

GUAM WAR RESTITUTION ACT

—————
OCTOBER 11, 1996.—Ordered to be printed
—————

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 2041]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2041) to amend the Organic Act of Guam to provide restitution to the people of Guam who suffered atrocities such as personal injury, forced labor, forced marches, internment, and death during the occupation of Guam in World War II, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Guam War Restitution Act”.

SEC. 2. AMENDMENT TO ORGANIC ACT OF GUAM TO PROVIDE RESTITUTION.

The Organic Act of Guam (48 U.S.C. 1421 et seq.) is amended by adding at the end the following new section:

“SEC. 35. RECOGNITION OF DEMONSTRATED LOYALTY OF GUAM TO UNITED STATES, AND SUFFERING AND DEPRIVATION ARISING THEREFROM, DURING WORLD WAR II.

“(a) DEFINITIONS.—For purposes of this section:

“(1) AWARD.—The term ‘award’ means the amount of compensation payable under subsection (d)(2).

“(2) BENEFIT.—The term ‘benefit’ means the amount of compensation payable under subsection (d)(3).

“(3) COMMISSION.—The term ‘Commission’ means the Guam Trust Fund Commission established by subsection (f).

“(4) COMPENSABLE INJURY.—The term ‘compensable injury’ means one of the following three categories of injury incurred during and as a result of World War II:

- “(A) Death.
- “(B) Personal injury (as defined by the Commission).
- “(C) Forced labor, forced march, or internment.

“(5) GUAMANIAN.—The term ‘Guamanian’ means any person who—

“(A) resided in the territory of Guam during any portion of the period beginning on December 8, 1941, and ending on August 10, 1944, and

“(B) was a United States citizen or national during such portion.

“(6) PROOF.—The term ‘proof’ relative to compensable injury means any one of the following, if determined by the Commission to be valid:

- “(A) An affidavit by a witness to such compensable injury;
- “(B) A statement, attesting to compensable injury, which is—
 - “(i) offered as oral history collected for academic, historic preservation, or journalistic purposes;
 - “(ii) made before a committee of the Guam legislature;
 - “(iii) made in support of a claim filed with the Guam War Reparations Commission;
 - “(iv) filed with a private Guam war claims advocate; or
 - “(v) made in a claim pursuant to the first section of the Act of November 15, 1945 (Chapter 483; 59 Stat. 582).

“(7) TRUST FUND.—The term ‘Trust Fund’ means the Guam Trust Fund established by subsection (e).

“(b) REQUIREMENTS FOR CLAIMS AND GENERAL DUTIES OF COMMISSION—

“(1) REQUIRED INFORMATION FOR CLAIMS.—Each claim for an award or benefit under this section shall be made under oath and shall include—

- “(A) the name and age of the claimant;
- “(B) the village in which the individual who suffered the compensable injury which is the basis for the claim resided at the time the compensable injury occurred;
- “(C) the approximate date or dates on which the compensable injury occurred;
- “(D) a brief description of the compensable injury which is the basis for the claim;
- “(E) the circumstances leading up to the compensable injury; and
- “(F) in the case of a claim for a benefit, proof of the relationship of the claimant to the relevant decedent.

“(2) GENERAL DUTIES OF THE COMMISSION TO PROCESS CLAIMS.—With respect to each claim filed under this section, the Commission shall determine whether the claimant is eligible for an award or benefit under this section and, if so, shall certify the claim for payment in accordance with subsection (d).

“(3) TIME LIMITATION.—With respect to each claim submitted under this section, the Commission shall act expeditiously, but in no event later than 1 year after the receipt of the claim by the Commission, to fulfill the requirements of paragraph (2) regarding the claim.

“(4) DIRECT RECEIPT OF PROOF FROM PUBLIC CLAIMS FILES PERMITTED.—The Commission may receive proof of a compensable injury directly from the Governor of Guam, or the Federal custodian of an original claim filed with respect to the injury pursuant to the first section of the Act of November 15, 1945 (Chapter 483; 59 Stat. 582), if such proof is contained in the respective public records of the Governor or the custodian.

“(c) ELIGIBILITY.—

“(1) ELIGIBILITY FOR AWARDS.—A claimant shall be eligible for an award under this section if the claimant meets each of the following criteria:

- “(A) The claimant is—
 - “(i) a living Guamanian who personally received the compensable injury that is the basis for the claim, or
 - “(ii) the heir or next of kin of a decedent Guamanian, in the case of a claim with respect to which the compensable injury is death.
- “(B) The claimant meets the requirements of paragraph (3).

“(2) ELIGIBILITY FOR BENEFITS.—A claimant shall be eligible for a benefit under this section if the claimant meets each of the following criteria:

- “(A) The claimant is the heir or next of kin of a decedent Guamanian who personally received the compensable injury that is the basis for the claim, and the claim is made with respect to a compensable injury other than death.
- “(B) The claimant meets the requirements of paragraph (3).

“(3) GENERAL REQUIREMENTS FOR ELIGIBILITY.—A claimant meets the requirements of this paragraph if the claimant meets each of the following criteria:

“(A) The claimant files a claim with the Commission regarding a compensable injury and containing all of the information required by subsection (b)(1).

“(B) The claimant furnishes proof of the compensable injury.

“(C) By such procedures as the Commission may prescribe, the claimant files a claim under this section not later than 1 year after the date of the appointment of the ninth member of the Commission.

“(4) LIMITATION ON ELIGIBILITY FOR AWARDS AND BENEFITS—

“(A) AWARDS.—

“(i) No claimant may receive more than 1 award under this section and not more than 1 award may be paid under this section with respect to each decedent described in paragraph (1)(A)(ii).

“(ii) Each award shall consist of only 1 of the amounts referred to in subsection (d)(2).

“(B) BENEFITS.—

“(i) Not more than 1 benefit may be paid under this Act with respect to each decedent described in paragraph (2)(A).

“(ii) Each benefit shall consist of only 1 of the amounts referred to in subsection (d)(3).

“(d) PAYMENTS.—

“(1) CERTIFICATION.—The Commission shall certify for payment all awards and benefits that the Commission determines are payable under this section.

“(2) AWARDS.—The Commission shall pay from the Trust Fund 1 of the following amounts as an award for each claim with respect to which a claimant is determined to be eligible under subsection (c)(1):

“(A) \$20,000 if the claim is based on death.

“(B) \$7,000 if the claim is based on personal injury.

“(C) \$5,000 if the claim is based on forced labor, forced march, or internment and is not based on personal injury.

“(3) BENEFITS.—The Commission shall pay from the Trust Fund 1 of the following amounts as a benefit with respect to each claim for which a claimant is determined eligible under subsection (c)(2):

“(A) \$7,000 if the claim is based on personal injury.

“(B) \$5,000 if the claim is based on forced labor, forced march, or internment and is not based on personal injury.

“(4) REDUCTION OF AMOUNT TO COORDINATE WITH PREVIOUS CLAIMS.—The amount required to be paid under paragraph (2) or (3) for a claim with respect to any Guamanian shall be reduced by any amount paid under the first section of the Act of November 15, 1945 (Chapter 483; 59 Stat. 582) with respect to such Guamanian.

“(5) FORM OF PAYMENT.—

“(A) AWARDS.—In the case of a claim for an award, payment under this subsection shall be made in cash to the claimant, except as provided in paragraph (6).

“(B) BENEFITS.—In the case of a claim for a benefit—

“(i) IN GENERAL.—Payment under this subsection shall consist of—

“(I) provision of a scholarship;

“(II) payment of medical expenses; or

“(III) a grant for first-time home ownership.

“(ii) METHOD OF PAYMENT.—Payment of cash under this subsection may not be made directly to a claimant, but may be made to a service provider, seller of goods or services, or other person in order to provide to a claimant (or other person, as provided in paragraph (6)) a benefit referred to in subparagraph (B).

“(C) DEVELOPMENT OF PROCEDURES.—The Commission shall develop and implement procedures to carry out this paragraph.

“(6) PAYMENTS ON CLAIMS WITH RESPECT TO SAME DECEDENT.—

“(A) AWARDS.—In the case of a claim based on the compensable injury of death, payment of an award under this section shall be divided, as provided in the probate laws of Guam, among the heirs or next of kin of the decedent who file claims for such division by such procedures as the Commission may prescribe.

“(B) INDIVIDUALS PROVING CONSANGUINITY WITH CLAIMANTS FOR BENEFITS.—Each individual who proves consanguinity with a claimant who has met each of the criteria specified in subsection (c)(2) shall be entitled to receive an equal share of the benefit accruing under this section with respect

to the claim of such claimant if the individual files a claim with the Commission by such procedures as the Commission may prescribe.

“(7) ORDER OF PAYMENTS.—The Commission shall endeavor to make payments under this section with respect to awards before making such payments with respect to benefits and, when making payments with respect to awards or benefits, respectively, to make payments to eligible individuals in the order of date of birth (the oldest individual on the date of the enactment of this Act, or if applicable, the survivors of that individual, receiving payment first) until all eligible individuals have received payment in full.

“(8) REFUSAL TO ACCEPT PAYMENT.—If a claimant refuses to accept a payment made or offered under paragraph (2) or (3) with respect to a claim filed under this section—

“(A) the amount of the refused payment, if withdrawn from the Trust Fund for purposes of making the payment, shall be returned to the Trust Fund; and

“(B) no payment may be made under this section to such claimant at any future date with respect to the claim.

“(9) CLARIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.—Awards paid to eligible claimants—

“(A) shall be treated for purposes of the internal revenue laws of the United States as damages received on account of personal injuries or sickness; and

“(B) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

“(e) GUAM TRUST FUND.—

“(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Guam Trust Fund, which shall be administered by the Secretary of the Treasury.

“(2) INVESTMENTS.—Amounts in the Trust Fund shall be invested in accordance with section 9702 of title 31, United States Code.

“(3) USES.—Amounts in the Trust Fund shall be available only for disbursement by the Commission in accordance with subsection (f).

“(4) DISPOSITION OF FUNDS UPON TERMINATION.—If all of the amounts in the Trust Fund have not been obligated or expended by the date of the termination of the Commission, investments of amounts in the Trust Fund shall be liquidated, the receipts of such liquidation shall be deposited in the Trust Fund, and any unobligated funds remaining in the Trust Fund shall be given to the University of Guam, with the conditions that—

“(A) the funds are invested as described in paragraph (2);

“(B) the funds are used for scholarships to be known as Guam World War II Loyalty Scholarships, for claimants described in paragraph (1) or (2) of subsection (c) or in subsection (d)(6), or for such scholarships for the descendants of such claimants; and

“(C) as the University determines appropriate, the University shall endeavor to award the scholarships referred to in subparagraph (B) in a manner that permits the award of the largest possible number of scholarships over the longest possible period of time.

“(f) GUAM TRUST FUND COMMISSION.—

“(1) ESTABLISHMENT.—There is established the Guam Trust Fund Commission, which shall be responsible for making disbursements from the Guam Trust Fund in the manner provided in this section.

“(2) USE OF GUAM TRUST FUND.—The Commission may make disbursements from the Guam Trust Fund only for the following uses:

“(A) To make payments, under subsection (d), of awards and benefits.

“(B) To sponsor research and public educational activities so that the events surrounding the wartime experiences and losses of the Guamanian people will be remembered, and so that the causes and circumstances of this event and similar events may be illuminated and understood.

“(C) To pay reasonable administrative expenses of the Commission, including expenses incurred under paragraphs (3)(C), (4), and (5).

“(3) MEMBERSHIP.—

“(A) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members who are not officers or employees of the United States Government and who are appointed by the President from recommendations made by the Governor of Guam.

“(B) TERMS.—

“(i) Initial members of the Commission shall be appointed for initial terms of 3 years, and subsequent terms shall be of a length determined pursuant to subparagraph (F).

“(ii) Any member of the Commission who is appointed to fill a vacancy occurring before the expiration of the term for which such member’s predecessor was appointed shall be appointed only for the remainder of such term.

“(C) PROHIBITION OF COMPENSATION OTHER THAN EXPENSES.—Members of the Commission shall serve without pay as such, except that members of the Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Commission in the same manner that persons employed intermittently in the United States Government are allowed expenses under section 5703 of title 5, United States Code.

“(D) QUORUM.—5 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

“(E) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members of the Commission.

“(F) SUBSEQUENT APPOINTMENTS.—

“(i) Upon the expiration of the term of each member of the Commission, the President shall reappoint the member (or appoint another individual to replace the member) if the President determines, after consideration of the reports submitted to the President by the Commission under this section, that there are sufficient funds in the Trust Fund for the present and future administrative costs of the Commission and for the payment of further awards and benefits for which claims have been or may be filed under this title.

“(ii) Members appointed under clause (i) shall be appointed for a term of a length that the President determines to be appropriate, but the length of such term shall not exceed 3 years.

“(4) STAFF AND SERVICES.—

“(A) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Commission.

“(B) ADDITIONAL STAFF.—The Commission may appoint and fix the pay of such additional staff as it may require.

“(C) INAPPLICABILITY OF CERTAIN PROVISIONS OF TITLE 5, UNITED STATES CODE.—The Director and the additional staff of the Commission may be appointed without regard to section 5311 of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the minimum rate of basic pay payable for GS-15 of the General Schedule under section 5332(a) of such title.

“(D) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

“(5) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of funds, services, or property for uses referred to in paragraph (2). The Commission may deposit such gifts or donations, or the proceeds from such gifts or donations, into the Trust Fund.

“(6) TERMINATION.—The Commission shall terminate on the earlier of—

“(A) the expiration of the 6-year period beginning on the date of the appointment of the first member of the Commission; or

“(B) the date on which the Commission submits to the Congress a certification that all claims certified for payment under this section are paid in full and no further claims are expected to be so certified.

“(g) NOTICE.—Not later than 90 days after the appointment of the ninth member of the Commission, the Commission shall give public notice in the territory of Guam and such other places as the Commission deems appropriate of the time limitation within which claims may be filed under this section. The Commission shall ensure that the provisions of this section are widely published in the territory of Guam and such other places as the Commission deems appropriate, and the Commission shall make every effort both to advise promptly all individuals who may be entitled to file claims under the provisions of this title and to assist such individuals in the preparation and filing of their claims.

“(h) REPORTS.—

“(1) COMPENSATION AND CLAIMS.—Not later than 12 months after the formation of the Commission, and each year thereafter for which the Commission is in existence, the Commission shall submit to the Congress, the President, and the Governor of Guam a report containing a determination of the specific amount of compensation necessary to fully carry out this section, the expected amount of receipts to the Trust Fund, and all payments made by the Commission under this section. The report shall also include, with respect to the year which the report concerns—

“(A) a list of all claims, categorized by compensable injury, which were determined to be eligible for an award or benefit under this section, and a list of all claims, categorized by compensable injury, which were certified for payment under this section; and

“(B) a list of all claims, categorized by compensable injury, which were determined not to be eligible for an award or benefit under this section, and a brief explanation of the reason therefor.

“(2) ANNUAL OPERATIONS AND STATUS OF TRUST FUND.—Beginning with the first full fiscal year ending after submission of the first report required by paragraph (1), and annually thereafter with respect to each fiscal year in which the Commission is in existence, the Commission shall submit a report to Congress, the President, and the Governor of Guam concerning the operations of the Commission under this section and the status of the Trust Fund. Each such report shall be submitted not later than January 15th of the first calendar year beginning after the end of the fiscal year which the report concerns.

“(3) FINAL AWARD REPORT.—After all awards have been paid to eligible claimants, the Commission shall submit a report to the Congress, the President, and the Governor of Guam certifying—

“(A) the total amount of compensation paid as awards under this section, broken down by category of compensable injury; and

“(B) the status of the Trust Fund and the amount of any existing balance thereof.

“(4) FINAL BENEFITS REPORT.—After all benefits have been paid to eligible claimants, the Commission shall submit a report to the Congress, the President, and the Governor of Guam certifying—

“(A) the total amount of compensation paid as benefits under this section, broken down by category of compensable injury; and

“(B) the final status of the Trust Fund and the amount of any existing balance thereof.

“(i) LIMITATION OF AGENT AND ATTORNEY FEES.—It shall be unlawful for an amount exceeding 5 percent of any payment required by this section with respect to an award or benefit to be paid to or received by any agent or attorney for any service rendered in connection with the payment. Any person who violates this section shall be fined under title 18, United States Code, or imprisoned for not more than 1 year, or both.

“(j) DISCLAIMER.—No provision of this section shall constitute an obligation for the United States to pay any claim arising out of war. The compensation provided in this section is ex gratia in nature and intended solely as a means of recognizing the demonstrated loyalty of the people of Guam to the United States, and the suffering and deprivation arising therefrom, during World War II.

“(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, from sums appropriated to the Department of the Interior, such sums as may be necessary to carry out this section, including the administrative responsibilities of the Commission for the 36-month period beginning on the date of the appointment of the ninth member of the Commission. Amounts appropriated pursuant to this section are authorized to remain available until expended.”.

SEC. 3. RECOMMENDATION OF FUNDING MEASURES.

Not later than 1 year after the date of the submission of the first report submitted under section 35(h)(1) of the Organic Act of Guam (as added by section 2 of this Act), the President shall submit to the Congress a list of recommended spending cuts or other measures which, if implemented, would generate sufficient savings or income, during the first 5 fiscal years beginning after the date of the submission of such list, to provide the amount of compensation necessary to fully carry out this section (as determined in such first report).

PURPOSE OF THE BILL

The purpose of H.R. 2041 is to amend the Organic Act of Guam to prove restitution to the people of Guam who suffered atrocities

such as personal injury, forced labor, forced marches, internment, and death during the occupation of Guam in World War II.

BACKGROUND AND NEED FOR LEGISLATION

The island of Guam together with nearby islets and cays constitute the southernmost islands of the Mariana Archipelago in the far Western Pacific. United States sovereignty over Guam was established pursuant to the Treaty of Paris which ended the Spanish-American War in 1898. Residents of the islands became United States nationals and later after World War II, U.S. citizens.

The U.S. Navy was administering Guam when Japanese forces invaded the territory on December 10, 1941. For 32 months, the people of Guam suffered atrocities by the enemy occupation, including executions, rapes, beatings, imprisonment, forced labor and forced marches, primarily due to their continued loyalty to the United States.

Finally, on July 21, 1944, U.S. forces liberated the islands. The people of Guam endured the grim hostilities centered in the Western Pacific during the balance of World War II with their fellow Americans back in control. V-J Day in August and the Armistice in September 1945, appeared to be the beginning of reconciling the personal injuries inflicted upon the people of Guam by the Japanese enemy forces.

The United States signed a Treaty of Peace with Japan on September 8, 1951, which precludes American citizens from making claims against Japan for war reparations. With direct reparations from Japan legally foreclosed, the people of Guam had no choice but to look to Washington for redress of their war time losses. While civilians and prisoners of war, both American nationals and citizens, have been awarded some compensation from the federal government during the latter part of World War II and the post war period, only the Americans of Guam have never had their loyalty and suffering of World War II fully recognized and claims remedied.

In 1945 Congress passed the Guam Meritorious Claims Act, Public Law 79-224, authorizing payment of Guam's war claims. Questions arose regarding the administration of the Guam claims by the Naval government on Guam. Claims over \$5,000 were discouraged because these amounts would require approval from Washington. The Naval claims administrators relied heavily on property damage as opposed to death or personal injury as the basis of claims, which resulted in some cases of greater compensation being paid for the loss of trees than for the loss of a human limb. These procedural shortcomings were compounded by the oversight of the underlying law which did not authorize payment for claims based on forced labor or forced march, even though American civilians in the Philippines were paid for these categories.

The Secretary of the Interior appointed the Hopkins Commission in 1945 to examine the handling of the Naval claims process. The Commission recommended changes in the Guam Meritorious Claims Act to address a number of serious shortcomings. A major problem was the one year limit for claims to be submitted. It was well known that due to the destruction and displacement of entire villages, one year was insufficient time for people who were strug-

gling with recovering from years of war time occupation and strife. The Commission emphasized the loyalty of the people of Guam during the brutal occupation.

The most distant U.S. territory, Guam, was not included in acts of Congress in 1948 and 1962 to address some of the lingering problems arising from the initial efforts to settle war claims by American nationals and citizens. This oversight left outstanding the deficiencies in the Guam Meritorious Claims Act reported by the Interior Department's Hopkins Commission.

Americans in Guam who remained loyal to the United States throughout the conflict of World War II and their descendants are still waiting for a just and final recognition of their loyalty and resolution of reparations. Congressional action is necessary to bring these issues to closure.

For the people of Guam, war reparations is an issue that demands attention, especially during the 50th anniversary observances of the Liberation of Guam and the end of the War in the Pacific. Every single person on Guam of Chamorro ancestry has a close relative who experienced the atrocities of the war.

COMMITTEE ACTION

Congressman Elton Gallegly (R-CA) introduced H.R. 602, of which title V was the "Guam World War II Loyalty Recognition Act," on January 20, 1995. The Subcommittee on Native American and Insular Affairs held a hearing on January 31, 1995, on H.R. 602. The legislation was modified and reintroduced as H.R. 2041 on July 13, 1995, by Delegate Robert A. Underwood (D-GU). The bill was referred primarily to the Committee on Resources and in addition to the Committee on the Judiciary and the Committee on International Relations. Within the Committee on Resources, the bill was referred to the Subcommittee on Native American and Insular Affairs. On July 24, 1996, the Subcommittee held a hearing during which discussion was raised regarding pending legislation on Guam war restitution. On September 18, 1996, the Subcommittee was discharged from further consideration of H.R. 2041 and the Full Committee met to consider the measure. Delegate Underwood offered an amendment in the nature of a substitute which would require the President to recommend spending cuts or other cost saving measures to fund the Act, instead of collecting a fee from the sale of military supplies to Japan; it was adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

The Act is to be cited as the "Guam Restitution Act"

Section 2. Amendment to Organic Act of Guam to Provide Restitution

This section amends the Organic Act of Guam (48 U.S.C. 1421 et seq.) by adding at the end of the Act a new section entitled, "Recognition of demonstrated loyalty of Guam to United States, and suffering and deprivation arising therefrom, during World War

II". This new section includes definitions of the terms "award," "benefit", "commission", "compensable injury", "Guamanian", "proof", and "Trust Fund".

This new section of the Organic Act outlines the requirements for claims and general duties of the Guam Trust Fund Commission, the criteria a claimant must meet to be eligible for an award, as well as conditions under which such awards shall be paid.

A Guam Trust Fund is established, to be disbursed by the Guam Trust Fund Commission, also established by this legislation. The Commission is required to submit a report to Congress, the President, and the Governor of Guam within a year after the Commission is formed, and annually afterwards, including a final report after the benefits have been paid.

This section also provides limitations on agent and attorney's fees, disclaimers, and an authorization of appropriations.

Section 3. Recommendation of Funding Measures

Under this section, within a year after the submission of the Commission's first report, the President of the United States must submit to Congress a list of measures intended to generate savings or income necessary to carry out H.R. 2041.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of Rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 2041 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 2041. However, clause 7(d) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 2041 does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 2041.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2041 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 10, 1996.

Hon. DON YOUNG,
*Chairman, Committee on Resources, House of Representatives,
Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2041, the Guam War Restitution Act, as ordered reported by the House Committee on Resources on September 18, 1996. CBO estimates that enacting H.R. 2041 would increase direct spending by between \$50 million and \$100 million over the next several years to compensate Guamanians injured during the occupation of Guam by Japan in World War II. Even though the bill would authorize the appropriation of funds to pay for such claims, it entitles eligible individuals to receive compensation. Therefore, CBO concludes that those payments would constitute mandatory spending in the form of an appropriated entitlement, and pay-as-you-go procedures would apply. In addition, CBO estimates that discretionary costs would increase by about \$3 million over the same period to establish a commission to certify and pay eligible claims.

Bill purpose

H.R. 2041 would establish procedures for compensating Guamanians who either directly suffered injury during the Japanese occupation of Guam in World War II, or are related to a deceased individual who was killed or injured during the occupation. Specifically, the bill would award \$20,000 for a claim based on death, \$7,000 for a claim based on personal injury, and \$5,000 for a claim based on forced labor, forced march, or internment. For the latter two claims, cash would be awarded to individuals who directly suffered the injury, and benefits—such as a scholarship or the payment of medical expenses—would be awarded to the relatives of a deceased individual injured during the occupation.

The bill would establish a nine-member Guam Trust Fund Commission to certify eligibility and award compensation. The President would appoint the members based on recommendations made by the Governor of Guam. Costs of the commission would be paid from either donated or appropriated funds. Claimants would have 12 months from the date the ninth commissioner is appointed to file their claims, and the commission would have 12 months to cer-

tify each new claim. At the earlier of six years or the awarding of the final claim, the bill would terminate the commission and require that it transfer any remaining funds to the University of Guam.

Federal Budgetary Impact

CBO estimates that enacting H.R. 2041 would increase direct spending by the federal government by between \$50 million and \$100 million over the next several years. The range results from differing estimates of the number of valid claims that would likely be submitted if the bill is enacted. The high end of the range assumes that about 15,000 claims would be submitted. (Approximately 13,000 names are inscribed on a wall memorializing Guamanians who died or suffered an atrocity during the period of the Japanese occupation, but the possibility of compensation from the federal government might elicit additional claims.) The low end is based on the approximately 9,000 claims previously submitted to the governor's office on Guam and also excludes the approximately \$8 million previously paid to Guamanians under the Guam Meritorious Claims Act (Public Law 79–224). (It is uncertain whether adequate records remain to determine who previously received compensation.) Depending on when the Congress would appropriate the necessary funds, full payments of the awards and benefits could take several years.

In addition, CBO estimates that the commission would incur discretionary costs of about \$3 million over the next several years to process claims.

Mandates statement

H.R. 2041 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) and would impose no costs on state, local, or tribal governments. The bill provides that any amounts remaining in the Guam Trust Fund after termination of the commission would be given to the University of Guam for scholarships. CBO cannot predict whether any such amounts would be available.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are John R. Righter (for federal costs), and Marjorie Miller (for state and local costs).

Sincerely,

JAMES L. BLUM,
(For June E. O'Neill, Director).

COMPLIANCE WITH PUBLIC LAW 104–4

H.R. 2041 contains no unfunded mandates.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 35 OF THE ORGANIC ACT OF GUAM

SEC. 35. RECOGNITION OF DEMONSTRATED LOYALTY OF GUAM TO UNITED STATES, AND SUFFERING AND DEPRIVATION ARISING THEREFROM, DURING WORLD WAR II.

(a) *DEFINITIONS.—For purposes of this section:*

(1) *AWARD.—The term “award” means the amount of compensation payable under subsection (d)(2).*

(2) *BENEFIT.—The term “benefit” means the amount of compensation payable under subsection (d)(3).*

(3) *COMMISSION.—The term “Commission” means the Guam Trust Fund Commission established by subsection (f).*

(4) *COMPENSABLE INJURY.—The term “compensable injury” means one of the following three categories of injury incurred during and as a result of World War II:*

(A) *Death.*

(B) *Personal injury (as defined by the Commission).*

(C) *Forced labor, forced march, or internment.*

(5) *GUAMANIAN.—The term “Guamanian” means any person who—*

(A) *resided in the territory of Guam during any portion of the period beginning on December 8, 1941, and ending on August 10, 1944, and*

(B) *was a United States citizen or national during such portion.*

(6) *PROOF.—The term “proof” relative to compensable injury means any one of the following, if determined by the Commission to be valid:*

(A) *An affidavit by a witness to such compensable injury;*

(B) *A statement, attesting to compensable injury, which*

is—

(i) *offered as oral history collected for academic, historic preservation, or journalistic purposes;*

(ii) *made before a committee of the Guam legislature;*

(iii) *made in support of a claim filed with the Guam War Reparations Commission;*

(iv) *filed with a private Guam war claims advocate;*

or

(v) *made in a claim pursuant to the first section of the Act of November 15, 1945 (Chapter 483; 59 Stat. 582).*

(7) *TRUST FUND.—The term “Trust Fund” means the Guam Trust Fund established by subsection (e).*

(b) *REQUIREMENTS FOR CLAIMS AND GENERAL DUTIES OF COMMISSION—*

(1) *REQUIRED INFORMATION FOR CLAIMS.—Each claim for an award or benefit under this section shall be made under oath and shall include—*

(A) *the name and age of the claimant;*

(B) *the village in which the individual who suffered the compensable injury which is the basis for the claim resided at the time the compensable injury occurred;*

(C) *the approximate date or dates on which the compensable injury occurred;*

(D) a brief description of the compensable injury which is the basis for the claim;

(E) the circumstances leading up to the compensable injury; and

(F) in the case of a claim for a benefit, proof of the relationship of the claimant to the relevant decedent.

(2) *GENERAL DUTIES OF THE COMMISSION TO PROCESS CLAIMS.*—With respect to each claim filed under this section, the Commission shall determine whether the claimant is eligible for an award or benefit under this section and, if so, shall certify the claim for payment in accordance with subsection (d).

(3) *TIME LIMITATION.*—With respect to each claim submitted under this section, the Commission shall act expeditiously, but in no event later than 1 year after the receipt of the claim by the Commission, to fulfill the requirements of paragraph (2) regarding the claim.

(4) *DIRECT RECEIPT OF PROOF FROM PUBLIC CLAIMS FILES PERMITTED.*—The Commission may receive proof of a compensable injury directly from the Governor of Guam, or the Federal custodian of an original claim filed with respect to the injury pursuant to the first section of the Act of November 15, 1945 (Chapter 483; 59 Stat. 582), if such proof is contained in the respective public records of the Governor or the custodian.

(c) *ELIGIBILITY.*—

(1) *ELIGIBILITY FOR AWARDS.*—A claimant shall be eligible for an award under this section if the claimant meets each of the following criteria:

(A) The claimant is—

(i) a living Guamanian who personally received the compensable injury that is the basis for the claim, or

(ii) the heir or next of kin of a decedent Guamanian, in the case of a claim with respect to which the compensable injury is death.

(B) The claimant meets the requirements of paragraph (3).

(2) *ELIGIBILITY FOR BENEFITS.*—A claimant shall be eligible for a benefit under this section if the claimant meets each of the following criteria:

(A) The claimant is the heir or next of kin of a decedent Guamanian who personally received the compensable injury that is the basis for the claim, and the claim is made with respect to a compensable injury other than death.

(B) The claimant meets the requirements of paragraph (3).

(3) *GENERAL REQUIREMENTS FOR ELIGIBILITY.*—A claimant meets the requirements of this paragraph if the claimant meets each of the following criteria:

(A) The claimant files a claim with the Commission regarding a compensable injury and containing all of the information required by subsection (b)(1).

(B) The claimant furnishes proof of the compensable injury.

(C) By such procedures as the Commission may prescribe, the claimant files a claim under this section not later than

1 year after the date of the appointment of the ninth member of the Commission.

(4) *LIMITATION ON ELIGIBILITY FOR AWARDS AND BENEFITS—*

(A) *AWARDS.—*

(i) *No claimant may receive more than 1 award under this section and not more than 1 award may be paid under this section with respect to each decedent described in paragraph (1)(A)(ii).*

(ii) *Each award shall consist of only 1 of the amounts referred to in subsection (d)(2).*

(B) *BENEFITS.—*

(i) *Not more than 1 benefit may be paid under this Act with respect to each decedent described in paragraph (2)(A).*

(ii) *Each benefit shall consist of only 1 of the amounts referred to in subsection (d)(3).*

(d) *PAYMENTS.—*

(1) *CERTIFICATION.—The Commission shall certify for payment all awards and benefits that the Commission determines are payable under this section.*

(2) *AWARDS.—The Commission shall pay from the Trust Fund 1 of the following amounts as an award for each claim with respect to which a claimant is determined to be eligible under subsection (c)(1):*

(A) *\$20,000 if the claim is based on death.*

(B) *\$7,000 if the claim is based on personal injury.*

(C) *\$5,000 if the claim is based on forced labor, forced march, or internment and is not based on personal injury.*

(3) *BENEFITS.—The Commission shall pay from the Trust Fund 1 of the following amounts as a benefit with respect to each claim for which a claimant is determined eligible under subsection (c)(2):*

(A) *\$7,000 if the claim is based on personal injury.*

(B) *\$5,000 if the claim is based on forced labor, forced march, or internment and is not based on personal injury.*

(4) *REDUCTION OF AMOUNT TO COORDINATE WITH PREVIOUS CLAIMS.—The amount required to be paid under paragraph (2) or (3) for a claim with respect to any Guamanian shall be reduced by any amount paid under the first section of the Act of November 15, 1945 (Chapter 483; 59 Stat. 582) with respect to such Guamanian.*

(5) *FORM OF PAYMENT.—*

(A) *AWARDS.—In the case of a claim for an award, payment under this subsection shall be made in cash to the claimant, except as provided in paragraph (6).*

(B) *BENEFITS.—In the case of a claim for a benefit—*

(i) *IN GENERAL.—Payment under this subsection shall consist of—*

(I) *provision of a scholarship;*

(II) *payment of medical expenses; or*

(III) *a grant for first-time home ownership.*

(ii) *METHOD OF PAYMENT.—Payment of cash under this subsection may not be made directly to a claimant, but may be made to a service provider, seller of goods*

or services, or other person in order to provide to a claimant (or other person, as provided in paragraph (6)) a benefit referred to in subparagraph (B).

(C) *DEVELOPMENT OF PROCEDURES.*—The Commission shall develop and implement procedures to carry out this paragraph.

(6) *PAYMENTS ON CLAIMS WITH RESPECT TO SAME DECEDENT.*—

(A) *AWARDS.*—In the case of a claim based on the compensable injury of death, payment of an award under this section shall be divided, as provided in the probate laws of Guam, among the heirs or next of kin of the decedent who file claims for such division by such procedures as the Commission may prescribe.

(B) *INDIVIDUALS PROVING CONSANGUINITY WITH CLAIMANTS FOR BENEFITS.*—Each individual who proves consanguinity with a claimant who has met each of the criteria specified in subsection (c)(2) shall be entitled to receive an equal share of the benefit accruing under this section with respect to the claim of such claimant if the individual files a claim with the Commission by such procedures as the Commission may prescribe.

(7) *ORDER OF PAYMENTS.*—The Commission shall endeavor to make payments under this section with respect to awards before making such payments with respect to benefits and, when making payments with respect to awards or benefits, respectively, to make payments to eligible individuals in the order of date of birth (the oldest individual on the date of the enactment of this Act, or if applicable, the survivors of that individual, receiving payment first) until all eligible individuals have received payment in full.

(8) *REFUSAL TO ACCEPT PAYMENT.*—If a claimant refuses to accept a payment made or offered under paragraph (2) or (3) with respect to a claim filed under this section—

(A) the amount of the refused payment, if withdrawn from the Trust Fund for purposes of making the payment, shall be returned to the Trust Fund; and

(B) no payment may be made under this section to such claimant at any future date with respect to the claim.

(9) *CLARIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.*—Awards paid to eligible claimants—

(A) shall be treated for purposes of the internal revenue laws of the United States as damages received on account of personal injuries or sickness; and

(B) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

(e) *GUAM TRUST FUND.*—

(1) *ESTABLISHMENT.*—There is established in the Treasury of the United States the Guam Trust Fund, which shall be administered by the Secretary of the Treasury.

(2) *INVESTMENTS.*—Amounts in the Trust Fund shall be invested in accordance with section 9702 of title 31, United States Code.

(3) *USES.*—Amounts in the Trust Fund shall be available only for disbursement by the Commission in accordance with subsection (f).

(4) *DISPOSITION OF FUNDS UPON TERMINATION.*—If all of the amounts in the Trust Fund have not been obligated or expended by the date of the termination of the Commission, investments of amounts in the Trust Fund shall be liquidated, the receipts of such liquidation shall be deposited in the Trust Fund, and any unobligated funds remaining in the Trust Fund shall be given to the University of Guam, with the conditions that—

(A) the funds are invested as described in paragraph (2);

(B) the funds are used for scholarships to be known as Guam World War II Loyalty Scholarships, for claimants described in paragraph (1) or (2) of subsection (c) or in subsection (d)(6), or for such scholarships for the descendants of such claimants; and

(C) as the University determines appropriate, the University shall endeavor to award the scholarships referred to in subparagraph (B) in a manner that permits the award of the largest possible number of scholarships over the longest possible period of time.

(f) *GUAM TRUST FUND COMMISSION.*—

(1) *ESTABLISHMENT.*—There is established the Guam Trust Fund Commission, which shall be responsible for making disbursements from the Guam Trust Fund in the manner provided in this section.

(2) *USE OF GUAM TRUST FUND.*—The Commission may make disbursements from the Guam Trust Fund only for the following uses:

(A) To make payments, under subsection (d), of awards and benefits.

(B) To sponsor research and public educational activities so that the events surrounding the wartime experiences and losses of the Guamanian people will be remembered, and so that the causes and circumstances of this event and similar events may be illuminated and understood.

(C) To pay reasonable administrative expenses of the Commission, including expenses incurred under paragraphs (3)(C), (4), and (5).

(3) *MEMBERSHIP.*—

(A) *NUMBER AND APPOINTMENT.*—The Commission shall be composed of 9 members who are not officers or employees of the United States Government and who are appointed by the President from recommendations made by the Governor of Guam.

(B) *TERMS.*—

(i) Initial members of the Commission shall be appointed for initial terms of 3 years, and subsequent terms shall be of a length determined pursuant to subparagraph (F).

(ii) Any member of the Commission who is appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(C) PROHIBITION OF COMPENSATION OTHER THAN EXPENSES.—Members of the Commission shall serve without pay as such, except that members of the Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Commission in the same manner that persons employed intermittently in the United States Government are allowed expenses under section 5703 of title 5, United States Code.

(D) QUORUM.—5 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(E) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members of the Commission.

(F) SUBSEQUENT APPOINTMENTS.—

(i) Upon the expiration of the term of each member of the Commission, the President shall reappoint the member (or appoint another individual to replace the member) if the President determines, after consideration of the reports submitted to the President by the Commission under this section, that there are sufficient funds in the Trust Fund for the present and future administrative costs of the Commission and for the payment of further awards and benefits for which claims have been or may be filed under this title.

(ii) Members appointed under clause (i) shall be appointed for a term of a length that the President determines to be appropriate, but the length of such term shall not exceed 3 years.

(4) STAFF AND SERVICES.—

(A) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Commission.

(B) ADDITIONAL STAFF.—The Commission may appoint and fix the pay of such additional staff as it may require.

(C) INAPPLICABILITY OF CERTAIN PROVISIONS OF TITLE 5, UNITED STATES CODE.—The Director and the additional staff of the Commission may be appointed without regard to section 5311 of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the minimum rate of basic pay payable for GS-15 of the General Schedule under section 5332(a) of such title.

(D) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission,

on a reimbursable basis, such administrative support services as the Commission may request.

(5) *GIFTS AND DONATIONS.*—*The Commission may accept, use, and dispose of gifts or donations of funds, services, or property for uses referred to in paragraph (2). The Commission may deposit such gifts or donations, or the proceeds from such gifts or donations, into the Trust Fund.*

(6) *TERMINATION.*—*The Commission shall terminate on the earlier of—*

(A) *the expiration of the 6-year period beginning on the date of the appointment of the first member of the Commission; or*

(B) *the date on which the Commission submits to the Congress a certification that all claims certified for payment under this section are paid in full and no further claims are expected to be so certified.*

(g) *NOTICE.*—*Not later than 90 days after the appointment of the ninth member of the Commission, the Commission shall give public notice in the territory of Guam and such other places as the Commission deems appropriate of the time limitation within which claims may be filed under this section. The Commission shall ensure that the provisions of this section are widely published in the territory of Guam and such other places as the Commission deems appropriate, and the Commission shall make every effort both to advise promptly all individuals who may be entitled to file claims under the provisions of this title and to assist such individuals in the preparation and filing of their claims.*

(h) *REPORTS.*—

(1) *COMPENSATION AND CLAIMS.*—*Not later than 12 months after the formation of the Commission, and each year thereafter for which the Commission is in existence, the Commission shall submit to the Congress, the President, and the Governor of Guam a report containing a determination of the specific amount of compensation necessary to fully carry out this section, the expected amount of receipts to the Trust Fund, and all payments made by the Commission under this section. The report shall also include, with respect to the year which the report concerns—*

(A) *a list of all claims, categorized by compensable injury, which were determined to be eligible for an award or benefit under this section, and a list of all claims, categorized by compensable injury, which were certified for payment under this section; and*

(B) *a list of all claims, categorized by compensable injury, which were determined not to be eligible for an award or benefit under this section, and a brief explanation of the reason therefor.*

(2) *ANNUAL OPERATIONS AND STATUS OF TRUST FUND.*—*Beginning with the first full fiscal year ending after submission of the first report required by paragraph (1), and annually thereafter with respect to each fiscal year in which the Commission is in existence, the Commission shall submit a report to Congress, the President, and the Governor of Guam concerning the operations of the Commission under this section and the*

status of the Trust Fund. Each such report shall be submitted not later than January 15th of the first calendar year beginning after the end of the fiscal year which the report concerns.

(3) FINAL AWARD REPORT.—After all awards have been paid to eligible claimants, the Commission shall submit a report to the Congress, the President, and the Governor of Guam certifying—

(A) the total amount of compensation paid as awards under this section, broken down by category of compensable injury; and

(B) the status of the Trust Fund and the amount of any existing balance thereof.

(4) FINAL BENEFITS REPORT.—After all benefits have been paid to eligible claimants, the Commission shall submit a report to the Congress, the President, and the Governor of Guam certifying—

(A) the total amount of compensation paid as benefits under this section, broken down by category of compensable injury; and

(B) the final status of the Trust Fund and the amount of any existing balance thereof.

(i) LIMITATION OF AGENT AND ATTORNEY FEES.—It shall be unlawful for an amount exceeding 5 percent of any payment required by this section with respect to an award or benefit to be paid to or received by any agent or attorney for any service rendered in connection with the payment. Any person who violates this section shall be fined under title 18, United States Code, or imprisoned for not more than 1 year, or both.

*(j) DISCLAIMER.—No provision of this section shall constitute an obligation for the United States to pay any claim arising out of war. The compensation provided in this section is *ex gratia* in nature and intended solely as a means of recognizing the demonstrated loyalty of the people of Guam to the United States, and the suffering and deprivation arising therefrom, during World War II.*

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, from sums appropriated to the Department of the Interior, such sums as may be necessary to carry out this section, including the administrative responsibilities of the Commission for the 36-month period beginning on the date of the appointment of the ninth member of the Commission. Amounts appropriated pursuant to this section are authorized to remain available until expended.

ADDITIONAL VIEWS

H.R. 2041, GUAM WAR RESTITUTION ACT

We are pleased that the House Resources Committee has reported to the House H.R. 2041, the Guam War Restitution Act. This bill and its accompanying report will serve as a starting point from which the 105th Congress can continue to work on this important issue.

Building on the action of the 104th Congress and the bill reported by the Subcommittee in the 103rd Congress, we will continue to work with the Senate and the Administration to forge a compromise bill that can pass in the 105th Congress.

The last time the Committee issued report on Guam war restitution was during the 101st Congress. On July 27, 1989, the Subcommittee on Insular and International Affairs of the Committee on Interior and Insular Affairs printed the transcript of a hearing held on H.R. 2024.

There are many issues addressed and solved through this legislation including the use of a set damage award approach for restitution—an approach supported by the Guam Legislature.

Congress still has other problems to solve and there are many issues which need to be worked out with the Senate and the Administration. However, we intend to continue to work with the Committee in a bipartisan manner to solve each individual issue within this complex legislation.

ROBERT A. UNDERWOOD
CARLOS ROMERO-BARCELÓ
GEORGE MILLER
ENI FALEOMAVEGA
NEIL ABERCROMBIE

CONGRESSMAN ROBERT A. UNDERWOOD
COMMITTEE ON RESOURCES MARKUP
H.R. 2041, THE GUAM WAR RESTITUTION ACT
SEPTEMBER 18, 1996

Mr. Chairman:

The amendment in the nature of a substitute that I am offering represents significant progress in this committee on the issue of Guam War Restitution and is the product of an intensive bipartisan effort over the last two years. I am very grateful for the cooperation of the Chairman of our subcommittee, Mr. Gallegly, Ranking member Faleomavaega, Chairman Young and Ranking Member Miller for their cooperation and assistance in reporting this bill to the full committee.

This bill would address some relief for those who endured atrocities such as forced labor, forced march, personal injury and death during the enemy occupation of Guam in World War II. Guam was authorized war reparations in 1945, however, the administration of this program was flawed and the remedial action recommended by a commission appointed by the Secretary of the Interior never occurred. Had Guam been included in corrective legislation passed by Congress in 1948, and the amendment to that legislation in 1962, we would not have the lingering issue of war restitution.

We are not asking for any special treatment--we are asking for the same opportunity to redress our war reparations that other Americans who were in a similar situation have been authorized by Congress. Congress, in 1948 and in 1962, authorized claims for American citizens who were victims of the same enemy atrocities as were committed on Guam. Guam was left out of those laws, and that is an egregious mistake of history considering Guam's being the only American community occupied for 30 months in World War II.

It is also important to note that the WWII generation that experienced the occupation, and for whom this bill is intended to make restitution, is getting older, and their numbers are being reduced by time. We must keep faith with this generation, and we must make a concerted effort to resolve this issue so that those who suffered the atrocities will see justice served. The onus is not on them to prove that these atrocities occurred, it is on us to prove that we remember and honor their sacrifices.

While this markup represents important progress, we are aware that many issues remain to be addressed with the Senate and the administration. This markup today gives us a good starting point to continue this work in the 105th Congress and gives us a basis for continuing discussions over very difficult issues next year.

Mr. Chairman, again I thank you, the majority and minority leadership of our committee and Subcommittee for your support of this important legislation for the people of Guam.

War Restitution

The Treaty of Peace with Japan, signed on September 8, 1951, precludes American citizens from making claims against Japan for war reparations. American citizens and nationals, both civilians and prisoners of war, have received some compensation during the latter part of WWII and in the post war years from the federal government.

Guam's war claims were authorized in Public Law 79-224 in the Guam Meritorious Claims Act passed in 1945 by Congress. The administration of claims was the responsibility of the Naval Government on Guam, and this led to several problems. An important oversight of the Guam Claims Act was that claims on Guam were not authorized for forced labor and forced march, although in other areas, including the Philippines, American civilians were compensated for these categories. The Naval Government discouraged claims over \$5,000 because these amounts would have to be approved in Washington. The Naval claims administrators also relied heavily on property damage as opposed to personal injury or death for the basis of claims--thus, in some cases, more compensation was paid for the loss of trees than for the loss of an arm.

A Commission appointed by the Secretary of the Interior visited Guam in 1945 and reported to Congress that there were very serious shortcomings in the Navy's handling of war claims. The most egregious issue was that only one year was allowed for claims in post-war Guam, at a time when whole villages were displaced by the Navy's own efforts to condemn land for permanent military bases. The Hopkins Commission recommended changes in the Guam Meritorious Claims Act to correct these problems, and noted in their testimony that the loyalty of the people of Guam during the brutal occupation made the war reparations effort by the Navy an embarrassment to the United States.

Congress passed legislation in 1948, the War Claims Act, and amended this Act in 1962 (PL 87-846) to address some of the lingering problems arising from earlier efforts to settle war claims by American citizens and nationals. In both cases, Guam was not included. Had Guam been included in either law, Guam's war reparations would have been satisfied. No other action was ever taken by Congress to address the deficiencies reported by the Hopkins Commission in the Guam Meritorious Claims Act.

For the people of Guam, war reparations is an issue that demands attention, especially during the 50th anniversary observances of the Liberation of Guam and the end of the War in the Pacific. Every single person on Guam of Chamorro ancestry has a close relative who experienced the atrocities of the war. Congressman Robert A. Underwood introduced the Guam War Restitution Act, H.R. 2041, to address the injustices of Guam war claims arising from the occupation of Guam.

CONGRESSMAN ROBERT A. UNDERWOOD
SPECIAL ORDER ON H.R. 4741
THE GUAM WAR RESTITUTION ACT
AUGUST 9, 1994

Mr. Speaker:

Tonight I will continue telling the nation the story about the people of Guam and their unique experience in World War II, and I will continue telling the nation of my efforts to bring closure to this story and justice to the people of Guam. This is not the first time I have spoken to this House and to the American people about the wartime atrocities that were endured during World War II by the people of Guam, and today is a most auspicious day to be telling this story--today is the anniversary of the dropping of the atomic bomb on Nagasaki.

But it is not to reopen old wounds that I raise this subject -- rather it is to heal the wounds of a people, the people of Guam, who have a compelling case to make before their federal government, and of a government that seems unwilling to hear this story and unwilling to act to correct the injustices committed against the people of Guam in World War II.

I want to make it clear from the start that my chronicling of the atrocities committed on my people is not meant to justify the bombing of Hiroshima and Nagasaki--those events clearly stand apart from the experience of the people of Guam. But there is a parallel in that while some events in the tragic history of World War II--events etched in our collective memory from Pearl Harbor to Hiroshima--command attention, other equally important events suffer from the neglect of history. And if the neglect of history in and of itself is not a crime, the neglect of the federal government to right the wrongs committed on Guam by the enemy occupation of our island is as close to criminal neglect as a government can come.

The central point is that Guam was the only American territory occupied in World War II--not the Philippines, which although was an American territory at the time, was promised its independence before the outbreak of war, and in fact became independent in 1946; and not the Aleutian Islands, which were also occupied by the Japanese but whose inhabitants were evacuated by the U.S. Army prior to the start of hostilities.

So from the invasion day of December 10, 1941 to Liberation Day on July 21, 1944, Guam was the only American soil with American nationals occupied for 32 months by an enemy; something that has not happened on American soil since the War of 1812.

It is now 50 years since the Liberation of Guam in 1944, and if anything, time has not meant that all is forgotten and forgiven--not until there is national recognition of what happened to our fellow Americans on Guam and how their federal government failed to make them whole and to right the wrongs of the occupation.

The 50th anniversary of D-Day in Normandy in June, and today's anniversary of the bombing of Nagasaki, as well as the 50th anniversary of the events of World War II being commemorated across Europe and the Pacific, have afforded an opportunity to reflect on the war experience. For the people of Guam, it has also focused attention on our own experience, and on the unfinished business of that war.

The occupation of Guam was especially brutal for two reasons--one, the Japanese were occupying American territory with American nationals whose loyalty to the United States would not bend; and two, the Chamorus, the indigenous people of Guam dared to defy the occupiers by assisting American sailors who had evaded initial capture by the enemy by providing food and shelter to the escapees.

In the final months of the occupation, the brutalities increased. Thousands of Chamorus were made to perform forced labor by building defenses and runways for the enemy. Others were put to labor in rice paddies. The War in the Pacific turned for the worst for the Japanese occupiers, and in the final weeks, as the preinvasion bombardment by American planes and ships signalled the beginning of the end for the occupation army, the atrocities likewise escalated.

Forty six Chamorus in the southern village of Malessa were herded into caves, and were summarily executed by the enemy throwing hand grenades into the caves and spraying the caves with rifle and machine gun fire. Miraculously, some survived by pulling the bodies of their fallen fellow villagers over themselves to protect against the rain of shrapnel and bullets. They survived as witnesses to the atrocities.

One elderly woman called on me during my campaign for Congress and asked me to never let this country forget what happened on Guam and to promise that I would do everything I could to bring justice and recognition to the people of Guam. She survived the massacre in Malessa, and bore the scars of that massacre in the shrapnel in her back and in her feet, so that every time she walked, with every step, she was reminded of that nightmarish occurrence on Guam. Sadly, she died last year.

In the capital city of Agana, another group of Chamorus were rounded up, and one by one, executed by beheading and mutilation by swords. Again, miraculously, one survived, Mrs. Beatrice Flores Emsley, to bear witness to what happened on our island. Mrs. Emsley still bears the long scar down the side of her neck where a sword struck her. She fainted after being struck, and awoke two days later with maggots all over her neck, but thankful to be alive. Mrs. Emsley will, of course, never forget what happened on Guam.

Judge Joaquin Manibusan, a retired Judge on Guam, was a young man during the war. Again, in the last weeks before liberation, he was rounded up along with a large group of Chamorus to bear witness to another atrocity. Judge Manibusan was forced to help dig a shallow

hole in front of a Chamoru man. Three men were then made to kneel in front of three freshly dug graves, and each man was in turn beheaded.

Judge Manibusan still lives to bear witness to this atrocity, [but if his bearing witness is not convincing enough, he was able to obtain a picture of that execution scene from the records of the war crimes trial on Guam. This picture depicts the three Chamoru men kneeling in front of their shallow graves moments before they were struck down. I am thankful that he kept this picture for over 50 years, so] that even as all these brave Chamorus died from the passing of time, we, their sons and daughters, will be able to continue their fight and bear their witness until we achieve justice for the people of Guam.

Thousands of Chamorus, not hundreds, but thousands, were forced to march from their villages in northern and central Guam to internment camps in southern Guam in the weeks before Liberation. Everyone marched, old men and women, newborn babies, children and the sick. They were marched to internment camps at Maimai, Malojloj and Manengon, where they awaited their fate for the next few weeks--many did not live to see Liberation.

Many did not live, but their brothers and sisters survived, their children survived and their fellow Chamorus survived, again to bear witness to these atrocities.

In their final acts of retribution against the people of Guam, the Japanese occupiers inflicted a violence against our people that can not be easily forgotten. The Catholic High School for young men on Guam, Father Duenas Memorial School in Tai, bears witness to the courage of one young priest, who in the last days before Liberation, was also beheaded as revenge for the occupiers' frustration in not capturing the lone American sailor who had evaded their grasp with the aid of the Chamorus. The memory of this noble young priest lives on as the High School named in his honor stands witness to his courage.

Against this backdrop of terror, the Liberation of Guam began on July 21, 1994. On that fateful day, two groups of people came together--

- one was in uniform and the other was in rags;
- one used weapons of war and the other used tools for survival;
- one came in from the sea and the other came down from the hills;
- one left their families behind and the other tried to keep their families with them;
- one liberated the island from without and the other liberated the island from within.

In their meeting the great historical drama that Guam alone could play came to pass, as American soil was liberated from enemy hands, as American Marines and American soldiers were united with American

civilians held captive in internment camps on American soil.

The battle hardened American servicemen came to Guam concerned about meeting a determined enemy; but these men soon came to understand the special nature of this battle among all of those in the Pacific War--indeed among all the battles of World War II. This was a re-occupation, this was re-taking what was once lost, what was once American.

And as the young Marines and soldiers saw our people come down from the hills, they broke down and openly wept, as they saw Guam's children emerge from the hills carrying hand made American flags; as they saw Guam's old men and women emerge from the internment camps clutching rosaries and thanking the young liberators for their deliverance from certain death.

The story of the people of Guam cries out for attention and understanding. And the story has a dimension of unfinished business, of an injustice that must be corrected, and of a legacy of loyalty that has been tarnished by the neglect of the federal government.

In the aftermath of Liberation, a grave injustice occurred that to this day, fifty years later, has yet to be undone.

The Treaty of Peace with Japan, signed on September 8, 1951 by the United States and 47 Allied Powers, effectively precluded the just settlement of war reparations for the people of Guam against their former occupiers. In the Treaty, the United States waived all claims of reparations against Japan by United States citizens.

Consider now how ironic it is that the people of Guam became American citizens just one year earlier, on August 1, 1950, by virtue of the Organic Act of Guam--a citizenship that was granted to the people of Guam largely because of their demonstrated loyalty to America during the occupation.

The historical events surrounding the signing of this Treaty of Peace creates a compelling argument that the federal government, including the United States Naval Government of Guam and the United States Congress, failed to address the circumstances of the Americans on Guam and allowed a situation to develop over the years where justice was delayed, and ultimately denied.

The bitter irony then is that the loyalty of the people of Guam to the United States has resulted in Guam being forsaken in war reparations.

Did the federal government simply forget what had happened on Guam? Unfortunately, the answer is not that Guam was forgotten at all, but that at critical historical moments, Guam's unique situation escaped the attention of lawmakers in Congress and government officials in the Naval Government of Guam.

In fact, the record shows a deliberate attempt by Congress and the Navy to address the reparations issue and to do right by the people of Guam for their wartime loyalty--that they fell short in their attempts is the cause for our efforts to seek redress 50 years later.

This is not a case of people belatedly asking for something that they are not entitled to by justice or by design--it is a case of the law falling short in the goal of making Guam whole after the War, and of Congress neglecting to address the issues that were raised by its own War Claims Commission and the recommendations made by the committee appointed by the Secretary of the Navy to investigate the war claims issue on Guam after the war.

Recognizing the immense devastation and the dramatic and urgent need for rehabilitation after the war, on November 15, 1945, scarcely three months after the end of hostilities against Japan, Congress passed the Guam Meritorious Claims Act, Public Law 79-224, "granting immediate relief to the residents of Guam by the prompt settlement of meritorious claims". The following year, 1946, Congress also passed the Guam Land Transfer Act, Public Law 79-225, and the Guam Rehabilitation Act, Public Law 79-583. While the Guam Meritorious Claims Act (PL 79-224) became the primary means of settling war claims for the people of Guam, the Guam Land Transfer Act provided a means of exchanging land for resettlement purposes and the Guam Rehabilitation Act (PL 79-583), which appropriated \$6 million for construction, was the means for economic rehabilitation.

Unfortunately, conditions on Guam in 1945 and 1946 did not lend themselves to the best of Congressional intentions. During the battle to liberate Guam, over 80 per cent of the buildings were destroyed. The capital city, Agana, and the second largest city, Sumay, were completely destroyed.

Once the island was secured, Guam became the forward operating base for the subsequent invasions of the Philippines, Iwo Jima and Okinawa. Over 45 per cent of the land mass was acquired for this wartime effort, and over 200,000 military personnel came to Guam to prosecute the war against Japan. The Chamorus, numbering about 20,000, were temporarily housed in refugee camps set up by the military--their former cities of Agana and Sumay were razed to make room for the new bases and the mass mobilization of troops.

To their great credit, the Chamorus did not complain; in fact, they helped the military in every way they could to help defeat their former oppressors.

The post war period brought more upheaval. The Naval Government of Guam, which governed the island during and after the war, used the authority of the Guam Land Transfer Act and the Guam Rehabilitation Act to first fulfill its priority of building permanent naval bases. The concerns of the civilian community were a distant second to the Navy, and in 1950, six years after Liberation, the

Report of the War Claims Commission With Respect To War Claims Arising Out Of World War II stated that, "no organized program for reconstruction of damaged or destroyed civilian facilities had been undertaken." (House document Number 580, 81st Congress, 2nd Session, page 44)

If the cities were not being rebuilt, and I must point out that the city of Sumay was never rebuilt and became a footnote of history because it had the misfortune of being located next to the new Naval Station at Apra Harbor, where were the Chamorus living? In makeshift houses, built largely with war scraps, in twenty one villages scattered along the length of the island. It is in this atmosphere of liberation and displacement that the Navy attempted to administer a flawed war claims program.

In asking Congress in 1994 to revisit the Guam war reparations issue, I am not asking Congress to embark on anything new, or to create new precedents. I am simply asking Congress to correct the errors of the federal government's attempts in 1946 to resolve these issues.

I am also asking Congress to complete the task it set out to do in 1946; a task made all the more necessary because of the historical circumstances surrounding the Treaty of Peace with Japan. I am simply the latest elected leader from Guam, in an unbroken line from the first Speaker of the First Guam Legislature in 1951, to the first elected Governor of Guam in 1970, and the first elected Delegate to Congress in 1972, and all their successors, to ask Congress to address the the injustice of the Guam war reparations on behalf of our people.

When Congress passed the Guam Meritorious Claims Act in 1945, the intent was to make Guam whole and to address the claims arising out of enemy occupation and damage caused in the battles to liberate Guam. Both the House and Senate reports on the Guam Meritorious Claims Act, Senate bill S. 1139, state that:

"The Japanese invasion and occupation resulted in extensive damage to private property on the island. Further damage resulted from our reconquest. As a result of the two periods of combat and the actions of the Japanese occupying force during the interim, the people of Guam have suffered extensively, and it is believed that immediate steps should be taken to alleviate their suffering. The fairest, most equitable, and most immediate method of achieving this end would be through the early settlement of claims for damages arising in the period since December 6, 1941, and caused by the activities of the Japanese and American military forces." (Senate report 442, 79th Congress, 1st session, page 1; House report 1135, 79th Congress, 1st Session, page 2)

Congress, in 1945, was concerned about conditions on Guam and the need to address the war claims of the Chamorus. In a hearing on March 14, 1945, just eight months after the Liberation of Guam and before the war ended, Congressman Walter Floeser testified on the

Navy's appropriations bill for 1946, that:

"At the time we were there (on Guam) no one of the civilian group or the inhabitants of the island had ever made a complaint to our Government, or to our naval forces occupying the island about their claims for the destruction of their property.

"The story goes that these people stood on the hill and cheered every time we knocked a building down and did everything in their power to help us in our fight against the Japanese. That is quite unusual for an American national. Certainly it would be most unusual for an American citizen not to make a claim after the Government had destroyed his property, but these people have not done so. There has been no complaint whatsoever. They were waiting patiently, feeling confident that the Americans would do something about it."

I should mention that the record shows that Congressman Jamie Whitten of Mississippi, a Member of the current Appropriations Committee, was present at this particular hearing.

Hearings were held in October 1945 to address the Guam war claims issue, and on November 15, 1945, the Guam Meritorious Claims Act became law (Public Law 79-224). Public Law 79-224 provided for a one year period to file claims to a Commission composed of Naval and Marine officers, who could authorize property settlements up to \$5,000. Property settlements over \$5,000 as well as all death and injury claims, must be forwarded to the Secretary of the Navy in Washington for certification, and then submitted to Congress for appropriation. In a bizarre twist of bureaucratic logic, death and injury claims were to be considered only as a basis for property damage; in other words, a claim could not be paid solely for a man executed for loyalty to the United States, but could be paid for a man who died if that claim was related to other property damage.

There are a number of significant flaws in the Guam Meritorious Claims Act, and the resolution of these issues that remain with us today is the reason I introduced on July 13 H.R. 4741, the Guam War Restitution Act, to complete the work that was never finished by Congress, and to bring closure to this issue.

The 1945 Guam Meritorious Claims Act allowed only one year for claimants to file with the Claims Commission. The deadline for all claims expired on December 1, 1946. Many Chamorus were not aware of the Claims Commission's work due to language barriers, displacement from their homes and misunderstanding of the procedures. However, due to the cumbersome procedures the Navy employed in processing the claims, the one year deadline did not speed up the processing of claims, and served no useful purpose except to deny valid claims filed after December 1, 1946.

The Guam Meritorious Claims Act required that claims be settled based on pre-war 1941 values. This meant that property claims were undervalued, and that residents of Guam were not able to replace

structures destroyed during the war.

The Guam Meritorious Claims Act did not allow compensation for forced march, forced labor, and internment during the enemy occupation. This was a serious flaw in Public Law 79-224. Another law passed in this same time period for other war claims, the War Claims Act of 1948, Public Law 80-896, allowed for compensation for American citizens and American nationals for internment and forced labor. Only Guam was treated differently, yet Guam stood alone as the only American territory occupied in the War. In fact, while the War Claims Act of 1948 specifically excluded Guam, it allowed compensation for these atrocities for the Philippine citizens who were American nationals during the war, although the Philippines gained its independence from the United States in 1946.

The Guam Meritorious Claims Act allowed death and injury claims only as a basis for property claims. This was another provision unique to the Guam law, and an unexplainable stipulation. The Guam bill, Senate bill S. 1139, was actually modeled on a claims bill passed for other Americans in 1943, the Foreign Claims Act. The legislative history for the Foreign Claims Act emphasized the need to address these claims. In a floor statement on April 12, 1943 in support of passage of this bill, Senator Barkley noted that, "it is necessary to do this in order to avoid injustices in many cases, especially in cases of personal injury or death." (Senate Report 145, 78th Congress, 1st Session, pp. 2-3) The original language for S.1139, following the Foreign Claims Act model language, allowed the Claims Commission to adjudicate claims for personal injury and death. But the language was amended by the Senate Naval Affairs Committee to ensure that the United States Government, and specifically the Navy, would not be setting a precedent or legal obligation for the Navy. (Congressional Record, 79th Congress, 1st Session, pp. 9493-9499) However, these types of concerns were not raised for the almost identical situation of the Philippines, or other American citizens or nationals when the War Claims Act of 1948 was passed by Congress.

The Guam Meritorious Claims Act encouraged Chamorus to settle claims for lesser amounts due to the time delay in having claims over \$5,000 sent to Washington for Congressional approval. Again, this was a procedure unique to the Guam law. No such requirement existed for those covered under the 1948 War Claims Act. The net effect on Guam was that Chamorus with property damage over \$5,000 would lower their claims just so that they could be compensated in some fashion and get on with their lives.

The flaws in the Guam claims program were brought to the attention of Congress in 1947 by a Committee formed by the Secretary of the Navy, James Forrestal, to assess the Naval administration of Guam. This Committee included Mr. Ernest M. Hopkins, retired President of Dartmouth College, Mr. Maurice J. Tobin, former Governor of Massachusetts, and Mr. Knowles A. Ryerson, dean of the College of Agriculture at the University of California. The Hopkins Committee, in its report, addressed the serious flaws and shortcomings of the

Guam Meritorious Claims Act, and reported:

"The [Navy] regulations provide in rules 4a and 5b that the market value of damaged or destroyed real or personal property shall be determined as of December 6, 1941...Replacement costs are far in excess of the 1941 value and so called relief is apt to be only a hollow gesture when the amount received is a small fraction of what will be needed to acquire a new home, ar furniture, or tools or of what is required for present day family support."

In reviewing the death and injury claims, the Hopkins Committee minced no words about the injustice they found:

"...under the [Navy] regulations, injury and death claims require an involved computation...When the calculation is finally computed, the amount awarded is often a mere pittance. Some simpler procedure should be devised and more latitude should be given to the [Claims] Commission to arrive at just and equitable figures in view of all circumstances."

I want to emphasize this point again--the Hopkins Committee found in 1947 that payments to Chamorus for death and injury claims paid by the Navy to be a "mere pittance".

Further, with respect to the Guam Meritorious Claims Act requirement that death and injury claims be allowed only incident to property damage, the Hopkins Committee recommended that:

"The regulations should be amended to eliminate values or standards as of December 1941, as the measure of damage and more liberality should be practiced in passing upon claims."

The Hopkins Committee report concluded that:

"...payment of war damage claims..has been proceeding much too slowly...Immediate steps should be taken to hasten this process and to remove unsound and unfair distinctions in the allowance of claims...Officials of the Claims Commission have testified to the basic honesty and fairness of the Guamanians in presenting their claims. Review in Washington of claims between \$5,000 and \$10,000 serves no useful purpose."

And the Hopkins Committee documented in 1947 what was happening with the claims settlement process:

"When many claimants are advised that the local Claims Commission has power to settle and make immediate payment of claims not in excess of \$5,000, but that claims above that amount must go to Washington for further action with an indefinite time required for payment, they offer or agree to reduce their claims to below \$5,000 and accept the loss above that amount, so as to get some cash for much needed personal rehabilitation."

Incredibly, a member of the Hopkins Committee that visited Guam

earlier in 1947, Mr. Tobin, testified on May 28, 1947 before the House Committee on Public Lands hearing on the Guam Organic Act legislation that:

"At the present time, not one settlement has been made to the people for personal injuries or death." (Organic Act of Guam Hearing Report p. 169)

A year and a half after the Guam Meritorious Claims Act was passed, and 3 years after Liberation, the federal government had not yet settled a single claim for injury or death.

Days later, on June 3, 1947, Secretary of the Interior Harold Ickes, testifying before a House Committee on Public Lands hearing on the Organic Act of Guam legislation, strongly criticized the Naval Government's handling of the Guam war claims. Secretary Ickes stated:

"I hope that the secretary and members of this committee have read carefully the report of the Special Civilian Committee appointed by Mr. Forrestal. That report fully supports the most important allegations...extreme dilatoriness in the disposal of war damage claims; laxity in performing the work of rehabilitation...the inefficient and even brutal handling, by the Navy, of the rehabilitation and compensation of the war damage tasks." (Organic Act of Guam Hearing report, pp 243-249).

Secretary Ickes further chastised the claims process by testifying that:

"...only 5.8 % of the 'estimated value' of claims on file had been processed...At this rate, the settlement of claims will not be completed for more than twenty years...Such a pittance may be observed by referring to claim No. 21 transmitted to Congress on April 5 last; the life of the man who was beaten to death by the Japanese because of his loyalty to the United States was capitalized at precisely \$665 [six hundred sixty five dollars], with .10 [ten cents] thrown in for good measure.

"Such procedures, and such shameful results as above, have not been forced upon the Navy by Congress or the President or the Budget or by anyone. They are exclusively the Navy's own and throw a strong light on the Navy's high regard for human life." (Organic Act report, pp. 247-249)

The Hopkins Committee transmittal letter of March 25, 1947, of its report to the Secretary of the Navy, likewise contained strong criticism of the Navy's handling of war claims on Guam. The transmittal letter states in part:

"In the case of Guam, the war brought wide spread destruction...But over and beyond this it brought deaths to many, brutalities to more, and ruthless oppression to all over a long period. Now months after cessation of hostilities they find themselves, because of the

strategic position of their native island, outnumbered in population by military forces...in considerable number they are dispossessed of home and lands which have been destroyed or taken from them and they are without adequate understanding of the processes by which to secure replacement or compensation for these...There is no lack of knowledge on the part of Navy officials of what ought to be done or how to do it...Only so can justice be done to a valiant group of Americans who at great cost to themselves remained steadfastly loyal during the war but many of them still lack housing to replace that destroyed by our bombs and shells...It would seem to your committee that in so special a case as this our government could well be very generous in method of distributing its relief as well as generous in amount awarded, it has been neither." (Hopkins Committee Letter of Transmittal to Secretary Forrestal, dated March 25, 1947)

In spite of all these recommendations, in spite of the Hopkins Committee report, in spite of the testimony of Secretary of the Interior Harold Ickes, nothing happened.

In 1946 Congress passed the Philippine Restoration Act of 1946, Public Law 79-370, which resulted in the payment of over \$390 million to the Philippines. In contrast, Guam's total war claims amounted to \$8.1 million--\$3.75 million for property claims under \$5,000 and \$4.3 million for death, injury and property claims over \$5,000.

Congress then passed the War Claims Act of 1948, to address war claims of American prisoners of war, and other American citizens with claims for internment, forced labor, death and injury. It included religious organizations and defense contract employees, and allowed for compensation for any American citizen interned by the Japanese.

Thus while American citizens who were captured on Guam and interned in Japan as prisoners were eligible for reparations under this law, the American nationals on Guam who were interned in camps on American soil were not eligible; and in another irony, American nationals from Guam who were captured on Wake island and interned in Japan were eligible, but their families who were interned on Guam were not.

So while my grandfather, who was an American citizen on Guam was eligible for reparations because he was interned in Japan, my grandmother, and all her children, who were interned in camps on Guam were not eligible. The people of Guam tragically, were not included in this legislation in 1948.

The War Claims Act of 1948 also required a Commission to report on the progress of the settlement of claims. A preliminary report was issued in 1951, and a final report was issued in 1953. In the intervening years, the Treaty of Peace with Japan was signed in 1951 and implemented in 1952, waiving all claims of American citizens against Japan.

The Treaty of Peace with Japan also raised a number of questions concerning the issue of war reparations. In responding to a Senate request for clarification of this issue prior to ratification of the Treaty, John Foster Dulles, who negotiated the Treaty and later became the Secretary of State, in a Memorandum of January 31, 1952, titled, "Compensation For Claims Of United States Nationals For Losses Incurred Outside Japan As A Result Of Japanese Military Operations And Occupation", wrote:

"Allied Powers in whose territory United States nationals sustained property losses may make such United States nationals eligible to receive such compensation as they are able to provide for war losses. It does not appear, however, that American nationals who sustained losses in the territories of any of the Allied Powers can expect to receive compensation commensurate with their losses. Accordingly, United States nationals whose claims are not covered by the treaty provisions or by the legislation of other Allied Powers, must look for relief to the Congress of the United States." (Report on the Hearings of the Senate Committee on Foreign Relations on the Japanese Peace Treaty, January 25, 1952, pp. 145-147)

Since the War Claims Act of 1948 was an interim measure, Congress began considering remedial legislation to address the shortcomings in this law.

In 1962, Congress passed Public Law 87-846, amending the War Claims Act of 1948, to, as this bill's preamble reads, "provide more than sixteen years after the close of World War II, for determination of the amount and validity, and for the payment of claims of American nationals who suffered injury or death under circumstances specified in the legislation, or who suffered property losses as a result of military operations during World War II in certain European countries and in areas attacked by Japan."

Public Law 87-846 also extended the one year deadline for filing claims of the Philippine Restoration Act of 1946, but specifically excluded the island of Guam in section 202. Guam again was neglected, and it may be that Congress mistakenly thought that Guam's war claims were resolved long ago. Of course, this was simply not the case.

Not only were the rights of the people of Guam waived by the United States government under the Treaty of Peace with Japan, but the United States also failed to seize Japanese property for payment of war claims, as was its right under Article 14(a)2 of the Treaty. The Philippine government exercised this right and acquired over \$9.0 million in Japanese assets, on top of war claims of over \$390 million provided to the Philippines by the United States Congress in 1946.

During the war, the United States government seized over \$84 million in Japanese assets in the United States and turned these seized assets over to the Office of the Alien Property Custodian

for disposal to pay for war claims of United States citizens. The United States government could have seized additional assets from Japan, or entered into agreements with Japan, as some Allied Powers did, to use Japanese labor in public projects as a form of war reparations.

Significantly, while the United States government failed to do any of these things on behalf of the people of Guam, this same government in 1969 negotiated a \$10 million war reparations claim on behalf of the Trust Territory of the Pacific Islands, which the U.S. administered under authority of the United Nations. The reparations settlement agreement negotiated between Japan and the United States were for claims of the Micronesian islands that were under Japanese control during the war. In 1971, the United States Congress passed the Micronesian Claims Act implementing this negotiated agreement for the former Japanese subjects. And again, while the United States provided for the claims of former Japanese islands, the claims of the United States citizens of Guam against Japan were neglected.

And finally, it should be noted that while Guam's war reparations were neglected, the United States Congress appropriated over \$2.0 billion in post war assistance to Japan from 1946 to 1951.

But the people of Guam, who themselves bore witness to the atrocities committed against them, have never forgotten that a bill remains due, that a debt must be paid. The First Guam Legislature, in its first session as a civilian government after the war, on August 10, 1951 passed as one of its first official acts, a resolution asking the President and the United States Congress to address war reparations for atrocities committed on Guam. Again, in 1954, in a meeting between members of Congress and the Guam Legislature, the case was made to address Guam's war claims. And again, nothing happened.

Guam's political status has always worked against its efforts to achieve justice. Guam did not gain representation in Congress until its first Delegate was elected in 1972. Guam did not have civilian self-government in the years after World War II leading up to the Treaty with Japan. So it is easy to see how one small island's claims for justice can be forgotten or neglected in Washington--it is understandable, but it must nevertheless be corrected.

I introduced H.R. 4741, the Guam War Restitution Act on July 13, 1994 to resolve this long-standing injustice, an injustice spanning 50 years. I stand as a witness to what happened on my island, to what happened to my own father and mother, just as every Chamoru bears witness today to his family's ordeal during the occupation.

The sums of the restitution in H.R. 4741 are quite modest by today's standards, because for us, it is not a money issue, it is a justice issue. In the case of death, the compensation is \$20,000

to be divided among surviving heirs. Injury is compensated at \$7,000, based on the values allowed in the 1946 claims, and forced labor, forced march and internment is compensated at \$5,000, again comparable to the 1946 settlements. The total cost to the federal government will be between \$20 million and \$80 million, due to the fact that it is difficult to estimate the numbers of surviving Chamorus who still have valid claims to this day.

For the thousands of Chamorus whose claims were neglected by actions of the federal government, the issue will not go away just because fifty years have passed--if anything, the issue assumes more intensity.

Let me read for you some claims that were denied by the Naval Claims Commission in 1947:

Francisco Flores Crisostomo filed a claim on behalf of his son, Jesus Duenas Crisostomo. The young boy was killed in August 1944 when he risked his life to show American troops a hidden Japanese position. Although the boy's actions no doubt saved the lives of some American soldiers, the claim was denied because it was filed after the deadline.

Juan Santos Tenorio was beaten so severely on the back and head by the Japanese that he was bedridden for over one month. Although he was interviewed by Navy officers, this did not count as a filed claim. He later filed a written claim only to be denied because the claim again was filed late.

The Guam War Reparations Commission has on file 3365 cases of filed claims that were never settled. Each claim is a story of brutality, and unfortunately, a story of injustice by our own government.

There must be a closure to this saga, there must be an effort by Congress to address the unfinished legacy of World War II. In closing, let me quote from the report of the Commission formed to review the War Claims Act of 1948:

"In the final analysis, compensation for war damages rests upon a moral obligation to see that the individual citizen does not bear more than a just part of the overall burden of war...Had United States citizens suffered losses on American soil, no question would be raised as to their moral right to compensation. The good fortune which the United States as a whole enjoyed in having its own cities spared destruction by war should not, in the opinion of the Commission, be converted into a misfortune to the citizen who has borne more than his burden of the cost of war...No nation was ever injured by its justice nor impoverished by its benevolence."

Mr. Speaker, I urge my colleagues to cosponsor the bill, H.R. 4741, the Guam War Restitution Act.

