~~ in my capacity as District and City Engineer. He also informed me that if I so desired he would like to call me into active service ~~as an Army Officer~~. ^{in the} I informed him that I would be willing and glad to undertake all work that he may order ~~me~~ ^{but} and that I believed that I could be more useful, as far as undertaking the work is concerned, ~~as~~ ^{if continued as} District and City Engineer of Cebu than as an officer under his command, because in my former capacity I had the equipment and the technical men necessary at my direct command. He agreed to let me continue as District and City Engineer, and gave up the idea of inducting me into the Army. On or about December 15, 1941, I received orders from Brig. Gen. Sharp (already promoted from Colonel) to undertake the work of extending the Lahug air field, Cebu City, approximately 800 to 1500 meters in length and to complete the work in forty-eight hours. On the same afternoon I received the order, I got all the men available in my district and commenced the work with about 1000 laborers working around the clock for twenty-four hours. The work was finished in forty-eight hours as ordered but when I informed him that the runway was soft and needed heavy surfacing in order to receive heavier planes, he ordered me to proceed with the work of surfacing, which work was finished in about three weeks. In the meantime that I was

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working at Lahug air field orders were received by me to undertake other work in other places in the Province of Cebu such that, by the time of the Japanese landing in Cebu on April 10, 1942, I was undertaking no less than twenty-seven different projects as enumerated in another affidavit attached to this.

In the beginning of my work I was authorized by General Sharp verbally to employ all the men, to acquire all materials, and equipment necessary for ~~different~~^{the} prosecution of any project ordered by him and that all expenses would be paid by the U.S. Army. This verbal order was subsequently put in writing by General Sharp on a slip of paper, which paper I had been keeping until April 10, 1942, when I had to destroy it along with other Army papers that were in my possession in obedience to superior Army orders. All the laborers therefore working in different Army projects were paid in Army payrolls by Capt. Villacastan, Finance Officer, except some of my higher salaried assistant engineers who preferred to collect their salaries from the Government. On or about the beginning of February 1942, at the height of our construction activities wherein we were employing about six thousand laborers in all Army projects, a schedule of daily wages and salaries was prepared by Quartermaster Col. J. D. Cook and approved by the Commanding General relative to ~~services~~^{wages} and salaries of the men employed under me. The schedule, as far as I can remember, provided for common laborers at P1.20 a day of eight hours, with double pay for overtime and a maximum of P8.00 for an assistant engineer in charge of a major project, and P6.00 for an assistant engineer in charge of smaller projects. With this classification, many of my assistant engineers whose salaries in the government range between P2.40 per day to P125.00 a month preferred to be paid under Army payrolls. Some of them, however, continued to receive their salaries from the government as a sort of a bonus in view of the heavy assignments given to them, sometimes involving twenty-four hour service without extra for overtime. Only two of my assistant engineers who were then receiving P266.00 per month preferred to give their services to the Army free, and continued collecting their salaries only from the Commonwealth Government.

The procedure adopted in the payment of all laborers and technical men was as follows:

As approved by the Quartermaster and Commanding General, I designated about a dozen and a half of my clerks and survey men in the office of the District Engineer to act as special paymasters, drawing the money directly under receipt from the chief clerk, who was authorized to perform the additional duties as general paymaster, and to get the money necessary from the Army Finance Officer under receipt also. The paymasters were continuously in the field, paying out payrolls, made weekly in many cases, and fortnightly in other cases where the work was quite distant from the capital.

- 3 -

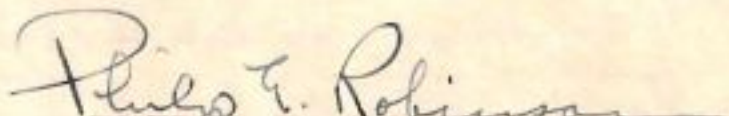
In connection with the furnishing of materials for the various constructions, such as rock, gravel and sand, especially those used in the surfacing of three air fields, contracts were entered into by me and approved by the Quartermaster as to prices. Payments for these materials were made in duly accomplished vouchers stating the quantities in cubic meters and the unit prices. Materials such as lumber, hardware and other building materials and those materials which were used in barricades, camouflage, and others, were requisitioned from the Quartermaster by me.

On or about March 23, 1942, when General Bradford Chynoweth became the Commanding General of Cebu Forces, he inducted me into the Army as Major, C.E., at the same time ^{allowing me to} ~~made me~~ continue in my position as District and City Engineer of Cebu and also to continue undertaking all the projects that were then in progress, as well as those later on ordered by him to be undertaken. At the time of the Japanese landing, we were in the process of organizing an engineer battalion under my command but the final organization of the same was never carried out due to the rapidity of the Japanese invasion of the Islands. When the ~~U.S.~~ ^{our} Forces retreated from the positions held, I was with the General's Staff until the time of the surrender, ~~as~~ ordered by General Wainright on or about May 14, 1942, when I decided to remain in the mountains instead of surrendering to the Japanese with the General and his Staff.

The foregoing is a brief resumé of my connections with the U.S. Army in Cebu in my capacity as District and City Engineer, and subsequently as Major, C.E., USAFFE.


J. L. PANIS

Subscribed and sworn to before me this 16th
day of APRIL, 1946 at MANILA, P.I.


PHILIP E. ROBINSON
1st Lt. ORG
Rec. Pers. Det
Civilian Section

A F F I D A V I T

)
) : SS
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Before me, the undersigned, authorized to administer oaths in cases of this character appeared one P. M. LANAS, a resident of C. Padilla Street, Cebu City

who having been duly sworn according to law, deposes and says:

That I was Construction Engineer for USAFFE Defense Projects with 82nd Inf Regt at Oling, Naga, Cebu. The projects were started in January 1942 and stopped on 10 Apr 42. The work was constructing of tank traps, fox holes, gun emplacements, barracks, etc. I had about 1000 men working for me. Laborers, foremen and capataz were hired under the cabo system and money for their payment came from USAFFE Funds. Prior to the war I was a practicing civil engineer and at the outbreak of hostilities, I offered my services to USAFFE and received my pay at USAFFE Hqs. It is possible that project engineers who were working for the District Engineer prior to the outbreak of the war received pay from the Commonwealth Governemtn in payment for the services of these Engineers. I do know that the payrolls for these engineers were made up by Commonwelath Government clerks whereas my payroll was made up at USAFFE Hqs. Lt Col EGDAMIO DAVID was in charge of these projects and took his orders from Col ERWIN SCHUDDER, Chief of Staff.

Further deponent sayeth not:

(Signature) _____
(Name Typed) P. M. LANAS

Subscribed and sworn to before me this 17th day of April
194 6 at HQS, AFWESPAC, Rec Pers Div, APO 707.

CERTIFIED TRUE COPY:

Philip E. Robinson (Signature) _____
PHILIP E. ROBINSON (Name Typed) PHILIP E. ROBINSON
1st Lt ORD. (Title) 1st Lt ORD
Summary Court Officer

HEADQUARTERS
UNITED STATES ARMY FORCES WESTERN PACIFIC
RECOVERED PERSONNEL DIVISION
CEBU BRANCH

APO 718
20 February 1946

A F F I D A V I T

I, BENIGNO G. KARAOS, whose address is District Engineer's Cebu City being duly sworn according to law, depose and say that the following information is true and correct to the best of my knowledge and belief:

- I. That I was Engineer incharge on constructions of barricades and air raid shelters in Cebu City and the waterworks in Camp X, Minglanilla, Cebu and I had approximately 70 workers under my control.

That the nature of construction of barricades was in connection with the defense of Cebu City under Col. H.J. Edmunds. Air raid shelters were for the use of Japanese prisoners and Usaffe men in concentration camp in Basak, Cebu City. Waterworks in Camp X, Minglanilla, Cebu was provided for Usaffe men.

That I was also Engineer incharge of the construction of air raid shelters for civilian use. My immediate superior was Mr. Joaquin Panis, then District Engineer and City Engineer of the Province and City of Cebu.

- II. That the construction of air raid shelters was commenced in December 1941 (Day unknown) and continued until 9 April 1942.

That the construction of barricades was commenced in February 1942 (Day unknown) and continued until 9 April 1942.

That this job in Waterworks was commenced in March 1942 (Day unknown) and continued until 10 April 1942, but I took charged of the project in April 1942.

That these jobs had no contract arrangement with a Labor Bn.

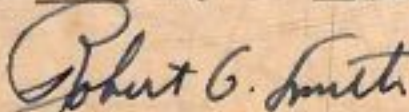
That the work was stopped due to the invasion of the Japanese. I received a verbal order from Mr. Panis to evacuate Camp X and I evacuated with him to the mountain of Sudlon, Cebu City and then to Danao, Cebu.

- III. That I was paid in full by the Commonwealth Government on 31 March 1942.

- IV. That air raid shelters were provided to protect workers and employees in the event of air raids. Prior to the 10th April 1942 no actual raids were made in Camp X.

Signed 
BENIGNO G. KARAOS

Subscribed and sworn to before me this 20th day of February
1946 at Cebu City, Philippines.


ROBERT G. SMITH
1st Lt. Inf.
Rec. Pers. Det.
War Dept. Pay Claims

HEADQUARTERS
UNITED STATES ARMY FORCES WESTERN PACIFIC
RECOVERED PERSONNEL DIVISION
CEBU BRANCH

APC 718
25 February 1946

A F F I D A V I T


I, ULPIANO M. PRESBITERO, whose address is Sugod, Cebu being duly sworn according to law, depose and say that the following information is true and correct to the best of my knowledge and belief:

- I. That I was **Engineer** incharge of the following projects that were initiated by the Bureau of Public Works on or about the dates indicated;
- > (a) Construction of Cantabaco-Uling Military Road from December 27, 1941 to 2nd. week February 1942.
 - > (b) Repairs of Lotopan, Canapnapan and Mabais Roads from 3rd week February 1942 to 10 April 1942.
 - > (c) Construction of trenches, pillboxes and tunnels at Sangat, San Fernando; Naga sea-shore, Naga; Naalad, Naga and Cantabaco, Naga from 2nd week March 1942 to 10 April 1942.
 - > (d) Construction of temporary barracks and bodegas at Cantabaco, Naga; Masaba, Toledo and Lotopan, Toledo from 2nd week January 1942 to 2nd week February 1942.
 - > (e) Maintenance and repair of Tabunok-Toledo and Naga-Uling-Cantabaco (declared military roads) from 15 February 1942 to 10 April 1942.
- II. That on 27 December 1941 I and some of the other Engineers under my supervision began receiving pay from Captain Francisco Villacastin, Finance Officer for the USAFFE in Cebu.
- III. That big boulders and trees were used to protect workers in the event of air raids.

That I received an order from Major J.L.Panis (District Engineer) to cease work because the enemy was able to penetrate the area where we were working.

Signed 

Subscribed and sworn to before me this 25th day of February
1946 Cebu City, Philippines.


ROBERT G. SMITH
1st Lt. Inf.
Rec. Pers. Det.
War Dept. Pay Claims

Exh. E

HEADQUARTERS
UNITED STATES ARMY FORCES WESTERN PACIFIC
RECOVERED PERSONNEL DIVISION
CEBU BRANCH

APO 718
6 March 1946

A F F I D A V I T

I, Fidelino C. Rodriguez, whose address is 13-B Jones Ave., Cebu City, being duly sworn according to law, depose and say that the following information is true and correct to the best of my knowledge and belief:

1. I was employed as Locating Surveyor for the Labor Bn. USAFPE Cebu and I had approximately 6 men under my control. My immediate superior was Mr. Joaquin L. Panis. The nature of this work was From Dec. 8 to Dec. 31 1941 I was assigned Chief Deputy Air Raid Warden for the City of Cebu. From Jan. 1, 1942 I was assigned to investigate the proposed water supply for the Base Hospital and Camp X; then I was assigned to locate the proposed military road from Bonbon to Sirao, and when I was about to locate the military road from Camp X to Taup the Japanese came. *** See back,

2. This installation was initiated, ~~commandeered~~, ~~contracted~~ for ~~by~~ USAFPE. The facts concerning the commandeering or contract are Does not apply.

3. I was employed as Chief Surveyor of the Office of the City before commencing work in the above mentioned capacity. I was employed in this capacity after applying to I am a regular civil service employee of the City Government of Cebu, under Joaquin L. Panis.

4. This job ceased on 10 April 1942 because Enemies invaded the island.

5. The officers responsible for paying the employees were Capt. Villacastin

6. We were last paid in full on 31 March 1942 to include the 31 March 1942.

7. This installation ~~was~~, was not molested by the enemy during the period of my employment.

8. The names of USAFPE Officers connected with this project were Joaquin L. Panis as Chief of the Labor Bn. directly taking orders from Brig. Gen. Cheynoweth, U.S.A.

Signed *Fidelino C. Rodriguez*
FIDELINO C. RODRIGUEZ

Subscribed and sworn to before me this 6th day of March 1946 at Cebu City, Philippines

Robert G. Smith
ROBERT G. SMITH
1st LT. INF.
SEC. PERS. DET.
WAR DEPT. PAY CLAIMS

Est F

*** 1. My surveymen members are:

1. Generoso Crisologo
2. Celestino Martillan
3. Rufino Nuqui
4. Alberto Violanda
5. Juan Sison
6. Anastacio Crisologo

HEADQUARTERS
UNITED STATES ARMY FORCES WESTERN PACIFIC
RECOVERED PERSONNEL DIVISION
CEBU BRANCH

AGO 718

4 March 1946

A F F I D A V I T

I, ESPERIDION T. LAZAGA, whose address is Talavera, Toledo, Cebu, being duly sworn according to law, depose and say that the following information is true and correct to the best of my knowledge and belief:

1. I was employed as Capataz for the Road Const. & Defense Project and I had approximately 19 men under my control. My immediate superior was (Mr. Ulpiano Presbitero and (Mr. Enrique Reroma The nature of this work was (Mr. Enrique Reroma to construct road from Cantabaco to Uling, Naga. I hired my men under my control. I was employed as Capataz in the Cabo system from 30 Dec. 1941 to 2 March 1942, including my services in the Defense Project at Ilihan, Toledo, Cebu. In the Defense Project we constructed Anti-tank, and tank traps, Machine-gun nest and foxhole.
See back
2. This installation was initiated, ~~conducted by~~ by USAFFE.
The facts concerning the commandeering or contract are Not applicable
3. I was employed as Not employed before commencing work in the above mentioned capacity. I was employed in this capacity after applying to Mr. Ulpiano Presbitero
4. This job ceased on Unknown because I was rotated on 2 March 1942 ~~with~~ by Mr. Enrique Reroma. Japanese invasion prevented me in resuming the job.
5. The officers responsible for paying the employees were Mr. Andres Piedad
6. We were last paid in full on 5 March 1942 to include the 28 February 1942 **** See back**
7. This installation ~~was~~ was not molested by the enemy during the period of my employment.
8. The names of USAFFE Officers connected with this project were Lt. Buenaventura Canoy, Col. Baura
Col. David

Signed Esperidion T. Lazaga
ESPERIDION T. LAZAGA

Subscribed and sworn to before me this 4th day of March 1946 at Cebu City, Philippines

Robert G. Smith
ROBERT G. SMITH
1st LT. INF.
REC. PERS. DET.
WAR DEPT. PAY CLAIMS

Exh. G

**

1.

List of men under my control:-

1. Pedro Montargo ----- Laborer
2. Constantino Lazaga ----- "
3. Feliciano Sureg ----- "
4. Catalino Sile ----- "
5. Sixto Campo ----- "
6. Pedro Lazaga ----- "
7. Pastor Resonable ----- "
8. Mateo Resonable ----- "
9. Francisco Cabaluna ----- "
10. Marcial Domdom ----- "
11. Dalmacio dela Vega ----- "
12. Sixto Villaro ----- "
13. Faustino Resonable ----- "
14. Isab~~20~~ Lazaga ----- "
15. Francisco Domdom ----- "
16. Apolonio Cabatuan ----- "
17. Ismael Campo ----- "
18. Carlos Lazaga ----- "
19. Arsenio Villoria ----- "

**

6. I received my salary in full in USAFFE Road Construction at Cantabaco to Uling, Naga. Some of my men did not received their salary because they quit working.

I received my last salary in the Defense Project on 28 February 1942. ~~My men worked~~ Some of my men worked under another Capataz at the time I was rotated. I do not know whether they received their salary.

HEADQUARTERS
UNITED STATES ARMY FORCES WESTERN PACIFIC
RECOVERED PERSONNEL DIVISION
CEBU BRANCH

APO 718
23 February 1946

A F F I D A V I T

I, AURELIO TANGENTE, whose address is Naga, Cebu, being duly sworn according to law, depose and say that the following information is true and correct to the best of my knowledge and belief:

1. I was employed as Capataz for the Dita-Adlawon Road Construction USAFFE and I had approximately 63 men under my control. My immediate superior was Mr. Morelos (first name unknown). The nature of this work was To supervise the 63 laborers in opening a road from Dita-Adlawon. After completion of Dita-Adlawon Road Construction I was ordered by Mr. Morelos to construct a military road from Sirao-Pong-ol. The main purpose of this installation was to convenience the delivery of foodstuff. The Capataz system of employment was used. I hired the 63 men.

2. This installation was initiated, ~~xxxxxxxxxxxx~~, ~~contracted~~ for by USAFFE.

The facts concerning the commandeering or contract are Not applicable

3. I was employed as Laborer in the Bureau of Public Works before commencing work in the above mentioned capacity. I was employed in this capacity after applying to Mr. Marcial Padilla.

4. This job ceased on 10 April 1942 because We received an order from our foreman -Mr. Narciso Ariola, to stop working because the Japanese were coming nearer the place we were working.

5. The officers responsible for paying the employees were Mr. Morelos & Mr. Antonio Hermoso

6. We were last paid in full on 31 March 1942 to include the 31 March 1942.

7. This installation ~~was~~ was not molested by the enemy during the period of my employment.

8. The names of USAFFE Officers connected with this project were None

Signed Santiago Sanchez

Subscribed and sworn to before me this 23rd day of February 1946 at Cebu City, Philippines

Robert G. Smith
ROBERT G. SMITH
1st LT. INF.
REC. PERS. DET.
WAR DEPT. PAY CLAIMS

US OFFICE

TIME BOOK AND PAY ROLL

487

For labor on Construction of Sandino Field B-2-2-(348), at Sagua, Cebu City, Philippines, for the period March 22, 1942, to March 31, 1942.
(State job or project on which labor was performed)

Number	NAME	OCCUPATION	TIME ROLL (Mark time each day under proper date using fraction when necessary)																Number of Days Worked	Rate per Day or Month	Amount Paid (Pesos)	Amount Unpaid	Signature or Thumb Mark (*)	RESIDENCE CERTIFICATE			Signature of Witness		
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	Number						Date	Place of Issue				
			16	17	18	19	20	21	22	23	24	25	26	27	28	29	30									31			
1	Eulalia Salan	Assistant	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6	3.50	21.00								
2	Jose M. Ocampo	Inspector Check	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6	3.40	20.50								
		Note:																											
		This payroll is made of 32 two persons only.																											
		These men were working in Sagua Sandino Field.																											
		Palinonio Lumpas																											
TOTAL																					21.50								

1. I HEREBY CERTIFY that each person whose name appears on this roll rendered service as indicated and for the time stated.

Col. Mudder

2. I CERTIFY that this roll is correct; every person whose name appears hereon rendered service for the time and at the rates stated, under my general supervision, and I approve payment of this roll.

DECLASSIFIED
Authority NND883078

3. I CERTIFY on my official oath that I have this day of, 194...., paid in cash to each man whose name appears on the above roll, the amount set opposite his name, he having presented himself, established his identity, and affixed his signature or thumb mark on the space provided therefor. Unpaid services are indicated by red ink lines through the column "Amount Paid."

Palinonio Lumpas
Foreman or Timekeeper

[Signature]
Superintendent or Foreman in Charge

Special Disbursing Officer, Paymaster, or Municipal Treasurer.....

10-424
NOTE—Where thumb mark is to be used in place of signature, and the space available is not sufficient, the thumb mark may be impressed on the back hereof with proper indication of the corresponding laborer's number, and on the corresponding line on the pay roll a remark "see thumb mark on the back" should be written.

TIME BOOK AND PAY ROLL

GENERAL FORM No. 7 (A)

DISTRIBUTION OF CHARGES

APPROPRIATION	Classi- fication	Amount (Pesos)

Provincial Treasurer's Voucher No.

Provincial Auditor's Voucher No.

Voucher No.

TIME BOOK AND PAY ROLL

Month of, 194.....

.....
(Name of paying office)

.....
(Official designation)

.....
(Bureau, Province, or Municipality)

.....
(Station)

15-426

DECLASSIFIED
 Authority NND 883078

TIME BOOK AND PAY ROLL

For labor on USAF Defense Base, at Salada Cebu, Philippines, for the period March, 1942, to March, 1942
(State job or project on which labor was performed)

Number	NAME	OCCUPATION	TIME ROLL															Number of Days Worked	Rate per Day or Month	Amount Paid (Pesos)	Amount Unpaid	SIGNATURE	RESIDENCE CERTIFICATE			Signature of Witness	
			(Mark time each day under proper date using fraction when necessary)																				Signature or Thumb Mark (*)	Number	Date		Place of Issue
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15										
1	Francis E. Ramos	Engineer	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	7	6.00	4200	✓	Ramos	41192488	1-26-42	Minglanilla		
2	John Baylon	Asst. Engineer	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	7	4.00	2800	✓	Baylon	A-7210627	2/11/42	Salada		
3	Mano S. Pella	Asst.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	5 1/2	4.00	2200	✓	Pella	A-1317434	1/2/42	Cebu City		
4	Jose Alameda	Asst.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	7	3.00	2100	✓	Alameda	A-124326	2/15/42	Salada Cebu		
5	Roberto Zamora	Asst.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	4 1/2	4.00	1800	✓	Zamora	A-1200490	2/15/42	Salada Cebu		
6																											
7																											
8																											
9																											
10																											
11																											
12																											
13																											
14																											
15																											
16																											
17																											
18																											
19																											
20																											
TOTAL													13		13100	✓											

1. I HEREBY CERTIFY that each person whose name appears on this roll rendered service as indicated and for the time stated.

[Signature]
Foreman of Timekeeper

2. I CERTIFY that this roll is correct; every person whose name appears hereon rendered service for the time and at the rates stated, under my general supervision, and I approve payment of this roll.

Approved
Col. J. V. Suddle

[Signature]
Superintendent or Foreman in Charge

3. I CERTIFY on my official oath that I have this day of _____, 194____, paid in cash to each man whose name appears on the above roll, the amount set opposite his name, he having presented himself, established his identity, and affixed his signature or thumb mark on the space provided therefor. Unpaid services are indicated by red ink lines through the column "Amount Paid."

[Signature]
Special Disbursing Officer, Paymaster, or Municipal Treasurer

DECLASSIFIED
Authority NND883078

NOTE: Where thumb mark is to be used in place of signature, and the space available is not sufficient, the thumb mark may be impressed on the back hereof with proper indication of the corresponding laborer's number, and on the corresponding line on the pay roll a remark "see thumb mark on the back" should be written.

TIME BOOK AND PAY ROLL

USAFFE Defense Projects
Sulu Defense Line
(State job or project on which labor was performed)

at Sulu, Cebu, Philippines, for the period March 22, 1942 to March 28, 1942

TIME ROLL

(Mark time each day under proper date using fraction when necessary)

NAME	OCCUPATION	TIME ROLL															Number of Days Worked	Rate per Day or Month	Amount Paid (Pesos)	Amount Unpaid	Signature or Thumb Mark (*)	RESIDENCE CERTIFICATE			Signature of Witness
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15						Number	Date	Place of Issue	
1. Enrique Y. Peroma	Engineer in Charge	X															7	P6.00	42.00		[Signature]	A-1192465	1/26/42	Manila	
2. Pedro Baylon	Asst. Engineer																7	4.00	28.00		[Signature]	A-1260627	2/11/42	Toledo	
3. Juan D. Villa	do																5 1/2	4.00	22.00		[Signature]	A-1517424	1/25/42	Cebu City	
4. Jose Plarida	do																7	3.00	21.00		[Signature]	A-161501	1/16/42	Trinidad	
5. Roberto Zamora	do																4 1/2	4.00	18.00		[Signature]	A-192009	4/24/42	Sulu, Cebu	
TOTAL																			P151.00						

[Signature]

DECLASSIFIED
Authority NND 883098

1. I HEREBY CERTIFY that each person whose name appears on this roll rendered service as indicated and for the time stated.
[Signature]

2. I CERTIFY that this roll is correct; every person whose name appears hereon rendered service for the time and at the rates stated, under my general supervision, and I approve payment of this roll.
[Signature]

3. I CERTIFY on my official oath that I have this day of _____, 1942, paid in cash to each man whose name appears on the above roll, the amount set opposite his name, he having presented himself, established his identity, and affixed his signature or thumb mark on the space provided therefor. Unpaid services are indicated by red ink lines through the column "Amount Paid."
[Signature]

NOTE: Where thumb mark is to be used in place of signature, and the space available is not sufficient, the thumb mark may be impressed on the back hereof with proper indication of the corresponding laborer's number, and on the corresponding line on the pay roll a remark "see thumb mark on the back" should be written.

AF0 500
2 October 1945

Honorable C. F. Hanson
Deputy Commissioner
U.S. Employees' Compensation Commission
Manila, P.I.

Dear Mr. Hanson:

Receipt is acknowledged of your communication of 22 August 1945 relative to the status of civilian employees of the Philippine Army. The following information is categorically furnished in reply to the questions propounded therein, in order as submission:

a. From what funds are these civilians paid and how are such funds disbursed?

(1) To provide a complete background in connection with the funds appropriated by the U.S. Government for use in the Philippines, it becomes necessary to trace the origin of such funds currently being used to the Independent Offices Appropriation Act, 1942 (Public Law 28-78th Congress) approved 5 April 1941, appropriating monies for "Emergency Funds for the President". This legislation enabled the President of the United States to make funds available for emergencies affecting national security extant at that time. This appropriation was continued in the First Supplemental National Defense Appropriation Act, 1942 (Public Law 353-77th Congress), under the heading entitled "Army of the Philippines", and provided that any expenditures heretofore or hereafter made from said appropriation, "Emergency Funds for the President", for the purposes and in the manner authorized under the heading in this Act are hereby authorized and validated. Funds made available by this Act to the Commonwealth of the Philippines are for the operation and maintenance of the Army of the Philippines, including the expenditures incident to pay, allowances, operation, maintenance, and other activities of units and personnel of the Philippine Army. Expenditures could be made without regard to the provisions of law regulating the expenditure of, or the accounting for, funds of the United States, but shall be expended in a manner prescribed by the President of the United States. (Executive Order 9011, 3 January 1942). Funds provided for in the above cited appropriation acts are advanced to the Commonwealth of the Philippines and are accounted for by the Commonwealth without reference to laws and regulations of accounting for public funds of the United States.

Exh L

In this connection it should also be noted the "statutory laws of the United States hereinafter enacted shall not apply to the Philippine Islands except when they specifically so provide or it is so provided in this act" (48 United States Code 1003).

(2) Prior to the enactment of the emergency legislation cited above, monies made available in the Military Appropriation Act could not legally be expended for Philippine Army operations when such expenditures involved a cost to that appropriation or any other cost over and above what was necessary to carry on the regular army functions (Section 2135, Digest of Opinions of the Judge Advocate General of the Army, 1912-1940). Accordingly, a limited sum of the funds used in the payment of civilian employees in the Philippine Army could be considered as appropriated monies of the United States, but qualified to the extent that such appropriated monies are for the purpose of assisting the Commonwealth of the Philippines in maintaining its army. Cognizance should be taken that the Commonwealth of the Philippines appropriates from its own sources funds to meet current expenses in the governmental branches.

(3) Disbursements made from the above mentioned sources are expended by Philippine Army disbursing officers in accordance with Philippine Army laws and regulations. To some extent, the Commanding General, United States Army Forces in the Far East, may administratively, review expenditures made by Philippine Army disbursing officers, in accordance with Executive Order 9011. Generally speaking, however, such funds are managed, controlled and accounted for by the Commonwealth.

b. What degree of direct supervision, if any, does the United States Army exercise over these persons?

(1) Administrative and direct control of the civilian employees of the Philippine Army rests with that agency save for possible liaison supervision by United States Army authorities.

c. Are these persons regarded by the United States Army as employees of the United States Army or as employees of the Philippine Army?

(1) From the information furnished in reply to question a. above, it may readily be seen that Philippine Army civilian employees are not accorded the statutory rights granted United States civilian employees and as outlined above, the funds used in payment of services rendered would in the ordinary sense be considered as Philippine Army appropriations, therefore the United States Government could not consider employees under the Commonwealth of the Philippines' direct control as employees of the United States Army.

It is believed that the answers contained above will satisfactorily resolve your queries.

Sincerely yours,

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

Extract of Supplement II To the Military Laws of the United States, dated 31 December 1942, page 444.

2138a. ARMY OF THE PHILIPPINES.--For all expenses necessary for the mobilization, operation, and maintenance of the Army of the Philippines, including expenses connected with calling into the service of the armed forces of the United States the organized military forces of the Government of the Commonwealth of the Philippines, and expenditures incident to pay, allowances, operation, maintenance, and other activities of units and personnel of said organized military forces, and for the emergent mobilization and training of such forces, may be made without regard to the provisions of law regulating the expenditure of or accounting for funds of the United States but shall be expended and accounted for in a manner prescribed by the President of the United States, \$28,313,000, which shall be available for payment to the Government of the Commonwealth of the Philippines upon its written request, either in advance of or in reimbursement for all or any part of the estimated or actual cost, as authorized by the Commanding General, United States Army Forces in the Far East, of necessary expenses for the purposes aforesaid: Provided, that any appropriation for the Military Establishment may be applied to the purposes aforesaid and may be reimbursed by transfer from this appropriation of the value of such property or service as may have been or may be applied to such purposes and any amount so transferred shall be available for expenditure for the purposes of the appropriation so reimbursed during the fiscal year in which such amount was received and the ensuing fiscal year. Military Appropriation Act of July 2, 1942 (56 Stat. 628).

A similar provision was contained in the Third Supplemental National Defense Appropriation Act of December 17, 1941 (55 Stat. 813).

Under authority of this section, Executive Order No. 9011, January 3, 1942, prescribes rules and regulations governing the manner of expending and accounting for funds appropriated for the Army of the Philippines.

EX. M

PHILIPPINE DEPARTMENT
OFFICE OF THE QUARTERMASTER
OFFICE OF THE DEPT. QM. CONSTRUCTING OFFICER
PHILIPPINE ARMY SECTION
BLDG. 125, 11TH ST
MANILA, P. I.

October 15, 1941

MEMORANDUM
NO. 24

To : All Constructing Officers

1. Referring to the employment of laborers, semi-skilled laborers, capataces, foremen and technical assistants which you were authorized to employ to assist you in the construction of the buildings in your respective areas, the following second indorsement is hereby quoted:

"AGS (Ex.Div.) 201-Pineda, Irineo (Civ.) 2nd Indorsement PHILIPPINE ARMY HEADQUARTERS, Manila, October 11, 1941. To: The Commanding Officer, Casual Det. USAFFE, PA Headquarters, Manila. In view of the authority granted by His Excellency, the President in 5th indorsement of October 1, 1941, copy attached, authorizing the employment by the Philippine Army, without issuing formal appointments, of building inspectors, draftsmen, foremen, and skilled laborers at more than ₱3.00 but not exceeding ₱5.00 per day, payable from the ₱2000,000.00 authorized in the letter of August 11, 1941 of the Office of the Commanding General, United States Army Forces in the Far East, it is believed that the issuance of formal appointment to Mr. Pineda is not necessary. For the Chief of Staff" (Sgd.) LUIS RAMOS, Colonel, A.G.S. The Adjutant General. Encl. 5th Indorsement of October 1, 1941."

2. The 5th indorsement referred in the preceding 2nd indorsement is quoted as follows:

"OFFICE OF THE PRESIDENT OF THE PHILIPPINES, 5th Indorsement, Manila, October 1, 1941. Respectfully returned to the Honorable, the Secretary of National Defense, Manila, hereby approving the employment of the Philippine Army, without issuing formal appointments, of building inspectors, draftsmen, foremen and skilled laborers at more than ₱2.00 but not exceeding ₱5.00 per day, payable from the ₱200,000.00 authorized in the letter of August 11, 1941, of the Office of the Commanding General, United States Army Forces in the Far East, subject to the condition that the same will not

11/15/41
KFB

MEMORANDUM NO. 24

TO ALL CONST. OFFICER - CONT'D - Page 2

October 15, 1941

contravene the "technical details of claims for reimbursement that may be prescribed by the USAFFE reimbursement" that may be prescribed by the USAFFE authorities. By authority of the President: JORGE B. VARGAS, Secretary to the President."

By order of Lt. Col. Parker

Sgd. Valeriano Segura
VALERIANO SEGURA
Capt. CE-Res
Executive Officer

CABANATUAN AREA
USAFFE

September 25, 1941.

TO: The Executive Officer, Philippine Army Unit, QMC, U.S.A.
Port Area, Manila.

SUBJECT: Employment of General Foreman.

Mr. Ireneo Pineda, a Civil Engineer and a foreman of great experience in the construction of building has been employed by the undersigned as my general foreman in the Cabanatuan Area.

Authority is requested to pay him at the rate of Five Pesos (₱5.00) per day.

/s/ EDUARDO R. ESCOBAR
/t/ EDUARDO R. ESCOBAR
1st Lieut. C. E. Res. USAFFE
Constructing Officer

COPY

COPY

GSRP

Claims of Engineers, Cebu, P.I.

(3) FROM: Dir, Rec Pers Div TO: OIC, Civ Sec, DATE: 15 May 46
Red Pers Div

MM/ret

Attention is invited to the study submitted by the Legal Officer and the included recommendations. These recommendations are hereby approved and will act as a guide in making determinations in cases of civilians claiming to be War Department employees. In case it is necessary to make further investigation as indicated in paragraph 7 f, you are directed to present the necessary information to the Chief, I & R Branch for investigation.

13 Incls: n/c

M. H. M.

DECLASSIFIED
Authority NND883078

Claims of Engineers, Cebu, P.I.

(1)FROM: OIC, Civ Sec TO:Director, Rec Pers Div DATE: 25 Apr 46

1. We have approximately 1250 claims from persons on Cebu, P.I., claiming to have worked for the War Department between 8 December 1941 and 10 April 1942 on various engineering projects including Defense Construction, Building Construction, Airfield Construction and Corps of Engineers and construction projects of 82d and 83d Infantry.

2. a. Joaquin L. Panis, at present Under-Secretary of Public Works and Communication, Manila, and formerly District Engineer on Cebu, states that a total of 27 USAFFE projects (Exhibits A and B) were undertaken by the District Engineers between 15 December 1941 and 10 April 1942.

b. Mr. Panis makes the following statement: "All the laborers therefore working in different Army projects were paid in Army payrolls by Capt. Villacastin, Finance Officer, USAFFE, except some of my higher salaried assistant engineers who preferred to collect their salaries from the Government. On or about the beginning of February 1942, at the height of our construction activities wherein we were employing about 6000 laborers in all Army projects, a schedule of daily wages and salaries was prepared by Quartermaster Colonel J. D. Cook and approved for common laborers at ₱1.20 per day of eight hours with double pay for overtime and a maximum of ₱8.00 for an assistant Engineer in charge of a major project and ₱6.00 for an assistant engineer in charge of smaller projects. With this classification, many of my assistant engineers whose salaries in the government ranged between ₱2.40 perday to ₱125.00 a month preferred to be paid under Army payrolls. Some of them, however, continued to received their salaries from the Government as a sort of a bonus in view of the heavy assignments given to them, sometimes involving twenty-four hour service without extra for overtime. The paymasters were continuously in the field, paying out payrolls made weekly in many cases, and forth nightly in other cases where the work was quite distant from the Capital."

c. Mr. P. N. Lanas, a resident of Cebu, and engineer in charge of defense projects with the 82nd Division states in his affidavit (Exhibit C): "I had about 1000 men working for me. Laborers, foremen and capataz were hired under the Cabo

Claims of Engineers, Cebu, P.I.

(1)FROM: OIC, Civ Sec TO: Director, Rec Pers Div DATE: 25 Apr 46

system and money for their payment came from USAFFE funds. It is possible that project engineers who were working for the District Engineer prior to the outbreak of the war received pay from the Commonwealth Government Offices while engaged in working for USAFFE. USAFFE funds may have been turned over to the Commonwealth Government in payment for the services of these engineers. I do know that the payrolls for these engineers were made up by Commonwealth Government clerks whereas my payroll was made up at USAFFE headquarters.

d. Benigno G. Karaos, Engineer, in his statement (Exhibit D), states: "I was engineer in charge in construction of barricades and air raid shelters in Cebu City and the waterworks in Camp "X". I had approximately 70 workers under my control. I was paid in full by the Commonwealth Government on 31 March 1942.

e. Ulpiano M. Presbitero, Engineer, states that: "I was engineer in charge of the following projects that were initiated by the Bureau of Public Works and that on 27 December 1941 I and some of the other Engineers under my supervision began receiving pay from Captain Francisco Villacastin, Finance Officer, USAFFE, in Cebu."

It will be noted that these various projects were started 27 December 1941; lasting from three weeks to two months. (Exhibit E)

f. Fedelino G. Rodriguez, Chief Surveyor of the Office of the City Engineer states that: "I am a regular civil service employee of the City Government of Cebu and that I was assigned to investigate the proposed water supply for the Base Hospital and Camp "X". Then I was assigned to locate the proposed road from Bonbon to Sirao. That this party consisted of 6 other survey men." (Exhibit F)

g. Esperidion T. Lazaga, Capataz, Road Construction and Defense Project, states that: "I was employed as Capataz in the Cabo system from 30 December 1941 to 2 March 1942 and that on 2 March 1942 I was rotated." (Exhibit G)

h. Aurelio Tangenti, Capataz, Dita-Adlawon Road Construction, USAFFE, states that: "I was employed as laborer in the Bureau of Public Works before commencing to work as

Claims of Engineers, Cebu, P.I.

(1) FROM: OIC, Civ Sec TO: Director, Rec Pers Div DATE: 25 Apr 46

a Capataz, Dita-Alawon Road Construction and that the Capataz system of employmen was used. I hired 63 men." (Exhibit H)

Review of some of the payrolls that are available pertaining to various projects indicated that the Engineers and Assistant Engineers were paid at the rate of ₱4.00 to ₱6.00 per day, being paid weekly. Attached are three payrolls, marked as Exhibits I, J, K.

3. Reference is made to letter, APPAC, dated 2 October 1945 addressed to Honorable G. F. Hanson, Deputy Commissioner, U. S. Employees Compensation Commission. (Exhibit L)

a. From what funds are these civilians paid and how are such funds disbursed?

(1) To provide a complete background in connection with the funds appropriated by the U.S. Government for used in the Philippines, it becomes necessary to trace the origin of such funds currently being used to the Independent Offices Appropriation Act, 1942 (Public Law 2878th Congress) approved 5 April 1941, appropriating monies for "Emergency Funds for the President". This legislation enabled the President of the United States to make funds available for emergencies affecting national security extent at that time. This appropriating was continued in the First Supplemental National Defense Appropriation Act, 1942 (Public Law 353-77th Congress), under the heading entitled "Army of the Philippines", and provided that any expenditures heretofore or hereafter made from said appropriation, "Emergency Funds for the President", for the purposes and in the manner authorized under the heading in the Act are hereby authorized and validated. Funds made available by this Act to the Commonwealth of the Philippines are for the operation and maintenance of the Army of the Philippines, including the expenditures incident to pay, allowances, operation, maintenance, and other activities of units and personnel of the Philippine Army. Expenditures could be made without regard to the provisions of law regulating the expenditure of, or the accounting for, funds of the United States, but shall be expended in a manner prescribed by the President of the United States. (Executive Order 9011, 3 January 1942). Funds provided for in the above cited appropriation acts are advanced to the Commonwealth of the Philippines are accounted for by the Commonwealth without reference to laws and regulations of accounting for public funds of the United States. In this connection it

activities be considered as project of the Commonwealth Government and not entitled to benefits under the Missing Persons Act.

13 Incls

W.G.B.

- Incl 1 - Affidavit, Panis (Tab A)
 - Incl 2 - Affidavit, Panis (Tab B)
 - Incl 3 - Affidavit, Lanas (Tab C)
 - Incl 4 - Affidavit, Karaos (Tab D)
 - Incl 5 - Affidavit, Presbitero (Tab E)
 - Incl 6 - Affidavit, Rodriguez (Tab F)
 - Incl 7 - Affidavit, Lazaga (Tab G)
 - Incl 8 - Affidavit, Tangente (Tab H)
 - Incl 9 - Time Book & Pay Roll (Tab I)
 - Incl 10 - Time Book & Pay Roll (Tab J)
 - Incl 11 - Time Book & Pay Roll (Tab K)
 - Incl 12 - Letter, dtd 2 Oct 45 (Tab L)
 - Incl 13 - Extract, Military of U.S. (Tab M)
-

DECLASSIFIED
Authority NND 883078

Claims of Engineers, Cebu, P.I.

2 FROM: Legal Officer TO: Director, RPD 14 May 46

1. In addition to the letter from General Fitch pertaining to the use of funds appropriated to pay, maintain and operate the Philippine Army attention is directed to the following:

a. At page 16 and 17 of publication entitled, The Philippine Army: Its establishment, organization and legal basis, it is said that shortly after General MacArthur assumed command of USAFFE, he issued a statement in which reads in part:

"The general plan for the integration of all the armed forces in the Philippines has been formulated by General MacArthur." x x x "The plan envisions an immediate construction program at strategic localities to house the thousands of reservists involved as well as the intensive development of new air fields for the rapidly expanding air forces. All Philippine elements which come under American control will maintain their national integrity. They will retain their own uniforms, their own scale of pay, their own promotion list, their own rations, and their own code of military law. Their training, however, will be under the immediate direction of the officers of the American Army. On muster into the American service they will be paid and supplied from American sources."

b. In a letter to 1st Lt. Arsenio Imperial dated 2 Sept. 1941, the Adjutant General, USAFFE, stated:

"The United States government has adopted the policy of using the agency of the Philippine Army in the employment of the manpower of the Philippines. The Philippine Army, retaining its own identity, will serve side by side with the United States under a single command." (underscoring supplied)

c. The construction referred to in the plan announced by General MacArthur was started prior to the outbreak of the war. Apparently it was under the direct supervision and control of a liaison section designated as Philippine Army Section in each staff section of the United States Headquarters. This conclusion is based upon copy of memorandum 24, 15 October 1945, Office

of the Dept. Const. Officer, Philippine Department,
(TAB C.), which reads:

"1. Referring to the employment of laborers, semiskilled laborers, capataces, foremen and technical assistants which you were authorized to employ to assist you in the construction of the buildings in your respective areas, the following second indorsement is hereby quoted:

"AGS (Ex.Div.) 201-Pineda, Irineo (Civ.) 2nd Indorsement PHILIPPINE ARMY HEADQUARTERS, Manila, October 11, 1941. To: The Commanding Officer, Casual Det. USAFFE, PA Headquarters, Manila. In view of the authority granted by His Excellency, the President in 5th indorsement of October 1, 1941, copy attached, authorizing the employment by the Philippine Army, without issuing formal appointments, of building inspectors, draftsmen, foremen, and skilled laborers at more than $\$3.00$ but not exceeding $\$5.00$ per day, payable from the $\$2000,000.00$ authorized in the letter of August 11, 1941 of the Office of the Commanding General, United States Army Forces in the Far East, it is believed that the issuance of formal appointment to Mr. Pineda is not necessary. For the Chief of Staff" (Sgd.) LUIS RAMOS, Colonel, A.G.S. The Adjutant General. Encl. 5th Indorsement of October 1, 1941."

The indorsement referred to above, was the reply of the Hq Philippine Army to a letter from the "USAFFE" Constructing Officer, Cabanatuan area, 1st Lt. Eduardo R. Escobar, CE-RES "USAFFE".

d. Promotions of member of the Philippine Army announced in USAFFE Special Orders, after the outbreak of the war, contained the phrase "By Direction of the President of the Commonwealth of the Philippines" indicating that the Philippine Army retained its identity after the outbreak of the war in accordance with the plan.

2. In view of the foregoing it appears that employees of the Philippine Army were employees of the Philippine Commonwealth and not employees of the U. S. Army. Section VIII of the War Department plan expressly states that employees of the Commonwealth are not within the provisions of the Missing Persons Act.

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3. The majority of the troops in the souther Islands appear to have been Philippine Army Units. These units having been called into service of the Armed Forces of the United States have been commonly referred to as "USAFFE" from the beginning. Therefore, although, a person, alleges in his claim that he was employed by USAFFE it does not mean that he was not actually an employee of the Philippine Army, and being paid by Philippine Army Finance service Officers from the appropriation for the operation and maintenance of the Philippine Army.

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The fact that a unit was commanded by an American officer would not mean that an employee of such unit was not an employee of the Philippine Army as there were various units of the Philippine Army which were commanded by American Army Officers, and there were various U. S. Army Officers and enlisted men on detached service with Philippine Army units.

4. The forces in the Southern Islands were originally under the command of General Sharp, and his headquarters was designated as Headquarters Visayan-Mindanao Force. Apparently these forces were later divided into the Mindanao Force and the Visayan Force. Little information is available to this Division as to the number of U. S. Army units, installations and projects in the Southern Islands. It is possible that some of the installations and projects were U. S. Army and/or were being financed out of U. S. funds and not the special Philippine Army appropriation. However, it will be noted that Mr. Paris states that laborers on army projects were paid by Capt. Villacastin, Finance Officer, USAFFE, except some of his engineers who preferred to collect their salaries from the government. Mr. Lamas states he was Construction Engineer for USAFFE Defense Projects with 82d Inf Regiment and had about 1000 men working for him. The 82d Inf Regiment was a P A unit. He states that Lt. Col. Egdanio David was in charge and took his orders from Col. Erwin Scudder. This quite clearly indicates that the employees under him were employees of the Philippine Army. It should also be noted that laborers were hired under the "cabo" system, which appears to be a system wherein a capataz hires and fires the employees and collects and distributes the pay in many cases. This is a custom or system of employment that is local in character which indicates that the projects were being carried on under Philippine Law and by Philippine agencies or the Philippine Army.

5. In view of the foregoing it is my opinion:

a. An employee of the Philippine Army is not a "civilian employee" of the War Department within the meaning of that term as used in the Missing Persons Act.

b. A laborer hired on a per diem wage under the "cabo" system of employment is not a civilian employee of the War Department as defined in the Missing Persons Act but would be local labor casually hired.

c. An employee who worked for less than 30 days would not be civilian employee of the War Department within the meaning of the Missing Persons Act in absence of evidence clearly indicating that the individual was hired for an indefinite period of time and was intended to be retained as a permanent part of the U. S. military establishment for an indefinite period.

d. Employees who were hired on a per diem basis and who actually worked more than 30 days but the 30 days consisted of intermittent periods of employment should not be considered.

to be civilian employees of the War Department but to be intermittent employees not within the provisions of the Missing Persons Act.

e. Employees of the civil government of the Commonwealth of the Philippines or a subdivision thereof are not employees of the Philippine Army or the War Department and the fact that they temporarily performed services for the military forces does not change their status.

6. The evidence available indicates that most of the employees referred to in basic C/N were employees of the Philippine Army or the civil government since they were employed by the District Engineer but in my opinion this can not be assumed in all cases.

7. I therefore recommend that:

a. All Persons employed under the "cabo" system on a per diem basis be determined not to have been War Department Employees within the provisions of the Missing Persons Act for the following reasons:

(1) Evidence available this headquarters indicates subject was employed by the Philippine Army or the Civil Government of the Commonwealth and is insufficient to establish subject was employed by the War Department.

(2) Subject was local labor casually hired on a per diem and would not be a civilian employee entitled to the War Department.

b. All persons who worked less than 30 days be determined not to be civilian employees of the War Department for the same reasons.

c. That all persons who worked at intervals which amounted to more than 30 days but less than 30 days at any one time be determined not to be civilian employees of the War Department entitled to the benefits of the Missing Persons Act for the following reasons:

(1) Same as a (1) above.

(2) Subject would be a part time or intermittent employee if employed by the War Department.

d. That employees of the District Engineer who were paid by the Commonwealth be determined not to be War Department employees but to have been Commonwealth Employees.

e. Where claim or evidence shows conclusively that claimant was employed by a Philippine Army unit, installation or activity.

it should be determined that he was an employee of the Philippine Army and not an employee of the War Department within the Missing Persons Act. Other pertinent reasons should also be stated such as (Part time employment, intermittent employment or local labor casually hired per diem basis).

f. That determinations in all cases where the evidence does not establish casual or intermittent employment or clearly establish employment by a PA unit be suspended temporarily while additional evidence is obtained as to whether funds being used were funds appropriated for the Philippine Army and whether any of the projects were actually under direct control of the U. S. Army.

13 Incls: n/c

H. W. R.

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