

APPENDIX F

Foreign Claims Settlement Commission of the United States

Guam War Claims Review Commission

Legal Experts Conference

February 20, 2004

[Tapes 1 through 3. Tape 1, side A begins]

Mr. Tamargo: Good morning. I call this meeting of the Guam War Claims Review Commission, D.C. Legal Experts Conference to order. Before we begin, I would like to go through a few announcements and housekeeping pieces of information. I'd like to, first of all, welcome the Commissioners and our experts and thank them for taking the time from their busy days to join us here and share their thoughts with us with regard to this issue of Guam War Claims Review Commission's mission to see if there was parity of treatment for the people of Guam as compared to other U.S. nationals in similar situations.

This is going to be an informal information seeking meeting, we will be recording it so it can be transcribed later for the benefit of the Commissioners who can over it again and again to understand the issues that they're going to have to make decisions on and deal with in this mission of the Commission. Under the Guam War Claims Review Act, one of the duties of the Commission is to determine whether there was parity of war claims paid to the residents of Guam under the Guam Meritorious Claims Act as compared with awards made to other similar affected U.S. citizens or nationals in territories occupied by the Imperial Japanese military forces during World War II.

It is for this reason that we are gathered here today to obtain as much information as we can from legal experts in the field as well as those involved in the Guam program and in different programs that have been administered or implemented in the past. The programs we plan to focus on today are those set out in the grid, which is this legal document, which I think you all have. It's supposed to help us compare the Guam program to other programs. Some of these figures in here are estimates and you all, different experts in these different programs, can look it over and see if you think it accurately characterizes the programs you're familiar with.

And, as this shows, the programs that we will be comparing the Guam program is, well, of course, there's the Guam Act of 1945, the Philippine Rehabilitation Act of 1946, the various titles of the War Claims Act, the Wake Island Program, the Micronesian Claims Program, and the Aleutian Islands Program. The Commissioners and I propose to call on each individual with some expertise in claims generally or specifically to briefly give us a summary, and then have the Commissioners ask any questions if they wish to further explain something that they need to understand better.

The questions that we'll be trying to get information on are listed in this discussion outline, which is in your folders as well. And they include questions such as types of losses covered in different World War II claims programs, types of claims and salvageable in different programs, the basis for valuation of the loss, reasons for putting limits on amounts and type of compensation awardable.

The next thing I'd like to do is briefly go around the table and everybody introduce themselves and what you do or did that would be relevant to this discussion. Myself, I am Mauricio Tamargo, I'm the Chairman of the Guam War Claims Review Commission, but I'm also the Chairman of the Foreign Claims Settlement Commission of the United States, and I'd like to begin at that end of the table with Mary and go around this way for everyone to introduce themselves.

Ms. Comfort: I'm Mary Comfort, I'm with the Legal Advisers Office of the State Department and, at the moment, I work on East Asian and Pacific affairs.

Mr. Bradley: I'm Dave Bradley, I'm working as the Executive Director of the Guam War Claims Review Commission and I'm the Chief Counsel of the Foreign Claims Settlement Commission.

Mr. Rogers: Dave Rogers, 30 years ago I went to Micronesia and was Chairman of the Micronesian Claims Commission, from then until the end.

Mr. San Agustin: My name is Joe San San Agustin, I am the former Speaker of the Guam Legislature for 20 years, but also work at the Land and Claims Commission from 1946 to 1950, in the early days, so I thought I maybe able to have some input on the deliberation of this Commission; thank you.

General Blaz: My name is Ben Blaz, I'm a friend of the Commission, friend of the court. I was a Marine officer for 30 years, I was in politics (I forget the number of years) and I'm glad to be here, so I appreciate being asked to share a few moments with you all.

Ms. Van Cleve: I'm Ruth Van Cleve, a retired civil servant. I spent 43 years employed by the United States government, most of them, 37 of them, in the Interior Department working with the territories of the United States. I'm a lawyer, I have floated between the Solicitor's Office and the Administration apparatus that is charged with oversight of the U.S. Territories. My first job out of law school was a GS-5 staff member of the Commission on the Application of Guam. I retired as an Acting Assistant Secretary; that's known as progress in the United States government.

Mr. Unpingco: My name is Antonio Unpingco, former speaker of the Guam Legislature and I'm very happy to be here to be part of this Commission.

Mr. Tamargo: And Vice Chairman of this Commission.

Mr. Unpingco: I'm Vice Chairman.

Mr. Lagomarsino: I'm Bob Lagomarsino, former government employee; involuntarily retired. During the time that I spent in congress, some 19 years, all but a few months of that, I served on the (whatever the title was at the time) Subcommittee of Interior that dealt with the territories. And during the last 10 years or so of my term, I was the ranking Republican on that Subcommittee, so I have an interest that goes back a long time; Ben and I served together during much of that time.

Mr. Cruz: I'm Benjamin Cruz, retired Chief Justice of the Supreme Court of Guam and current member of the Commission.

Mr. Bettauer: Ron Bettauer, Deputy Legal Adviser for the State Department. Prior to that, for 14 years, head of the International Claims Office in the State Department Legal Office. I've dealt with many claims settlements, but none of those listed here.

Mr. Bederman: I'm David Bederman, I'm a Professor of International Law and Constitutional Law at Emory University in Atlanta, Georgia and I have written and lectured extensively on international/domestic claims practice.

Mr. Hergen: I am Jim Hergen, an attorney for the State Department. I've had the pleasure of working with Gary Forkworth (phonetic) and Ron Bettauer, and my experience and these guys goes back some years, as a youngster with David Rogers in working with Micronesian claims cases, the main one the Adolfo (phonetic) cases. And most recently, I've been involved in the World War II Japan, the POW forced labor litigation, which has revived a lot of old issues and opened a lot of old wounds and has focused on areas that may or may not germane to separate matters from issues of international.

Ms. Cooper: My name is Tink Cooper, I'm an attorney in the Department of Justice and I was legal counsel for the Office of Redress Administration, which dealt with the claims of Japanese Americans who were relocated and interned during World War II for the Ten Year Program.

Ms. Bordallo: I am Madeleine Bordallo, Member of the United States Congress, representing Guam.

Mr. Tamargo: Thank you, Congresswoman and then you're too humble, you have a general knowledge of claims issues. Okay, thank you, everyone and the next thing I would like to do is recognize General Ben Blaz, former congressman from Guam to speak briefly, if you wish, make a brief statement that we can include in the record.

General Blaz: Introduce me.

Mr. Tamargo: Yes, sir.

General Blaz: Mr. Chairman, I must say that I am most appreciative that I have been asked to share a few thoughts with you because there's something it's very, very dear to my heart, the issue before us, but even more appreciative of the fact that many of you volunteered to serve. I had not realized the dignity and the dearness of altruism until I became a retired person and I realized how really precious homage can be in retirement. And while people may think that you got nothing to do, the truth is you finally are in a position to do what you've always wanted to do to join Bob Lagomarsino and Speaker Unpingco and the others and BJ and the speaker here to come forward and join the others attracted my attention.

I went through a lot of files since I was contacted and I want you to know that I had to dig on [indiscernible] which is a Guam term, meaning that I would not nod if anybody had because I had all packed all of my Marine Corps papers, my conditional papers for shipment to the Micronesian Area Research Center and unpacked them all and I found four folders of information pertaining to this issue of recent vintage, so you'll have all of this to explore later on.

But what I wanted to say to you all is I really think that one of the issues facing the Commission is what you're going to do with the product when you get to that product. Are we going to say Interior, here it is, and you take it from here? After all, it was the Interior that launched it all.

Are we going to saddle the poor Congresswoman Bordallo with the enormous task of appearing before the congress and trying to make a case of reparations in the presence of John Lewis of Georgia, in the presence of John Conyers, in the presence of Tommy Lantos (phonetic), whose all of these experiences have never been pretty? Or in the presence of the Hawaiians who have been arguing with us land claims since Mr. McKinley did some [indiscernible] on the turn of the century and in the presence of the other Native Americans we call Indian?

So it's not going to be an easy task and, therefore, I think that if I were in a position to do so, I think I would say, first of all, what are we doing with [indiscernible] because if you went down the path that was taken before, it is now wrought with a lot of hashes that weren't there before.

You can argue that it is Japanese Americans that we can [indiscernible], the Japanese Americans who control California, even to this day, California flacks as Republican. It's got 54 members of the House Representatives and two senators. When California speaks, the congress listens; when Guam speaks, you have to go and loosen up a little bit. So, consequently, I have been down this road and I'm not trying take up too much of your time, but I'm here to tell you that the cause that you have before you, do we really have a case?

Do we really owe, and I'm talking about the United States, do we really owe, the descendants of these people, anything? And if we do, how in the world do we accommodate the descendants? Or do we owe Guam anything and there's somebody in the crowd who says who pay for the Army, Navy and Marines that have died on the beach?

This may not be acceptable to people from Guam but the truth of the matter is when you go before the congress, somebody's going to ask you the question. Therefore, I think you have to come

in with an entirely different approach. Is it parity? Is it fairness? Is it finding recognition of long years of unrequited love? So I would like to, if I left nothing else behind, it would be this: that you take a good look at what it is that you want to do and then shoot for that.

My own feeling is that six decades after the event, and I looked around here, and I probably am the only person here that was old enough to have witnessed the events, so whenever there's a mention of Guam, my wonderful friends in Guam tell me I just don't understand, I just say a prayer for them so that they would understand for I have no greater love than trying to resolve this. But in resolving it, I think you need to be very careful: how do you arrive at a figure?

We went through this so close, so close with Daniel Inouye. We flew to Guam together and we were so close but then they came and said, oh, this is what we want. So one of the nicest aspects of this Commission, quite frankly, is that it has no active politicians and goals. With all due respect to politicians, the truth is that they get hung up on this business of no compromise.

How in the world in the American formative law, could you be a politician, go to the congress, and ignore that politicians are the art of compromise and is so exquisitely be performing, that it makes you successful? Yet, they're hung up; the Commission's had this determination but yet they're hung up on no compromise, efforts on this issue, no compromise. Well, we are doing the asking, they're doing the dispensing. Somewhere along the line you're going to have to figure this thing out.

So I'm afraid that if I keep going, I would be into the next hour or so. Let me just rest my case on that and if you have any particular questions, I'd be delighted to answer them as frankly and I'll be frank with you as possible. Thank you.

Mr. Tamargo: Thank you, General, thank you very much. Congresswoman Bordallo, would like to say a few words? Go ahead, please.

Ms. Bordallo: Mr. Chairman, I'm just here to observe.

Mr. Tamargo: All right. Thank you, Congresswoman; we appreciate you being here. You were tirelessly at that Guam hearing; when everyone else kept coming and going, you were always there. Every time I looked up, you were sitting there and listening to the witnesses. All right, the next thing I would like to do is to hear about the Guam program and I'd like to begin by having former speaker San Agustin. Just speak generally about the program as he recalls it, and then the Commissioners and I will ask some questions.

Mr. San Agustin: Thank you, Mr. Chairman. First of all, thank you for inviting me to participate in this very, very important, I think, kind of milestone, so to speak. As I was indicating earlier, I worked in the Land and Claims Commission from 1946, as a young man, and up to 1950 before I left the job to go to school here in the Nation's Capitol.

As I look around the room, with lawyers, most of you, I am bothered with the fact that perhaps what we will be dealing is to be legal; but being legal may not be necessarily the right thing to do. And so I was trying to find a way to relate my experience and exposure to the Naval Land and Claims Commission in dealing with people who came to the Commission for assistance.

I've dealt with people that submit their claims. I've dealt with people that wanted a hearing, and couldn't get any. I've dealt with a situation where people just coming out of War, trying to find a way out of concentration camps, trying to find their homes; finding their homes destroyed and have no place to go.

And here comes these offer of compensations, which were supposed to be just, but documents will show, which indicated that the efforts of the Claims Commission were basically to provide immediate relief to people in a helpless situation. They had no place to go; they needed cash to get settled; and they had no way to appeal, because in those days there was no legal assistance available to them.

Quite frankly, the lawyers that were employed were civil service people, government attorneys, so to speak. So there was no way anybody before submitting claims cannot obtain an attorney, nor did they have any money to pay for such legal services, in the first place. And you see a young widow submitting claims, indicating that her husband had died, leaving her with no means of livelihood; and then she would be told of the claim awarded, and she would take the compensation without any thought whether it was fair or not; she needed the money to get by under her circumstances.

So, I would hope to be able to shed some light on this Commission, Mr. Chairman. I have some documents of correspondences between the Admiral, as the Commander of Naval Forces Marianas (COMNAVMAR), the Land and Claims Commission and the Navy Department.

Mr. Tamargo: Can you loan those to us?

Mr. San Agustin: I have brought it here, Mr. Chairman, and I'll be glad to give them to you, folks, maybe duplicate them. Over the years while I was working at the Land and Claim Commission, I managed to save and compile a lot of stuff. I'm sure Congressman Blaz and the late Congressman Tony Won Pat who with Senator Dan Inouye were given some of my records on a loan basis, some of them did get return, and some were not. I have documents which indicates that ComNavMar in their own situation describe the claims process internally within the Land Division as well as the Claims Division.

The civil laws were basically stopped; there were no laws in 1946. The emphasis at that time was not paying people for fair compensation, but rather to provide cash for immediate relief. The emphasis was to get the land between 1946 to 1950. I did work as an abstractor of land; I did all the land title research; process the land condemnations thru the Court and get it settled. At that point in time, as you know, the Guam Organic Act was in the process of being passed in 1949; and the

Navy was under instruction to get the job done by July of 1949; to get as much land as the Navy can get and to expedite.

And I think the record will show, Mr. Chairman, that Hopkins Committee in 1947 submitted a Report which provided several criticisms and for a special land court to be formed. The Navy, then, established such a court headed by a Judge Fisher, a naval employee. He basically ran the Court as a paper factory, where by stipulations, the land case was settled, without the owners being represented by an attorneys, if they had one available, and none was.

In those days, when you had a Naval Judge John Fischer, and you come before him with the stipulations and terms presented to you, you had no choice but to take it and you can't leave it. The situation at that time, Mr. Chairman, and I don't want to belabor this thing, was that people were forced basically to accept it, because people had to live.

Basically, people were helpless; they were trying to get settled. When they got out of concentration camps, they found their homes destroyed and they had no where to go and people were just finding ways of how to get there, trying to find loved ones because there were separated by the Japanese. We didn't see my brother until after the War. He was actually taken by the Japanese. And my father was in prison by the Japanese for about six months; and my mother had to take care of us while he was in prison.

We had to live and so, as I said, that was the situation, Mr. Chairman, and hopefully people will consider that there are people coming out and there were no homes, no clothing except the clothes on their backs and trying to get settled some way. So, in the compensation process, it was a matter of take it or leave it that's the point. And I will be able to present some documents that show that, Mr. Chairman, thank you.

Mr. Tamargo: Thank you, Mr. Speaker. I would like to open with a question, could you just give a general overview of how the old Land Claims Commission operated? First of all, were you actually in Guam during those years that it operated?

Mr. San Agustin: Yes, sir. I was in Guam and actually it was 1946 when I was going to school. I was working part-time, a half a day and I worked on what was called the Base Development, I'm sure the documents show, the Base Development Department of the Navy Department up on the hill when you down there, right now where there's the DODE School, the old ComNavMar headquarters.

Mr. Tamargo: That's in Guam, right?

Mr. San Agustin: In Guam, yes, sir. At the Base Development, I was actually hired initially as a messengers and I'm sure that if either one of you had been a messenger, you get to read every document that comes out that you get to deliver, so I did have access to it. And the means of communications in those days, in 1946 and 1947, there were hardly any radio stations to be exact; there were no newspapers. The only source of communications to our people was through what they call the commissioner [mayor] system, by word of mouth. There was a commissioner [mayor] throughout the villages and that's how they tell people what's going on. There was a little mimeograph sheet that were stencils and only the people that were in the Know had access to it.

It's not easily distributed; as I said, I worked there in the Land and Claims Commission. I was processing sometime and I helped people when they came in for the interview. I can name some names and maybe the record will show -

Mr. Tamargo: Where were these interviews?

Mr. San Agustin: Our interviews were up at ComNavMar, they were up the hill.

Mr. Tamargo: Is that in Hagatna.

Mr. San Agustin: No, up on the Hill where the DODE School located in Nimitz Hill. The ComNavMar on Nimitz field and that's another thing, as a side note, the military made sure that they get the best spot on the island when they came in, the nice viewpoint. Its up on the hill and they have the whole view of the bay; the Naval Hospital, in particular, has a nice view of the island. Even the nicest beach has been taken for recreational areas. So those were the situations, and also there were over 100,000 military troops back then in 1946.

Mr. Tamargo: How as the population made aware of the program?

Mr. San Agustin: Well by word of mouth basically and people were told through the Commissioner [mayor] system, as I said. What I mean by the Commissioner [mayor], each village had one appointed elders; and they were the direct liaison with downtown, the island commander, who was a Marine general at the time, I believe, it was General Larsen. There was also a Naval Commander who for all intents and purposes was the Governor of Guam, since the actual Governor, the Admiral/Commander Naval Forces Marianas, did not have time to deal directly with Government of Guam activities.

But as far as the Land Commission, this was a complete separate organization and not part of Government of Guam.

Mr. Tamargo: Was the Guam Commission plugged into this commissioner [mayor] system?

Mr. San Agustin: Well, what was happening here is that the Navy hired a lot of local people who would go out in the field, carrying a piece of paper, stating that we need your land, sign the piece of paper, and don't worry, Uncle Sam needs your land; after the war, we'll give it back to you. You've got to understand also that the people of Guam were so patriotic, they were so glad to be liberated that to refuse somebody coming with the piece of paper to sign, it was completely

unpatriotic. So that was the situation and with the assurance that after the war, they would get their land back, which is really why the land problem continues today.

Mr. Tamargo: Do you think the general population was totally aware of the program?

Mr. San Agustin: No, sir. I think they're not aware of the program and that's for sure.

Mr. Tamargo: How did the commissioner [mayor] system fail to communicate the existence of the program?

Mr. San Agustin: The U.S. mail system, you said?

Mr. Tamargo: No, this word of mouth commissioner [mayor] system

Mr. San Agustin: The commissioner [mayor], it was word and it's just a matter of how to communicate. They would say all of you folks gather around and if you have any claims, come on up to ComNavMar, but there was no transportation. We had no island transportation system; they had to come on their way. And this is about from one island to maybe about four or five miles and the people, as I said, even the commissioner [mayor] was trying to establish their own community. They were trying to get their own so this little word from up the hill is maybe just a happenstance to communicate. But the actual communication is people from the staff who go out and talk to people and say if you have any claims, do this: you come up.

Mr. Tamargo: So the staff went out into the country?

Mr. San Agustin: They went out to the country, yes, and there are a few people I think that actually goes up there. They were several people assigned to take care of the claims process, basically like an interpreter, so to speak. In fact, it was basically, Naval attorneys, ensigns and HJGs and what have you that handled all of these things. You've got to understand also, members of the Commissions, that was in 1946 and everybody was packing a pistol around.

Mr. Tamargo: Everybody was, what?

Mr. San Agustin: Everybody was having side arms because this was a state of war and it was still going on 1945 and 1946. They still were not declaring the whole island and there were still a couple of snipers on the northern part of the island, so people were roaming around in concentration camps. Basically there were Navy camps and military camps all over the island and everybody practically packing guns. So many times people got kind of scared and you sit there at the table talking to somebody who had a gun in the holsters, you could just get them out of the concentration camp. I think you can understand that the people are feeling that if I say, no, will I get a gun?

Will I say no to this thing and I need the money? I have to get established, I have to go back and that was the situation, Chairman. I think we need to resolve that because, as I said, maybe legally it's legal, but it's not the right thing to do. I think over the years, I try to reflect my experience from 1946 to 1950 of going to all of these things and I've been able to reflect on that. I shudder that the time period for allowing to submit claims was basically 1945; December 1, 1945; after that, you couldn't submit any claims because that was last time.

Mr. Bradley: That's incorrect. It's December 1946.

Mr. San Agustin: 1946, right. Yeah, they stopped then, 1946 right.

Mr. Tamargo: Basically.

Mr. Bradley: Yes.

Mr. San Agustin: But after that, 1946 we had the limitation date and 1946 was just getting people to settle homes in those areas, little subdivisions set up. I remember in 1946 I was working there and I had to move up and down.

Mr. Cruz: Mr. Speaker, just so that everybody else understands, the conditions, do you remember what the population of the island was at the time?

Mr. San Agustin: Maybe 2,500 or 3,000 people.

Mr. Cruz: How many people lived in Hagatna?

Mr. San Agustin: At that time, maybe 5,000 or 6,000; maybe less.

Mr. Cruz: And not after the war, but before the war, how many people lived in Hagatna? Was it about 15,000?

Mr. San Agustin: Yes. That's the largest, yes, I remember that.

Mr. Cruz: After the delimitation, how much of the city was left standing?

Mr. San Agustin: Not a single building stood. So our home was right there in Hagatna, right there at the Julale Shopping Center now.

Mr. Cruz: So 15,000 people were homeless at the time?

Mr. San Agustin: Exactly.

Mr. Cruz: And during the year that they were supposed to be applying for a grant or a meritorious claim, they had no home during that year?

Mr. San Agustin: That's right.

Mr. Cruz: And during that year, they were staying mostly in what were now U.S. military concentration camps; is that true?

Mr. San Agustin: As I say, just take my example. When we got out of the concentration camps in 1944 or 1945, we went to Hagatna and we found our homes destroyed. We had to live with relatives up there by Hagatna Heights up the hill. We had to actually stay and move in with relatives and then later on, my father's started getting back to work and then we started from scratch building a home. We had no way of going to Hagatna because there was nothing, it was so devastated, and it was flattened. You had a hearing, Mr. Chairman, that whole area was flattened; it was like a big, big football field all the way through; there's not a single building standing.

Actually, the Americans are the ones who destroyed the buildings; the Japanese did not. When the Japanese invaded, they didn't destroy any of the buildings; they just came in. But as far as the

Japanese on the American side, they just leveled the whole island. I think the only thing left was a church; even the church was bombarded, the cathedral. There was not a single building left.

Mr. Cruz: The other thing that needs to be clarified is you keep referring to the Land and Claims Commission. The Land and Claims Commission was responsible for both the Meritorious Claims Act of 1945 and Land Acquisition?

Mr. San Agustin: Yes. Yes, I worked in the legal section of the Land Claims Commission and basically there were two divisions, so to speak; you had a claims and a lab. I remember a time there were Marine Corps officers who were handling the claims, with interrogation going on, with people being interrogated and that that -

Mr. Tamargo: Do you remember his name?

Mr. San Agustin: I think you can check on this, Colonel Borroco; you might check the name.

Mr. Tamargo: How do you spell that?

Mr. San Agustin: B-o-r-r-o-c-o, Borroco; it's Borenco (phonetic) Borroco, that was the name and I remember that. I even remember my boss of the Land Commission was Captain Roberts and Commander O'Banion (phonetic) somebody else, Commander Coil (phonetic) or somebody.

Mr. Tamargo: How many members sat on the Commission?

Mr. San Agustin: Three. There were only three members, they were all Naval officers; one of them I think was a Marine one time but basically they were three. Captain Roberts was the senior member and the other member was a Commander O'Banion who actually ended up heading the Bank of Guam, which was a Naval bank at the time. He was actually the manager of the bank who took over the bank, because the Navy had a Bank of Guam, and they called it the Bank of Guam and they took over. O'Banion was the commander, Albert O'Banion, I think was his name because I got to know both of them. Captain Roberts, he was a nice gentlemen, tall, he was my boss at the time.

Mr. Tamargo: Were there any Guamanians on the Commission itself that heard and determined the awards?

Mr. San Agustin: On the Commission, no way; no way. There's no representation, even when I go and look at that and see where we are now. There's nobody in Guam or even a Guamano in Samoa in the Commission, where it's a three-member Commission, strictly uniformed people, Naval officers. That was all and as I said that our deal, there was no representation as far as that. People were hired to be interpreters to take recordings or hired to say here's a piece of paper, go out and get it and bring them in or escort them to a hearing room and start listening to their complaints. The other thing also you got to understand that people estimate what their losses are but nobody keeps track of what's the value of the property.

And the claims that came out were so much and then the disparity of the claims were so great because you had a strictly subjective judgment on the person hearing it, and these are people who are not from Guam. They assisted in developing but the value standard established was probably in 1941, and it was not a just compensation. So as you and I would take a piece of property, what is the just compensation, what do you think it would be worth, really worth, no it was not, that was not a consideration. The consideration was basically [to] provide cash to the people and give them immediate relief to get them back on their feet.

It was not a question of your property is worth so much, it was, what do you need now so that they can get it off, and that was the situation. It was not just compensation, so to speak and you and I would know. But, at this point and time, I will track, but they would say, okay, the properties you say is probably worth \$5,000 dollars; well, I don't think so, it's probably only \$500 dollars, do you want to take it? Yes, I take it; I need the money.

Mr. Tamargo: There was no reconsideration?

Mr. San Agustin: Not that I remember.

Mr. Tamargo: The process has no appeal?

Mr. San Agustin: Appeal, the only appeal made generally, Mr. Chairman, is the one that is in the Know.

Mr. Tamargo: Say that again.

Mr. San Agustin: The people that's in the Know that have some knowledge of people on the system, let me give you an example, the Roman Catholic Church in Guam. Bishop Bangardner (phonetic) came to Guam from New York right after the war and that's when they changed the Spanish priest that was in Guam earlier and then the American priest came to Guam, so it brought in a Bishop Bangardner from New York. Bishop Bangardner made sure that he brought his own attorney, and I worked with that attorney, by the name of Duncan. I worked with that attorney and not a single piece of property, I remember, was lost actually by the Catholic Church because they have a lawyer, who's full-time doing a lot of research, and as I said I worked with the guy, even doing some research for him or for the church.

So there are people also that are maybe a known businessman of the island or a known politician of the island that gets to get to (we call them wide in) some people in the Know and their case would be appealed or considered. Just to give you an example, there are 13 Japanese families that actually were denied compensation because of allegations that they gave loyalty to the Japanese during the war. There are no appeal rights except the people that seem to have been in the Know, were able to appeal to the governor, and the governor would send and give them a ride.

But there are people that, without any hearings, this Colonel Borroco would conduct the hearing, an investigation/ interrogation and these people tried to appeal and he says no, there's no way. In fact, one of the families was actually deported to Saitan (phonetic) and they eventually

came back to Guam. And one family whose wife whose father is an American citizen, (indiscernible) and she was denied because she happened to marry a Japanese who was supposed to be a collaborator.

Mr. Tamargo: Mr. Speaker, you started as a messenger?

Mr. San Agustin: Yes, sir.

Mr. Tamargo: And then tell me what else you did to the progression of what you did throughout the Commission's life?

Mr. San Agustin: Well, I started off as a messenger of what's called an under clerk or somebody of title, general clerk, and then I ended up starting to learn how to type. They made me a typist, so I started typing; some of these letters I did type in those days. And then I ended up going down to the Land's Abstract Office and I started learning how to research titles. I ended up being a general clerk or that kind of deal and in those days, I suppose it was good money getting \$1,610 dollars a year; that was my salary at that time for part-time work.

Mr. Tamargo: And how close were you to the operation that evaluated personal injury claims?

Mr. San Agustin: Well, closest I was when I was up at the hill at the Base Claims Division. That was from 1946 to about 1948, somewhere near that, where people were being escorted and I talked to them. I remember that people were basically assigned just to handle the interrogation. I recall a Colonel Joakim Chaaufauros (phonetic), and you might check the name.

Mr. Tamargo: How do you spell that?

Mr. San Agustin: Joakim Chaaufauros, C-h-a-a-u-f-a-u-r-o-s.

Mr. Tamargo: What branch of the service was he?

Mr. San Agustin: There are people in Guam that are called Colonel because like Kentucky Colonel.

Mr. Tamargo: So he was local?

Mr. San Agustin: He was local.

Mr. Tamargo: He was not Navy; no?

Mr. San Agustin: He was called Colonel and they would hide him and he's the one that actually goes out and talks to people. I'm sure O'Banion knows the two gentlemen.

General Blaz: As the speakers spoke, it triggered a bit of my memory bank here. I think it's very important that I should at least stand up and attest to what he has said; I was also in Guam at that time. As I see this, I think one of the key elements that you're going to end up with, seriously considering, is that part of this whole episode in the beginning, words like due process comes to mind, words like no Post Office.

And, at that time, the Guam Post Office was called Navy 926, as a matter of fact. So consequently, I think it's important to really dwell on this because, as I see it violates one of the most basic tenets of our system, and you have this up on a bulletin board everywhere where everybody can see, due process; that just didn't happen.

Coupled with that, it reminds us of that thing we learned in school, the hierarchy of needs, and the pyramid needs where Guam, at that time, according to mass law, would have been food, clothing, shelter. And the notion of getting something other than that, doesn't come to you when you have an empty stomach. But underplayed somewhat along the line here, is the whole idea of ingratitude, seeming ingratitude for a great liberation. It is hard for some of you to understand fully, I think, the immensity of the love of the people of Guam to the United States. It's a mystery in some ways because it's a love that really, as I indicated earlier, are required in a sense.

And yet, the patriotism was so high and the music was; when you're playing the Marines Hymn in the background and the Star Spangled Banner and America the Beautiful, it's pretty hard to go off and say, by the way, I want my rights. So consequently, I think it's very important that somewhere in your own recording of this, you make mention of this period; it was a very confused period.

And finally, in the documentation that you have afforded to us to review, it is peppered with appeals for more people, it all over the place. It says, listen, we can't do this; this is overwhelming. The police said it. I couldn't believe it when there was a letter from the Navy saying you start a Yeoman's crew if you want Yeoman.

In Yeoman, Guam, there's no air condition, you work in the concert hall, it's hotter than hell, and you have a typist who can't type, and you got enough people standing on the site to fill a pool. So you have to picture this thing here and, like I said, when I was looking at these documents last night, I said, good grief, no wonder why because they just were overwhelmed.

My purpose is really to stand up share it with this fellow. Speaking of the church, one of the personalities you might recall, was a guy named Bill Hotg, H-o-t-g, who was a Bishop's attorney that came from a firm Omaha. And he was brought out there because the Bishop said, hey, this isn't right, this is not going fast enough, we're not going to have a chance, there's a time limit, a frame, so this guy comes in and he represented the Bishop.

Mr. Tamargo: Thank you, General. That's the picture I'm trying to get to. Go ahead, Dave.

Mr. Bradley: I know it's irregular, but I was wondering

if -

Mr. Tamargo: It's not an irregular; this is an informal thing. Let remind everyone to take an opportunity here to please jump in the moment a question occurs to you. If it'll help the Commissioner [mayor]s get this information and paint the full picture, go head.

Mr. Bradley: I was wondering if the Speaker San Agustin could speak to the question of what the state of land records was in Guam at this time insofar as would it be possible to use these records to establish fair market value of real property. Would it have been...

[End of tape 1, side A] [Side B begins]

Mr. San Agustin: The problem there, sir, is the appraisal. The people that are appraising are all Naval attorneys, the people that are most of the civil service people, came to Guam, had no idea what Guam was, and one of the value standards, which was set back in 1941, basis standard, there were no records whatsoever as to what was the value in 1941. So they had to speculate what it would be by guessing and by golly, and that was the situation. Well, I think it's worth this much, I think it is not, what do you think? It was that kind of conversation going on among the attorneys and among the worker.

What do you think, Colonel Chaaufauros, what do you think? There was a gentleman by the name of Judge Betanga, which I think is your relative, but they call him Judge Betanga, he's a land judge, and he was the one actually who was the most knowledgeable as far as land appraisal, he said, but it's a one-man thing.

You and I nowadays, made an appraisal; what is the best uses of it? What was the usage before? And what can be used now? And this says we have a rehabilitation program; what are they? So I think to answer your question, there were no records whatsoever to really adequately provide a fair value. As I said, it was not in a land deal, it was going to court; a lot of people had to stipulate.

In a land case, Judge Fischer, because of being criticized, the Navy was being criticized for being so slow because the process of condemnation was too cumbersome and too voluminous and it took too long. And I said, the Navy was under pressure to get the thing finished by July of 1949 so what they did recommend is have a special land court established by a civil service employee by the name of Judge Fischer and he went into one of the areas.

They called it the Agat land case and it started as a precedent where you would only stipulate, in terms or conditions, you take it or leave it, and that becomes the precedent and it becomes a paper factory. Every case that came in, there was a precedent established and that's how the terms and conditions would be established. This was one side of the island and not the entire island.

Mr. Tamargo: Go ahead, Dave.

Mr. Bradley: I'd like to point out, though, before we spend a lot of time on this, this Commission's not concerned with land as such, but rather with only the value of the improvements that were destroyed and the compensation for that.

Mr. Cruz: But the one thing that needs also to be made clear to everybody at the table here is the fact that prior to 1941, the Naval government had complete control of the island. You could not get a fair market value of anything because you were not allowed to sell without the Naval governor's approval, you couldn't sell it to a foreigner. Foreigners weren't even allowed onto the island; the island was, for all intents and purposes, a secure place where no one came in and out. As late as after I was born, even in 1951, to try to go off island as a 15-month-old baby, my parents had to get approval for me to leave island and for me to come back. So there wasn't that opportunity to establish a fair market value because there was no market. It was insulting enough to try to say it should be the value that it was in 1941, which may not have been an insult after all because it was probably worth more than destroyed in 1944.

But the thing is that even in 1941, there were no markets so the economics could not set up a fair market value for which they established an amount, and I think that has to be clear. And at this point, Mr. Chairman, both the general and the speaker have both spoken to the issue of the general condition on the island.

I think this might be the appropriate time for me to mention that I have brought and submitted to the staff last night a 100-page memorandum that was prepared by Mr. John Bohn and written by Mr. Ron Teehan. And yet, goes through and documents this situation, which I think is important for the Commission to read and to understand because it (no disrespect to the general and the speaker) goes through and it paints the complete picture, not just little tidbits. I mean, it paints the complete picture of what the situation was between 1945 and 1948, that even as late as 1948, most people still didn't have homes.

And so the condition of trying to figure out whether or not you're going to go downtown to apply for any kind of compensation was just secondary to food and shelter. And so, if at this point, I might, on behalf of Mr. Ron Teehan and joining Mr. Teehan in the submission of that memorandum as an addendum to be appended to the record for today.

And I ask all of the Commissioners, and if possible, the other experts here to have a chance to look at it and see if, at a later date, they might comment on we address some of these issues with that describing the environment under which people were supposed to be applying for a grant within a year period.

Mr. Tamargo: That sounds fine to me, without objection. Thank you.

Mr. San Agustin: Mr. Chairman, I just want to make a comment on that.

Mr. Tamargo: Go ahead, Mr. Speaker.

Mr. San Agustin: You said what we're talking about now is land and claims and improvement. The documents show that in 1949, they stated that the payment of claims was strictly a military function. It was not a part of going through the process of submitting claims, so it's clear that, in 1949, it says, the payment of claims on the Public Law 224, is clearly a military function, and this is what will be practiced and computed on 1 September 1949 [indiscernible]. So it was closed actually as far as claims and they dealt primarily as a military function as opposed to the land deal where you had to go court and you had to go to condemnation proceedings.

So the payment of claims for personal injuries and what have you were considered as a purely military function. The Naval government had no business in it, they made it clear on this August 22, 1949 that it was purely a military function.

Mr. Tamargo: And the significance of that is, what? That there was no appeal or what's the main point of that?

Mr. San Agustin: It proves that this work would be practically complete on 1 September 1949. That was 1949 when they closed it and they said they wanted to distinguish between a civil function and a military function.

Mr. Tamargo: Okay.

Mr. San Agustin: So the processing of claims was strictly a mandate for the military as a military function to provide immediate relief to the inhabitants, not because of just compensation.

Mr. Tamargo: Go ahead, General.

General Blaz: I think justice could have thought of a better way, no disrespect intended, so none perceived, by the way. He has a good point about this business of value and I had many moments earlier forgotten that about the time you were two-years-old, my father died on Guam. I was in the Marine Corps and I had to get permission to enter Guam. I could not believe this; in fact, I was so incensed I almost resigned from the Marine Corps. I raised so much hell that eventually that piece of regulation was removed from the Navy regulations for those who are on active duty, as officers, who are enlisted people in the Naval service; and this is documented, by the way.

So I think it is important that also should be highlighted just to emphasize the circumcising of the environment under which this was happening. It was until President Kennedy, in the 60s, and as I understand it, someone calls attention to the situation on Guam where you can easily clear, as an example, a number of prostitutes coming to Hawaii that had clearance to go to Guam for that age-old profession and, at the same time, some nuns going to the Mercy Convent were denied.

This is also documented. But I think it's important to note that it wasn't until 1963, I think, that President Kennedy, as I said, said, don't ever do it. You don't need to have permission for the people to enter and, as a result of that, value was not determined until after that time.

Mr. Tamargo: Well, Mr. Speaker, could Dave, and I let's make sure that we cover these issues when we talk to different folks here. I want to make sure that we got something said about these different issues; keep us honest so that we don't miss what we're here to do. Mr. Speaker, can you speak towards what sort of claims were made with regard to forced labor or internment, civilian internment, forced march, confinement in a concentration camp? If there was any type of claim made in regard to those items and as well just to what rationale they used. Well, actually you probably couldn't speak to that.

Mr. San Agustin: Yes, I think as you talk about being in prison, like my father was in prison for six months, was he paid for that? No. The whole island was under concentration camps, if you want to look at; confinement and there was no compensation. I think the law at that time does not address the detention rights, so to speak. It addresses only for people for claims of loss of property or injuries or death. It does not apply to people being incarcerated or what have you. There was no such thing, there were no such payments made at all at that time. Claims were not even entertained, for that matter, in Taiwan.

Mr. Tamargo: Okay. Thank you. And was there like a status, one had to be a U.S. national? Or did they have to reside on the island? How did they determine who was eligible and who was not?

Mr. San Agustin: My understanding is they had to be a resident of Guam before the war in 1941 and they had to be on the island. They wouldn't entertain people from off island coming in to make claims. They had to be physically inside and a resident of the island at that time.

Mr. Bederman: Mr. Chairman, a question because, again, I understand that the staff has recently unearthed the actual regulations that were promulgated by the Navy pursuant to the Guam Meritorious Claims Act.

Mr. Tamargo: Go ahead.

Mr. Bederman: But at least in the tentative version, which was unexecuted, which I reviewed, which you had sent you, it indicated and defined a permanent resident of Guam as a domiciliary of Guam, which is not exactly the same thing. You could indicate someone who had left the island just before the occupation by Imperial Japanese forces, but with an intention to return. At least, obviously, that language is crucial from the regulations because, if so, it implies that there could have been a larger class of potential claimants. That does not speak to what Speaker San Agustin -

Mr. San Agustin: My understanding is they would not entertain anybody who was not on the island in 1941, at the outbreak of war.

Mr. Bederman: I see. So literally, if you were not present during that -

Mr. San Agustin: I know that my uncle was off island and didn't have a claim. Several of my uncles were living in Hawaii and would never be able to claim.

Mr. Bederman: No.

Mr. San Agustin: But my father or my grandfather was here and so was my aunts were in Guam, yes. But my uncles were living in Hawaii; there were two or three of them.

Mr. Bederman: Well, that would potentially highlight a situation where the regulations, if adopted in the form that we saw tentatively, were finally adopted, would be potentially generous to claimants. But, in fact, the practice of the Commission effectively ignored some regulations, so that obviously is a concern.

Mr. San Agustin: I've never read this regulation, but you're right. There were not entertaining that; people would come into Guam in 1946 and 1947 and they would join the military and

were able to come back to Guam. But the people had to be on the island to make a claim, if they knew about it.

Mr. Tamargo: And how many, going back to the structure of the Lands Claim Commission, employees or staff, counting locals, actually worked there?

Mr. San Agustin: Well, in my own division, I remember there was only one lady working and myself. The rest of them were all civil service employees brought from the states.

Mr. Tamargo: How many?

Mr. San Agustin: I would say about 15, at the most.

Mr. Tamargo: What would you say was the total staff of all divisions of the Commission?

Mr. San Agustin: Actually, less than 100.

Mr. Tamargo: And how many were in the claims side and how many were in the landside?

Mr. San Agustin: On the landside, most of them were on the land side, I'd say two-thirds of them were on the land side and the rest. In fact, the claims was basically run by military people, Yeoman and stenographic and maybe two interpreters and a couple of Samoans would corral the people to come in. They were marching up mostly like that but the land, it was the emphasis, Mr. Chairman, that proof of the people and it was constantly being favored over the lack of staff. There was always somebody coming from the States and they were all civil service employees.

Mr. Tamargo: In the material that we mailed out to everyone that we have uncovered so far, much of the correspondence signed by the Naval personnel is asking to leave. And I was just wondering, was there a high turnover in the Commission?

Mr. San Agustin: Yes.

Mr. Tamargo: How long was the average naval person on the Commission?

Mr. San Agustin: The Navy or the civil service, the people?

Mr. Tamargo: Either, both?

Mr. San Agustin: I would say less than a year because the conditions were intolerable. They lived in camps. There was hardly any infrastructure available to them and a lot of them just left. Most of them were couples, civil service husband and wife; the husband maybe an attorney and the wife worked in the office as a clerk typist doing stenographic work. It was good pay, I understand because they really got paid but it is not the best place to stay. There are hardly any commercial establishments other than the Commissary and exchange from the base. So as far as living conditions, I would say that probably not as many as you'd, and that most of them, and that's why they had a very high turnover.

The job actually took it's toll on them to get through the process because every now and then you had to retain, somebody always had to learn the job.

Mr. Tamargo: I know that it was not a priority of the old Commission to include personal injury claims, but there were personal injury claims made.

Mr. San Agustin: Yes.

Mr. Tamargo: And there were personal injury awards made.

Mr. San Agustin: Yes.

Mr. Tamargo: How do you explain those claims? How do those claims happen to walk in the door? Was there an outreach to them? How did they hear about the program versus everybody else didn't hear about the program?

Mr. San Agustin: Most of the people that came in for injuries were basically working for the government and they got to know by word of mouth. Most of the people that actually came in because they were injured or maybe they had got beaten by the Japanese, or there was a temporary disability or that kind of deal, or their spine hurts and they would come in. But then there were also a lack of physicians to examine to. The doctors were not available to verify that so there was a question again to the judgment of the fact. How are you feeling now? Oh, okay, now, well, you call the others beaten by the Japanese and they would say, I was sick for about a couple of weeks and I'm okay now. Oh, how much? Well, it's \$100 and that was it.

But there were no examinations at all, as I remember that.

Mr. Tamargo: So that most of those personal injuries, in your opinion, happened because these claimants were in some form or way connected to U.S. Naval personnel, either staffing something or working something?

Mr. San Agustin: Working with the government; the grapevine in Turkey is very good in Guam. The grapevine, though, it's called the word of the mouth process.

Mr. Tamargo: It's good but, at the same time, nobody heard about it.

Mr. San Agustin: Only the people within the government structure would get to know that. In other words, there was one guy by the name of Jose Titan Cruse (phonetic) who was an actual employee of the Department of Education and she happened to know. So we came up one afternoon and she says, you know a joke? Tell me who to talk to about my back injury, I got beaten by the Japanese, and I was laid in bed for maybe about two, three or six weeks. And I said, yes, that's the guy over there, I'm going to introduce him and you go in there and that's how it happened.

Mr. Tamargo: So besides that, what sort of outreach was done to reach the public, the general public, to make them aware of the program by the Navy to make everyone aware of the program? What was done?

Mr. San Agustin: Well, the only thing, one, as I said, an attempt was made I think through the commissioner [mayor] system, by word of mouth. I don't recall seeing any documents that says to notice to everybody to come in and what have you.

Mr. Tamargo: You never saw a flyer?

Mr. San Agustin: No, absolutely not.
Mr. Tamargo: Or a bulletin board?
Mr. San Agustin: No.
Mr. Tamargo: Or something on a tree or on a pole or anything?
Mr. San Agustin: No. No, sir. The Naval government itself called all of these commissioner [mayor] people and said, we have a program, please go and ask people to come in if they have any claims and what you; and that's about all. They had other priorities, you know.
Mr. Tamargo: Go ahead, Bob.
Mr. Lagomarsino: They did notify the commissioner [mayor]s to put out the word?
Mr. San Agustin: Yes. Yes, sir.
Mr. Lagomarsino: Apparently, some commissioner [mayor]s and some didn't.
Mr. San Agustin: Well, they probably had other things on their minds. The second thing is then you had the problem of contacting people because people were relocating all over the island in 1947.
Mr. Lagomarsino: No, I understand. And before you said there was a very good grapevine, but apparently the grapevine didn't include everybody?
Mr. San Agustin: No, no, the grapevine, as I said, only on the Know. If you happened to be wired in, you were able to know, you would be associated with these people. If I'm a farmer and there's no need for me to know, why would I have contact with a commissioner [mayor]?
Mr. Lagomarsino: Somebody had made, I guess you'd say, the allegation that personal injury claims were not made or were not paid unless they were associated with property damage claims; do you know anything about that?
Mr. San Agustin: Yes. I think the document that I have here has always been related to some property and they tied it in with injuries and what have you. I don't recall having a single item just for injuries.
Mr. Lagomarsino: Well, my understanding of that, just looking at some of the claims that were filed, if that is the case, it's probably because the people who made the property claim, were more aware of what was going on, so they would be more likely to include the fact that there had been a personal injury if there had been one?
Mr. San Agustin: Yes. As I said, the primary purpose of coming in was basically not for personal injury; it was to claim some property damage and that was the emphasis. As I said, unless your husband or brother got beheaded or got killed, then that really would come in. But if it was just an injury itself and then you were able to recover if you were related or you had property to claim. You had a right and this wasn't incidental, in a sense.
Mr. Tamargo: Thank you, Mr. Speaker. Go ahead, Congresswoman.
Ms. Bordallo: Thank you. I said I was going to listen but I think the record should cleared. We refer to the commissioner [mayor]s; in those days, they were called Commissioner [mayor]s. And I'm afraid if the expert legal people here look at it, that they might think this was the Commission or whatever.
Mr. Tamargo: Yes. That's a good one, thank you very much.
Mr. Bradley: We understood it.
Ms. Bordallo: I authored the law to change that to commissioner [mayor]s, so just to correct the record.
Mr. Tamargo: Thank you, Congresswoman. All right, let's give the speaker a little break here. Let's talk about another program now, let's talk about the Philippine program, rehabilitation program. Who feels comfortable in speaking on that program? Now we have to be honest with: we were unable to locate anyone who was personally involved with this program. But there are folks who are familiar with it; Dave, why don't you tell us about it, as best you can?
Mr. Bradley: Well, I don't know much beyond what's on the grid here actually. I think it's fairly comprehensive; it made no provision for personal injury or death claims and it covered claims of Philippine citizens, which is the same thing as U.S. nationals at the time, plus it covered U.S. citizen's claims for property. And, as it indicates, there were some countries whose citizens were also eligible because there were reciprocal provisions for compensation of U.S. citizens in those countries who suffered losses there.
Well, the only other thing to mention would be that those claims were paid, as I indicate on the second page, in full only up to \$500, and amounts over \$500 were only paid provincially to 75 percent up to a ceiling of \$25,000. And there was a huge amount of money, obviously, \$462 million, but there were over one million claims that were paid.
Mr. Tamargo: Go ahead, Bob.
Mr. Lagomarsino: And for the record, Filipinos were nationals at the time?
Mr. Bradley: Yes.
Mr. Tamargo: Well, they would have to be citizens.
Mr. Bradley: Well, citizens of the Philippines.
Mr. Tamargo: I see. Okay.
Mr. Lagomarsino: They were U.S. nationals?
Mr. Bradley: Yes.
Mr. Lagomarsino: As were the people in Guam?
Mr. Bradley: Yes.

Mr. Lagomarsino: One difference is with regard to the personal injury and death and another one is, of course, that the filing period was two years later, really. So the conditions in the Philippines were probably much more settled at that time than they were on Guam two years earlier.

Mr. Bradley: Well, certainly. And Guam's one little island and it had to be bombarded back to smithereens in order to dislodge the Japanese, whereas the Philippines is a much larger area.

Mr. Lagomarsino: And we have no knowledge, though, apparently or at least the Commission doesn't, as to how effective the broadcasting of information was with regard to the Philippine claims, right.

Mr. Bradley: I would expect there were the same problems of isolation of many islands, but if you read report of the Philippine Ford Damage Commission, it indicates that they sent staff far and wide throughout the archipelago move. Can I suggest something?

Mr. Tamargo: Yes, sir.

Mr. Bradley: With just having heard about the Guam claims, could we ask Dave Rogers to talk about the Micronesian claims program?

Mr. Unpingco: Let's get a clarification from Dave; Dave?

During the war, Guam was governed by the Naval government; isn't it?

Mr. Bradley: During the war?

Mr. Unpingco: Yes.

Mr. Tamargo: Or do you mean before the occupation?

Mr. Unpingco: Before the occupation and after the war, up to the year 1950.

Mr. Bradley: The Navy governed Guam, yes.

Mr. Unpingco: Right; what about who's governing the Philippines before the war and after the war? The Army.

Mr. Tamargo: The Army?

Mr. Bradley: I don't know that; General, is that right?

General Blaz: I understand it to be the Army.

Mr. Bradley: Oh.

Mr. Tamargo: The U.S. Army.

General Blaz: Yes.

Mr. Rogers: Before and after?

General Blaz: No, I think not.

Mr. Bradley: It was given a tentative observation point there.

Mrs. Van Cleve: Under the Philippine Independence Act -

Mr. Tamargo: In 1947?

Mrs. Van Cleve: ...the Vikings McDuffy Act, which was 1933, I believe, there was essentially a civilian government in the Philippines after the war with a high commissioner as the chief executive. So I don't think that the Army was the -

Mr. Tamargo: It was civilian?

Mrs. Van Cleve: ...government, though it obviously had a major presence there.

Mr. Tamargo: Go ahead, Dave.

Mr. Bederman: Well, one important political context of the Philippine Rehabilitation Act was that it was enacted at the time, but already the political decision had been made that the Philippines would become independent, which is specifically referenced in the statute. In 1946, yes.

Mr. Bederman: So that may well explain and be an important ground distinction with the Guam Act where, obviously, the compensation system that is structured is essentially through transition for the Philippines to complete independence, and they account for the lower caps on recoveries and other provisions, as well. So I think it's somewhat difficult to make a direct comparison between the Guam Act and the Philippines Act, even though they're in close proximity to each other in terms of time.

Mr. Tamargo: Just a second, BJ. Go ahead, Mr. Speaker.

Mr. San Agustin: I was just going to ask Dave; wasn't the political status of the Philippines called Commonwealth of the Philippines as opposed to Guam being the territory? I think there were in some cases, way back.

Mr. Bederman: Prior to.

Mr. San Agustin: Prior to, yes.

General Blaz: Prior to the war.

Mr. San Agustin: To the war, yes, they were designated as Commonwealth of the Philippines so there is a different political distinction between the Philippines and Guam.

Mr. Bederman: Oh. Well, certainly but we should not rely on labels and you need to get the Organic Act.

Mr. San Agustin: But really, there was a feeling that there was an agreement, by 1946, the Philippine government would take over.

Mr. Bederman: Yes, that was my point.

Mr. San Agustin: Yes, and that prior to that, it was designated as the Commonwealth of the Philippines. It was not a territory of the Philippines or territory of the United States. It was never considered as a territory of the United States basically.

Mr. Bradley: It certainly was.

Mr. San Agustin: I remember there were some similar constitutional cases on that as far as dealing with the Philippines as opposed to dealing with Guam.

Mr. Tamargo: Okay. Go ahead, Ruth.

Ms. Van Cleve: I'm not absolutely confident but I believe at least prior to 1933, the Philippines was, theoretically, an unincorporated territory of the United States.

Mr. San Agustin: But there was the distinction of commonwealth.

Ms. Van Cleve: It soon was launched in the direction other than the usual direction of U.S. territories toward independence ultimately in 1946; that's right.

Mr. Bederman: Right, and all of this, of course, depends on all of the precedence from the Insular cases, which governs these designations and these intentions. But I would recommend not to be too enchanted with the labels, but I think the important distinction is by the time the Philippine Rehabilitation Act was adopted, it was already clear that the Philippines had become independent. I think that explains the lower levels of compensation, relatively speaking, at least for individual claimants that afforded here, although in terms in dollars, much higher amounts.

And also from my understanding, these figures were ultimately budgeted from those accounts that were intended to transition aid to the Philippines. So, again, the way that these programs were structured I think was quite different.

Mr. Tamargo: Thank you, Dave; go ahead, BJ.

Mr. Cruz: Also, Dave, just for clarification, to have it on the record, on the first section of the Act, the composition of the Commission, I wanted to distinguish that from the way the Guam one was done. The Guam Act, the secretary and the Naval governor was responsible for the appointment of the members of the Commission; whereas, the Philippine Act, they were all appointed by the president and by congressional act. It was required that one member of the Commission had to be Filipino.

I wanted that clear on the record because I think it's important to show the distinction between the composition of the Commission on Guam, the composition of the Commission on the Philippines, that there was provision in the Philippine Act to make sure the Filipinos were represented and they were appointed by the president.

And that distinction, I think, is very important and should be placed on the record.

Mr. Tamargo: Thank you. Go ahead, Dave.

Mr. Bradley: Well, I think there's a point, though, beyond which you get to whether we're debating the injustice of the Naval administration of Guam from 1898 on; we don't want to get into that.

Mr. Cruz: No.

Mr. Tamargo: Okay. Thank you.

Mr. San Agustin: We'd be here for months.

Mr. Cruz: It's not an issue of debating it, Dave. I think it's an issue of having you understand it and the rest of the Commission understand it so that when we write the report, you have to understand the mindset of not only the governed, but the mindset of the governed.

Mr. Bradley: No, I understand; I'm not disputing you.

Mr. Tamargo: Thank you. Before I go to the Micronesian program, I wish to note, for the record, that the Micronesian program is different right off the bat because it was not a U.S. territory at the Japanese occupation.

Wait. Before we go on, I've neglected to mention one more thing: we have a few scheduled breaks, so we'll come back and talk about the Micronesian program. We'll take a 10-minute break but, before we do, I'd like to note, for the record, that the Micronesian program was ex gratia.

Mr. Rogers: No.

Mr. Tamargo: No. Well, Dave Rogers will clear that up for us, too.

Mr. Rogers: Part of it wasn't during the war.

Mr. Tamargo: Okay. Well, it is different in many respects and Mr. Rogers will explain that when we get back.

[Break]

Mr. Tamargo: I call the conference back in order and I'd like to change something I had said that we were going to pick up on the Micronesian program. I fear we might lose our State participants after lunch, so I wish to go to them right now. They've already heard sort of issues that we're going after and what our focus is and I was hoping they could just speak to us in general terms about what they view a claims program should be run, how it's been run to whatever they're familiar with. If they could speak to us as best they can in general terms or maybe even if they can apply it to what they know of any of these particular program.

Just use these issues as the points that we are most interested in but you can go beyond these issues if you have something that you think is relevant. So Ron Bettauer, if you could go ahead and give us your thoughts and then we'll hear from Jim and then we'll hear from Mary. If Mary doesn't wish, that's fine; go ahead, Ron.

Mr. Bettauer: All right. How a claims program should be run, generally you run them for us when we do a settlement. There have been very few that we -

Mr. Tamargo: You meaning, who?

Mr. Bettauer: We, the Foreign Claims Settlement Commission, not the Guam Commission so that in terms of our function as a State Department is usually the negotiation of a settlement agreement. And then the distribution of the proceeds of the settlement comes either through a adjudication after the fact, which we usually ask the Foreign Claims Settlement Commission to do or an adjudication before the fact, a pre-adjudication, which has been applied to many of our settlements.

Now there have been cases where we have actually run the claims distribution. For example, the Egyptian program, before we gave you the interest program, we in the Claims Office of the State

Department, actually ran the claims program. Or the first phase of the Princz settlement where we, again, collected the claims and ran the program.

Mr. Bradley: Which was the Holocaust victims claims program?

Mr. Bettauer: Right and we have worked and helped design claims programs but not for U.S. settlements. That is, looking over the shoulders of what was done for Bosnia, Kosovo and now Iraq where they first established or were establishing a Property Reconciliation Commission. But that wasn't getting off the ground because of the bombing of the U.S. facilities. And so they revoked that order and have put out a, or they're setting up, a Property Claims Commission and we have one of our staff attorneys out in Baghdad at the moment helping establish that, and that raises a lot of the claims of questions as to what kind of publicity do you give? What kind of notice do you give? What kind of time deadline as the timing, getting to people, databases, getting people to come in and so on?

Obviously, to have a fair program, I think you would agree with me, you need adequate notice and an adequate period of time for filing, people educated as to what claims criteria are. Now the thing is, in your list is what of issues; you seem to have various head of claim. It always depends on what your statute or what your settlement provides for what the nature of claims you can make. So sometimes you can claim for all claims of losses and sometimes you can't. In the settlements that we negotiate and in the statutes that we have worked with, the guidance on what is covered is either in the settlement or the statute. And so here you have an issue with the statute defining the level of what claims could be made.

So if there are headings of claims that weren't covered, it may speak not to the fairness of the Commission's process, but to people having questions about whether the statute was well advised or should have covered more, but that's a different kind of issue.

Mr. Tamargo: Would you say you can take a liberal interpretation of the statute or a strict interpretation of the statute?

Mr. Bettauer: Well, usually you'd try to get what is the correct interpretation looking at the language canons of interpretation, legislative history and all of that. I'm not in a position to second-guess the interpretation; I haven't done the research of this statute. I've just read its literal terms; there probably is some leeway but there probably are answers that the statute, on its face, seems to provide for full compensation. And although it doesn't set up a fund to pay full compensation, it says that appropriations will be made above a certain amount and the materials you send out suggest that, indeed, there were appropriations given to pay in full, at least in accordance with the awards.

That doesn't answer whether the awards, in fact, were appropriate or complied with the criteria for full compensation. But the statute, on its face, appears to cover a series of things and provide a compensation system that was, again, on its face, appears to be implemented. That doesn't answer second level questions as to how it actually worked, and we've heard a lot about that this morning. I'm not sure what else.

Mr. Tamargo: How about the valuation process of property? What normally is used and does the statute governs that? Is the statute silent in what governs that?

Mr. Bettauer: Our settlements, the ones we negotiate, usually take as a point of departure, international law rather than domestic law and seek, if you're talking about property claims or property losses, full value for the loss. And the full value for the loss is normally interpreted in terms of market value at the time of taking a loss plus appropriate interest to the time of payment. You have obviously problems if you have no market or a common and we've heard here that there wasn't a market at the various times. It's the same kind of problem that you would have in claims made against a socialist economy where there may not have been a market.

But the Foreign Claims Settlement Commission has dealt with such claims as well in its Eastern European programs and has had the challenge of evaluating property loss under international law in non-market economies for the purpose of pro-ration of settlement amounts. So it's not a new issue and I dare say your Commission and the records of the Foreign Claims Settlement Commission maybe quite expert in this area, as well.

You'd also find a bunch of awards of tribunals that you could look at for reference in this with the key body obviously being the Iran-U.S. Claims Tribunal having had a lot of awards concerning valuation of property, that kind of proof and how they came to justifications of value of property and those obviously are all published.

Mr. Tamargo: You said Iran-U.S.?

Mr. Bettauer: Iran-U.S., you can find much precedent in a bunch of secondary materials as well dealing with what that tribunal or what other tribunals are doing who are now starting to build a body of awards from NAFTA tribunals as well and there will be more dealing with compensation for property that may have been taken from investors.

Mr. Tamargo: Go ahead, BJ.

Mr. Cruz: Just on your first point where you keep referring to, Chairman Tamargo, in his other capacity as Chairman of the Foreign Claims Commission, in your history, do you know of any other claims act that was solely governed or comprised of military personnel?

Mr. Bettauer: You mean a commission, no, but I haven't really studied that issue. I haven't looked into the composition of the other claims.

Mr. Cruz: But in the years that you've been at the State Department, you've always used the Foreign Claims Commission, which has been in existence even prior to World War II; wasn't it?

Mr. Bettauer: No, it was the War Claims Commission, but anyway, we had -

Mr. Tamargo: We had a predecessor.

Mr. Cruz: Yes, but our predecessor were comprised of civilians as opposed to military personnel?

Mr. Bettauer: We have frequently, we have more and more, from lump sum settlements, there have been one office of file locators where we have valued and settled the claims. There have been some cases where we have, in the State Department, for example, the Cambodian claims settlement, we didn't send to the Foreign Claims Settlement Commission. We collected the claims, negotiated the settlements, and then distributed the amounts we thought appropriate. Since they were espoused claims under the U.S. wall, we had the ability to make a judgment as to what the value of the claim is and how much would be claimed in that claim.

Mr. Cruz: But even the ones that you did within the State Department were done by civilian State Department employees as opposed to the Department of Defense military personnel?

Mr. Bettauer: Yes. Of course, we do know that there are military claims programs, too, that haven't been established and applied. For example, the Grenade Act of the Grenada invasion, there was a fairly unique program but it was set up and run by the military. They set up claims commissions and heard (they have some records on this) and they provided compensations for loss and damage.

Mr. Tamargo: To who?

Mr. Bettauer: To the inhabitants.

Mr. Tamargo: Grenadines?

Mr. Bettauer: Yes and it was set up under the auspices of aid authorities using aid funds.

Mr. Tamargo: That's USAID?

Mr. Bettauer: Yes, given the preclusion on the military using its funding authorities for the payment of combat injuries and loss. But a way was found to authorize that to occur and I dare say the military was heavily involved in the initial work on setting up a -

Mr. Tamargo: Was it a branch? Would you know which branch did that?

Mr. Bettauer: I don't but there was an article written on it. There's a Law Review article on it and you can find that out.

Mr. Tamargo: Dave.

Mr. Bederman: Well, let me say in response to Chief Justice Cruz's question, that obviously if the question is in any act of congress, which establishes a claims body such as the Guam Meritorious Claims Commission, was very precedent for it to be accomplished by military officers sitting as adjusters or judges, I'm not aware of one. But as Mr. Bettauer was saying, there's been a long precedent, dating from the Civil War, that pursuant to the President's Commander-in-Chief responsibilities under Article II of the Constitutional, that the military forces can engage in these claims adjustment/claims settlement processes.

That was done after various aspects of the Spanish-American War in Cuba and I believe in the Philippines and it was done after the I World War and II World War. That doesn't precisely answer your question of whether the model here in regard to congress's exercise of power over the territories of the United States under Article IV of the Constitution, whether that would be a different basis of authority.

But in this sense, what happened with the Guam Meritorious Claims Act, to the extent that Guam was recognized by congress as a Naval reservation prior to the war, this was not an extraordinary situation that military officers were dispensing and deciding on the claims.

Mr. Tamargo: Bob.

Mr. Bettauer: I have a question; by the way, it wouldn't seem to me so extraordinary either because in reading the records you sent out, it appears that many of the military officers involved were Reserve officers who were essentially civilians coming out...

[End of tape 1, side B] [Tape 2, side A begins]

Mr. Bettauer: ...both congress acting?

Mr. Tamargo: Yes, the Naval operations?

Mr. Bettauer: Right.

Mr. Tamargo: It gave the authority to the chief of Naval Operations?

Mr. Lagomarsino: Essentially, what the congress did was just to say, okay, go on, we'll ratify that, in effect.

Mr. Lagomarsino: It did say that, yes.

Mr. Tamargo: Okay. Go ahead, Dave.

Mr. Bradley: I would also mention routinely that the Army JAG Corps, Judge Advocates General's Corps, settles claims for damage following military exercises by NATO, for example. And those are where the tank drives over a German farmer's corn field and does damage and there are Army officers who settle those claims.

Mr. Bettauer: Indeed, in each of those services has a JAG Corps usually for a particular region or problem they assign lead responsibility and set up claims programs administered by that service, and we've worked extensively with them. For example, in the Stark death claims, we worked extensively with the Navy JAG Corps in developing the model for assessing loss and contacting people and so on. And so we have a history of working closely with the various branches of the service: the JAG claims people in making assessment of claims and in allocating recoveries.

Mr. Rogers: I'm really surprised that the Army in Japan investigated claims by Japanese against the government, all of which were then set up and they negotiated batches of so many cents on a dollar and then were distributed.

Mr. Cruz: I understand that some of the initial work had been done by some military personnel. I'm just trying to set the record straight that decisions on the amounts in any of these Commissions were not made exclusively just by military without State Department overseeing or the Settlement Claims Commission overseeing, and that's the point that I'm trying to get across.

Mr. Bettauer: From what I have heard, you may have had more problems with the state of the records and the fact of a lack of a market to compare and to make adequate evaluations from. So I've seen no evidence to impugn the credentials or the authorities of a military lawyer as opposed to a civilian lawyer. I have no basis to think that they would be less diligent or honorable, but they may have not had a basis to make the judgments that they made and they may have just been doing the best they could. And so the question that may arise is whether they had a sufficient basis to do an adequate job at the time and in those circumstances.

Mr. Cruz: Would your position change if you were made aware of the fact that the military who were sitting on the Commission were under the command of the admiral whose intent was to double the size of the land that the military was trying to condemn and bring under military control, from 40 square miles to an additional 40 square miles, and that being what they were supposed to be doing under their command, but that would affect their decision?

Mr. Tamargo: BJ, that's beyond the scope of this Review Commission; isn't it? It's the land acquisition.

Mr. Cruz: It's not just the land acquisition. It's just the whole milieu that it was under. And it's hard to say it was just the Meritorious Claims Act separate from the land claims. These things were bunched together and they were all under the military. And their concern was not trying to address the personal property or the personal injuries of the people, it was trying to figure out a way to further the relationship they had with the local people so that they could get their land and double the size of the land that they had. The thing that I'm concerned is that I want the record to show that this was a purely military operation as opposed to something that at least had some oversight by Justice or State, even if they were citizen soldiers at that time.

Mr. Tamargo: Okay, got you. Go ahead, Mr. Speaker.

Mr. San Agustin: I just want to add a comment. There was a letter that was actually dated February 25, 1948 from the governor of Guam to the Secretary of the Navy and I might just cite when it comes to value standards. It says in answer to the Hopkins Committee at that time, was a review at Guam. It is the governor's understanding of the theory of the regulations that was difficult, if not impossible, to ascertain the exact time of loss or damage, particularly in the case of loss of property.

All that could be determined was that the property existed at the time of the Japanese invasion in 1941. And then sometime within that date and the reoccupation of war by the American Armed Forces, the property was lost or damaged.

Therefore, the December 1941 value standard was adopted as being the only known standard existing when the property was known to exist. Furthermore, and this the key, it is the governor's understanding of the Navy Department's position that the Meritorious Claims Act did not seek to make the people whole. So far, as the property is concerned, which would require higher value standards, but to grant the people certain relief. It is the governor's feeling that the Navy Department's position is sound and should be adhered to in this respect, especially inasmuch a great number of claims have already been processed.

So there is not anything in terms of value standard. If there had been a base on just compensation, it would require a higher value standard. The admiral recognized that but that was not their motivation; the motivation to grant people certain relief.

Mr. Tamargo: Okay. Thank you, Mr. Speaker. General.

General Blaz: Justice Cruz, with all due respect, I'm going to take a little exception to your statement that the record will not show that everybody in the Navy really was thinking the way that you characterize it. I think Mr. Bettauer mentioned that the attorneys that were recruited for this were really from the civilian community. And I met some of them actually and they really had a great feeling for what they were trying to do for the people of Guam. They suffered from an enormous amount of shortages of people; I'm not saying that that was not one of the ulterior motives, perhaps by some.

But I think we need to also say that the attorneys that were working, I thought, did as best they possibly could under the circumstances and granted they were working for the Navy because they were all commissioned officers (most of them) but they were also retirees.

There was a Marine retiree, as a matter of fact, when I happened to be reading about it. I didn't know the gentleman so that's I would do to kind of temper, I think, what you said earlier because I'm more inclined to proclaim that there really were some good folks trying to help. And it would be unfair to give the impression that there were just a bunch of guys trying to grab land.

Mr. Tamargo: I think what the chief justice was pointing out was the lack of review from a civilian authority.

General Blaz: Granted, that is absolutely true.

Mr. Tamargo: Mr. Bettauer, I am according to this graph or this spreadsheet grid, the valuation system used in the Guam program was the Federal Employees Compensation Act of 1916. Does that strike you as unusual or is that because this was treated as a domestic program within the U.S. as opposed to an international law covered program? Or do you know?

Mr. Bettauer: No, I don't know. I wouldn't have a basis to judge that because I don't know what that Act provided. I don't how it works with the standards that we might be more familiar with.

Mr. Tamargo: Thank you. Go ahead, Bradley.

Mr. Bradley: Ron, could I ask you, thinking back to the Princz Agreement really that you just referred to, how the obligations of the government towards its citizens where they've been injured in wartime or injured or been detained, a number of the U.S. citizens that were interned in Nazi concentration camps, there is an analogy to what happened to the people on Guam and I'd be curious as to your thoughts on that.

Mr. Bettauer: There's a difference, I think, between obligations and compensation that is given as a matter of beyond obligation. The Princz Agreement or the agreement we first did, I guess, in about 1995, dealing with American nationals who had been in Germany and, therefore, subject to Nazi persecution, those weren't nationals of Germany, as it were. Those were our nationals, U.S. nationals in a different country who suffered persecution. And those claims had not been settled and there had been other agreements, as you will recall, with other countries dealing with those claims.

We had a relatively smaller number than some of the other countries in question and we went through that. But we went to the Germans and said this was an injury, an espousable injury, to U.S. nationals who were in the territory at the time of the conflict and should be paid.

Mr. Bradley: But the Chamorros were under the confinement or they were held by the enemy. They were under the control of enemy forces so the U.S. had an obligation towards Japan or to acquire from Japan or demand from Japan compensation for their injuries?

Mr. Bettauer: I think, David, that we would say that the U.S. government never has an obligation to espouse a claim because espousal is a discretionary act on the part of the executive. And the claims that we settled via espousal are, in part, to remove irritants in international relations between the United States and the foreign governments.

Mr. Bradley: Okay. But I mean the injury is to the United States, that is sovereign.

Mr. Bettauer: Part of the theory is that when you espouse a claim of a national, it makes a claim of the country and you're claiming that the foreign country didn't act in accordance with its international obligations to the national and thereby the injury is, in a sense, to the nation. And so that is basis on which we would be able to espouse the Nazi persecution claims, which were essentially claims on holding people in concentration camps against the Germans.

And, as I started to say, relate to Holocaust settlements weren't done under international law or the Germans asserted not as a sense of not out of legal requirement. But their compensation, again, in some smaller amounts but obtained for anybody who was subjective to that kind of slave or forced labor.

But the framework for that was quite different related to the Holocaust efforts.

Mr. Tamargo: Ron?

Mr. Bettauer: Yes.

Mr. Tamargo: Let me ask you a question that I've heard: a concept about confinement and detention and qualifies as internment. Have you ever heard of any claims program that viewed an island as an internment or detention, the entire island declared a camp of some sort? Is there any program you're familiar with that ever used that standard?

Mr. Bettauer: Well, I'm not familiar with it. The confinement in slave and forced labor and so on, in my experience, has been in terms of Germany and the Nazis and the lists of concentration camps then that were used as a basis for various claims programs, both for the so-called Princz Settlement and then later for our German Foundation settlement in 2000. We dealt with concentration camps, with forced labor camps and so, but I'm not familiar with that.

Mr. Tamargo: Dave?

Mr. Bederman: Chairman Tamargo, let me respond to your question and maybe make a comment or a question to Mr. Bettauer might clarify forever. In terms of your question, there has to be an important analytical distinction made between a territory that is under enemy occupation and the individuals on that island or subject to occupation by hostile military force. Japan was subject to the Hague Conventions, which governed belligerent occupation. Just because an individual may be located on an island that is subject to belligerent occupation does not make that individual interned or confined under relevant laws of war standards.

The crucial question would be whether an individual was subject to treatment different and worse from the island population at-large. And so that may bear on your inquiries to the extent of whether all eligible Guamanian residents or domicilliaries on the island at this time would be considered to be interned by the enemy. I think the more precise question is they were all subject to belligerent occupation; all had their right of movement ended. But that, under international law, at that time and this time, it is a prerogative of an occupying force to limit the movement of individuals under occupation. But that is not the same as if Imperial Japanese forces relocated people from their homes, concentrated them in special camps -- then those individuals might be regarded as having been interned.

Obviously, they were subject to forced labor, that would be different. But to simply, and I don't know if this argument has been made to this Commission, that every individual on Guam from December 1941 until the liberation was, therefore, confined or interned, I think would probably run contrary to applicable international law standards. I'm not sure if anyone has expressed that point in the way that I have and I don't know if Ron would necessarily agree from an international law standpoint. But I think that's a crucial distinction and I can speak to that later.

One last point in response to what Ron said: I'm not aware, Ron, that the United States has ever espoused a claim of a U.S. citizen who was perhaps in Imperial Japan on December 6, 1941 and was interned. All of those claims were settled by treaty between the U.S. and Japan. So there's no way

to come up with an analogy to Guamanians who were subject to occupation or ordered internment as opposed to an American businessman unlucky enough to be in Tokyo on December 7th.

Mr. Bradley: Doesn't the signing of the treaty constitute espousal in some way?

Mr. Bettauer: It's called settlement; it would not constitute espousal.

Mr. Cruz: Yes, I don't think it could be espousal; it would be preclusion. I mean I think Mr. Hergen speaks with that; his work with the POW is indication of that.

Mr. Tamargo: That's a good segue because I'm running out of time before we break lunch. So, Jim, if you could speak to anything that you think would be helpful here, go ahead, sir.

Mr. Hergen: I will speak exactly what's on my mind and it's exactly what the Commission is paying for. I do have a couple of brief comments, though, really. This is so fascinating and there are so many experts here and so many sincerely interested people and so many old friends. But I do have some recent experience and I would like to make a couple of very brief points, if I may.

First of all, I am a retired Army JAG officer and I can confirm the expertise of the military claims officials and I can confirm the careful review that is made of their work. This is a very, very sophisticated operation and I think the Commission may wish (I can make a suggestion) to consult with the Judge Advocate General of the Army or the Navy or any of the judge advocates to explore this in a little bit further depth if you're interested. I know there's close congressional oversight, I know there are numerous U.S. military, very, very highly skilled lawyers and people like that who claims experts who trained their whole lives for this.

And I don't know whether this was true in the 40s, but certainly the military has special expertise in many cases that far exceeds people that would be picked up off the street, attorneys that were not in private practice. I just make that point, not as an argumentative point, but just as a factual reference for whatever it's worth.

My second point would be that I suggest that the Commission, in its further deliberation, should be very attentive to the possible precedential impact of any report it may issue on other claims and other pending claims programs. The reason I mention this is because of my current ongoing experience under Ron's supervision with the World War II claims that the Japanese, the Bataan death march survivors and these kinds of victims. In this sense, I was very impressed with General Blaz's introductory comments. There were so many victims of the war, so many American citizens that these programs were administered in various ways.

In terms of the Commission's principal concern about fairness, and that's the way I hear the debate shaping up, what was fair under the circumstances, the fact is that no claims settlement that I am aware of, especially regarding World War II, was comprehensive or clean or complete. Everyone who suffered at the hands of the Imperial Japanese Army in the Pacific, to this day, feels aggrieved whether they were the beneficiaries of some kind of claims settlement program or not.

And I say this with a deep sense of regret because I have to oppose many of the Bataan death march survivors and other claimants, the 10,000 people that were left behind in the Philippines who are, at this time, while we are sitting here debating this matter informally, a very, very serious matter and very heartbreaking matter in many ways, we have victims, American citizens/American nationals who are suing in the U.S. Federal Court of Claims for very similar types of claims.

They may have been awarded certain amounts under various claims programs. But they did not receive what they felt was fair, what was just and they are still seeking compensation. In fact, these cases have recently gone to the U.S. Supreme Court on these very issues relative to, for example, as Dave Bradley mentioned earlier, the World War II, 1952 Japan-San Francisco Peace Settlement, which basically extinguished the claims of millions, uncounted millions of people who suffered horrible atrocities at the hands of the Japanese. So I think it's important to keep some perspective here in terms of the very broad picture. I am not aware of anybody that feels fully compensated for their injuries.

Mr. Tamargo: I have a question, Jim, but I don't want to disrupt your train thought, though.

Mr. Hergen: No, go ahead.

Mr. Tamargo: Those Filipinos, 10,000 folks, what program were they under, the Philippine Rehabilitation?

Mr. Hergen: Well, no. Most of the claimants that I'm familiar with were U.S. military personnel who were captured after the Japanese invaded. They were put on the hell ships and who were sent to Japan as forced laborers, so they were mostly military personnel. However, there were civilians among those people, to be sure. They were compensated under the War Claims Act of 1948, as amended and Dave Rogers knows much more about this than I would ever know. But I know that these people are still out there and they feel, and I think legitimately, just as the Guamanians do, they suffered terrible, terrible injuries and they do not feel that they were fully compensated.

So my point being that the Guamanians are really not alone here and there are many, many American citizens. In fact, in one of these cases, there's a class of 400,000 people, all Americans, who suffered any injury in World War II, whether on the mainland or anywhere else, who never really got compensated. My own father has spent three years of this life in the Pacific and other than this military salary, which was not very much, I'm sure he lost a lot, and many of us are in the same situation. So in a broader sense, nobody is really fully compensated and I really don't have much to say beyond that other than I urge the Commission to take into consideration, in its consultations, these broader considerations. Thank you.

Mr. Tamargo: BJ?

Mr. Cruz: Your concern that we be aware of the precedential affect it would have on other claims, I'm not sure really that should be our concern. We wouldn't be sitting around here trying to

come to prepare a report for the Secretary of the Interior and for the Committees of the House, had not the United States signed the Treaty of San Francisco in 1951 extinguishing, as you say, the obligation of Japan to the 400,000 that you're talking about and the 20,000 people on Guam. That's the only reason why we're sitting here is because our redress directly to Japan was removed.

Mr. Tamargo: Okay, that's fine. Pointed noted and point taken. Jim, let me ask you: the program you're familiar with about these 10,000, do you think there was a way for those U.S. nationals that were in the Philippines that were left behind that were not Naval personnel, was there, to your knowledge, a way for them to make a personal injury claim?

Mr. Hergen: Yes, I believe they were able to claim under the various acts for loss of property and personal injury, if I'm not mistaken. Their compensation was not out of U.S. taxpayer funds; their compensation would have been out of the Japanese assets that we have captured, and I believe that's the War Claims Act.

Mr. Tamargo: Dave?

Mr. Bradley: But there was no personal, no. No personal injury was compensated nor property other than if they were federal employees, for example, or were military employees, there was the property compensation provided for out of taxpayer funds.

Mr. Tamargo: Okay. Thank you. Are there any other questions? BJ. These are volunteers here, BJ.

Mr. Cruz: I know, I understand that, but just one other point where they talk about the fact that you can't consider an island or confinement within an island as being confinement in the sense of others. The size of the Island of Guam and its proximity to the nearest landmass, three hours by jet at the present time, 15 hours by airplane in the 40s, you didn't have the ability to be able to escape or with the German border into France, you couldn't swim to the nearest place. So the analogy is really unfair because the size and its proximity and the uniqueness of an island makes it almost just one giant prison.

Mr. Bederman: I certainly do not doubt that and my point was much more modest. Obviously, it is in the body's discretion and in its recommendation and obviously ultimately in the Secretary of the Interior's and, more importantly, Congress's discretion if they are to remedy this injustice, what terms and conditions, either consistent or not necessarily consistent, with international law.

My only point is it may well be that while many potential individuals who were on Guam at this time would be eligible, even under a narrower definition of internment, in other words, if they were relocated all from their homes, they would be eligible. I don't think you need to sweep as far as to suggest that every individual on the island immediately becomes a interned or physically restrained individual for purposes of compensation.

I'm not aware, as many of the people in this room are, and I'm humbled -

Mr. San Agustin: Maybe you don't say the whole island but there are basically, for at least four or five months, where everybody forced and to be kept in a concentration camp.

Mr. Bederman: Yes, that would certainly be compensated.

Mr. San Agustin: That would be your case because you heard -

Mr. Tamargo: You mean, Menggon?

Mr. San Agustin: Mengon, Talofoyo, everybody was actually out of their homes and we marched overnight. And under forced labor, there were Japanese with bayonets and actually we could not go any place; we were guarded just like anybody else. Perhaps maybe prior to that, when they were forced to, but everybody had to wear a badge, some kind of an identification. Your movement was very strict but then the last three or four months before the invasion, there was that forced labor. So even in your own definition itself, it would be qualified.

Mr. Bederman: That's what I understood. To prepare for this meeting, I read some of the official histories of the occupation and that was my understanding. My only concern to Chief Justice Cruz is that you made the very important point that, in a sense, the people of Guam are seeking redress from the United States government in substitution for seeking redress from the government of Japan. And the government of Japan's answer would be we would be responsible for any violations of international law, the laws of war. The simple fact of placing an area under belligerent occupation, reasonably limiting the movement of those under occupation, including wearing tags or identification, I don't know how a tribunal would necessarily rule if those were violations of international law.

What I do know, as Speaker San Agustin said, is that any kind of forced march, internment, dislocation from one's homes and forced labor, that is certainly a violation; no question about it.

Mr. Tamargo: Okay. Thank you.

Mr. Bradley: If I could just add, Professor Bederman refers to the Hague Convention on treatment of civilians. Even if nobody is singled out, there have to be some norms as to humaneness of treatment. And, in fact, that was the reason for the ratification or the creation of the 1949 Geneva Convention on treatment of civilians and it hadn't previously existed.

Mr. Bederman: Well, and more importantly, we don't need to speculate this. I mean, Japan's conduct was subject to review at the Tokyo War Crimes Trials in 1945 that included its conduct of the occupation of Guam. That might be an important source for this Commission to examine. It's clearly documented and there's no question of the illegal conduct that occurred there. I was simply responding to Chairman Tamargo's question about whether it is legally plausible, not morally plausible, but legally plausible suggested simply by virtue of the fact of being located on Guam at the time of occupation, whether you would be then considered interned or subject to forced labor or forced settlement, and that was simply the point I was responding to.

Mr. Lagomarsino: And we might compare to the Philippines where, I'm sure, not all of the islands were even under the kind of control or were under the gun of control that Guam was, but some of them were certainly or parts of it were.

Mr. Tamargo: Mary, you have saw nothing that you disagree with here?

Ms. Comfort: I don't want to be involved.

Mr. Tamargo: Okay. All right. Then, this is a good point in which to break for lunch and we will reconvene in one hour. Thank you very much. If I lose you State folks, if we lose you, thank you very much for coming. We appreciate your time and your expertise, thank you.

[Lunch Break]

Mr. Tamargo: This Guam War Claims Review Legal Experts Conference is back in order. The first thing we'd like to do is go to Vice Chairman Unpingco to report, in the record, a resolution. Go ahead, sir.

Mr. Unpingco: Mr. Chairman, a request was made by the Association of Pacific Island Legislatures, of course, to present the Commission with the resolution. And this resolution is sponsored by American Samoa, the Commonwealth of the Northern Marianas (phonetic), FSM, the State of Truk, the State of Kshrei (phonetic), the State of Ponepei (phonetic), the State of Yak (phonetic), the Island of Guam, the Republic of Kilabas (phonetic), the Republic of Marshal Islands, the Republic of Nehru (phonetic), the Republic of Palau (phonetic) and the State of Hawaii and it's Resolution Number 44 BOD, the last line.

And relative to supporting the people of Guam and the efforts of the Guam War Claims Review Commission, authorized by U.S. Public Law 107.333 by the President and the Congress of the United States, to address war reparations for the people of Guam, let me just say that this resolution was passed back in the Republic of Balal on December 11th when they had their meeting, their general membership meeting, and it's encouraging the Commission to expedite our findings and make reports to congress as well as to the Secretary of Interior.

The secretary requested that I present this thing to you and each one of the members of this Commission will receive a copy and the president of the United States as well as all of the representatives of the House of Representatives and the Secretary of the Interior and the U.S. Senate will receive a copy of this resolution.

Mr. Tamargo: Thank you very much, Vice Chairman Unpingco. All right. Now we'll discuss the Micronesian claims program and I'll call on Chairman Rogers to just go ahead and tell us about the program how it worked and how it was implemented.

Mr. Rogers: Thank you, Mr. Chairman. I think the first thing that we have to bear in mind is the Micronesian claims program was two distinct programs and part of two different bits of legislation that, at the last moment, they put together, it was Title I and Title II. And Title I was for war damage, which had occurred throughout Micronesia and Title II was for property expropriated by the United States government for its use after the war and for personal injuries, death, et cetera, which had occurred after the islands were secured at the hands of the United States. This ended up, therefore, as two very different programs and one of the major differences, as the chairman was speaking before, the War Claims program, which is Title I, was an ex gratia payment under the general theory that there is not legal liability for war damage which is caused.

I realize there maybe certain exceptions where horrendous acts are taken care of, et cetera. But because of that, any compensation becomes a gift; therefore, the Commission did not grant any interest on its awards on Title I under the theory that if I wait for 30 years and give you a gift, you can't come in and say, hey, you should give more because you waited for 30 years to give me this gift.

Title II was a very different matter. I appreciated Ron's remarks this morning where a government expropriates property, throughout Anglo-American law, way back, you owe the value of that property plus interest until the date that you finally make the award. This was highly controversial. I almost got fired because the Commission went so far as to grant interest. But we finally prevailed, so there are two fundamental things.

Looking more at, however, to Title I, which is more I think in line and I have to say my only knowledge of the Guamanian program is what I heard from you, Mr. Speaker and from the General this morning. So I don't pretend to be an expert in that. I intend to be an expert in international law of claims. We discussed this morning a little bit the difference between citizens, nationals, and nationals that were about to become independent.

In Micronesia, we ran into a third classification and I'm not sure that it's ever been really dealt with in international law before. The United States had a trusteeship relationship which, arguably, made the people of Micronesia, in effect, awards for which the United States had a substantial duty. Therefore, on behalf of the Micronesians, the United States has negotiated a settlement with Japan in which the United States contributed \$5 million. Japan contributed, in yen, what was the equivalent of \$5 million at the time of the agreement. Because of changes in exchange rates, it ended up to be about \$6.3 million and this was in goods and services, which is a highly complicated situation. Government of the trust territory would need school buses, they would have an appropriation by school buses and they would get them from Japan.

Japan would send the school buses; then, the government of Micronesia, the trust territory would then take the value of the school buses and put it into the claims fund. In fact, one of the problems towards the end of the program is that they were running out of time to get this all accomplished. I think they ultimately did finally get it all accomplished.

This was finally enough to pay about a third of the awards that had been made by the Commission. Micronesia said, well, why didn't you get more money when you negotiated with the Japanese? One of the problems was claims that the Japanese had. At the end of the war the United States, forcefully, removed all Japanese who had lived on Saipan and moved them back to Japan.

Japan said that is a violation for international law; you owe us. And so part of the negotiations went in and the Micronesians, some of them, would argue that would have sent it. The United States got a release of claims against them in return for taking less money for us and I just throw that out because that argument was made. I've tried to sort of list here a few of the things that had been discussed this morning, publicity. We had advantages and disadvantages.

The disadvantage, I suppose, is that Micronesia is a territory approximately the size of the Continental United States except, of course, most of it's water. The Japanese were not friendly enough have fought major battles at the places in Micronesia that is easy to get to by plane.

They were out in a lot of these crazy islands that you only get to on a field trip vessel. So you had this large territory around and the only communication, personal, was to get out by field trip vessel, which would be scheduled every couple of months out to these islands. But, invariably, would be broken down and so it wouldn't get out on schedule or it would break down at sea. And the big advantage, however, we had was radio and so we could publicize the program on radio. We then sent representatives out to a number of these islands to sit/to get the claims in. In so doing, we ended up with approximately 11,000 claims filed.

There were approximately just slightly over 200 that the Commission denied because they were late filed. So I think that pretty much shows that we were able to get the word out and to get the claims in. A peculiar group at the very end of the program from Kosrae for forced labor, and they were of questionable compensability. And a funny thing happened down at Kosrae: the war started and a Japanese commander said, we're stuck here and we're stuck here together. Nobody's coming down here to invade us and we can't get any ships in, so we're all going to have to get together, civilian and Japanese soldiers alike, we will go and work.

Side by side, we will plant the crops, we'll bring in the food, and we'll distribute to whomever because we're all in the same boat. So this raised some questions of whether that could really be considered forced labor or whether that was merely a cooperative effort to try and prevent starvation of those soldiers and civilians. But that left very few claims that were early filed, which I think speaks well of the publicity we were able to get out.

Mr. Tamargo: Chairman Rogers, before you leave that, do you recall what was the population of the Archipelago at the time?

Mr. Rogers: Not off hand. I knew once and that was 30 years ago.

Mr. Tamargo: Go ahead, Ruth.

Ms. Van Cleve: I'm going to say about 55,000.

Mr. Rogers: That would sound about right, yes. Now the Commission was a five-member Commission and two of them were Micronesians. But they were not Micronesians that the United States said, hey, here's some bodies to put out. These were from a list of Micronesians submitted by the Congress of Micronesia. Then the Secretary of the Interior had the right to select two of those from the list. But these were not just U.S. lackies, these were people that the Congress of Micronesia said you're going to represent us.

Mr. Tamargo: What year was that?

Mr. Rogers: That was in 1971 when it was started, as I recall. I was out there from 1974 through 1976; it ended in 1976. It was a filing period of a year and then it was year later when I arrived. Of interest, on this Commission, there were a handful of claims where there was disagreement on the Commission, I'm aware, and a dissenting opinion was written. In no case was it Micronesians versus U.S. representatives and so I think what we got was I ran into was a different concept. The United States were all for compromise. You say it's worth this much, and I say it's worth that much. It's time to split the difference.

To Micronesians, that means you had given up on principles and the Micronesian commissions were very aware that us Americans were going to leave and they were going to have to be here to explain what they had done and why. So you couldn't compromise; what did you do? You discussed and you talked and you discussed until consensus arose. And maybe some of the objectives would say, well, if you'd compromised, you would have come to that same conclusion, but you came there in a very different way. So I think it worked very well having a joint committee made up of both Micronesians and Americans and I think it gave clearly credibility to the program among the Micronesians.

There was an appeal process. The Commission would send out its representatives to investigate and get all of the possible information and come up with a proposed decision, submit it to the Commissioners, issued and it had to be delivered to the claimants.

None of the claimants disagreed with that, they could file an appeal. And either it could be an appeal and you've got some other documents that you want to send in, although it was very rare there were any documents. Or come on in and make an oral presentation either at our main offices in Saipan or we would send Commissioners out to the other main island headquarters to hear any further testimony that would come, and then you can relook at the whole matter and take into consideration any additional argument or evidence that's come in, and issue its decision.

So there clearly was this appeal process and, I would say this, there was never anything indicated that said, hey, it's bad for you to appeal. On the contrary, we tried to make it very open and say, come on, if you object to this, come on and tell us why. And so I don't think there was any

feeling among Micronesians that the Commission was closing off this right to appeal, even though it may have been there.

[End of tape 2, side A] [Side B begins]

Mr. Rogers: ...made no comparable to that. You also begin to run into cultural things. In the Marshals, the value you will place upon your land in transferring it depends upon the purpose for which you are transferring. If the church or an organization that's helping the people needs land, you will give it to them; no value. If there is sort of a good lower price and if somebody wants to buy your land outright just for a commercial purpose, another price.

You run into such things, of course, in the Marshals that there are three interests in each land. Your Allah (phonetic) at the top, your Rhodes and the Dejuourno (phonetic) and each has an interest in it. So we made awards for the land for the Rhodes, Allah -

Mr. Tamargo: What are those?

Mr. Rogers: It's very much like the old feudal system-- kings, noblemen, workers. And you run it into a bunch of interesting custom things, some causes trouble. If you have a death case with a widow, guess what, you would make the award to the widow to get out of Palau. No, she has no rights. After the death of a husband, we the families will decide was she a good wife or was she not? And if she was a real good wife, we may give her almost the same rights that you'd have in this structure. But if we don't think she was a very good wife, she's entitled to nothing.

We said, no, we're going to have to stick with the American tradition on this. No way we can get into reviewing whether or not the Europeans choose a good wife or was not. You had some interesting claims, the claims of a ghost but it was a good ghost. It had been there in the total village; after the war went through, the ghost had gone and I'm not quite sure I can evaluate those.

[Laughter]

Mr. Rogers: We did have one claim, a Micronesian pilot found a dead Marine and he did the honorable thing: he buried him, put the pilot rock side. An hour later, along comes the wave registration team and they took all of the rocks down and picked the body up so it could be shipped back for internment in the United States.

Unfortunately, they took the man's father's head instead of the Marine's head and by this time it was just skulls. So the guy came down and he said, you know, the next time you talk to the president (because it's always the assumption if you come from the United States and, therefore, the next you're having lunch with the president) would ask him if he could do something and if he can't, can we have \$50.

So we figured that for the work that this guy had gone through for a nominal cost of putting up the pile rocks and taking them down and putting them up, he was entitled to his \$50. There's mention here of internment. We had no internment claims. In other words, if you filed on site then, which were then all withdrawn, there was the question of what happened? When Saipan was invaded, as you know, the battle was hot and heavy and the civilians, if they'd get up here, there's bullets flying down here and there's bombs going off. And so this raised the question of is this really a concentration camp or is this merely a way to save the lives of the civilians while us and Japanese try and kill each other?

We never had to face that question because many claims were filed and they were withdrawn, not because we told them to withdraw them, but they came in and said, no, let's consider the rest of our claims, so we had no comment on that aspect. Value, how do you value land? As I was saying, there was no way you couldn't see but we tried to do was most of Micronesia. It was growing copra and we had a pretty good handle on the value of coconut trees. There had been surveys, one, as to what's the optimum number of coconut trees you can grow on an acre. As you grew more, production goes down; you go, alas, you're not fully utilizing it.

And we had a pretty good idea of the cost of harvesting copra, et cetera, et cetera, et cetera, et cetera, and we had used that to come up with the value of coconut trees. That was reinforced when there was a hearing that I attended and handled on one of the islands, where Micronesians were represented by a friend of mine, who is an attorney from local service. And they brought down an expert, a man who had grown copra on the island for years. And he testified, again, as to how many trees, et cetera, et cetera, et cetera, et cetera. We brought all of this together and I said to my friend, I said, okay, let's sit down and figure it out.

How many copra, how much coconuts do you get, which we crossed our arms over. Anyway, it finally came out that the Commission was paying a little bit more than what his testimony showed. He said, don't worry, we're not going to lower the award, but it reinforced, in my mind, that we had a valid handle on the values of coconut trees and the production of copra. Now once you can then determine what is the production off of a maker's land, you can capitalize and come up with some type of reasonable basis as to what was the land worth. So that's sort of the process we went through, lacking any other way to fix a reasonable price.

Death claims presented a problem. And I have to say these decisions were made before I arrived. The problem was that very few people had any evidence and certain decedents. They knew that cousin so and so were killed by a bomb, uncle so and so and so on and so forth. So we came up with a basis of age, starting at \$500 for a child and getting up to a maximum of \$5,000, I think at age 21, falling off slowly. And the rationale for that was that the basic concept is how much support you will give to those people you leave. And, as you look at a 21-year-old, the probability that that person would provide more support for children and so forth is greater than as he gets older.

And under Title II, I did those personally and we used a different method, and this got into a court case. Legal Services sued and went and said that we had denied due process of law on the death cases because you're supposed to take into consideration future earnings and future support; it's a fact. Take that into consideration and that's the basis we have to deny almost all of them.

Mr. Tamargo: Does that mean that there were lawyers in Micronesia?

Mr. Rogers: Oh, sure, the Micronesian Claims Commission was out there.

Mr. Tamargo: Besides your lawyers, were there other lawyers?

Mr. San Agustin: Private lawyers.

Mr. Rogers: Oh, yes, there were private lawyers. Bill Nabors (phonetic) had filed a bunch of claims.

Mr. San Agustin: Bill Nabors was not a Navy man?

Mr. Rogers: No, no, no, but he was with America.

Mr. Tamargo: We're talking about private lawyers.

Mr. San Agustin: I know him; he came in as a staff commissioning the first territory.

Mr. Rogers: Yes, that's right but (indiscernible) but he was also Afro-American. He went back to his unit in San Francisco and when he walked in, they said, oh, you must be Mr. Nabors. He said, no, I'm the man who fired Mr. Nabors. And one of the problems of whether or not there were personal attorneys, the statute limited recovery for the attorney to one percent of any award, and they're not going to make much money on the basis. The legal service was out there; it was very active. I got sued by them; not for anything while I was there, for matters before. I might say I'm now on the board of directors of Legal Services in California.

But what happened there, when I arrived, Legal Services and the Commission were not speaking with each other. At the time I left, the head of Legal Services was handling claims before the Congress of Micronesians and said we had a lot of problems with the Commission until Dave arrived, and we haven't had any since. Had he been here from day one we never would have had any, so I got along with Legal Services.

The Congress of Micronesia was always a little suspicious, as well this (indiscernible) we'd been doing, those came afterwards and asked me to come on out as a legal representative of the Congress of Micronesia. And so I figured that I had placated at least several interests that were out there.

Other valuations we did by trying to talk to some of the old-timers. Okay, you've got to come in, you didn't bide the news, and you had to come out. Well, you try and find out how many hours would it take you to do a normal through of what do you think would be a fair value, and then come up, of course, with these. As soon as you've sort of established one, then you created the list. And the next claim that would come in, you go back and refer to the list and come up with that valuation.

Mr. Tamargo: Mr. Chairman, so you had a Micronesian Congress in existence at the time you were there?

Mr. Rogers: Yes. Yes.

Mr. Tamargo: How was it that there was the Congress? Well, this is 1971?

Mr. Rogers: Yes.

Mr. Tamargo: So the recovery from the war, there was no -

Mr. Rogers: And they had certain rights; Interior had certain rights that the Congress of Micronesia had. But it was an elected -

Mr. Tamargo: Go ahead, Ruth.

Ms. Van Cleve: I believe that the Interior was one that created the Congress of Micronesia by secretarial order. And it conferred rather broad powers upon this two-house legislature, not with respect to federal funding which was, of course, the most important, the (indiscernible) ones, but with respect to almost everything else that it could place with the Micronesian Congress, and it was representative of all of the districts of Micronesia.

Mr. Tamargo: Chairman Rogers?

Mr. Rogers: Yes.

Mr. Tamargo: In 1971, was there any problem with evidence where this is 30 years after the war?

Mr. Rogers: The problem was, there was very little evidence. On Peligru (phonetic), the island was heavily damaged during the war and there would be land held in the name of Mr. so and so. The big dispute was did that land held in the name of Mr. so and so, is that his land, in which case, his heirs are the proper claimants. Or, was he holding on behalf of his clan or the lineage, in which case the lineage is the proper claimants. Now the Japanese, just before the war, had tried to do away with land being held by lineages and were sort of forcing it into an individual's name. So what do you do because there are two bits of claimants?

We'd have inheritants, a lot of times (indiscernible), and you'd get some old-timers who were not part of the lineage who were not heirs. Was it general knowledge how this land was held? Yes, it was held by the lineage and we would go along with that because the written record only showed that so and so was a legal title holder. But did he hold on behalf of the lineage or on his own right? There were pretty good land records in Saipan where a lot of land had been expropriated by the United States as to who the owners were, but beyond that, very few records.

Mr. Tamargo: And was there still a displacement of the population? Or is, by 1971, everyone has an address?

Mr. Rogers: Oh, yes. Yes.

Mr. Tamargo: And has a mailbox?

Mr. Rogers: Yes, and have a radio.

Mr. Tamargo: And they have radios?

Mr. Rogers: Yes, and that's one of the things, of course, in comparing with the Guam program, we were coming in there 30 years after the Guam program. Now that also has something to do with the compensation where they "x" amount today or "y" amount 30 years from now. And under Title II, there were large sums of awards because there were large amounts of prime land that the trust territory had taken and was still using and uses today. And their dispute on how you would value that, when I went out, one school of thought said \$2,000 an acre. And my boss, then chairman of the Foreign Claims Settlement Commission, said I'm not going to use up all of the money that's been authorized; we can't do that.

And, again, we started this process of discussion, discussion, discussion, and we finally came up with this concept: I take your land; I owe rent. If I take your house and I rent it and I do damage to it, when I do the damage, you don't have any claims as a landlord. When I give the house, at the end of the term, then if I have damaged it, and your house is worth less than it was when you moved in to rent it, then I owe you the value that has been decreased. So we applied that same type of thing and we said the maximum would be \$1,500 an acre. But then they never looked when you got the land back, had it been damaged.

Now we had some land that had been used by the Marines for a softball field. No, that isn't damage for agricultural purposes. Other areas were so heavily coralized that they could never be used again for agricultural purposes. So we pretty much said, okay. It is either zero or 25 percent, 50 percent, 75 percent, or 100 percent. Go out and look at the land and come to a conclusion as to the extent they've been damaged, and that will give you a basic look. Then we will require the payment of rent for the period up until either exchange land was given or this land was given back to you, and then we will pay interest on top of that.

Mr. Tamargo: How many personnel do you have working for your Commission?

Mr. Rogers: I was trying to figure that out before; I think we had about 10 or 12 attorneys. Of course, secretarial and that type of support staff but also some Micronesian staff that actually did investigations.

Mr. Tamargo: Include them.

Mr. Rogers: Well, a clear answer is I don't know; my guess would be around 15 people or so, attorneys and investigators.

Mr. Tamargo: So your program covered in areas big as -

Mr. Rogers: The Continental United States.

Mr. Tamargo: ...the Continent of the United States.

Mr. Rogers: Mostly water.

Mr. Tamargo: You had field hearings?

Mr. Rogers: Yes.

Mr. Tamargo: You sent folks out to survey and evaluate land and you did it with a small staff of maybe 20 to 25?

Mr. Rogers: It was somewhere in the neighborhood. Yes, I would say in that neighborhood. That was 30 years ago and I'd have to go and double check the records.

Mr. Tamargo: And you would say that the general population of Micronesia was aware of the opportunity to file a claim?

Mr. Rogers: Eleven thousand claims were filed and 200 were late; I think that speaks for itself.

Mr. Tamargo: Mr. Speaker?

Mr. San Agustin: When the communication came through the Congress of Micronesia by having two representatives there, that would be the channel of communication and what prompted the increase of claims coming in, would that help?

Mr. Tamargo: Repeat the question, I didn't understand you.

Mr. San Agustin: The fact that the two members from the Congress of Micronesia on the Commission actually enhanced the communication problem because most of these people are elected. They all met in Saipan but I know they all come from those areas.

Mr. Tamargo: And the radio.

Mr. San Agustin: And they had the radio, yes, but unless the radio was in English, a lot of people didn't speak that. I agree that the traditional mode of governing throughout the Marshals and Palau and other areas, those were the most governing and, as a matter of fact, they're still doing that. You have two sets of law, one that the tribal chief runs and then the actual civil laws and there's always a conflict. As a matter of fact, the most recent one was the tribal chief hit a lawyer for trying to interfere in the discussion of land matters. An American lawyer came in and tried to interfere as recently as just last year.

Mr. Rogers: My wife was heavily involved in forming the constitution for the federated states. And, of course, that was one of the big issues, the role of traditional leaders against the other leaders.

Mr. San Agustin: Yes, and they want to make sure that that is enhanced.

Mr. Rogers: It's them, in Yap, where traditional leaders have tremendous power, they said just leave that out of the constitution.

Mr. San Agustin: But not in Palau?

Mr. Rogers: But in Palau and in Ponepei where they were beginning to lose power, they insisted on writing it in the constitution.

Mr. San Agustin: That's what I said and that's right. And, of course, that led to when all of these things were in the Congress of Micronesia, led to the distribution of four different districts. There was very the war problem of the United States because how do you deal with all of these vast areas that can't get agreement so they had to break it up into four districts.

Mr. Tamargo: Okay.

Mr. Rogers: The other thing we set out in writing and in the decisions were in, I believe, 12 different languages, which one was the local language.

Mr. Tamargo: And the radio addresses were in the native language?

Mr. Rogers: And in English.

Mr. Tamargo: And in English?

Mr. Rogers: Yes.

Mr. Tamargo: Go ahead, BJ.

Mr. Cruz: A couple of clarifications.

Mr. Rogers: Sure.

Mr. Cruz: When the Chairman asked you about the number of lawyers, I'm not sure if you misspoke. You said the Micronesian Claims Commission and he said besides yours, did you misspeak and did you mean to say the Micronesian Legal Services was the one providing most of the -

Mr. Rogers: Legal Services had nothing to do with the Commission other than to represent individual Micronesians, if they so chose, to help them file their claims and take appeals.

Mr. Cruz: That's why I'm trying to clarify it because there was Micronesian Legal Services that represented all of the Micronesians in these claims, which was different from our situation.

Mr. Rogers: Yes.

Mr. Tamargo: And there were outside attorneys and that's what I was trying to get at.

Mr. Rogers: Yes.

Mr. Cruz: And I think when you asked that question, I realized that you might have been confused when he said Micronesian. But I think it should be clear that it was the Micronesian Legal Services that was representing the citizenry.

Mr. Rogers: Yes.

Mr. Cruz: The other thing, and I don't know how to put this delicately, but maybe we should discuss the white elephant in the room, wasn't there a difference in citizenship of these people in Micronesia as opposed to the people of Guam?

Mr. Rogers: I'm not an expert in that. Well, they were all wards of the United States.

Mr. Tamargo: Non-citizens and non-nationals.

Mr. Cruz: But not only were they aliens, but were they not like in the Northern Marianas, nationals of Japan, at the time of the war?

Mr. Rogers: I wouldn't know.

Mr. Bederman: But at the time they were not nationals, they were under League of Nations mandates to Japan. I do not believe the residents of Micronesia were regarded as citizens of Imperial Japan.

Mr. Cruz: But all of them were under the League of Nations, under the governance of Japan.

Mr. Bederman: Correct.

Mr. Cruz: And so their government was Japanese?

Mr. Bederman: Correct.

Mr. Cruz: And so, therefore, their "occupation" was not an occupation; they were actually under Japanese rules?

Mr. Bederman: Which is why, as Chairman Rogers said, Title I of the Micronesia Act is what's known as ex gratia payment; the U.S. had no obligation.

Mr. Cruz: Yes, but I wanted to make that clear on the record because it should be stated that they had no right to it because they weren't American nationals; they were actually Japanese -

Mr. Rogers: No, I think it was because of the trusteeship that the United States had responsibility to negotiate for that trusteeship and to run the claims program.

Mr. Cruz: But the trusteeship was subsequent to the war?

Mr. Rogers: Yes.

Mr. Cruz: But during the period of the war, they were not under the trusteeship of the United States.

Mr. Rogers: But at the time the claims they negotiated, they were under the trusteeship.

Mr. Cruz: And under the trusteeship and under the governance in Guam, and compared to your Commission, were any of the three other members besides the Congress of Micronesia representatives, were any of them military personnel?

Mr. Rogers: No.

Mr. Cruz: All of yours were civilian?

Mr. Rogers: Yes, absolutely. I directed the Peace Corps before that so I wasn't military.

Mr. San Agustin: But wasn't Saipan under the Navy in 1971? It wasn't long, it was the Navy because of that -

Mr. Rogers: In 1971, I don't know because I didn't go out there until 1974.

Mr. San Agustin: Before that, otherwise, that's where the training of the CIA comes from.

Mr. Tamargo: Although they were not U.S. -

Mrs. Van Cleve: I believe that page was added in the 60s.

Mr. Tamargo: During the Japanese rule of Micronesia, there were awards of Japanese under a trusteeship, as I understand it.

Mrs. Van Cleve: It was a mandate.

Mr. Tamargo: Well, a mandate, excuse me. What were they during your program?

Mr. Rogers: Under a strategic trusteeship.

Mr. Tamargo: Which means they were U.S. nationals?

Mr. Rogers: No.

Mrs. Van Cleve: No.

Mr. Tamargo: No?

Mrs. Van Cleve: They were never U.S. nationals; they were citizens of the trust territories.

Mr. Bederman: Mr. Chairman, if I could explain.

Mr. Tamargo: Wait; go ahead and let Bob and then you go head, Mr. Speaker.

Mr. Lagomarsino: I said although, during the discussions with congress about future status, I suppose that was one of the options that they could have chosen, whether we would have granted it, might be something else. But that could have been on the table, so that is what was decided during that whole long process.

Mrs. Van Cleve: Of negotiating the agreements, is exactly right.

Mr. Lagomarsino: Yes, right. Could I ask a question?

Mr. Tamargo: Yes, sir, go ahead.

Mr. Lagomarsino: In our spreadsheet here, it says that under Title II, personal injury and death caused by the Japanese and by U.S. and forced labor before liberation, would you talk about that a little bit? Well, first of all, how many of the 11,000 claims were for personal injury or death?

Mr. Rogers: I don't have that but we have the amounts of the awards, but I don't have it broken out into number. Of course, it's possible that it would be in one claim in a number of aspects.

Mr. Lagomarsino: But do you have any idea, though, of how many deaths there were, for example, claimed?

Mr. Rogers: We gave \$8,767,869 under Title I and those would have been claims where the award would have been between \$500 and \$5,000. But I do not know the number and there was a very small number under Title II.

Mr. Lagomarsino: In looking at the legislation, it does not say, at least I couldn't find it, anything about forced labor, but I understand the payments were made for forced labor.

Mr. Rogers: We made some payments for forced labor, yes.

Mr. Lagomarsino: Payments were made for forced labor?

Mr. Rogers: Yes, against Title I.

Mr. Lagomarsino: It's in the law?

Mr. Tamargo: He said under Title I.

Mr. Lagomarsino: Under Title I?

Mr. Bradley: I researched that actually and it turns out it was under the theory that the Japanese had entered into implied contracts with the Micronesians to work. And then they defaulted on the debts so that they debt became personal property.

Mr. Rogers: Those are decisions before I arrived.

Mr. Tamargo: Very creative.

Mr. Lagomarsino: But the point, for the record, is that it was paid; there were some sort of payments made.

Mr. Tamargo: They were not paid as forced labor though they were paid as personal property. Go ahead, Mr. Bederman.

Mr. Bederman: Mr. Chairman, I don't need to digress too much into history, but since this has been raised, to note precisely what the legal status of Micronesia was in the 20th Century maybe important, but the timeline works like this. Many of the islands of Micronesia were actually German colonies prior to World War I. Japan was allied and with the Allied associated powers in World I, they were allied and under the League of Nations, of which Japan was an original member, Japan was given the mandate or what would call today a trusteeship, for Micronesia. It was a Class-C, C as in Charlie mandate, which means it was the lowest economic development with no expectation that Micronesia would become independent or even self-sufficient.

Up until 1941 through this time, Micronesia is as, Chief Justice Cruz indicated, the individuals are not Japanese citizens but under Japanese protection. At the end of World War II, the United Nations has created San Francisco in 1945. The United Nations creates a mechanism for trusteeships, which continues the old mandate system. There were two classifications of trusteeship: The ordinary trusteeship, which could be created by, though, to the UN General Assembly or what was known as the strategic trusteeship under the vote of the Security Council.

The decision was made, obviously, after the efforts made by the United States during World War II, that Micronesia would become a strategic trusteeship under the control of the Security Council where, of course, the U.S. then, as today, exercises a veto. And it was during that period, the relevant period through the Micronesia claims process, in 1971 to 1973, where Micronesia is under trusteeship to the United States. The individuals in Micronesia never were U.S. citizens or U.S. nationals at any time.

Mr. Lagomarsino: Well, what were they called?

Mr. Bederman: They were under U.S. protection, under international law; ward, I heard that analogy used and I think that's actually a very good analogy. The point is, is that in the negotiation of this, is that the U.S. felt that since it was the current trustee over Micronesia, it had the obligation to negotiate with Japan, create a lump sum, distribute it as Title I. That does not speak, however, to Title II, the U.S.'s own damages to Micronesia, that's why you have the formalism of separating Title I from Title II, which Chairman Rogers was explaining before.

Mr. Tamargo: Ruth, go ahead.

Ms. Van Cleve: I would add only one point and that is that the concept of trust territories citizenship was created to avoid the problem of nothingness. These people had to be given some status; that was promulgated by the chief executive of the Trust Territory. This was pre-Congress of Micronesia so the high commissioner who promulgated the entire trust territory code promulgated the definition of citizenship. Subsequently, we worked on that definition for purposes of international recognition and provided a document like a U.S. passport, but not quite the same, because that's not issued to anybody but a citizen or national, travel document especially geared to trust territory citizens was issued, and that gave them international status so as to travel abroad.

Mr. Rogers: And the statute said that claimants, citizens of Micronesia, and this ran into difficulty with Catholic Church claims, which the Catholic Church is owned by the Holy "C" in Rome, and so it was much discussion as to what do we do here. Finally, I said, well, wait a second, let's deny the claim and let them come in with their attorneys and give us the benefit of argument. So we did and two bishops came in, one from Guam and the other from Truk. The guy from Guam got up and said, all right, this is one way to commission is to make an award to Protestant churches and denying it to Catholic. But that is religious discrimination, Bishop, please.

We had some churches out there that were owned by the missionaries from Massachusetts and we denied them; it was Protestant. Where we could find that a church had been built by an individual Micronesian and then was used for Catholic services, we've made awards. This is not a church thing; in fact, the other bishop left afterwards and apologized.

We finally worked out. We said, can you guarantee that if we make an award to you, that it will be used to benefit solely the Micronesian citizens because the bishop was on site there? And the bishop said, yes, they could agree to that and so that was sort of a compromise where we got out of it. But that was one the case where we had really a conflict of who was eligible under the statute.

Mr. Unpingco: Can I just ask for a clarification? You mentioned something about there's no interment by the State of Hawaii citizens.

Mr. Rogers: I said there's no claim for the prisoners.

Mr. Unpingco: Is that because they were under the trusteeship of the Japanese?

Mr. Rogers: No. No, we got to decide whether there was a propensible claim because all claims were withdrawn. But the argument that was made was there's a war going on either you get out of or you're going to be killed if you stay down here in your homes. But that is not the same as a Nazi concentration camp; that's trying to -

Mr. Unpingco: Yes, but if you were to look at -

Mr. Rogers: Well, this claim never came before the Commission.

Mr. Unpingco: Okay, but if you look at the CMI v. Guam, Guam is under the United States protection. And CMI, which is [indiscernible], I know the others, are there under the protection of Japan, right, at the time?

Mr. Rogers: Well, the United States troops are invading. As soon as the troops take Saipan, it's the island security.

Mr. Unpingco: Yes, and that's the reason why I'm a little bit confused here through the use of the word liberation of Saipan. How can you liberate something that you never had before?

Mr. Rogers: That was Dave Bradley's term put in there; I never used it.

[Laughter]

Mr. Tamargo: Anywhere we go we liberate, that's how it works.

Mr. Rogers: They key word for us was when an island is secured, and that's an official date because before that, is war damage under Title I after that is damage under Title II. That goes back to the Supreme Court decision in the Civil War where there was a tower and they said take down the tower so we can shoot our artillery. And they say that's war damage; now, they said that's Title II, that's taking property.

Mr. Lagomarsino: So individual islands have different dates?

Mr. Rogers: Absolutely.

Mr. Tamargo: Speaking of dates, I see your program allowed for claims to be filed for one year?

Mr. Rogers: Yes.

Mr. Tamargo: That's the same as Guam?

Mr. Rogers: We were very liberal in what's the filing date. Some of these are outer island and the field trip vessel only gets out there twice year. We would love to say, hey, if it made the last field trip vessel, then it wasn't the fault of the claimant. If it isn't within the year, we will allow it; if a claim came in and it appeared to be late, we would look through to say has that person's family filed a claim, that maybe this can be joined with it, and, therefore, will not be a late claim. So the Commission did everything they could to try and alleviate any problems, but essentially it was a one-year.

Mr. Tamargo: And that's not relating when the injury occurred; it's simply a one-year filing period for injuries that occurred 30 years ago?

Mr. Rogers: Absolutely; everything that occurred 30 years ago.

Mr. Tamargo: Okay. Are there any other questions?

[No response]

Mr. Tamargo: Thank you, Chairman. Go ahead, B.J.

Mr. Cruz: I wondered if you'd just elaborate more on your opening point on interest. I liked that one.

Mr. Rogers: Title I's ex-gratia payment. We said no interest because ex gratia means it's a gift. In other words, when you wait, if I don't owe it to you, I give it to you as a gift and then say you should have given me more because you waited.

Title II was something different. That was the United States expropriating private property. Way back, when the nobles went to the king and said you don't own our land without paying just compensation, through that tradition, American-Anglo law, you have to pay just compensation. And you cannot look back 30 years and say the value of your land was "x" amount then and we don't owe you anymore even though we've waited 30 years. No, you have to give interest and that was the law of the trust territory and that's international law and the statute said we had to do it according to the law of the trust territory and international law.

Mr. Tamargo: Would the claims of Guam be ex gratia?

Mr. Rogers: It strikes me as that there's two different claims there.

Mr. Tamargo: The claims of Guam; those are U.S. nationals. It was not a claims program against the Japanese so I guess someone could.

Mr. Bradley: Yes, it was.

Mr. Rogers: Yes.

Mr. Bradley: Well, the pre-secured claims would be but they were theoretically -

Mr. Tamargo: No, no, it was not against the Japanese. The Japanese were relieved by the treaty.

Mr. Bradley: No, the treaty [didn't] come out until 1951.

Mr. Tamargo: Oh, okay.

Mr. Bradley: Theoretically, \$10 million or whatever it was, at least the part of it which paid for pre-secured claims was part and came out of the reparations that the United States obtained through seizing Japanese assets of the United States in 1941.

Mr. Tamargo: So it was reparations?

Mr. Bradley: Yes.

Mr. Tamargo: The claims were reparations, not ex gratia; or, were they ex gratia?

Mr. Rogers: No, they were exgratia.

Mr. Tamargo: Dave, now that we've got it all confused here for you.

Mr. Bradley: They gave the \$462 million that was paid to the Filipinos was theoretically part of the reparations obtained from Japan through seizure of their assets, which they then relinquished under the 1951 treaty.

Mr. Bederman: When you use the term ex gratia, the question is, is the party that is paying the money...were they the legal cause of the injury for which you are paying? In the case of the Guam Meritorious Claims Act, the United States is effectively saying we don't know what we're going to negotiate with the Japanese. It's 1945, we're going to pay an amount of money now for not only claims arising from damage caused by Imperial Japanese forces, but also analytically distinct, damage caused by U.S. forces in securing the island.

I'm not sure it's proper to characterize either of those as ex gratia. In a sense, the United States is saying we are paying for these amounts and we will later settle with the Japanese to cover that. I'm not sure it's right to say the U.S. is or is not under legal obligation to compensate Guamanians for damage caused by Imperial Japan.

Mr. Cruz: But if you look at the Meritorious Claims Act of 1945, when you read it very carefully, there is very little mention of Japan. Most of it goes on and describes by the Marines, by the Army or maybe even by the Navy and the Coast Guard if it was during the second period. For the most part, really, the United States was recognizing its obligation because if the truth be told, most of the damage was done in the reoccupation, not in the initial occupation by the Japanese.

Mr. Bederman: I think I agree with that.

Mr. Cruz: So you can't say that it was ex gratia because most of it was actually compensation for damage that was done by the U.S. in its reoccupation.

Mr. Bederman: Right, I know -

Mr. Bradley: Under international law, during belligerency, there is no responsibility on either side for the damages caused; that's part of the law of war.

Mr. Cruz: I understand that, Dave, but I'm just saying if you looked at the photographs and you looked through the history between happened on Guam and what happened in Europe where you made very special efforts not to bomb even cities in Heidelberg or buildings there, but you raised the entire capital city of Hagatna, there is a considerable difference and in recognition of the obligation that you have when you made no effort to try to save the buildings and you just decided to level it.

Mr. Tamargo: Thank you. Chairman, on second thought, I have one more question for you. Let's say the conditions in Micronesia were similar to the conditions that existed on Guam, do you think you would have been able to accomplish the same success in your program you did during the 70s?

Mr. Rogers: Coming in 30 years later?

Mr. Tamargo: No. If the population were displaced, if there was no radio, would the program have worked, your program?

Mr. Rogers: Without radio, it would have been much more difficult. It would have taken more people obviously but it could be done. You'd just have to get enough people to get out to all of the other islands with the information, get the decisions back out to them, take appeals, and the get final decisions out to them. It would be expensive but we were understaffed and it certainly helped by radio. And, of course, we supplemented that by sending representatives out to a number of these islands. And Kosrae, as I say, these claims came in late and we had a representative for a year on the island of Kosrae giving the information and taking in claims. We felt there no was excuse.

Mr. Tamargo: And these representatives, they all spoke the local language?

Mr. Rogers: Well, they were native Micronesians from that island.

Mr. Lagomarsino: Well, as I recall, there are several thousand islands in Micronesia?

Mr. Rogers: Yes.

Mr. Lagomarsino: And just a rough estimate, what percentage of those islands were directly affected by the war?

Mr. Rogers: I wouldn't know. There are thousands and thousands of islands. When I was there, a new island was created. Well, a volcano came up and there was suddenly a new island.

Mr. Lagomarsino: And some were destroyed, too, right?

Mr. Rogers: Yes. Getting by plane to the centers, then there were several places where there was major U.S. bombing and battles and you would get people out there to get back. Yes, on some of the islands nearby, perhaps, they would come on over, but Ulithe had a lot of damage.

Mr. Lagomarsino: It's probably fair to say that a smaller percentage of the people in Micronesia were affected adversely than was the case on Guam?

Mr. Rogers: I think that's probably true because it's such a big area.

Mr. San Agustin: And just next door, Mr. Chairman, Kenton and Arroyo (phonetic) were bypassed and Saipan was the only one that was invaded. Kenon was bypassed and Arroyo so those two islands were not affected at all except that after the war -

Mr. Rogers: Sure, it was affected after the war.

Mr. San Agustin: Well, it's after the war because it's Tania (phonetic).

Mr. Rogers: Kenon.

Mr. San Agustin: No, Tannin didn't take Kenon over [indiscernible], but Kenon and Arroyo were actually bypassed.

Mr. Tamargo: Bypassed, meaning they had no combat damage?

Mr. San Agustin: No combat, [indiscernible]. But hardly any, really, the only two islands. And, as you said, there are many islands in Micronesia that were spared. In Palau, I think the only one that was not spared was Palalu because that was the battlefield, but not [indiscernible] next door.

Mrs. Van Cleve: [Off mike].

Mr. Cruz: Chairman Bradley, do you recall what the population was of the area of under your purview in 1945?

Mr. San Agustin: That was 1971.

Mr. Cruz: Yes, that was 30 years later. We also had a different population size in 1971. Do you recall what the population would have been in -

Mr. Cruz: [indiscernible].

Male Commissioner: Yes, you said that.

Mr. Tamargo: I mean, Mr. Rogers, Chairman Rogers.

Mr. Rogers: I don't know.

Mr. Cruz: Because trying to figure out the percentage -

Mr. Tamargo: We can find that out.

Ms. Van Cleve: I would say it's 55,000 as the amount that we truly would use. Of course, we have [indiscernible].

Mr. Cruz: And that was in 1950?

Ms. Van Cleve: That would be in 1951, so that's pretty close.

Male Commissioner: [Off mike]

Ms. Van Cleve: Yes [indiscernible].

Mr. Cruz: Then you would be still about a fifth, the same thing with the Guam situation if we used the numbers that Dave -

Mr. Bradley: Yes.

Mr. Bederman: ...the reported caveat that large portions of Micronesia probably had claimants that were not eligible because they were simply not affected by the war; whereas, arguably, everyone was affected.

Mr. Cruz: Yes, that's what I was trying to get to and, with all due respect, Mr. Chairman, I think you can't discount the displacement, that that has to be taken into account. The important thing is not the radio, the more important question in 1971, were they in homes, were they being provided with food? Did they have other concerns besides applying for a reparations program?

Mr. Tamargo: Yes, but can a program be responsible for that? My point on the radio is a program has to give notice to population of the opportunity to file a claim. The fact that they're going through all kinds of other problems at the time, the program can't be responsible for the fact that they had other problems and other concerns. And maybe you're right, they would be under a great

deal of pressure to accept whatever it is offered. But as long as they had outside counsel and they knew what was happening, I think that's one thing that the program can be responsible for.

Mr. San Agustin: But, Mr. Chairman, I think you can't equate the 1971 situation versus 1946 situation.

Mr. Tamargo: That's my point in terms of the displacement and the difficulty of the program to function on the ground.

Mr. San Agustin: It's difficult to function on a resettlement situation. In 1970, it was basically, talking about a modern generation already.

Mr. Tamargo: Pardon me?

Mr. San Agustin: You're talking about a modern generation already. In 1971, communication was more effective, transportation was...

[End of tape 2, side B] [Tape 3, side A begins]

Mr. Rogers: The treaty wasn't until, what year?

Mr. Bradley: 1951.

Mr. San Agustin: 1951.

Mr. Rogers: 1951.

Mr. Bradley: In the 60s, there was adaptation for the compensation law.

Mr. Tamargo: Maybe there was a review commission.

Mr. Bederman: In 1951, there was Peace Treaty of Japan, there was intervening, I believe, negotiation for a lump sum settlement.

Mr. Rogers: Yes, I think that's correct.

Male Voice: 1951 simply ended the war.

Mr. Rogers: It seems to me something ended here around 1950 or 1951.

Mr. Bradley: I thought it was in the mid-60s, there was -

Mr. Rogers: I mean, 1960 or 1961. No, 1970.

Mr. Cruz: But 1961 was also about the same time that they passed the amendment for the 1946 war claims for additional compensation -

Mr. Bradley: Yes, that's right, for general war damage.

Mr. Cruz: ...for general war damage and with the exclusion of Guam, specific exclusion.

Mr. Bradley: Yes, that's right.

Mr. Tamargo: All right.

Mr. San Agustin: Yes, because the United States had already excused at Japan.

Mr. Cruz: But in the 1961 Act, there was a specific exclusion that Guam was not going to be included in this one.

Mr. Tamargo: Yes.

Mr. Cruz: And so where we would have had at least 25 years since the war, we didn't have that.

Mr. Rogers: What we had was a negotiation between Japan and the United States that was on behalf of the Micronesian people; it started soon after the signing of the Peace Treaty. While not denying the existence of legitimate claims by the people of Micronesia, Japan took the position that they were more than offset by losses of Japanese property abandoned in Micronesia at the time of reparation. Japanese nationals to Japan shortly after the war and by certain other claims Japan asserted against the United States. Those discussions thus reached apparent deadlock until 1966 when, at the urging of the United Nations extensive negotiations were undertaken which finally came to fruition in 1969.

By executive agreement reached in that year, the United States agreed to contribute the \$5 million, et cetera, et cetera, and then it took time for the congress to write it.

Mr. Tamargo: Thank you.

Mr. Rogers: After 1969, when you got [indiscernible].

Mr. Tamargo: All right. Now let's move on and go to Tink Cooper to tell us about the Japanese-American redress, as well as the Aleutian Islands research that she's uncovered. Go ahead, Tink.

Ms. Cooper: Just to give you a little background about the Civil Liberties Act, how it came about, there was a commission established by congress in 1980 and it was specifically to study the relocation and the internment of civilians during World War II. And the commission from 1980 published its report in 1983, and that report is entitled, "Personal Justice Denied," which gives a very detailed background of the historical aspects of the evacuation and relocation of the 120,000 men, women and children from the West Coast of the United States into the internment camps. And based on the commission's report and its recommendation, the Civil Liberties Act was passed in 1988.

President Reagan signed it on August 10th, and it was meant to be a 10-year program for applications for Japanese-Americans, and the Act had four different purposes. First, it was to acknowledge the injustice done to American citizens of Japanese ancestry. Second, it was to apologize for the injustice during the war; third, it was to pay restitution to individuals for how they were affected; and fourth, it provided money for a public education fund for the United States.

And the Act, and I think it's very unique in a claims program. [It] required the Attorney General of the Department of Justice to identify and locate eligible claimants without having the claimants having to make an application to the Justice Department.

The Attorney General delegated her responsibilities to the Civil Rights Division. The Civil Rights Division established the Office of Redress Administration and I was legal counsel of that

office for the main part of the program. And, at the beginning of the program, since we were required to identify and locate, there was extensive outreach efforts.

We had worked with the Department of State initially; we had releases in Japan, both in Japanese and English, about the program because we were aware that many persons had returned to Japan after the war. We had outreach trips to the West Coast; we established an office on the West Coast in San Francisco, California for a few months. All of our initial brochures and literature were written in both Japanese and English because we knew that many of the claimants were elderly.

And another key provision of the Act was to pay the oldest individuals first. And when we began making payments, several of the first individuals were over 100-years-old. We had persons who were 105 and 107 who came here to main Justice for the very first redress checks ceremony in October of 1989 and received their checks.

Mr. Tamargo: Tink, you mentioned earlier to me that they had to be alive at a certain point?

Ms. Cooper: Yes, there were four basic criteria for eligibility. One was that they had to be alive on the date the Act was passed, which was August 10, 1988. The second, that they were of Japanese ancestry or the spouse or parent of a person of Japanese ancestry; the third, they had to be an American citizen or permanent resident alien, And then the fourth, they had to have been evacuated/relocated or interned or, otherwise, deprived of liberty or property as a result of very specific federal government action during the internment period, which was defined as December 7, 1941 through June 30, 1946.

In our cases, we had very extensive evidence because of the 120,000 individuals were interned. And they were interned in relocation camps and the National Archives had the actual camp rosters. So we were able to locate the names of the individuals of those who were interned. There were also a very small number of persons who were initially evacuated from the West Coast. We also had many of those names on a list, so evidence wise it was easy to come up with the list of potential people who maybe eligible. But then we had to track them down and see if they were still living on August 10, 1988 and to identify them and locate them. And we worked with the Social Security Administration and various Western States to try and identify people.

So that was like the main part. It was very easy to try and identify. And during the height of the program, we were making payments; our office probably had between 75 and 80 employees for about the first five years of the program and we made over 80,000 payments. And congress had initially estimated that of the 120,000 affected people, only half or about 60,000 people would be living to be able to accept this.

And then we were receiving the claims from older individuals, and we said their estimates were wrong. That we thought there would be over 80,000 people eligible, and then we had to go back to congress to get additional funding. The persons who were able to contact the Office of Redress during the entire 10-year period and file a claim, and we kept open late the last day on August 10, 1988, so that if individuals had not filed a claim, they could still do it on that date.

And then the Office of Redress was in existence for another six months so that we could process these remaining claims and then close down the office. And even though there was a 10-year filing period, we still received claims that were filed late. And occasionally, we would still receive an application saying they didn't know about the program. But during the 10-year program, we had extensive outreach efforts for that.

Mr. Unpingco: Just as a matter of clarification, what about if the individual was still alive after August 10, 1988 and the year after died, did their descendants get the money?

Ms. Cooper: Yes, as long as the individual was alive on August 10, 1988 and then he died thereafter, there were three classes of heirs who were able to receive payment and it was an order of priority if that he was married at the time of his death, either claimant, the spouse would receive the payment. If he did not have a spouse but had children, the children would receive their payment in equal shares. So if had two children, then each child would receive \$10,000; and if there were no spouse or children, then it would go to the parents. And if none of these three types of heirs, then the money would revert to the education fund. And there was a separate board established for the education fund to give the historical background of the program.

Mr. Rogers: Was the same amount awarded for each internee?

Ms. Cooper: Yes, there was one amount of \$20,000 and I know there was some discussion, in passage of the bill, that possibly they should determine an amount per day for the time of internment because some people weren't interned for the entire war period, from 1942 through late 1945 or early 1946. Other individuals, and particularly some of the younger Japanese-Americans, were allowed to go to college and were under the sponsorship of individuals, so they may have only been interned for one or two years. And there was also discussion that maybe compensation should not be paid, that only the individuals should receive an apology from the United States government.

But after the legislative process, they determined that the one lump sum of \$20,000 should be paid whether they were forcibly relocated from their home in California or whether they were interned for four years, everyone was entitled to the same lump sum.

Mr. Lagomarsino: Did that apply also to those individuals who enlisted in the service after they were relocated?

Ms. Cooper: Yes, and that was a special category. There were some Japanese-American servicemen who had joined right after Pearl Harbor and then they were dismissed from the service in February 1942. And then they went back home to California and then they were interned with their families so they were paid. But we had many claims from servicemen of Japanese ancestry who had their domicile in the West Coast in the exclusion zone were serving in Europe. And then when the

exclusion zone went into effect, their family and relatives were interned and so they lost their property in the West Coast.

And there was a special Attorney General determination back in 1948 stating that, yes, the American serviceman had lost his property as a result of the federal government action and the Japanese evacuation, so the military servicemen were compensated for that.

Mr. Lagomarsino: But were there any who were actually interned and then while in internment, enlisted in the service?

Ms. Cooper: Yes, there were.

Mr. Lagomarsino: And they were compensated?

Ms. Cooper: Yes.

Ms. Van Cleve: Is it not true that some were drafted by the relocation?

Ms. Cooper: Oh, yes, many. Yes. Many were drafted from the camps and then there was also a very small group of draft resistors who said they should be released and be freed before they could be drafted. But, no, you were right many of them wanted to prove loyalty and join the 442nd and Senator Inouye's and some very famous military groups.

Mr. Tamargo: The legislation that created that program is the same legislation that created the Aleutian redress?

Ms. Cooper: Correct, and this was the Civil Liberties Act of 1988. Title I is dealing with the Japanese-American program, Title II is dealing with the Aleutians program, which was administered by the Department of Interior. I just have some brief knowledge of that because our office did receive some claims from the Aleutians, and I forwarded it onto the Department of Interior to work.

But I am aware that under the Aleutian programs, there was compensation for three different types of losses. There were individual losses and individuals would receive \$12,000 each. There was a separate compensation for damaged church property and a certain sum of \$1.4 million set-aside for that.

And then the larger portion of the money was set aside for community losses and the Secretary of the Interior had identified various villages that had been demolished during the war and the Secretary of Interior worked with each of the villages to set up seven trustees from each village. And then the trustees for each village were given a sum of money to help distribute for that particular village or community of individuals. And under the Title II of the Aleutians Act, the money for the villages, they said it was primarily to go for the benefit of elderly, disabled, and seriously ill persons, for the benefit of student scholarships, to help preserve Aleutian culture and also to improve the community centers.

So once the sum was given to the trustees for the villages, then the trustees had discretion on how it could be better used to help their particular community.

Mr. Tamargo: Did they have to file a claim or was it the same deal as the Japanese-Americans?

Ms. Cooper: No, I believe that they had to file a claim with the Secretary of Interior. It was only the Attorney General who was given the mandatory duty to identify and locate eligible persons under the Japanese-American redress program.

Mr. Lagomarsino: And what was the education money used for under the Japanese Act?

Ms. Cooper: Under the Education Board, the president and also congress established a commission, which was later on in the program, and they were given a certain sum of money, and the Board could determine how the money could be used. One of their primary efforts was to republish the commission report entitled, Personal Justice Denied. And the Education Board worked with the University of Washington and they republished that. They also provided grants to various individuals on the West Coast, both at universities and high schools, to help publicize what had happened during World War II. But it really within the Board's discretion on how they chose to use the money.

Mr. Lagomarsino: And do you know how much money there was?

Ms. Cooper: I have the exact amount back at the office; my recollection is it was about \$5 million, but I can find that out and provide it to the Commissioners.

Mr. Tamargo: When the locals were evacuated off of the island, were they evacuated by the U.S. and where were they evacuated to?

Ms. Cooper: Do you mean the persons evacuated from Hawaii, or the ones from the West Coast?

Mr. Tamargo: No, from the Aleutian Islands?

Ms. Cooper: Some Aleutians went to some of the internment camps and I think some other ones also went inland to other areas, but, no, I'm not sure exactly where they went.

Mr. Tamargo: Were they interned or were they free?

Ms. Cooper: I think a very small number were interned but I think generally they were able to move to other parts of Alaska. And I don't know if anyone is aware, just to let you know, that the Canadian government had a very similar Canadian redress program because there were Japanese-Canadians that had been evacuated from the West Coast. It was very small numbers of approximately 21,000 but the Canadian government also had a very similar redress program.

Mr. Tamargo: The Aleutian population that was evacuated and covered under this program, what nationality were they at the time?

Mr. Bederman: United States, U.S. citizens.

Mr. Tamargo: U.S. citizens; right?

Ms. Cooper: Yes.

Mr. Bederman: Alaska is a territory of the United States at this time.

Mr. Unpingco: During the war, I feel like we were "interned" in Guam, everybody was suffering from malnutrition, no food and everything. Now my question, as far as the Aleutians is concerned,

how were they treated during the war while they were interned? Did they have water, do they have bedding, shelter?

Ms. Cooper: I'm sorry, I'm just not as familiar with the processes of the Aleutians during the war. Those who were interned in the camps, in essence, they were set up and there were like cafeteria styles. There were kitchens, there were barracks, there was bedding and there were homes. For those that chose to move elsewhere, then, maybe lived with individuals.

Mr. Bederman: If I could provide some historical background.

Ms. Cooper: Sure.

Mr. Bederman: Again, for purposes of this meeting, I did some research on this because I was as intrigued as you are about this analogy. What many people don't remember is that aside from Guam, the only other part of organized U.S. territory that was actually occupied by Japanese Imperial forces were the far most western islands of the Aleutian chain. When Imperial Japanese forced moved into some of the islands fairly quickly after December 7th, so there were some residents of the islands who actually were under Japanese occupation. We don't have much information what their conditions were. Some of the islands that were far over to the east, as you move up the island chain towards the main body of Alaska, the Navy came in and tried to get these people out before it was clear that the Japanese Imperial forces would move in.

My understanding is that these individuals were pretty much offered a choice. If you had family or friends on the Alaskan mainland, go with them; if you don't, we'll take care of you. Their freedom of movement was not limited, unlike obviously the Japanese internment. So the conditions under which the Aleutians were moved by the Americans was pretty much like a refugee kind of situation. One of the issues I was trying to research a few days ago was what were the conditions of those handful of Aleutians who were actually caught under Japanese occupation and I don't think we have any information about them.

Ms. Cooper: I don't have any.

Mr. Bederman: Literally, we're only talking maybe a few dozen, I would think, people.

Mr. Unpingco: What I'm sort of glance hear is that, okay, we're trying to compare the Aleutian people versus our people and how we are situated, the treatment that received during the Japanese occupation in Guam versus those people that were getting compensation, supposedly because they were taken away, but there's no mistreatment whatsoever.

Mr. Tamargo: Go ahead, Dave.

Mr. Bradley: I believe in the Justice Denied book there is a section on the Aleuts that describes what happens to them. One of the things that was objectionable was that the ones who were evacuated were poorly taken care of at the places that they were given to live in, which were abandoned canneries. In a couple of cases, very poor living conditions for were provided for them while they were away from their home islands, and that was the justification for the compensation. Then that, and then the negligence that was given to the negligent care of their village sites after the Japanese were given out or left, and before they were allowed to return. Since this was administered by the Department of the Interior, perhaps the Department could provide the Commission more information.

Mr. Tamargo: Steve?

Mr. Sander: [Off mike].

Mr. Tamargo: Okay, thank you. Are there any other questions on either of those two programs?

Ms. Van Cleve: One point.

Mr. Tamargo: Ruth.

Ms. Van Cleve: Do you know roughly how many Aleuts were moved off?

Ms. Cooper: No, I don't. I think the Department of Interior would have to give us that.

Mrs. Van Cleve: Fair enough.

Ms. Cooper: I think there is some information in Personal Justice, some general numbers, but I don't have the numbers. It's a very small number but I don't recall the number.

Ms. Van Cleve: Thank you.

Mr. Tamargo: Those folks that were actually occupied by Japan, do you know if they possibly became included in the program, that maybe they were compensated? Or did they have to be displaced? Did they have to be moved by the U.S.?

Mr. Bradley: I think they were all removed. There were none that were under occupation; the territory was under occupation.

Mr. Tamargo: No, she said she found that there were some that were actually left behind.

Mr. Bederman: I said that.

Mr. Bradley: I'm not sure.

Mr. Bederman: I'm not aware of any Aleut making a claim under the War Claims Act, although they could have been notionally eligible, I'm not aware of any that did so.

Mr. Bradley: The War Claims Act for civilian internment only covered the Philippines.

Mr. Bederman: Right. Well, I'm talking about the later amendment.

Mr. San Agustin: Mr. Chairman?

Mr. Tamargo: Yes, Mr. Speaker?

Mr. San Agustin: Can I say just one observation? It seems interesting that the Japanese in which Inouye's deal primarily, had a real interesting vision there that they mandate the government to seek and locate these people so that they can submit a claim as opposed to the Guam Act, there was no requirement for the military to seek and locate. If you want to come in and make a claim, that's fine but that was not their concern. Their primary concern, as I said, was to get the land and I

just want to get that observation that there was that different treatment, that there was no obligation on the part of the military, in 1945, to seek and locate people that were injured or what have you.

They were more concerned with providing bases during the war to basically make sure that the military got adequate land, to make sure they worked through the process. As I said, they subverted the regular process of land condemnation by having this paper factory. So that's why I wanted to make this observation because this is very interesting.

Mr. Tamargo: Thank you, Mr. Speaker; Dave?

Mr. Bradley: I think we could debate that all day but I think there is documentation that shows that the Navy was extremely concerned about getting money into the hands of the Guamanians so that they could restart their economy. It didn't have anything to do with land.

Mr. Tamargo: We're running out of time, so, Mr. Bradley, I have something better for you. The War Claims Act, can you tell me if there were any territories that the War Claims Act covered that operated under similar a situation that Guam had in that population displacement, communication difficulties? Do you know how any of the territories that were covered under the War Claims Act -

Mr. Bradley: Title II?

Mr. Tamargo: Title II.

Mr. Bradley: No, that didn't occur until 1962; things didn't regularize.

Mr. Tamargo: How about the 1954 War Claims Act?

Mr. Bradley: That was 1948. Under the individual 1948 Act, the claimants were all either in the Philippines or back in the United States.

Mr. Tamargo: So they were plugged into modern media or some media and communications and they had a two-year filing period, so there were no other situations?

Mr. Bradley: No, everybody had one year or a few months more.

Mr. Tamargo: Yes, a few months more so there was nobody else who had a situation like they did in Guam where there was no communication, just base population?

Mr. Bradley: I would agree Guam was a unique situation.

Mr. Tamargo: Okay, are there any other questions?

Mr. Lagomarsino: Although I guess you could say that if all these Acts passed at the same time, there might have been some other very similar ones because the Philippines at that time, two years later, it wouldn't have been and Guam wouldn't have been either probably as much of these.

Mr. San Agustin: If we were talking from dumb experience, then we wouldn't have had radio in 1945 and 1946, so the others simply wasn't profited by public dispute.

Mr. Lagomarsino: Oh, they were and the war was still going on.

Mr. San Agustin: That was a lesson of experience.

Mr. Lagomarsino: In fact, I guess the Navy established its commission before island secured.

Mr. San Agustin: Exactly.

Mr. Tamargo: Yes, I believe it was. Are there any other questions; Mr. Speaker?

Mr. Unpingco: I just want to bring sort of another perspective that really was happening during that time in 1945 after the war and that there is an [indiscernible] by the United States government to build Guam as a strategic areas. And after that, we had a population of over 250,000 military - Navy - as well, as the Army and Marines. And so there is that intent -

Mr. Tamargo: The 250,000 troops on the island?

Mr. Unpingco: Including the 18,000 Chamorros that were there. If you're talking about the intent of what the military was trying to do then, the Naval government has really a strong hold among the population there. As far as any type of communication, everything that comes to Washington, D.C. coming from the mouth of the U.S. Navy. And there were so many complaints by the local people then, but then we were under the control of the Navy at that time, so we cannot send anything contrary to what the military wants us to say.

But there are a lot of people, in fact, we're talking about maybe 80 percent of those people alive during that time; they're dead now. But even my father, as a retired Navy man, Chief boatsman's mate, retired in 1949. He's the one person that I would not say anything bad about the U.S. Navy even though the Navy would just kick him around. And the Navy took our property in Guam but yet he say anything simply because he may probably be kicked out of the Navy.

All of those things are very subtle discrimination, if I may so, that many of us have never expressed openly. But, yes, the atrocities are not only by the Japanese government and the Japanese forces, but also in terms of the United States in the way that the Chamorros then were treated.

And so this is one of the big concerns that a lot of us do have and I'm glad that, at least on this Commission now, Mr. B.J. Cruz and myself are here to at least to show the other side of the story.

Mr. Tamargo: Thank you; Tink:

Ms. Cooper: Mr. Speaker, I just wanted to question in reference to your duties in working on the Commission when you said you were doing the land abstracts and the title, and I'm aware that the Public Law 224, the Guam Meritorious Act, was passed the same day as Public Law 225, which was the Land Acquisition Act. And do you know if you were personally working for the land acquisition program in getting the title or were you working on the land claims under the Meritorious Act?

Mr. San Agustin: Both programs were administered by the same commission, Naval Land and Claims Commission and under what they called the base development within the Navy Department and that's where I worked. They handled both sides and in the possible organizational structure, they had the claims division and they had the land division. I ended up, later on, in the land division

but my initial process was in the legal section, which handled both sides, from 1948 to about 1950, that's when I moved into the land claims.

But then there was a process also of moving out of the Navy into the Naval government of what's called the Records and Accounts because it's in the process - pre-Organic Act. You got to understand that the land, the Navy had a real rush to get these lands taken, finished because the Organic Act was already under discussion in July of 1949.

So the organizational structure, there were two separate organizations, as you would surmise. As I said earlier, it was interesting that Dan Inouye's bill was to seek out and locate and I think that's probably why he prompted it. Dan Inouye made several trips to Guam and I know him personally and he talked to several of the people here, and perhaps that's one of the problems.

A Navy CNO said that, but what the Navy command and the people there, there was no pressure on them to do it. Because, as I said, the pressure was to get the land condemnation cases before the Organic Act was passed because there were specific provisions in the Organic Act about this position of land. As you know, frankly, that the Navy had to do that and there was a legal question that only the Navy had the authority to possess land.

The Interior Department was not tasked with that so they had to get this thing in order for the Air Force and the Navy and everybody else to get their bases loaded. Plus the fact, of course, there were hardly any staff; the turnover was very high and they were constantly in need of staff and both of the judges and everybody else.

But as far as organizational structure, you had the survey section and the boundaries were very difficult. They had a catastrophic survey land map they called it and it was very difficult to delineate boundaries because after they devastated the whole land, there were no monuments, so to speak. They had all been destroyed and so that's the biggest problem, so the concentration of Naval land claims management was strictly land. As I said, they made the claim that processing the claims injury was strictly the military and were not civil functions.

So I was very intrigued by Dan Inouye because I think he learned from Guam, too, because he made several trips to seek that because you can't find the people. The same thing we had a problem with and I think he recognized that that a mandate of the federal government has to take the initiative despite the fact that maybe the Navy made an effort. But the lack of staff and the conditions that they were in and the pressure, and you had so much money allocated for Guam in terms of how land they were going to take and they had divvy it.

For instance, they only allocated something like \$30,000 a month for rental and they needed \$120,000. They are occupying properties and they needed something like \$1.2 million; just for land acquisition, they needed over \$2.6 million. It was almost like a mandate and it was like, hey, this is the volume, sorry and that was the problem with the appraisals.

But in 1946, 1947 and 1948, the thing was just getting started. We hadn't really started our government until 1950; even at that, in fact, Governor Carlton Skinner was actually delegated to be the first civilian governor. But he was actually the Naval governor because Pownell had to be relieved because of the situation in Guam, the political situation was so grave.

The President had to expedite the implementation of the Organic Act before the Organic Act became effective by having a civilian governor already appointed. So you can look at that situation there and it's different from the Aleutians, and I think the experience of Guam, we are noted for that. I've recovered the records and I think Guam's parents profited the other acts. As you see, there's a tremendous improvement on the Japanese side, on the Aleutian Islands and even in the Micronesian. This is one of the problems that people in Guam felt that, hey, we are loyal Americans. We are very patriotic, yet we're always left in the cold.

We're the ones that actually have been taken for granted, we are the first ones we thought would be taken care of. But then when you see what happened to Micronesia, when you see the other people, when you compare, your grid shows adequately the disparity. Was it just? Was it fair? The Act itself says just compensation.

That was not a consideration for personal property. It was consideration to give immediate relief and the admiral agrees had we taken the value standard, it would require a higher standard. But that's not their understanding, the Navy's understanding, just give an immediate relief to get them on. But there was no compulsion to go out and seek them out. I'm sorry, I hope I didn't take up too much time.

Mr. Tamargo: That's fine, Mr. Speaker. Thank you very much; Tink?

Ms. Cooper: I guess I'd just like re-emphasize, in reference to the Japanese-American program in the very unique obligation the Attorney General, even in current claims programs, that is not being done. So that was very, very unique in many of the programs, yes. And then just one other consideration, when the Japanese-American program was passed and there was a discussion about compensating any person of Japanese ancestry during the war who suffered a deprivation, there was some discussion of whether we should pay any person of Japanese ancestry who was a citizen or resident alien in the United States during the war because everyone was deprived of the ability to travel to the West Coast.

And so there was a discussion of whether we should pay everyone or just those who were personally affected with the internment and the relocation and the legal advisers within the Department of Justice said, based on the legislative history, based on the Act, they did not intend to pay anyone of Japanese ancestry in the United States, even though they may have been theoretically affected but instead, to pay those who suffered the personal injuries.

Mr. San Agustin: Which is exactly 13 families of which that was a part because those first 13 Japanese families were brought to Dan Inouye and that's why the discussion was brought up. They were trying to piggyback. Actually Guam is trying piggyback on that particular Act. And the fact that there was a \$20,000 limitation and the fact that basically the Japanese families were not going to be a part of that and that's why Dan Inouye says, I'm sorry. You guys can't agree on how to piggyback so he went on his way and Guam was not part of it.

Mr. Tamargo: Mr. Speaker, I'm interested in what you just said; could you explain that again, how that came about, that discussion of the legislation? I'm familiar a little bit but I meant to get General Blaz to talk about that because he was familiar with it also; could you just explain?

Mr. San Agustin: Dan Inouye made several trips to Guam.

Mr. Tamargo: Who?

Mr. San Agustin: Senator Dan Inouye.

Mr. Tamargo: Oh, Inouye, yes.

Mr. San Agustin: He was actually the author of that bill and he came to Guam several times. He came first with the late Tony Won Pat and then Won Pat came back, and I think that was the time when we had several meetings with the Japanese families in Guam. There are at least 13 or 14 families in there and Dan Inouye, because he's interested because this is a bill that affects all of the Japanese, these people were supposedly American citizens, too, right now.

So what Dan Inouye wants to do is to ask the people of Guam (there is a \$20,000 allocation) if they would like to piggyback on amending the Act in 1945 and 1946 so that they can compensate the people because they all felt they had not been given adequate land. But, unfortunately, the leaders at that time, couldn't agree on how much to pay per person. Is it \$20,000?

Just the same problem you have, ma'am, when you said does a person get paid \$20,000 whether he left or somewhere or another. You have that discretion to what degree does he get it; does he get \$5,000 or \$30,000 or that kind of deal.

Mr. Tamargo: What was the offer?

Mr. San Agustin: The offer was to piggyback on that bill.

Mr. Tamargo: Yes, but how much?

Mr. San Agustin: Twenty thousand.

Mr. Tamargo: Twenty thousand?

Mr. San Agustin: Yes.

Mr. Tamargo: Per individual.

Mr. Bradley: And, Mr. Chairman, and we have the records and they will speak for themselves. Plus money for forced labor and internment and personal injury.

Mr. San Agustin: Yes.

Mr. Tamargo: On top of the \$20,000?

Mr. San Agustin: I think so, I think Dan Inouye said you got to piggyback and get all of the full benefits. That's what he's saying.

Mr. Lagomarsino: And my understanding is that the government of Guam or at least the Guam Reparations Commission turned that down.

Mr. San Agustin: Yes, you're right. You're correct and that's why I said -

Mr. Lagomarsino: In my humble opinion, it was a big mistake.

Mr. San Agustin: I think so, too.

Mr. Tamargo: What year was that, 1990?

Mr. San Agustin: The late Senator George Bamba was spearheading that and there was already discussion in Guam. And, as I said, Dan Inouye made several trips to Guam trying to persuade that but then the senator said, I give up because I don't want to jeopardize my bill. You folks cannot agree; good-bye.

Mr. Bradley: Well, the bill has already been passed; that was two years after the Redress Act was passed.

Mr. Tamargo: Yes, they were considering an amendment.

Mr. San Agustin: I'm saying the discussion for that bill was actually before Dan Inouye came in, this was back in 1980?

Mr. Bradley: 1988.

Mr. San Agustin: 1988, he was out in Guam, and I had been in the legislature since 1975.

Mr. Tamargo: Thank you, Mr. Speaker. Are there any other questions relating to the issue?

[No response]

Mr. Tamargo: All right then, I thank you all. You've given us much to consider and digest here. I appreciate your time and we'll discuss and consider all of these issues. This conference is adjourned.

[End of tape 3, side A] [Conference adjourned] [End of transcript]